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# Inside Liberty

June 2010  
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**4 Letters** Our readers take aim.

**7 Reflections** We borrow our way out of debt, shun a discount, put on our foil hats, short-sell poppies, love paint chips, become EPA-certified "Green," do it for the children, and can't get no satisfaction.

## Features

**25 The Move Toward National Land-Use Planning**  
*Randal O'Toole* explains why a man's house is no longer his castle, or even his single-home lot.

**29 Empowering the Libertarian Minority** *Charles Barr* considers how libertarians might actually see a return on their political work.

**33 You Say You Want a Revolution** Among today's would-be revolutionaries, *Jay Fisher* finds a lot of talk but little action.

**35 Watershed** The smallest things, as *Jacques Delacroix* shows, can reveal a lot about the state of liberty.

## Reviews

**37 Dead or Alive?** Both conservatives and libertarians should be concerned, says *Robert Watts Lamon*, about a prestigious writer's distortions of their ideas.

**40 Bank Shot** *Robert Chatfield* digs into the messy world of today's investment banks.

**42 Postmodern Pegasus** From where *Jo Ann Skousen* is sitting, she can hear Bulfinch spinning in his grave.

**43 Last Rites** *Gary Jason* cheers a film about a man on the wrong side of a cultural taboo.

**45 Filmnotes** Two dragons and a lioness.



**44 Notes on Contributors** The perps and their lives.

**47 Terra Incognita** It's a mad, mad, mad, mad world.

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# Letters

## Close Reading

The review of "Capitalism at Work: Business, Government, and Energy" by Burt Folsom and James Nesbitt (March) correctly characterized the book as a wide-ranging challenge to the mainstream view that Enron refuted invisible-hand capitalism. Indeed, this iconic business episode was a harsh requiem on the mixed economy where profit centers are tied to special government favor (virtually all of Enron's were), and where complex regulatory structures (accounting, tax, energy trading) are gamed by the "smartest guys in the room."

The reviewers noted with regret that a full explication of Enron's political capitalism comes later in the trilogy. But it is here that something fundamental might have been missed. As the worldview book of the trilogy, "Capitalism at Work" is about much more than just Enron. It is an application of the classical liberal worldview to business and political economy to comprehend massive organizational failure. Enron in its heyday, remember, was considered by the mainstream Left (New York Times, environmental groups, etc.) as the paragon of the new capitalism and corporate social responsibility.

The book interprets organizational success or failure through the intersection of the "science of liberty" and the "science of success," to use two terms of libertarian businessman Charles Koch. The book's generic perspective of organizational failure, for example, is

applied to the "Enron" of the Objectivist movement, the 1967 split between Nathaniel Branden and Ayn Rand. This event was as stunning to libertarians and Objectivists as Enron was to the business world. And my generic framework is in play today with Climategate (Google "Enron" and "Climategate" to find out more).

To my fascination and delight, I found a waiting libertarian literature to explain Enrons. Three of the most important books are Adam Smith's "Theory of Moral Sentiments" (1759); Samuel Smiles' "Self-Help" (1859); and Charles Koch's "The Science of Success" (2007). Ayn Rand's Objectivism uniquely explains how Enron's financial failure was at root a philosophic one. (If Rand had written a business fiction book, Ph.D. economist Ken Lay would have been the altruist Golden Boy who failed — a Peter Keating with some James Taggart thrown in.)

Other social scientists who come alive in this applied business and political economy story are Arthur Bentley, Ronald Coase, Frank Knight, Ludwig von Mises, Gabriel Kolko, Joseph Schumpeter, Julian Simon, and Erich Zimmermann.

I invite readers to consider "Capitalism at Work" in this broader light. The libertarian worldview, from Objectivist philosophy to Austrian and Public Choice political economy, passes muster when applied to complex social phenomena.

Rob Bradley  
Houston, TX

## 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.

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## Not-So-Fair Tax

Marlaine White's Reflection "The price of silence" (May), makes the important point that small returns of tax money are commonly perceived as gifts. Unfortunately, her straw man reader's assumption that "libertarians don't need this lecture" is correct but disconnected from reality. Witness the significant support for the "fair" tax, which warps the Constitution's simple excise (consumption tax) on nonessentials into another universal levy with rebate — just like our personal income tax. It's much better than the baseline, but so what? Lurching away from one failed label toward the first proffered alternative is what politicians routinely manipulate the electorate into.

For the constitutional excise, Federalist 21 emphasizes "judicious selection of objects proper for such impositions." But the IRS (or renamed rebating agency) would rather calculate "allowed" overall consumption and monitor each taxpayer's address

and dependents for proper rebate allocation. Hmmm, maybe it's worse than just welfare mentality! Remember that steep cost in liberty White warned us about in her conclusion. And for the efficiency argument against rebates: "We'd all be much more 'stimulated' if the state kept its hand off our money in the first place."

Libertarians insist on the true excise envisioned by our founders (call it the free tax) rather than the "fair" tax — at least on the personal side. A compromise for continued monitoring of corporations as a check-and-balance might have merit if one could avoid another set of pitfalls.

Michael Boerste  
North Augusta, SC

**White responds:** I thank Mr. Boerste for his comments and I agree with his sentiments. These interesting times give all citizens — especially libertarians — the impetus to review what we consider reasonable in the realm of taxation and all government activity. Let us be guided

## From the Editor

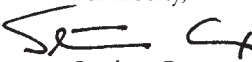
I knew that when my car hit 105,000 miles (mystic number!), it would need a new timing belt, so last week, when that happened, I took it into the shop. I was relieved to find that the fearsome operation would cost me only \$370. By the end of the day, however, and after numerous calls from the service guy, I discovered that I needed new tires, a new battery, and a few other things. Grand total: \$986.

I drove the car home, somewhat dazed, but satisfied that the job had been done. I was satisfied also that the auto shop, which has faced hard times since the economic downturn, had treated me with courtesy, showing me evidence, bargaining with me about costs, giving me rides from and to the place, and doing everything for my comfort while I was waiting.

Now, contrast this with our current political situation. We aren't asked to comment about the improvements that our existence allegedly needs, much less order them ourselves; we are simply told that healthcare or education or something else is "broken" and has to be "fixed" — by the same mechanics who broke it in the first place. One thing leads to another, and the bill mounts up, as it did at my auto shop; but with Washington, or any of the 50 statehouses, or even your own city government, the bill never stops: you wind up with a permanent liability, constantly inflating itself with its own interest.

You also wind up with a car that has seven wheels, at least two of which won't turn; brakes that work only on the right side of the vehicle; no rearview mirror; and a tendency to run over productive citizens. As for the courtesy one expects from people who have fallen on hard times, such as the members of our bankrupt national government — what you get from them is insults, at least to your intelligence.

I'd suggest you take your car to another repair service. This shop, Liberty, is always open, and we're always happy to see you.

For Liberty,  
  
Stephen Cox

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by our country's founding documents, and not be led astray by manipulative labeling.

## Level Taxing Field

In the April issue, Laurence M. Vance reports (Reflections) that Americans earning the top 50% of income pay 97% of income taxes. I presume this to mean that the bottom 50% of taxpayers pay a mere 3%. If this were true the bottom 50% of federal taxpayers should be doing quite well. But they aren't.

The reason they are not doing well lies in the manner in which economics overrides political intentions. Graduated taxes on earned income (emphasis on *earned*) may be passed to consumers if their very existence reduces the number of people earning higher income and creates a shortage in their profession. Cannot economists apply supply and demand to the targets of a graduated income tax?

Net pay sets the supply of professionals in the economic landscape. Gross pay sets only their costs to consumers. The dichotomy between gross and net values represents a fundamental economic flaw in the Marxian tax.

The statistics reported by the IRS are flawed. Consumers are never counted as taxpayers and the apparent taxpayers are never discounted as tax collectors.

Consider the economic effect of a marginal tax increase on the medical profession. The fall in the profession's net earnings will immediately initiate a decrease in the supply of doctors. As their ranks dwindle, inelastic consumer demand will push up the gross earnings of those remaining.

Demand normally falls when prices rise, but that assumes no shortage in market supply. A sharp increase in the demand to supply ratio (patients to doctors) will initiate a natural rise in the

gross earnings of doctors remaining in the field. That is what a free economy normally does to eliminate a shortage. If the subsequent rise in net income offsets the initial fall in net income from the tax increase, then consumers have obviously assumed the doctors' marginal tax increase. And that is exactly what happens wherever there is inelastic market demand for a class of labor. The decrease in medical providers will eventually cease as net incomes rise, but the shortage of providers will remain. Wonderful!

The gross sum of market-set net incomes and government-set marginal taxes makes high-income earners appear to be scalpers. But it is only the government that is engaged in scalping and only the consumer who is being scalped. How much easier it would be to trash this dysfunctional tax if the lower half knew that they were assuming the taxes of the upper half when they purchase their services.

But not all high-bracket income taxes are passed to the market. Above-market income seized by law (that of organized labor, bailed-out bankers, and other special interests) will never experience a natural market rise. The market demand for overpriced labor is zero, and the market supply is bottomless. The graduated tax will scarf up income seized under color of law. That is its only attribute.

Why not trash the seizure of unearned income by law and prohibit taxes on earned income? Why not replace greed with honesty? The wage gaps would naturally narrow. We could replace the whole sordid mess with a

retail sales tax on consumer products. Such a tax is directly proportional to income and it will not repress the natural and superior mix of labor that free men will create.

The Vance article reports a Forbes call for a flat income tax of 17%. I believe that a single-digit tax would be quite sufficient to sustain the federal government in the manner to which it is accustomed once the egregious effects of a graduated tax and the seizure of surwages from corporate America is ended.

G. Peter Trygstad  
Bremerton, WA

**Vance responds:** Mr. Trygstad's rambling note completely misses the point of my reflection on the flat tax and advocates something even worse. My point was simply that (1) the U.S. tax code has a number of problems, including that it is highly progressive; (2) forms of a flat tax have been proposed as a solution, the word "flat" implying that it is not progressive; and (3) these flat tax proposals are faulty because they fund the government at its present spending level, and because they are in fact progressive. His presumption that the bottom 50% of taxpayers should be doing quite well but aren't is just that. That they pay a mere 3% of the taxes only means that they are not as bad off as they would be if they paid more. Trygstad's economic jargon cannot mask his wrongly focusing on an incidental point in my reflection. And, as I have written about in my many articles on the FairTax, his proposal for a retail sales tax on consumer products is a cure worse than the disease.

## Capitalism & Morality

May 8, 2010, Vancouver, BC

with:

Lawrence W. Reed

Walter Block

Lila Rajiva

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# Reflections

**Passing failure** — The March 25 headline in the Arizona Republic read, “Arizona House OKs Bill to Flunk Failing 3rd Graders.” It seems that in Arizona, one actually needs to pass a law to allow government schools to flunk students who fail. One can only imagine the implications for Obamacare: “Congress OKs Bill to Bury Dead Patients.”

— Ted Levy

**Anarchists for big government** — When I saw that someone on an anarchist-oriented website was urging people to “crash” the Tea Party movement, my first thought was that this might perform a worthy service. The anarchists would be in an excellent position, for example, to expose the statist orientation of many Tea Partiers about war and immigration. Unfortunately, the main complaint of the “anarchist” or “anarchists” in question is that the Tea Partiers are too antigovernment! In their call to arms, the anarchists warn: “If the tea party movement takes over this country they will really hurt poor people by getting rid of social programs like food stamps, unemployment benefits, disability benefits, student aid, free health care, etc.”

— David T. Beito

**First shoe dropping** — For more than a year, Wall Street bond analysts have been warning that growing debt sales by the U.S. Treasury will eventually put upward pressure on the 10-year yield, which has been staying comfortably below 4% for some time.

Lately, the 10-year yield has jumped (from 3.65% to 3.92% in the week before press time). If the interest rate that the Fed has to pay to borrow money on 10-year notes rises above 4% for a sustained period, we will see the first step in a return to inflation. That will be bad for everyone. And it will have started because we’ve borrowed too much.

— Jim Walsh

**Practical lessons** — According to a recent study, enrollment at for-profit colleges has increased 50% over the past couple years. Shouldn’t be a surprise to anyone. Absent a bottom line, people get lazy and corrupt. Greed is a powerful motivator. It causes quality to rise, and prices to fall, making the for-profit colleges a much better bargain than the big-name universities full of tenured incompetents.

— Tim Slagle

**Pick your poison** — Every once in a while I am

asked, “If you *had* to choose a form of government under which to live, which would it be?” My pat answer is, “A constitutional republic.”

But the real answer is, “It doesn’t matter to me.” Democracy, monarchy . . . I am much more interested in the limits placed on whatever government exists than I am in its structure. My preference for a constitutional republic is nothing more than a fondness for the limits that a strong constitution can impose on power. If similar restraints existed under a monarchy, I would cease to prefer the republic. In short, it doesn’t matter to me if I am oppressed by a king, the masses, an elite group, or an occupying army. Power is power no matter how you dress it up. What matters are the limits.

— Wendy McElroy

**Market conditions** — USA Today reports (April 2) the results of an interesting survey just published in the Annals of Internal Medicine. The survey asked people whether they would donate a kidney for money (the choices presented were \$0, i.e., for free, \$10,000, and \$100,000). Unsurprisingly, the possibility of being paid to incur the pain and risk of donating an organ almost doubled people’s willingness to do it. But surprisingly — at least to those who adamantly oppose legalizing organ sales — the possibility of payment did not sway poor folk any more than richer folk.

The sample size was rather small (342) and there was a possible exclusion bias (asking people waiting for a commuter train may disproportionately exclude those who are unemployed). It would be nice if a larger poll were performed. But this is still cheering news for those of us who favor allowing organ sales.

— Gary Jason

**Woman’s work** — Women can’t get any satisfaction these days. Yet another report, this by the American Association of University Women (AAUW), asks why there are so few women in the STEM professions. (For those outside the education community, this acronym refers to the prestigious disciplines of “science, technology, engineering, and mathematics.”) The putative exclusion of women from STEM fields is a hot topic in higher education; there is even talk of instituting programs such as the federal law known as Title IX, which expanded college sports to encompass more women.



“Let’s call it a day before we get frostbite.”



There are no shades of Larry Summers in the AAUW report. It skirts the possibility that something inherent in women, either their brains or the lifestyles they value, leads them to choose other fields. Instead, the report is all about self-esteem and overcoming bias and low expectations. The chapter on “Beliefs about Intelligence” does not discuss research on intelligence per se, but rather how to overcome the “mindset” that one’s intelligence is not as high as it should be.

Yet, as Susan Pinker commented on the Minding the Campus website in April, women are well represented in science-related disciplines, at least at the university level. She lists “biology, medicine, dentistry, ecology, pharmacology, neuroscience, or veterinary science” as “science programs that were mostly male 40 years ago but are now dominated by women on every university campus.” In fact, AAUW’s colorful charts reveal plainly that more women receive bachelor’s degrees in biology and the biological sciences than do men.

Furthermore, there’s something sinister about this report — or at least it’s out of date: STEM jobs are not all that attractive. The Ohio University economist Richard Vedder suggests that the pressure to push people (of either

sex) into STEM smacks of scandal — a retread of the post-Sputnik pressures of the late 1950s, with less justification. STEM fields are not that highly paid (which would be a sign of great demand), he says, and “it is not uncommon for science graduates to have trouble getting a job in their field.” Nor does the Bureau of Labor Statistics expect the number of jobs in these fields to grow substantially (in percentage terms, yes, but not in absolute numbers).

Exactly why STEM has fallen out of favor Vedder doesn’t say. Others, however, have pointed to the international outsourcing of such jobs and to the changing nature of technology, which now automates procedures that previously required highly skilled technicians.

Why don’t we just let women do what they want to do? If that means avoiding some academic fields because they like others better or because they envision a life that is more compatible with being a mother, let them. Isn’t freedom what “women’s liberation” was all about?

— Jane S. Shaw

**Green apostasy** — A specter is haunting Al Gore and friends. No, it’s not global warming with its scary tornados, sea level rises, and species extinctions. It is the

## Word Watch

by Stephen Cox

Lately I had a chance to converse with Leland Yeager, who has frequently contributed his insights to this column, about the subject of *prescriptivism* — the habit or policy of prescribing proper grammar and usage. I thought you would enjoy what he had to say, so I asked him to write it out for you.

Here’s Leland Yeager:

Prescriptivism warns writers and speakers against supposed errors. Yet, as suggested by John McWhorter in his Teaching Company DVD courses on language and linguistics, most professional linguists scorn it. As scientists, they are *descriptivists*. They unjudgmentally record speech differences among different regions or socioeconomic and ethnic classes. The distinction between descriptivism and prescriptivism appears in an anecdote about the cultured English clergyman whose daughter chided him for a usage unapproved by the dictionary. “My dear,” her father replied, “dictionaries are meant to *record* the speech of people like me, not *determine* it.”

All languages have evolved from earlier and quite different forerunners, perhaps even from one original protolanguage. Language accommodates change in technology and culture. Isn’t it presumptuous, then, to distinguish between correct and incorrect usage and condemn departure from supposed norms?

Yet adaptive change is one thing; change from sheer sloppiness and ignorance is another. It can impede communication, especially between generations. And even when ignorant changes are intelligible, they may cause ambiguity and irritation, drawing attention away from what the writer is trying to say. Happily, though, and in contrast with prehistoric times, writing, the printing press, near-universal education, and respect for standards tend to resist pointless language change.

Prescriptivism need not bossily challenge libertarianism.

Clear and correct writing helps make libertarian arguments effective. In language as in other fields, advice is not compulsion. A free society must leave much behavior to its members’ mutual respect. Attempts to suppress all bad and enforce all good behavior would destroy freedom and could not succeed anyway. Mutual respect and social cohesion are compatible with and even enhanced by diversity — in occupations, ancestral or national traditions, religion, social groupings, food, recreations, and favorite causes. Healthy diversity affords many niches in which an individual can excel, find self-esteem, and avoid invidious comparisons with people of different excellences. (Think of Ayn Rand’s Galt’s Gulch.)

What is subversive is ostentatious contempt for people’s rights and peaceful interactions. Beyond outright crime, examples are gangster-style clothing and songs and, yes, abusive or habitually vulgar or ostentatiously careless language. Poor writing style is less destructive than offenses like that, and arguably less serious than violating accepted grammar and word meanings. Yet advice about writing style is widely welcomed. Even the descriptivist McWhorter, in his above-mentioned courses, recommends, if only in passing, straightforward over clumsy style and clear over opaque writing; he even occasionally corrects himself on grammar, as on verb tenses.

Here are some examples of good advice: write uncomplicated sentences and paragraphs of varied lengths, using plenty of short ones. Preserve parallelism. Use common rather than recondite words; prefer the Anglo-Saxon word to a Latin-derived synonym. (Yet, like William Buckley, don’t shrink from sending your reader to the dictionary with an obscure word that expresses your meaning more exactly than any near-synonym.) Use clichés sparingly. Consider whether each of your adjectives and adverbs



possibility that global warming can be prevented without doing a thing about fossil fuels and carbon dioxide emissions.

The point is simple. If the earth is warming and you don't want it to, there are ways, relatively cheap ways, to cool the earth. All you have to do is reflect a tiny fraction of the sun's energy back into space. The evidence that this works comes from our experience with volcanoes: when Krakatoa exploded in 1883, the particles it spewed into the upper atmosphere reflected enough sunlight to lower temperatures by over 2 degrees Fahrenheit for several years. The same effect was noted after Pinatubo, the Philippines volcano which erupted in 1991. This effect could be duplicated by high-flying airplanes spraying fine, reflective particles into the upper atmosphere.

Another approach is to increase the cloud cover. Since clouds are white, they reflect the sun's energy back into space. Stationary ships could generate these clouds by pumping up seawater and spraying it into the atmosphere in a fine mist. Another way to increase the earth's reflectivity is to develop "mirror farms," arrays of reflective material spread out on deserts and other wasteland. A related tactic would be to make the urban landscape more reflect-

tive: make street surfaces white instead of black, and make the roofs of buildings reflective. This approach gives scope to individual participation. You want to think globally and act locally? Paint the roof of your house white.

As a way of combating global warming, geoengineering has three obvious advantages over the approach of trying to limit carbon dioxide emissions. First, it appears to be much cheaper. Seeding, misting, or mirror farms would cost only billions, a tiny fraction of the trillions it would cost to wrench the carbon heart out of our economy.

Second, geoengineering directly addresses the problem. With geoengineering, you don't care what is causing global warming. It could be a dozen things, from sunspots to hair spray, but that doesn't matter. You are directly lowering the earth's temperature. And with geoengineering, you don't need the cooperation of China, India, Brazil, and so on. Indeed, the United States could carry out the temperature-lowering scheme all by itself. By contrast, controlling global warming by trying to restrict CO2 emissions is uncertain and cumbersome. You have to assume that the carbon dioxide theory is correct (and it is only a theory, with no direct confirmation), you have to assume that no other factor plays a major role in global warming,

adds anything to your meaning. Use verbs rather than abstract nouns derived from verbs. Prefer the active to the passive voice. Recognize that punctuation is no mere matter of hunch or feel; rules have evolved. Finally, don't be pretentious.

Advice about being considerate of the reader verges on prescriptivism. What distinguishes it from descriptivism is fuzzy. The borderline is also fuzzy between repulsive style and downright error. It is fuzzy like the line between actual traffic rules and principles of good driving. But given only a fuzzy distinction, why limit oneself to giving advice on style? Why insist on only *describing* usage? Why not issue some warnings about bad choices of words?

Let's start with *vogue words* — the trendy expressions one hears all the time. Relying on them betrays ignorance, sloppiness, and laziness. This column has sensitized me to one of them in particular: "issue." Its core meaning has been stretched to "problem" or "defect" or "blemish." An advertisement touts a certain cream as a remedy for "skin issues." An article on the debt problems of Greece mentions "others in the euro zone with similar issues." And consider "prior to," as in "prior to World War I" or "prior to leaving on a trip." When was the last time you saw the good old "before" in print?

What bothers me most, in this class of words, is the ubiquitous "incredible" and "incredibly." My campaign against them is getting nowhere. All too many people use these words to avoid the bother of thinking just what they mean. When either adds anything at all to the meaning of a sentence, "incredibly" means "very," and "incredible" usually means "very \_\_\_\_\_," leaving what fills the blank to the reader's imagination. When the word modified has an evaluative character, "incredible" may mean "extreme," as in "incredible misery." On January 22, Wolf Blitzer of CNN mentioned "incredible, incredible stories" of destruction and death in Haiti. Did he mean awful, horrible, heart-rending, gruesome, macabre (or whatever) stories, or just false ones ("in-

credible" means "unbelievable")? Someone once posted on the internet an enthusiastic account of a boat trip on Lake Tahoe: "The whole trip was incredible, but Emerald Bay was incredibly incredible."

Particularly amusing are vogue words used with roughly the opposite of their core meaning. Sean Hannity, on his Fox News show of Feb. 19, 2009, promised an "incredible, inspiring story" about a football player who gave up a lucrative career to become a border-patrol agent. How can a story be inspiring if it can't even be believed?

Vogue words are verbal clutter. More of it can be found in expressions that cause ambiguity, redundancy, and momentary distraction. On March 3, 2005, the Auburn [University] Plainsman announced that a bill had been introduced in the state legislature "restricting the purchase of violent and sexually explicit video games to consumers under 18 years of age." Must the games *not* be sold to consumers under 18 or *only* to them?

Simply omitting the conjunction "that," although idiomatic rather than wrong, can be confusing: "[Secretary of State] Rice warned a U.N. tribunal being formed to probe assassinations of Lebanon leaders must be assured safety, a message directed at Syria" (Wall Street Journal, June 27, 2007).

Phony dating is deliberately ambiguous. A fundraising letter from Newt Gingrich received this January was dated "Tuesday evening"; the spuriously precise time reference compounded its phoniness. Appeals from the Republican Party are often "dated" like that. Such a non-date makes me wonder whether the substance of the letter is phony also. Phoniness or omission of a date violates Hirshleifer's Rule, as I call it, because Jack Hirshleifer explained it to me: every even halfway important piece of paper requires a genuine and complete date.

Examples of redundancy or wordiness are never far to seek. Some are hilarious. "Preliminary autopsy results confirm that the cause of death appears to be an apparent drowning," said Lee

and you also have to hope that all the major countries of the world will join the campaign to severely restrict CO<sub>2</sub> emissions.

Third, the geoengineering approach is fast. You get cooling effects the day you start. Following the carbon restriction route, we have to make huge economic sacrifices for decades to hope for a possible temperature reduction effect half a century later. And if it turns out the earth isn't warming, with geoengineering you can turn the effort off immediately. With the carbon approach, you've locked in cooling for generations (assuming the CO<sub>2</sub> theory is right). If this cooling is added to cooling from some unexpected source, the result will be a manmade catastrophe.

Why are environmentalists mum about geoengineering? Why does the Obama administration ignore it? The \$787 billion stimulus bill, so laden with baubles for "green energy," does not contain a penny for research into climate control through geoengineering.

The answer, it is becoming increasingly clear, is that environmentalism of the Al Gore variety is not a rational, responsible policy position. It is a religion, and like a religion, it is firmly anchored in prejudice, in the hates and hysterias of bygone days. We see this in the campaign against nuclear power. One episode — Three-Mile Island, an accident that did not injure anyone — was misreported and exaggerated to create a wave of hysteria that blocked the development of nuclear power for generations. Even today, when nuclear energy is the answer to prayers for a non-carbon source of power, environmentalists continue their campaign against it — as evidenced by the opposition to the Yucca Mountain nuclear waste repository.

In the same fashion, the opposition to fossil fuels is an

emotionally-based aversion. Environmentalists learned to hate oil and coal in a bygone era — when these energy sources perhaps deserved opprobrium. Automobiles used to create smog; coal-burning power plants used to belch sulfur and soot. Long after they have been essentially cleaned up, environmentalists still hate them, swayed by the memory trace of an earlier time. When the global warming-CO<sub>2</sub> connection was proposed, the prejudices clicked into place. Now the mistrusted fossil fuels could be blamed for unimaginable future catastrophes.

Environmentalists are not really interested in preventing global warming. They want to make war on fossil fuels and everyone connected with them, from oil company executives to SUV-driving soccer moms. The realization that this war might be misguided and unnecessary would cause more consternation in their ranks than any number of melting ice sheets.

If you don't believe me, tell the environmentalists in your neighborhood about the promise of climate geoengineering. See if they say, "Gee, that's exciting! Why if that worked, we could burn all the coal and oil we wanted."

— James L. Payne

***You take my breath away*** — The Department of Health and Human Services has kindly notified me that the inhalers keeping my asthma in check are being discontinued. DHHS is taking this measure, the notification explains, not because the medication might do me harm, and certainly not for any lack of efficacy.

No, they are being phased out because with every puff they emit a minute quantity of the dreaded chlorofluorocarbons. While CFCs were phased out of most consumer goods in the mid to late '90s, in accordance with the Clean

County coroner Bill Harris." The sentence appeared in the Opelika-Auburn News (Feb. 3), but it could have appeared anywhere. So could a weather forecast in the same paper, the following day: "Rain and windy conditions, today and tonight." Why not just "wind"? And so could this, from the OAN, Nov. 28, 2009: "With the exception of bin Laden's capture, those missions were accomplished in a matter of weeks." An official interviewed on Fox News in May 2008 about part of the reconstruction effort in New Orleans expected its completion "in a matter of a very short period of time." Why not just "soon" or "very soon"? My rephrasing is vague, but so is the original verbosity. "We sold 56 of these in a two-day period of time," said a Wal-Mart associate on Fox News (July 13, 2008.) Why not "in two days"? A television commercial for gold observed that "its price" had "tripled in value" in just a few years. "Gold has tripled in value" or "the price of gold has tripled" would avoid the redundancy.

Worse than redundancy is pretentious hypercorrectness — ignorant attempts to be elegantly and conspicuously correct. This happens, for instance, when "hypothecate" becomes confused with "hypothesize," replacing the good old "suppose" or "guess." A review of a new pizza parlor in The Corner (an Auburn weekly newspaper) of April 9, 2008, said that "Neon lights stamped across the wall inadvertently label the selection of beers . . ." Only lately did it occur to me that the reporter may have meant "intermittently." "Jim greeted Janice and I" replaces "Jim greeted Janice

and me"; and "whom," because it sounds learned, turns up in constructions requiring "who." The approval of the government's pay czar, we are told, will be required "of the compensation package for whomever succeeds Kenneth D. Lewis" (Wall Street Journal, Nov. 14–15, 2009). Fear of using "like" as a conjunction becomes fear of the word even when it is correctly used as a preposition, as in "Like Mary, she was a good writer," replaced by "As Mary . . ."

Another example of pretentiousness is the way in which "majority" displaces "most" even in contexts that do not involve counting: Victor Hugo "lived in France for the majority of his life" (Wikipedia entry on Hugo); "new 18-inch ceramic tiles will cover the majority of the store" (OAN, March 31, 2007); "the majority of the warming will occur in the winter, at night, and in polar latitudes" (Acton Institute, Environmental Stewardship in the Judeo-Christian Tradition, 2007, p. 89).

This is pretentious ignorance. Unpretentious ignorance keeps getting easier to find in print. The Opelika-Auburn News merely participates in the national trend by its inability to distinguish "lay" from "lie": "[O]fficers found the 33-year-old PGA star laying in the street" (November 28, 2009); "Report: Year of elevated joblessness lays ahead" (headline, Jan. 9, 2010). How many people can spot the logical problem that arises when "different from" is displaced by "different than" — as in this internet message: "Your login for the Maxperks site may be different than your

Air Act and in the midst of the panic over the ozone hole, asthma inhalers were exempt — I presume because at least one person realized that Clean Air doesn't do much good when you can't breathe.

But now that exemption has come to an end, and I will have to find another medication which may not work, which will have new side effects to discover, and which will certainly (and I suspect this is the answer to, Why now?) be more expensive than the generic inhalers I've used my entire life. But at least while I'm struggling for breath, unable to take a puff that I know for sure will set me right within ten seconds, I'll have the comfort of knowing I'm no longer contributing to an ozone hole that no longer exists.

— Andrew Ferguson

**Surprise package** — After ramming his health-care program through Congress and up the wazoo of the American people, Obama did a victory-taunt-dance in the end zone. He arrogantly crowed about his victory, saying that if the Republicans want to run in November on a pledge to repeal Obamacare, they should "Go for it!"

This hubristic remark brings to mind Bush's famous line to terrorists in Iraq: "Bring it on!" And Obama may regret his remark, because after the passage of the bill, the public seems to think no more of it than before.

Indeed, support may actually be diminishing. Nancy Pelosi famously quipped that we would have to pass the bill to see exactly what's in it. Well, we did, and we are. The first surprise was quick in coming: the bill contained a provision that eliminates the tax subsidy the feds created for businesses to support Medicare Part D (the prescription drug benefit program). This subsidy covered 28% of

what companies actually paid to provide the coverage.

This immediately led to a string of companies reporting massive losses soon to come. First Caterpillar announced that it would take a \$100 million charge in the first quarter for this change in tax law; then a whole spate of businesses followed. Deere & Company will take a \$150 million charge; Boeing \$150 million; Prudential \$100 million; 3M \$90 million; Valero up to \$20 million; Goodrich \$10 million. The whoppers were AT&T, which will book a \$1 billion cost because of this bill, and Verizon, which will book a cost of \$970 million.

Immediately, Rep. Henry Waxman (D-CA) — one of the most leftwing people ever to walk the halls of Congress and a major architect of the healthcare bill — said he would haul the CEOs of these perfidious companies before his committee (a.k.a. the Court of Star Chamber) to explain why they were spreading such harmful lies.

Of course, the Waxman threat is just an attempt to use congressional power to intimidate inconvenient voices into silence. Abuse of power, anyone? Really, the "why" lies in Congress itself. Under the strict accounting rules contained in the Sarbanes-Oxley Act, passed by Congress after the Enron debacle, losses and liabilities must be clearly identified, transparently logged, and announced to the public.

But this news is only the beginning. Over 3,500 companies rely on this tax break, and losing it will cost \$14 billion (as estimated by Towers Watson, a consulting firm). That will translate into lost benefits — worse, lost jobs — and slower growth.

Just what the economy needs. And just what Dr. Obama ordered.

— Gary Jason

login on the OfficeMax site"? Yes, we say, "He is taller than I am," but "different" is not a comparative, like "taller." And what's the grammatical sense of "us" in the following: "I believe that loyalty is a function of us living up to our pledge" (the January 2010 publication of a thinktank that I leave unnamed because I admire it)? "Us" should be "our." Then there are simple, ignorant confusions of words: "flout" for "flaunt," "imply" for "infer," "transpire" for "happen," "falsome praise" for "lavish praise," and "decimate" for "annihilate" or "slaughter."

Writers need to keep their readers' attention on the important things — and this is where the issue of "sexism" comes in. Either conspicuous sexism or the conspicuous avoidance of sexism can sidetrack the reader's attention away from content onto its manner of delivery. Pronouns are particularly challenging. For many nowadays, the traditional generic "he" has become taboo. Expedients include "he or she," an invariable "she," or alternation between "he" and "she"; but any of these can be distracting and momentarily confusing. Artificial gender-neutral pronouns such as "s/he" are repulsive. The evasion of casting pronouns and verbs in the plural works poorly when the writer wants to emphasize the action or decision of a single person (as in much of economic theory).

Stephen Cox and I differ on another evasion that has become popular. An example: "Take your pet to visit their veterinarian at least once a year" (OAN, Jan. 10). "His or her" or "her" or "its

veterinarian" would seem ridiculous, as would "Take your pets to visit their veterinarians. . . ." And "the" or "a" veterinarian would lose the suggestion of an ongoing relationship. A second example: "Any legislator whose name appears on this legislation can expect to pack their bags and go home" (letter to OAN, Jan. 13). Writing "his or her" or just "her" would be distracting, and recasting in the plural would lose the intended emphasis.

Cox and I may regret loss of the traditional gender-neutral "he," but I welcome "they" when suspicion of sexism cannot be better evaded — although "they" is more usual and acceptable in spontaneous conversation than in careful writing and scripted speech. "They" for both singular and plural has a precedent in "you," which in early English was a plural pronoun only. Still connecting with a plural verb, "you" has since become singular as well as plural. (The southern form "you all" is available to *emphasize* the plural.) In brief, the singular "they" is justifiably becoming the least-bad way of avoiding supposed sexism, in conversation and informal writing.

At any rate, my own main argument for prescriptivism is that sloppiness and ignorance can distract, confuse, or annoy the reader, interfering with the author's message. If my preaching at writers on behalf of readers has sensitized some readers to being distracted by things that had not bothered them before, I am sorry. And if some of my preaching may seem like pedantry, I confess: judicious pedantry can be fun.

— Leland B. Yeager



**Click to send** — Nancy Pelosi created a webpage in which she solicited “health care stories”:

As Speaker Pelosi works with colleagues in Congress to finish the job of repairing America’s broken healthcare system, opponents of reform are mounting their biggest effort yet to kill reform and preserve the status quo.

Add your voice to the millions calling for reform. Share your own health care story with Speaker Pelosi.

Okay. Here’s my own healthcare story:

Once upon a time, long, long ago (23 years, to be exact), a very wealthy if not particularly intelligent woman managed to manipulate the political processes sufficiently to get elected to represent the city of San Francisco in Congress assembled. As is often the case, she soon became drunk with power, though no more intelligent. One day, after briefly consolidating her power, she sought to manage and control healthcare for 300 million people. Things went badly for her after that, especially since limited intelligence, while a pre-existing condition, is not treatable per se . . .

Was this the sort of healthcare story she was looking for?

— Ted Levy

**Red tree, blue tree** — It seems that the tree service industry in my area has become a political hotbed. I had no idea that this could happen when I wrote, some time ago, about a sign advertising a tree service company that would barter its wares. Since then, new signs have popped up along my route to and from work — signs more colorful, and much more political, than the first one.

Several neon pink signs advertise, “Progressive Tree Czar — 10% discount to Democrats.” I just had to call. The man I spoke to indicated that the discount was, indeed, for Democrats. I asked about independents. (No need to ask about Libertarians; I could guess his answer.) He replied that I could get a discount as long as I was a political “progressive.” Well, no discount for me. I mean, I believe in progress, but not that kind.

He asked to call me back after he handled an issue on the job. When we spoke again, I asked him if his choice of advertising was his way of taking a stand in the political debate going on in America. He said yes. Then after a few moments he said he didn’t like either political party; he was just trying out this advertising to drum up business so he could feed his family. An interesting change of tune — the emotional ploy. It didn’t work on me. I politely told him I would get back to him.

The other new signs appearing along my route advertise a “Conservative Tree Service.” They, naturally and predictably, feature full-color American flags as background. When I called this company, the person who answered the phone said I’d have to talk to the owner about the political aspect, but they did take \$100 off the total price for conservatives. Libertarians, too! She also told me that they were the same company that had the “barter” signs.

I might go with them. But maybe if I wait long enough there’ll be a sign for a tree service that really knows how

to do business. “Liberty Trees! No ‘discounts’! We’ll do the job for the best price for you — the lowest price we can offer.” If I see that sign, I’ll know who is getting my business.

— Marla White

**Tagged and tracked** — As a privacy zealot, I don’t own a cellphone — you know, that sexy little device that allows police to track you at all times without having to get a search warrant.

In Newsweek, an attorney for service providers is quoted as saying that his clients get “thousands” of “requests per month” from police who need merely to tell a judge that tracking a cellphone is part of an investigation. Then, the police know where you are 24/7; they know who you call and who calls you.

I’ll put up with a little less convenience, thanks.

— Wendy McElroy

**Free-for-all** — According to an article on the McClatchy wire, less than two weeks after President Obama signed his sweeping healthcare “reform” bill, doctors and health insurance companies have been swamped with people asking where to get their free health insurance. I wonder how much support there would have been for the bill if you took out all the people who assumed that the healthcare was going to be immediately available and absolutely free. I would bet the support for his healthcare bill was largely based on ignorance, even in Congress — I highly doubt that many (if any) of the people who voted for the bill ever bothered to read what they were approving.

As the reconciliation bill details leak out it turns out that there is no guarantee for regular checkups or doctor visits; however, with the hiring of 12,000 new IRS agents, it is guaranteed that you will receive a regular annual audit. The plan gets more people insured by making it illegal to be uninsured. Based on this strategy, the Senate should consider a plan to end poverty by making it illegal to be poor.

— Tim Slagle

**Bastion of idiots** — In late March and early April, various members of the Tea Party movement announced plans to hold rallies on Tax Day, April 15. The date didn’t surprise anyone who’d been following the smaller-government, lower-tax focus of the Tea Parties. But it bothered some cementheads on the statist Left. A lot. Here’s what a contributor to the anarchist-friendly website Infoshop had to say:

On April 15th thousands of right-wingers will attend rallies in cities and towns across the United States. The organizers of this nationwide day of protest call it a tea party. This tea party movement that emerged only a year ago is a coalition of conservatives, anti-Semites, fascists, libertarians, racists, constitutionalists, militia men, gun freaks, homophobes, Ron Paul supporters, Alex Jones conspiracy types and American flag wavers. . . . If the tea party movement takes over this country they will really hurt poor people by getting rid of social programs like food stamps, unemployment benefits, disability benefits, student aid, free health care, etc. The tea party movement will say these programs must be gotten rid of because



hard-working taxpayers cannot afford to pay for these things especially when the economy is in a depression.

The contributor (or contributors) went on to advocate that so-called anarchists take various steps to blunt the Tea Parties' growing popularity, including mounting counter-demonstrations.

Several commentators have noted the irony of "anarchists" shilling for big-government programs such as food stamps and "free" health care. One internet wag called the modern anarchist movement "the bastion of idiot college students." Another internet tough guy, sympathetic to Infoshop, confirmed that characterization (at least the "idiot" part), by writing:

Some anarchists, as I would assume of the person who wrote this call, would like to see government programs that kill, and maim erased before basic social programs. For instance, why strengthen military spending, and cut health care funding? . . . Tea Party people claim to be in favor of a small state, or be anti-statist, yet they constantly espouse the virtues of the constitution! The constitution is a document for a state, hence it has not validity, and any exponent of it is a statist by definition. . . . From 99 till 01 anarchist organizing, protests, and actions were remarkably successful and were gaining some ground. However, the media ignored absolutely everything that was going on. . . . The media can also lay ridiculous claims against anarchists, because anarchists have no corporate, or state power, and will obviously not sue for slander. . . . [C]apitalism creates greedy and selfish social relations, which is an obvious fact. Only a moron would argue otherwise; it is the basis of capitalist theory.

The Tea Party activists were hip to the Alinskyite tactics that these ersatz "anarchists" proposed. Some talked about coming to the rallies armed with guns to discourage any political theater that might turn violent; others talked about coming armed with video cameras to document bad behavior in the fullest possible context. The widespread availability of cheap, high-quality video cameras may be as useful — and democratic — a development as any we've had in the last generation. Which is saying a lot.

— Jim Walsh

***The blood of tyrants*** — On a medical blog recently, a physician concerned about passage of Obamacare lamented, "When 77% of the population does not like the bill in its present form yet politicians are still trying to pass it, does it not cry for revolution? We must stand up and contact our senators and congressmen."

It seems that the idea of revolution has devolved somewhat over the centuries. No more pledging one's life, liberty, and sacred honor. No more difficult choices between liberty and death. None of those wild-hairs like Patrick Henry calling for us to take up arms. Now you can do it simply by contacting your congressional representatives.

It's much safer, and, if you take a long enough view, equally effective.

— Ted Levy

***Poppy wars*** — In June 2009, U.S. Special Representative for Afghanistan and Pakistan Richard Holbrooke signaled the reversal of America's policy of eradicating opium poppies. The policy was reversed

in favor of stepped-up interdiction, as well as efforts to reduce the addiction that Afghan farmers have to growing them. Quite correctly, Holbrooke acknowledged that the policy of eradication only served to "alienate poppy farmers who were poor farmers, who were growing the best cash crop they could grow, in a market where they couldn't get other things to market."

We might look at this change in philosophy as a sensible evaluation of the situation on the ground: the United States didn't simply abandon the effort, but it recognized the overwhelming market forces at play. Nevertheless, new and very meddlesome policies were instituted. We must live with the ongoing expense in blood and treasure, not to mention lost freedoms, that is involved in interdicting and subsidizing competent Afghan poppy farmers to farm something else. Notably, no such program exists for vodka and Russian potato farmers.

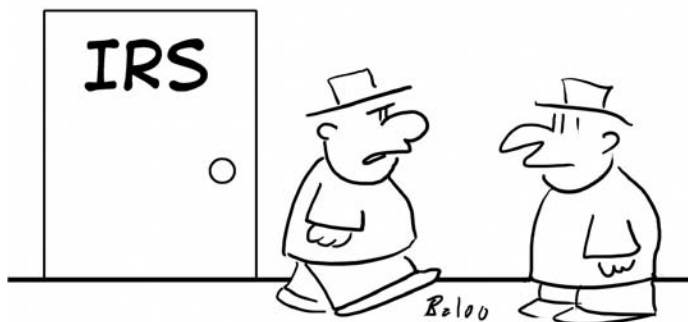
When will Americans wake up and realize that the supposed "cure" is worse than the disease, that to continue to ignore the lessons of Prohibition is to encourage corruption and criminality at every level of government and civil society?

— Brian Gladish

***Mendicant's toolbox*** — After over a year in office (dear Lord, it seems like a century!), Obama has shown that he is a master of deceit. Really, he had to be, running as a faux moderate in a center-right country, all the while adhering to his core leftist ideology like a jihadist to his religion. This sort of profound and continuous deception requires the use of many tools.

Of course, Obama is simply stupendous at the bare-faced lie. It takes enormous self-control to lie brazenly to people and not betray yourself by blinking, blushing, stammering, or shifting your eyes. Only the best con men can do that. It helps enormously if you face a sycophantic mainstream media that seldom question what you say, no matter how blatantly mendacious. I don't believe any president has told so many major lies about so many major issues in such a minor amount of time.

But his bag of tricks has many more tools than the big lie. Of course, he is great at the miniature filibuster. When asked a question he doesn't feel like answering — which is to say, pretty much any question critical of his



"You were wrong — they weren't more afraid of me than I was of them."

administration — he will use all the time available to talk around the issue. He may have set the record recently, when he talked for 17 and a half minutes about irrelevancies in reply to a woman's simple question about whether we are paying too much in taxes.

Less often used but still effective is a third tactic, the token concession, or what I call the fake flip stratagem of deceit. He announces that he realizes a policy needs to be changed in the direction his critics have been urging, and pretends to change it in a balanced, "split the difference" kind of way, but really changes his policies only a tiny bit. He hopes to silence the opposition by offering a token, and spinning it as a major concession.

A classic case is the president's recent announcement that he will "open up" part of the coastal shelf for drilling. He is being forced by a number of things to talk about drilling. As the world emerges from recession (even as it wallows in Obamalaise), oil prices have jumped to nearly \$90 per barrel, a 17-month high. There have been some estimates that oil may hit \$150 per barrel this summer. And Obama remembers how much he dropped in the polls during his election when McCain (at Palin's behest) started hammering "drill, baby, drill" as gas prices went through the roof.

Moreover, Obama realizes that his support level is already getting dangerously low. If it gets into the 30% range, he will not be able to finish implementing his neo-socialist agenda (especially getting cap-and-tax passed). So he's got to toss the opposition a bone.

And what a tiny chicken bone it is. Obama announced that he will open some limited areas for drilling. Some are off North Carolina and Virginia. Then there's a small part of the Alaska coast, and part of the Eastern Gulf, for oil and gas exploration. A day later he added some of the shallow waters off Delaware, down to mid-Florida.

He announced this with crocodile tears in his eyes, moaning "This is not a decision that I've made lightly." But the feigned anguish aside, he has agreed to far less than what Bush's 2008 compromise with the Democratic Congress (the "Pink Congress") called for to start this year — and far, far less than what we need.

For one thing, Obama's agreement to open up Virginia's coast is hardly a concession, given that that lease was already slated to be bid out next year anyway. But his new deal puts off the drilling until 2012, allowing more time for environmental groups, his myrmidons, to set up legal roadblocks. And while he has agreed to allow one of the Chukchi Sea leases (which was concluded in 2008 and permits drilling next year) to remain, he cancelled five other Alaska leases in the Chukchi and Beaufort Seas.

The Bush compromise, killed last year by Obama's Secretary of the Interior Salazar, had dropped the decades-old ban on offshore drilling, a ban that covered the entire coastal shelf except the Arctic Ocean off Alaska and the western Gulf of Mexico. Obama's new replacement deal secures that ban to the northern Atlantic coast, most of the Florida coast, most of the deep Gulf waters, most of

Alaska's coast, and — especially egregious — all of the West coast, from Washington state all the way down to California. But this is precisely where the bulk of proven oil resources are located.

Some, such as The Wall Street Journal and a couple of oil companies, are cautiously optimistic, taking the view that when a pig flies, you don't criticize it for not staying up very long. I, however, view Obama's plan as just another trick by an extreme leftist intent on switching the country to high priced "alternative fuels." — Gary Jason

**Nickel and dimed** — The welfare state grows when envy convinces voters that governments can take from the rich and give to the poor, thus increasing the size of the state. Simple accounting exposes the fraud and explains why many poor folks don't fully share the prosperity of modern societies. The key to understanding the scam of the welfare state is that large businesses regard the taxes that come with enlarging governments as just another cost that has to be passed on to their customers. They do not "absorb" these extortions; they pass them through. Businesses and the rich do not pay taxes; they collect them. Licensed and privileged entities (utilities, doctors, insurance companies, the local zoning and planning commission) do something similar when they use the state to exclude or control competition, forming oligopolies that allow the licensed to charge above-market prices for their products. The poor earn what they can in jobs available at wages offered, and pay the taxes embedded in prices inflated by their compassionately bloated government.

— Erwin Haas

**Straight shooting** — Obama's man in Afghanistan has made an astonishing admission. In a comment on American checkpoints, General Stanley McChrystal said: "We have shot an amazing number of people, but to my knowledge, none has ever proven to be a threat" (New York Times, March 27, 2010).

Now, if the general would take the next logical step from this continuing record of failure and call for U.S. withdrawal from the Afghan disaster, he might actually go down as a true hero in the annals of military history.

— David T. Beito

**By the numbers** — According to a recent Gallup poll, 67% of Americans no longer believe global warming will threaten their lifestyle. The other 33% are scientists who rely on global warming grants to pay for their lifestyle.

— Tim Slagle

**British beef** — England, the land of Magna Carta, continues hellbent on its transformation into full-blown police statehood, offering in the process a glimpse at what our own country's legislators will push for in the coming years.

The latest affront to liberty comes in the form of a War on Terror law which — surprise! — has almost immediately been put into service against British citizens. The law, by way of banning "attempts to elicit information about

(members of armed forces) . . . which is of a kind likely to be useful to a person committing or preparing an act of terrorism,” essentially serves as a truncheon for police to use when threatening photographers who dare to snap pictures of them. Such an act is deemed “intimidating” to the armor-clad men carrying metal clubs, and the law provides for penalties of up to ten years in prison.

Not content with preventing citizens from photographing the police whose salaries they pay, the British government is attempting to make it impossible for photographers to take snapshots of anyone, period. Even worse, it’s being done out of a supposed concern for “private data” — which means, as ever, the private data of the politically connected and powerful. The directive in question comes from the ominously-named Information Commissioner’s Office, which has decreed that any photograph in which any person appears may be banned from publication if that person refuses to consent to his image being used. Keep in mind here that “publication” covers not just newspaper articles, but everything down to personal blogs, Twitter accounts, and Flickr streams. Moreover, according to the law, it is up to the photographer to judge whether the picture might prove objectionable, and hence to act as his own censor. Essentially, this directive makes it impossible to document the shady dealings of any figures who do not want to show up on anyone’s front page, whether print or web-based. The freedom of “private data” is the freedom to suppress documentation of illegal or unethical conduct.

And that’s not even the worst law on the table. Under the Digital Economy Bill, photographers would essentially lose any pretense of copyright — in order to assert creative control over their works, they would be required to register each image, in each iteration, with a government agency of dubious provenance and nebulous powers. Failure to register — and to waste the time and pay the exorbitant fees inevitably attached to such bureaucratic endeavors — will leave your work open to any thief who happens upon it (that is, if anyone can be labeled a thief when operating with full legal sanction; if so then the entire theory of modern governance falls apart).

A few months back, I suggested (in “Skirting the Surveillance State,” Jan.–Feb.) that “there is no reason that we should not be able to document the presence of a bank of traffic cameras, or a mobile CCTV van idling on the side of a calm street for no apparent reason.” While this remains true in the abstract, it is a course of action increasingly imprudent as the British government finds ways to crack down on its subjects. It doesn’t take a conspiratorial bent of mind to recognize that these laws constitute an assault on any idea of open government. The use of copyright is instructive: Parliament has never hesitated to use IP laws to bludgeon anyone violating the copyrights of politically connected and favored media corporations — for instance, another portion of that same odious Digital Economy Bill requires UK universities to police their wireless networks, actively monitoring for any hint of downloads of copy-

righted material. And yet the copyright of photographers is little more to them than a license to print money.

While I am generally in favor of expansive fair-use provisions, in this case copyright serves as a bulwark against de facto government ownership of all photographs intended for publication. While newspapers like the Times or the Telegraph, gossip rags like the Sun or the Mirror, or media empires like the BBC or Rupert Murdoch’s Sky can afford to register all iterations of their photographs, and go toe-to-toe with agencies or celebrities over the rights to their images, that is not an option for unaffiliated journalists. This combination of laws will essentially kill off independent photojournalism, leaving investigation in the hands of those who will protect the powerful to preserve their access to them. Which is to say: these laws do exactly what they were intended to.

— Andrew Ferguson

**Lead-based taint** — My wife and I recently hired a general contractor to remodel our bathroom. This small-businessman, whose livelihood depends on reputation and referral, was friendly, punctual, and professional. He worked with a small handful of very competent subcontractors and in short did a fantastic job on our new bathroom.

We had the good fortune to work with him before April 22, 2010. After this date, every contractor who might disturb paint in a home built before 1978 (i.e., every contractor) will be burdened with a spiffy new federal regulation. He must be EPA certified to “Conduct Lead-Based Paint Activities and Renovations.” Once again, the EPA has masterminded another diabolical plan to abuse small business and hamper any economic recovery Americans might have hoped for.

On its surface, the burden may seem negligible: \$550 in application fees and about as much again in training costs, depending on the training facility. Of course you must, on top of that, account for the time and energy that go into application paperwork and training. For a larger business, that may be negligible. But any passionate entrepreneur who has tried to get a very small, personal business off the ground knows this is soul-crushing. If he could scrape an extra grand together, the very small businessman would wisely use it to feed his family or buy tools so he could do his job better and bring in more clients. He needs every ounce of time, energy, and focus he can muster in order to do the real work of running his business. If he did happen to have any spare time and energy left, he’d need it for doing all the extra record keeping and accounting required to fill out his Schedule C at the end of the year.

Our contractor indicated plans to go through with the certification process and stay in business, but how many budding construction apprentices will simply abandon their own small business plans? Rather than start their own contracting business and perhaps employ others, they’ll sit on the sidelines while the big boys play in a smaller and smaller competitive field, driving up prices for the consumer.



I didn't do the most thorough investigation possible, but I did pull up a few scientific reports on lead from the EPA website. Surprisingly, most were simple measures of lead levels and mechanisms for studying or reducing those levels. Conducting a title perusal and opening a handful of such reports, I could find none with detail on what levels would actually cause harm in humans. In fact, the first report I pulled up stated that cases with severe health effects are very rare, that many health effects require "extremely elevated blood lead levels," and that "the threshold for harmful effects of lead remains unknown."

Lead paint may indeed be dangerous. Many CDC apologists have informed me that my libertarian philosophy is a direct result of brain damage from overexposure to lead paint during my childhood. Nevertheless, is it really necessary for the federal government to protect me from this danger? Is it necessary to protect me in a way that drives a fist into the nose of struggling independent businessmen? Is it necessary to do this at a time when our economy is tanking hard?

People who are concerned about living with lead should be free to pay a little extra for the advice of an expert in that field. People who are not should be free to take their own chances.

— Doug Gallob

**Presumption of competence** — The nanny state is premised on the assumption that you are no more able to make "correct" choices about your daily life than a 5-year-old child or a mental incompetent. Your medical decisions, what you eat and read, the words you use and whether you can "play" with guns — all must be monitored by the parent state to ensure *your* safety.

Yesterday, I came across an intriguing way of expressing an idea I've held for quite some while. Just as the law properly contains a presumption of innocence regarding criminal matters, so law and society should properly contain a *presumption of competence* regarding the choices of all adults. I would argue further that many who are now legally defined as "children" also deserve such a presumption.

The danger: there is at present no proper law — only government legislation that violates freedoms, and government courts that defile justice. Under such circumstances, any legal precedent will probably be corrupted and co-opted for statist purposes. Nevertheless, I like the argument in which the two presumptions are paralleled.

— Wendy McElroy

**Student-loan coup** — Obama managed to get his healthcare abomination through a reluctant Congress. The old saw that two things you don't want to see being made are sausages and laws was never more apt than in this case. After the Cornhusker Kickback, the Louisiana Purchase, a judgeship offered here, and special deals for part of Florida there, the end was fitting. Congressman Bart Stupak dropped his "morally principled" opposition to the bill for the price of an agreement from Obama to issue a meaningless executive order and, very possibly, for

three government grants, totaling about \$700,000, to airports in his northern Michigan district. Not much better than 30 pieces of silver.

But unnoticed by many was a provision in the health-care bill that nationalizes the student loan industry. Yes, in another case of the "transparency" for which they have become legendary, the Democrats inserted this major provision about a matter totally unrelated to the healthcare bill, the better to twist the thing through.

With the passage of this bill, the federal government now outlaws private companies from originating federally guaranteed loans. Only the Department of Education can now do so. The theory here is one refuted long ago by Frédéric Bastiat: if you eliminate the "for-profit" middleman, you are bound to save money. This is fantasy: someone will have to do the work of writing these loans. Either federal employees (who, besides being ludicrously inefficient, are paid 40% higher than private sector employees) or people with government contracts will do the work. Besides normal for-profit loan companies that are eligible for contracts on the basis of competitive bidding, the bill inserted a list of several dozen nonprofit companies that are eligible for *no-bid* servicing contracts for up to 100,000 students each.

— Gary Jason

**Semper Fidel** — Fidel Castro applauded Democrats for passing healthcare reform. He was reported as saying that it was remarkable that the most powerful country on earth took more than two centuries from its founding to approve something as basic as health benefits for all. Now, if America could just get rid of free speech and open elections, they'd really be getting somewhere . . .

In a moment of irony, the same day there docked in Havana a replica of a slave boat circa 1839. Or, as the Cuban National Press referred to it: a modern ecofriendly cruise ship.

— Tim Slagle

**Change that passeth all understanding** — J.D. Hayworth, a former sports announcer and Republican congressman, and most recently a local Phoenix AM conservative shock-jock, is running in the Arizona Republican senatorial primary against the venerable, and vulnerable, John ("I was once a prisoner of war, you know") McCain.

This is how Hayworth handles the tightrope walk of not insulting McCain the symbol while running to defeat McCain the man: "We all respect John and thank him for his service. His place in history is secure. He will remain a widely admired historical figure. But after 28 years in Washington, it's time to come home. People are just ready for a change."

And Hayworth devoutly hopes the public somehow believes that a person who led the life of a congressman for 12 years, supporting the growth in government during the Bush II regime, only gave it up when he lost a reelection bid in 2006, and has been out of DC for merely four years, is "change." My guess: many will realize that this is as much like "change" as rearranging the deck chairs on the *Titanic*, but something we can now watch in 3D



without waiting for the Hollywood update.

I must say, there are some elections in which the advice to vote for the lesser of two evils does not sufficiently clarify the choice.

— Ted Levy

**Bullies, bullies** — A steady stream of hysterical claptrap has been spilling out of western Massachusetts. As you've probably read or heard, a local district attorney has indicted nine current and former South Hadley High School students, aged between 16 and 19, for a passel of felonies and misdemeanors related to the death of a 15-year-old schoolmate named Phoebe Prince.

The facts of the case are not simple but seem to follow this rough narrative: a group of some half-dozen girls decided they didn't like Miss Prince (a recent immigrant, with her family, from Ireland). The girls hectorated and harassed her bluntly and in more subtle ways. Their schemes may have included setting up Prince by having their boyfriends ask her out on dates, then accusing her of trying to steal the dimwitted beaux. In January, driven to distraction by taunts of "Irish slut," Miss Prince hanged herself.

District Attorney Elizabeth Scheibel, an alumna of South Hadley High School, charged seven girls and two boyfriends with crimes including "relationship aggression," statutory rape (against the boys), and "violation of civil rights, with bodily injury resulting." Scheibel claimed that the conduct of the defendants "far exceeded the limits of normal teenage relationship-related quarrels." But the details — defacing a photograph that included Prince, posting insults on Facebook, exchanging nasty words in the school library, and throwing a can of soda — seemed like pretty thin gruel.

Even the more serious statutory rape charges looked shaky upon closer inspection. They would require proving that Prince had had sex with the boys, who were 17 and 18 at the time. Massachusetts law does allow such charges against teenagers (other states limit statutory rape charges in cases involving sex between teens close in age); still, they aren't often prosecuted.

A chorus of feminist "activists," journalists, and legal theorists gathered in South Hadley and started generating hysterical prose about a crisis in "bullying" that has beset the republic and how school districts everywhere must take precautions by hiring feminist "activists," journalists, and legal theorists to explain how to prevent such needless tragedy.

A second ring of commentators (this ring, virtual) formed outside the first. Television and radio commentators, newspaper columnists, and scores of internet pundits analyzed the analysis for political bias, socioeconomic privilege, and cultural sensitivity.

Some of the commentators from each ring turned their attentions to the high school's staff and administrators. U.S. law has a long tradition of recognizing *in loco parentis* — the legal theory that school teachers and administrators have a quasi-parental relationship with their students.

This means that they can restrict certain privacy rights, and so forth; it also means they have some responsibility to assure kids' well-being. On that count, they seemed to have failed Phoebe Prince. But the teachers and administrators in South Hadley were well regarded by most parents, and the DA didn't seem inclined to add them as defendants in the criminal case.

Some observers with legal backgrounds predicted that Scheibel would eventually bring some of the school staff into the case; others chalked this specific failure up to the more general failure of the public school system.

But the most distinctive response to the story was a sort of loving obsession about the lives and sufferings of the victims of bullying. Tens of thousands of words have been written, speculating about what it must have been like to be Phoebe Prince. Frankly, there's an exploitive, emotionally pornographic quality to some of that detail. But, boy, does it resonate. Personally. Egocentrically. Here are some responses to the coverage:

... I was bullied so bad in middle school and high school that I was in therapy every week because my mom was afraid she'd come home from work one day and find me dead next to a bottle of pills. And the sick thing is, it was for things that were beyond my control ... being the new kid in school, having red hair, wearing different shoes than everyone else, my parents not being rich ... until you go through something like this it's basically impossible to realize that hearing things like that, day in and day out, will eventually break you. My heart goes out to Phoebe and I hope those kids get what they deserve.

And:

... I'd like to see adults prosecuted for bullying, instead of being given "manager" jobs and high salaries. In today's world, "managers" who scapegoat their subordinates and fire en masse get accolades and full time good paying jobs. Obviously, these children have bullying parents who taught them that in our society, this is the way to get ahead and act. We need to punish adult bullies who abuse their supervisory power and fire and destroy people's lives financially and permanently. Most of these "talented" supervisors continue to harrass and bully their subordinates long after their fired by badmouthing them to other potential employers and making them unable to get a job.

And:

... Anyone who doesn't believe what these bullies did was wrong, whether they are parents, or a teen in school. Must be bullies themselves. I was bullied quite often in school, and reported it too. And mostly, I was told to ignore it. That's the wrong attitude right away, being told to ignore it. I'm sure that's probably what Phoebe was told too. Only since she had 9 (or maybe even more) people bullying her. She couldn't do what I finally resorted to. Which was to fight back. Once I showed I wasn't afraid, nor was I going to tolerate being bullied. Bullies are raised by bullies. And the only way to beat a bully, is to fight fire with fire.

The cult of the victim is a powerful poison. And the Phoebe Prince case — regardless of the outcome — is yet another dose. But in the last response I quoted, amidst the maudlin egotism, is the trace of an antidote. — Jim Walsh

**Trade imbalance** — Agonizing over the low Chinese yuan, Senators Graham and Schumer threaten to retaliate

against the Chinese and bring jobs back to the United States, by promoting our own kind of protectionism.

But why should I, as a consumer, object to acquiring goods cheaply while the government of China forces poor schnooks to work their fingers to the bone and subsidize my great life style?

The object of providing Americans with “shovel-ready” work is another crackpot idea. What joy do most Americans find in work? We want stuff, not work. And we know that capital can be substituted for labor. (People interested in economic history may consult the “Cobb-Douglas function.”) You can dig a canal in five years, using 10,000 guys with picks and shovels, or you can get your canal in one year, using 100 guys and an investment in giant earthmoving machines. This is close to the core of capitalism.

I can envision a huge factory staffed by robots, with a few guys on loading docks marshalling raw material through one door and shipping finished goods out through another. A few maintenance men grease the wheels. Folks living genteel lives design, direct, and finance the operation from their homes, working a few hours a week.

I'd hate to employ a billion hands manufacturing (hand-making) stuff in China when highly robotized machines operate in some place that capital and creative people find most congenial. And I hope this would be a free-trade U.S.A.

I'd say that the Chinese are in trouble, and meanwhile, let's enjoy the cheap stuff. — Erwin Haas

***Just a little prick*** — A news item from the Salt Lake Tribune (April 1): “Despite opposition from civil libertarians and criminal defense lawyers, Gov. Gary Herbert signed a law Wednesday that would significantly expand those whose DNA is kept on record in the state's database. Under SB277, anyone arrested for a violent crime would be required to pay \$150 to have their DNA sampled and added to the state database when they are booked into jail, before they are charged or go to trial.”

In other words, the state of Utah assumes you are guilty until proven innocent; it forces you to pay for its assumption of your guilt; and, should you be able to prove your innocence to Utah's satisfaction, you will still need to pay for a court order to have your DNA removed from the state database.

One aspect of the passage of this hideous bill leaps out at me. Herbert has been loudly protesting the feds' violation of states' rights; yet he illustrates why I don't favor states' rights as do so many libertarians. I don't see the advantage. States are as vicious in violating individual rights as the feds are. I have no preference for being persecuted by Frick, as opposed to Frack. In any given instance, I might prefer one over the other simply because of a difference between their policies. But I can't generalize. I remain baffled by libertarians who believe that states' rights are an avenue to greater freedom. — Wendy McElroy

***Down with the ship*** — A South Korean battleship sank near the North Korean border, and authorities

have downplayed the possibility of North Korean involvement. Makes sense to me, seems like the only thing Kim Jong Il has proven capable of sinking is his country's economy.

— Tim Slagle

***Muscovite mediawatch*** — President Obama has been completely deferential toward Vladimir Putin, the wannabe Stalin. Obama caved on putting antimissile defenses in Poland and the Czech Republic, staunch allies both. More recently, he sealed a deal with Putin cutting strategic warheads on both sides, leaving in place Russia's decisive advantage in tactical nukes. And Obama has gotten absolutely nothing in return. It's been butkus for butt kiss.

Four recent stories drive this point home. The first is from the Financial Times of London (March 18). It presents a sorry picture. Instead of cooperating in imposing sanctions on the jihadist authoritarian state of Iran in order to get it to halt its nuclear weapons program, Putin announced — while Secretary of State Clinton was visiting Moscow! — that Russia will increase its help for Iran in its rush to complete its Bushehr nuclear power reactor by summer. Oh, Russia's foreign minister Lavrov allowed that it might support “smart” sanctions against Iran in the fuzzy indefinite future, meaning sanctions that aim at deterring nuclear proliferation rather than hurting Iran's economy. What conceivable deterrent value economically impotent sanctions would have, the Russians didn't say.

The second story is from the Washington Times on the same day. While the Obama administration has actually banned offshore oil drilling on much of the outer continental shelf (all of the East and West coasts and much of the deep water off the Gulf Coast), Russia has announced that it will start drilling for oil in the Gulf of Mexico. Yes, in conjunction with its old ally Cuba, Russia will begin exploiting oil resources in the deep waters of the Gulf — in an area that the Carter administration agreed that Cuba could exploit. (This is not the area in which Obama has just announced he will allow drilling to proceed, which is nearer to Florida than it is to Cuba).

The third story is from Reuters (April 5). Putin, while visiting his sweetheart Hugo Chavez, the caudillo of Venezuela, has announced that Russia will be selling up to \$5 billion in arms to Venezuela. These weapons will include T-72 tanks and the S-300 advanced anti-aircraft missile system. This is on top of the \$4 billion in arms the Russians recently sold to Chavez. These weapons will make it easier for Chavez to threaten his nemesis Colombia, the president of which country the Venezuelan government wished to assassinate, according to Spanish sources.

The fourth story is from the AP (April 6). The deal that the U.S. and Russia have just made is a new nuclear arms control treaty that replaces the 1991 START 1 treaty (which expired late last year). Immediately after signing it, the Russians announced that they reserved the right to abrogate it if they perceive the U.S. to be developing its missile defense system to the point where it becomes a “strategic”

threat. This is Russian negotiation at its finest: we'll agree to limit some weapons, until we decide that it is no longer in our interests to do so. And it is just a variation on Russia's basic stance: what's mine is mine; what's yours is open to negotiation.

So much for Obama's dovish notion that being nice to America's enemies would pay off in increased cooperation from them.

— Gary Jason

**Look sharp** — Recently, the Financial Times noted that “spurred in part by iPad anticipation, shareholder enthusiasm has more than doubled Apple's market capitalization in the past year, driving it past Google and Walmart.” The Brit paper noted that, with a market cap of some \$214 billion, Apple Computer was worth more than any other publicly-traded company in the United States, except ExxonMobile and Microsoft.

I appreciate the sleek lines of Apple's devices as much as anyone who isn't an employee or stockholder. I used to have a few shares, which I sold after the last split. But Apple is essentially a consumer-product design company. CEO Steve Jobs and his well-dressed cadres seem only secondarily interested in operating systems — and, in that regard, their interest seems to be in keeping those systems closed. The fact that Apple has become the third-most valuable company in America says a lot about the direction of the economy. It also suggests that the job market is becoming a harsh realm for anyone without strong tech skills *and* a keen fashion eye.

In a philosophical sense, I don't mind these developments. But they may explain why the crude rent-seeking tricks of groups like the Service Employees International Union have been so effective. In their guts, SEIU members understand that they don't measure up.

— Jim Walsh

**Nebuchadnezzar's ankles** — What shall we call this age we're living in? It isn't the Era of Good Feeling, that's for sure — though I hope it isn't the Time Between the Wars, either. It isn't a Renaissance of anything that I can see. It isn't the Good Days of Don Porfirio, or the Days of Auld Lang Syne. It isn't the Age of Gold or even the Age of Silver. Perhaps it's the Age of Brass — in less poetic terms, the Age of Flat Assertions.

You hear these brassy assertions everywhere. “It's for the children” — meaning that whatever “it” is, it has to be a good idea. “America needs more discussion about race” — as if Americans had been discussing anything else, for better or worse, these past 200 years. “Americans need to . . .” you name it: sit less, run more, go to college, perform public service, share their thoughts, use their seatbelts, be rude to smokers, go and vote, sign this, meddle with that . . . Anything but ask themselves, “What does all this mean?”

Brassy assertiveness. You hear it in the president's voice, in that characteristic way he has of coming down heavy at the end of a sentence. He increases his pace, even gets a little sing-songy, like a person who for some reason has to rehearse the details that everyone knows. But

he puts on the emphasis, too, so you'll understand that if you don't already know this stuff, and don't already agree with it, even with his most debatable statements . . . well, then, you certainly *ought* to agree.

Think of the way he says things like, “Healthcare reform is a job we've got to get done,” or, “This administration has created or preserved over 1 million jobs.” I can't keep track of how many “millions” he's put into that sentence at various times, but there's no reason to: if he said “1 billion” he would read his lines in exactly the same way. He'd slow down pompously for the first few words, rolling “this administration” around like a pair of meta-physical bowling balls; then he'd go fast and hard on the “1 billion jobs” — the assertion to which he expected his audience to succumb immediately. It's the same way with “healthcare reform is a job”: the first few syllables are portentous and rotund, but “we've got to get done” is treated as a given, as a thought so obvious that all the speaker needs to do is state it with the appropriate *emphasis*. No one will dare to say, “Who asked you?”

That's brass.

We have a president with a brassy style. We have other politicians who are constructed wholly of brass. There's no other explanation for Pelosi and Reid; they're statues in a cemetery. And we have many crucial premises that we're supposed to accept just because they're brass.

One example is the premise, shared by everyone from the Democratic Left to the Republican Near-Right, that if there's one change in the healthcare system that everyone in America positively demands and cannot live without, and properly so, it's the idea that even if you already have some horrendously expensive disease, health insurance companies must still be required by the government to enroll you and pay for your treatment.

Now really — how brassy is that? No one would run a private business based on assumptions as strange as that one. It's like saying that restaurants should be forbidden to charge anyone for food, unless they agree to give food away to everyone who is too poor to pay. (Yeah, it's not exactly the same thing; the two cases are only similar, and that's why I used the word *like*. It would be impossible to find something that's exactly as erroneous as the assumptions on which healthcare “reform” is based, although astrology might come close.)

It's obvious that if somebody with a \$3-million illness has to be “insured,” no matter what, then the rest of us are going to pay for this “insurance.” One way is by being forced to buy insurance when you're young and healthy. You don't like the government's forcing people to buy something, for the first time in American history? Neither do I. But please don't complain to me about this, my Republican friends, if you simultaneously endorse the government's authority to force insurance companies to “insure” the uninsurable. There are certain functions that brass can't serve, and one of them is intelligent argument.

— Stephen Cox



**Feel like a number** — What if government did not know where you lived or worked, how much you earned or whether you had children? How could it tax you, draft you, arrest, or fine you? And how would such huge industries as Child Protective Services even function, let alone justify their massive tax funding?

Government needs to know who you are and how to find you.

On March 8, The Wall Street Journal ran a story with the headline “ID Card for Workers Is at Center of Immigration Plan.” The article opens, “Lawmakers working to craft a new comprehensive immigration bill have settled on a way to prevent employers from hiring illegal immigrants: a national biometric identification card all American workers would eventually be required to obtain.”

I am not against ID in general; it serves valuable functions. ID authenticates who you are to strangers. In a business deal, a seller may require identification before taking a check. ID also provides certification; that is, it can verify that you possess certain skills or accomplishments, such as the attainment of a medical degree.

The valid functions of ID have a common characteristic: they provide advantages to the individual who holds the ID. But once the holding of ID becomes a disadvantage, individuals should be entirely free to say “no.”

Ask yourself who benefits from national IDs? The state, not the individual. And any individual who says “no” is punished by being legally disenfranchised as a result — unable to board an airplane, open a bank account, secure credit, or conduct the other normal business of life. This is always a mark of how free society is: Does a peaceful individual have the right to say “no” to an interaction without being legally punished for doing so?

Declining to put a piece of paper in your wallet must be the ultimate “victimless crime.” After all, who is harmed by the absence of a paper on your person?

— Wendy McElroy

**Vote: rocked** — It was 2008, and Barack Obama was being carried into office partly by a youth vote enamored by vague promises of hope and change. You don’t need to be an economist or political scientist to understand, after speaking to virtually any young adult American voter, what the meaning of rational ignorance is. But they wanted Obama, and they got him.

I write this as the House chamber is about to pass Obamacare into law. Unemployment stands at almost 10%, likely much higher for young adults looking for their first rung on the economic ladder. With this bill, their chance of employment will only get worse. Making the hiring of people more expensive is not a way to full employment.

I write this as the House chamber is about to pass Obamacare into law, thereby forcing young people to buy insurance at a price that reflects not merely the low cost of insuring the young and healthy, but also the subsidy of insuring older people with preexisting conditions — of insuring the uninsured generally, whom those mesmer-

ized by hope and change wanted to help. We’ll see how much they will want to help when it costs something more than flipping a switch in a voting booth.

I write this as I listen to Nancy Pelosi give a last-minute talk that, if I looked at the transcript and pretended it was written as an essay in political science class by a high school student, would fail for lack of knowledge of the basic principles of constitutional government. But of course she’s not a dumb high schooler; she’s a clever manipulator of memes, allowing those who listen to her to believe she is following a line of freedom straight from our nation’s birth, when in fact her legislation would likely have been listed among the causes Jefferson gave for justifying a revolt against the mother country.

It is right and just that the young voters of America brought Obama to power. They will be the ones paying for it, in many ways, for many years.

— Ted Levy

**Putting the “us” in stimulus** — Obama has used both the TARP bailout funds and the stimulus bill funds as any Chicago politician would — as slush funds from which money can be drawn as needed to reward pals and buy votes. Two stories illustrate this.

The first is Veronique de Rugy’s article on Breitbart (March 26). Ms. De Rugy, a fine economist of libertarian inclination, reports her analysis of the data posted on the federal government’s own website, Revover.gov. She discovered something amazing: of the stimulus funds thus far spewed out, Democratic districts have received 1.8 times more money on average than Republican ones. To be exact, the Dems are lapping up \$471.5 million per district, while the Repubs are getting only \$260.6 million.

Oh, and there is no apparent allocation of these funds on the basis of unemployment (or even change in unemployment) — which was supposedly the whole point of the massive “stimulus” spending to begin with.

The second is an older piece of news, which has been making the rounds since last year, when the Washington Post reported that Obama’s Treasury Department shoveled \$135 million in TARP money into a bank in Hawaii, Central Pacific Financial, in spite of the fact that the FDIC had indicated it was a poor candidate for support. The bailout happened after a call from the office of Sen. Daniel Inouye (D-HI), a liberal fossil who has been in the Senate for almost 50 years. Inouye helped to found the bank and, as of 2007, he and his wife owned hundreds of thousands in its stock.

No conflict of interest there!

— Gary Jason

**Act now** — Recently, Health and Human Services Secretary Kathleen Sebelius warned state and local officials about scams involving phony health insurance policies. It seems that scammers were going door to door, claiming that there was a limited open-enrollment period in which to buy health insurance before the reform law went into effect, and fined people for not having insurance.

Actually, the law’s biggest effects don’t begin until 2014, when new “health insurance marketplaces” will



start operation and federal tax credits are scheduled to reach millions of families and individuals. At the same time, Medicaid will be expanded and health insurers will no longer be able to turn people down on account of medical problems.

"Unfortunately, scam artists and criminals may be using the passage of these historic reforms as an opportunity to confuse and defraud the public," Sebelius wrote in a letter to state insurance commissioners and attorneys general. She urged "vigorous prosecution" of anyone caught selling fraudulent policies.

As the bumper sticker says: "Don't steal. The government hates competition."  
— Jim Walsh

**Certified charade** — A recent AP story (March 26) gives us some insight into how well the feds will run our healthcare system.

The AP reports the results of a GAO (General Accountability Office) report on the highly-touted green "Energy Star" program. This program, run by the EPA together with the Department of Energy, evaluates and rates products for their energy efficiency. Various tax credits and rebates are made available for products with high ratings.

The GAO, which has the task of examining government programs for *their* efficiency, submitted 20 phony products to the Energy Star program for rating. Fifteen of those fake products received certification that they were energy efficient.

Among the bogus products that won Energy Star efficiency awards was a 1½ foot tall by 1¼ foot wide gasoline-powered alarm clock. Another was an "air cleaner" that consisted — really, you have to compliment the GAO on its robust sense of humor — of a space heater with a feather duster and strips of fly paper flimsily tacked on. The GAO notes that nobody at the EPA or DOE bothered to read the product descriptions.

In what has to be the understatement of the century, the GAO concluded that the Energy Star program is "vulnerable to fraud and abuse." Ya reckon?  
— Gary Jason

**Safe house** — The AP reports that House Democrats are expressing concerns about their personal safety following protests over health care legislation.

I don't see what the problem is. Medical coverage for trauma is clearly included in healthcare reform.

— Ted Levy

**Bleeding Kansas City** — The idiocy of our governmentally monopolized school system has been illustrated anew by a recent story about the Kansas City public schools. In fact, it is more of a *reductio ad absurdum* than a mere illustration.

Kansas City's public school system made national news back in 1985. In that year, a federal judge with decidedly dictatorial leanings seized control of the district, declaring it to be segregated, and ordered the state to spend \$2 billion to rehabilitate the schools, as well as to increase both

student retention and performance.

And the money flowed like wine. The district bought such amenities as a "mock court" for one school, to help students learn about the legal system (rather daffy, considering that many of the students were already intimately acquainted with courts). It started a fencing program in another, built an Olympic-sized pool in a third, a recording studio for a fourth, and a six-lane indoor track for yet another one. All the while, the district kept losing students. Total enrollment went from 75,000 in the 1960s to 35,000 in the late 1990s down to less than 18,000 today.

Nevertheless, spending remained out of control. This year, the budget was \$316 million, and the district overspent it by \$15 million!

The AP now reports (March 7) that the school district is nearing bankruptcy. The school board has advanced a new plan to deal with the fiscal crisis: it says it wants to close almost half the schools and lay off 700 of the district's 3,000 employees, including nearly 300 teachers. Predictably, many people in the district — especially parents — are screaming in disbelieving rage.

My advice? Close down the whole damn stinking district, divvy up the money in the form of vouchers (which would amount to over \$17,000 per student), and let the hapless students find better schools.

Just a thought.

— Gary Jason

**What's yours is mine** — On March 18, President Obama signed the \$17.5 billion Hiring Incentives to Restore Employment Act (HR 2487), or HIRE. On page 27, it includes an ominous provision that will affect Americans with foreign bank accounts over \$50,000.

The Offset Provisions (Subtitle A, Foreign Account Tax Compliance) require foreign banks "to deduct and withhold a tax equal to 30% of — (i) any passthru payment which is made by such institution to a recalcitrant account holder or another foreign financial institution which does not meet the requirements of this subsection." The banks must also provide full details about nonexempt account-holders to the IRS. If the provision is deemed illegal by a foreign nation, such as, for instance, Switzerland, then the bank in question is required to close the account.

Accounts under \$50,000 are exempt. Who else is exempt? Apparently anyone the Obama administration wants to be. Included in a section entitled "Exception for certain payments" is an exemption for "any other class of persons identified by the Secretary for purposes of this subsection as posing a low risk of tax evasion." What are the odds that a telephone book's worth of Democratic elites and their funders will be deemed "low risk"?

Americans have a choice: remain in the United States or follow their money elsewhere.  
— Wendy McElroy

**Legal challenge** — Bret Baier of Fox News interviewed President Obama one-on-one on St. Patrick's day this year, in anticipation of the then upcoming vote on healthcare reform.

Talking afterwards with Fox pundit Bill O'Reilly, Baier

admitted it's a difficult challenge to get Obama to answer questions directly. Baier spent some time trying to get a straight yes-or-no from him about whether he approved the reconciliation trick of voting for a rule rather than a bill; the rule would allow the House to "deem" that the bill had passed the House if the Senate would then approve amendments that the House wanted.

I appreciate Baier's challenge, but I really wish he would have just confronted the president in this way: "Sir, you are distinguished among U.S. presidents not only in having a Harvard law degree (only the second to earn such a degree, after Rutherford B. Hayes) but in actually having taught constitutional law. As a constitutional lawyer, are you willing to go on record, in opposition to several legal scholars who have published in newspaper columns throughout the country this week, in saying that the reconciliation move is constitutional? As president, you have sworn to uphold the Constitution. Does it follow that if a healthcare reform bill reaches your desk by traveling this reconciliation route, your signature will indicate that you are putting your scholarly reputation on the line to the effect that you believe such a maneuver to be constitutional? Are you willing to ask the Supreme Court to rule on this?"

— Ted Levy

**Waiting for no Waxman** — The Sarbanes-Oxley Act, a statist indulgence passed in the wake of the Enron financial accounting scandal, requires publicly-traded companies to make announcements whenever they reasonably expect "material adverse impacts" to affect future earnings.

In the weeks after President Obama signed healthcare reform legislation into law, several large employers announced that the "reforms" (and, specifically, changes to the tax treatment of certain prescription drug benefits offered to employees) constitute "material adverse impacts" and will likely reduce projected profits. This was a black eye for ObamaCare.

But enter Henry Waxman, the braying buffoon who chairs the House Energy and Commerce Committee. The California Democrat saw conspiracy and no good at all in the companies' reports. He dashed off a letter to three big employers — AT&T, Caterpillar, and Deere & Co. — asking their senior management to come to Washington to explain their apostasy. His letter states, in part:

The new law is designed to expand coverage and bring down costs, so your assertions are a matter of concern. They also appear to conflict with independent analyses. The Congressional Budget Office has reported that companies that insure more than 50 employees would see a decrease of up to 3% in average premium costs per person by 2016. The Business Roundtable, an association of chief executive officers from leading U.S. companies, asserted in November 2009 that health care reform *could* reduce predicted health insurance cost trends for businesses by more than \$3,000 per employee over the next ten years. (Emphasis added.)

Of course, neither of the projections Waxman mentions has any bearing on what a specific company's experience

in the wake of the new law might be. There's a touch of King Canute to this — with Waxman railing against the tide that it is not following CBO projections.

More waves are coming.

— Jim Walsh

**Damaging goods** — Well, I celebrated too soon. I admit it. In a previous Reflection, I celebrated the fact that Obama had withdrawn radical labor lawyer Craig Becker — a guy who is up front about his view that the National Labor Relations Board (NLRB) can simply alter labor law without congressional approval — from consideration for appointment to the NLRB. It was clear that there were insufficient votes for Becker, with all the Republican and even two Democratic senators opposed.

Ah, but the ever more autocratic Obama pulled a new trick: he installed Becker and 14 other controversial candidates for public jobs as "recess appointments," meaning they don't have to face congressional scrutiny. Recess appointees can serve for more than a year.

Now, recess appointments are nothing new; other presidents have used them. But when George W. Bush used that mechanism to appoint John Bolton as Ambassador to the United Nations, a certain senator denounced Bush's appointment of "damaged goods" and said that Bolton would "have no credibility" in his post.

Yes, you guessed it — that senator would be Obama. I guess you could say he changed his mind again.

— Gary Jason

**Revealed preferences** — I have always enjoyed thought experiments and other mind games that break through habits of thinking or offer unusual insights. It is just plain fun to play with ideas, to arrange them like legos or blocks you can topple.

People often lose this sense of fun because they are obsessed with whether an idea is right or wrong, moral or immoral, acceptable or laughable. These are considerations when you present ideas publicly, but there is real value in allowing ideas to flow in the privacy of your own mind even, if you have doubts about their validity.

Consider a mind game that became a favorite of mine for a while. In his book "The Religion of Nature Delineated," the English philosopher William Wollaston (1659–1724) wrote, "I lay down this as a fundamental maxim, That whoever acts as if things were so, or not so, doth by his acts declare, that they are so, or not so; as plainly as he could by words, and with more reality." He argued that actions have "significancy," by which he meant that the actions themselves could be true or false. For example, theft is a denial of the truth about who owns the item stolen. Conversely, returning property to someone who has lost it is an acknowledgment of the truth of ownership.

In short, Wollaston argues that actions make truth claims and can even "imply propositions." For the latter, he uses the example of one group of soldiers who fire upon another; the act of shooting, he claims, is a statement that "the other group is the enemy." He then argues that moral evil is the denial of truth through your acts, and

moral good is the affirmation of it through action.

I was impressed by this formulation of how values and action and facts interact. (Undoubtedly the groundwork for being impressed was an earlier embrace of Ayn Rand's arguments connecting facts to values.) For weeks I went around trying to translate moral actions into the truth or lie they were expressing. Quite apart from whether Wollaston was correct in his formulation, the exercise entertained me then and now — and led to some interesting conclusions.

Consider one of the most common “immoral acts” — having an affair outside of marriage. What makes it immoral? I don't think it is the sexual act itself; after all, if it is an open marriage, then the act remains the same, yet its moral content changes. And I don't think what makes it immoral is the fact that an innocent person may be hurt by the affair. If the spouse finds out and is terribly upset, then there is a problem in the marriage and it is an emotional mess, but I'm not sure an immoral act has occurred. What if the straying spouse met “the love of his life” and realized the marriage was a mistake to begin with? As long as he is honest with everyone, then his actions may be telling the following truth: “I've made a bad mistake in entering a marriage contract I cannot fulfill. I must breach the contract with as little damage as possible to everyone involved.” To me, the immorality of an infidelity is precisely *that* — it is an infidelity, a breach of trust through pretense and lies. In short, the immorality is in the lie.

That doesn't mean that immorality is interchangeable with lying. A neighbor once asked me to drive her son's dog to the vet after it had been hit by a car. It died about an hour after the accident, having suffered terribly. When her son came home from school, we both told him that the dog had died instantly and felt no pain. It was a flat-out lie, but I will never believe it was an immoral act.

— Wendy McElroy

**Strike it rich** — Some people are lucky, some aren't. Take Larry Langford, a maven of machines of chance. He's one of the blessed ones. Lucky Larry won more than \$1.5 million from more than 500 jackpots in a Shorter, Alabama electronic bingo casino — so says a lawsuit recently filed in an Alabama court. Five hundred jackpots! He often won ten on a single night.

I forgot to tell you that Langford is also the ex-mayor of Birmingham and a convicted felon — bribery. He was convicted of accepting cash, clothing, and jewelry from a crony in the state capital, Montgomery. In exchange for those glittering gifts — even when it wasn't his birthday or Christmas — he directed government business toward his generous benefactor. Now this: while Lucky Langford filled his hat with jackpot earnings, the owner of the slots in Shorter was trying to get electronic bingo okayed in his race track in Birmingham. What a happy convergence of events! Probabilities be damned.

South Chicago politicians must be green with envy at this innovation. It's so much more sophisticated than dumping a briefcase full of bills on the mayor's desk.

“How can one man win ten jackpots in a single night?” hollers the prosecutor. “That's a 10 million to 1 shot.”

“He's just plain lucky — what can we do? Happens all the time in South Chicago,” choruses a battery of defense attorneys.

I'm sure that will be the core of the defense when the case comes to trial. And I'll bet the former mayor won the Super Bowl pool, too.

— Ted Roberts

**A wider net** — Through my ham radio hobby, I listen to the BBC and other “world” news more than most people. Every morning, I surf online periodicals from China to Israel. It still amazes me how differently the mainstream media in various nations report “the news.” The American media are among the worst at providing balanced coverage or even acknowledging news that may be controversial on a domestic level. Indeed, with the exception of Fox News, most media outlets in the United States appear to be a cross between White House PR agents and entertainers. (Given that there is a Democratic White House, Fox serves up anti-PR and entertainment.)

What sparks this reflection? Media outlets in the UK are hardly a bastion of free speech, especially when burdened, as they are, with political correctness. Nevertheless, UK coverage of ClimateGate has been intense, constant, and of remarkably high quality. Coverage in the States has been . . . well, the issue is mentioned by the likes of CNN from time to time, but the talking heads downplay the scandal and quickly counterbalance its mention with an expert who delivers a mini-lecture on polar bears or “being green.” Again Fox is the exception because Fox delights in discrediting Obama's signature cap-and-trade policy. The contrast between the UK and the U.S. media in covering this issue is almost stunning.

Yet I know that many Americans genuinely believe they are well informed because they watch news programs. I sometimes approach the idea that the media are misinforming them by pointing out that CNN International broadcasts a very different type of news — different both in quality and in content — than is seen domestically. The domestic CNN dumbs down the news, filters out impolitic matters, and then serves up the sanitized grade-school version as a side dish to the ongoing entertainment. No matter. When I stop speaking, the Americans simply repeat their belief that American news is the best on the planet because . . . well, it is American.

In reality, it is necessary to cruise news from around the world — from nations with different and often conflicting interests — in order to glean a hint about what is truly happening.

— Wendy McElroy

**Retconstitution** — In the letters section of USA Today (Feb. 15), Pat Orzechowski of Cincinnati wrote, under the title “Two-tier schools seem wrong”: “I think our Founding Fathers are turning in their graves. Why? Because some people are advocating a two-tier schools system . . . The idea is to divide America's public school system into two, one for employees and one for entrepre-



neurs. Our forefathers came to this country for freedom."

And apparently also for the free government education, according to Orzechowski.

Obviously no student of the works of Joel Spring, among others, Orzechowski is unaware that the phenomenon he describes is at least decades old. Government schools in America have sorted children by ability since at least the early part of the Cold War. Spring's 1976 work "The Sorting Machine: National Educational Policy Since 1945" discusses this in detail. In "The Bell Curve," Charles Murray discusses the phenomenon as a reason high IQ is more and more segregated in our society.

But the amusing part is that Pat thinks the sorting would cause the Founders to pirouette horizontally. Orzechowski seems to believe that their document begins: "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, and have the Government educate our Children, do ordain and establish this Constitution for the United States of America."

— Ted Levy

**Specious reality** — The Atlanta Progressive News is not a heavily visited internet site, but it recently got more traffic than usual. In mid-February, APN terminated senior staff writer Jonathan Springston because "he held on to the notion that there was an objective reality that could be reported objectively, despite the fact that that was not our editorial policy at Atlanta Progressive News."

This watery epistemology was reported by a rival Atlanta-based progressive internet news outlet (yes, there is more than one), which poked deserved fun. But the episode did raise some interesting points about the collectivist — and, frankly, just plain stupid — premises underlying contemporary "progressive" politics.

APN News Editor Matthew Cardinale tried to defend his company's actions: "Progressive news is news that brings us closer to universal health care, living wages, affordable housing, peace, a healthy environment, and voting systems we can trust." He tossed in nostrums about "corporate media sources" promoting the "agenda of the ultra-wealthy"; he quoted Howard Zinn, a crackpot propagandist beloved of bourgeois political poseurs in America's bigger cities. But Cardinale seemed to sense that his explanations were only making the episode more absurd. So, he added ominously that APN was "drafting a more programmatic statement on our editorial position regarding objectivity, inter-subjectivity, and news."

A few days later, Cardinale released his 3,000-plus-word "programmatic statement." It resembled the sophomoric rambling you'd expect from a late-night dormitory bull session. It serves as a striking indictment of American "progressive" politics — full of philosophical and political pretenses but really just tautological justification of lazy bias and shoddy logic. Some excerpts:

The premise of objectivity is literally to remove the observer from what it is that is being observed and simply to report what "is." However, that is an impossibility. It cannot be done. In fact, there is nothing that "is," separate from the observer or

multiple observers who construct and interpret what that reality is. One could argue that the only one who's really objective is God, and that's because God is omniscient or all-knowing (that is, if you believe in God). . . . Now, the first way we know that there is no such thing as objective media is that we have no evidence, no examples, of objective media outlets (if you find one, let us know right away!). Every publication has an editorial perspective which shapes and constrains the way its reporters cover the news, which in turn affects the way its readers view reality.

Er, if there is no objective reality, how can publications expect to affect how their readers view it?

Most publications — including APN — do not regularly mix facts and opinions in the same articles. However, the perspectives of APN and other publications come through in other ways: (1) the choices of what stories to cover and what not to cover, (2) defining what a story is or is not in the first place, (3) deciding how to cover the story, (4) assessing what the "sides" are to be balanced, (5) deciding how the 'sides' should be balanced, (6) deciding what facts to include and what facts not to include, etc.

Point (2) is an interesting one, though the author (presumably, Matthew Cardinale — he swerves between first-person singular and plural throughout the screed) offers little insight into how new outlets frame context. The rest reads like notes from a community college journalism class.

Now most people's basic understanding of objectivity is: balancing the sides. Okay, let's talk about the sides for a minute. How many sides are there? Well, there are approximately six billion people in the world, and to the extent that everyone's perspective is slightly different, there could be potentially six billion sides. So what journalists do is construct what they see as key themes or narratives that seem to define the major sides. Well, again, how many sides are there? What if paper A includes two sides, but paper B includes three? What if paper C includes five, but doesn't include one of the sides paper A included? What it means is, again, that there is no such thing as objective reality or objective news, and all news stories are constructed.

Sure, media news stories — like all narratives — are framed or constructed. Sometimes this framing brings the stories closer to objective reality . . . sometimes it keeps them farther removed. How close it brings the stories to reality is a good measure of their effectiveness.

So, to review, there is no such thing as objectivity. Some publications pretend to be objective, but they're not. Moreover, in our experience, objective reporting has really been used as a synonym for being sure to give priority to the corporate, bourgeois ideology and making sure not to offend the powers that be. Seriously: most reporters seem to think the best way to show they're objective is to marginalize the populist view and, again, give priority to the view of the power elite. . . . Who knows why media outlets gravitate to the right? Some of it may be a capitalist conspiracy — and if you don't believe in conspiracies, please revisit your U.S. history.

Er, check your premises.

If the author of APN's "programmatic statement" had stuck with college philosophy courses long enough to reach a higher level, he would have learned that rejecting objective reality leads to nihilism, not collectivist utopia.

— Jim Walsh



# The Hidden Movement Toward National Land-Use Planning

*by Randal O'Toole*

“Livability” is the government’s new  
code word for telling you what to do with  
your land.

Planners have zoned 97% of my home state of Oregon as “rural.” In the least restrictive of the rural zones, you cannot build a house on your own land unless you own at least 80 acres, you actually farm it, and you actually grossed (depending on soil productivity) at least \$40,000 to \$80,000 a year from farming it in two of the last three years. Since they passed these rules in 1993, planners are proud that only about 100 homes per year have been built in these zones.

Meanwhile, planners have drawn urban-growth boundaries around every city in the state — boundaries encompassing less than 1.5% of its land. (The remaining 1.5% is zoned for five- to ten-acre lot sizes.) To keep the cities from “sprawling,” planners in several cities have rezoned neighborhoods of single-family homes for apartments or rowhouses. The zoning is so strict that if your house in one of these neighborhoods burns down, you are not allowed to rebuild it: you can only build an apartment, rowhouse, or whatever meets the minimum density of the zone.

Oregon planners have become so intrusive that they actually told a Portland church that it could have no more than 70 people worship at one time in its 400-seat sanctuary. Allowing more people to use the church, the planners said, would cause too much traffic congestion. Although this ruling was eventually overturned, another church in Oregon applied for a permit to expand and was told it could do so only if it promised

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to have no more than five weddings or funerals a year.

These stories are examples of policies that are variously referred to as *smart growth*, *compact cities*, *new urbanism*, and *growth management*. I bring such stories up in order to alert readers about just what is at stake in debates over urban planning and private property rights. The danger today is that the Obama administration and key members of Congress are intent upon extending Oregon-style rules nationwide.

At the present time, fewer than a dozen states — including California, Florida, Hawaii, Maryland, New Jersey, Washington, and several states in New England — have rules as strict as Oregon’s. In many cases, nearby states have served as “relief valves” as people and jobs have migrated to less-regulated areas. But if the Obama administration has its way, there will be no more relief valves.

In the 1960s, when Hawaii became the first state to pass a growth-management law, planners argued that land-use regulation was needed to save farms and open spaces. Yet urban areas (agglomerations of 2,500 or more people) cover less than

3% of all land in the United States, and less than 6% of all land in Hawaii. This hardly makes it seem as if urban sprawl were paving over the country.

Soon after Hawaii passed its land-use law, the California legislature passed an innocuous-sounding bill that became the state's de facto land-use law. Responding to controversies over annexations, the law created "local area formation commissions," or LAFCOs, for every county. The commissions

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*Oregon planners told a Portland church that it could have no more than 70 people worship at one time in its 400-seat sanctuary.*

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were given the power to approve or veto all annexations and new city incorporations, as well as the formation of special service districts, such as sewer and water districts, that would be necessary for large-scale developments outside of city limits. Each county LAFCo was run by a board consisting of two representatives of every city in the county.

The cities soon realized they could force all development (and future property taxes) to stay within their boundaries by vetoing all annexations, incorporations, and service districts. In 1970, the state passed the California Environmental Quality Act, which required an expensive and time-consuming environmental impact report for every government action, including annexations and service districts. This meant that, even if a LAFCo was inclined to allow an expansion of urban development, it would take developers years and millions of dollars before the expansion could begin.

LAFCOs have made California's population the most concentrated in the nation, with 95% of the people crammed into 5% of the state's land area. California and Hawaii also have the nation's least-affordable housing. In 2000, the California legislature formally mandated that the LAFCOs do what most of them had already been doing, which was to impose smart-growth policies on their cities.

In the energy- and pollution-conscious '70s, when Oregon and Vermont passed their land-use laws, planners argued that regulation was needed to reduce gasoline consumption and air pollution. Denser cities and more transit, they claimed, would lead people to drive less. Since 1970, auto-related air pollution has declined by two-thirds — not because of less driving (driving actually tripled), but because people bought cleaner and more fuel-efficient cars.

Commuting expert Alan Pisarski argues (ITE Journal, Jan. 2009) that efforts to reduce driving may actually have been counterproductive to environmental goals. One of the main tools planners use to discourage driving is increased traffic congestion. "Congestion Is Our Friend" proclaims the title of an article by Florida planner Dom Nozzi (Gainesville Sun, Feb. 10, 2008). Yet cars waste fuel and pollute more in congested traffic.

In the 1980s and '90s, New Urban advocates argued that denser neighborhoods had a stronger sense of community. Studies have found, however, that residents of suburbs actually have more social interactions than those in denser cities.

Even the data in Robert Putnam's "Bowling Alone" (2000), which promoted the notion that Americans were losing their sense of community, showed that suburbanites had higher social participation rates than residents of dense cities.

In the early 2000s, smart-growth supporters jumped on the obesity issue by claiming that suburbs make people fat. In a classic example of junk science, compact-city advocates published a study in a peer-reviewed medical journal finding that low-density development "had small but significant [meaning nonrandom] associations" with obesity. As any statistics student knows, correlation does not prove causation, yet a group called Smart Growth America (whose staff members and associates wrote the journal article) trumpeted that this proved that sprawl causes obesity.

In fact, the correlations between sprawl and obesity were almost vanishingly small. The study found, for example, that about 2% more people in low-density Atlanta are obese than in high-density San Francisco. More objective studies have found "no evidence that urban sprawl causes obesity." In fact, these studies say, Smart Growth America confused cause and effect: "individuals who are more likely to be obese choose to live in more sprawling neighborhoods." (There's a research report about this: "Fat City" [2006], by Jean Eid et al., published by the Centre for Economic Policy Research.)

Today, planners argue that greenhouse gas reduction targets require that we employ land-use policies to force people to reduce their driving. Improvements in "vehicle and fuel technology alone" will not be sufficient for transportation to "do its fair share to meet" targets, argues "Growing Cooler," a 2008 report from the Urban Land Institute. Cities must therefore mandate "compact development" while they provide "expanded transportation alternatives," meaning such things as bike paths and light rail.

While I am personally a skeptic regarding climate change, I am not a climatologist, so the question I ask is, "If we are to reduce greenhouse gas emissions, what is the most cost-effective way of doing so?" Even if you accept that the United States needs to reduce greenhouse gas emissions, land-use regulation is an extraordinarily indirect and expensive way of reaching any targets.

Compact-development advocates such as the Urban Land Institute assume that, if we need to reduce emissions by 50%, then transport's "fair share" is also a 50% reduction. But analyses by McKinsey & Co., and others, show that additional sectors of the economy, such as electricity production, can reduce their emissions at a much lower cost than transport. Cost-effective efforts at reducing emissions would focus on these sectors.

The Urban Land Institute underestimates our ability to reduce emissions by using new technologies and fuels. Economists at MIT estimate that, responding to markets alone, new cars built in 2030 will get about 42 miles per gallon. Modest government rules or incentives encouraging lighter-weight cars, hybrids, and diesel instead of gasoline, could double this to 85 miles per gallon. This will significantly reduce emissions even given increases in driving between now and 2030.

Further, the Urban Land Institute greatly overestimates the effects of land-use changes on driving. "Growing Cooler" (2008), which was written by planners who supported

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**John Mackey**, CEO, Whole Foods Market, on "My Fight for Freedom in Health Care" and "Conscious Capitalism: Reaction from Top MBA Schools."

Plus healthy living with **Julian Whitaker** (Whitaker Wellness Center) and **John Mackey**: "The Whole Foods Diet Updated: You Can Still Live to be 100 and Enjoy Life."

**Alan Charles Kors**, controversial history professor at U Penn and founder of FIRE (Foundation for Individual Rights in Education) on "Can There Be An 'After Socialism'?"

**Steve Forbes** on "How Capitalism Will Save Us: Why Free People and Free Markets are the Best Answer in Today's Economy."

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**Jerry Jordan**, former Federal Reserve Bank President, on "Why the government can't reverse the great contraction of 2008/09."

**Charles Murray** on his next controversial book "Coming Apart at the Seams," about racism in America.

**Alexandra Colen**, Belgium member of Parliament, and **Dr. Paul Belien** on "What Every American Must Know about the Dangerous New Europe."

Plus **Tom Palmer** (Atlas Foundation), **Ken Schoolland** (Pacific Hawaii University), **Robert Enlow** (Friedman Foundation), **James Gwartney** (FSU), **Doug Bandow** (Cato), **Lawrence Reed** (FEE), **Leon Louw** (Free Market Foundation, South Africa) and **Wayne Allyn Root**.



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compact development before global warming was a major issue, optimistically projected that rules requiring 60% of all new urban development to be more compact would reduce 2030 carbon dioxide outputs by 79 million tons (about 1.3% of America's current human-caused outputs). But "Moving Cooler" (2009), a later report written by independent consulting firm Cambridge Systematics, concluded that such rules would reduce CO2 outputs by less than 22 million tons.

Even the projections in "Moving Cooler" may be overestimated. Changes in transportation technology have had profound effects on land-use patterns. Urban densities declined as streetcars replaced walking and autos replaced streetcars. But economists and planners have long debated whether the reverse is true; that is, whether increasing densities could change people's transport choices. A review of the planning literature by University of California economist David Brownstone concluded that there is a "statistically significant link" between urban design and driving — but that "the size of this link is too small to be useful" for controlling greenhouse gas emissions.

If the benefits of compact development are small, the costs are high. Even more than congestion, the biggest cost is in housing and other development. Compact-city policies create artificial land shortages, driving up the cost of housing and all other urban development. The kind of housing most Americans say they prefer — single-family homes on a large lot — becomes particularly expensive. Land-use restraints lead to housing bubbles and crashes that can have devastating effects on local and national economies.

Urban planners respond that tastes are changing and soon far fewer Americans will want to live in single-family homes. As baby boomers become empty nesters and other family sizes shrink, more people will want to live in condos and apartments in urban centers where they can be close to urban services.

This argument has been promoted especially by University of Utah planning professor Arthur Nelson, who has been widely quoted for claiming that by 2025 the United States will have a surplus of 22 million suburban homes that no one will want to live in. "The American suburb as we know it is dying,"

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*If your farm provides others with scenic views, they can "protect their liberties" by altering your property rights to keep you from developing it.*

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says Time magazine (March 12, 2009), and will become "the next slums," says Atlantic Monthly (March 2008), both citing a paper Nelson wrote in 2006.

This is complete and utter nonsense. Nelson's so-called research is merely wishful thinking. "Based on interpretations of surveys" reported by another planner, Dowell Myers, Nelson's paper concluded that only 25% of Americans want to live in a single-family home with a large yard, while 37% want small yards (less than one-sixth of an acre) and the remaining 38% want to live in multi-family housing.

But Myers' paper does not support Nelson's conclusions. Instead, it reports survey after survey showing that 75 to 85% of Americans want a single-family home with a yard. In a little-reported response to Nelson's paper, Myers stated that "Nelson and others have placed too great an emphasis on changing preferences as the driver of changing development patterns" and found "scant evidence of any net shift of total or elderly population toward central cities."

Nelson's idea is typical of the rationale that planners use, especially when communicating with one another. Americans really want to live in dense cities, not sprawling suburbs, they tell themselves. Of course, they can't rely on the market to produce such dense cities, because greedy developers would rather build low-density suburbs, and zoning ordinances written by the very same planners (or their predecessors) somehow mandate these suburbs. Rather than simply bringing zoning to an end, planners want to impose even more prescriptions, aimed at forcing high-density development.

Nor do planners see any contradictions between such prescriptive zoning and property rights. Private property is "an evolving, organic institution with ownership rights that have varied greatly from era to era," argues land-use attorney Eric Freyfogle in "The Land We Share" (2003), a book promoted by the American Planning Association. Freyfogle is eager to explore "the vast potential for further change of this institution," meaning restrictions on private property for the social good. Borrowing the language of property rights activists, Freyfogle adds, "When property rights trump conservation laws, they curtail the positive liberties of the majority." In other words, if your farm provides others with scenic views, they can "protect their liberties" by altering your property rights to keep you from developing it.

Until recently, land-use rules were strictly a state and local phenomenon. During the Clinton administration, the Environmental Protection Agency promoted smart growth by donating millions of dollars to nonprofit advocacy groups to spread anti-auto propaganda around the nation. When Republicans in Congress shut that program down, Democrats inserted a provision in the 1998 transportation bill authorizing the Department of Transportation to make grants to such nonprofit groups. But aside from promoting propaganda, the federal government did not try to impose smart growth on states that did not want it.

That changed with the Obama administration, which along with Democrats in Congress has embraced such social engineering policies. Secretary of Transportation Ray LaHood admits that the administration's goal is to "coerce people out of their cars." One way they are attempting to achieve this goal is by ordering all metropolitan areas to do compact-city planning over the next five years.

Under a 1965 law, all such areas — agglomerations of 50,000 or more people — are required to have *metropolitan planning organizations* (MPOs) that deal with transportation and housing issues. Originally, these organizations existed merely to ease federal grantmaking programs: instead of reviewing grant proposals submitted by 10,000 or more cities and counties, federal transportation and housing agencies would only have to review submissions from a few hundred MPOs — about 225 in 1965, about 425 today.

*continued on page 34*

# Empowering the Libertarian Minority

*by Charles Barr*

A book on “subconstituency politics” explains why the Libertarian Party has trouble in major elections. It also suggests some practical steps.

Each election cycle, Libertarian Party candidates are forced to contend with a lack of visibility, voter apathy, inability to compete in fundraising, and ballot access restrictions by the major parties. According to a new book, the party must also contend with another challenge: election and reelection to major public office depends not upon appealing to majority opinion, but rather upon putting together and maintaining coalitions of passionate minorities.

In “Tyranny of the Minority: The Subconstituency Politics Theory of Representation” (Temple University Press, 2009), Benjamin Bishin, a professor of political science at UC Riverside, lays out a theory “in which groups of intense and active citizens, rather than the citizenry as a whole, constrain legislator behavior.” This theory, which the author labels “the subconstituency politics theory of representation,” states that high-level officeholders win election and reelection by first building and then maintaining coalitions of politically active groups focused primarily on single issues. Once in office, successful politicians promote the agendas of their activist supporters even when such agendas are opposed by a majority of their constituents:

Subconstituency politics holds that, owing to the fact that different voters care about different issues with differing

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levels of intensity, the will of minorities is often represented at the majority’s expense. Politicians appeal to the preferences of passionate subconstituencies to build coalitions of intense supporters who are more likely to participate. . . . [They] appeal to minority preferences over those of the majority when the benefit of advocating the minority’s position outweighs the cost of alienating the less interested majority.

Bishin’s arguments are credible. He uses real-world examples to test his theory of political representation against the explanations of more mainstream theories. He cites numerous references to bolster his arguments and provide resources for those who wish to explore both sides of the issue further. And, although the Libertarian Party receives no mention in the book, there are clearly major implications for party strategy if Bishin’s theory is correct. After all, one of the party’s major stated goals is the election of libertarians to public office.

Over the course of nearly four decades, several hundred Libertarian Party members have won local office, along with a sprinkling of state legislative seats. So far, however, the party has not been able to claim any U.S. Senate or congressional seats, or any major offices at the state level. If subconstituency theory is correct, does it help explain the limited success of current Libertarian Party strategy?

At first glance, the LP would appear to be a haven for passionate minorities focused on single issues. In theory, this should boost the prospects of its candidates at election time; yet in reality, such candidates are forced to contend with a major complicating factor: the existence of opposing single-issue groups with superior firepower.

At the congressional level and above, Libertarian candidates generally promote the party platform on a wide range of issues: civil liberties, tax policy, education, drug decriminalization, healthcare, and national defense, to name just a few. But although Libertarian candidates appeal to those who are passionately active on a wide range of issues, they encounter heavy opposition from well-entrenched and well-funded activists on the opposite side. To take just one obvious example, a huge majority of the public opposes the libertarian position of removing government entirely from the field of education. Augmenting this public hostility are many government education advocacy groups, especially teachers' unions, that are extremely active politically. This is a formidable disadvantage, one that is impossible for Libertarian candidates to overcome, even if they are able to compete on an otherwise level playing field. Subconstituency theory suggests that the opposition of powerful activist groups, by itself, dooms any chance of a Libertarian victory in a contested election for higher public office.

Assuming this is true, what can libertarians do? Is it possible to do anything at all? And should their efforts be focused on the Libertarian Party?

To answer these questions, we must take a fresh look at the electoral landscape. As we do so, we will discover that subconstituency theory offers alternative means for libertarians to boost their effectiveness in the political arena.

To begin with, it is important to recognize that electoral strategy is dictated by each candidate's perception of how the political process works. Libertarians for the most part base their strategies on the traditional theory of representation. Bishin refers to this as "the demand model, which is characterized by politicians who consider the views of their entire

district when making decisions, and to try to do what constituents either want or are likely to want." Bishin argues that this model is flawed; subconstituency theory better explains politicians' behavior both on the campaign trail and in office.

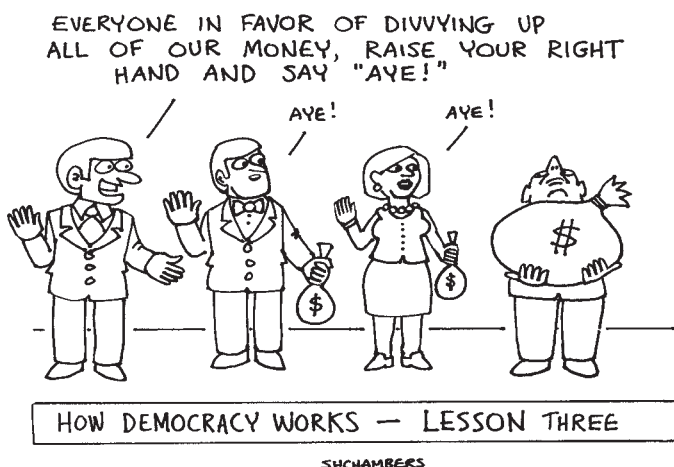
According to Bishin, candidates frame their policy and non-policy (symbolic) positions to attract supporters with similar views. Supporters thus attracted take on a "group identity" with a shared outlook on issues and a shared intensity. Successful candidates attract or create multiple groups of passionate supporters by staking out positions on a variety of hot-button issues. These groups are highly motivated to provide votes, money, volunteer time, and other important resources to achieve the election of their candidates. Successful candidates return the favor by promoting legislation that reflects the views of their activist coalitions, ensuring their continuing support in subsequent campaigns.

What if the agenda of an incumbent's activist coalition collides with the wishes of a majority of voters in his or her district? Usually the activist coalition will have its way: "Precisely because the average citizen does not feel intensely about [an] issue, a candidate's advocacy of the minority position seldom prevents her from obtaining the support of the voter who is opposed to the position but does not feel strongly about the issue." This is a plausible explanation of why both liberals and conservatives are able to win reelection in districts where the majority of voters hold views contrary to their own on many issues.

In Bishin's model, party affiliation is a less important influence on policy than coalitions of issue-oriented activist groups. Elected representatives frequently cast roll call votes contrary to their party's stated position, in order to cater to the coalitions that support them. Party leaders generally tolerate such behavior because they see it as necessary to ensure their members' reelection, though at some cost to the party's own program.

According to subconstituency theory, issue visibility also takes a back seat to organized activism in influencing a legislator's vote. If the public at large does not hold strong opinions on an issue, increasing its visibility will not create sufficient pressure on an officeholder to abandon his commitments to his carefully constructed coalition of activist supporters. "The influences on legislators' behavior change with issue visibility only to the extent that visibility serves to activate new group identities with which legislators are forced to reckon."

As an example of this process, Bishin cites the fate of a 2007 resolution in the House of Representatives that made reference to events that occurred nearly a century ago. The resolution, which declared the killings of Armenians in Turkey during World War I to be "genocide," attracted 229 cosponsors, a number more than sufficient for passage. Initially this resolution lacked visibility and interest among the general public. It did, however, evoke intense feelings within the Armenian and Turkish communities. The government of Turkey reacted by withdrawing its ambassador and threatening to close its airports to U.S. flights carrying supplies to soldiers in Iraq and Afghanistan. In response, many House members withdrew their support for the resolution. To date, the measure has not been brought up for a full House vote. Proponents are concerned that they may not have sufficient votes to pass the resolution.







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Bishin attributes this turnaround to the influence of a powerful subconstituency group, military veterans. Once the issue became highly visible, veterans' groups grew concerned that passage of the resolution would damage the war effort and increase the risk to troops fighting in the field. They used their leverage as a powerful subconstituency to beat back the resolution, even though overall public opinion regarding the issue was largely unchanged. Bishin observes that the districts of House members who withdrew their support contained a significantly higher number of veterans than districts of members who continued to back the resolution.

This outcome illustrates the impressive influence that subconstituency groups can achieve within the political process. Unfortunately, it is difficult to identify a subconstituency group that could turn things around for the Libertarian Party. Not only are powerful subconstituency groups — greens, unions, public employees, professional cartels, and social conservatives, to name a few — adamantly opposed to libertarianism, but there is little prospect of activating a new subconstituency to support any issue that the LP somehow manages to raise to visibility. Issues that currently engage the voting public are already being promoted by activist groups, many of which have strong ties to one or both major parties. Even groups that agree with libertarians on specific issues are not likely to affiliate publicly with the Libertarian Party, since they perceive — correctly — that the party lacks the political resources needed to advance their agendas.

The Libertarian Party is composed of committed and hard-working political activists who feel strongly about issues relating to individual liberty. But the party itself is not structured in a way that permits it to gain traction as a subconstituency group able to influence legislators. The party takes positions on a wide range of issues, making it difficult to gain support from mainstream politicians who are not in agreement with all of its views. In addition, virtually all holders of higher office are members of a major party, so they will discount any Libertarian Party proposals as coming from a competitor rather than a supporter. The only meaningful leverage the Libertarian Party can exert on major party candidates is the threat to draw votes away from one candidate in favor of the other, and the major party margin of victory is usually larger than the number of votes cast for the LP.

As individuals, libertarians are free to join or form single-issue subconstituency groups and work within them to advance the issues they most care about. Many have already done so. The effectiveness of libertarians working within such groups depends on a number of factors. If the group is very large and well organized (as is the National Rifle Association, for example) the presence or absence of a few libertarians is not likely to make a significant difference to any political outcome. If the group is opposed by a better funded, better connected band of activists, such as the entitlements lobby that vigorously opposes Social Security privatization, libertarians will likewise have little political impact.

But assuming that the subconstituency model is correct, the best opportunity for libertarians to make a difference is to work within single-issue groups that already enjoy a relatively small but significant amount of public and legislator support. These include groups that favor homeschooling and individual privacy, and groups that oppose specific taxes. The

impact of libertarians can be greatly enhanced if they are able to gain leadership positions within such groups, since this will permit them to interact with legislators and other influential political players at the policy level — thus becoming, themselves, an effective subconstituency group.

One example of a subconstituency group with significant libertarian influence is the Campaign for Liberty, a nationwide organization formed in June 2008 by Ron Paul and many of his supporters following his bid for the Republican presidential nomination. The group's principal mission, as stated on its website, is "to promote and defend the great American principles of individual liberty, constitutional government, sound money, free markets, and a noninterventionist foreign policy, by means of educational and political activity." In launching the group, Ron Paul emphasized its focus as a vehicle for political reform: "We will make our presence felt at every level of government. We will keep an eye on Congress, and lobby against legislation that threatens us. And we will identify and support candidates who champion our great ideas." Clearly the Campaign for Liberty meets Bishin's criteria for an activist subconstituency group.

The political influence of the Campaign for Liberty has become significant in a remarkably short period of time. Although Ron Paul is a Republican, and the Campaign for Liberty is composed primarily of conservatives and libertarians, it is receiving a surprising amount of bipartisan support for one of its key legislative proposals: an audit of the Federal Reserve System by the Government Accountability Office. As of this writing, the proposed legislation has been cosponsored by a majority in the U.S. House of Representatives, including

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*Subconstituency theory suggests that the opposition of powerful activist groups, by itself, dooms any chance of a libertarian victory in a contested election for higher public office.*

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178 Republicans and 112 Democrats. The U.S. Senate version has 25 cosponsors, six of them Democrats. This impressive level of legislative support has been made possible by a nationwide, coordinated grassroots petitioning and lobbying effort by the Campaign for Liberty. It demonstrates the influence that pro-freedom activists can achieve by applying the strategies and tactics of subconstituency politics.

This does not mean that purely libertarian political activism should be abandoned or sidelined. The Libertarian Party has a vital role to play as a recruiting and training organization for pro-freedom political activists, as a "home base" for those seeking political asylum from the two major parties, and as a springboard for electing libertarians to local offices. These are all important reasons to make sure the Libertarian Party continues to exist. But to have a meaningful voice in public policy decisions, libertarian activists must be willing to work with compatible subconstituency groups that can command the continuing attention of legislators and other policymakers. □

# You Say You Want a Revolution

*by Jay Fisher*

The Tea Party needs to watch out, lest  
it become just another venue for empty  
rhetoric.

Voltaire once said, “What a heavy burden is a name that has become famous too soon.” And fame has certainly come very quickly to the national phenomena known as “tea parties.” Any novice-level political junkie can describe with reasonable accuracy what these events are about and the key issues that concern the attendees.

Anger at an intrusive federal government and out-of-control spending is at the heart of these events. Yet what has been the sum total physical expression of outrage against the government from the tea parties? One box of tea hurled at the White House which, predictably, brought out overreacting Secret Service agents thinking some kind of al Qaeda explosive was buried within the Darjeeling.

An interesting question arises: just how far are the participants willing to go to voice their anger and frustration? Can they, for instance, spill over into civil disobedience?

The Boston Tea Party on December 16, 1773 was the final act of rising colonial anger against the Tea Act instituted by the British Crown. For those interested, the tax rate on tea that was supposedly paid by the colonialists was anywhere from 0.8% to 66%, depending on which numbers scholars use. There are even academics — such as Peter D.G. Thomas in “The Townshend Duties Crisis” (1987) — who argue that

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the Tea Party revolt was not in response to any tax increase. Whatever the precipitating events were, scholars can agree that Britain imposed a series of mandates on the people of a faraway land and that they, in turn, revolted.

And now we have the modern-day use of the moniker “tea party.” It is disrespectful to the revolutionaries — those men of action in Boston in 1773 — to use that label unless the participants are willing to use action, whether real political action or civil disobedience, to back up their words.

Why is this action-potential critical? Two major reasons stand out. First, the modern tea party phenomenon, unless it incorporates a potential for action, risks serving as a mass counseling session where like-minded and angry people vent frustration but do nothing more. Screaming and yelling can lead to a cathartic release of pent-up emotions that may provide temporary relief; but the effect will not last forever. Protesters will no longer see the efficacy in tea parties. This



possible course of events would eat up precious time, and a critical moment where real political action could have taken place will expire.

Second, if the tea parties only serve as a place to vent anger, politicians will no longer pay any credence to the potential these events hold as truly revolutionary forums. An oft-cited rumor holds that former Secretary of State Alexander Haig, in response to a large march concerning U.S. policy in Latin America, supposedly said: "Let them protest all they want, so long as they pay their taxes." Whether true or not, the Haig quotation highlights the fact that a politically passive activity (such as marching) is given no credit by politicians, as opposed to an act of civil disobedience (such as a refusal to pay taxes).

Unfortunately, the tea parties have already given the impression that they are forums for words only, and those words had better be carefully chosen. On April 15, 2009, at a tea party rally in Austin, Governor Rick Perry of Texas hinted at the possible secession of his state. He later backtracked on these comments after stirring a huge, and sometimes acrimonious, debate. In a retreat that would have made Napoleon proud, he stated unequivocally, "Of course, I have never advocated for secession and never will." This is a textbook definition of "sandbagging" one's supporters. More importantly, it shows how the mainstream can rally against a tea party speaker when he or she suggests action, and the tea party organizations will not support advocates of real action.

By their naked eagerness to attend tea party gatherings, rank-and-file politicians show that they no longer recognize them as forums for revolutionary change. A recent tea party in Fargo, North Dakota, was attended by the state governor (who, coincidentally, was running for the U.S. Senate), and

the featured speaker was Minnesota Rep. Michelle Bachman. Other speakers at these events have included now New Jersey Governor Chris Christie, Rep. Tom McClintock, and former GOP presidential and senatorial candidate Alan Keyes, to name a few.

Probably the most bizarre example of the tea party movement's becoming more mainstream and less a forum for action came on February 7, when former vice presidential candidate Sarah Palin addressed the so-called tea party "national convention" in Nashville, and she said: "America is ready for another revolution." The attendees cheered. A more reasonable response, from true revolutionaries, would have been: "Huh?!" But for a 5% swing in the vote in the 2008 election, the person calling for revolution would have been right in the heart of the "Beast" that the crowd was allegedly cheering to get free from.

What this should emphasize is the risk of the tea party phenomenon becoming just another campaign forum for conservative politicians, a place where people who claim to run against the Beltway mindset can speak to cheering crowds about the change that may be a-coming. These crowds may have forgotten that some of the same speakers may have helped to explode the size of government under the Bush presidency. How seriously can attendees consider true revolutionary action when they hear a politician saying the equivalent of "I swear I love you," "the check is in the mail," or "I promise I used protection"?

The modern-day organizers of the tea parties should ask themselves if they are honoring the legacy of the Sons of Liberty. If not, they owe it to the true revolutionaries' legacies (and the honest labeling of their movement) to call the tea parties by another name. □

## The Hidden Movement, *from page 28*

Inevitably, however, many of these MPOs gained the power to tell local cities what to do. California law specifically directs MPOs to promote compact development in order to reduce greenhouse gas emissions. The MPO for the Twin Cities threatened to deny local suburbs their share of federal funds if they did not impose density targets set by planners.

In March, 2009, Secretary LaHood and Housing and Urban Development Secretary Shaun Donovan agreed to require "every major metropolitan area in the country [to] conduct integrated housing, transportation, and land use planning and investment in the next four years." In effect, all MPOs will be required to do what those in California, Oregon, and the Twin Cities have done in the past few decades.

The new requirements do not mention the terms "density" or "compact cities." But they include all the familiar euphemisms that have been used to disguise densification programs, such as "sustainability" (meaning anti-automobile policies), "shorter travel times" (meaning denser communities), and "more choices for affordable housing" (meaning high-density housing).

Similar language can be found in a transportation bill proposed by Representative James Oberstar (D-MN), who chairs the House Transportation and Infrastructure Committee. Congress passes such a bill about every six years to dictate how federal gas taxes and other highway user fees will be

spent. Under legislation first passed in 1956, all such user fees were dedicated to highways, but starting in 1982 Congress diverted increasing shares of these fees to transit.

The bill passed in 2005 dedicated 15.5% of highway fees to transit and put another 15% in "flexible" funds that could be spent on either highways or transit. In practice, about a third of those flexible funds was spent on transit; that, and the funds specifically designated to transit, added up to a total of a little more than 20% of highway revenues.

Oberstar's proposed bill (which won't be acted on until 2011 at the earliest) dedicates 20% of highway fees to transit, 20% to highways, and puts most of the remainder in flexible funds. This means that some metropolitan areas could spend nearly 80% of their federal funds on transit.

The bill also defines "sustainable transportation" as "public transit, walking, and cycling." In 2008, when all subsidies are counted, public transit cost four times as much, consumed about as much energy, and emitted about as much pollution per passenger mile as auto driving. By 2025, automobiles are projected to be more energy efficient and cleaner than the nation's most efficient transit systems. Yet autos will be branded by law as "unsustainable" and thus ineligible for certain kinds of federal funding.

As if that weren't enough, the bill creates an "Office of Livability" within the Department of Transportation whose goal will be to promote transit and other so-called sustainable

*continued on page 36*

# Watershed

*by Jacques Delacroix*

Generosity, hot showers, and ice cubes are  
the essential fruits of American liberty for one  
grateful immigrant.

I was born and reared in Paris, of French parents. There are no immigrants in my antecedents. There are not even any in the lateral branches of my family, as far as I know. (I think I would know.) I never spoke English with a native English speaker until I was 18. I have been in the United States for more than 40 years now. I have lived in this country completely, utterly by choice. In the context of present political developments my American self feels the need to explain to the French youth I used to be what really happened. I have been trying to summarize it. I think I have got it, finally.

Initially, I spent one year in the United States, in California, when I was 18, on a student exchange program. It was not a great year for me, but I liked a lot of what I discovered. That included an open and flexible educational system that agreed with me more than did the constipated French system, where I had pretty much failed anyway.

Then, I came back to the United States when I was 21, to go to college, with no specific plan that made much sense. I could have gone home any time. One thing led to another and I graduated from a good university four years later. Immediately, I obtained an exciting job in France, largely on the strength of my American degree. After only one year, I returned to the United States for more schooling.

In the middle of graduate school, I was offered an even bet-

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ter position in Paris, in city planning. There was a bright future attached to that job, a good career, in conventional terms. Early on, I became uneasy with the amount of power attached to my position as a government contractor. Retrospectively, it seems to me that the uneasiness would not have arisen absent an American experience. Once more, I returned to the United States. I completed a doctorate and stayed.

Again, I could have gone back to France for good, at any point, before or after school. I was in no way stuck here. Incidentally, there would have been good reasons for me to return to my country of origin. My parents and my four siblings lived there. I liked the French countryside intensely, and I still like it a great deal. In my eyes it remains a model of the successful blending of natural habitat with human activity and human occupation. And, of course, I think that everyday French food is superior. Comparing it to the fare of the best restaurant I can afford in America is like comparing American rock & roll to French rock & roll.

So, why am I still in this country in my near-dotage? There are several reasons, some philosophically complicated. To a large extent, they have to do with our political system and its semi-conscious large-scale application of the principle of subsidiarity: decisions should be made at the lowest level possible, at the individual level rather than by the municipality, by the municipality rather than the state, and so on.

Subsidiarity is recognized as a commanding moral principle by the Catholic Church, and the EU enshrined it early on in its constitutional guidelines. Yet it's ignored almost everywhere but in this country. The average well-educated citizen of France, unquestionably a democratic country, would not understand it if you gave a formal lecture on it. Here, it's applied instinctively most of the time. A country with widespread application of subsidiarity is the closest thing we have to a libertarian polity. That's outside of Somalia, of course.

Beyond this, there is the diffuse, unassuming, and immense generosity of this society. It's a hard fact that liberal groups are currently working to mask. I can summarize all of this with a tiny handful of facts.

It's about the superiority of water in America. I don't mean that the water from the tap was unhealthy in France; it wasn't. It's an old, nasty urban legend that the French drink wine because their water is bad. Besides, they practically invented overpriced bottled water with magical properties. The problem there was getting very hot water in abundance, and water in the form of ice.

In all my French childhood and teenage years, I never had a leisurely, luxurious, richly wasteful bath or shower. Hot water was always rationed. I discovered really long showers in really scalding water during my first year in California. Later, I spent some time in the French Navy, on an aircraft carrier. Hot water was not rationed there either, it's true. But I couldn't well choose a military career just because of the hot showers.

France is still, as I write, a country where in those picturesque sidewalk cafes, on a hot day, a cold drink includes only one small ice cube. If you ask for more ice, you get one more cube. That's in ordinary cafes. In upscale establishments, they will spontaneously put two ice cubes in your drink. That's if the server likes the way you look, of course.

The first time I had a glass of water in the United States, it was in New York City. I had just landed at the Port Authority from a student ship. It was mid-August, and the asphalt was

soft. I had never felt hotter in my life. I entered a diner. I didn't really know what a diner was, but I guessed I could get ice cream there. I sat at the counter, on a plastic-covered, one-legged stool. I had seen such counters in a couple of James Dean movies. Before I could gather up my hesitant English and order, an officious waitress plunked a big, tall glass in front of me. It was filled to the brim with large ice cubes. I thought she had mistaken the order that I had not yet given. Then, I was dazzled.

After landing in New York City, I went to live with a working-class family in California. No one there ever shouted at anyone not to use all the hot water. The supply was apparently inexhaustible.

I have traveled a great deal. The United States is the country where you can almost always use as much hot water as you want and where places of business voluntarily give you more ice cubes than you want, even before you can ask. I think it's the only country like this.

But nowadays this happy immigrant fears for the future. Sinister forces have been unleashed and are trying to turn us into a 1950s France — without the countryside and without the cuisine. There is a French idiom that expresses well what it's like living in France: *gêné aux entourloupes*. It's what you feel when you are wearing clothing, especially a jacket, that's too tight for your body, to the point where you cannot freely rotate your torso.

When you allow the government to interfere with simple market decisions, daily life quickly becomes like that: no department store shopping on Sundays, but meat and pastries are available, the first until noon only, and the latter until 1 p.m. Almost all stores are closed on Monday, except pork butchers. (If you are an observant Jew or a Muslim, you had better plan ahead.) Of course, the Louvre Museum has been closed every Tuesday, 52 weeks a year, for 50 years. That's in a country where unemployment routinely tops 10%.

Living life under this kind of stricture, day in and day out, makes people sullen. Over-regulation also interferes with everybody's ability to progress economically, and in ways that many understand. Sullenness and economic mediocrity in turn undermine one's ability to be generous. After a while, otherwise good people tend to withhold everything, even water.

I fear I will die at my favorite coffee shop, on the morning of a brief, lukewarm shower, in front of a lukewarm soda. □

## The Hidden Movement, *from page 34*

transportation by mandating compact development in metropolitan areas throughout the country.

Only about 2% of U.S. land is in urbanized areas of 50,000 or more, so people living in the 30 or so states that have no statewide land-use planning laws can escape metropolitan-area mandates by moving outside such areas. Some states, such as Texas, do not even allow counties to zone. But to contain as many people as possible within urban areas, the bill encourages states to create *rural planning organizations*, so that every state would be in danger of the same kinds of rules that Oregon has imposed on rural areas.

Despite its significant flaws, years of relentless anti-auto and antisuburb propaganda have made smart growth the

dominant paradigm in DC. The healthcare law that Congress just passed, for example, included a fund to give cities incentives to promote compact development in order to reduce obesity and other chronic diseases. Significantly, a share of this fund will go to nonprofit organizations that will no doubt use the money to lobby for more land-use regulation.

Little good will result from these incentives and mandates. Contrary to the claims of its advocates, smart growth will not save scarce open space, cure obesity, give people a sense of community, or clean the air. It will make housing less affordable, roads more congested, taxes higher, and property rights weaker. We can only hope that the backlash against the recent healthcare bill continues, and prevents Congress from passing an even more pervasive piece of social engineering in the 2011 transportation bill. □



# Reviews

**"The Death of Conservatism"** by Sam Tanenhaus. Random House, 2009, 123 pages.

**"Liberty and Tyranny: A Conservative Manifesto"** by Mark R. Levin. Threshold Editions, 2009, 255 pages.

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## *Dead or Alive?*

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Robert Watts Lamon

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Sam Tanenhaus, an editor of The New York Times, has written a book, blessedly short, that announces the extinction of conservatism. The announcement implies that libertarianism may soon follow, because most of Tanenhaus' criticisms of "conservatives" — involving their friendship to small government, for example, and their emphasis on the original provisions of the Constitution — also apply to libertarians.

"On the great issues of the day," says the author, "the conservatives are silent." Is his hearing impaired? It's hard to believe the rebellion on the right hasn't reached his ears, even above the New York traffic noise. The book was, I suspect, timed to surf the wave of Obamania, now largely dissipated.

Whatever its intent, author Tanenhaus does what previous critics of the American Right have done — choose a nonthreatening politician or man of letters (in this case, Edmund Burke), label him an exemplary conser-

vative, and dismiss those to his right as kooks, extremists, or in the present author's terms, movement or revanchist conservatives. Of course, these "movement conservatives" are blind to realities, unattuned to the unique forces of modernity that have created problems requiring new solutions, negating the wisdom of the free market and the Constitution.

Ah, yes, a new age has dawned, one of revitalized liberalism. Conservatives must now decide whether to "shine in reflective radiance, or spin futilely on their lonely, unlit orbit." Worse yet, conservatives today resemble the "exhumed figures of Pompeii," those killed in the pyroclastic flow of Vesuvius. The author's hyperbole makes me wonder whether he believes his own thesis. But wait, there's more: conservatives have killed themselves off by denying the politics of consensus, by being (gasp!) un-Burkean.

Author Tanenhaus refers often to Burke. In describing the relationship of elected representatives to their constituents, however, he leapfrogs Burke and

chooses a passage from Walter Bagehot: "Those who desire a public career must look to the views of the living public. . . . You cannot, [though] many people wish you could, go into parliament to represent yourself. You must . . . conform to the opinions of the electors." Burke famously rejected such a view in his speech to the Electors of Bristol (1774): "Your representative owes you not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion."

To Burke, human beings err, singularly or in crowds, but the species is wise, and its wisdom is revealed in history and tradition. A key to his thinking is his devotion to the English constitution, that great unwritten document, the product of a thousand years of political experience and common law jurisprudence. It became his model for the evolution of settled societies and led him to denounce the British East India Company for its insults to the ancient cultures of India, and the French Revolutionists for their imposition of dogma on an entire nation

without regard for its ordering traditions. Representation of the people's immediate wishes had nothing to do with Burke's political principles.

But what exactly turned American conservatives into corpses? Here, Tanenhaus is short on substance, except to show they sometimes lose elections. Oh, yes, and most of them did favor an offensive posture in the Cold War. They opposed arms treaties and test bans. But the author never mentions that the Soviets violated nearly every agreement they made with the United States (as Barry Goldwater liked to point out), and there was little reason to trust them. Nor did he mention that the offensive posture assumed by Ronald Reagan probably aided the collapse of the Soviet Union.

Tanenhaus adds this odd criticism: "These conservative intellectuals recognize no distinction between analysis and advocacy, or between the competition of ideas and the naked struggle for power." The statement is surprisingly arbitrary, even for what the dust jacket calls "a sweeping history." One finds it difficult to recall conservatives or libertarians whom this characterization would fit. It is true that James Burnham, whom Tanenhaus describes with respect, thought there were no such distinctions to be made. In "The Managerial Revolution," he wrote that the flow of political power runs inevitably toward the government by way

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*It is the conservative (and of course the libertarian) suspicion of political solutions that Tanenhaus resents.*

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of the corporation and its managerial class, which ultimately becomes a power elite. The process, he said, was unstoppable, and issues and ideologies were mere instruments in the struggle for power. But Burnham, perhaps the most pessimistic of recent conservatives, was hardly a fool. His predictions are now even more sobering.

Indeed it is the conservative (and of course the libertarian) suspicion of political solutions that Tanenhaus

resents. He sees it as "the politics of enmity, of polarizing devisiveness" and asks, "Why does the contemporary right define itself less by what it wants to conserve than by what it wants to destroy: 'statist' social programs; 'socialized medicine'; 'activist Supreme Court justices'; the 'media elite'; 'tenured radicals' on university faculties; 'experts' in and out of government?"

Answer: because all these things represent threats to what thinking people should want to conserve — personal freedom, private property, social stability, the right to keep what they earn, say what they think, and think what they please. The author complains that the "movement" conservative has stood by the same principles for years, while the majority of voters and their representatives have consistently violated them — abetted, I would add, by that media elite and those activist Supreme Court justices.

It is well to remember the warnings of the Old Right intellectuals, such as Albert Jay Nock and Frank Chodorov, who influenced both the conservative and the libertarian movements. Chodorov, free market advocate and antiwarrior, sketched the process in which "the state, in its insatiable lust for power, destroys 'the economy of society,' and with it society's 'moral and cultural values'" (see Chodorov's essay "Economics Versus Politics"). Rather like Burnham, Chodorov saw this process as inevitable — unless the state kept its hands off the economy. Perhaps it's time for an Old Right revival.

Tanenhaus speaks well of Whittaker Chambers, a conservative who recognized "historic realities." He thought that the growing reliance on government was a product of the machine, which made the economy socialistic. Why that should be, I do not know. It hardly seems the product of the careful "analysis" that Tanenhaus prizes. What would Chambers have thought of the internet, a novelty that has made people less dependent on government — on the post office, the public library, even the public schools?

But to Sam Tanenhaus, the times require more government, and Chambers' insights therefore delight him. He praises Chambers as not only Burkean, but Disraelian.

But was Disraeli Jeffersonian, or

Madisonian? Disraeli's countrymen — and Burke's, of course — lived under a regime only recently evolved from various forms of despotism. They gained their liberties by a sort of historic adverse possession. They were, and, to a degree, still are subjects of a monarchy and its anointed and hereditary heirs.

And this brings me to American exceptionalism — the belief that our founding documents and the Republic they established were something new in history, as new as the New World that produced them. The founding documents, admittedly, have not prevented the growth of the Federal Register and the bureaucratic army that soaks up what used to be the public treasury. But Tanenhaus doesn't see the corruption of American ideals as wrong. He simply redefines the ideals. He promotes moderate Republicans such as Arnold Schwarzenegger, who wants his party to do "what people want rather than getting stuck in your ideology." But it was doing what people wanted, or thought they wanted, that got California into the fiscal mess it's in right now. And it was similar conduct by Congress that led to the banking mess. So much for the politics of consensus, which Lady Thatcher defined as "the process of abandoning all beliefs, principles, values, and policies in search of something in which no one believes, but to which no one objects."

So are traditional American principles really dead? Of course not. There is plenty of evidence for their vitality, an example of which is Mark Levin's feisty little book, "Liberty and Tyranny." The title reflects the idea that in the long run, Americans must choose between those two conditions, and if they choose liberty, they must defend the Constitution.

Levin substitutes the word "statist" for "(modern) liberal," which may please libertarians, who frequently, and with good cause, call themselves classical liberals. And what Tanenhaus calls "moderate," Levin calls "neo-Statist": "An 'effective' government that operates outside its constitutional limitations is a dangerous government. By abandoning principles for efficiency, the neo-Statist, it seems, is no more bound by the Constitution than is the Statist." He goes on to say that the neo-statist "seeks to devour conservatism

by clothing himself in its nomenclature." True conservatism is the antidote to tyranny because "its principles are the founding principles."

The statist, he argues, has brought the nation to its present condition by hypnotizing the electorate with a utopian vision. Having done so, he chips away at property rights, the value of the currency, and, in advocating the rationing of medical treatment, even the right to live. Individual rights must give way to the statist vision — society must be fine-tuned; equality of outcome must replace equality before the law. This new equality is to be justified by a new kind of rights, whose definition blurs the concept of legitimate rights. Levin quotes C.S. Lewis: "Those who torment us for our own good will torment us without end for they do so with the approval of their own conscience."

To Levin, the Constitution says what it said in 1789. It doesn't allow for the dreams of "progressive jurisprudence," which envision the separation of individual liberty from property rights and mandated social and economic equality — all of which might, to quote Thomas Jefferson, turn the Constitution into a "blank paper by construction." Levin points out that Harvard Professor Cass Sunstein would have it that way. Sunstein, Obama's appointee to head the White House Office of Information and Regulatory Affairs, believes that the distribution of wealth arises not from productive capacity but from a "coercive system of legal rights and obligations." If the homeless are without a roof, it's because the laws of property are enforced to evict them. As Levin points out, to dismember private property from liberty is to make the individual dependent on government for his sustenance — and of course, that government would include Cass Sunstein.

Levin addresses the assault on federalism. In pursuit of his utopian dreams, the statist finds a nation of federated states inconvenient — all those little governments solving their own problems in their own way. But he was assisted by those who would improve upon something they could never have created. The 17th Amendment to the Constitution (1913) denied state legislatures the power to elect senators. Later, the Supreme Court, in *Wickard*

*v. Filburn* (1942), extended federal regulatory power to enterprises operating entirely within a state's boundaries; power flowed from the states to the federal government by the process of judicial review. That power flow has led to an expensive federal bureaucracy, monitoring the minute details of everyday life, even including toilet flow.

And as the author shows, it put lead fetters on the swift legs of the free market. The market rewards virtue — prudence, diligence, thrift, a positive view of life and of the self. Private property is acquired by productive effort; consumption is the incentive for production. As Chodorov said, "A slave is a poor producer, not because he lies down on the job, but because he's a poor consumer." The government's power to tax and regulate leads to higher prices and lost productivity. When tax rates are graduated, and tax money flows from one voting block or "class" to another, social cooperation becomes class warfare. By taking from one and giving to another, the statist adds to the troubles of both — lowering productivity, reducing the number of jobs.

The federal government's amazing ability to make a mess of things is evidenced in the recent collapse of the housing market. Liberalizing bank-loan policy to offset alleged racial discrimination in granting loans, compelling banks to hold minorities to a lower standard, encouraging Fannie Mae and Freddie Mac to buy up questionable loans with taxpayers' dollars — all of this pushed the home-loan market to the brink. And of course, the crude, almost contemptuous broadcasting of more federal dollars couldn't possibly solve the resulting problems. As Levin says, the money didn't add value to the economy. Here again, the republic was badly served by the politics of consensus.

And Levin describes the ordeal of the oil industry, hamstrung by the statist's energy policies. As you might expect, when the price of gasoline goes up, statist politicians blame the oil companies, which labor under the burdens placed on them by the state. Meanwhile, tax subsidies flow to farmers for producing such biofuel precursors as corn and sugar cane, when there is no real need for the biofuels. These subsidies are necessary because the products

would not be produced without them. It never occurs to the statist to let things alone, to let the free market provide biofuels, when a real demand arises. Why not? Because the statist isn't after solutions; he's after power. If food prices

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*Tanenhaus doesn't see the corruption of American ideals as wrong. He simply redefines the ideals.*

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rise because farmers are producing less for human consumption and more for biofuels — well, who cares? Perhaps the statist could blame the farmer, just as he blames the oil industry.

Now, we have the crisis of the automobile companies, finally bled dry by the United Auto Workers. The union buzzards, with powers granted by the Wagner Act, stripped the industry of profits and pricing flexibility. Unable to compete with foreign producers, the American car industry may disappear in the way Big Steel did, and for the same reasons. And as Levin points out, supporters of Big Labor blame the loss of jobs, not on themselves, but on the industry — for "outsourcing."

But believe it or not, the welfare state doesn't seem half bad, once you get to enviro-statism. The chapter on this subject is the high point of Levin's book and worth careful reading and reflection. One neglected issue it takes up is the astounding case of DDT. Use of this chemical, once widely praised as an insecticide, was banned in the United States by EPA Director William Ruckelshaus in 1972, acting on claims of toxicity that were largely chimerical. The World Health Organization followed with its own ban, making the prohibition, in effect, worldwide. But when DDT was used, it saved millions from death by insect-borne diseases, especially malaria. Its shelving may have killed more people than Pol Pot's rampages in Cambodia.

Fuel economy standards have added to the death toll of misconceived environmental programs. Lighter cars, as Levin argues, have led to more



highway deaths and more serious injuries. Yet, undaunted in its quest for fuel economy, Congress has set even higher miles-per-gallon standards. The likelihood of more deaths in tin-can cars didn't deter the politicians for whom the fashionable lie trumps the value of human life. To justify the tradeoff, they need only consult the environmental "experts" who act as if they considered humanity a blight on the planet.

Levin provides a list of looming disasters, each supposedly attributable to, of all things, global warming. In fine print, the list runs to three-and-a-half pages and includes such horrors as "Buddhist Temple threatened," "circumcision in decline," "hibernation ends too soon," "hibernation ends too late." From this level of imbecility comes the potentially ruinous cap-and-trade proposal now pending in Congress. Even the Supreme Court bought into the nonsense: it declared greenhouse gases subject to the Clean Air Act, extending the rule of the EPA by an end-run around the legislative process. And now we have a Global Warming Czar.

Levin ends his book with a call "to blunt the statist's counterrevolution." Is Levin's list of imperatives irrational and outmoded, as Tanenhaus would have us believe? Well, let's look at a few.

Eliminate the progressive income tax? Yes, of course. Why penalize success and discourage enterprise?

End the tax on inheritance (the aptly named death tax)? Yes, of course. Why rob the dead?

Reduce the federal workforce by 20%? Fine, for a start.

Eliminate the Federal Department of Education? Again, fine, for a start.

Fight all efforts to nationalize health care? By all means. Is there any basis for believing that socialized medicine is more effective than a free market in medicine?

I suspect that Edmund Burke would admire such a "conservative" program. In 1775, urging conciliation with the American revolutionaries, he said that in their character he discerned "a love of freedom . . . the predominating feature that marks and distinguishes the whole." Forgive me, but in light of this saying, Sam Tanenhaus and his hero, Barack Obama, are *not* Burkeans. They're merely New York Timesians. □

**"Investment Banking Institutions, Politics and Law," by Alan Morrison and William Wilhelm, Jr. Oxford, 2007, 341 pages.**

# Bank Shot

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Robert Chatfield

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This is a timely book, given the outsized attention heaped on highly compensated investment bankers and their role in society. It was published before the financial meltdown and was not intended to predict that event, but it provides great clarity about why and how we got to this point. In the authors' findings lie the seeds for substantial reform within the banking industry, reform that need not come from the ever-reaching hand of government regulation.

Morrison and Wilhelm's intent was to provide a rationale for the existence of investment banks and their role in society. The authors noted the "voluminous historical literature" on investment banks, the legal rules pertaining to investment banking, and the economics of investment banking; yet they found nothing that precisely explained why such banks exist.

Their book begins by examining the situation-specific information relevant for economic decision making, referencing Hayek's famous observation that a central planner could never cope with the immense amount of information that would be required to make all decisions centrally (p. 37).

While institutions exist that can enforce real property rights, and even intellectual property rights associated with innovations and inventions, there

is no institution that enforces rights that may pertain to situation-specific information. Morrison and Wilhelm suggest that the "most efficient way to incentivize information production would be to create property rights over it" (70), but they realize the practical difficulty of enforcing such rights in a legal setting. An investment bank provides a way of establishing informal property rights over a very important kind of information — the information that people need when they decide to lend or borrow money. By gathering confidential information about lenders and borrowers, the returns they seek and the risks they are willing to take, the bank establishes informal property rights over price-relevant information.

Here's an example. In March, a company named Calix, Inc., wanted to raise money to expand its research and its market opportunities for broadband communication systems. To raise those funds, Calix turned to the investment banking firm of Goldman Sachs, which led an initial public offering of Calix stock. Goldman acquired important information; it "knew" something valuable — about Calix and the broadband communication industry. It also knew where investors might be found. By acting as an informed intermediary, Goldman was able to create a competitive advantage for Calix and the investors in the initial public offering. It maximized the funds Calix could raise, and it created a ready market for the

trading of securities bought by the initial investors.

The investment bank's own competitive advantage is created by its expertise in specific investment areas and its proven ability to create and manage a network of ready buyers. Its good reputation is arguably its most valuable possession. The authors classify this asset, somewhat clumsily, as "human capital," and provide ample evidence of the importance of this "capital" throughout the history of investment banking.

The origins of investment banking can be found in the early age of European exploration, in merchant banking activities carried on primarily by the Dutch. In trade across vast regions of the earth, the most important consideration was simply trust. People would do business only if they trusted other people to fulfill their obligations. Legal partnerships were created to formalize this trust.

Significant also was the "bill of exchange," a legal IOU invented to deal with the inconvenience of carrying coins and goods for barter over long distances. By the early 1800s, merchants such as the Rothschild family and Baring Bros. & Co. had determined that they could leverage their good reputations, and their legal partnerships throughout the developing world, to earn substantial profits, simply by buying, selling, and implicitly guaranteeing bills of exchange.

Morrison and Wilhelm clearly outline the role of the early investment bank as a structure to safeguard property, manage information, and enhance profits. They show its importance for the development of the private partnership as a legally sanctioned organization. The authors continue for several chapters describing the rise of the modern investment bank in Europe and the United States, providing many colorful stories about the early days of capital formation and the adventurous characters involved in it.

By the beginning of the 20th century, investment bankers "looked like titans" — but "titan" was not usually a term of admiration. Their success was envied and feared. They were accused of amassing "an excessive degree of power, which they used to feather their own nests at the expense of the ordinary working people whom they had

disenfranchised" (223). It's a view that would not appear out of place on the editorial page of today's news.

The result of fear and envy was a "protracted period of state interference" (224). In America the interference included the Securities Act of 1933, the Securities Exchange Act of 1934, and the provisions of the Glass-Steagall Act of 1933 that effectively separated investment banking and commercial banking activities. The period of heavy regulation had the unintended consequence of reducing the amount of capital available to investment bankers to support the issuance of new securities issues.

The next two significant changes in the industry did not occur until the 1960s, but these would strongly influence today's environment. The first was the emergence of computer technology, which led to a huge increase in trading activities. But with technology comes an obvious corollary: automation meant more reliance on what the authors term "financial capital," i.e., money, than on "human capital" (11). Trading volume soared, investment banks made huge bets on securities, and the knowledge base within the banks became more technology- than relationship-oriented.

And that led to the second, and probably the more underestimated, change. Given the need for an expansion of financial capital, the New York Stock Exchange changed its rules in 1970 to allow memberships by joint-stock corporations. For the first time since the advent of investment banks, partnership was no longer the primary choice among forms of legal organization.

To understand the importance of this change, one needs to understand the compensation structure of investment banking — an issue that the authors do not cover in depth. When partners owned the investment banks, they would pay themselves salaries throughout the year that were significantly below the profits of the firm. At the end of the year, they would determine how much capital to reserve in order for the firm to accomplish its goals for the upcoming year, then divide profits after paying bonuses to employees.

The risk of loss was always borne personally by the partners, who relied upon their reputation, or human capital, to generate profits. The employees,

in turn, rarely changed firms, because their compensation and bonus structure were based on the firm's established human capital.

After investment banks became publicly traded, reliance on financial capital increased enormously. According to Morrison and Wilhelm, the average capitalization of the ten largest investment banks in 1980 (the first year for which they present precise figures) was approximately \$600 million, with an average capitalization per employee of only about \$65,000. By 2000, those figures had risen to an average firm capitalization of \$20 billion and per-employee capitalization of about \$1 million (13).

Even more important, the risk of loss shifted to shareholders, although the compensation and bonus structure remained largely unchanged. Those pushing for increased regulation often say that "we have privatized profits, but socialized risks." Yet the real losers are not the taxpayers; they are the shareholders of publicly traded investment banks who have never been adequately compensated for their risk of loss.

The issue is tricky: if shareholders demand a percentage of profits more commensurate with their level of risk, they will risk losing the human capital element of their firms, and profits will probably be lower. The challenge is to provide greater compensation for the shareholders, while creating risk-reward structures that will keep knowledgeable employees loyal to the firm.

The simplest way to do this is for shareholders to demand significantly larger cash dividends, and for employees to be given most of their compensation in the form of restricted stock that cannot be cashed in for several years (at least five at first, but eventually longer). This would encourage management to be prudent in risk-taking, with a view to increasing the long-term value of the organization, not the immediate value of their bonuses.

Even now, however, we are seeing a marked increase in defections from the large investment banks to boutique investment banking firms of the old-fashioned type, where relationships and human capital are the primary assets. I'll note that many of these firms are privately owned. □

**"Clash of the Titans" directed by Louis Leterrier. Warner Brothers, 2010, 106 minutes.**

# Postmodern Pegasus

Jo Ann Skousen

The opening of "Clash of the Titans" on Easter weekend seemed strangely appropriate. This is a movie in which a half-god, half-mortal hero fights the powers of darkness. It's a movie that demands a human sacrifice for the sins of a community. Indeed, the film offers a strange mingling of figures from several mythologies, including the Norse Kraken, the Arabian jinn, the expected pantheon of Greek gods and goddesses, a reference to Christianity's "redemption by blood," and even winged monkeys from Oz.

Despite its mythological underpinnings, however, the film adopts a hubristic tone of skeptical humanism. It almost seems as though the filmmakers were afraid they might lose the blessings of the Hollywood gods if they acknowledged the virtue of faith, even faith in the Olympian deities. The result is simply ridiculous. The filmmakers may be trying to update the story for modern mortals, but come on! You can't tell a story about Greek mythology without acknowledging that the mortals of that era valued their gods and goddesses and believed in the efficacy of worship.

The original "Clash of the Titans" (1981) had its own problems. Its formerly state-of-the-art special effects became woefully out of date, and the story, once considered exciting and dramatic, dragged for later audiences. When I showed it to my mythology class last semester, the students sighed,

"Couldn't you just give us a lecture about the gods and goddesses instead?" Clearly, despite its star-studded court of Olympian gods led by Sir Laurence Olivier and Claire Bloom, Ray Harryhausen's famous stop-action animation, and Harry Hamlin's curly locks and muscled legs, it was time for a remake of the campy 30-year-old classic. Fans of mythology in general and "Clash" in particular have looked forward to the release of the new version, updated with 21st-century CGI graphics.

Unfortunately, the new "Clash" is even worse than the old one. The special effects simply aren't special enough, and the new story contains a mythological mishmash that knowledgeable viewers will find exasperating. For example: in the actual myth of the hero Perseus, his mother Danae is a beautiful mortal. When an oracle tells her father Acrisius, king of Argos, that if Danae bears a son it will result in his death, Acrisius locks her away inside an impenetrable chamber to prevent her marriage and thwart the prophecy. No baby, no grandparricide. Nevertheless, the randy Zeus comes to Danae in the form of a golden rain, and she becomes pregnant. Enraged and frightened, Acrisius casts daughter and grandson into the Mediterranean, sealed inside a coffin-shaped box. Zeus gently guides the box to an island, where mother and son live peacefully until Perseus grows up.

In this new film, Zeus (Liam Neeson)

comes to Danae (Tine Stapelfeldt) in the form of Acrisius, who is her husband, not her father (how's that for an Elektra twist?). Perseus is the result of that union. In mythology, however, it is Alkmene, not Danae, who receives Zeus in the form of her (betrothed) spouse, and the resulting hero is Herakles (Hercules in Roman myth), not Perseus. In the new "Clash," Andromeda (Alexa Davalos), not Danae, is the daughter of the king of Argos, and her mother is the one who boasts of her beauty, saying, "My daughter is more beautiful than Aphrodite." Those are fighting words for Olympians (Arachne was turned into a spider for daring to claim that her weaving was better than Athena's), yet Aphrodite never appears in this film except as part of the backdrop in the Olympian court. So much for Olympian justice, or vengeance.

That is just one of the many instances of muddled mythology in this film. Another is the character Io, who follows Perseus as his protectress, almost like Moses' sister Miriam when he was set out on the river Nile to escape the death edict of the Pharaoh. I have no problem with the guardian character, but why name her Io, an important person in mythology, the mother of Egypt and Thebes, and the namesake of the Ionian Sea? In mythology, Zeus seduces Io in the form of a dark cloud, then transforms her into a cow to protect her when his wife, Hera, suddenly turns up. Why not give this protectress an innocuous name like Alexa? And don't even get me started on the title of the film itself — these aren't Titans, they're Olympians! The Titans were a race of gods and goddesses who predated the Olympian Twelve. Moreover, the Kraken is not Poseidon's pet sea monster but a creature from Norse lore.

The first "Clash" film focuses on a conflict between Thetis (Maggie Smith), a minor goddess, and Zeus (Laurence Olivier), leader of the Olympians. Her son, Calibos, has been cursed with ugliness while Perseus, a favored son of Zeus, leads a charmed life. As is often the case with mythology, mortals are used as pawns in this rather trivial contest between the gods. Eventually Perseus must fight giant scorpions and bring back the head of Medusa in order to rescue the princess Andromeda from sacrifice to Poseidon's pet Kraken, all



through the magic of Harryhausen's stop-action and with the help of a magical sword, helmet, and shield given Poseidon by the gods.

In the new film, Perseus rejects his biological father, Zeus, and refuses to accept his help, including special weapons, even though it is mighty Hades, Zeus' brother, who has caused the tidal wave that drowned Perseus' adoptive family — and even when it means that other soldiers will die. The film rejects the idea of individual heroism, insisting that Perseus bring along a community of soldiers to help him fight Medusa. I suppose it takes a village.

In this new film the conflict is much more existential than that of two gods arguing on Olympus. The local Argosians are wrestling with more existential angst: what makes a god a god? Can gods exist if mortals no longer worship them? Are gods mere figments of a weakened imagination? If all Argosians agree to reject the gods, will life be better? These postmodern philosophical arguments might be more convincing if Zeus and Hades (Ralph Fiennes) weren't standing right there in their immortal flesh, bellowing in the humans' faces. It's one thing to question the existence of an unseen god, and quite another to reject a powerful god that one can see and hear — especially right after one of these gods has destroyed half the community.

The most serious sin in Greek mythology is hubris — the kind of pride which may assert that one has no need of gods. Such pride is always punished. But in this film, we are expected to cheer for the foolish Argosians who purposely bring doom upon themselves and their countrymen by willfully refusing to acknowledge the gods. Returning to the Moses comparison, they are like the Israelites who refused to look up at the serpent on the staff, when they were told that this act could save them. They would rather die than look.

Zeus and Hades continue the argument begun by the mortals, and adopt the mortals' views. Zeus admits that he thrives on human love and is "fed by their worship"; Hades boasts that he thrives on fear. Which is stronger? It doesn't matter. Both are cockeyed. The Zeus of mythology cares about respect and obedience, but not about mortals' love. And Hades is not the fearsome

devil of the underworld, a la Satan and Hell. Hades rules over all of the afterlife, including the heaven-like Elysian Fields. He isn't evil, and he doesn't chase after mortals to capture them and drag them to hell. (Except Persephone. And that was a marriage proposal.) He's more like the benevolent character in Emily Dickinson's poem: "Because I could not stop for Death / He kindly stopped for me." By contrast, the Hades in the film is demonic, and definitely not Greek.

At the end of the movie, it's mainly

hubris that remains. Perseus, who has beheaded Medusa, vanquished the Kraken, and sent Hades back to the underworld, says, "Let them know that Men did this." He wears a black tunic instead of white, and he rides a black Pegasus. When told to pray to Zeus in order to heal his poisoned shoulder, he answers defiantly, "No!" He would rather die than ask the gods to help him. This is indeed a myth for the 21st century — thin, un compelling, unconvincing in its attempt to derive its glamor from the authentic myths it spurns. □

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**"Departures," directed by Yojiro Takita. Regent Releasing, 2009, 131 minutes.**

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## *Last Rites*

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Gary Jason

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Some time back, I published an article defending human organ sales as a way to deal with the massive numbers of patients currently awaiting organ donation. I was surprised by the response of a number of people close to me. It wasn't that they felt my arguments weren't logically and factually sound; rather, they were repelled by the very idea of a market in body parts. They all evinced a deep-seated disgust at dealing in a commercial way with body parts and cadavers, a visceral aversion that blocked logical thought. This didn't surprise me. Evolutionary psychology suggests that people have an innate aversion to touching the dead. After all, the dead often perished from contagious disease, and such an aversion would therefore confer survival

value on those who possess it.

This corpse aversion is at the heart of a fascinating Japanese movie that played in limited release last year and is now available on DVD. Called "Departures," it was a surprise winner of the 2009 Academy Award for Best Foreign Language Film, and enjoyed major critical and commercial success in Japan. Its success was amazing, both for the size of the box office receipts — over \$60 million — and in light of the Japanese cultural taboo against openly discussing thanatological matters.

The movie is adapted from an autobiography by Aoki Shinmom, entitled "Coffinman: The Journey of a Buddhist Mortician." The lead character, Daigo Kobayashi (Masahiro Motoki), is a young cellist who performs with a Tokyo orchestra. The movie opens with Daigo suddenly learning that the orchestra is going out of business and

he is out of a job. He has to tell his wife Mika (Ryoko Hirose) that he is giving up his profession as a classical musician, selling his expensive cello, and moving them back to his hometown, Sakata.

I chose the words “tell his wife” carefully: at the outset of the movie we see her as docile and uncritically supportive. She meekly acquiesces, and they move to the small city in the remote prefecture of Yamagata. The choice of this locale was deliberate, I suspect, because that area of Japan has one of the highest percentages of elderly residents in the country.

While his wife adjusts to life in the small city, Daigo has to look for work. This part of the film provides great comedy. Daigo sees a help-wanted ad placed by the “NK Agency” for someone to “assist departures.” He goes to the company expecting a travel agency but learns to his surprise that it is what we might call a mortuary. Actually, this is not quite right: the Japanese term “nokan” (from which the agency gets its logo “NK”) translates as “encoffinment.” The coffinman performs a highly ceremonial ritual washing and preparation of a corpse for burial. The ritual is done in the presence of the family, quite unlike the way it is done in our culture, where the mortician prepares the body without anyone in the family being present.

Daigo meets the agency owner Shoei Sasaki (Tsutomu Yamazaki), who instantly decides to hire him, offering him a very large salary. But Daigo is shocked and repelled. Going from musician to mortician — or assistant corpse preparer — would be a rough transition in any society, but much more so in Japan. Nevertheless, having found no other work, he reluctantly accepts. Back at home, when Mika asks what his new job is, he deceives her by using a misleading euphemism (he will be working in the “ceremonial occasions industry”), which leads her to think he is doing weddings.

Daigo’s start in the business is trying, to say the least. He first has to play a corpse in an instructional video his employer is producing. He then has to accompany his boss on a particularly gruesome assignment: retrieving the corpse of an elderly woman who has died alone and lain undiscovered for two weeks. He stops at a sento (a com-

munal bathhouse) on his way home to cleanse himself and get rid of the smell.

But as he continues to work, he begins not merely to assist Mr. Sasaki but to perform the rituals himself. He starts to understand that the work has a valuable function. He sees that it comforts families and enables them to come

together and reconcile themselves to the death. At home, he recovers his passion for playing the cello.

At this point, the viewer wonders whether we have here a case of rationalization in the face of cognitive dissonance. Daigo has a well paying job, but he is doing something that even those closest to him would regard as shame-

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ful. So is he merely convincing himself that it is a valuable service in order to assuage his self-doubt? Or is there a greater lesson to be learned about life, death, and the way we deal with the inevitable transition between the two?

This issue is resolved as the film moves toward a surprising end, and as Daigo takes on two more services. In the first, both Mika and his friend Yamashita (Tetta Sugimoto) come to understand and appreciate his new profession. And in the second, it is Daigo himself who reaches a deeper understanding of what he does.

Through what we see, viewers also reach an understanding. We grasp that the seemingly bizarre custom of preparing the dead while the family looks on is extremely well fitted to Japanese society, precisely because of its taboo

against discussing death openly.

The acting in the film is simply magnificent. Motoki's portrayal of Daigo is perfectly nuanced, and both Sugimoto and Hirosue give excellent performances in support. Kimiko Yo, who plays Yuriko Uemura, Daigo's co-worker at the NK Agency, gives a really fine performance as a woman whose outwardly placid demeanor belies a very dark inner secret. Especially noteworthy is Yamazaki's powerful but restrained performance as the quiet yet insightful and intuitive Mr. Sasaki. All of this is aided by a superb musical score and excellent photography.

This film withstands comparison to some of the finest Japanese films — which is to say it withstands comparison to some of the greatest films ever made. □

## Filmnotes

**Fresh Breath of Fire** — Here's a film I didn't think I'd be reviewing, but I believe it will be interesting and fun for libertarians.

"How to Train Your Dragon" (directed by Dean DeBlois and Chris Sanders; Dreamworks Animation, 2010, 98 minutes) is an antiwar film of the best kind. It doesn't demonize the military or blame capitalists and industrialists for everything that goes awry. On the surface, it doesn't even appear to be an antiwar movie. Nevertheless, it subtly suggests an alternative to war, while artfully folding the antiwar message inside a traditional story of boy-meets-dog, or, in this case, dragon.

The film is set in a Viking town where the villagers are beset each night by hordes of dragons that carry away their sheep, crops, and even children. If there is ever a justification for war, this is it. Contrary to tradition, these Vikings aren't aggressors; they're defenders of their homes. Even their dragonslayer training reinforces the idea. "Grab your shield before your sword," the trainer tells them. "If you can't reach both, get the shield." In other words, defense comes first.

Hiccup is a young blacksmith who wants to become a dragonslayer. During his training he reads manuals telling him all about the enemy — their strengths, their weaknesses, their fighting techniques, their moral defects. It's easier to kill someone if you know he's nasty and evil.

But Hiccup accidentally meets and befriends an injured dragon and learns that dragons aren't so scary after all. In fact, he says, "Everything we think we know about them is wrong." But what about their carrying off everything that isn't nailed down? Wait, I'm coming to that.

Hiccup uses what he learns from his dragon "pet" to subdue rather than destroy the dragons he meets during training sessions, and they eventually become allies. He even creates a prosthetic device for his dragon's injured tail, making it possible for it to fly again. As they fly around the nearby islands, Hiccup discovers the reason the dragons are raiding his village: they must deliver food to a huge, tyrannical dragon who demands a daily tribute. Metaphorically, a gigantic, non-producing, heavy-taxing govern-

ment is sucking the country dry, and one group of citizens is robbing others just to feed the mass. You gotta love that allegory, whether it is intentional on the part of the filmmakers or not.

Eventually the villagers and the dragons band together to overthrow the tyrant, and peace is restored. The groups work together to produce goods and services sufficient for everyone, instead of wasting valuable resources fighting each other. Neither group forces anyone else to join it, and everyone seems to be happily employed. I couldn't help but think of the quotation attributed to Abraham Lincoln at the end of the Civil War: "Am I not destroying my enemies when I make friends of them?"

Message aside (and it's easy to set the message aside, since it is delivered with such a light hand), the film is well made and deserves the high critical praise it has been receiving. Meaty enough for adults and fun enough for children, with visual effects that are at times breathtaking, this is animated film at its best. — Jo Ann Skousen

**Swedish Sherlock** — Playing now in limited release is an intense, gripping detective thriller from, of all places, Sweden. "The Girl with the Dragon Tattoo" (directed by Niels Arden Oplev; Danish Filminstitute, Nordisk Film, and Yellow Bird, 2009, 152 minutes) was released in Europe late last year under the title "Män Som Hatar Kvinnor" ("Men Who Hate Women"). It was a big hit in Europe. In Norway and Sweden it is the most viewed Swedish movie in history. It is based on the first book of Stieg Larsson's "Millennium Trilogy," published posthumously to wide acclaim.

The two leading characters in the film are Lisbeth Salander (Noomi Rapace) and Mikael Blomkvist (Michael Nyqvist), who team up to solve a crime (actually, a series of crimes). Lisbeth — the girl with quite a striking dragon tattoo — plays Sherlock Holmes to Blomkvist's Dr. Watson. But Lisbeth is something quite novel and hard to describe. Imagine (if you can) a punked-out fusion of Sherlock Holmes, Pippi Longstocking, Chuck Norris, and Lady Gaga. She is a computer hacker and hired investigator with a very dark past.

The film opens with Blomkvist,



a middle-aged journalist and publisher of the magazine "Millennium," being convicted of libeling a business tycoon. Lisbeth, who has been hired by an unidentified company to investigate the case, gives the opinion that he is completely clean, that he was set up — given bogus material that he thought showed that the tycoon was involved in criminal business activities.

Blomkvist, now in disgrace and awaiting prison, is approached with an interesting offer by a man named Henrik Vanger: he wants to hire Blomkvist to investigate a 40-year-old disappearance. Vanger is the elderly former CEO of a family-owned multinational conglomerate, Vanger Companies, and his beloved niece Harriet (Ewa Froling) is the one who disappeared. Henrik is convinced that she was murdered by someone in the large, secretive, and very dysfunctional Vanger family. He feels tormented by the killer. Every year on the anniversary of Harriet's disappearance he receives a framed flower.

Having nothing else to do, Blomkvist agrees to investigate the case. He moves into a cabin on the family compound, starts to sift what little evidence the police have left after four decades, and immediately hits a puzzle, a kind of code. Here is where the leading characters meet in person: Lisbeth — who has earlier hacked into Blomkvist's computer files and is monitoring what he is doing — breaks the code for him and leaves an easy-to-trace email. She joins the case, and they work together on its surprising solution, uncovering a lot of family skeletons (literally as well as figuratively) along the way.

The themes that inform Larsson's original trilogy of novels — the evils of corporate capitalism (remember, he's Swedish!), misogynist violence, neo-Nazism, and incompetent police work — are present in this film. But so is a bracing voice for free choice and personal accountability. In one scene, after Lisbeth allows a vicious criminal to come to a grisly end, Blomkvist tells her that while he wouldn't have acted in the same way, he understands why she did. She snaps back that the criminal freely chose to do what he did, and richly deserved his fate.

This is an exceptionally engrossing thriller, with enough twists and action to please even the most persnick-

ety mystery buff. The cinematography is excellent, and director Oplev keeps the pacing taut and the action engaging. But parents beware: there is quite a bit of graphic violence and sexuality in this film, which make it inappropriate for younger children — or squeamish adults.

The acting is fine, with excellent performances by Nyqvist and strong support by Peter Haber as Martin Vanger and Sven-Bertil Taube as Henrik Vanger. Especially arresting is Rapace's performance as Lisbeth. She conveys the intensity that is requisite for this character's harsh and haunting past to be made believable. While she is not a beauty of the classic Ingrid Bergman sort, she exudes a powerful sexuality, at once frosty, aggressive, and earthy.

Make a date with the girl with the dragon tattoo. She will take you on quite a ride.

— Gary Jason

**Maternal Instinct** — With Mother's Day around the corner, you may want to skip the treacly sentimental "Hallmark" movies and watch "Madeo" (directed by Joon-ho Bong; Magnolia Pictures, 2010, 128 minutes, Korean with English subtitles), an award-winning Korean murder mystery about a mother's indefatigable determination to prove her son's innocence after he is charged with murdering a young girl. When the police declare the case closed after just one day of investigation, she sets out to find the killer herself. Her tenacity is a testament to the lioness in every mother. She ignores personal risks and enters an often seedy and unfamiliar world to close in on the killer. The result is a classic Hitchcockian thriller with a most unlikely heroine.

Mother (Hye-ja Kim) is a tiny, old-world, middle-aged woman working as an herbologist and acupuncturist in a tiny, old-world apothecary shop. She has raised her now 28-year-old son by herself, and he is clearly her entire world. She doesn't drive a car or use a computer; she wears frumpy suits and traditional sandals; she's the kind of woman who blends into a crowd, overlooked because she seems old-fashioned and useless. But she is resourceful and audacious. She stops at nothing to track down clues, bravely entering situations that make even the viewer's heart

pound. Who needs 3D technology when a masterly director is behind the camera, and a masterly musician (Byeong-woo Lee) is writing the score?

What makes this mother particularly protective is the fact that her son, Do-joon (Bin Won), is mentally handicapped, with short-term memory deficit and some additional developmental problems. He can't remember what he saw the night the girl was murdered, so he isn't much help in his mother's search to find the killer and secure his release. When memories do come to him in bursts of cognition, she pursues the leads, impelled by her belief in him.

In some ways this film reminds me of "Call Northside 777" (1948), in which James Stewart plays a skeptical Chicago reporter investigating the possibility that a convicted murderer has been wrongfully accused. He comes to believe in the man's innocence simply because the convicted man's mother is so thoroughly convinced he didn't do it.

"Call Northside 777" highlights forensic techniques that were considered cutting-edge at the time, including a facsimile machine that could actually transmit documents — across telephone lines! — and a lie detector (administered in the film by Leonarde Keeler, who had invented its most widely used version). A key line from the film — "That's the trouble with being innocent; you don't know what really happened" — is echoed in Do-joon's inability to tell his mother what he saw that night. But while "Call Northside 777" is interesting in a scientific way, it doesn't have the suspense, humor, or horror of "Madeo."

A more significant difference is that in "Northside," the sweet, elderly mother sits back and waits anxiously for the reporter to follow the clues and find the evidence. In "Madeo," Mother has no knight in shining armor to help her, except Do-joon's hooligan friend Jin-tae (Gu Jin), whom she really doesn't trust. Nevertheless, this mild-mannered woman will stop at nothing to rescue her son.

Fast paced and tense, often funny, with ample surprises and a satisfying conclusion, "Madeo" ("Mother") is an entertaining return to the classic psychological thriller.

— Jo Ann Skousen

### *Irving, Tex.*

The genius of American marketing marches on, in the *Dallas Morning News*:

Texas Stadium will come down this spring in a “Cheddar Explosion.” That’s the name that Kraft Foods has given to its promotional campaign for the implosion of the iconic structure.

In its last act of 2009, the Irving City Council on Thursday unanimously approved Kraft Foods as the official sponsor for the demolition. “It’s a good deal for us and a good deal for them,” council member Rose Cannaday said during the 15-minute special meeting.

“Kraft Macaroni & Cheese is thrilled to have received the Irving City Council’s approval and we are looking forward to celebrating the historical significance and explosion of Texas Stadium,” Joanne Freed said in a written statement on behalf of the company.

### *Middleton, Wisc.*

Thinking of the children, from the *Wisconsin State Journal*:

As police respond to traumatic events, sometimes children can be found sitting to the side of the emergency, feeling lonely and scared. For years, officers have comforted them with stuffed animals, but that’s now changing.

Middleton police Sgt. Don Mueller said that in the past, handing out the stuffed animals or other toys could help children feel a little better. Now, Middleton police are using books to make sure they’re in compliance with the new Consumer Product Safety Improvement Act.

“One of the reasons for that is we get older toys that come in and they’re perfectly fine to give out, but we don’t know if they were made under the new requirements,” he said.

### *Seattle*

An incident in the Emerald City, from a King-TV 5 report:

Three security guards watched a group of teens punch, kick and rob a 15-year-old girl in the downtown Seattle Metro bus tunnel without intervening. Security video shows the guards call for help on their radios, but they don’t go to the aid of the girl even as she is being kicked in the head.

Metro Transit General Manager says it’s revising its policy that guards only “observe and report” problems.

### *Toledo, Ohio*

Complex interrogation of the virtue of selfishness, in the *Toledo Blade*:

Scantly clad dancers were the draw at a downtown men’s entertainment club for an event that raised nearly \$1,000 for victims of the earthquake in Haiti.

Marilyn’s on Monroe billed Saturday’s affair as “Lap dances for Haiti.” General Manager Kenny Soprano said the club donated all the money from the day’s regular \$10 cover charge to International Services of Hope.

The organization is grateful for any donations it receives to aid the people of Haiti. “I don’t have a problem with it,” said CEO Linda Greene.

### *Taunton, Mass.*

Possible recipient of future NEA grants, in the *Taunton Gazette*:

A Taunton father is outraged after his 8-year-old son was sent home from school and required to undergo a psychological evaluation after drawing a stick-figure picture of Jesus Christ on the cross.

The student drew the picture shortly after taking a family trip to see the Christmas display at the National Shrine of Our Lady of La Salette, a Christian retreat site in Attleboro. He made the drawing in class after his teacher asked the children to sketch something that reminded them of Christmas, the father said.

“I think what happened is that because he put Xs in the eyes of Jesus, the teacher was alarmed and they told the parents they thought it was violent,” said Toni Saunders, an educational consultant with the Associated Advocacy Center.

### *Washington, D.C.*

Dietary diktat from the Death Star, from *The New York Times*:

Top federal food regulators threatened to ban caffeinated alcoholic drinks unless their makers quickly proved that the beverages were safe. The agency’s action was prompted by a letter from 19 state attorneys general, who expressed concern about the products’ safety.

Attorney General Richard Blumenthal of Connecticut said he was pleased. “Our battle against alcoholic energy drinks has stopped some products,” Mr. Blumenthal said, “but others are insidiously exploiting the void.”

### *Danvers, Mass.*

Unlikely inspiration for student rebellion, reported by the *Salem News*:

Who knew “Meep!” was a four-letter word? The utterance favored by bungling lab assistant Beaker of “The Muppet Show” has been banned at Danvers High School after students said it to repeatedly interrupt school.

The Salem News reports that parents recently got an automated call about “Meep!” from Principal Thomas Murray. He warned them that students who said or displayed the word at school could be suspended. Murray says the warning was needed because students didn’t heed his “reasonable request” to stop the meeping.

### *Jefferson City, Mo.*

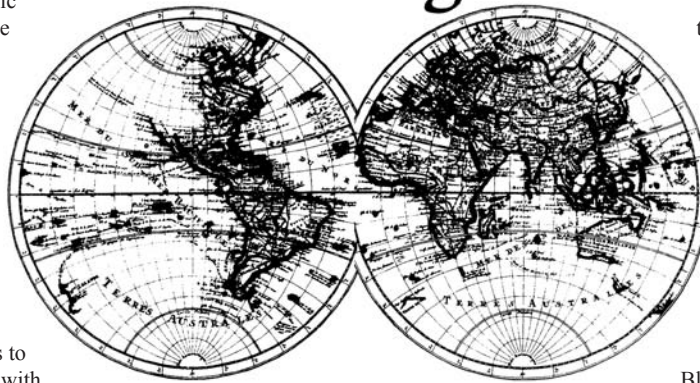
Chemical mixup, reported in the *Kansas City Star*:

A law soon to take effect could make criminals out of those who bring Tupperware onto many Missouri rivers. The law was intended to reduce the floating debris from abandoned foam coolers in the state’s waterways. But lawmakers, apparently a little rusty with chemistry, barred the wrong plastic.

The white foam coolers commonly called “Styrofoam” are made from expanded polystyrene. But the law bars polypropylene. That’s a plastic found in things like dishwasher-safe plastic containers but not usually used to ferry drinks down a river.

The mix up means river floaters can use foam coolers without fear. But someone caught with a dishwasher-safe plastic container could risk up to a year in jail.

## *Terra Incognita*



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



I started a gym with my dad to keep at-risk kids out of gangs.

But the city is trying to take it  
for private development.

I am in the biggest bout of my life,  
standing up for my rights.

I am a fighter.

*I am IJ.*

Carlos Barragan Jr.  
National City, California

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

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