

Liberty

October 2002

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the
War on Terror

Summer of Fire!

by Randal O'Toole

The Case of Johnny Jihad

by George W. C. McCarter

Nixon in Art and in Life

by Stephen Cox

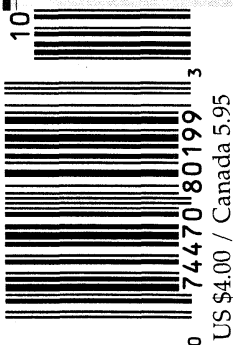
Freedom of Choice, Cigarettes, and Thomas Szasz

by Todd Seavey

Ayn Rand Goes to West Hollywood

by Paul Rako

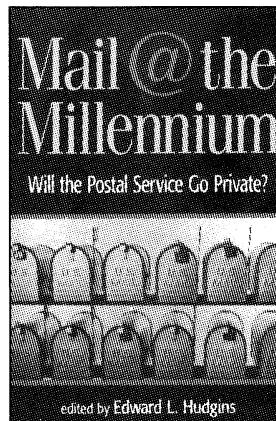
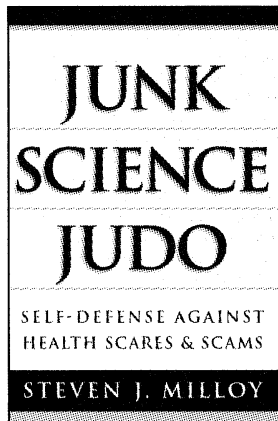
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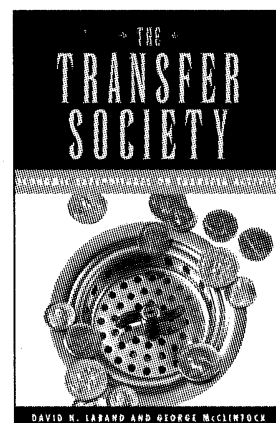
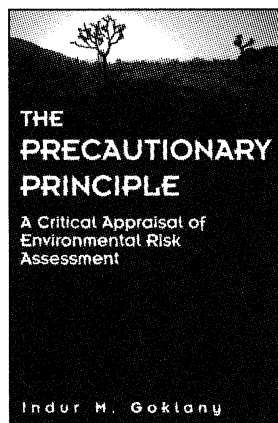
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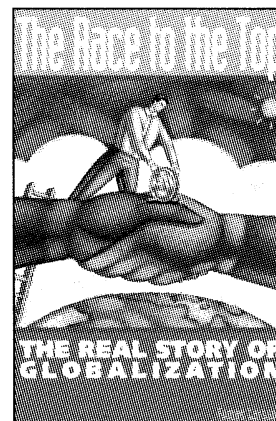
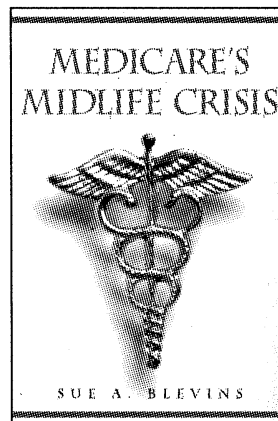
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Letters

Slovenko's Psychosis

In the article "The Trouble with Thomas Szasz" (August), Ralph Slovenko argues in favor of a Therapeutic State in which the agents of the state have the power, as they do now, albeit with perfunctory judicial oversight, to place people against their will into state institutions where the state's psychiatrists will supposedly restore their minds to health.

Slovenko tells us not to worry: "A Therapeutic State is not necessarily evil. Indeed, it is preferable to a non-Therapeutic State." In this context Slovenko mentions that Joseph Stalin did a good thing by keeping "the fast food (aka junk food) franchises out of the Soviet Union." He says, "For that, all Russians are grateful." I will assume Slovenko's observation was meant to be serious, although I had to pause a moment to be sure I had read correctly. Did Stalin also have fast food junkies committed? If so, does Slovenko approve?

If someone said Slovenko was a silver-tongued devil, would we expect when we met Slovenko to see that his tongue was composed of silver? Would he be a devil? If someone said that he had a large skin cancer on his right hand, if we shook hands with him would we expect to see a lesion on his hand?

What if someone said Slovenko was mentally ill? What would that mean? If he gave us permission to examine his body, what would we notice besides his having a silver tongue, a lesion on his right hand, and possibly horns on his head? Would we examine his brain? What if we could not find any lesions in his brain? We probably would say that he did not have a brain disease, at least one that we could find. But a psychiatrist might insist that nevertheless Slovenko was mentally ill. What would that mean?

If Slovenko was accused of committing a crime and he said the devil made him do it, would we believe him? If he said that when he committed the crime, he did what the devil told him to do, would we find him not guilty by reason of insanity? How would we know if he was mentally ill, or lying, or stupid? How would psychiatrists determine which category fits Slovenko?

Charles S. Howard
Fayetteville, Ark.

Libertarians! You Have Nothing to Lose but Your Chains!

Libertarians support the Confederacy because the only freedoms they really care about are the freedoms that enable one to become and remain rich. This is why they favor right-wing dictators like Papa Doc and Augusto Pinochet. Slaves are more convenient to rich people than employees. Slaves cannot quit. They cannot strike. They can be flogged legally.

Libertarians support the Confederacy for the same reason that Karl Marx supported the Union. When Abraham Lincoln was re-elected in 1864, Marx wrote him a congratulatory letter on behalf of the International Workingmen's Association. In this letter Marx wrote, "From the commencement of the titanic American strife the workingmen of Europe felt instinctively that the star-spangled banner carried the destiny of their class."

John Engelman
Walnut Creek, Calif.

Liberty: A Yankee Publication

When I read Timothy Sandefur's defense of our own little home-grown American Hitler, war criminal and destroyer of constitutional liberties as well as the Constitution itself ("Liberty and Union, Now and Forever" July), I

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was sure that the editors of *Liberty* had taken complete leave of their senses and had betrayed everything for which I believed the magazine stood. Then I remembered that *Liberty* was published in Washington state and that the Pacific Northwest had been settled by Yankees (notice how politely I omit the word that most properly precedes that noun) and that the great majority of editors and contributors hail from or were lobotomized north of the Mason-Dixon line as do the three published responders to that article.

If Sisca and Henley (Letters, August) had learned to read original sources such as Lincoln's *First Inaugural* rather than an hagiographer and rank propagandist such as Jaffa, they would have known that Lincoln was probably as racist a president as ever the U.S. had, a fact that was incapable from as early as the Lincoln-Douglas debates. But the horror of what Lincoln did in destroying the country and the government which Washington, Madison, and the rest of the Framers left us had to be white-washed in some fashion and the big lie, perhaps even the greatest lie, was necessary to keep the common folk believing that this was still "the land of the free."

Perhaps someday the Constitution will again mean something — be something more than a lie told to the young and innocent before they are sent off to die for the American Empire — but I very much doubt it. There are some who say the old Republic died at Appomattox, but I think that the truth of it was that it died the very minute that Lincoln took the oath of office, an oath that he had not the least intention of keeping; his entire political life had been an act of

rebellion against the Constitution which he swore to uphold but immediately began to shred so that he could create a government that would have never been acceptable to the Framers. Franklin and Jefferson were right. We had a republic but we could not keep it. The Constitution became, exactly as Jefferson feared, "a blank page . . . by construction"; Lincoln washed it away with the blood of southerners and gave us in its place something as close to the dreams of Lenin and Bismark as he could manage. And we will never regain what we lost until we begin to tell ourselves the awful truth of who and what he was and what he did.

Nicholas Harcourt
Cushing, Okla.

The editor responds: After we publish tens of thousands of words on the Civil War that take what might be reasonably characterized as a "pro-Confederate" position, *Liberty* finally publishes a piece that defends the Union. For this, Harcourt condemns us as mere pawns of our environment, and worse yet, Yankees? If Harcourt had learned to read original sources like the actual magazines that we publish, he would know better. Not only have we published pro-Confederate articles by Donald Miller, William E. Merritt, and R.W. Bradford, but we have even published a discussion of Lincoln's racism, quoting the selfsame passages from the Lincoln-Douglas debates that Harcourt is upset that we have not published!

Liberty and Secession, Now and Forever

Most of the essays regarding the right of the Southern states to secede from the Union have been phrased, "Did the the Southern states have the right to secede?" My view is that they did have that right and in reality, they *did* secede from the Union and formed the Confederate States of America. Then, the USA attacked the CSA and conquered them.

Rights are theoretical constructs that allow us to make a moral or ethical decision about a particular action. In practice, however, rights must frequently be defended with arms if the other party does not respect your

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rights.

The South seceded (rightfully, in my opinion) but the North whipped them (just as the Europeans conquered the native American Indians who were unable to withstand the onslaught). Sad, but true.

Michael Lee
Houston, Texas

A Glimpse at Zion

All of the legal pretexts acknowledged by Chip Pitts ("A Glimpse Ahead," September) in his correlation of the movie *Minority Report* and the world as we see it have been ignored in this country, especially in the context of why we're fighting terrorism in the first place.

For a moment, let's try to see all this from another perspective.

Israel was established by terrorist acts and has continued to use terrorist tactics both inside and outside its borders. It taught us all (especially the British) how effective blowing up buildings and people could be even in the aftermath of a World War that killed close to 100,000,000 people. That the people whose territory and property was taken by Israel have learned this is obvious.

What has me worried is that Bush's proposed pre-emptive military strikes on an international scale could easily lead to our following Israel's example

of sending a gunship or a tank battalion to remove a local suspect under the same pre-emptive theory, which would be in complete disregard of our system of laws. Waco, of course, would be our national example.

Our troops fighting a surrogate war in Afghanistan and the World Trade Towers tragedy are just some of the costs associated with having armed and aided Israel for 50 years. We are now paying a huge price in the ways we are having to change our own country. None of this is coincidence.

Harold Shull
Phoenix, Ariz.

Irrational Evil

David Ramsay Steele ("Ayn Rand and the Curse of Kant," August) justly raises the question, what do Objectivists mean by "evil ideas"? I cannot speak for Ayn Rand, Leonard Peikoff, or David Kelley but I think I can show why this concept arises and stands out in Objectivist philosophy.

The simplest "evil ideas" for Objectivism are the prefabricated excuses, especially religion. I do not mean here to offend religionists, although to some extent that can't be helped. I hope every believer will see that my points are sometimes correct, and I shall be careful not to argue the universal, that they always are. The

two most honest men I have known have both been sincere Christians.

Suppose a loved one has died. The facts are clear. The coffin is open. Reality only permits one belief. Who wouldn't want to believe their loved one isn't really dead? If an excuse to believe that is readily available, who could blame the grieving for indulging in it? Is that indulgence evil? For Objectivism, yes, and just for Objectivism. It breaches the cognitive relation between a mind and the facts of reality, knowingly and willingly substituting something else for reality. No other philosophy insists upon the morality of this relationship, and the immorality of defying it.

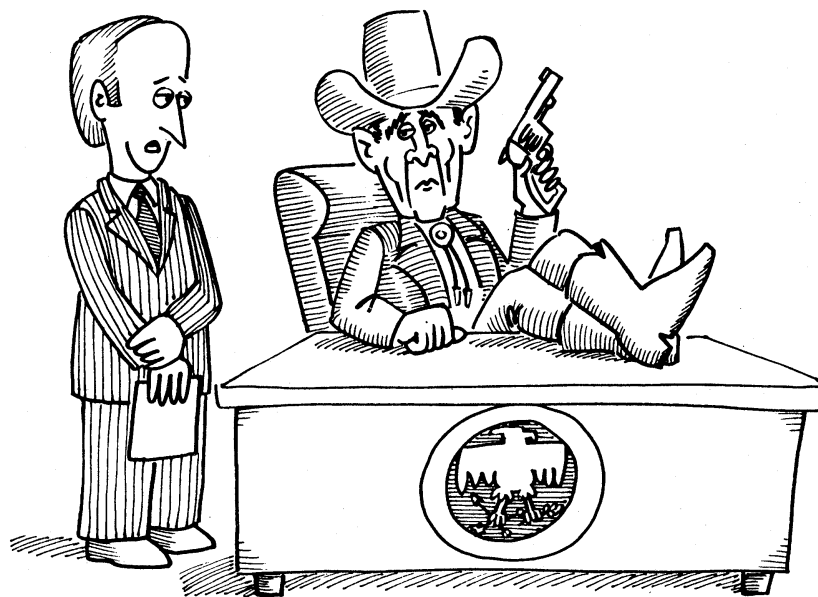
What harm does it do? Not much perhaps, directly and by itself. But it's never by itself, it has strings attached and they're not always so innocuous. It's essentially connected to other excuses for other beliefs, which also breach the cognitive relationship, etc. They all excuse beliefs that aren't true and many of the truths left out are important.

What other excuses are understandable? One might desperately need an excuse to believe that he's a good man if he gives to the needy, even if he cheats his customers or cheats on his wife. That might be difficult to believe without an excuse, but appropriate excuses are immediately available and the self deception is often successful. It's much easier if he's already accepted the previous excuse.

Suppose your friends, or your thoughts, include a bunch of shysters. Then you'll need an excuse to do what's right, more than what's wrong. How can that excuse hurt anything? Without cognition of moral reality — the cognition avoided by the excuse — there's no way to limit it to just what's right. History is full of "reasons" to do what's right that turned into reasons to do wrong.

Why did I rape and murder those little children? I don't know. God knows, He made me what I am. I don't understand why I do what I do, but God understands. God always understands.

Tom Porter
Reseda, Calif.



"Mr. President, you can still order an attack on Iraq, but it's a bit late to call it a 'surprise.'"

Reflections

Taking up arms, at last — On Aug. 2, 2002, former President Clinton told an audience in Toronto, "If the Iraqis ever invaded Israel, I would personally get in a ditch, grab a rifle, and fight and die."

Question: How many sarcastic remarks can be made about that declaration? Answer: an infinite number.

Here are the first ten that occurred to me.

1. It had better be a pretty wide ditch.
2. This is the greatest thing that ever happened to Iraqi public relations.
3. I remember that former President Jefferson once said, "If the Spanish ever invaded France, I would personally get in a ditch, grab a rifle, and fight and die."
4. So much for Democratic policies on gun control.
5. Well, it's better than spending the night with Hillary.
6. It all depends on the meaning of the word "fight."
7. He's finally doing his draft board proud.
8. I think he's given up on the Nobel Prize for Peace.
9. Dang! I didn't know that Ontario had liberalized its drug laws!
10. Maybe he meant that word that *rhymes* with "ditch."

— Stephen Cox

Cops for weed — As reported in this space last month, Nevada's November ballot will include an initiative to legalize, at the state level, possession of up to three ounces of marijuana for adults over 21. Now the Nevada Conference of Police and Sheriffs, which represents 65% of the Sagebrush State's street patrol officers, has strongly endorsed the initiative. Their spokesman noted that this would free up police to deal with more serious crime.

Law enforcement has been cowed by drug warriors for so long, this is almost surprising. But what worker wouldn't support changing a policy that requires him to waste time at frivolous, unpleasant tasks while more important work goes undone? For that matter, what manager would countenance the productivity-loss associated with such a policy?

The answer, of course, is a public-sector manager.

— John Tabin

It wasn't terrorism, go back to your picnic — It's hard to say which was more disturbing: the shooting at LAX back on the Fourth of July, or the FBI's bizarre statements immediately following the event. It took our crack Homeland Security experts more than 24 hours to conclude that an Arab gunman who fired eleven shots at the El Al ticket counter was "intending to kill" someone. Perhaps they thought he might have been reaching for his photo ID and inadvertently pulled two loaded guns and took out five victims by mistake. Maybe they thought he might really have been on his way to Israel (that favorite Fourth of July destination spot for Egyptians), innocently

carrying his guns when the continuous no-smoking announcements at the airport suddenly drove him over the edge.

— Michael Drew

Judicial watch — Normally I am as happy as the next guy when a politician is sent to the hoosegow. After all, if a person were honest, why would he go into politics?

But I won't join the mass celebration of the conviction of Rep. James Traficant and his subsequent move from the House of Representatives to the Big House. It's not that I doubt that Traficant was guilty of the charges against him — it seems pretty likely that he used congressional staffers

Traficant was at worst a harmless eccentric. I'd be happy to see him behind bars, but only after 533 former colleagues were incarcerated.

for private work. What I don't like is the fact that Traficant alone among the 535 members of Congress has been singled out and punished for this misdeed.

A couple of years ago, I had occasion to spend some time with a group of young congressional staffers and ex-staffers. As the night and the booze flowed on, the conversation turned again and again to the shenanigans of members of Congress, shenanigans consisting mostly of using the resources of office for private advantage. Practically everyone was sharing stories about bosses' or former bosses' malfeasance of this sort.

With his goofy hairpiece, incoherent conspiracy theories, and customary peroration of "Beam me up, Scotty!" Traficant was very different from the blow-dried, suck-up-to-the-special-interests confidence men who inhabit the House of Representatives. But what cost him his job and his freedom was his refusal to play the political game. He couldn't be counted on to maintain the pretense that Congress is the deliberative body of a free republic. For that he was singled out and his job and his freedom torn from him.

So I overcame my temptation to say, "One down, 534 to go!" In my book, Traficant was at worst a harmless eccentric. I'd be happy to see him behind bars, but only after 533 former colleagues were incarcerated.

Make that 534. It's worth noting that Bill Clinton survived similar charges, even after evidence was made public that he had compounded his crimes with perjury. Last Sunday's paper included a brief note that author Jeffrey Archer was serving a sentence for perjury in a civil case — something that, when proof of Clinton's perjury was made

public, over 200 members of Congress assured us never happens. — R. W. Bradford

The case against Martha — Martha Stewart is just the kind of perfect rich person that everybody loves to hate. Sure, the recipes and crafts she talks about are the work of the talented homosexuals working underneath her, and when she entertains, she does what everyone in her social bracket does: hires a caterer. But you have to admire that she turned her eponymous company into a brand worth billions of dollars.

When I first heard that she was under investigation, I feared for her liberty. It would be very difficult to assemble a jury without at least one person whose dinner table always looks less than elegant, or who has served a fallen soufflé to dinner guests, and had to confess that she'll never be *half* the woman Martha Stewart[®] is. Envy and hate often

If I Were Going to Commit Mass Murder

If I were going to commit mass murder, I'd want to have a pretty good reason; and what disturbs me about most of the mass murderers in American history is that their reasons, examined up close, seem flimsy.

Indeed, they look less like real reasons than mere deceptions. That is — and I hate to say so at this late date, but the more I learn, the more I'm convinced — those guys really didn't have much interest in murder as such: It was just a convenient means to a personal political end.

Now, if I'm correct, an awful lot of people have killed and been killed for no good reason — have been sold, so to speak, a bill of goods by politicians out to get a bit more power or a little more time in office. And you've got to wonder why so many folks failed to see through the flimflam.

Well, ordinary people have problems of their own, so it's to be expected that they often harbor urges to sign a fat munitions contract or desires to land a regular job or hopes to make a real-estate gain or inclinations to slaughter the ancestral enemy.

And maybe that's all it takes: power-drunk leaders and insecure, gullible followers — none of them too touchy about homicide — provoked by the usual incidents and reported atrocities that provocateurs and propagandists with half a wit can supply at will.

So the big and little episodes of American mass murder, Lincoln's and Wilson's and Truman's and Bush's, are hardly surprising — ho hum almost — and we can surely expect repeat performances. Still, if I were going to commit mass murder, I'd want to have a pretty good reason.

— Robert Higgs

enable people to find guilt where none exists.

I was pretty sure that poor Martha would be working on window treatments that repeat the theme of "vertical bars" and picking a lipstick that complements the orange in her new "pantsuit." For a brief moment I even thought it would be an interesting idea for a cable network to continue filming her show from inside. Kind of like *Oz* meets *Trading Spaces*.

Then I heard Martha blame the investigation on a "Republican witch hunt." (A poor choice of words, considering the sex and disposition of the person being "hunted.") Maybe I'm a little jaded from the Clinton administration, but when I hear a Democrat complain about a right-wing conspiracy, I automatically assume she's guilty. Lock her up for even suggesting such a thing. — Tim Slagle

Musing on a construction delay — There was a time when I worried about America turning into a police state. But not so much, anymore. Nowadays it's construction workers I worry about.

When I was a kid, police directed traffic. We even had a name for them. We called them traffic cops. We knew they were the law and, like it or not, they had the authority, we didn't, and it was a good idea to mind.

But not anymore.

Nowadays, there you are, tootling down some street you've tootled down dozens of times before, on your way to some important appointment you have calculated exactly how long it takes to get to, and a blonde with a pony tail, a yellow hardhat, and an international-orange safety vest steps in front of your car with a stop-sign-on-a-stick. What I want to know is, do I have to be polite to her?

And if I weren't? Would it be a life-altering mistake, like being rude to an airport employee?

And, what about the foremen? I've always been under the impression that flaggers are the lowest-paid, least-skilled workers on a project. What if I were rude to a construction worker and she called over the foreman and I was rude to him? What then?

Would they drag me from the car and tie me up with dry-wall tape?

If I resisted, would they club me into submission with their two-liter steel thermos bottles? Would they just plant a nail gun on my lifeless body to show they had only been protecting themselves when they stapled me to death?

What if I wasn't rude, what if I just ignored her?

Would she jump into her 4X4 and give chase?

If she couldn't catch me, would she radio ahead to other construction workers to make the intercept? ("You can dodge and you can flee, but you can't outrun my old CB.")

What if I didn't stop for them, either? Would I become an interstate fugitive from construction projects?

Would my picture show up in job shacks all over the country, making life a living hell until a special team of Federal Job-Site Enforcement Authorities finally hunted me down?

What if I didn't just run by her, but ran over her?

Would that be one of the 60 or so federal crimes that carry the death penalty, like killing an on-duty cop?

What if I wanted to direct traffic? Could I just buy a

hardhat, and an orange vest, and stand in the road and make cars go where I want?

Or do I have to take some kind of class, first? Do I have to attend the Construction Academy and formally take an oath to "Swerve and Deflect" before society will entrust me with a stop-sign-on-a-stick?

What if I haven't been sworn in and decide to direct traffic, anyway? What is the penalty in this state for impersonating a construction worker?

Or does the real power lie with the paving contractor? Does he have to deputize me before I can stand in the street and tell people where to go?

There's probably more to this than I've thought about, but I have to break it off. The blonde in the pony tail and the yellow hardhat just turned her sign to SLOW and the cars ahead of me are starting to ease forward.

— William E. Merritt

The bubble economy

— It seems clear to me, if not to believers in nearly perfect markets, that the soaring of the stock market before its recent collapse was a bubble of "irrational exuberance." Various factors tend to prolong a rise and impede early correction.

Analysts working at brokerage firms have been relatively reluctant to recommend selling individual stocks. TV programs like Louis Rukeyser's are essentially cheerleading for market gains. Most investors understand being in the market on the bull side more easily than being in it on the bear side. For many, a short-sale position is peculiar and uncomfortable. Rules about short-sales only on an uptick — against selling short at declining prices — contribute to

the market's asymmetry.

Personal experience convinces me of a further factor: sale of appreciated stock incurs a capital-gains tax, but one can avoid it by holding the stock until death, when the cost basis is updated. This factor tends to discourage sales of stock, including those that the holder thinks overpriced. Politicians might suggest changing the law to tax mere paper gains on stock still held or to maintain the original cost basis, even many decades old, on stock transferred at death. But the intrusiveness and practical difficulties would be enormous.

Financial and real resources would have been better allocated if the stock market had not soared unsustainably before its delayed and consequently sharpened collapse. Its



perverse behavior is partly the government's fault.

— Leland B. Yeager

What's polygraph for the goose . . . — In the emerging tale of how U.S. intelligence services failed in the closest thing to a legitimate function they have — protecting the American people from outrages like the Sept. 11 terror attack — it's hard to know who is the biggest hypocrite. Sen. Richard Shelby, of Alabama, ranking Republican on the Senate Intelligence Committee, is a good candidate. He was recently the leader in creating a program to polygraph some 15,000 scientists at Department of Energy labs. But he bristled at the idea of senators and Senate staffers being asked to take polygraphs, harrumphing that "First of all, they're not even admissible in court, and second of all the leadership have told us not to do that."

But Shelby's hypocrisy may be trumped by those asking senatorial bigwigs to take the tests. It seems the National Security Agency (NSA) intercepted a Sept. 10 phone conversation in Arabic referring to the next day as "zero hour," but didn't translate it until Sept. 12. The NSA was less interested in fixing this intelligence failure than in finding out who leaked the info and let the American people in on the embarrassment, so it ordered an investigation into the leaks and wanted to polygraph the Senate Intelligence Committee members and staffers.

— Alan W. Bock

Luminaries for Williams — It seems that Enron and WorldCom aren't the only entities with dubious accountability. In his bid for re-election, Washington, D.C. Mayor Anthony Williams gathered up 10,000 signatures to get his name on the Democratic Party ballot. Signing up were such luminaries as Kelsey Grammer, Billy Joel, and British Prime Minister Tony Blair.

Only 2,000 signatures were needed, but since he paid his staffers a dollar per name, I guess they couldn't resist fudging. The Board of Elections fined Williams and removed his name from the primary ballot, leaving him to run as a write-in candidate.

— James Barnett

Respecting the unrespectable — The judge who sentenced James Traficant to eight years in jail — a sen-

tence richly deserved, if only because he was the biggest bore in Congress, and that's saying something — complained that Traficant had "no respect for government." When I heard that, I immediately thought of a cartoon I saw in some pro-communist book I read when I was a kid. It was a defense of some leftist who refused to testify before Congress. It showed a man reading a newspaper. "Why did they accuse him of contempt of Congress?" the man asks his wife. "Don't we all feel the same way?"

— Stephen Cox

Got beer? — Never let it be said that we report only the bad news. Recent research suggests that beer (in moderation, of course) may protect against heart attacks, stroke, hypertension, diabetes, and dementia. It might even be better for you than red wine.

Cheers!

— Alan W. Bock

I Kings 16:11 — To the ongoing amusement of the civilized world, San Francisco finally passed a law prohibiting people from relieving themselves in public. Not unexpectedly, local homeless advocates (among the looniest of the loony left) opposed the measure. Perhaps the array of male organs regularly on display around the park near my downtown office and elsewhere is all just part of the Bay Area's "celebration of diversity." I must admit I haven't researched far enough to find out what the penalty might be for unzipping and letting it rip — since I know it is merely academic.

If you're going to literally pay thousands of drunks and drug addicts from around the country to come live on the street, sleep in doorways, and take over public parks, the "end result" in terms of bathroom usage is likely to remain fairly constant over time. Oh, but now we have a law against it? There may be some candidates for the citizenship merit badge lying on the street out there, but I haven't encountered many to date. More to the point, a local cop I know refers to the city in question as "the world's largest outpatient clinic."

A few months back the *San Francisco Chronicle* ran a story on a street person who has been arrested over 40 times for various drunken assaults and disturbances. At his various trials he is routinely urged to go into a voluntary alcohol treatment program. When he refuses, he winds up back out on the street, where he is most likely now gearing up full-throttle for his next trial. (Note: his last trial alone cost the public over \$200,000.) What kind of ultimatum are they going to give this guy under the current system the next time he decides to relieve his urge outdoors: "Three pints and you're out?"

For all the fascination with Eastern mysticism in the Bay Area, it's a shame so few have mastered the basic principle espoused by the late Tibetan spiritualist Chogyam Trungpa: "common sense sanity."

— Michael Drew

Alarms and diversions — Not only do the recent reports of corporate fraud give lie to the notion that professional accountants protect the public, they also call into question one of the basic characteristics of capitalism, itself — the boom-bust cycle. When all the phony profits and concealed debt are weeded out, we are going to dis-



S. CHAMBERS

"Sorry, the system's down."

cover that there never was a boom at all — just a lot of cooked books. And, now, there isn't really a slow-down — just a recognition of where we have been all along.

It's as if we had been playing in a flight simulator — virtual highs followed by a virtual bumpy landing, without anything ever actually taking place — just one more meaningless thing we did to entertain ourselves during the Clinton years.

— William E. Merritt

High on violence — Alvaro Uribe, the newly inaugurated president of Colombia, has declared a state of emergency, a surtax on the wealthy, and announced a host of restrictive measures designed to thwart guerrilla rebels — prohibiting public rallies and interviews with guerrillas, and allowing curfews, wiretaps, and searches without a court order.

Colombia's civil strife is fueled by the drug war. Drug prohibition creates premium prices that make coca more profitable to grow than corn or bananas — and makes peasants prime targets for protection rackets from both leftist guerrillas and rightist paramilitaries. All sides are more violent, better-funded, and better-armed because of the drug war. But neither the United States nor the Colombian government is interested in the single step that would do more to defuse the level of violence in Colombia than any other.

— Alan W. Bock

For the children — Running for governor of Florida, Janet Reno is complaining that the state's child welfare offices have lost track of hundreds of children who ran away from foster homes, or who have been abducted by their natural parents. There's little reason to doubt that Ms. Reno would be able to change the situation. When she focused her attention on the Branch Davidian children or on Elián González, she made absolutely sure that no one escaped. As attorney general, Ms. Reno pioneered the innovative use of poison gas, tanks, and machine guns in the services of child protection, as well as demonstrated a willingness not to let her child-rescue efforts be constrained by such trivialities as the U.S. Constitution. Imagine what she could accomplish as governor of Florida.

— Dave Kopel

Running on empty — Turns out Ron Crickenberger, who is making his second run for the U.S. House from Virginia's 8th District, will be on the ballot as an Independent rather than as a Libertarian because the Libertarian Party of Virginia forgot to file the appropriate paperwork with the state board of elections. Kind of ironic, given that Crickenberger is the LP's national political director.

— Ken Sturzenacker

From the mouths of losers — *The New York Times* reports that leading Republicans oppose the president's plan to topple Saddam. In support of this proposition, the *Times* trots out Brent Scowcroft, an architect of Bush I's failed Iraq policy, who wants to postpone doing anything about Iraq until the Arab-Israeli conflict is solved — a formula for doing nothing, ever.

After the Communist coup in the Soviet Union, Scowcroft advised conciliation with the Communists, rather than support for Yeltsin and Gorbachev. After Sept. 11,

Scowcroft opposed toppling the Taliban. If Scowcroft was wrong about regime change in Iraq in 1991, Afghanistan in 2001, and the USSR in many different years, why should his fears of destabilizing Iraq be taken seriously today?

— Dave Kopel

The second casualty — H.L. Mencken, America's greatest cultural critic, saw the folly of the nation's entry into each of the World Wars, and, I suspect, was somewhat depressed by it. He reacted to each war by withdrawing from writing on public matters: why bring upon yourself a torrent of abuse and possible punishment? Happily, he was a man of protean talent and a multiplicity of interests, and when the war came, he simply wrote about other subjects.

I am no H.L. Mencken, but I share his reaction to the War on Terror and Islam. My sadness has, I think, cut back my appetite to write. It just isn't as much fun to ridicule the folly of wars in which lives are lost and liberty destroyed as it is to ridicule George Bush's idiotic farm subsidy program, Bill Clinton's habitual lying, or Al Gore's blockheaded stupidity.

Like Mencken, I am puzzled and saddened to find that many of the people that I love most dearly — and writers and intellectuals for whom I have the greatest respect — have been caught up in the war hysteria. But unlike Mencken, I am the editor of a political magazine, and that makes it difficult to avoid writing about this awful war.

This is why you will find, elsewhere in this issue, my comments on the first anniversary on the war.

— R.W. Bradford

That man . . . Bill Clinton — Catching up with old copies of the *New Yorker*, I found a profile of an ex-military man who had defrauded some antiques dealers. After he realized what he had done (or after he got caught; reports vary), he felt that he could no longer regard himself as "an honorable man," which had always been his self-image. Indeed, he said, watching the 1999 impeachment hearings, a terrible thought struck him: "I'm no better than

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Bill Clinton." Perhaps parents and teachers should use that as a concretization of the notion of conscience for their charges: "Why, if you did that, you'd be no better than Bill Clinton." But reserve it for serious offenses. — David Boaz

Tax and wither — The mailman delivered the September issue of *Liberty* on the same day that I was scheduled to have dinner with Jim Panyard, the president of The Pennsylvania Manufacturers' Association.

A cover article by R.W. Bradford, "Where Taxes Are Lowest," shows Pennsylvania to be a high tax state, right at the top in terms of how much its local and state governments grab from people's paychecks. One map in the article, for instance, shows that the combined tax bite on personal income from local and state levies exceeds 13% in only Pennsylvania and Connecticut.

Another map shows the percentage increase in state and local taxes per capita, adjusted for inflation, from 1992 to 2000 in each state. Pennsylvania, starting from an already high level of taxation, increased taxes by 46.7%, during those eight years. Half the states, most starting from a lower level of taxation than Pennsylvania, increased state and local taxes by a smaller percentage than Pennsylvania during that same period.

In New Hampshire, Texas, Louisiana, Missouri, Alabama, South Dakota, and Tennessee, for instance, state and local taxes per capita increased from 1992 to 2000 at less than one-half the rate of increase in Pennsylvania.

Not surprisingly, the article concludes by pointing to a strong correlation between tax rates and population changes, i.e., squeeze the people in Pittsburgh enough and they'll head off to Raleigh or Atlanta. The policy implications, concludes Bradford: "People who oppose population growth should support higher personal taxes; people who oppose economic growth should support higher taxes of all kinds." In other words, elect the big spenders, kill economic growth, and export our young.

At dinner, Mr. Panyard told much the same story, explaining how government overspending and oppressive taxation in Pennsylvania has radically undermined the state's economic future. Among his points:

- Among the twelve states that are Pennsylvania's key economic competitors, Ohio, New Jersey, Maryland, New York, California, Florida, Georgia, North Carolina, Texas, Maine, Illinois, and Virginia, Pennsylvania's overall growth in economic output was fourth from the bottom over the past ten years and dead last in the past five years.

- From 1990 to 2000, job creation in Pennsylvania grew at just over half the national rate — ten percent in Pennsylvania versus 19% nationally.

- Pennsylvania's working-age population grew from 1990 to 2000 at less than one-sixth the national rate — 2.5% in Pennsylvania versus 18% nationally.

- Ranked against its key economic competitors, i.e., the twelve states listed above, Pennsylvania ranked dead last in personal income growth.

- Over the past 20 years, total state operating expenses in Pennsylvania have increased at nearly double the rate of inflation.

- In 1999, Pennsylvania's state and local governments spent a total of \$5,887 for every man, woman, and child in the state.

- From 1990 to 2000, the growth in the number of state and local government employees in Pennsylvania increased at more than three times the rate of population growth in the state.

- In 2000, Pennsylvania's business taxes per employee were 158% the national average. Pennsylvania, for example, has the highest rate of taxation in the nation on corporate capital and the third highest tax rate on corporate income.

- Since 1981, over 400,000 manufacturing jobs have been lost in Pennsylvania — nearly 100,000 since 1991, and 51,000 of those in 2001 alone.

The message? Big Brother is a killer. — Ralph Reiland

The apple doesn't fall far from the Bush

— One decade ago, a President Bush who had reached unprecedented heights of popularity by responding decisively to the aggressions of a homicidal Arab megalomaniac found himself fighting a less tangible foe, economic recession. Stratospheric poll numbers were brought down to earth by the eclipse of good times. But what put paid to the political career of that Mr. Bush was less the economic downturn — it proved to be a minor blip in an unprecedented cascade of growth — than his faltering grasp on events. Presidential rhetoric was especially unfortunate. After declaring his foe to be "worse than Hitler," Bush acquiesced in an armistice that left Hussein firmly

After declaring his foe to be "worse than Hitler," Bush acquiesced in an armistice that left Hussein firmly ensconced in power and able to continue stuffing his toybox with devices of mass destruction.

ensconced in power and able to continue stuffing his toybox with devices of mass destruction. Coupled with Bush's notorious "read my lips" backtrack, the president's image as a man of principled resolve was undone.

I am not customarily given to approving citations of Karl Marx, but his observation in *The Eighteenth Brumaire of Louis Bonaparte* that "History always repeats itself, the first time as tragedy, and the second time as farce" is strikingly apposite today. If the current President Bush does not wish to join his father in the dustbin of failed administrations, he urgently needs to regain focus in the campaign against perpetrators of terrorism and to halt stream-of-consciousness blathering about stock markets and the economy. Most of all, he needs to recapture that unexpected flash of seriousness which, in the aftermath of Sept. 11, gave him the appearance of not being altogether too small a man for the job he holds.

— Loren E. Lomasky

Profit or perish — Much as I liked Ron Capshaw's expose of the academy, "Bitten Tongues and White

Knuckles (August),” I think he misses the universal truth that if an institution is not devoted to profit, the most ambitious within it strive for power and thus for the abuse of power. This result is as true for universities as for religious organizations as for “socialist” states as for cultural magazines and anything else not run for profit. The function of anarchist-libertarian criticism should be illustrating that truth by exposing its different forms of abuse in various institutions.

— Richard Kostelanetz

Coincidence or conspiracy — Does anyone else find it spooky that this year of Middle East carnage and mayhem is now being topped off by an airborne killer from the West Nile?

— Loren E. Lomasky

Huckster ethics — Recent scandals about the dishonesty of business executives and accountants remind me that David McCord Wright recognized “criticism” as one of the “vital,” if less obvious, “requirements of social growth.” Wright meant “insistence upon ‘qualitative’ standards of social development,” something beyond mere rising output per head. “Mere increase in output can be increased garbage as well as increased sources of better living” (*Capitalism*, 1951, pp. 50–51). Wright may have had types of goods and services specifically in mind, but surely business practices are an equally appropriate target. Well-based criticism is constructive and not anti-business; markets work on trust. (Attention to dishonesty in government and politics goes without saying.)

Honesty and decency mean more than operating just inside the limits of law and preannounced rules (like generally accepted accounting principles). The cases that might arise are too multifarious to be covered in advance and in detail. To suppose that the law determines, or at least registers, what morality requires is a tacitly statist notion. If government should try to enforce everything good and suppress everything bad, wielding coercion as its ultimate sanction, it would incur immense costs, would fail, and would preside over a totalitarian society.

Looseness, vagueness, and flexibility are dangerous characteristics of government law. They leave scope for selective prosecution, predatory lawsuits, and arbitrary penalties. But I think that the law can, and does, forbid and punish actual fraud, and without defining the many methods of fraud in exquisite and impossible detail.

Still, many gray areas inevitably remain. They too should be dealt with, but dealt with not by actual law but by the informal and more flexibly enforced precepts of ethics. No otherwise immoral behavior becomes acceptable by being done in the name of business. Wright’s appeal for criticism is relevant here. The media and ordinary consumers perform a public service, in my view, when they denounce dishonest and borderline-dishonest business practices, even rather trivial ones. The rationale of the crackdown by Mayor Giuliani’s police on even minor offenses in New York City may apply to nongovernmental enforcement as well. Attention even to minor matters may encourage

decent behavior more generally.

In mentioning a few examples of doubtfully honest advertising, I’ll set aside downright fraudulent pitches such as those that arrive in spam email. Currently offered on Spanish-language television in the United States is a series of products said to be good for sour stomach, asthma, diabetes, lack of energy, painful menstruation, impotence, skin spots — whatever. These prominent claims are withdrawn only in fleeting small print at the bottom of the screen. There the viewer learns — if he can read quickly enough — that the products have nothing to do with diagnosing, treating, curing, or preventing any disease, being nutritional supplements only.

Many television and magazine advertisements feature an attractive price in voice or in large print and, in small print, a “shipping and handling” charge obviously exceeding any plausible costs. Some advertisements do not even put a dollar figure on that charge, evidently in hopes of exploiting the momentum of customers enticed to the brink of purchase. As for “handling,” shouldn’t it be taken for granted that a seller bears the cost of making his product available for sale at its price? Since the “shipping and handling” charge is an unavoidable part of the total price charged, it is questionable to semi-conceal it as a small-print addendum to a large-print come-on. (I have no quarrel, however, with bona fide shipping charges that depend on the weight or dollar value of the order or that add so much for a first book, say, and a lesser amount for each additional one.)

A magazine advertisement for a gold-clad (and presumably thinly clad) replica of the 1933 Double Eagle states its weight as “1 oz. avdp.,” neglecting to point out that the avoirdupois ounce is smaller than the troy ounce usually employed in such contexts.

Many products are offered at prices to be reduced by mail-in rebates. Why, instead, aren’t the prices simply reduced by the amounts to be rebated? Evidently the seller hopes that the buyer will be forgetful or lazy or will stumble in trying to jump through the required hoops. Price discrimination like this is not to be condemned root and



branch; economists know that discrimination can be constructive in various circumstances. I haven't reached a firm judgment on price discrimination of the just-mentioned and similar kinds, but I do wish that it triggered fuller discussion.

Open criticism can exert a healthy discipline over business practices in both trivial and momentous areas. It could be made interesting for readers and TV viewers. And it should not be muffled by inappropriate libel and slander laws.

— Leland B. Yeager

Spam scam— There is a new threat to our liberties, one that is supported by the vast majority of Americans. No, I don't mean President Bush's star chambers. I mean the pending legislations against unsolicited commercial emails ("spam"). Most private citizens and big corporations support these measures without really thinking of the consequences. Let me restate — private citizens haven't thought them through, but the big corporations know fully well what they are doing and why.

Of course, it's a nuisance to get spam. But, really, unless it contains a virus it is harmless. It is far more ecological than paper junk mail. The inks and chemicals in junk mail have direct ecological consequences that can last decades. Delete spam and it is gone forever. So, why all the fuss?

Unfortunately, people believe they have a right to not be invited to do something — as if their email is their own homesteaded property. But, in truth, email addresses are de facto leased pieces of the Internet — a communal endeavor. Others have a right to post their wares and ideas on the bulletin board. You have a right to ignore it. But you've no right to tell others what they can and cannot post.

Americans' natal prudishness and penchant to censor is strong and government and corporate lackeys feed on them. The government does so because it loves to micromanage its citizenry. The corporations do so because they want to eliminate startup businesses with interesting ideas. That these two entities seek to limit your freedoms is bad enough — but that they choose to do so by hiding behind so-called anti-spam grass-roots organizations (many of which do not disclose their corporate sources of funding) is especially Machiavellian.

— Richard Kostelanetz

Mao tse-Thatcher vs. Deng Xiao-Blair—

A recent article in the often interesting "Arts and Ideas" section of *The New York Times* reports on the intellectual debates in China. Reporter Joseph Kahn says that the dominant faction is "what the Chinese call neoliberal. Its proponents argue that China should complete its economic and social evolution that began under Mr. Deng [Xiaoping] by selling off state companies, shrinking the government, strictly enforcing property rights, and letting the market work its magic. The neoliberals in some ways tend to echo Ronald Reagan and Margaret Thatcher." The other faction calls itself the New Left. (One wonders just how different are the Chinese words for "neoliberal" and "new left.") "Many in this school want the government to reduce inequality, provide a social safety net and intervene more in the market to tame the economic cycle." Libertarians would take issue with both sides, especially since Kahn says that

some neoliberals like the Pinochet model — an undemocratic government that can take bold actions to deregulate the economy without worrying too much about popular opposition.

But look at it this way: in Red China, as we used to call it, 26 years after the death of Mao Zedong, the political debate sounds like a debate between Margaret Thatcher and Tony Blair. What an astounding development! One billion people are moving into the global economy and slowly being liberated from the backbreaking labor that has been their lot since time immemorial.

Perhaps an even more intriguing indicator is a report that comes to me from a devotee of a Houston Rockets bulletin board.

In Red China, as we used to call it, 26 years after the death of Mao Zedong, the political debate sounds like a debate between Margaret Thatcher and Tony Blair. What an astounding development!

The hapless Rockets used their no. 1 draft pick to draft 7-foot-5 Yao Ming from China. The Chinese government said that Yao could play in the NBA but would owe half his immense salary to the Chinese state. And young Chinese basketball fans are coming to the bulletin board and complaining that such a demand is outrageous. My correspondent, a journalist with a liberal periodical who must remain anonymous, says, "I wonder where these well-indoctrinated kids of communism got the false consciousness that having to surrender 50% of your income is wrong?"

Now, intellectuals and basketball fans with access to the Internet probably don't make up one percent of China's citizens. But these reports should give us some reason for hope as we confront the dismal state of American politics in the Bush-Clinton-Bush era.

— David Boaz

Losing majority — The national office of the Libertarian Party is busy raising funds for Project Majority, with the ostensible goal of fielding 218 or more candidates for the House of Representatives, enough to make a majority, if they were all elected.

In a fundraising effort for Project Majority, the LP's Ron Crickenberger quotes Richard Winger's observation that "In the past, any party strong enough to run candidates in a majority of districts became strong enough to elect at least one member to Congress."

It's hard not to think that the LP has put the cart before the horse. The fact that parties in the past that managed to field candidates in a majority of House races went on to elect at least one member of Congress is, as Winger notes, a result of their being "strong enough."

The LP fielded more than 218 candidates for congressional seats in 2000. This was not the result of its overall

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Living with the War on Terror

by R. W. Bradford

Why did we abandon our liberty and increase our tax burden without gaining any increase in security?

A year has passed since four small groups of Muslim revolutionaries boarded four U.S. passenger planes, hijacked them, and tried to crash them into buildings in New York and Washington, D.C. Two jets hit their intended target, the World Trade Center in New York, causing nearly 3,000 deaths. Another crashed into the Pentagon, causing 184 deaths, though it is doubtful that the Pentagon was their intended target. The fourth plane crashed in Pennsylvania, killing all hijackers, passengers, and crew, apparently after passengers attempted to overcome the hijackers.

The American people responded to the attacks with shock, grief, patriotism, hostility toward Muslims in general and Arabs in particular, and increased support for their government.

In the year since Sept. 11, the U.S. government has responded to the attacks in the following ways:

It destroyed the government of Afghanistan, which had harbored an Islamic revolutionary group believed to have supported the terrorists. It established in its place a client state, whose existence depends on continued United States military presence.

It arrested or otherwise detained numerous people whom it suspects (or claims to suspect) of terrorism or, at least, of unpopular opinions or activities that we do not like. These individuals have been denied the right to a trial, denied the right to counsel, denied the right to due process of law. It has convicted one "terrorist," an American who never supported any act of terror against his country in any way.

It is preparing to invade another Islamic state, one not even tangentially involved in the attacks of Sept. 11, on the ground that it is a "terrorist state," i.e. one that has sought to

produce devices of mass destruction with which it can threaten its neighbors. Other countries, notably the U.S. itself, which have produced devices of mass destruction with which they threaten their neighbors, are not targeted by the government's campaign.

It has instituted numerous restrictions on the personal liberty of its citizens, restrictions ostensibly designed to prevent another successful terrorist attack on them. The government has given itself the right to search people who try to travel or attend public events, to conduct secret searches of people's property and secret copying of their private documents, to hold citizens as well as non-citizens in prison for indefinite periods, to make librarians provide government agents with the titles of books that any person has withdrawn from a library, and to do many other things destructive of its citizens' freedom and privacy.

These restrictions almost certainly would not have prevented the Sept. 11 attacks. Federal agencies have released several studies in which government operatives, posing as ordinary airline passengers, have boarded passenger aircraft while carrying concealed weapons that were far more dangerous than the razors and box-cutters used by the Sept. 11 terrorists. Terrorists using more sophisticated weapons — knives made from ceramics or disguised as parts of such common carry-on items as attaché cases — would have vir-

tually no risk of detection under the current regime.

While any of the new restrictions — not all of them instituted by the federal government; hysteria is a swamp that stretches far beyond the waters of the Potomac — might plausibly have made life more difficult for certain terrorists, many of them have no relevance to terrorism, and can be explained only as bureaucratic power lust. The University of Washington has prohibited possession of political leaflets at football games; meanwhile, Washington State Police randomly search people who travel on ferry boats, on the theory that it might apprehend a terrorist disguised as a tourist or commuter.

Ridiculous? Certainly. But it is difficult to see how *any* of the government's actions have made Americans more

Islamic fanatics who hated America because it is a prosperous, free and open society got their wish: Americans reacted to their terrorist attack by making themselves less free, their society less open, and their country less prosperous.

secure from terrorists who are willing to give up their own lives in committing their acts of terror. No government in history, not even totalitarian dictators like Stalin, Somoza, Pol Pot, Hitler, or Mao, has ever managed to do this.

None of the recent anti-terror measures make Americans any less secure from foreign terrorist attack, either, with the possible exception of the government's more aggressive foreign policy, which might inspire further terrorists. But the simple fact is that Americans are, and have always been, extremely secure from foreign terror. In the more than two centuries since the founding of the republic, the attack of Sept. 11 is only the second significant act of terrorism by foreign revolutionaries directed against American civilians on U.S. soil. The organization allegedly responsible for the Sept. 11 attacks has, so far as anyone can determine, attempted at most one additional act of terror: a British man tried to light his shoe on fire on a trans-Atlantic flight, and was quickly subdued by passengers and crew.

Security at U.S. airports was not adequate to prevent terrorists from boarding planes on the morning of Sept. 11. Why did security fail? Most Americans believe it was because security operations were simply incompetent. What's curious is that the people who believe this almost invariably reacted by expressing support for the government and its security efforts — the very efforts that they believed had failed. The federal government had virtual total control of the security system that failed, so giving the government further resources seems questionable at best.

But there was another condition the terrorists needed to succeed in their deadly mission: they needed passengers and crew who would not resist. The terrorists could hurt a lot of people with their knives, and even kill some of them, but four or five men armed with knives could hardly keep them all at bay if the passengers and crew were willing to

put their lives in jeopardy to regain control.

Of course, the passengers and crew members were doing what the government had told them to do when faced with hijackers: co-operate and let the experts on the ground deal with the hostages. The failure of this response was spectacularly evident when the first two planes crashed into the World Trade Center. But once people aboard the other hijacked planes learned about the WTC attacks, they reacted by attacking the hijackers, in one case overpowering them and causing the plane to crash with relatively little loss of life and property, and in the other, it seems fairly likely, causing the plane to crash into what was, at most, a secondary target.

Ironically, the one measure that would substantially reduce the incidence of successful plane hijackings — the arming of pilots — has been resisted by the Bush administration and by most Americans, on the preposterous theory that a pilot armed with a handgun might pose a greater threat to them than a pilot armed with a 250,000 pound jet aircraft. If there ever was a case of ideology trumping evidence this is it: hasn't everyone just seen how much damage a person armed with a jet plane can do?



Here is the situation today: we are no more secure from terrorist attacks than we were before Sept. 11, and we are less secure from government attack in our homes and persons. We can be arrested and held without the right to a speedy and public trial or even to consult with an attorney, our property can be searched without our even knowing it and can be confiscated on the flimsiest of pretexts. Our government is exercising its overwhelming military power to

There is a sensible and well-disposed minority among us, and they are potentially just as influential as any "silent majority" or "moral majority" has ever been alleged to be.

impose its will on people all over the world; it is establishing, in effect, the largest and most powerful empire in the history of the world — which motivates the people we subjugate to hate Americans more and more thus making Americans less secure in their travel abroad. Ironically, Islamic revolutionaries who hated America because it is a free and open society — and consequently a happy and prosperous place to live — got their wish: Americans reacted to their terrorist attack by making themselves less free, their society less open, and their country a less prosperous and less happy place to live.

How did we get into this situation? How did we abandon our liberty and increase our tax burden without gaining any increase in security?

The answer, I think, lies in a little recognized religious development. Over the past century or so, Americans have gradually abandoned their traditional religious belief in a Supreme Being, an other-worldly, ethereal God who can

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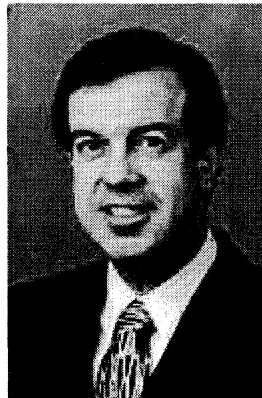
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perform miracles and intervene in their lives in ways both good and bad.

They have replaced this other-worldly god with a god that lives very much in this world. The new god is the state. Like the old god, it can perform miracles; it can, for example, spend more than it takes in year after year with no ill effects and can take money from everyone and distribute it among everyone with virtually everyone gaining in the process — and it can cure disease, end poverty, and solve virtually any problem and relieve any discomfort that a person can face.

Just as people formerly reacted to tragic or disturbing events by renewing and increasing their faith in God, people now react by renewing their faith in the state, beseeching it to help, and making additional offerings.

And just as the faithful in years past generally declined to examine whether their renewed faith, prayer, and offerings actually protected them from calamities, so Americans today aren't looking too closely at whether their renewed faith, prayer, and offerings to the state actually are protecting them.

From time to time there have been rogues among religious functionaries who exploited offerings of the faithful to increase their own power and influence, so today there are state functionaries who use the revival of faith in government to their own advantage. Of course, just as before, faith recedes as the calamity recedes into the past. The cynical among us might suspect that the Bush administration's insistence on war against Iraq is partly motivated, at least on a subliminal level, by the desire for another calamity to "bring us together."

For the present, at least, many Americans seem unaware that the money spent and the liberties abandoned have failed to make them more secure. They have no evidence for their belief in the efficacy of government; they simply think that by some mysterious process paying more taxes, supporting military action abroad, and giving up their rights and allowing their privacy to be invaded will somehow help. It is an act of faith.

But there is a sensible and well-disposed minority among us, and they are potentially just as influential as any

"silent majority" or "moral majority" has ever been alleged to be. What should they do?

They should insist, at all times, upon the obvious truth: that absolute security is impossible; people who are bereft of moral sense and willing to die for their envies and hatreds can successfully perpetrate an act of terrorism. Recognizing this, the sensible minority should demand reasonable efforts to make us reasonably secure: armed air crews, alert security forces, a non-aggressive foreign policy, and so forth.

This demand should be matched by its correlative, that the government should restore the security it has already

Just as the faithful in years past generally declined to examine whether their faith, prayer, and offerings actually protected them from calamities, so Americans today aren't looking too closely at whether their faith, prayer, and offerings to the state actually are protecting them.

taken from the people; they should demand that our government undo the measures that subvert our liberty and privacy while not significantly increasing our security.

Sensible people will recognize that one of the reasons why so many Muslims are so hostile to America is that our government is attempting to impose its will almost everywhere in the world. They should call for a stop to this.

The power of the sensible minority is always great, because the power of the truth is great. And the truth is that government is merely a human institution, incapable of magic and, thanks to its broad power and its popular support, susceptible to the human frailties, follies, and vices that have undermined all people's attempts to live happy and fulfilling lives. These frailties will never be wholly removed, but their effects can be limited when their expression and idol — the state — is demystified by common sense. This is the task of the sensible minority. And its challenge. □

Reflections, from page 14

strength, but of a special, concerted effort. Most of the campaigns for those races were virtually nonexistent. At the presidential nominating convention in Anaheim, the party's National Office promised to match spending for its congressional candidates' television ads dollar-for-dollar, provided that the campaign raise at least \$5,000 for advertising. Fewer than 20 of the candidates managed even to do this.

This year, the National Office is raising funds for the filing fees for candidates in Nebraska, Kentucky, and Washington. These fees are modest, averaging less than \$1,500 per candidate. If the candidates cannot raise these modest sums on their own, how can anyone expect them to run anything akin to a competitive campaign?

Let me make a radical suggestion: any candidate who is

not able to produce sufficient signatures or dollars to pay filing fees does not deserve to be on the ballot in a general election.

Athletes compete in track and field based on their training and preparation, not with outside assistance after the race has started. Athletes who fail to clear the hurdles in their path do not get to go to the finish line. If the LP is ever to break out of its quarter-century-old mold of failure in big races, our candidates must prepare early and well enough to have the support and stamina to achieve more after the ballot access deadline than before it.

If the LP is ever to succeed, it must have real campaigns and candidates. Potemkin campaigns may fool a few donors, but they don't fool the voters. — Ken Sturzenacker

The Case of Johnny Jihad

by George W. C. McCarter

Why would a man who can prove his innocence plead guilty to a loathsome crime?

It was widely reported in mid-July that John Walker Lindh pled guilty in federal court to two felonies, and that he will be sentenced to 20 years in prison as a result. Since there is no parole in the federal system, Lindh will serve virtually the entire sentence, a spell of hard time by anyone's measure. According to most media reports, the typical public reaction was that Lindh is a traitor who deserves an even harsher sentence. The government, however, knew better. "Twenty years is a period of time almost as long as he's been alive," U.S. Attorney Paul McNulty was quoted as saying at the time of the plea. "This is a major sentence." In view of what Lindh actually admitted when he pled guilty (carrying weapons while serving in the Taliban army), it is not surprising that McNulty crowed about the sentence rather than the plea.

Lindh is the government's only conviction of a so-called "terrorist" since Sept. 11, and John Ashcroft's Department of Justice would have us believe it has removed a major security risk from the streets. The American people were led to assume the gravity of Lindh's offenses by DOJ's public (but surely never genuine) flirtation with the death penalty and by articles such as one by a prominent law school dean in *The Wall Street Journal*, urging that Lindh be tried for treason. In denying Lindh bail, a federal magistrate ruled: "It may be argued by the defense that the defendant is a loyal American. But the evidence before the court belies that assumption." Thanks to a carefully orchestrated public relations campaign by the Justice Department, the American people readily came to see the "American Taliban" as a genuine terrorist, and to link him implicitly with the events of Sept. 11.

But beyond outbursts of rhetoric from federal bureaucrats, there has been little public discussion of what crimes

John Walker Lindh actually committed, what evidence the government has against him, what offenses he pled guilty to, and why he did so. What Lindh conceded is far different from what the government originally accused him of, and the 20-year sentence he faces is not justified by the harmless offenses he admitted. And although his plea was technically voluntary, the public's (and hence the jury pool's) consistently negative view of him as a result of DOJ's false and prejudicial media campaign must have weighed heavily in his or his lawyers' calculations.

The original indictment claimed that Lindh "engage[d] in a conspiracy to kill nationals of the United States, including civilians and military personnel, by committing murder." The mainstream media for the most part uncritically accepted the government's line that Lindh was an evil and dangerous fanatic who deserves every minute of the 20 years he faces. For example, *The New York Times* editorial on the plea claimed he admitted to "serious crimes." *The Wall Street Journal's* James Taranto described those offenses as "aiding terrorists and carrying explosives." Taranto's disingenuous precis is just accurate enough to be grossly unfair. A more complete account was provided by John Riley in *Newsday*: "Lindh pleaded guilty to supplying services to the Taliban and carrying a rifle and grenades while supplying services." That sounds more like Ernest Hemingway in the Spanish Civil War than it does like "aiding terrorists."

Riley further reported that Lindh testified on the day of the plea as follows: "I provided my services as a soldier to the Taliban last year from August to November. In the course of doing so I carried a rifle and two grenades, and I did so knowing that it was illegal." If John Walker Lindh knew before the Americans captured him in December that serving as a foot soldier in the Taliban army was illegal under U.S. law, he is a better lawyer than I am. Unless the judge probed Lindh as to the nature and extent of his knowledge of U.S. law, it doesn't take much of a cynic to assume his "knowing that it was illegal" line was a convenient little perjury, necessary for the court to accept his plea. And it is quite possible Riley's version of what Lindh said is mistaken. The only "knowledge" Lindh admitted to in the written plea agreement, as opposed to Riley's account of

With a fair trial and capable legal representation, it is hard to imagine a jury convicting Lindh of anything.

what he said in court, was that he "knowingly carried with him an AKM rifle and two grenades."

But whether Lindh knew it or not, his actions did indeed violate U.S. law. The reason that Lindh's foreign service, unlike Hemingway's, was technically illegal is made plain in the government's indictment:

On July 4, 1999, President of the United States William J. Clinton declared a national emergency to deal with the threat posed by al Qaeda and the Taliban. Specifically, the President found that:

The actions and policies of the Taliban in Afghanistan, in allowing territory under its control in Afghanistan to be used as a safe haven and base of operations for Usama bin Ladin and the Al-Qaida organization who have committed and threaten to continue to commit acts of violence against the United States and its nationals, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States.

In his Executive Order 13129, the President prohibited, among other things, the making or receiving of any contribution of funds, goods, or services to or for the benefit of the Taliban.

Lindh joined the Taliban's army in August of 2001, and a month later real terrorists attacked the Pentagon and the World Trade Center. Shortly thereafter, the U.S. government (sort of) declared war on the Taliban. John Walker Lindh never attacked the United States — the United States and its surrogate, the Northern Alliance, attacked him. What was Lindh supposed to do at that point, resign? The U.S. Army takes a dim view of private soldiers "resigning," especially in wartime. It is safe to assume the Taliban's rules on desertion were at least as strict as ours, and we have shot deserters in all of our major wars through World War II. In any event, the "crimes" of joining the Taliban and carrying weapons had already been committed when American forces arrived in Afghanistan. Resigning, even if possible,

would not have expiated his technical guilt.

The government has never claimed to have eyewitness evidence that Lindh took up arms against the United States. The prosecution was always based on his own admissions, such as they are. The government has not released transcripts of its interrogations, but it is likely they are no more incriminating than interviews Lindh gave to the public press, since it is the latter that Lindh's lawyers tried unsuccessfully to exclude from evidence at trial. It is worth looking closely at what Lindh actually said, to put the significance of his guilty plea into proper perspective.

Lindh's most celebrated interview was with CNN's Robert Pelton, first aired on Dec. 21, 2001. A transcript is available at CNN's website, and it shows that, after reading "literature of the scholars," Lindh says his "heart became attached" to the Taliban; that he attended several "training camps" for non-Afghan volunteers; and that he was captured by the Northern Alliance after a 100-mile march on foot to Mazar-e-Sharif. More important than what was on the tape is what was not: evidence that Lindh was a terrorist or was hostile to the United States in any way. The tape did confirm that Lindh served the Taliban and probably carried a weapon while doing so. (He admitted that when the Northern Alliance ordered the captured Taliban to "give all of the weapons many people were hesitant, so many of them hid inside of their clothes hand grenades, which is against what we had agreed upon.") So yes, the "crimes" John Walker Lindh pled guilty to did occur, if you leave aside the issue of *mens rea*, or guilty intent. That is all the infamous CNN tape proves. And it isn't much.

There is another, arguably more incriminating, interview that Lindh gave to Colin Soloway of *Newsweek* on Dec. 1 "while waiting to be taken into detention along with over a dozen other wounded men, mostly Arabs, in a large cargo truck," according to Soloway. The *Newsweek* article has received less media attention than the Pelton interview, perhaps because there is no tape to back it up. But recently such defenders of the prosecution as *The Wall Street Journal* and *The New Republic* have cited it as proof that Lindh was an enemy of the United States. Here is the offending passage in its entirety:

When asked if he supported the September 11 attacks, he hesitated. "That requires a pretty long and complicated explanation. I haven't eaten for two or three days, and my mind is not really in shape to give you a coherent answer." When pressed, he said, "Yes, I supported it."

That sounds like a damning admission: a native-born American serving in a foreign army "supported" the murder of 3,000 mostly American civilians. If true, that was big news, and a good reporter would have run with it. But Soloway dropped it. Instead of following up by asking in what ways Lindh "supported" the attacks, whether he had any foreknowledge of them, or how much he even knew about them while serving in the Taliban army, Soloway's article immediately shifts gears. It recounts at length, and in a manner sympathetic to Lindh, the circumstances of his capture and wounding at Mazar-e-Sharif.

If Soloway, who claims to have heard the remark about

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supporting the Sept. 11 attacks, attached so little importance to it, should we do any more? After all, Lindh asserted at the time that he was having a hard time giving "a coherent answer." When he finally gave his answer, how much had he been "pressed"? And his response, "I supported it," was in the past tense. Had he changed his mind when he received more information? And, even in the worst case, since no one claims his alleged support went beyond mere cheerleading, this "admission," if true, is nothing more than a particularly tasteless exercise of Lindh's First Amendment rights. (Incidentally, the same Colin Soloway who claims to have heard the "I supported it" remark co-authored a later article in *Newsweek* that attributed the government's acceptance of the guilty plea to the "growing realization . . . that the government had stoked a bonfire to fry a guppy.")

The enthusiasm in media and political circles for "throwing the book" at John Walker Lindh reveals an indifference to the facts and a strange lack of empathy. Lindh went to Pakistan, and then Afghanistan, for entirely idealistic reasons, even if few Americans share those ideals. He almost certainly joined the Taliban army without any notion he could be prosecuted for it, and he then endured hardships and tortures beyond anything experienced by contemporary American soldiers. (His account of the prisoners' uprising at Mazar-e-Sharif, and their captors' brutal response, is terrifying.) There is no public evidence that he ever committed, or intended to commit, any overt act against the United States or against American personnel. With a fair trial and capable

Lindh is the government's only conviction of a so-called "terrorist" since Sept. 11, and John Ashcroft's Department of Justice would have us believe it has removed a major security risk from the streets.

legal representation, it is hard to imagine a jury convicting him of anything.

Why then did he plead guilty? Defenders of DOJ will argue that the government must have had evidence of real wrongdoing by Lindh, that Lindh copped a plea to avoid facing that evidence at trial, and that the government acquiesced to protect vital sources from testifying at trial. All that is possible, but there is nothing in the record beyond Lindh's plea itself to support it. Since no incriminating evidence has been leaked, and since even the government didn't claim it had more evidence when it accepted the plea, some other explanation seems likely. I suspect Lindh and his lawyers felt they couldn't get a fair trial, and that the government took unfair advantage of that fear to scare Lindh into agreeing to a sentence he was unlikely to receive at the end of a completed judicial process.

The government chose to bring the case in Alexandria, Va., where the jury pool is heavily laden with military personnel, federal employees, and their friends and families. The judge was plainly hostile to the defense, if widely

reported shouting matches are any indication. As we have seen, mainstream media coverage was a relentless anti-Lindh drumbeat, from death penalty to treason to calling him "Johnny Jihad" and other epithets. And, of course, he was technically guilty of at least the "crimes" he pled to. If trial in a hostile forum was certain to result in conviction of those so-called crimes, and possibly others far more serious, taking the plea seems the reasonable thing to do.

Under the circumstances, it is hard to criticize Lindh's lawyers for what might at first look like a failure of nerve. But the government's zeal to incarcerate Lindh for 20 years is another matter. Quite simply, that sentence is vastly, grossly disproportionate to anything we know about what

Apparently indifferent to ethical issues of pre-trial publicity, Ashcroft announced to the world his department would "secure justice for the nation that John Walker Lindh betrayed" and "uphold values that he dedicated himself to destroy."

John Walker Lindh actually did. It calls to mind the old saw that the government can "get" anyone it wants to, if only it tries hard enough. From the outset, John Ashcroft wanted to "get" John Walker Lindh. Apparently indifferent to ethical issues of pretrial publicity, Ashcroft announced to the world when Lindh was indicted that "Americans who love their country do not dedicate themselves to killing Americans" and that the U.S. attorneys trying the case would "secure justice for the nation that John Walker Lindh betrayed" and "uphold values that he dedicated himself to destroy." The government utterly failed to back up any of those extravagant charges. No wonder Ashcroft let his subordinates give the press conference to announce the pitiful guilty plea a few months later.

For the government to put a naive and basically guiltless young man in prison for 20 years as a trophy for an ambitious politician, just because it can, crosses a moral and ethical line. If there is good cause to lock up Lindh for 20 years, the government should make it public, for it has signally failed to make such a case to date. Failing that, Judge T.S. Ellis III should reject the coercive "bargain" when he sentences Lindh on Oct. 4, and require a deal more in line with the trivial and technical infractions Lindh appears to have committed.

More likely, the principal actors now on stage are incapable of such dispassionate mercy. It will fall to a future president (or perhaps even this one, who has referred to Lindh as a "poor fellow") to see the facts more clearly than we do now and to pardon him or commute the sentence. John Walker Lindh was prosecuted because he was an American supporter of radical Islam around the time of Sept. 11, not because he committed any real crime. As long as he remains incarcerated, the United States will hold at least one political prisoner. □

Living With Fire

by Randal O'Toole

Forest fires look different on the ground in Oregon than they look in the canyons of Washington, D.C.

On Aug. 22, 2002, President Bush flew over the Biscuit Fire, the largest fire in Oregon in more than a century, on his way to the site of the Squires Peak Fire, where he announced a "healthy forests initiative." The initiative calls for treating excess fuels on 2.5 million acres of federal lands for ten years and for expediting the fuels treatment process by exempting it from environmental oversight.

At first glance, the fires President Bush visited lend support to his initiative. But when examined more closely, they prove that his initiative is doomed to failure. To understand why, you need to know a little about Western fire ecology and the incentives facing federal land managers.

For most of the 20th century, the Forest Service promised presidents and Congress that it could keep fires out of the forests if it just had enough money and resources. Yet fires today are just as bad as they were a hundred years ago. Now, the Forest Service has a new line: a century of fire suppression has led to excess fuels in the forests, thus leading to bigger fires. So the agency wants to spend billions of dollars on fuel treatments to protect the forests and nearby homes from those fires.

As this issue of *Liberty* goes to press, the Biscuit Fire is approaching 500,000 acres, which makes it twice as large as the largest other fire in Oregon since the Forest Service was created in 1905. But the Biscuit Fire isn't big because of excess fuels. It is big because current Forest Service firefighting strategies call for letting many fires burn and merely containing those fires by burning more acres in backfires. Such backfires are supposed to burn all the brush so the original fire dies for lack of fuel.

A week before the president visited the Biscuit Fire, I

drove down the Illinois River Canyon to see Jerry and Gayle Sorenson, who live on a private inholding in the Siskiyou National Forest. A few weeks before, the Forest Service had given the Sorensons a "mandatory order" to evacuate. But instead, they stayed and protected their home and other property from the fire.

As I bounced on the narrow, winding road down the canyon, I could see ridge tops where every tree had been killed. But in other areas only a few trees were dead, and in some areas the trees were untouched by fire except for some blackening on their trunks. Fire ecologists say trees will survive so long as fires do not burn more than 60% of their needles or leaves.

When I got to the Sorensons', I asked Jerry how much of the fire I had seen was Forest Service backfires. "On this side of the river, all of it," he said. "The 'real' fire never got beyond my place. On the other side of the river, the fire reached McCaleb Ranch," about four miles upstream from the Sorensons but still six miles (as the crow flies) from the forest boundary, where the backfires began.

The Forest Service is resorting to backfires instead of directly attacking fires because it is worried about firefighter safety. When four firefighters burn to death, as happened in Washington in 2001, or 14 are killed by fire, as happened in Colorado in 1994, the result is weeks of negative publicity.

The Forest Service has responded by relying on large backfires to avoid putting firefighters in the path of wildfires. This helps explain why so many recent fires are so big. The backfire I had seen, just one of many on the Biscuit Fire, covered 34,000 acres.

Meanwhile, the Squires Peak Fire was supposed to provide an object lesson in the need for fuel treatments. The Bureau of Land Management (BLM) had planned to treat excess fuels on some 500 acres of land. They did most of it, but delays caused by environmental appeals prevented treatments on 80 acres. When the fire entered those 80 acres, it got out of control and eventually burned 2,800 acres and cost \$2.2 million to suppress.

The lesson the Bush administration has learned from this is that environmentalists should not be allowed to delay

As I bounced on the narrow, winding road down the canyon, I could see ridge tops where every tree had been killed.

fuel treatments with appeals. That's the wrong lesson. The real lesson should be the futility of trying to stop fires through fuel treatments.

The Forest Service and BLM estimate that 70 million acres need treatment now and 140 million acres will need treatment soon. At the planned rate of 2.5 million acres a year for ten years, they will reach less than twelve percent of those acres. One hundred years and \$100 billion will be needed to treat all 210 million acres — but then it will only be time to start over.

Fortunately, the problem is not nearly as severe as the Forest Service and BLM want Bush to believe. In fact, the buildup of undergrowth, leaves, and other flammable fuel in the forests is not really much of a problem at all.

Fifty years ago, Smokey the Bear taught us to make sure that every fire was "dead out." Few people realized that Smokey was helping the Forest Service justify its spending

huge sums of money on fire suppression despite the fact that many forest scientists believed fires played an important role in forest ecosystems.

During the 1990s, Forest Service timber sales declined from 11 billion board feet per year to less than 2 billion board feet, and the agency began looking for a new mission that would convince Congress to give it a lot of money. So it began spreading a new story: that decades of fire suppression had turned the forests into a veritable tinderbox that threatened nearby homes and communities.

After the 2000 fire that burned several hundred homes in Los Alamos, N.M., the excess-fuels scare panicked Congress into giving the Forest Service and other federal agencies a huge increase in their budgets. Congress doubled their fuel treatment budgets, after already quintupling them in the previous decade. The Forest Service alone received a 38% increase in its total annual budget, most of it for fire.

Today, Congress is spending nearly \$3 billion a year on fire. Some of this money goes to the Park Service, Bureau of Land Management, and other Interior Department agencies, but two-thirds goes to the Forest Service, which is in the Department of Agriculture. Record-breaking fires this year in Colorado, Arizona, and Oregon have set the stage for a further budget increase next year.

The excess-fuels theory also led to a fierce debate between environmental and timber interests. Environmental groups blame recent fires on the debris left behind after timber cutting. Timber supporters blame environmentalists for delaying Forest Service fuel treatment projects. Both sides agree there are excess fuels, they just disagree on what to do about them. A number of free-market think tanks have joined the fray on the side of the timber industry, effectively but ironically going on record in favor of giving the Forest Service more money and power.

Congress is now giving federal land agencies about \$400 million a year to eliminate some of the excess fuels by burning them or removing them from the forest for commercial use. This is up from only about \$20 million a year a decade ago. Yet even \$400 million produces pitifully limited results: the treatment of less than 2.5 million acres a year out of 70 to 210 million that must be treated, according to Forest Service estimates.

Most of the increased funding is going for more fire suppression. About \$2 billion a year is spent on firefighting and preparedness, which includes hiring standby firefighters, buying equipment, and acquiring aircraft, fire engines, and other vehicles used in fire operations. This is up from just a few hundred million dollars a year a decade ago.

Fire ecologists almost universally agree that the federal government should let more fires burn rather than suppress them. Whether lit by humans or by nature, fires have been a part of North American wildland ecosystems for ten millennia. Suppressing them for just a few decades has led to major ecological changes in the forests, which in most cases have reduced the forests' utility for timber growing, recreation, wildlife habitat, and other resources.

Despite widespread agreement about the value of fire, federal agencies led by the Forest Service continue to sup-



"Your parole conditions clearly state that you're not to associate with known criminals, and here you are in the newspaper, running for Congress!"

press 99.7% of all fires on federal lands. They say this is necessary because the excess fuels have made the forests vulnerable to catastrophic fires that could damage soils, watersheds, and wildlife habitat, not to mention kill a lot of trees and burn down houses and other structures.

Both the fire suppression and the fuel treatment budgets, not to mention President Bush's proposal to eliminate environmental review of fuel projects, are based on the excess-fuels theory. Without excess fuels, there would be no need to increase fuel treatment budgets from \$20 million in 1991 to \$400 million today. Without excess fuels, the Forest Service and other agencies could let more fires burn and save money, not to mention firefighters' lives, on fire suppression.

To assess the role of fuels in recent Western fires, I reviewed decades of fire data. I fully expected to find that excess fuels had led to recent fires that are larger, deadlier, or costlier than fires earlier in the 20th century. To my surprise, I couldn't find any hint of excess fuels in any of the fire trends.

The average number of acres burned in the last five years, for example, is no greater than the average in the first half of the 1960s. The number of acres burned reached an all-time low in the early 1970s, when the Forest Service had a strategy of minimizing the number of acres burned through direct attacks on fires.

Because of the expense of carrying out this policy, pressure from the Office of Management and Budget and

On-the-ground reports from fire managers confirm that it is droughts, not excess fuels, that are responsible for recent large fires.

Congress led the Forest Service to adopt a new policy in 1978 that called for containing fires rather than minimizing their size. Under this policy, firefighters would rely more on backfires and less on direct attack.

As of this writing, at least 14 firefighters have died this year. An average of 17 died each year in the 1990s, which is more than double the number killed in the 1950s. But this includes causes not directly related to fires. Of the 14 firefighters killed this year, five died in aircraft accidents, eight in auto accidents, and one was killed by a falling tree. I don't know whether the tree was weakened by fire or if the firefighter just got unlucky, but it doesn't appear that the fires themselves are any more deadly than they were a few decades ago. In fact, the number killed by smoke or fire has actually declined from 6.5 a year in the 1950s to 5.5 a year in the '90s.

What about firefighting costs? If the excess-fuels theory is correct, then fires should cost more to put out today than they did a few decades ago. Yet from 1970 to 1999 actual suppression costs grew no faster than the rate of inflation.

Preparedness costs, however, grew much faster than the rate of inflation. For most of those years, the Forest Service

tried to persuade Congress that spending more on preparedness would result in an overall savings because it would reduce fire suppression costs. With lots of crews of firefighters on hand, for example, they could go out and stop every little fire before it got big. Since fighting big fires is terribly expensive, preventing even one big fire could save millions.

This theory was also a great budget-enhancing ploy for the Forest Service, leading to steady increases in preparedness funding. But it doesn't seem to have worked on the ground. The Forest Service and other federal land agencies spent a record amount on fire suppression in 1988, set a new record in 1994, and another record in 2000. Although pre-

Structures can be completely fireproofed by replacing flammable roofs and landscaping one or two acres around each home with a non-flammable material such as a lawn.

suppression budgets for 2002 were more than 50% greater than those in 2000, 2002 is on track to set another record in suppression spending.

"For the last 2,000 years, we've generally seen large burns every two-to-four hundred years" in most western forests, says Cathy Whitlock, a paleoecologist at the University of Oregon. "The current forest fires are in keeping with this long-term pattern of infrequent large fires."

The West has always had large fires, and, until the forests turn to deserts, it will always have them. This is one reason why many fire ecologists think that the best thing the Forest Service can do is to just let more fires burn — a policy that does not do much for Forest Service funding, and has not been adopted.

Instead, the last few years created a golden opportunity for the Forest Service. Three of the last four years have seen severe droughts throughout much of the West. On-the-ground reports from fire managers confirm that it is these droughts, not excess fuels, that are responsible for recent large fires. But in Washington, D.C., the Forest Service repeatedly tells Congress the fires are due to excess fuels, which helps them get larger appropriations.

The Forest Service justifies its need for additional funding to suppress excess fuel-based fires on a 1999 report from the General Accounting Office. With all due respect to GAO staffers, they are accountants, not fire ecologists. The Forest Service itself disputed the report when it came out, saying it exaggerated the fuels problem. For example, the GAO attributed the increase in acres burned from 1970 to 2000 to excess fuels; the Forest Service correctly pointed out it was due to the change in fire policy from minimizing acres burned to containment.

The real problem with fire suppression is not a shortage of funds but too much money. This began way back in 1908, when Congress was foolish enough to give the Forest Service a blank check for emergency fire suppression. At

first, intrepid national forest managers considered it a badge of honor to not have to resort to the blank check. But soon, the temptation was too great, and the bureaucrats responded to the incentives that Congress had given them.

The blank check gives federal land managers "a double system of accounting," observes fire historian Stephen Pyne. A fixed account applies to normal times and a second unlimited account applies to emergencies. "The secret to creative financing," Pyne adds, "is to transfer as many costs as possible from the budgeted account to the non-budgeted, 'emergency' account."

In 1935, the chief of the Forest Service got more creative and decided that national forests could have an emergency without having a fire. All that was needed was a high risk of fire, such as a drought, and local managers could dip into the blank-check fund, thus saving their budgeted money for other uses.

Stories of abuse of the blank-check fund are legion. During an emergency, managers made wish lists of equipment they desired, including everything from trucks to typewriters (or, more recently, fax machines). Naturally, when the fire was over, the equipment was still around. One

"The secret to creative financing is to transfer as many costs as possible from the budgeted account to the non-budgeted, 'emergency' account."

Forest Service employee once confessed to me that his district only had enough money to pay its employees for eleven months a year, and counted on fires to fill in the gap.

In the mid-1970s, costs were getting so out of hand that Congress decided to eliminate the blank check and give the Forest Service a fixed budget for fire. If the agency exceeded this budget in a severe fire year, it would pay the deficit out of its reforestation fund and then pay back the fund out of next year's fixed budget. This actually led the Forest Service to take many steps to reduce its costs.

Then two severe fire years in a row in 1987 and 1988 forced the Forest Service to borrow some half a billion dollars from its reforestation fund. After much begging and pleading by Forest Service officials, Congress reimbursed this fund in 1990. Since then, the agency returned to the blank-check mode and fire costs have spiraled higher.

Congress began a real firestorm of spending after the 2000 Los Alamos fire. 2001 was a mild fire year but the Forest Service freely spent 50% more on suppression per acre burned in 2001 than in 1999, when there was a severe drought.

All-out fire suppression on national forests in the south in the 1920s led to a huge accumulation of fuels that resulted in catastrophic wildfires in the 1930s. It took years for the Forest Service to learn its lesson, but by the 1940s it finally supported prescribed burning in the South.

It stands to reason that fire suppression in the West would have the same results. But the Forest Service did not

authorize local managers to let fires burn in the West until the 1970s, and even then only a few managers were brave enough to do so. The Park Service began experimenting with prescribed fires in Western national parks in the 1980s, but the Forest Service had very little money for such controlled fires until the last four or five years.

Comparisons of historic photos of federal lands with recent photos of the same locations reveals that fire suppression has had dramatic ecological changes in many places. Grasslands have been converted to forests. Forests dominated by fire-resistant species such as ponderosa pine have been converted to forests dominated by fire-sensitive species such as true firs. Lands that forest managers hoped would grow back into beautiful stands of timber after logging have often instead become stocked with "dog-hair" thickets of thousands of tiny, and commercially worthless, trees, most of which would have been killed by a fire.

Fires, in short, thin the forests of overstocked vegetation, favor some species over others, and favor some ecotypes over others. The species favored by fire are often (but not always) both commercially more valuable as well as more aesthetically pleasing. Thus, in many areas fire suppression has reduced both commercial and noncommercial values on the federal lands.

Yet these ecological changes do not necessarily translate into excess fuels. Forests may have lots of wood in them, but they aren't necessarily more fire-prone than grasslands. In fact, most of the wood in a forest is inaccessible to fire. As anyone who has tried to light a campfire knows, fires start with small pieces, while the large trunks of the trees will only catch fire at high temperatures that are rarely reached in even the hottest forest fires.

Many trees growing in hot, dry climates have evolved a thick layer of bark that tends to be pretty fire resistant. Fire will rarely kill a healthy tree unless it gets into the top of the tree.

A recent scientific report published by the Forest Service's Rocky Mountain Research Station reveals that less than a third of western forests — mainly ponderosa pine and Sierra Nevada mixed conifer forests — are ecologically adapted to frequent light burns, and only half of those have excess fuels. Most of the remaining forests in the West are ecologically adapted to infrequent fires. While fire suppression may have changed those forests, excess fuels are not usually the result.

Even in ponderosa pine and Sierra Nevada mixed conifer forests, the problem of excess fuels is exaggerated. The fire that burned some 200 homes in Los Alamos and led Congress to nearly double budgets for fuel treatments and fire suppression started in a ponderosa pine forest.

Forest Service researcher Jack Cohen, however, says that treating federal lands is the wrong solution. Cohen has shown that homes and other structures can be completely fireproofed by replacing flammable roofs and landscaping one or two acres around each home with non-flammable materials. A mowed lawn, for example, is an excellent defense since even if the grass catches fire it will not burn

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The Problem of Original Intent

by William R. Tonso

Nether leftists nor rightists seem to be able to figure out what the Constitution means.

According to the left-liberal intelligentsia, the United States Constitution is a living document. The Founders could not anticipate the complexity of our modern, technological society; therefore, they argue, the Constitution the Founders gave us has to be adjusted as we go along to keep up with the times. Yes, the Constitution contains the rules for changing itself via amendment, but that process is time-consuming and requires much more cooperation from the unenlightened than the enlightened social engineers are likely to get.

What to do?

Easy! Simply get as many progressive judges as possible in slots from the bottom of the federal judicial system up through the Supreme Court so that they can issue enlightened decisions when needed, unencumbered by any constitutional original intent that would be dated even if it could be discerned. Hence there is a battle to elect liberal presidents who will appoint progressive judges who will put life into the Constitution, and left-liberal legislators who will confirm them.

Needless to say, the beauty of this approach to applying the Constitution tends to be lost on conservatives, the unenlightened, anti-progressive sorts who make enlightened amendments to the Constitution so difficult to come by. Conservatives argue that the Constitution embodies certain basic principles concerning the control of government by the governed and, particularly in the Bill of Rights, restrictions on government's power over the governed, the intentions of which are both discernible and timeless. Adjustments to the Constitution should be difficult to make, be carried out

through the amendment process when made, and should be aimed only at relating constitutional principles to changing conditions rather than to altering or undermining those principles. To conservatives, the progressives' living Constitution is no Constitution at all — it's tyrannical rule by judges and social engineers.

I agree with the conservatives on the original-intent issue. The Founders saw government as a *necessary evil*, and so do I. And I don't trust social engineers or elites, enlightened or otherwise. So as far as I'm concerned, any law that's not in keeping with original intent is unconstitutional and, therefore, illegitimate. But certain conservative assumptions concerning the Constitution and Bill of Rights also give me pause. For example, conservative columnist George Will once suggested that the Second Amendment, which guarantees individual Americans a right to keep and bear arms, was anachronistic and that its repeal was called for. Even such strong conservative Second Amendment defenders as radio talk-show hosts Rush Limbaugh and G. Gordon Liddy have several times over the airways declared that the only constitutional way to restrict gun ownership by law-abiding citizens in the United States, though they wouldn't support

such an action, would be to repeal that amendment. Even more troubling is the fact that Don B. Kates Jr., a strong supporter of the Second Amendment who has written extensively about it in scholarly as well as popular publications, has made this argument. In his column in the January, 2002 issue of *Handguns* magazine, Kates wrote "that the Constitution contains the power of amendment whereby a right that is now outmoded and senseless may be removed." And in the February issue of the same magazine he wrote that "the only way to deprive the people of the right it [the Constitution] guarantees is to formally repeal that right and take it out of the Bill of Rights."

Will, Limbaugh, Liddy, and Kates are simply wrong. According to the way the Founders saw them, the rights

The rights listed in the Bill of Rights are pre-existing natural rights. They were not granted by the Bill of Rights; it merely guaranteed them.

listed in the Bill of Rights are *pre-existing natural rights*. They were not granted by the Bill of Rights; it merely guaranteed them. If we look to the original intent of the Founders in this matter, therefore, a repeal of the Second Amendment would not get rid of the natural individual right to keep and bear arms that the amendment guarantees. One might question, as I do, the objective existence of natural rights. I subscribe to the belief that we have only such rights as we lay claim to and can protect, and that it makes good political sense to lay claim to and protect those listed in the Bill of Rights as the basis of a republican form of government. But the Founders didn't question the existence of natural rights, and our government is based on the assumption that they do exist. The notion of natural rights, even if only culturally rooted, has great political utility.

And then there's the standard conservative critique of the Supreme Court's *Roe v. Wade* ruling on abortion, that ruling being grounded in the notion that we have a right to privacy that's violated by laws criminalizing an act that's nobody's business but that of the woman having the abortion. I don't know how many times I've heard Rush and others point out exasperatedly that there is no right to privacy specified in the Constitution. But in denying that rights exist because they aren't specified in the Bill of Rights, these conservatives are doing exactly what opponents of the Bill of Rights among the Founders feared some faction or other would eventually do. The enumeration of certain rights, they argued, would imply that those enumerated are the only rights protected by the Constitution. That's why the Founders inserted the Ninth Amendment in the Bill of Rights: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

How is abortion a constitutional issue at all? The basic question of the abortion issue is, when does a person with rights protected by the Constitution come into existence, at

conception or at birth? If the answer is at conception, then abortion is murder, and murders committed in private are still murders. If the answer is at birth, then it's the woman's business, because the fetus is not a separate human being but a part of the woman who wants to get rid of it, and it has no constitutionally protected rights.

But whether a person with rights comes into existence at conception or at birth can't be determined by any court even if that court appeals to a science presumed to be detached. Science has enabled us to follow the development of the fetus from conception to birth, those on both sides of the abortion issue agree, but it can't tell us when a person with rights comes into existence.

The answer to this question is grounded in the philosophical or religious perspectives of those on the various sides of the debate. *The issue can be settled only when one side convinces the other or forces it to accept its views or suffer the consequences.* In other words, it would seem that the only constitutional way of settling the abortion issue is in the messy political arena — citizens voting their consciences to elect officials who in the give and take of politics will pass laws, or even a constitutional amendment, declaring whether the fetus will or will not be *considered* a person with constitutionally guaranteed rights. Unless the Constitution is amended to specify that the fetus does or doesn't count as a person with rights, judges have no authority to rule on the

The abortion issue can be settled only when one side convinces the other or forces it to accept its views or suffer the consequences. The only constitutional way of settling the abortion issue is in the messy political arena.

subject or on whether or not the fetus can be legally aborted, and original intenders should be arguing this point.

If living constitutionalists point to the Seventh Amendment as obvious proof that the rights covered by the Bill of Rights are anything but timeless and can safely be ignored once outdated, the original-intent answer is obvious. That amendment states: "In Suits at common law, where the value of the controversy shall exceed *twenty dollars*, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law" (emphasis added). Twenty dollars in the late 18th century was much more money than it is now. But the right guaranteed by this amendment isn't dated simply because the Founders didn't anticipate inflation. The specified value needs only to be updated by figuring what \$20 at the time of the founding would be worth now. The authorization for ongoing adjustments could be accomplished through amendment without impacting the specified right.

It would behoove those of us who argue for the original-intent approach to the Constitution to examine just what that might involve. □

Courting Ignorance

by Bart Kosko

It is not enough for judges merely to know the laws of man; they must also know the laws of nature.

Two new studies show that the prospects look good for more junk science in the courtroom. State trial judges turn out to be as scientifically challenged as the laypersons who make up juries.

The first study was a May National Science Foundation (NSF) survey of 1,574 adults and a review of related polls on scientific literacy in the United States. It found that overall scientific literacy remains “fairly low.” Only 54% of adults knew that it takes the earth one year to orbit the sun (66% of men versus only 42% of women).

Most adults missed something in the films *Star Wars* and *Goldfinger* because only 45% knew that lasers focus light waves rather than sound waves (61% of men versus 30% of women). But 65% knew that the father’s gene picks the sex of the child (72% of women versus 58% of men). Few could explain how scientific inquiry works or the purpose of a control group in a medical study. Just 22% could even loosely define a molecule as a collection of bound atoms as in the hydrogen and oxygen atoms that make up water.

The NSF study found that belief in pseudoscience continues to rise. A full 41% of adults believe that astrology is somewhat scientific despite any scientific evidence to support the claim. A stronger finding is good news for psychic hotlines: a solid majority of 60% believes that some people possess psychic power or ESP. And only 54% agree that humans developed from earlier species of animals. Perhaps the rest have found a better way to explain their own tailbones.

The NSF literacy study suggests that most adults are not fit to serve on a jury that must decide questions of fact based on scientific or technical evidence.

The law has long since recognized the educational limits of jurors. Judges alone decide questions of law. They alone

interpret the text of statutes and contracts because long ago jurors could not read. Judges also act as jurors and decide all questions of fact in bench (nonjury) trials.

And the state and federal rules of evidence give judges the power to take “judicial notice” of many alleged facts in a trial and thereby force all parties and jurors to accept the alleged fact as true. Federal Rule of Evidence 201 restricts judicial notice to facts “not subject to reasonable dispute.” But either the trial judge or one or more appellate judges gets to interpret which disputes are “reasonable” and which are not. Indeed the courts have put forth no scientific evidence whatsoever to support their many rules of evidence. Most of these rules simply codify old common-law practice as in the infamous “dying declaration” exception to the ban on hearsay — the dying man will supposedly tell the truth and not indulge in spite or fantasy because he is about to meet his Maker.

The Seventh Amendment requires trial by jury in federal civil cases where the amount in controversy exceeds \$20. But the Seventh Amendment shares an odd status with the seldom-cited Third Amendment and its prohibition against quartering troops in private homes without compensation. These are the only two amendments among the first eight in the Bill of Rights that the Supreme Court has not “incorporated” at least in part through the Fourteenth Amendment and thereby applied to the 50 states. My University of Southern California colleague and constitutional law expert Erwin Chemerinsky argues in his *Constitutional Law* that the

only reason the court has not incorporated the Third Amendment is that no major case involving it has come before the court (although the Second Circuit did argue that it is incorporated in *Engblom v. Carey*, 677 F.2d 957, 1982). Chemerinsky concludes that the states "can eliminate juries in some or even all civil suits without violating the United States Constitution."

Judicial immunity is a related source of judicial power in the courtroom that deserves mention here. Judicial immunity derives from the old "right" that a king could do no wrong. The immunity from liability is almost absolute in this country but is merely a qualified immunity in many other countries. The Ninth Circuit showed how seriously it takes judicial immunity when it sat *en banc* in 1986 to rehear

The Supreme Court's lengthy opinion failed to mention what may be the best reason to have juries at all: they provide an in-court check on judicial power.

a case (*Ashelman v. Pope*, 793 F.2d 1072) and then issued this unanimous and shocking opinion: "a conspiracy between judge and prosecutor to predetermine the outcome of a judicial proceeding, while clearly improper, nevertheless does not pierce the immunity extended to judges and prosecutors."

A unanimous United States Supreme Court gave federal judges even more power in 1996 (*Markman v. Westview Instruments*, 517 U.S. 370) when it said that juries could no longer interpret the technical claims in a patent. This is more important than it sounds because some analysts have estimated that firms may spend as much as a quarter of their research and development funds on patent disputes.

The *Markman* decision says that now only federal judges can interpret a patent's claims because the "construction of written instruments is one of those things that judges often do and are likely to do better than jurors unburdened by training in exegesis." But the Supreme Court's lengthy opinion failed to mention what may be the best reason to have juries at all: they provide an in-court check on judicial power.

The continued transfer of power from juries to judges raises a key question: just how technically competent are judges?

A new study reported in the April issue of *Judicature* gives some disturbing answers. The formal study appeared last October in the journal *Law and Human Behavior*. The study interviewed 400 state trial-court judges from all 50 states. It found that "many judges may not be fully prepared to deal with the amount, diversity, and complexity of the science presented in their courtrooms" and that "many judges did not recognize their lack of understanding."

The study measured how well trial judges understand the four so-called Daubert factors that the Supreme Court in 1993 (*Daubert v. Merrell*, 509 U.S. 579) said federal courts

should consider when they decide whether to admit scientific evidence into court. About half the states follow the Daubert standard. The rest follow an earlier standard of "general acceptance" in the scientific community called the "Frye test" from the old case *Frye v. United States*, 293 F. 1013 (D.C. Circuit, 1923). But all judges are familiar with the Daubert standard (and a drafting committee has already proposed amending Federal Rule of Evidence 702 on expert witnesses to directly reflect the Daubert holding).

A full 91% of the judges said they should act as the gatekeeper for admitting scientific evidence. And a majority understood the two easiest Daubert factors: whether the evidence had undergone peer review and whether it was generally accepted.

Now the shocker: only about one judge in 20 understood the two key Daubert factors of testability and error rate.

A claim or theory is testable if and only if it is falsifiable — some observation can in principle refute or falsify it. Observing more helium than hydrogen in the universe would falsify the theory that the universe began in a fiery Big Bang because the theory predicts the reverse proportions. Falsifiable claims always risk something in test. Such testability distinguishes science from nonsense. That is the thrust of Einstein's famous quip that "No amount of experimentation can prove me right but a single experiment can prove me wrong."

Yet only 6% of judges understood the concept of falsifiability. Many seemed to confuse it with fabricating data. And only 4% understood how error rates in data or measurements affect scientific claims while 91% said they found the

Only 6% of judges understood the concept of falsifiability. Many seemed to confuse it with fabricating data. And only 4% understood how error rates in data or measurements affect scientific claims while 91% said they found the concept useful.

concept useful. The plain conclusion is that most state judges are not competent to adjudicate disputes of technology or science. And a natural conjecture is that many federal judges may not be either.

A short-term solution is for judges to hire their own scientific experts to help them decide the claims of well-paid dueling experts. But experts are expensive and complex trials can last for months or even years. The long-term solution is more science training in K-12 schools and in law schools. Law is the only profession that does not include even basic statistical inference in its curriculum.

Until then many judges will continue to let dubious experts testify before scientifically incompetent jurors who can free murderers or bring down whole corporations. That breach of care borders on judicial negligence — because ignorance of science is no excuse. □

Ayn Rand Goes to West Hollywood

by Paul Rako

It's a long and winding road from bestselling novel to your local multiplex.

At the 40th anniversary party of the publishing of *Atlas Shrugged* I heard John Aglialoro complaining that he'd spent a million bucks for the movie rights and time was running out to get it made. He said the problem wasn't with the script, the problem was getting a major studio to sign up for the project. The next thing I heard about the venture was that the film deal was dead but there was going to be a mini-series on TNT. Now TNT has pulled the plug on that too.

There are a couple of important things to observe about all this. First is that Mr. Aglialoro is switching milieus, to invoke a Randian style of analysis. He starts out complaining about his million bucks. He's a businessman with a problem. When asked what the holdup was he starts talking about needing a major director and a major studio. All of a sudden he's not a businessman with a problem. He's an *artiste* and he needs a major studio and a major director to help him achieve his artistic goals.

The other interesting thing is his assertion that he doesn't have a script problem. I disagree. He must have a script problem, otherwise he would have a major director and major studio by now (five years later). An interesting tidbit that supports this thesis is the fact the movie turned into a mini-series. This flat-out proves he has a script problem. He is trying to make a video novel, not a movie. That's why he needs ten hours to tell the story instead of two. The script probably has too many characters doing too much stuff in too many places, just like any other Russian novel.

What Aglialoro has is the literary version of a Peter Keating floor plan. What he needs to do is "Roark" it by ripping out all the labyrinthine passages and spiral staircases

and twisting hallways. John Aglialoro also has a business problem. He's a million out and the clock is ticking. Let's put our *artiste* hats in a bucket where they belong and get practical. First off, the million that got dropped five years ago has to return two million in today's dollars to beat even the bond market. The problem is that sinking more money into this project is even riskier than the original investment. So any further investment must be absolutely minimal. In addition the return has to come in months, not years. Major director and major studio? Forget about it. It will take a year of memos and meetings just to get the gaffer on board, much less a director.

What Mr. Aglialoro needs to do is go down to West Hollywood and knock on a few doors. Before long he will find experienced directors and actors that can kick out a feature-length film in a few months for way less than a million bucks. Yup, make *Atlas Shrugged* as a porn film. It shouldn't be too hard since, when you come right down to it, Dagny was something of a slut, right? She did Francisco (at 16!) then Rearden, and then Galt. Those are just the ones we know about. I'm sure Eddie Willers was getting some, and Cheryl Taggart must have been immediately drawn to the gal wearing the pants in her new family.

The million for the script and the million for the filming should return \$5–9 million in two years, easy. Voilà, Mr. Agliarolo's business problem is solved. Sure that Peikoff guy might complain, but if he does, Agliarolo can just rename the thing *Atlas Goes Down* and by the time the case works its way through courts you could buy off Peikoff with a couple hundred thousand and still have a new house (or two) on the coast. I leave to your imagination all the really great scenes we can put in the movie. Like when Dagny is trying to get Ken Danagger to stay in business — a few

It shouldn't be too hard to make Atlas Shrugged as a porn film, since Dagny was something of a slut. She did Francisco, then Rearden, and then Galt. Those are just the ones we know about. I'm sure Eddie Willers was getting some, and Cheryl Taggart must have been drawn to the gal wearing the pants in her new family.

office scenes, a few train scenes, and heck, there'd be a ton of good stuff when she does it in the train tunnel and . . .

Shhhh. Hear that howling sound? That's the Objectivists. They are going completely, absolutely, apoplectically ballistic. Objectivists have the same lack of humor as the guy that stuck an ice pick into Trotsky.

Sorry Leonard. Sorry David. I'm just kidding. I'm just trying to make a point about business problems vs. artistic problems. Perhaps we can rework the script and keep the story a conventional non-porn type of feature.

Okay, the first thing everybody has to realize is that however *Atlas Shrugged* is adapted it will be a bad movie, in the opinion of Objectivists and libertarians. Let's face it, there is no progress that is to the liking of these people. (I know, I'm one of them.) You could have Coppola, Lucas, and Spielberg direct it and resurrect Ayn to do the script and Objectivists would still hate it. They hate everything. It's their way.

So we are going to make a movie that the Objectivists will hate. This won't make it a bad movie. In fact, the more the Objectivists complain the better the box office potential. See, we are not trying to be didactic. That's the kiss of death for any film. Propaganda doesn't sell. We are trying to get one or two key words and key concepts in the public's head. Then they can buy the book and get really blown away or maybe they will get involved in the movement or maybe they will just appreciate John Stossel's documentaries more.

Remember, we are no longer *artistes*. We are artists. That's an *artiste* with some business sense.

The first rule of making a successful movie is that it must have a good story. Not a good story to the middle-aged male atheist tax cheats that comprise our movement. No, the story must be a good one to 14-year-old girls, because they drive the entire movie industry. The only good story to a teenage girl is a love story. So that's what we need to write.

Duh. Before you start spouting off about intellectual and moral issues and timeless truths, you need to pull your head out of wherever it's at and look around.

Did you see *Titanic*? If you read Stephen Cox's great book about the *Titanic* you know the amazing moral, social, intellectual, and political issues that were involved in that incident. All great stuff. All really interesting. To us. To a 14-year-old girl? Nope. That's why the *Titanic* movie was a love story. And a pretty good one. *Titanic* grossed \$1,835,400,000. That's 1.8 billion dollars. See what a good love story can do for you? Same thing goes for *Pearl Harbor*. Boy, you could really bring out some great intellectual issues about Pearl Harbor. To us. But not to a teenage girl. What did they make? A love story. You can bitch and moan all you want. It's not the studios, it's not the directors, and it's not the writers. It's what works. Period. You can't blame General Motors for building SUVs and you can't blame the liquor stores for alcoholism. The market provides what works. Love stories work. Tortured Russian intellectual exercises don't. At least they don't work at the box office. That's why there is no movie. Yet.

Now that we've got all the conceptual framework built, we're gonna write a nice love story. Everything else pretty much just falls out from that. I'll just touch on some of the major issues so the writers don't go astray again.

1) It must be short. Not paring knife short. Machete short.

2) There is only one acceptable love story in the book. That's between Dagny and Rearden. Galt comes way too late and Francisco banging a 16-year-old just won't get past the censors.

3) Despite what I said about Dagny as a slut, we all know this would be Box Office Death, so Francisco is a

Before you start spouting off about intellectual and moral issues and timeless truths, you need to pull your head out of wherever it's at and look around.

childhood friend and she never does Galt. If she did Galt it would not only make her a slut but also have her two-time a primary character. Nope, Dagny and Rearden. Period. Live with it.

4) For the same reason Rearden cannot be married. Maybe divorced, but certainly not cheating on his wife.

5) Francisco's in but as a complementary character and foil. Everybody else gets cut — no Eddie Willers, no James Taggart, no Cheryl, no Ragnar, no Midas, no Halley. Galt may never even make a physical appearance. His speech, condensed to 40 seconds, will be background to Dagny and Francisco so we can have reactions and flashbacks to keep things moving. Even 40 seconds of Galt's speech will be tough on those teenagers.

6) Villains: They're in but with minimal character development. Mouch and Thompson will be combined into one

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The French Revolution *In Three Volumes*

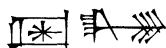
By Hippolyte Taine
Translated by John Durand
Introduction by Mona Ozouf

Hippolyte Taine's *The French Revolution*, which is written from the viewpoint of conservative French opinion, is a unique and important contribution to revolutionary historiography. Taine condemns the radicals of the French Revolution, unhesitatingly contradicting the rosy, Rousseauesque view of the Revolution.

Taine approached the Revolution in the same way that a medical doctor approaches a disease. Indeed, he described his work not so much as a history as a "pathology" of the Revolution. His method constitutes his principal contribution to study of the subject. This method began with an examination, not of the French, but of the English. As Professor Mona Ozouf observes, Taine "maintained [that] the history of the Revolution depended on the definition of the French spirit." He had, in an earlier account of English literature, defined "a unique explanatory principle" for investigation of the contrasting societies of the French and the English. This principle among the English, he reported, is "the sense of liberty," or what he described as the English conviction that "man, having conceived alone in his conscience and before God the rules of his conduct, is above all a free, moral person." In contrast to the English ability to conserve and even to expand liberty through gradual adaptation to changing circumstances, Taine identified a "French spirit" that became, Ozouf emphasizes, "his central explanation of the French revolutionary phenomenon." This phenomenon explained, Taine argued, why France "had demolished its national community well before the Revolution"—thus making the Revolution not only inevitable, but also inevitably terrible.

Hippolyte Taine (1828–1893) was a historian and philosopher who was one of the primary figures in French Positivism.

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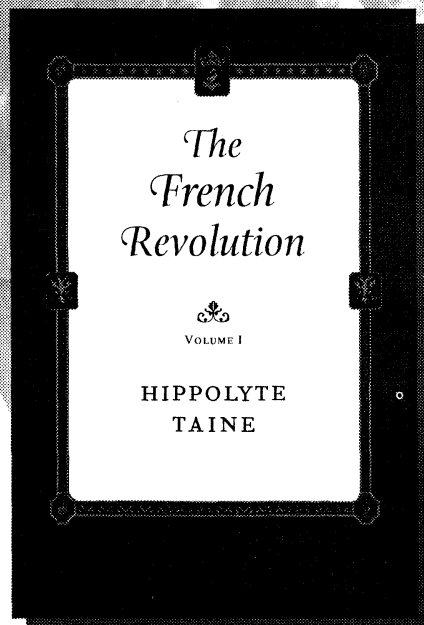


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character as will Stadler and Ferris. Same with Boyle and Taggart and ix-nay on the brother connection — way too complex for a nice love story. The labor guy, Gus Webb? Or was he in the other book? Anyway it doesn't matter, he's out. Lillian can be Rearden's sister or maybe (and I mean maybe) his ex-wife. Phillip is out.

7) Developing characters: The wet nurse was always a favorite of mine — after all I did cry when he got popped, but then I was 14 and pretty emotional then. Still, a developing character or two is pretty good.

8) Supporting characters: Well, the bum on the train is a great role. Supporting Oscar for sure. Show him in the new job Dagny gives him. Everybody loves a recovering wino.

9) Plot: Dagny overcomes a bunch of dorks to become a successful railroad tycoon while meeting the man of her dreams.

10) Why railroads still? Because the props will be cheaper than planes to rent. The transpo is the MacGuffin, as Hitchcock used to call it. It really doesn't matter. It also needs to be shot in contemporary times because a '40s costume piece will be too expensive and would add nothing to the romance.

11) Climax: Galt's speech — *not*. The speech needs to be moved to before the Galt's Gulch episode because that will be the climax. I don't know, let's have Hank keep circling until he finds Dagny and they are united in paradise and then the lights go out all over the country. If we film in California the lights will go out all by themselves so that

should save on SFX and production costs.

12) Neither Galt nor Francisco is a love interest but Francisco can serve as the surrogate Galt until he does appear.

I know you're probably getting ready to write the magazine and complain and call me names. I just thought you might want to know what it would take to have a major studio and a major director make this film. It will take a script based on these principles. Your failure to understand that is indicative of the failure of libertarians to succeed in convincing the public at large. You have to take your intellectual victories where you can. The victory of this film is that it will cast businesspeople as heroes and sympathetic characters while the government and incompetents will be villains. That may not be enough for you but it is all you are going to get for the next 50 or 100 years and I want to see the film, not argue about it's purity or fealty to the novel. That we can make it as a feminist piece with Dagny as a successful businessperson is great. (I would have her juggling family and kids while she succeeds but I fear the inevitable death threats I would get from the Objectivists.)

Nope, a nice feminist love story. 85 million domestic gross and the marketing tie-ins boggle the mind. The John Galt action figure alone will probably pull in a million or two. Then we can remake *The Fountainhead* and it won't be long before all the brainiacs and *artistes* con some poor slob into doing a second *Atlas Shrugged* because all the movement types hated the first one. Now you're getting some coverage baby. Now you're getting some legs.

Send in the writers, we're ready now. □

"Living with Fire," from page 26

hot enough to ignite the home.

Other Forest Service researchers estimate there are only about 1.9 million acres of high-risk lands with homes or other structures on them. More than three-quarters of these acres are private. Instead of treating these acres, however, the Forest Service has a goal of treating 70 to 210 million acres of federal lands. This is far more expensive yet will fail to protect homes located near those federal lands.

One reason why homes are vulnerable to fire is that the Forest Service effectively shields the insurance industry by spending millions to protect buildings that may be worth only a few tens of thousands of dollars. Insurers offer home-

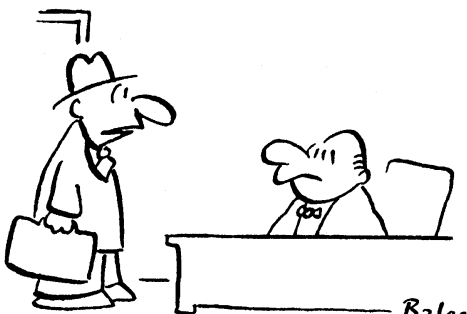
owners little or no discount for replacing wood shake roofs because, they say, wildfires burn so few homes that they have no actuarial data.

Rather than give the Forest Service bureaucracy more

money and power, Congress must turn off the flow of money that is fueling the fire-suppression machine. This can be done in one of two ways. The centralized solution is for Congress simply to stop giving the Forest Service money. The agency should be encouraged to let fires burn so long as they don't threaten private land. Congress might appropriate some funds to assist private homeowners with fireproofing their roofs and yards. But funding for fuels treatment, preparedness, and suppression should be eliminated or curtailed.

The problem is that few members of Congress can resist the temptation to promise to solve problems by throwing money at them. So long as Congress can sign the check, the Forest Service will waste the money. The decentralized solution is to let each national forest, park, BLM district, or other land unit fund itself out of its own revenues. Then each will have an incentive to find the most efficient local solution to fire problems.

The Forest Service is laced with perverse incentives, but releasing it from environmental obligations, as commodity interests want, will not fix those incentives. Nor will throwing money at the problem, as some environmental groups want. Congress shouldn't let a mythological fuels crisis stampede it into giving the Forest Service more money and power without addressing its underlying problems, which include congressional blank checks and other misincentives that grow out of political control. □



"I can't get anywhere with this voter apathy poll, sir — nobody will answer the door."

Freedom of Choice, Cigarettes, and Thomas Szasz

by Todd Seavey

Cigarettes kill people. So why do so many libertarians defend smoking and downplay its dangers?

The American Council on Science and Health (ACSH), for whom I edit the webzine HealthFactsAndFears.com, is sometimes described as “libertarian except on smoking.” This label is not entirely accurate.*

The implication of the “libertarian” part of the label is that we want almost everything (except assault, theft, and fraud) to be legal. While ACSH’s only official goal is to promote sound science, it is true that, as a practical matter, this often puts us at odds with environmental activists and others who want every imagined or hypothetical risk to be met with a new regulation. If you are presumed innocent until proven guilty, you should not be jailed, fined, or regulated simply because, say, some activist theorizes, without offering any good evidence, that you are elevating cancer levels or causing rashes among your neighbors. For simplicity then, I’ll accept the libertarian label.

What, though, causes some people to see our position on smoking as an exception to the libertarian rule?**

Does ACSH call for outlawing smoking? No. On the face of it then, there must not be anything unlibertarian about ACSH’s smoking position. Ah, but we do call attention to the terrible dangers of smoking — to the fact that it diminishes the health of all users and kills hundreds of thousands

of Americans every year (or, if you insist, it is the means by which hundreds of thousands of Americans choose to *kill themselves* each year).

This, it appears, is enough to make us suspect in the eyes of many libertarians — and many conservatives — who fear we are no different than left-leaning, pro-regulation anti-smoking groups, Ralph Nader-style safety fanatics, and other promoters of the nanny state.

This suspicion is not only unfair but is evidence of some problems with the way libertarians attempt to apply their philosophy. These misapplications of libertarian principles can lead to extreme and implausible libertarian statements on health-related matters ranging from smoking to suicide to schizophrenia.

Smoking

Libertarians justly fear misguided government regulation, but their fear of regulation should not cause them to pooh-pooh all worries about the troubling social trends regulations are intended to combat. For the most part, libertarians understand this distinction, but they often become knee-jerk defenders of a disapproved activity such as smoking, dismissing its dangers.

Libertarians should be the last people to think that all criticism of an activity (such as smoking) logically implies a desire to outlaw that activity or, for that matter, that all praise logically implies a desire to subsidize. The whole point of libertarianism is to remove most of life’s myriad

*American Council on Science and Health is a scientific organization and has advisers from all parts of the political spectrum, but it is frequently characterized, with reason, as libertarian.

**And when I say “our position,” I should note that ACSH has writers and advisers of varying political bents, united by their desire for sound science, but it is primarily our president, Dr. Elizabeth Whelan, whose vocal opposition both to nonsensical regulations and to smoking has earned us the “libertarian except” label, so I’ll treat her position as the consensus ACSH view for purposes of the current argument.

debates from the legislative arena. If, in the libertarian view, humans are not supposed to settle matters of right and wrong with laws, except for matters involving assault, theft, and fraud, they should instead use private *social* pressure.

If libertarianism really meant “you cannot criticize anyone’s private actions” (rather than simply “you shouldn’t outlaw them”), libertarians would logically have to oppose not only anti-smoking commentary but weight-loss advice, movie criticism, etiquette, religious sermons, and baseball fans shouting “batter can’t hit.”

Furthermore, even if selling cigarettes ought to be legally permitted, we can still call the practice evil, as surely as we can call someone evil for tempting his friend to get drunk before walking out onto thin ice. Undoubtedly, the drunken

Misapplications of libertarian principles can lead to extreme and implausible libertarian statements on health-related matters ranging from smoking to suicide to schizophrenia.

friend bears final responsibility for his own actions, but it would be nihilistic of us to approve of the tempter’s words. And moral nihilism is precisely the (unfair) charge that libertarians are always denying. Just because libertarians want most things to be legal does not mean they are alienated, cocaine-snorting, porn-watching, prostitute-hiring, anti-social, loner misfits. Nor does it mean they must approve of others being that way.

In Defense of Busybodies

No one likes a busybody, but there are times when being a busybody is the appropriate course of action. If your cousin, who tends to take your advice, were to become anorexic, it would be foolish to say that this was just a choice on her part, no better or worse than any other, and therefore behavior that you ought to respect and keep silent about. If you can persuade her to eat, do so, and I’m confident no one will call you unlibertarian for doing so. And if that sort of intervention is acceptable, then why not a strenuous effort to warn people about smoking, which kills hundreds of thousands of Americans a year and makes millions sick? If mass death is not reason to speak up, what is?

Would an organization be considered unlibertarian if, for instance, it consistently opposed regulation yet loudly urged people to wear bike helmets? Is your next-door neighbor being unlibertarian when she lectures you for not wearing boots when you go out in the snow? For that matter, would someone be unlibertarian if he adamantly opposed laws against pornography while just as adamantly urged people not to buy the stuff? I don’t think so.

If such an individual is to be considered unlibertarian, the term “libertarian” does not mean what I thought it did when I adopted it, and I will have to drop the label after all. Nineteenth-century philosopher John Stuart Mill, often regarded as a precursor to modern libertarians, was himself

fuzzy on this distinction, sometimes describing both Victorian social pressure and law as undesirable constraints, other times lauding the power of social norms as superior to the blunt instrument of law.

So under what circumstances should we expect libertarians to object to social pressure, and under what circumstances should we expect libertarians to accept social pressure?

I fear good old-fashioned “reverse psychology” may explain why libertarians react this way. If the government threatens to outlaw something, libertarians may refuse to criticize that thing, or may even find something admiring to say about it. Such a response is perfectly reasonable when the thing threatened with legal sanctions is truly harmless, but smoking most certainly is not harmless. Libertarians might be on firmer ground if, say, they responded to recent talk of a “fat tax” by praising fattening foods (these can more easily be enjoyed in moderation than smoking), but even in that case, it would be absurd for them to start calling physicians unlibertarian for warning people about the danger of obesity. Let us not be knee-jerk defenders of every bad habit that the government threatens to squash, or we will become the libertine caricatures that critics say we are.

The Moral Responsibilities of Experts

Those who have some familiarity with statistics and medical science arguably have a special obligation to spread the word about dangers such as smoking, since most people are very bad at calculating probability, especially about long-term, far-off risks such as a gradually increasing risk of death by lung cancer and the spectrum of other cigarette-related diseases, including many forms of cancer, cardiovascular disease, chronic obstructive lung disease, and more

Libertarians’ fear of misguided government regulation should not cause them to pooh-pooh all worries about the troubling social trends regulations are intended to combat.

(though there are subtler, more immediate negative effects from smoking).

The libertarian temptation is to say that people simply calculate that the joy of smoking outweighs the very high risk of death (smoking kills about *one in three* of its users), but most users likely aren’t making that calculation carefully, and many are obviously working very hard to avoid thinking about the odds at all. Avoidance of thoughts about the future is particularly easy for shortsighted, undisciplined teenagers (i.e., most teenagers) — which is why, despite all its denials, the tobacco industry thinks of teens as one of its most important markets.

Should public health experts sit back, secure in the knowledge (and happy to take it as an ideological axiom) that smokers “chose” their course of action, thus eliminating any reason for us to regret the consequences? And even if

some libertarians find that line of reasoning persuasive, what on earth explains its appeal to some conservatives, when conservatives are perfectly happy to ban vices far less likely to be fatal, from marijuana to pornography? Imagine that an engineer — knowing that most people have a poor grasp of physics — discovered that thousands of his fellow citizens were planning to rush onto a rickety bridge, resulting in injury to all of them and death to many. Would we fault him for screaming about the dangers of walking onto the bridge, perhaps even screaming repeatedly, until people were sick of listening to him?

Some of the people walking onto the bridge might choose to ignore the engineer. Some of them might insist they had gotten the message but show by their behavior that they weren't taking the threat seriously (or weren't rationally calculating the odds, given their apparent concern for their own safety in other settings and their lack of concern in this case). Most frustratingly for the engineer, some people might tell him — with looks of weary anguish — that they understand the odds but are now very, very attached to the idea of walking onto the bridge and just can't summon the willpower to find another route across the chasm.

Now you have some idea what it's like to be a public health expert and watch millions of people take up smoking — indeed, being urged to take it up, at a young age, by callous, lying tobacco companies — and being denounced as a killjoy for your warning.

A Particularly Bad Case

At the end of the day, the violation of property rights is the one thing to which libertarians are steadfastly opposed, and in a world where property rights are often trampled on, that's a very valuable core principle. There are some other criteria, fuzzier but still valuable, that are commonly used by people of a libertarian bent to spot danger:

(1) Libertarianism correctly identifies *fraud* as one of the most destructive human behaviors.

(2) Libertarianism also often counsels a wariness of so-called *junk science*, the use of shoddy, phony studies to dupe the public or push a given group's agenda.

(3) Libertarianism usually distinguishes between the rights of *rational adults* and the more limited rights of minors, presumably on the grounds that there is not as close a correlation between the desires of minors and their long-term happiness as there is between the desires of adults and their long-term happiness.

(4) Libertarianism rightly stresses the importance of individual decision making, lamenting any loss of individual *autonomy*.

(5) Libertarians generally believe that whether a policy leads to long-term human happiness is an important criterion by which to judge the success or failure of that policy. (If millions of people were killed and maimed, libertarians would not be reassured by the assertion that those millions suffered for the greater glory of the emperor or suffered so their attacker could "make a statement" on behalf of animal rights, Islamic fundamentalism, or some abstract conception of social justice).

Libertarians, then, might not want smoking outlawed,

but it would be unsurprising if they despised or at least strongly disapproved of the tobacco industry (and discouraged other people from smoking and selling cigarettes), since the industry would appear to violate or at least bend the five principles noted above in the following ways:

(1) The tobacco industry has long made *fraudulent claims* about the safety of its products, and not just in order to stave off government regulation. The industry's goal, particularly before the link between smoking and lung cancer was familiar to the general public, was in part to lull consumers into a false sense of safety, in effect tricking them into killing themselves. Call it capitalism, call it fraud, call it what you will — it isn't a nice thing to do to people. The familiar mandatory warning labels, seemingly a great blow to the industry, are in fact an industry-approved shield against lawsuits that blends all but unnoticed into the sea of labels and health warnings gracing everything from cyanide to snack foods in our society. The warning label does little, as the

No one likes a busybody, but there are times when being a busybody is the appropriate course of action.

industry well knows, to inculcate the full range and relative severity of the risks posed by smoking. Most everyone knows, in the broadest sense, that smoking is unhealthy, but the devil is in the details and few people know them besides health experts and the tobacco industry.

The vague warning labels give no idea what "dose" makes one susceptible to the illnesses hinted at. In a world full of warning labels and minor risks, potential smokers are unlikely to get any sense of the (significant) relative risks of smoking from the brief labels. The tobacco companies, for all their public protestations that the risks of smoking are exaggerated, know that the risks are severe and numerous, many of them little-recognized by the general public — and many, such as an increased risk of colon cancer, irreversible after just a few years of smoking, even if the smoker quits*. Half of all lung cancer diagnoses now occur in people who had already given up smoking.

(2) The tobacco industry, through its Council on Tobacco Research, was for decades one of the *most influential purveyors of junk science*. They were eager obfuscators on behalf of a deadly product, and they were happy to disparage standard methods of epidemiology and widely accepted notions of disease causation if it helped confuse potential customers. Libertarians and conservatives do not accept this kind of nonsense from groups promoting fear of ozone depletion, and they shouldn't accept it from the tobacco industry. (I should note that at least one prominent libertarian, my old boss John Stossel at ABC News, has consistently pointed out the dangers of smoking and even included the tobacco industry among the culprits in his one-hour special *Junk*

*See ACSH's pamphlet, *Irreversible Health Effects of Cigarette Smoking*, at: <http://www.acsh.org/publications/booklets/iesmoke.html>.

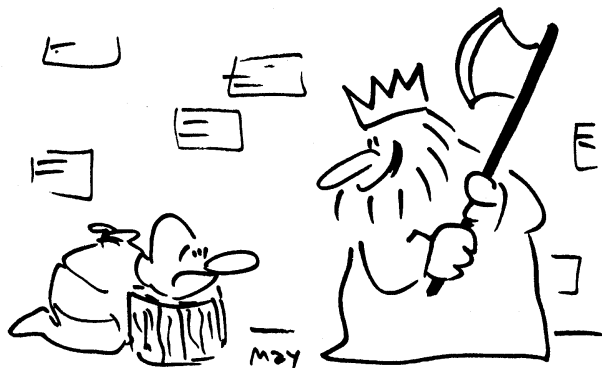
Science.)

Even with the Council on Tobacco Research now defunct, many of the obfuscations it produced linger and are occasionally unwittingly repeated by libertarians and conservatives, such as the idea that smoking might simply be correlated with lung cancer rather than causing it — a perversion of the often-sounded warning against leaping to epidemiological conclusions, but a warning that has little to do with the strong link between smoking and lung cancer. Lung cancer seldom afflicts non-smokers. After careful efforts to rule out confounding factors, it appears that smoking accounts for a twelve to twentyfold increase in one's likelihood of developing lung cancer, a relatively rare condi-

If every other product on the market really were as bad for you as cigarettes, a reasonable person probably should abandon free market principles in favor of heavy restrictions on personal liberty.

tion among nonsmokers. While it is true that “everyone knows cigarettes are bad for you,” the industry has done a more artful job than most libertarians recognize of concealing or obscuring facts about smoking's dangers in order to leave the muddled impression that “smoking is bad, but then, so is everything else.” Cigarettes marketed as “light,” low-tar, safer alternatives are a reminder that the industry wants people to think of smoking as a manageable, only moderately dangerous activity.

(3) Despite their claims not to market to minors, tobacco companies' own documents show that they are acutely aware of their need to recruit new customers from the ranks of *teenagers*, who are notoriously bad judges of long-term consequences. While even children must be held accountable to some degree for their own actions, and even commercial speech featuring cartoon camels may deserve the protection of the First Amendment, surely we cannot be as comfortable with teens' “rational choice” to smoke as we might be with adults'. Tobacco companies aren't particularly subtle about their efforts to recruit teens, either, some-



“Hey, cheer up — this is only a cartoon!”

times sponsoring massive cigarette giveaways in clubs likely to be frequented by youth. As with the classic strategy of the drug pusher, the first sample's free.

(4) But in the end, it's still the individual's choice whether to continue smoking, right? Of course it is. But are we to assume that by definition nothing bad ever happens to a person by choice? Some libertarians, as will be discussed below, reject the whole concept of “addiction,” saying that it is simply an arbitrary label for what might more accurately be called “lifestyle choices for which some people will give up a great deal.” Fair enough. I'm willing to grant that addiction can be described that way, even in cases where addicts began their pattern of self-destructive choices in part because of deceptive safety claims. But again, does calling behavior “choice” place it beyond criticism? Should we not be troubled by any choices?

As Dr. Gilbert Ross, ACSH's medical director, once put it, an autonomous individual may, after repeated efforts to kick a drug habit, technically “choose” to abandon his livelihood, home, and family in favor of slowly dying in a flop-house with a heroin needle in his arm — and that's the sort of choice that we mean when we say *addiction*. If labeling it “addiction” does not prove it is cause for concern, neither does labeling it “choice” prove it is not cause for concern. Frequent nicotine consumption — reinforced by physical withdrawal symptoms, repeated unsuccessful efforts to quit, and usually by expressions of regret for having picked up the habit in the first place — is a choice, but it would be naive to claim it is a choice as easily resisted as any other, such as whether to buy a particular pair of sunglasses. To pretend it isn't a troubling and special case would be to ignore the empirical facts. Just because smokers choose to smoke rather than having cigarettes forced upon them by armed guards does not mean that *all is well*.

(5) Some libertarians are strictly concerned with rights-adherence, not with utilitarian consequences (increases or decreases in human happiness), and don't really care (or, more likely, claim not to care) how much misery is caused by some social trend so long as no one's property rights are violated in the process. I'll address the fundamental problems with that view at greater length below, though I would imagine most readers don't need my help to see them. Utility, I realize, is impossible to gauge with much accuracy absent telepathy, since we cannot know the intensity of other people's suffering or joy (that is the core insight of the Austrian school of economics, whose adherents logically conclude that we ought therefore to leave individuals free to make their own choices, pursuing their own diverse and unknowable preferences in the marketplace). Nonetheless, there are obvious situations in which outward manifestations of suffering are so apparent that we can reasonably extrapolate — albeit without certainty — about the sufferers' mental states. If that were not true, we would have no rational grounds for choosing who to aid first if confronted by the simultaneous sight of two people, one of them frowning because he can't find his car keys and the other screaming and weeping because his foot is caught in a bear trap.

I believe that millions of people being ill and scores of

thousands of people dying slow, excruciating deaths from lung cancer each year from an avoidable cause (few of them gasping "I have no regrets!" with their final breaths) is *probably a non-utility-maximizing outcome*. We might, at the very least, want to seek non-coercive means of alleviating that outcome. Most libertarians see the statistic about socialism killing some 100 million people in the 20th century as pretty damning, and presumably not just because those people were coerced but because . . . well . . . they died. Might not a freely chosen pattern of behavior that killed some 60 million

Let us not be knee-jerk defenders of every bad habit that the government threatens to squash, or we will become the libertine caricatures that critics say we are.

people during the same time period at least be called troubling, even if we are not bothered by it in the same way that we are by political coercion?

Freedom of Choice Remains More Fundamental Than Health

Even with all the reasons to worry about smoking — a deceptively marketed, junk science-backed, youth-tempting, seemingly addictive practice that leads to mass death — some people still say that cigarettes should be legal, since individuals should always, in the end, be allowed to make their own choices. Well, you know what? I *agree*, and so does ACSH. How's that for libertarian? As Felicia Ackerman, one of my philosophy professors at Brown, rightly noted, health is not necessarily something that everyone values highly, so they should be free to trade off health for other benefits, such as entertainment.

Yet surely, even if some practice that has the characteristics described above is not a fit target for regulation, it is troubling enough that we ought to take special care, preferably in some non-coercive way, to minimize the negative effects of this particular exercise of freedom. That's all most of us at ACSH want: to inform people of smoking's dangers and to allow narrowly targeted lawsuits against the tobacco industry in those cases where members of an aging, dwindling cohort of smokers can genuinely argue they were fraudulently assured of tobacco's safety a half-century ago and took up the habit as a result. Is that so unlibertarian? (Whether any individuals can legitimately claim to have been deceived by the industry and whether a substance can be addictive enough to take the blame for years of a user's consumption are topics for courtroom debate, but they are not debates that can be ruled out of bounds by basic libertarian principles — libertarians still believe in courts, after all.)

Many of us at ACSH are sufficiently libertarian that we favor decriminalizing marijuana, by the way, in part because there is far less evidence for its being addictive or lethal than there is for cigarette smoking.

We do not support special taxes on tobacco nor the

familiar mandatory warning label nor the tobacco industry's "Master Settlement Agreement," which has been squabbled over in recent years by all the participants. We encourage voluntary social pressure because we don't want people to suffer and die needlessly, and we approve of lawsuits when warranted by demonstrable fraud (and the documents exist to show that the tobacco industry knowingly lied to its customers about the substantial risk of death, most brazenly around the 1950s but throughout the subsequent decades as well, as noted in an article by Dr. Whelan available at http://www.healthfactsandfears.com/high_priorities/smoked/2002/document030102.html).

Does this concern about smoking, then, make us fascists? Well, at least one libertarian appears to say yes. But then, as we'll see, some libertarians will call you a fascist if you believe that there is a mental state we can label "addiction" . . . or, for that matter, if you actually believe that there is a disease called "schizophrenia." Examining the strange — but in some circles very popular — views of these radical defenders of eccentric behavior will help explain how ACSH ended up at odds with some of its ideological kin on the issue of smoking.

In the May/June 2002 issue of *Society*, libertarian psychologist Jeffrey Schaler notes the growing tendency to medicalize all behavioral problems: people who in the past would have been called philanderers are now called sex addicts; irresponsible spenders are now shopaholics; and so forth. Since most people think that the mentally incompe-

For the believer in free will, addiction and insanity are not simply behaviors arranged along a continuum of human action — they are vexing cases that must be shoehorned into one of two rigid, completely separate categories: chosen and unchosen behavior.

tent need treatment or even physical restraint, explains Schaler, this contemporary tendency to medicalize all undesirable behavior becomes a convenient excuse for making everyone either wards of the state or steady sources of income for psychiatrists. Obviously, there is some merit to Schaler's argument, but he concludes that virtually any expression of concern about "public health" (he uses scare quotes) is thinly veiled fascism, or at least closely related to fascism philosophically:

In a parallel with Dr. Himmler's "racial hygiene" . . . today's new public health ideology can be characterized as moral hygiene . . . Both are forms of medical and public health imperialism . . . Human beings are again being homogenized by the state, in a manner reminiscent of National Socialist *Gleichschaltung*.

Attacking the concept of alcoholism, Schaler notes:

Cirrhosis of the liver is a disease caused by habitual heavy drinking. Habitual heavy drinking is not a disease. Habitual

heavy drinking does not become a disease by being called "alcoholism." Similarly, a broken neck is (in the broadest but still literal sense) an illness, but hang-gliding is not an illness, and hang-gliding would not become a disease by being called *suspendere labi*.

It will come as no surprise that Schaler is the author of a book titled *Addiction Is a Choice*, which attacks the pervasive idea that drug users have no real control over their behavior.

An Ancient Debate in Modern Form: Free Will vs. Determinism

Most people see human behavior as falling along a continuum, with thoughtful, informed, carefully chosen behavior on one end, physically coerced action (such as being grabbed by the neck and forced to kneel) on the other end,

I do not exaggerate when I say that Thomas Szasz and his strictest followers consider schizophrenia little more than a rationalization for irresponsible behavior.

and addiction somewhere in between (with those forms of addiction that involve intense physical withdrawal symptoms perhaps falling a bit closer to the coercive end of the spectrum than such pseudoaddictions as "shopaholism"). The continuum model is easier to accept if one is not a believer in "free will," in the strict philosophy-class sense of the phrase. If one is a "determinist," that is, if one believes that the brain is, after all, a physical thing and that each decision it makes could at least in principle be traced back to identifiable prior causes, it is easier to think of ordinary choice, addicted choice, and coercion as differences of degree rather than dissimilar phenomena.

This is not to say that the chain of causation necessarily leads back quickly to events external to a person's own skull — despite the eagerness of some determinists to point to external forces as the immediate cause of every human decision, thereby minimizing or even eliminating individual responsibility for criminal or immoral behavior. One can think that a particular person threw a punch because he's a

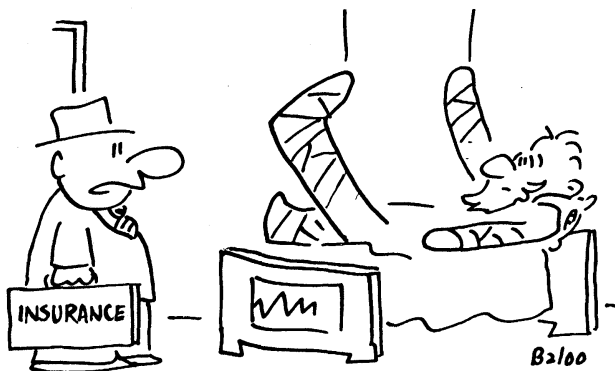
violent jerk, even if one thinks that ultimately one could trace the genetic and environmental circumstances that led him to be a violent jerk. A determinist has as much reason as the free will advocate (if not more) to want criminals imprisoned, nice people rewarded, and nasty people chastised. After all, social incentives are an important cause of behavior, and those of us who (thanks again to our genetic and environmental influences) want the world to be a happy place would not want to see incentives for proper behavior eliminated.

Many libertarians, however, see free will as a natural complement to their political views and are repelled by deterministic arguments, since they seem to suggest that some people have more control over their actions than others. Many libertarians are wary of talk of "addiction" or "criminal insanity" not because they have dispassionately examined the world and found that the phenomena of addiction and insanity do not exist but because it would be *extremely convenient* for a philosophy rooted (as they see it) in radical free will if they did not.*

For the believer in free will, addiction or insanity are not simply behaviors arranged along a continuum of human action but vexing cases that *must* be shoehorned into one of two rigid, completely separate categories: chosen and unchosen behavior. And since a free will adherent wouldn't want to coddle people who behave badly by saying that they had *no* choice but to drink or act crazy, he has no choice but to insist that even the most addictive or crazy behavior is as freely chosen as opting for a red instead of a blue sofa on a shopping excursion. One ardent Schaler fan with whom I am acquainted — a talented fiction writer with a theatrical bent — likes to caricature the determinist view (and the ACSH position on smoking) as the belief that cigarettes foist themselves on smokers against the smokers' wills, like tiny automatons that leap unbidden into the mouth and murder their innocent victims.

Of course, no one at ACSH thinks smokers are that helpless. Actually, my friend is unintentionally parodying her own views, since only the ardent free will advocate would see the smoking issue in such cartoonish, black and white terms: either people rationally, happily opt to continue smoking or else they are violently forced by some external power to do things they don't want to, like slaves or prisoners. The pretense that all human action fits tidily into one of these two categories makes it much easier to dismiss any concern about addicts or lunatics as authoritarian.

Libertarians have tolerated these arguments for too long. It is extremism of this sort that renders libertarianism a marginal movement, linked in the minds of many people more to the anarchic excesses of the '60s than to the ideals of the



"Sorry, Mr. Quixote, but you're not covered for windmills."

*Similarly, for these libertarians, it would be convenient if there were no children, since they are generally agreed to be incompetent in many situations to choose in accordance with their own best interests. So it is that libertarians sometimes manage to tie themselves into knots on the topic of the rights of children, with opinions ranging from the view that children have no rights against their parents — at least, none enforceable by third parties such as the state — to the view that children have exactly the same rights as adults and thus must be bargained with and cajoled but never picked up and hauled screaming out of the playground when dinnertime comes.

Founders or the principles of a sound economy.

Where Do They Get These Ideas?

Thomas Szasz has to be given much of the credit (or blame) for promoting this radically nonjudgmental approach to human behavior that has done so much to shape libertarian views on smoking.

However, Szasz does not stop at calling habits, such as smoking, freely chosen behavior patterns; that, we all agree, is largely a matter of semantics. In books such as *Schizophrenia: Sacred Symbol of Psychiatry*, Szasz argues that even schizophrenics are just people who behave badly or in socially unacceptable ways. Mental illness is, one of his book titles tells us, a "myth." He has also written books comparing psychiatry to slavery and the Inquisition — not just for poetic effect, mind you, but as examples of similarly oppressive regimes. A brief introduction to his views can be found at Szasz's official website.* As Szasz's online manifesto states:

The term "mental illness" refers to the undesirable thoughts, feelings, and behaviors of persons . . . The classification of (mis)behavior as illness provides an ideological justification for state-sponsored social control as medical treatment . . . Classifying thoughts, feelings, and behaviors as diseases is a logical and semantic error . . .

No one who has heard stories of people institutionalized because of their sexual orientation or their dissident political views (as was common in the Soviet Union) can fail to sympathize with Szasz's fear of psychiatry as a means of social control. But to go so far as to call mental illness a myth — even to put "schizophrenia" in scare quotes and refer to it as a "supposed illness" — is absurd. I do not exaggerate when I say that Szasz and his strictest followers consider schizophrenia little more than a rationalization for irresponsible behavior. Szasz notes, for example, that "schizophrenics" always seem to hear voices that counsel bad behavior — providing them with a handy excuse — but never good behavior.

No doubt feigned insanity (or the self-deluding belief that one is and must remain mentally incompetent) is sometimes a handy excuse for crimes or other irresponsible behavior. And another oft-repeated argument Szasz makes — that no physical abnormalities can be identified as the cause of most familiar mental illnesses, making it impossible to objectively identify such illnesses in the way that one might identify a broken leg — may be reason enough, as a practical matter, to abolish the insanity defense in criminal cases and to be extremely cautious about having people committed to asylums. Some people may just be very eccentric, after all. Some people like to water ski and others like to wander the streets unwashed muttering Bible verses to themselves. Just because behavior is odd — or evil, for that matter — doesn't mean it's an illness.

Naturally, libertarians defend individual freedom of action so long as those actions do not directly harm others, and in saying schizophrenics are fundamentally no different from people with strange hobbies, Szasz is defending their

freedom. In many legal battles, I would no doubt find myself on Szasz's side. But like adherents of all other ideologies, some libertarians — perhaps including Szasz — tend to ignore inconvenient facts of life in order to make the world "fit" more smoothly with their ideology. Just as the elimination of the concept of addiction makes it easier to argue against drug prohibition, the elimination of the concept of mental illness makes it easier to argue against involuntary institutionalization.

Problems With Szasz: Ignoring Inconvenient Facts?

To some extent, the insanity debate, like the addiction debate, is a semantic one. Szasz often insists that calling mental disorders "illnesses" is a clear-cut definitional error, "like calling a whale a fish," since illness, by definition, must involve observable physical dysfunction. But in insisting that schizophrenics are simply choosing to behave in socially unacceptable ways, Szasz, Schaler, and their followers seem to resist the common-sense view that some overt manifestations of mental illness, such as seizure-like or hal-

No one who has heard stories of people institutionalized because of their sexual orientation or their dissident political views can fail to sympathize with Szasz's fear of psychiatry as a means of social control. But to go so far as to call mental illness a myth is absurd.

lucinatory conditions, are illnesses.

A young person I know (who moves in libertarian circles but is not the Schalerite fiction writer mentioned above) recently developed what most people would regard as classic signs of schizophrenia (though I won't pretend we understand the brain well enough to create a foolproof checklist of symptoms). Previously confident, outspoken, and very healthy-looking, my acquaintance became convinced that passersby on the street and fellow passengers in elevators were glaring with undisguised hate, that the staff of a local hotel was putting poison or knock-out drugs in the food they served, and that strangers held mysterious secrets to financial success and should be contacted in the middle of the night. My acquaintance lost the ability to keep track of time and developed the strange habit of getting into cabs without giving the driver any instructions on where to go, other than "to someplace safe." My acquaintance, once a lively conversationalist, would repeat the same points obsessively — such as his desire to locate specific lost objects — all the while looking terribly thin and haunted. Anyone relying on common sense rather than Szaszian stubbornness would have thought "there's something terribly wrong," as I did, long before hearing any official diagnosis.

What is baffling is that Szasz and Schaler have no doubt encountered far more extreme cases without their disbelief in mental illness being shaken. Does someone exhibit high

*<http://Szasz.com>.

scientific standards or just pigheaded stubbornness if he insists that mental illness is a myth even after meeting, say, a man who constantly convulses and shrieks and insists that he must wear a tinfoil hat to prevent the CIA robots in his stomach from receiving instructions via radio? I don't doubt that there are Szaszians dogmatic enough that they could sit through a conversation with such a delusional individual just as calmly as if speaking to someone with minor misconceptions about geography or someone who mistakenly thinks that President Reagan was elected in 1978.

We may not understand the brain processes responsible for mental illness, but we are justified in strongly suspecting we are dealing with mental illness when something such as schizophrenia produces the same basic symptoms across time and across cultures, in people who suffer because of

Some people like to water ski and others like to wander the streets unwashed muttering Bible verses to themselves. Just because behavior is odd — or evil, for that matter — doesn't mean it's an illness.

their conditions and have so little to gain from feigning an inability to function or from suddenly adopting eccentric, self-destructive lifestyles.

The Real Philosophical Error: When Is Anything an Illness?

There is a more serious problem with the Szaszian insistence on identifying specific physical causes before labeling something mental illness though.

Szaszians will sometimes concede that a condition marked by *both* aberrant behavior and a clearly defined brain abnormality or other physical cause can rightly be labeled mental illness. So, for instance, if overexposure to heavy metals consistently produced delusions, the Szaszian would say the demands of science had been satisfied: both aberrant behavior and a physical cause have been identified.

But wait a second: why should even this be called mental illness, in the Szaszian view? If we are insistent that behavior cannot generally be labeled an illness, why should the fact that it is preceded by a physical event such as heavy metal exposure matter?

I am reminded of a chemist I knew who, after exposure to mercury early in his career, became convinced (whenever he went off his medication) that he was Norwegian royalty. Now, presumably Szaszians wouldn't have called his conviction that he is royalty mental illness if he had manifested the belief in the absence of a physical cause. Why, then, call it madness even in the presence of a physical cause? After all, we don't call *every* thought that a person has after metals exposure madness. If a man were exposed to heavy metals and then decided to take up cross-country skiing, we wouldn't call the skiing insanity simply because it was preceded by an identifiable physical event.

If the Szaszians are willing to call claims of royalty that follow metals exposure mental illness but not willing to call cross-country skiing that follows metals exposure mental illness, then they must admit (contrary to their stated principles) that *they do judge the health or sickness of actions and beliefs by the content of the actions and beliefs*, such as the failure of beliefs to jibe with obvious external reality. The Szaszians must, then, either hold that *nothing* (even in the presence of observable physical causation) can be labeled crazy or else abandon their philosophy and join the rest of us in judging people crazy — however cautiously — on the basis of observed behavior.

For Schalerites and Szaszians to imply that they are simply awaiting more detailed descriptions of the physical causation of mental illness is either a lie or a nonsequitur. By their own reasoning, they have no rational grounds for calling anything a mental illness even if we can describe the phenomenon down to the individual neural firing. All we can say, given their linguistic stubbornness, is that, for example, neural firings caused by sexual hormones lead to arousal, while heavy metals lead to believing you're Norwegian royalty. Why call *either* an illness or dysfunction by Szaszian standards? We should, by their reasoning, just say caffeine leads to heightened alertness, a bullet through the skull leads to altered language use, LSD leads to seeing weird hands coming out of the ground, heavy metals lead to fanciful notions about Scandinavian succession, as-yet-unknown brain events lead to thinking the hotel staff is out to poison you, and "retardation" leads people to "choose" to be very bad at math. Why call any of it a medical condition or illness? These are all just different ways that a brain can be, different lifestyle options, if you will. All is well!

And any Szaszians tempted to bite this particular bullet and just say that no brain state (whether physically understood or not) can ever be labeled dysfunctional or diseased, must contend with a further problem: how is it, then, that we can even label a heart, liver, or lung diseased? If one wanted to be as stubborn about physical illness claims as the Szaszians are about mental illness claims, couldn't one insist that a heart that stops beating is not really "ill" in any meaningful sense but rather is "behaving in a socially disapproved way"? Who's to say that a femur bone *ought* to remain in one piece instead of being broken up into twelve parts and causing pain? Isn't it just narrow-mindedness on our part to label this femur dysfunctional while labeling the intact ones "healthy"?

That sounds absurd, and it is. It is equally absurd to insist that the *mind* has no identifiable healthy functions, such as perceiving external reality, differentiating between real people and imagined ones, forming basic logical chains of thought, or spotting contradictions and reaching decisions.

Anyone who accepts Szaszianism may someday find himself having the unsettling experience of being forced to reject those views after direct confrontation with the madness of a relative or friend who was once healthy. I am less concerned, though, about the emotional impact of disillusionment on Szaszians than I am about the fate of their men-

tally ill friends and patients, who may not get the treatment they need because of Szaszian dogmatism. Anyone who has dealt with schizophrenics knows that some of their most "eccentric" notions are often notions about their medication. The last thing that a potentially self-destructive schizophrenic — who perhaps thinks his medication is poison left for him by Martians — needs is to be told by an ardent Szaszian that those views about his medication, while mistaken, are within the bounds of rational discourse.

Moderation and Utilitarianism

Even if one suspends for the moment all debate over whether schizophrenics are mentally ill and whether smokers are addicted, it would seem reasonable to assert that certain activities such as smoking or attempting to stop a bus by willing one's body to turn into steel are harmful, even if wholly voluntary.

That is, it would seem reasonable unless one were a particularly dogmatic libertarian — and some people are.

Following the Austrian insight that only an individual can gauge his own happiness, libertarians commonly equate happiness with preference fulfillment. This makes sense. People who want one thing to happen but have another thing forced upon them are usually not happy about it. But people can have short-term preferences that are not in accord with the fulfillment of their preferences over the *long-term*. While drunk, you may want to Jet Ski, but the resulting paralysis and brain damage may hinder your long-term goal of being a ballerina, for instance. Observation of the real world seems to suggest only that choice and happiness are strongly *correlated*, not that they are synonymous.

Furthermore, choice and happiness should not be declared synonymous by definition or tautology simply to make a philosophy of individual liberty easier to defend. This point is often made by *Critical Review* editor Jeffrey Friedman. Like Elizabeth Whelan, Friedman is sometimes described as unlibertarian for thinking that libertarians should, in essence, abandon their principles — but seek pragmatic, utilitarian arguments for their political program. After all, if your principles do not lead to practical, utilitarian outcomes, rival intellectuals — not to mention the rest of humanity — are likely to ask why they should bother listening to you.

Most libertarians chose their principles because of an *empirical* belief that individual decision making *tends* to lead to happiness. But even if this tendency is so strong that we ought to elevate it to the status of a political principle ("let people do what they want with their own bodies and property so long as they do not harm others' bodies or property"), it would be intellectually dishonest to pretend that the principle can now be used as proof that *no* instances of misery-inducing free behavior exist. Perhaps there are even some instances in which individuals would have been happier if legally forbidden to follow their own preferences.

I suspect most libertarians when confronted with addiction, insanity, or old-fashioned temptation turn the original empirical generalization into a principle and then use the resultant principle to define away all the empirical "tough cases." This is a bit like noticing that the local theatre almost

always shows the best movies on its biggest screen, deciding that one should generally see the movies that play on the big screen, and then, when confronted with a fabulous movie that is being shown on a smaller screen, stubbornly declaring that it *cannot* be a great film, since it has already been established that the best movies show on the big screen.

Or to put it in more immediately relevant terms: the fact that individual choice works like a charm (that is, it increases happiness) 99% of the time may be sufficient reason to adopt an overall anti-government stance or an overall attitude of tolerance, but it cannot tell us whether addiction is an exception to the "choice works" rule, nor for that matter can it tell us whether insanity or a hasty decision to commit suicide while in the throes of depression is an exception to that rule. Once one admits that choice and happiness are merely *correlated* rather than *synonymous*, one has to ask whether certain unusual sorts of choices might fall into that hypothetical one percent of cases in which individual choice

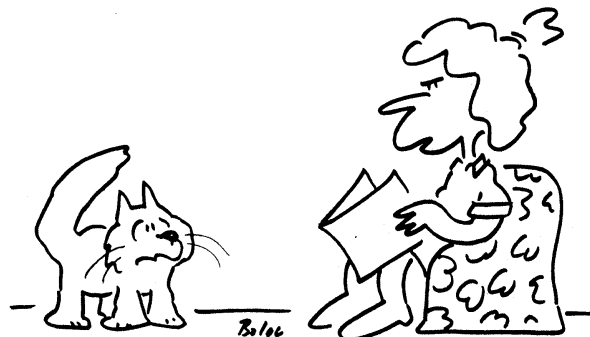
If one is as stubborn about physical illnesses as Szasz is about mental illnesses, one could insist that a heart that stops beating is not really "ill," but rather is "misbehaving."

does *not* work like a charm and instead leads to misery.

Death and Illness Are Genuine Problems

Any social problem can be looked at either as an opportunity for utilitarian debate or merely as one more opportunity to adhere to libertarian principles. If, for instance, a raging fire is about to destroy a town, most people would say the problem is the *fire*. A sufficiently stubborn libertarian might say that the problem is that the local fire department has not been privatized. While many people might agree that the fire department could be run more efficiently if private, few sensible people would say, with flames licking at their homes, that privatization is the *primary* or *immediate* concern in this scenario.

While it is perfectly legitimate for libertarians to insist that regulations be kept at bay in the smoking debate, it would be narrow-minded in the extreme for them to say that regulations are the *primary* or *only* problem in the smok-



"Don't come crying to me — hit the mouse *back!*"

ing debate. If everything from death by lung cancer to living as a raving maniac in the streets is simply another choice to be respected, one must ask whether *any* outcome would ever convince the die-hard hyperlibertarian that choices can be wrong — wrong in that they lead to misery. If someone were reduced to a sobbing, confused, and starving wretch, eager to commit suicide after years of self-mutilation and heroin addiction — but, hypothetically, might have been spared that fate if forced (only for a moment) to take anti-psychotic pills at a young age and thereby have lived a happy and productive life full of laughter, self-satisfaction, and strong friendships — should we, as principled freedom-lovers, be indifferent to the two scenarios?

Libertarians, faced with the question “What if everyone starved under your system?” typically respond, appropriately enough, that they know enough economics to be confident that that will not happen. Fine. But implicit in such an answer, as Friedman likes to point out, is the utilitarian belief that widespread human happiness is the ultimate test of political principles. If the principles produce misery, there is no sensible reason to adhere to them.

The question libertarians who care about utility must ask themselves before they dismiss the concerns of anti-smoking groups is: “All right, what if virtually no one starved under your system and there was widespread peace and prosperity — *but* some 4 million people died from smoking around the world each year?” The proper utilitarian solution to this problem may not involve the tiniest bit of government coercion — cultural pressure and education may be sufficient to turn people off smoking without any regulations or taxes — but libertarians should at least be *interested* in the problem. Yes, some anti-smoking activists undoubtedly are authoritarians, but that is no reason to dismiss all anti-smoking activists as authoritarian. Libertarians who fail to realize this play into the hands of their critics by appearing callous about illness or about the painful and premature deaths of many of their fellow beings. Creeping socialism is a problem, but so is death.

Pragmatists vs. Ideologues

When confronted with the fact of widespread cigarette consumption leading to widespread death, a reasonable person wonders whether there is some way to retain the benefits of consumer freedom while limiting the disastrous health effects. The ideologue of the left says that cigarettes are further proof that capitalism is evil, that it always leads to big companies exploiting and harming the public, and calls without a second thought for massive regulation or even prohibition.* The libertarian ideologue, meanwhile, says that consumer freedom is sacrosanct and in the end always wise, and he insists that the buying and selling of cigarettes is as ethically neutral an activity as buying and selling Tinker Toys.

What neither the leftist nor the overzealous libertarian is willing to admit is that cigarettes *are* different, a genuine special case. Nothing else we know of packs the same addictive, popular, legal, deadly, and youth-attracting wallop to

public health. If every other product on the market really *were* as bad for you as cigarettes, a reasonable person probably *should* abandon free market principles in favor of heavy restrictions on personal liberty.

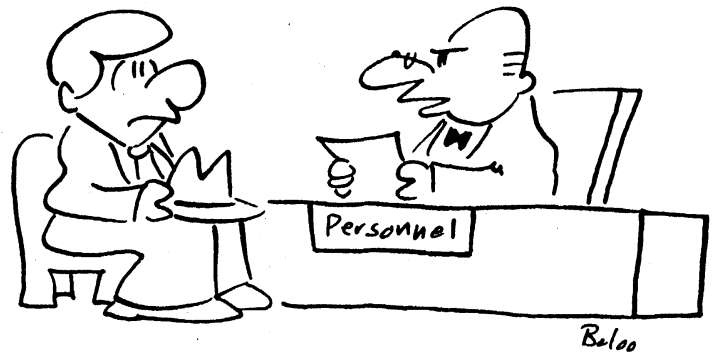
But cigarettes are unique. So the leftist is wrong. And so is the overzealous libertarian. Reasonable libertarians will examine the unique health threat posed by cigarettes in scientific terms first, then consider whether the threat they pose warrants no action, some regulation, or a combination of concerted voluntary efforts to educate potential and current smokers and, in those cases where it is warranted, legal attacks against fraud.

That willingness on the part of libertarians to engage in messy, practical debate would benefit both public health and the libertarian movement itself, by showing it to be capable of dealing with imperfect reality instead of just the tidy categories constructed by ideology.

Time for Excommunication?

Some will say a libertarian who counsels voluntary, non-regulatory responses to such crises as smoking and debilitating mental illness — and agrees with coercive activists that such things are crises — is no libertarian at all. To that, the proper post-ideological, pragmatic, utilitarian response is probably: who cares? It’s more important to be right than to retain some political label as though it were a badge of tribal membership. Rigidly fixed political labels may just be a last vestige of humanity’s waning tribalism — a crutch for those who can’t cope with ongoing debate and changing minds. If one were to hew to the strictest interpretation of the Libertarian Party definition of libertarian, for instance, it’s not clear that Ludwig von Mises, Murray Rothbard, Ayn Rand, Friedrich Hayek, or Milton Friedman would qualify as libertarians, when in fact all are giants of libertarian thought. So let’s not waste energy declaring libertarians who denounce cigarettes “libertarian except on smoking.” Better to spend that mental energy trying to figure out how to help millions of smokers break a deadly habit, as boring and nonideological a task though that may seem to some.

In the end, whether called libertarian or not, our primary concerns will be advancing human well-being and maintaining the integrity of science. Those goals don’t seem to us to be at odds with liberty. □



“A retirement plan? — are you bad-mouthing the Social Security system?”

*The ideologue of the traditional right opposes the regulations largely, I suspect, to annoy the ideologue of the left.

Reviews

Slander: Liberal Lies About the American Right, by Ann Coulter. Crown, 2002, 256 pages.

Blonde Bombshell

Clark Stooksbury

I have strongly divergent opinions of Ann Coulter. I sometimes find her outrageously cheeky — attacking the editors of *National Review* as “girly-boys,” advocating a massive war to convert the Middle East to Christianity . . .

But Coulter often strikes me as shrill, snide, and petulant, all in service to a particularly vacuous brand of conservatism — Rush Limbaugh in a mini-skirt. In a column last fall she gave as an example of liberal “treason,” the “toppling [of] the Shah of Iran and giving Islamic fundamentalism its first real foothold in the Mideast” while ignoring the role of her hero, Ronald Reagan, who directly supported Islamic fundamentalism in Afghanistan and armed the Teheran regime. She is easier to take in small doses — the longer I spend reading and studying Coulter, the less I like her.

I experienced this ambivalence while reading her latest book, *Slander*. When she attacks *The New York Times*, Gloria Steinem, or Michael Moore, I

find myself agreeing with her. Her attacks are sometimes misguided, but since she sprays with a verbal machine gun, she’s bound to occasionally hit her target. On the other hand, when she comes to the defense of her Republican heroes, brandishing G.W. Bush’s SAT scores or gushing over Ronald Reagan, I was slightly embarrassed for her.

There is no question that the political left is bankrupt. Democrats and left-wing pundits (with a few notable exceptions) traded in their integrity and self-respect to defend Bill Clinton and in return got NAFTA, GATT, welfare reform, the slaughter of innocent foreigners at his political convenience, and repeated assaults on civil liberties. At the same time, their attacks on the right were frequently reduced to hysterical name-calling. In this atmosphere, Gloria Steinem denounced Bob Dole, a middle-of-the-road hack with no discernible principles, as a “right-wing extremist.”

Forrest Gump, Call Your Office

Consider, for example, Coulter’s response to the habitual leftist attack

on the intelligence of those on the right. She grossly overstates that “every consequential Republican to come down the pike is, instantly, invariably, always, without exception called ‘dumb.’” This is nonsense. Every person in the world has been called stupid by someone, even if only by a brother or sister, but who would argue that the left expended any great effort trying to characterize such consequential Republicans as Barry Goldwater, Richard Nixon, or Henry Kissinger as stupid? Appropriately, Coulter expends most of her energy countering attacks on the intelligence of Ronald Reagan, Dan Quayle, and George W. Bush. Reagan was often accused of being dumb, senile, or both, but you would never learn from Coulter that he had a disturbing habit of giving people evidence for these charges. She makes no mention, for example, of Reagan’s doddering performance in his first debate with Walter Mondale in 1984, or of his delusional belief that he filmed a death camp liberation while in the Army Signal Corps when he actually served out the Second World War in the States, or of any other instance that called into question Reagan’s grip on reality when he was president. Instead, someone relying solely on Ann Coulter would assume that the attacks on Reagan’s intelligence were devoid of content, simply the product of leftist hate-mongering.

Reagan deserves credit for having a superficially successful presidency and for continually succeeding while his political enemies underestimated his abilities. Politicians like Pat Brown and Jimmy Carter learned the hard way that Reagan was a formidable opponent, but it would be absurd to pretend that he didn’t give his enemies repeated opportunities to question his intelligence and coherence. Coulter’s defense of Reagan would be a lot easier to swallow if she did not

insist on canonizing the 40th president. I counted nine places where she refers to Reagan as "the guy who won the Cold War" (or words to that effect) sometimes, "single-handedly." She refers to the collapse of the Soviet Union as the result of the Gipper's "massive defense buildup, military invasions, support for anti-communist insurgents around the globe, and finally, walking away from the table at Reykjavik." If all it took to get rid of the Soviets was to invade Grenada and fund the B-1 bomber, one wonders

Coulter signed on to the Republican "team" and is a forceful advocate of its cause. She should take a good hard look at her teammates.

whether defeating them was such a great accomplishment.

Elsewhere she refers to Reagan as having a "spectacularly successful" second term and repeats, "arms for hostages, arms for hostages" as an example of a "stupid, meaningless phrase" used by leftists. In Reagan's second term, the Republicans lost control of the Senate, Robert Bork's supreme court nomination failed, aid to the Nicaraguan Contras (the overriding issue of his second term) was consistently hindered by Congress and the Reagan Administration was distracted for long periods of time by the Iran-Contra scandal. Perhaps his greatest accomplishment was to turn Republican politicians and conservative pundits into apologists for exploding deficits.

Coulter is merely following the party line among movement conservatives where it is obligatory to fawn over the 40th president. It requires a Stalinesque rewriting of history to pass this record off as "spectacularly successful" and pretend that "arms for hostages" is an empty chant. I've already quoted Coulter damning "liberals" as traitors for supposedly enabling an Islamic fundamentalist regime to come to power in Iran. The Reagan administration sold arms to

the same regime. One is tempted to shout in the fashion of the talking head shows that Coulter haunts, "HE WAS ARMING THEM, DAMN IT!" That would seem to be vastly more treasonous.

Dumb and Dumber

Coulter also rallies to the defense of J. Danforth Quayle and George Walker Bush, although she leaves out a lot of important details. Quayle got off to a bad start immediately after Bush nominated him in 1988 because of his inartful handling of his Vietnam-era draft evasion via the National Guard. Later he was hurt by his poor debate performance with Lloyd Bentson in which the Texas senator elevated himself from nonentity to statesman by telling Quayle that he was, "no Jack Kennedy." Actually, the problem was that Quayle was precisely Jack Kennedy — without the dozens of family retainers constantly applying a veneer of wit and erudition. As in her defense of Reagan, Coulter simply doesn't mention these embarrassing incidents. Quayle's term in office was marred by repeated gaffes (some, no doubt apocryphal) such as his difficulty in spelling "potato." On the upside for Quayle, he headed up the influential anti-regulatory Competitiveness Counsel and he thoroughly outdebated Al Gore in 1992. Coulter strangely fails to mention these factors that mitigate in the former Veep's favor. At the risk of earning Coulter's formidable ire, I should point out that Dan Quayle seems to be smarter than George W. Bush.

Only a partisan Republican could fail to see the evidence of George Bush's dullness. He recently asked Brazilian president Fernando Henrique Cardoso, "do you have blacks, too?" When Bush spoke in my hometown a few months ago he gave an incoherent and muddled speech about how the terrorists hate "the fact that we believe there ought to be honest political discourse," and about the importance "for citizens in this country to put a face on America for the world to see, the true face. And that's by loving somebody . . . It certainly means mentoring a child; putting your

arm around a child . . . It means organizing a program in your church or your synagogue or your mosque, to help hear the universal call of loving somebody just like you would like to be loved by yourself." He prattled about his now notorious domestic spy program. "We call it terrorism information program, it's a TIP program. This is a program where truckers can report anything that might be suspicious to local authorities. One of the most innovative TIP programs in the country took place in Maine. Governor King, working with the local FBI, signed up a lot of lobstermen. So when they're out there pulling their pots to get the lobsters, if they see something suspicious taking place along the Maine coast, they share the information with the local jurisdictions, local law enforcement jurisdictions . . .

These are not gaffes or mispronunciations (Grecians, Kosovians, etc.). These are nonsensical ravings. In the midst of war and recession, the Leader of the Free World prattles on about

Coulter is sometimes outrageously cheeky — attacking the editors of National Review as "girly-boys," advocating a massive war to convert the Middle East to Christianity . . .

Maine lobstermen on the lookout for terrorists and about "organizing a program" in your "mosque." But Ann Coulter is an extremely partisan Republican and sees only a "masterful leader" full of "charm and resolute determination."

Who Will Grade the Guardians?

It is fair for Coulter to question the neutrality of journalists who, while, talking about how stupid George W. Bush and Dan Quayle are, inflate mediocrities such as Bill Bradley and Al Gore into Deep Thinkers. She quotes a litany of descriptions of Bradley as "cerebral," and a *New York Times* article in which,

a presidential candidate was repeat-

edly quoted using such expressions as "That's no good for sure" and "Isn't she cool?" Telling a reporter he wanted to discuss "big think" ideas, he stammered "I can't say this, it's going to sound so weird." That was intellectual colossus Al Gore. Naturally, this led the *New York Times* to query: "Is Al Gore too smart to be president?" Mr. Gore's "challenge," the *Times* explained in that very article, is "to show that he is a regular guy despite a perceived surplus of gravitas, which at least some Americans seem to find intimidating." Or as Gore himself eruditely put it: "weird."

Coulter goes so far as to compare verbal SAT scores among Bradley, Gore and Bush. (Gore wins with a 625, but Bush with a 566 is solidly ahead of Bradley's 485.) She also quotes a litany of Democrat and media gaffes (Al Gore: "A zebra cannot change its spots.") and errors that would be endlessly mocked if they were made by Dan Quayle.

In her zeal to display the flaws of Al Gore, Coulter ridicules his performance in the 2000 debates.

In the first debate, he was his natural self — little Miss-Know-It-All . . . In the second debate he overcompensated and became Norman Bates in the last scene of *Psycho* . . . Naturally, therefore, the entire nation was on tenterhooks waiting to see what new weirdness Gore would unleash in the third debate. . . Even the audience was laughing at Gore for his ridiculous pomposity. Bush was in on the joke, laughing and winking at audience members as Gore grew increasingly insufferable.

All of which accords, roughly at least, with my memory of the debates, but begs a question that doesn't occur to Coulter: if Al Gore was such a complete laughingstock — a universally mocked buffoon — how did he manage to win the popular vote in the 2000 election? Without the timely intercession of Ralph Nader, Al Gore would have won a solid victory. The debates gave voters an unfiltered opportunity to view the candidates. One would assume from Coulter's analysis that Gore would have received only the votes of *New York Times* editors and of Barbara Streisand's sewing circle,



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instead of finishing ahead of her champion.

Meet the New Boss . . . Same as the Old Boss

Ultimately Coulter's constricted world view is her biggest weakness. She signed on to the Republican "team" and is a forceful advocate of her side's cause. But she should take a good hard look at her teammates. The Republicans gave up on rolling back

the leviathan state during Ronald Reagan's first term. After the Cold War, they continued to advocate a meddling foreign policy to the detriment of the national interest. Even their family values talk is empty — Newt Gingrich was no more faithful to his second wife than Bill Clinton is to his first. For Coulter, none of this matters, she can always fall back on her mantra, "it's all liberals' fault!" □

Bias: A CBS Insider Exposes How the Media Distort the News, by Bernard Goldberg. Regnery Publishing, Inc., 2002, 232 pages.

Bias, from the Inside

John Tabin

Bias by Bernard Goldberg was in the top ten of *The New York Times* best-seller list for the first four months of this year, often at number one. Jesse Ventura brandished it at a news conference and George Bush conspicuously displayed it on a photo-op walk to Marine One.

The hook that made the book is that Bernie Goldberg is both an "insider" — he was a reporter for CBS when he wrote the 1996 *Wall Street Journal* op-ed that serves as the jumping off point for the book — and a lifelong Democrat, though his language suggests that he might have voted for a Republican at some point in the past few years, but never before. In fact, in 2000 William Tonso used a Goldberg segment to illustrate the media's ignorance of and bias against guns.

In some ways, *Bias* isn't worthy of the tempest it's caused. It's wildly uneven; while there is serious and worthwhile discussion of the mechanisms

and manifestations of reporters' leftward slant, much of the book is a gossipy, hyperbolic, and occasionally illogical screed.

It is strange when Goldberg says there is "no difference whatsoever!" (his emphasis) between the "News Mafia" and La Cosa Nostra when it comes to what happens when you break the "code of silence." Since the book is a fast read, I had little time to reflect on whether CBS News actually has dissenting reporters killed before I came to Goldberg's mocking of CBS News producer Andrew Heyward for saying that repeating Heyward's thoughts on left liberal bias "would have been like raping my wife and kidnapping my kids."

Goldberg wonders what kind of self-centered blowhard would dramatize criticism of himself like that. He has a point — it would be like comparing mistreatment by your employer to a mob hit.

Goldberg is on much more solid ground discussing the culture of the

media elites. Network news steals everything from print, so they pretty much regurgitate what *The New York Times* and *Washington Post* are saying. And since they travel in circles well insulated from the rest of the country, they rarely hang around with people who disagree with them. "After a while," Goldberg writes, "they start to believe that all civilized people think the same way they and their friends do. That's why they don't simply disagree with conservatives. They see them as morally deficient."

There are several good chapters on specific media transgression; coverage of racial issues, AIDS, and homelessness are all addressed. To aficionados of media criticism, little of this is new, but it's presented in a concise, easy-to-digest package.

Reactions to the book from those in the established media have ranged from circumspection (*The New York Times* said the book should be "taken seriously") to outright vitriol (Michael Kinsley dismissed it as a "dumb book"). The most extended and thoughtful reaction from the left came in a March *New Republic* cover story by Jonathan Chait, who contended that the book's thesis needed refining: media bias is more complex than just a straight left-wing tilt. Their script calls for "more stories about poverty and environmental despoliation during Republican administrations, and more stories about government bloat and military unpreparedness during Democratic ones." Chait calls this an "equal-opportunity" bias — but is it really no worse to be portrayed as cruel than to be portrayed as soft? (I've never seen a story on "government bloat" that addressed the coercive nature of taxation. Government is occasionally a joke, but rarely an outrage.)

Chait also argues, using data from the left-wing Fairness and Accuracy In Reporting (FAIR sees a *rightward* media bias, which indicates how far to the left their perspective is), that in fact reporters are more socially liberal than the general population, but also more economically conservative.

If this were true, the news would have a largely libertarian flavor (with

a few exceptions — there are certain social issues, like gun control, where the left-liberal position is the opposite of the truly liberal position). I doubt there are many readers who feel this is the case. Reporters may be more likely to support free trade than the general public (one case of their “conservatism” Chait cites), but steel workers losing their jobs to imports, for example, both fit the “cruel right-wing” script better and are easier to find than the inevitably greater number of jobs created in steel-using industries.

One thing neither Goldberg nor, as far as I know, any of his critics men-

Goldberg says there is “no difference whatsoever!” between the “News Mafia” and La Cosa Nostra.

tion is the media’s bias on the drug war, which is decidedly toward Bill Bennett’s side of the argument. Scare stories on the latest club drug trends are a staple of local and national news. Scaring people about their children’s brains turning to mush is an easy way to get an audience, and being against drugs (like being against cigarettes and “greed”) seems to be considered a sign of “compassion” by the media. I once saw Bill O’Reilly tell a libertarian guest that his call for legalization showed he didn’t care about children. O’Reilly, of course, is meant as an alternative to the mainstream media shows — where a libertarian wouldn’t be booked in the first place.

In 1995, media critic Jon Katz argued in *Wired* that the old model of objectivity was becoming obsolete, and a standard of “informed subjectivity” would be better. *Wired’s* website at the time allowed readers to spar with authors in the message boards, and I was objectivity’s most vocal defender. I felt then that with a license to opine overtly, the facts would be even further distorted. In the past seven years, the explosion of the Internet and cable news, much of which is almost exactly what Katz described, has convinced me that no insulated establishment can maintain a

monolithic bias in a free market of ideas. Whether or not I agree with the perspective, I much prefer the open bias of Matt Drudge’s tabloidish Internet journalism to the feigned objectivity of the evening news. If Dan Rather wants to be a shill for the Democratic party while pretending to be evenhanded, he’s perfectly welcome; as Goldberg says in his conclu-

sion, I can just “aim my remote . . . and click the button marked ‘off.’” Then I can log in and check *The Drudge Report*.

Still, despite its flaws, *Bias* has made some in the media acknowledge their problems. Maybe they’ll do some house cleaning, and begin producing a less-biased product. That would be a good thing. □

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Nixon on Stage and Screen: The 37th President as Depicted in Films, Television, Plays and Opera, by Thomas Monsell. McFarland & Company, 1998, 247 pages.

Nixon in Life and in Art

Stephen Cox

Politically, Richard Nixon was a typical inhabitant of that sad desert of Republican Party history that was bounded on one side by the low, jumbled hills of Wendell Willkie and Thomas E. Dewey and on the other by the glittery Las Vegas of Ronald Reagan.

Like Reagan, he was, at least theoretically, a supporter of free markets and individual rights. Like Willkie and Dewey (and Huey and Louie too, I guess), he wasn't particularly interested in either of those things. What interested him was gaining and keeping office. For that purpose he, in company with virtually all the other Republican pols of his generation, supported every big-government scheme that anybody ever thought of, including schemes designed to benefit precisely those people (professors, welfare workers, "artists") who would never, ever vote for him. Because their politics was formed largely by reaction to other people's whims, Nixon and the thousands of public figures whom he typified were always falling for weird, momentarily popular ideas. Example: when inflation drifted slightly upward in 1971, Nixon responded with a sudden, despotic imposition of wage and price controls on the whole economy. He suspected that it wouldn't work, and it didn't.

Well, so what? He was re-elected in 1972.

Nixon's openness to expedients could lead, by chance, to some good things, too. He rendered one of the greatest services to liberty that any American statesman has ever rendered when he pledged to end conscription, and did so. In this instance, he was actually opposing the mindset of the liberal establishment. At the time, leading Democratic politicians were calling for conscription to be expanded, in order to make slavery fair for all. Nixon appears to have perceived that violent opposition to "the military-industrial complex" was chiefly motivated, not by any sincere conviction that either war in general or the Vietnam War in particular was "wrong," but by the decided disinclination of middle-class youths to fight a war. He acted on that perception, and it turned out to be correct. For all intents and purposes, the end of the draft was the end of mass agitation in the United States.

Unfortunately for Nixon, however, this turned out to be another one of those cases in which the people who profited from his actions continued to detest him. His big mistake came early in his career, when he participated in the popular anti-communism of the time. Anti-communism is the one thing that the liberal establishment never forgives in a Republican politician. Nothing that Nixon ever did could free him from the mark of Cain

stamped on his forehead by the anti-anti-communists who for the past half-century have systematically promoted a confusion between him and the man now popularly regarded as the worst villain of all time, Sen. Joseph McCarthy.

This accounts for 66.6% of Nixon's bad reputation. For the other 33.3% we must blame his own personality, which was always more interesting than his politics. Odd, vulnerable, shifty as vulnerable people often are, coarse as men of his generation were taught to be, admiring of intellect without being an intellectual, admiring of grace and courage without ceasing to admire phoniness and cunning, Nixon was finally defeated by the second-ratedness within him, ably assisted by the third-ratedness of his subordinates and the fourth-ratedness of his opponents. Nixon was a

Odd, vulnerable, shifty as vulnerable people often are, coarse as men of his generation were taught to be, admiring of intellect without being an intellectual, admiring of grace and courage without ceasing to admire phoniness and cunning, Nixon was finally defeated by the second-ratedness within him, ably assisted by the third-ratedness within him.

strangely fascinating American. I put that last word in its place of emphasis because I cannot picture him as a denizen of any other clime. Can you?

Since Nixon was, in his way, a representative American, it is interesting to see how other Americans have viewed him. That's what Thomas Monsell helps us do. He offers a detailed, year-by-year accounting of hundreds of representations of Nixon supplied by the performing arts during the past half-century. His research is almost frighteningly extensive, his judgments are fair, his writing is pungent. *Nixon on Stage and Screen* is both

a trustworthy reference book (I found only one substantive error — an allusion to an alleged parody of the film *High Noon* that is in fact a parody of the TV series *Gunsmoke* [p. 76]) and a juicy story about all the things that can happen to you when people with type-writers decide to do you in. Because that's what 99% of the people responsible for the works considered in this volume try to do to Nixon. They try to do him in. In the process, they reveal a great deal more about themselves than they reveal about RMN, the human punching bag.

Quite a number of these people are repeat offenders, producing work after work on the theme of Nixon's wickedness. Gore Vidal (can there be such a man?) is one example: two plays and a movie, plus a TV miniseries attacking Nixon associate Alexander Haig. Oliver Stone, on whom even Vidal purportedly looks down (212), is another one: three films and a "dialogue" published in a magazine. Then there are the paranoids — e.g., Robert Altman, whose vision of America (projected in the play and film *Secret Honor*) appears to be that of a nation controlled by 100 "wealthy power brokers who . . . meet in California's Bohemian Grove" and who ensnare aspiring young politicians like RMN by placing ads for people to run for Congress (134). Yes, I'm sure that's the way things happen in American politics — and it's all so dramatically compelling, too.

Notice should also be taken of the fetishists of sex theory, who find themselves able to account for Nixon's *bizarre* ideas (such as his suspicion that there might possibly be such people as communist spies) only by reference to such unlikely features of his psyche as erotic yearnings for the communist spy Ethel Rosenberg. On this topic, consult one of the cultural indicators that Monsell dutifully unearths, Robert Coover's terminally disgusting novel *The Public Burning*. I parted company with Coover's work after witnessing his public reading of part of it, but Monsell assures us that "the novel's epilogue contains a scene in which Nixon is sodomized by Uncle Sam" (21). This is the kind of thing that is supposed to reflect badly on *Nixon*.

Defending the ludicrous account of Nixon delivered by *Secret Honor*, Altman said, "Whether it is true or not doesn't make any difference because in art what you try to do is explore various views of things. This is just a view" (134). Here is a refreshingly innocent declaration, especially for someone who, to my knowledge, has never used his art to explore any idea that dared to wander outside the well-established confines of the American left. Despite all the talk, by people

cited in this volume, about the use of art to explore Nixon's "tragic" character, any authentic evocation of tragedy requires a degree of sympathy for the protagonist, a degree of sympathy that is precisely what does not emerge in the artistic views of Nixon that have thus far been produced. Perhaps funds were lacking for a truly tragic treatment. Or perhaps the only "art" that gets funded in America is art that is immune from sympathy with any but a left-wing worldview or character for-

Notes on Contributors

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mation. Of course, it would be very easy, supposing that Hollywood is *not* more sympathetic to communism than it is to Richard Nixon, to turn the story of his life into a tragic film. First you would establish sympathy by showing the young RMN heroically battling the commies. Then you would investigate the fatal flaw that got the mature RMN mixed up in the Watergate mess. Anyone could write a film like that. Funny, isn't it, that nobody has?

But if you really want to see how far American art has wandered from accurate or even interesting perspectives on the world, ask yourself this question: where is the spate of films, plays, and television dramas exploring

Despite all the talk about the use of art to explore Nixon's "tragic" character, any authentic evocation of tragedy requires a degree of sympathy for the protagonist, a degree of sympathy that is precisely what does not emerge in the artistic views of Nixon that have thus far been produced.

President Clinton's flaws and errors? Here, one might imagine, is the kind of thing that would practically write itself in Hollywood. After all, the town voted en masse for Clinton. Surely the people who backed him for president must believe that he qualifies as the kind of character whom Aristotle regarded as fit to become a tragic hero — a good man, "or one better rather than worse."

And surely those people, if they're smart enough to vote, would never deny that Clinton has some interesting flaws, perhaps even more interesting flaws than those of Richard Nixon. But dramas about the tragedy of Clinton appear to be slow in coming. In fact, there aren't any. Offhand, I can't even think of a novel that shows Bill Clinton being sodomized by Uncle Sam. Now, why do you suppose that is? □

American Road: The Story of an Epic Transcontinental Journey at the Dawn of the Motor Age, by Pete Davies. Henry Holt, 2002, 274 pages.

Paving the Way

Bruce Ramsey

In 1919, Americans knew the continent could be crossed by motor vehicle. It had been done in 1903 by a couple of adventurers, and in the years that followed, adventurers and auto promoters continued to cross it. It generally took two months, and entailed many breakdowns and being hauled out of mud holes by teams of horses. So what was the point of the First Transcontinental Motor Train of 1919?

The 1919 trip aimed to show what *ought* to be done, which was to connect America's islands of good roads into a highway system that motorists could travel from coast to coast.

Railroads had been transcontinental for 50 years. Some of the lines had been built with subsidy, but most were built with the lure of profit. Roads were different. There was no profit in building them, which is why Garet Garrett noted in 1923, "we came to have the finest railways and the worst highways of any country in the civilized world."

The first organized effort to build a decent transcontinental highway occurred in 1913, with the organization of a private association to promote a transcontinental road, to be called the Lincoln Highway. The association sold memberships and raised seed money for what would be a public project, getting contributions from auto, tire, and cement companies. The boss of Goodyear signed on, as did the boss of Packard. Henry Ford refused

to contribute. He said government should build the roads.

And it looked as if government might. States were floating highway bonds, and there was a bill in Congress, the Townsend Bill, to create the U.S. highway system. The bill needed a push.

That was where the Transcontinental Motor Train came in.

It was an Army project, officially unrelated to pushing a bill in Congress. The Army had just helped win World War I and needed something to do. So did Dwight Eisenhower, a 28-year-old lieutenant colonel. He was stationed across the country from his wife Mamie, and he was bored. He signed on to go along on what was billed as a recruiting drive and a test of the motor transport corps.

The Motor Train was a convoy of 81 vehicles, some of them five-ton Mack trucks. Trucks had solid tires then, and on rough roads they'd feel like they were shaking the drivers' teeth out. They lacerated the unpaved roads. In Utah, one critic said that after the trucks had passed, the road looked like it had been bombed. The trucks were too heavy for the rickety bridges, and they had to reinforce or rebuild scores of them.

The convoy was a media event. It was seen, its promoters claimed, by more than 3 million Americans. The Army men were greeted in every town, at least if they arrived before midnight, and treated to public showers, lemonade, fried chicken, cigar-

ettes, oratory, and parades. In Ogden, Utah, they were met with "young women, especially selected for their looks, handing out baskets of peaches and watermelon slices." Salt Lake City presented the commander, Col. Charles McClure, with a six-foot car made entirely of flowers.

Every city wanted to be on the Lincoln Highway — because they had learned what happened to the towns that were on the railroad, and to those

Railroads had been trans-continental for 50 years. Some of the lines had been built with subsidy, but most were built with the lure of profit. Roads were different.

that weren't. Ogden had used political pull to get on the road; Denver was scorned.

American Road bills itself as the story of the greatest road trip in American history, but it was written by Pete Davies, an Englishman. Davies first read of the Motor Train in *The Prize*, Daniel Yergin's history of the oil industry. "There were only three paragraphs," he writes, "but it seemed worth looking into." On April 7, 2001, he bought a pea-green 1985 Chevy Caprice and set off across the United States to mine every library and historical association along the trail.

The book is a mixture of narrative of the trip, history before the trip, after the trip, and description of the road

today, all of it told in good humor (not humor).

Some of the stories are from the dispatches of McClure and his chief mechanic (who weren't always on speaking terms). McClure drove the men hard, and Davies reports that in Nevada, "The men were so tired by now that their telegrams seem only barely to cling to intelligibility. Cabling headquarters from Eureka, McClure said he was in Austin, Texas."

Some of the stories are from memoirs. Ike told how he and a confidante had played a joke on the Easterners, faking a report that Indians might attack. They borrowed a shotgun, and assigned a particularly credulous Easterner to midnight sentry duty. They sneaked out and began making war-whoops in the sagebrush until the Easterner let fly with both barrels, which had been secretly loaded with blanks.

Some of the stories have no relation to the road but were too good to pass up. In Rawlins, Wyo., there is the tale of three doctors and an assistant, Lillian Heath. They found themselves in possession of the corpse of Big Nose Charlie, who had been hanged, and wanted to know if the brain of a criminal was different from that of respectable folk. "So with Big Nose Charlie's cadaver conveniently at hand," Davies writes, "they cut off the top of his skull to have a look. Whether their investigation produced any profitable theories isn't recorded, but Miss Heath — who's said subsequently to have become the first female doctor west of the Mississippi — kept the lidless skull on her desk for years thereafter."

One of the doctors, John Osborne, removed some of the skin, tanned it, and made a pair of human-skin shoes. "Then he went into the livestock business, got himself elected governor of Wyoming, and wore these human-skin shoes at his inauguration." The shoes, Davies reports, are on display at the county museum at Ninth and Walnut.

The Motor Train was a success in the way that counted: the Townsend Bill was passed, with a considerable push from the mayors and governors along the route. Federal money, sup-

plied by a tax on gasoline, became available for highways. The program was deemed constitutional, on grounds that the Constitution authorizes "post roads." And the market had figured out no way to provide good intercity roads anything like the way it had provided rails.

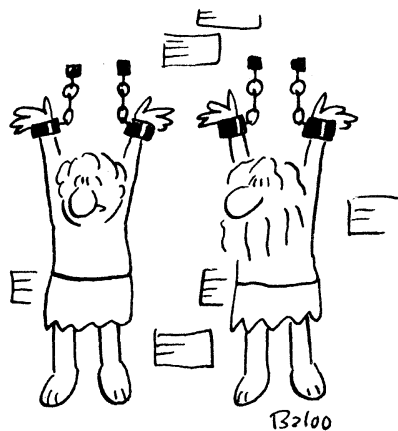
But the first road across America would not be named after Abraham Lincoln. Federal officials would number roads, not name them. They called the designated Lincoln Highway from Philadelphia through Granger, Wyo., U.S. 30, and from Ely, Nev. to Sacramento, Calif., U.S. 50. Much of the Utah road, some of which had been financed by Goodyear and Packard, was abandoned in favor of a route due west from Salt Lake toward Wells and Winnemucca. Central Nevada towns such as Eureka and Ely, which expected to be on the main national arterial, found themselves on what is now called "The Loneliest Road in America."

Americans took to the open road. It allowed them to own and control their own vehicles rather than buy tickets to

Central Nevada towns such as Eureka and Ely, which expected to be on the main national arterial, found themselves on what is now called "The Loneliest Road in America."

ride on vehicles owned by someone else. They could go where they wanted, when they wanted, which fit the national psyche perfectly.

A generation later, after seeing the German autobahns, Eisenhower signed the bill that created the Interstate Highways. We all know the result, but people have mostly forgotten how it began. *American Road* tells a colorful part of it. And at a time when all the proper and progressive people itch to "get people out of their cars," it is refreshing to read a story that unapologetically celebrates the open road. □



"Uh-oh — my arms are getting tired!"

Washington, D.C.

A dispatch from the War on Terror, as reported in the *Seattle Times*:

The anti-terrorism package passed by the House includes \$2 million for the Smithsonian Institution to buttress security of thousands of animal specimens stored in inflammable alcohol.

U.S.A.

A theological breakthrough, as reported in *U.S.A.*

Today:

Catholicshopper.com offers Jesus Sports Statues, each showing Christ playing sports with children. The twelve versions include Jesus showing a kid how to drive a golf ball, and Jesus scrapping for a hockey puck.

Singapore

Dispatch from the War on Drugs, as reported in the *Singaporean New Paper*:

An undercover investigation by Singapore's drug squad has made Marks & Spencer remove crackers from its shelves because they contain poppy seeds.

A drug squad spokesman said: "Because the Misuse of Drugs Act states that morphine is a controlled drug, you're not supposed to have morphine in any amount."

Andhra Pradesh, India

Modern dairy technology comes to the Indian subcontinent, as reported in *The Deccan Chronicle*:

An Indian dairy firm has started marketing instant Holy Cow Dung mixed with camphor, turmeric, and sandalwood paste to help urban Hindus perform their rituals properly.

One young housewife said: "I used to avoid cow dung because of its bad odour. But this Holy Cow Dung does not smell that bad and I am going to apply it at home."

Tokyo

Soccer hooliganism reaches the Far East, from the *Shukan Post*:

Japanese women can't get enough of England's soccer captain David Beckham. "I stayed at hotels where Beckham stayed during the World Cup. I checked toilets he might have used, took photographs of them and even licked them," one woman said. "I'm definitely going to England. I want to live in Beckham's neighborhood and go swimming or shopping together with him. If I meet his wife Victoria, I will ask her to leave him."

Stoughton, Mass.

Criminological note, from *The Patriot Ledger*:

Council on aging director Christine Quinn, four months on the job, told selectmen in a letter that the Tuesday afternoon bingo crowd at the town's senior center has grown "increasingly unmanageable and intimidating" and the situation is "potentially unsafe" in the wake of her new rules.

At Quinn's request, a police officer was stationed at last week's game, where about 75 seniors played without incident.

England

New extremes in rags-to-riches journey, reported by the *Seattle Post-Intelligencer*:

"Now that she has had a fairy-tale wedding to Sir Paul McCartney, Heather Mills is a far cry from her days as a homeless runaway, when people urinated on her head."

France

Dispatch from the War on Terrorism, fought with Gallic élan, from Reuters:

A suspected member of the Basque separatist group ETA escaped from France's notorious Sante jail by swapping places with his brother during a visit, red-faced French prison officials said.

Ismael Berasategui Escudero, arrested by French police in May in possession of a loaded pistol and suspected of being linked to a large haul of weapons found in southwest France in April, pulled off the switch on Saturday.

Prison officials only noticed the ruse on Thursday when Escudero's brother, who bears a family resemblance but is not a twin, made them aware of it himself.

The Friendly Skies

Yet another dispatch from the War on Terror, from the *San Francisco Chronicle*:

San Jose State University student Maxim Segalov was charged Wednesday morning before a U.S. District Court magistrate with interfering with a flight crew. He faces up to 20 years in prison and up to \$250,000 in fines stemming from an incident aboard American Airlines Flight 781 from Chicago to San Francisco when the crew saw Segalov using a cigarette lighter to heat up some AA batteries, which he mistakenly believed would recharge them. Crew members became concerned and the plane made an emergency landing in Salt Lake City.

Stanford University chemistry professor emeritus John Ross said batteries require electricity to be recharged. He also said he ating a battery with a flame could lead to a small explosion and release some chemicals, but it would not threaten an airborne plane.

Seattle

Victory for the Million Moms, as reported in the *Seattle Times*:

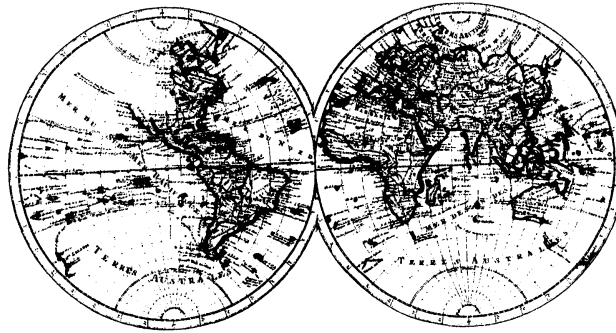
High School chemistry teacher Larry Gulberg has been charged with a weapons felony after police learned that he uses a 3-foot steel pipe with a hole in one end that he calls a "carbide cannon" to teach students about balancing chemical equations.

Julian, Calif.

One way drug use endangers our homes and children, as reported in the Associated Press:

Firefighters made progress Wednesday as they fought to corral a wildfire east of San Diego that forced dozens of residents to evacuate. The blaze started July 29 when a National Guard helicopter clipped a power line during a search for marijuana plants in the rugged, isolated area. The 53,200-acre fire had destroyed 22 homes.

Terra Incognita





Farmers, Get a Job!

by Sheldon Richman

farmers (which is what should have happened if the doomsayers were right), we have fat people (see the recent Surgeon General's report) and farmers belly-aching about low crop prices.

Getting back to the AP story: I'm a magazine editor, and I have yet to read in the newspaper that "editors' earnings will drop 20 percent this year unless Congress enacts a new editor program or approves more emergency payments." Do you know what I and my fellow editors have to do if our earnings drop to a level too low to live on? We have to look for higher-paying jobs! I assume that mechanics and real-estate salesman have to do the same.

But not the farmers. They have apparently been bestowed with the Divine Right to Farm. If they can't make enough to live on, they have the legal power to loot the rest of us so they can stay on the farm anyway.

Maybe the yeoman farmer, the noble man of the soil, is too busy lobbying for taxpayer subsidies to learn

a little economics. But when a line of work won't pay a satisfactory income, it is the market's way of saying we have enough people doing that; go find something else to do. Why should farmers be an exception to a perfectly good rule?

Do you realize that 30 percent of the wheat farmer's gross income comes from the government? Thirty percent! The guys that grow other grains and soybeans get 20 percent of their income from Washington. Can you say "socialized agriculture"?

I know how the farmers would respond. They need special treatment because they have to contend with the weather and price fluctuations. Like that's something new. Farmers have been plagued by drought, floods, and pests since biblical times. Uncertain prices are just as old. Guess what: the free market long ago evolved ways for farmers to transfer the risks to people willing to accept them in return for the prospect of high profits. They're called insurance and futures markets. The govern-

ment has screwed up crop insurance because it thinks it can handle it better than private companies. The futures markets still work. The principle is simple. A farmer doesn't know what the price of his crop will be when he plants it. But there have always been risk-takers who are willing to bet that the price will be even higher than the farmer is happy to accept. So the risk-taker promises to buy the crop from the farmer at an agreed-on price. That gives the farmer a guarantee against a lower price and the risk-taker the chance for a real killing. Everyone is happy.

In other words, farmers don't warrant special treatment. Capitalist technological advances have made it possible to grow more food on less land and with fewer farmers. Why don't we face it already?

*Sheldon Richman is senior fellow at The Future of Freedom Foundation (www.fff.org) in Fairfax, Va., author of *Tethered Citizens: Time to Repeal the Welfare State*, and editor of *Ideas on Liberty* magazine.*

It kind of makes me wonder what country I'm living in when I pick up the newspaper and read this from the Associated Press:

"With crop prices mired near record lows, the government says farm earnings will drop 20 percent this year unless Congress enacts a new farm program or approves more emergency payments."

Before we dissect this "news," let's step back and appreciate the big picture. For many years the environmental movement has been warning that the out-of-control human race will imminently starve itself to death because of the Malthusian notion that population growth will outstrip food production.

Well, it hasn't quite worked that way. Instead of starving people and wealthy

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