

Liberty

May 1999

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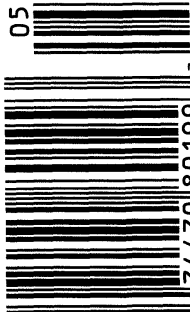
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Inside Liberty

May 1999

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The Transformation of Libertarianism?

During the past ten years, the portion of libertarians who disagree with Ayn Rand's famous dictum that "no person has the right to initiate the use of physical force" has increased fivefold. From this and other data, R. W. Bradford has hypothesized that libertarianism is changing from its Randian-Rothbardian model to a more eclectic form. Here, Bradford meets his critics

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Letters

A New Libertarianism?

Liberty has received an extraordinary amount of mail about "The Liberty Poll" (February) and R.W. Bradford's analysis and commentary on it (February, March). Here we include a sampling of the letters; elsewhere in this issue, we publish a symposium on the subject, with comments by David Friedman, David Boaz, Leland Yeager, Tom Palmer, Pierre Lemieux, and David Ramsay Steele, and a response from R. W. Bradford.

—The Editors

Smoking the Tea-Leaves

I've just finished several readings of R.W. Bradford's "Rise of the New Libertarianism" (March) and I've got to say, every time I read it I get a little more ticked off.

How can any honest or coherent libertarian embrace anything but an obligation-based political ideology? Since real life consists largely of meeting personalized obligations, how is it possible that groupified life could be so fundamentally different? Do you really think that such a schizoid setup — Smith acknowledging his own obligations in private life but doing just the opposite when he goes politicking — can or should exist over time?

I think not. And I devoutly hope not. Indeed it's only because I'm convinced that the libertarian ethic is a tough "Thou Shalt Not" discipline that I stay in the movement. Still more, I'm convinced that, absent the development of some additional Personal Responsibility language, the movement itself will end up as a minor historical footnote.

I'm a libertarian only because of the non-aggression axiom (or something very like it) which in essence is the political expression of the theological/philosophical "Thou Shalt Neither Steal Nor Kill." And while at times that axiom can be deconstructed to look silly, I nevertheless maintain that nobody yet —

including you consequentialists — has come up with a better sound bite to express the core libertarian virtues.

And just what is it that makes you consequentialists believe you can read the future better than anyone else? Do you take a tea-leaf reading course or what? You guys really should quit smoking that omniscient stuff before it gets all of us in a lot of trouble.

John M. Simons
Sheffield, Vt.

Economy and Morality

So Bradford believes that natural rights theory has some "seemingly insoluble problems." Hmm. Well let's see. If I shove a knife through Bradford's ribs he's sure that's force, but he's not sure if it's "force" if I touch him with a feather. I'm not sure either but that doesn't make this some insoluble problem; it's just a situation that requires some context.

If Bradford is on a window ledge and I touch him with a feather (causing him to lose his balance and fall), the touching is the proximate cause of his fall and, therefore, probably rights-violating. On the other hand, being touched by a feather walking down a public street or at a football game hardly "forces" anyone to do anything they were not already doing. No actions or plans were interfered with so . . . no force and no rights violation. And ditto for the molecule of nitrogen that touches another. Courts and arbitrators deal with context situations like this every day so it's hard to see why these are insoluble difficulties.

I don't disagree that consequentialist arguments may be more effective with non-libertarians than moral rights theory. But that's no reason, necessarily, to run down moral theory or abandon it completely. After all, consequentialism cuts both ways. Nineteenth and 20th century interventionist consequentialists argued that government could promote "efficiency" or the "greatest good" by regulating (fill in the blanks). And if there are

really no moral principles involved, if public policy is all just a matter of cost/benefit calculations, then the side with the "best" numbers or most devious economists can defeat liberty.

Alternatively, liberty can also be lost because interventionists make the "moral" argument that it is "right" to regulate, that it is "right" to use force to promote their vision of the good society. Our opponents have always understood the strategic value of moral theory in promoting their agenda; we must too. Clearly, then, it would seem that we need *both* economic and moral arguments if we are to make any real progress toward a free society.

Dom Armentano
Vero Beach, Fla.

Rhetorical Policies for Libertarians

R. W. Bradford has identified an important and interesting trend: diminishing influence of Rand and Rothbard and their "moralistic" libertarianism and a corresponding rise in "consequentialist" libertarianism. He goes on to criticize the non-aggression axiom which he says most people view as "just plain crazy." But the reader only needs to turn a few pages to find an example where consequentialists can get into big trouble. Mark Skousen tells of economist Paul Samuelson's praise for the Soviet economic system, based on growth statistics that turned out to be phony, and reports that some conservatives "even capitulated on Soviet statistics."

Rather than abandoning moral arguments generally, and the non-aggression axiom specifically, libertarians must learn to explain and interpret them intelligently. In arguing for repeal of drug prohibition, for example, I start out by citing the numerous horrific consequences of this policy. If my arguments are being heard and the timing feels right, I might throw in a Randian line like, "and besides, where do politicians get off telling you and me, responsible adults, what substances we may or may not ingest?" Maybe this places me at the political fringe in the listener's mind, but

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

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

Subscriptions are \$29.50 for twelve issues. Foreign subscriptions are \$34.50 for twelve issues. Manuscripts are welcome, but will be returned only if accompanied by a self-addressed, stamped envelope (SASE). A writer's introduction is available: send request and an SASE.

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so what? They have heard a principled yet practical stand, and will usually resonate with that stand at some level.

Ayn Rand's moralism led her to some pretty dreadful situations in her personal life as well as her writings. But she got one thing right in a big way: the moral and the practical are one and inseparable.

Warren Gibson
San Carlos, Calif.

What the Poll Can't Tell

The Liberty Poll may be fun to compile, but I can't see much point to comparing its 1998 results to the answers it gathered in 1988. I am surprised that *Liberty's* editor, who understands more math than I do, doesn't see the trouble with comparing two self-selecting, unscientific surveys of radically different population samples and then drawing sweeping conclusions.

In 1988, *Liberty* was a magazine devoted exclusively to the libertarian movement; its circulation was less than 2,000. Today, it has several times that number of subscribers, many of whom are not part of the libertarian movement per se. To simply compare surveys of its 1988 and 1998 readerships is useless, statistically speaking.

The poll of Libertarian Party members may seem to be more defensible. But even leaving aside the problem of self-selection — how do we know how much of the change in the response reflects a shift in who simply bothered to fill out the poll? — there is the LP's changing makeup. Perhaps many natural-rights libertarians have left the LP, but remained part of the libertarian movement. Perhaps consequentialists who were already a part of the movement joined the LP upon deciding it was adopting a more consequentialist direction. Or perhaps, as Bill Bradford asserts, the libertarian movement is simply become more consequentialist in outlook. Who knows? The Liberty Poll, by itself, won't tell you.

Jesse Walker
Los Angeles, Calif.

Advocating Non-Advocacy

I started to answer the questions in the recent Liberty Poll (opinions solicited July 1998, results published February 1999) but gave up. I decided that as a libertarian I had no business answering some of the questions as framed. For instance I cannot agree or disagree with

the assertion "Government should be eliminated altogether." That choice should belong to the people involved and not to me — unless I am one of those people.

Most libertarians understand that many bad things grow in the shadow cast by the state. We understand clearly, for instance, that violence results when the state decides who may consume which drugs. But I think many libertarians overlook some of the subtle consequences of the state.

Consider *advocacy* for instance. Mere advocacy, of the categorical sort implied by some questions in the poll, I think grows only in the shadow of the state. For example: Would you ask libertarians to agree or disagree with an assertion that bedtime should be 10 p.m.? If you think such an assertion is preposterous it is because you grew up in a land where it never entered anyone's mind (yet) that government should determine bedtime.

But why then do you ask libertarians

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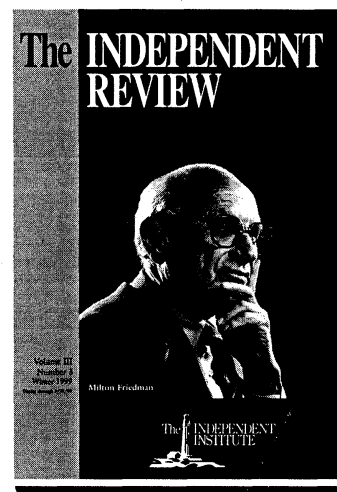
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to agree or disagree that a person should have a legal obligation to support his or her offspring? It seems to me that such a question has relevance only in a nation where the state has already grown large enough to possibly seize control of this choice, and where citizens indoctrinated with public spirit believe their opinion might matter on policies which will rule not only themselves but others as well.

Richard O. Hammer
Hillsborough, N.C.

Thoreauvian Wisdom

I'm not sure whether the trends of libertarian opinion bode well or ill for the libertarian movement, but the results of the Liberty Poll were fascinating. I was particularly interested in the breakdowns by age group. However, I can't resist the temptation to point out a glaring omission from your survey. In the section of the poll where you asked people to rate how much they were influenced in their libertarian beliefs by various individuals, you neglected to include one of the individuals that influenced my political and philosophical views the most: Henry David Thoreau.

In my opinion, Thoreau's "Civil Disobedience" is one of the most eloquent critiques of government and one of most inspirational defenses of individualism ever written. Thoreau, after all, is the man who wrote, "I heartily accept the motto, 'That government is best which governs least'; and I should like to see it acted up to more rapidly and systematically. Carried out, it finally amounts to this, which also I believe — 'That government is best which governs not at all'; and when men are prepared for it, that will be the kind of government which they will have."

Please, seriously consider adding Thoreau to your poll in the future.

Calvin Stacy Powers
Cary, N.C.

R.W. Bradford responds: John M. Simons seems to think that I want to eschew legal obligations entirely. I want nothing of the sort. What I oppose is a legal system based on the non-aggression imperative, which obliges all people in all circumstances to refrain from initiating force.

Dom Armentano conflates natural rights theory in general with the variant of natural rights theory that claims that non-aggression is an imperative. It is only the latter group which has an "insoluble problem" with the threshold

of the initiation of force. I have long advocated just what he suggests: that libertarians need both economic and moral arguments.

Warren Gibson suggests that I favor abandoning morality altogether. He's just plain wrong: what I suggest is abandoning one particular moral argument altogether (namely, that the non-aggression imperative is a good thing).

Jesse Walker challenges the validity of the poll itself, a point I discuss later in this issue (p. 28), so I won't trouble the reader with anything on it here. But I do want to dispute one factual claim he makes and challenge another. The circulation of *Liberty* in 1988 exceeded 3,000, not the 2,000 mark that Walker cites. I question his claim, for which he cites no evidence, that a higher percentage of today's readers of *Liberty* (or Libertarian Party activists) are "not part of the libertarian movement" than they were ten years ago.

Richard Hammer wonders why we would ask a libertarian whether he agrees that a person should have a legal obligation to support his or her offspring. To me the answer is obvious: because libertarianism is all about what sort of laws there ought to be.

Finally, Calvin Stacey Powers argues that Henry David Thoreau ought to have been among those whose influence we asked respondents to rate. I agree with him completely; I wish he had been there when we were writing the questions for the Liberty Poll.

Modest Proposal

The Chinese might be on to something by solving the Y2K problem of their airlines with mandatory flights by all airline executives on Jan. 1, 2000 (*Terra Incognita*, April).

Why not a similar solution here? Require all bureaucratic heads to relinquish all pay and perks until their agency is free of Y2K problems . . . the Liar in Chief included.

Gene Hopp
Bellevue, Wash.

With a Heart of Gold

One morning, in July of 1940, a group of soldiers broke our doors and windows and ordered us out of our homes. It was a small town in Romania's first pogrom. 10,000 of us Jews were killed that day, out of the town's entire population of about 90,000. I recall the barrel of the handgun

an idiot in uniform held about three inches from my head — I was seven at the time, and I did not even know what that toy was for.

We were rounded out to the courtyard — we did not know what was happening, but we could hear machine-gun fire from a few blocks away. There were a few non-Jews looking at us, and Maria was one of them. She was a well-known prostitute who lived nearby. Besides myself, my three-year-old brother, my mother and my father, there were five more families in our group.

We were beginning to move out of the courtyard, when a captain came from the street and called all the troops away — we were ordered to stay there, to be picked up later. As soon as the troops got away, we started to look for places to hide. One of our neighbors had a few wood planks, and he nailed them over the broken windows, and over some of the doors, so the houses looked as if they were abandoned. It took about three hours of work. After that, we hid inside.

We were watching the street through the cracks between wood pieces, and we saw the troops coming to take us. They looked around, and their commander asked Maria "Where are the Jews?" — and we heard her say "They took all of them away about half hour ago. . . ." He believed her — for all I know, he had slept with her before — and he went to the next courtyard. The people they found there were either shot, or packed in death trains.

The "whore" saved our lives, at the risk of her own — I am sure the brutes would have killed her if they had found out what she did. And from then on, we, all of us, the ones who owed her our lives, respected her and all the other "working women" we ever met or knew of.

Articles about "whores" seem to stay away from the human aide of these professionals. Over the years I met quite a few of them — and some of them became good friends of mine and of my family. I often invite them to our house for dinner or other social activities, and I enjoy very much their company.

Thank you for "Whores vs. Feminists," by Wendy McElroy (January). One rarely finds positive attitudes towards "whores" these days — it seems most people have been brain-washed into thinking that the women

who choose to work as prostitutes are not worth the respect due others.

David Schwartz
Farmington, N.Y.

One Nation, Corrupt; the Experiment, Ended

I share R.W. Bradford's evident anger, frustration and contempt for the spectacle recently unfolded in Washington. As Bradford points out ("An American Comedy," March), the American political system is openly, thoroughly and fundamentally corrupted.

Americans may have dodged, for now, the Al Gore bullet, as Bradford noted. But it is far from evident that Americans have *permanently* dodged the Al Gore bullet. More importantly however, I see no evidence that this openly, thoroughly and fundamentally corrupted political system is anything more than a true reflection of an openly, thoroughly and fundamentally corrupted society at large.

The equanimity with which these proceedings were received is telling. Ruling political elites, who behave in such a self-serving and contemptuous manner as they sink further into depravity, must by necessity become increasingly oppressive and dictatorial. Bread and circuses may go a long way to explain the peculiar quiescence of the American people in light of recent events, but make no mistake, as self-aggrandizing, debauched and personal rule replaces republican forms of government, the inevitable and flip side of bread and circuses is the gloved fist of repression.

The glorious American experiment is over . . . and it has failed. I see no evidence that any significant number of our fellow citizens find the recent goings-on in Washington as anything more than a particularly strident partisan struggle, let alone an irrefutable demonstration of the intolerable depths to which we have sunk as nation and people.

Ed Soucy
Princeton, Mass.

America's Shame

For the first time in my life, I felt ashamed to be an American. A criminal was set free and I, and millions of other Americans, allowed it to happen.

He could not have escaped justice without the support of many groups: The Democratic senators who, for

fear of losing the support of Bill's politically powerful administration, chose to be unprincipled sheep.

Some Republican senators, who, for fear of losing voter support, also played the role of cowards.

The trial witnesses. They were ever so well rehearsed.

The host of Clinton lawyers and other apologists who were instrumental in setting the spin to alter or to conceal the facts. With all their strategizing, they never considered the option of simply telling the truth.

The television news media. They bought the spin and presented a story to the public that somehow made the bad guys look like good guys and vice versa . . . or were they just sympathizers from the beginning?

The American public. The majority was divided into those who were simply apathetic . . . and those who thought it was fashionable to support the bad guy if that is what was being said on TV.

Interestingly, the public ignored (and the news media downplayed) the bombings of the "nerve gas factories" that turned out to be aspirin factories. Who doubts that these bombings were ordered to divert attention from Bill's personal problems? Many people were killed. I think that is called "murder." But then, with enough spin, murder will not rise to the level of a high crime either.

There have been two "trials of the century" in recent years. In both cases, the criminals were acquitted. The lesson our children learned is that you can beat the law if only you have enough money and enough political connections. Now, how can we possibly get our national integrity back?

William P. Voegelé
Pittsburgh, Penn.

The Imp of the Impeachment

I almost don't want to disagree with Loren E. Lomasky ("Clinton's Sticky Wicket," March), but here goes. It would do no good to indict presidents for not promoting the general welfare which, in any case, is not the particular duty of that office. I agree that it would have been desirable to have removed George Bush for raising taxes and prosecuting the Gulf War, but I am not sure whether his policies constituted constitutional grounds for impeachment. While practicality should not be an obstacle, it is worth recalling that no one called for his

impeachment because the Democrats wanted him to raise taxes, and the American people supported his Iraq attack. Bill Clinton's conduct in these policy matters — as others in the same issue of *Liberty* imply — has been a continuation of Bush's, only worse, to the point of genuinely violating the Constitution. Further, his policy of *bellus interruptus* that Lomasky finds so admirable seems more a case of tweaking the tiger's tail and won't seem so clever if an enraged Saddam Hussein sends terrorists carrying biological weapons to American cities.

As piddling as the articles of impeachment against Clinton might seem, the Constitution's "high crimes and misdemeanors" do cover perjury and its subornation. Few seem to appreciate the humor in Starr finally settling on Clinton's perjury after finding that his financial crimes had been committed through proxies who were willing to fall on their swords for him. Clinton is evidently one of those creatures who prefers power over money and does not feel the need actually to handle filthy lucre. But sex isn't much fun if enacted through proxies. So catching Clinton lying about sex is easier than catching him lying about money or hatchet jobs. Starr's approach was, therefore, determined by practical necessity rather than by prurient interest. Instead of being "unwise" and "klutzy," as Lomasky says, the impeachment and trial of Bill Clinton was more as Fred L. Smith, Jr., put it on the same page as Lomasky: "pragmatic" and "valuable," because impeachment is constitutionally mandated when a president is found to have broken the law.

Whether this is boring or not is of no constitutional significance.

Miles Fowler
Oakland, Calif.

Weathering a Slam

Jonathan Ellis's "The .08 percent solution" was a nice reflection until he got down to the last paragraph. Shame on him for taking a potshot at us senior citizens! We can drive as well as you. Plus, I know my limitations when driving — I don't drive and drink, and if the weather is bad I don't have to drive, and I don't feel comfortable driving at night, so I stay home.

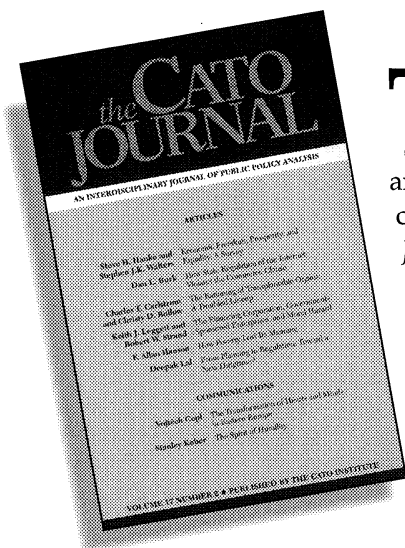
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Reflections

Way Kool Khrist — A poster campaign in Britain promotes church attendance this Easter in a rather novel way. Jesus is pictured in the classic propaganda style previously reserved for the likes of Che Guevara: In bold reds and blacks, crowned in thorns, and heralded with the slogan, "Meek. Mild. As If. Discover the real Jesus. Church. April 4."

The Churches Advertising Network spokesman, Rev. Tom Ambrose, is proud of the effort. And why not? Depicting Jesus as a revolutionary is not a shocking idea. You don't need John Dominic Crossan or any other Jesus Movement scholar to tell you that — it seems that Pontius Pilate made a similar judgment quite some time ago.

But perhaps contemporary propagandists should be careful. They may find their churches infested with government agents, egging them on to heightened degrees of radicalism. Who knows where it might all end? Soon, churches throughout the free world may be consorting with prostitutes, tax collectors, and other dregs of humanity, and liquidating their IRAs and distributing their earthly goods to the poor.

Oh, this took place in Britain, so I repent my hint about "liquidating IRAs"; has a bad ring to it. —TWV

The right woman for the job — After more than a year of "working from home" on undefined duties for the Pentagon — at a cool \$94,098 a year — Linda Tripp in early March was ordered to report for work at the Defense Manpower Data Center as a public affairs specialist.

Well, sure. If you had an affair you wanted made public, she's the specialist. —DB

Oh, grow up! — During the controversy over the president's relationship with Monica Lewinsky, etc., the European media reminded us again and again that Europeans, being more sophisticated about sexual matters, would be quite willing to tolerate such peccadillos as their head of state having a sexual relationship with an intern, rewarding the intern with a government job, using the resources of state to hide this fact from the public, and perjuring himself on the subject when subpoenaed by a sexual harasser from his past.

But the American people proved themselves just as sophisticated as their Atlantic partners when they told pollsters that they really didn't mind he'd done these things, and would be unhappy with senators who voted to impeach.

Now Americans are telling pollsters that, yes, they believe their president raped a woman a few years back, but that this too is no reason to remove him from office.

I wonder what European sophisticates are saying now. That America is even more sophisticated than they? Or do Europeans also routinely accept presidents whom they believe have committed rape? —RWB

Answer with a question — How well does Lord Acton's old maxim that power corrupts apply, even to erstwhile heroes? Well, Czech President Vaclav Havel, a brilliant playwright who was censored, imprisoned and perse-

cuted under the old communist regime, married an actress two years ago, after his first wife died. Dagmar "Dasa" Havel has proven an entertaining and controversial figure (especially since old "B" movies in which she did nude scenes are available for airing on Czech television) and a TV reporter has written a best-selling book portraying her as a scheming opportunist and suggesting she had an affair with her personal secretary. So President and Mrs. Havel have filed a libel suit, and Mrs. Havel said in an interview, "We can't just allow people to write anything they want without penalty . . . What kind of country would this be?"

Maybe a free one?

—AB

Hustlers — America's great Larry Flynt, the man whose virginity was plucked by a chicken, reportedly plans to release more findings from his dirt-digging excursion "very soon." Flynt, who came to the aid of a beleaguered President Clinton last fall, offered money to women (or farm animals?) who could verify having illicit sexual encounters with Clinton haters. After outing Bob Livingston, Mr. Bestiality called him "one sick fuck," without specifying Livingston's particular "sickness."

No doubt Clinton approves of Flynt's carnal crusade — Flynt was the subject of a popular movie, and Clinton adores celebrities. Republicans think Clinton may have fed Flynt information from FBI files, and according to a staffer for a prominent House Republican, the Clinton haters plan to do some outing of their own.

So sexual savagery in politics will continue. I'll take my popcorn with butter, please. —JE

Nazis need not apply — On April 4, 1933, a German statute banned the admission of Jews to practice law. It also banned all then-admitted Jewish lawyers from practicing unless they were veterans or in other special categories. In 1938, the Reich Citizenship Law was amended to ban all Jews from law practice. And on June 20, 1940, the Reich Citizenship Law was again amended to disbar all Jewish attorneys.

Matthew Hale favors such laws for the United States.

During the segregation period, Southern bar licensing authorities blatantly discriminated against black applicants, though some were admitted to practice. If they got too uppity, there was always the threat of removal of their licenses.

Matthew Hale favors that, too.

Now an Illinois bar character committee has rejected Hale's application to practice law. The grounds: his active advocacy of anti-black and anti-Semitic politics, denounced as blatantly immoral and rendering him unfit to practice law. The committee admitted that Hale said he could uphold the Illinois and federal constitutions, though he disagreed with their equal-protection guarantees. And he said he would obey an Illinois rule against discriminatory treatment of litigants, jurors, witnesses, lawyers, and others, until he could change it by peaceful means.

Mr. Hale may hate Jews, but he knows a good attorney when he sees one. He wants a Jewish attorney, Alan Dershowitz, to represent him in his appeal. Dershowitz said he would choose a black lawyer as co-counsel if he took the case.

Which raises a thought: The overwhelming majority of bar applicants favor the current corporate state, which is in essence a type of fascism that incites racial hatred via laws mandating discrimination. If the Illinois bar committee applied its logic consistently, they would reject all such applicants. In 50 years, the entire bar would be libertarian.

—MMS

The case for comments — Don F. Hanlen ("Letters," March) questions the point of submitting comments during the public comment period of an agency rule-making. He suggests that by the time the proposed rule ends up in the *Federal Register*, the agency already has its mind made up and, hence, taking public comments is simply a legally-required formality.

Sure, agencies publish proposed rules and really don't care what the public thinks. But it is going way too far to say that public comments can't accomplish anything.

They can. For example, see "Showdown at Sodaville" in the February *Liberty*. We filed public comments in which we cited the limits of U.S. Fish & Wildlife Service authority under the Endangered Species Act (ESA) on private land (none, unless there is a "federal nexus") and then showed that there was no federal nexus on our land. Then we promised to sue the agency to go as far as we could to gut the ESA if they listed the supposedly endangered Sodaville milk vetch under the ESA. Funny, funny, they decided that the plant didn't really need protection after all and withdrew the listing in a later *Federal Register*. We got this just by filing public comments, which we did without the aid of an attorney; no court action was necessary.

Mr. Hanlen suggests that if you don't like a proposed agency rule, you should get Congress involved. Right. But would you want to count on that? Congress exerts little or no oversight on the way agencies interpret and then "execute" (a good word) congressional statutes. We use all methods of objection available, which include public comments, threats of court actions, actual court actions, and political grassroots lobbying. If you don't want to bother, that's your business. But don't kid yourself that nothing you do can make any difference.

—SS

A sip of freedom — Studies in the last 15 years or so have demonstrated that a modest amount of alcohol — in the range of two drinks per day — can have notable health benefits, including reducing the risk of a heart attack. (The studies also show that drinking to excess erases these benefits and carries serious health and safety risks, and there seems to be evidence that some people are so susceptible to alcoholism that they shouldn't drink at all.)

Statements about those results, however, could not be publicized on the bottles.

What's the story?

As John DeLuca, president of the Wine Institute in San Francisco reminded me, while the wine industry was pleased at the results of such studies, it didn't start out wanting to make health claims on its labels. What happened was that the federal government's dietary guidelines for Americans, as drafted in 1985 and 1990, depicted beverage alcohol as having nothing but deleterious effects. So the industry lobbied to have the guidelines reflect current scientific knowledge, and the guidelines issued in 1996 say that "current evidence suggests that moderate drinking is associated with a lower risk for coronary heart disease in some individuals."

Good news, right? News that people concerned about health would want to trumpet and distribute as widely as possible, considering that heart disease is still the No. 1 cause of premature death in the United States?

Not exactly. It took until February 1999 — three years after the guidelines were actually published — for the Bureau of Alcohol, Tobacco and Firearms (BATF) to permit any mention of this on wine labels. And the wording it chose is still short of what is justified by science. Labels will be allowed to read: "To learn the health effects of wine consumption, send for the federal government's Dietary Guidelines for Americans." That doesn't say there are benefits or potential benefits, just "effects," and encourages consumers to rely on the government for medical advice.

Fortunately, actions in federal courts — one case recently decided and one pending — could seriously curtail federal agencies' ability to censor or dictate statements on food and product labels.

The Competitive Enterprise Institute filed a suit on behalf of consumers in the autumn of 1996 to force the BATF to allow alcohol producers to make truthful statements based on scientific evidence on their labels, so consumers can have access to the information. According to Sam Kazman of CEI, the case was scheduled for a status conference March 1 and should be decided this spring.

The likelihood of a decision that takes the First Amendment's guarantee of freedom of speech into account was buttressed when the D.C. Circuit Court of Appeals issued a strong decision January 15 on behalf of Durk Pearson and Sandy Shaw et al., who had sued the Food and Drug Administration regarding truthful statements on the labels of vitamins and nutritional supplements. The court rebuffed the FDA's paternalistic contention that health claims, even if accompanied by a disclaimer saying the government had doubts about them, were inherently misleading because consumers just couldn't be trusted to weigh evidence and make decisions for themselves.

Government agencies love to dictate precisely what producers of a variety of goods can put on their labels. Courts have begun to recognize, however, that this impulse can violate the First Amendment. So the time may come when we consumers can learn more and make decisions for ourselves rather than having our nannies decide exactly what we are allowed to be told.

It's only a tiny step forward, sure — and

Liberty's Editors Reflect

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the wording the BATF will permit still smacks of paternalism — but it is a step forward and it's unlikely to be the last one. —AB

If you loathed the original, you'll despise the sequel

— Elizabeth Dole informally — well, actually very formally but unofficially — launched her presidential campaign before 1,200 people at the Manchester, N.H., chamber of commerce on February 8. Watching on C-SPAN, I found the whole performance hilarious. Not only did Bob Dole's wife read with a straight face lines like "polls and spin doctors are no substitute for policies," she delivered the entire speech in the most robotic and controlled manner imaginable. In a debate she would make wooden Al Gore look like, well, Bill Clinton. I'd say she's a perfect candidate — for the role of a female Republican politician in a Tim Robbins movie. —DB

The coming backlash, Notice No. 1

— A few years ago, your company got a new CEO, and you got worried. The new guy looked like a jerk. He acted like a jerk. He had an eating "disorder." He had a marriage disorder. There were rumors of accounting problems and legal problems and sexual embarrassments in the last job he held. He surrounded himself with "consultants" and other sycophants. He was always giving "inspirational" speeches. You would much rather work for someone else.

Nevertheless, after some serious initial difficulties, which included substantial cuts in employee benefits, the company began to do pretty well — very well, if you could believe the annual reports. In this world of multiple causation, it was hard to say whether the new boss was responsible for the firm's success, or had nothing to do with it, or actually retarded it. In any event, everybody got a raise, and then another raise. So the folks in the coffee shop weren't very enthusiastic when a disgruntled segment of the Board of Directors tried to fire the CEO.

It was the old gang, the gang with the trophy wives and the VIP boxes in the stadium. They had never liked the CEO. They had always been sniffing around, trying to find something to use against him. They looked into the accounts but found them . . . equivocal. Finally they seized on one of those little sex things he got going with the gals in his office, and they exploited it.

Of course, he had no intention of signing a dignified letter of resignation and departing with a golden parachute. He lied, then he "apologized," then his handlers and consultants started digging things up about his opponents and leaking them to the local press. After months of heavy fighting among the suits on the 19th floor, and months of gossiping and snickering among the mere employees on floors 1 through 18, there was a climactic meeting of the Board of Directors — from which the CEO emerged victorious. Seems that by that time there were a lot of his own people on the board.

His victory was a good thing, because it meant that the company wouldn't have to risk its current success on some new team of leaders. But it was also a bad thing, because, well, the guy really was a jerk, and probably a crook, too. If he lied about the sex stuff, even after he got caught and eve-

ryone knew he was lying, he was probably lying about a lot of other things, too. Now that you were stuck with him, you could see what an embarrassment he really was.

He was more than an embarrassment; he was a bore. To see him glad-handing around the cafeteria, surrounded by all those chirpy, slimy guys whose only job was to pull him out of the trouble he was constantly getting into — it was enough to ruin your lunch. Was it possible, was it even conceivable, that people like *that* were the masterminds of the company's success? It was not conceivable. So the question became: How can we get the whole bunch of them off our backs? —SC

Looking out for numbers 1 through n

— On January 1, former Libertarian Party presidential candidate Harry Browne issued "A Libertarian's New Year's Resolutions." The first resolution focused on marketing:

I resolve to *sell* liberty by appealing to the personal interest of each prospect, rather than *preaching* to people and expecting them to suddenly adopt my ideas of right and wrong. (emphasis in original)

As much as I admire Harry's skill at articulation of libertarian ideas, as enthusiastically as I have supported his move from being anti-political to his embrace of the LP, and as gung-ho as I was in support of his presidential campaign, I am worried about this resolution.

Surely Harry's dichotomy does not exhaust the possibilities. There are, I submit, more ways to spread libertarian ideas than naked appeals to self-interest ("the personal interest of each prospect") and imitating an evangelical preacher ("preaching to people and expecting them to suddenly adopt my ideas of right and wrong").

Here are two other ways to advance liberty:

- by appealing to people's sense of fairness or justice;
- by appealing to the notion that a libertarian society would enable people to be happier than they are now.

Of course, there are other ways as well. My suspicion is that all these ways work in some situations and fail in others, and that there are situations where *no* approach will work.

But what is the *best* way? Is Harry right when he says that appeals to "personal self-interest" should be the sole approach that libertarians take?

Again, I am not convinced. While naked appeal to self-interest is a very fruitful way of selling goods and services, I see little evidence that it is fruitful in selling political notions.

I don't suggest that self-interest is not an important factor in the formation of political opinion. But self-interest is almost always clothed in the garb of something else, generally the common good. When Bill Clinton tells American steelworkers that he favors restrictions on imports of steel, for example, he doesn't say that he favors this simply to increase their pay or job security. He appeals to fairness ("Korean steelmakers pay low wages and are competing unfairly") or the common good ("if we allow imports to replace our domestic industry, we won't be able to produce enough steel in time of war").

Now the president may know that import restrictions will put money in the steelworkers' pockets at the expense of all other Americans, since it will raise the prices that Americans pay for all sorts of manufactured goods, but he

doesn't say that. Doing so not only weakens his argument (by giving all non-steelworking Americans a strong reason to oppose import restrictions), it also takes away the steelworker's self-respect by reducing him to the level of a welfare recipient and stripping any rationale he might be able to offer his non-steelworker friends and family.

The problem with Harry's wanting to us to resolve to "sell liberty by appealing to the personal interest of each prospect" is not that people don't care about their self-interest. It's that they care about other things as well, and that they realize political policies must appeal to more than their direct beneficiaries.

If Harry has any empirical data that suggests that naked appeals to self-interest consistently work better than other methods of selling liberty, I hope he'll share them with us.

In the meantime, I'm not joining his army of salesman making appeals exclusively to people's self-interest.

One more thing. As much as I dislike the style of evangelical preachers, it seems to me that there is better evidence for it as a means of political persuasion than naked appeals to self-interest. We do, after all, live in the country where the "Great Awakening" occurred, where World War I and World War II were sold to the people as religious crusades, and where fundamentalist preachers like Billy Sunday managed to sell the citizenry on the notion that prohibition of alcohol was a good thing.

Have Americans *ever* effected any major political changes because of someone's concerted effort to "sell... by appealing to the personal interest of each prospect"? —RWB

Who can we impeach next? — I confess: I was sucked in by the impeachment process. I devoted too much time to reading about it, listening about it, and writing about it. It is a difficult thing, to resist the temptation to oust a president. They're all such a bad lot, and the supporters of presidents — from conservatives who prattled about the "sanctity of the office" to liberals who willfully lied about the unplain meaning of the phrase "high crimes and misdemeanors" — are often worse. Why not join whatever small horde of pitchfork-wielders and stick it to The Man?

Well, before the final verdict in the Senate, my passion for political destruction was sated, and I moved on to other, more enduring causes. These days, to the extent I think about politics at all, I wonder whether Al Gore can pass him-

self off as a man of the Center, or even as a man. (I just saw him on TV, in a line with a bunch of Washington state politicians, including the intellectually challenged Patty Murray, holding raised hands in the air and swaying to some chant. Everyone of these politicians looked uncomfortable, as if they were all thinking, "We will suffer any indignity, just to appease the hug-your-neighbor, hold-hands-and-sing wing of the Democratic party.")

I also wonder whether Bush II can make a persuasive case for the Unthinking Center. His version of "compassionate conservatism" pleases media types, but it is amazing how few actual ideas leak out of Texas. Bush II's legacy seems to be one of "stance": it is not what he stands for, but that he stands at all that is remarkable. (John Engler calls this the "politics of performance." Whoopee.)

And, of course, the continued political career of Dan Quayle is not merely cause for wonder, but awe. Awesome indeed is the imp of the perverse — or is it just inertia? — that leads Quayle to run. Having been the brunt of joke after joke while vice president, he has somehow got it into his head that the time is right for him to grab the number one spot himself. It is as if he wished to one-up all the faux pas of the past with an error of such enormity that no one will notice that it is, still, a mistake. Hitler spoke of the Big Lie. Quayle will surely be known for the Big Boo-Boo.

After mentioning Hitler and Quayle, there is but one other politician to consider: Patrick J. Buchanan. A constant pleasure on *The McLaughlin Group* and CNN, Buchanan not only entertains us with his often loony populism, he surprises us by getting the various nitwits of the Unthinking Left (I'm thinking of no one else but Eleanor Clift) to dovetail his paranoia. Of course, Pat's twisted education, as confessed in his autobiography, *Right from the Beginning*, explains a lot. A scary thing, a jovial authoritarian. I breathe easier, repeating what the pundits all say: Pat can't win. (I wonder what the pundits said of Hitler in 1932?)

And, of course, the politicians who would seize the reins of power are not the ones who would reign, anyway. The juggernaut of the modern state lumbers on, and the broad sweep of institutional evolution rarely changes because of any one single man — or woman. The men and women in the bureaucracies matter more, in total, than whether Elizabeth Dole worms her way onto the hot seat.

So, because of this, I'll look less closely at this next presidential campaign than I will at the bigger picture, the landscape of modern politics, complete with sprawling bureaus competing at the trough of the taxbase, mooing of the public interest while jostling for the best feed.

Prepare to be eaten.

—TWV

Thonglock — A lot of people trashed Monica Lewinsky in the wake of her interview with Barbara Walters. I was not one of them. She kept Washington in gridlock for a year, and for that I am grateful. (But perhaps my thanks should be directed to Linda Tripp.)

As for Ms. Lewinsky, she is being called selfish, amoral, immature, and even, in the words of Morton Kondracke, a "slut." Maybe she is all these. But, frankly, a lot of people her age are self-centered and amoral (even if they've been "properly" brought up, as apparently she was not). A lot of these



youthful miscreants come to their senses and move into decent, even morally upright, lives. Monica can, too — if she just stays out of politics. —JSS

The Antitrash — Some time before the Teletubbie brouhaha, Jerry Falwell hazarded not only that the Antichrist may be alive today, but that this devil's own dear son would be a Jew. Immediately, of course, the usual choir resounded with the dread word "anti-Semitism," but surely it is no more anti-Semitic to extrapolate a Jewish Antichrist from the Book of the Revelation than it is pro-Semitic to state, for the record, that Jesus — whom Christians call Christ — was, er, also a Jew.

But Falwell is not the man to turn to for signs of the end times. Why not go to a specialist? Hal Lindsey has been making a good living at the prophecy-interpretation biz since his early '70s bestseller, *The Late Great Planet Earth*, in which he argued that the Antichrist's meteoric rise to political power on our planet will be accompanied by miraculous powers and triggered by a recovery from a death or near-death experience.

Which suggests that the Antichrist, if alive today, might not be a Jew, but upwardly mobile white trash from Hope, Ark. —TWV

Rainbow Republicans — On March 7, Texas Governor George W. Bush held a press conference revealing the members of his presidential "exploratory committee." Upon reviewing his team it occurred to me that if Papa Bush were to have launched a similar committee a generation ago, present at his press conference would have been twelve fat, half-dead, wealthy white guys. In contrast, Junior's committee includes four women, two African-Americans, one Mexican-American and only five overweight, half-dead, opulent white guys. That's what I call progress. —JB

John Kenneth Blowhard — It's disconcerting to think that hundreds of thousands of America's most educated readers get their deepest analysis of economics from John Cassidy in the *New Yorker*. In 1997, in the magazine's "Next" issue, Cassidy told readers that "the next big thinker" would be . . . Karl Marx. As I told audiences then, "You know you're history when the *New Yorker* says you're the future."

Then in the 1998 "Next" issue, Cassidy introduced readers to the wisdom of John Maynard Keynes. And, moving from the catastrophic to the merely risible, in the Nov. 30, 1998, issue Cassidy profiled 90-year-old John Kenneth Galbraith. Cassidy laments that Galbraith "is a great deal more popular with non-economists than with his peers: many contemporary economics texts don't mention his name, and there is no Galbraith 'school' to maintain his intellectual legacy." But surely the Galbraith School comprises every Harvard-educated journalist who laments the existence of poverty or homelessness without the slightest clue of what it takes to produce wealth or housing.

Despite Cassidy's complaint, he acknowledges that Galbraith's *The Affluent Society* is "a staple of college courses," where tens of thousands of students learn utter rot about the workings of the economy. In this absurd book, the former World War II economic czar looked around America in the 1950s and proclaimed that he found "private opulence

and public squalor." That is, he noticed that privately owned resources were generally clean, efficient, well maintained, and improving in quality, while public spaces were dirty, overcrowded, and unsafe — and he concluded that we ought to move more resources into the public sector. After another generation of private progress and public deterioration, can it really be true that *New Yorker* writers and college professors still take such musings seriously?

Cassidy says that "Galbraith's disgust with the modern world combines puritanism, aestheticism, and anti-materialism." That may explain why he is so proud of having commanded a staff of thousands during World War II when no price could be raised in the United States without Czar John's approval. His puritan anti-materialism may, however, be harder to reconcile with his comfortable lifestyle. Galbraith has done very well for himself by his running indictments of American capitalism: his books, often written at the Swiss ski resort of Gstaad, have been bestsellers, and he lives in a "rambling house on Francis Avenue, a few hundred steps from Harvard Yard," where real estate is not cheap and where young professors can't rent apartments because of rent control. Would that his books had done as much good for the rest of us. —DB

I want a piece of that! — Monica Lewinsky's new book contains at least one precious line. She realizes that the president had a big job, and that this job weighed heavily on his mind. But her function was to be "a piece of normality."

"Normality" is the best euphemism I've heard in years. When most people think of Monica, "piece of" is followed by quite another word altogether.

But Clinton is an extraordinary man, and who are we to say that, deep down and every day, he does not yearn for "normality"? —TWV

Georgia bucks Hartford — The modern statist view that everything not forbidden should be mandatory is nowhere more apparent than in the civil rights arena. Affirmative action laws mandate "non-discrimination" and measure compliance (how else?) by reviewing "disparate impacts" and "hiring statistics." The patent unfairness of such laws — how can justice be advanced by harming one individual to benefit another? — have now made it more difficult for firms voluntarily to reach out to minority groups. The attempt to legislate social justice has resulted in more injustice.



One such example deals with car insurance discounts offered to all "partnered" drivers (traditional marriages, single parent households, and gay couples) by Hartford Insurance. Data suggests that those maintaining long-term relationships — whether straight or gay — are less likely to wreck their automobiles than single individuals. Without government intervention, insurance firms who offer discounts to partnered drivers would have a competitive advantage. Hartford is able to offer this discount in some 34 states — but not yet in Georgia, where the insurance commissioner feels that it would violate state law, which does not recognize gay marriages.

The problem, of course, is regulation. In a free market, Hartford could offer discounts to redheads, to persons whose name began with an M, or any differentiation that they thought might make sense. Here, as elsewhere, our modern liberals should rethink their faith in the state as a tool of social justice. —FS

Whose time is it, anyway? — Further proof that libertarianism is becoming a well-known idea, at least among yuppies, comes in recent editions of the Sharper Image catalog, where the pitch for an atomically tuned watch begins like this: "Libertarians may not rejoice, but the 'time' is what our government says it is — via radio signals from the U.S. Atomic Clock." I'd never thought about it, but . . . yeah, why should the *government* tell me what time it is? From now on I'm setting my watch to microsoft.com. —DB

I'll see you in Science Court — Physical recycling seldom makes sense, environmentally and economically. But one old idea deserves to be recycled: the Science Court.

Time was, when some thought that enough fine scientists, in a Science Court setting, could answer the scientific questions that stood between us and a scientific-management nirvana. But the key questions in science can't be answered that way. Even the best scientists never have all the answers. On many important questions, they can't even agree among themselves. Recognition of this fact wounded the myth of scientific management of society and killed the Science Court.

Today's generation of scientists still cause big problems in Congress and in court, though. Drag a \$10,000 check through any university and experts will show up in court to testify just about any way you want. Did some sick women have breast implants before their suffering was reported? A few scientists will be happy to testify about the possible causal relationship,

and Dow Corning is ordered to cough up billions for the women and their lawyers. Science fiction influences Congress as well. Smelling millions in research money, research labs take their genuine findings, which support a spectrum of results, and emphasize the "ain't it awful" edge of possible interpretations — the ones that scare government and foundations alike into writing huge checks for research to prove that proposed government programs are crucial.

Scientists seldom lie. In their scholarly journals, where their peers review their articles before publication, they assiduously avoid coming to a conclusion until the evidence is convincing. But on network TV, they take pains to point out that terrible things are possible, given what is now not known. Even when a disaster is very unlikely, they have no reason to reveal that to the press. It wouldn't make news anyway, and if it did, heaven forbid, the big bucks for research would disappear.

How can we make Joe Science speak, in public, as though he were writing for a scholarly journal — that is, speak with proper caution? How can we make each scientist more accountable to his or her peers? The Science Court provides one possible answer. Why not put the key policy questions to the best-known scientists in an open, public courtroom setting, complete with cross-examination by effective, well-advised lawyers? That would force scientists to qualify their statements and to recognize the other side of the question. Weak and extreme statements would bring ridicule and discredit the speakers, thus inspiring them to avoid such rash outbursts. While Science Court could not settle the issues, it could identify areas of agreement as well as areas of genuine scientific disagreement. That in itself would prove useful.

More importantly, prominent scientists would be on record on each issue. Journalists and advocates alike would find the truth — uncertainty and all — more comfortable. Misleading public statements would be easily challenged, often by use of the expert's own words in Science Court. Any lawyer, journalist or congressional staffer with access to the Internet record could quickly attack "science fiction" using the Science Court record.

The Science Court could not settle the key scientific questions. But it sure could help to confine science fiction to the book review section of the newspaper, protecting the front page from the "scientific" garbage on everything from silicone to Superfund, and from global warming to environmental justice. Few forums can promise such an effective means to squelch bad science, to protect freedom, and to enforce genuine responsibility, as the Science Court could.

—guest reflection by Richard Stroup

Praise the Lord and pass the tax dollars

—Newly elected senator Blanche Lambert Lincoln (D-Ark.) emphasized her traditional religious values in her campaign. She opposed abortion, for instance, while saying that the decision should not be made by government. When people disagreed with her, she told them to "witness it. . . . Go tell it to your family, your church, anyone you can. The problem is, if we start to depend on government to implement our faith, then our faith has no values." Good libertarian thinking. But later in the same *Washington Post* article she explains that her faith leads her to support various gov-



"Remember that year we broke even?"

ernment spending programs: "Christ calls on us to reach out to one another, to the homeless, to the elderly, those who need help." So where's the witnessing now? Can we assume that in these areas, where Senator Lincoln has "started to depend on government to implement our faith," her "faith has no values"?

Lincoln's hypocrisy went unremarked by the *Post*, which will accept just about any argument for abortion rights, and just about any argument for welfare programs. —DB

The virtual libertarians — On the night when Juanita Broadrick accused President Clinton of raping her, MSNBC monitored audience responses on its website and revealed that about 80% of its electronic correspondents harbored ill feelings toward the president.

While this was happening, my phone rang. "You hear that?" shouted the otherwise unexcitable friend on the other end of the wire. "The people have finally seen through that no-good @#!*#." Meaning, of course, President Clinton. Unfortunately, I had to tell my friend that "the people" are by no means the same thing as "the internet."

Serious users of the Net *always* vote against the president, just as they always vote against censorship, taxes, drug laws, sex laws, and foreign military involvements. Internet users are, in short, libertarians, although most of them don't know it yet; most of them think of themselves as "conservatives," because they understand that they're not "liberals." If you're not a Zero, then you must be a One.

It's true that some computer folk inhabit benighted places like Northern California, where they are subjected to serious brainwashing by the local Kultur and emerge as sullen modern liberals. They are the *other* 20%. But Netters in general have every reason to become libertarians. Most of them are rationalists by profession and daily practice. To work creatively, or even steadily, with computers, you have to rely on independent reason, not some kind of collective guidelines. Being rationalists, the Netters are also anti-obscurantists. They see no reason to sanction policies that they cannot understand, or that they perceive as plainly counterproductive. They realize that wealth is not created by government but by people like them, and they justifiably resent the high tax penalty on their success. Unlike mid-western farmers, small-town politicians, and professional humanitarians, they have nothing to gain from government involvement in their business. In fact, they have everything to lose from the government's attempts to tax, censor, and subsidize the internet.

Even the weaknesses of these people are those of libertarians — limited political experience, abstract and schematic views of life, a science-fiction approach to history, a childlike faith in science. . . . But let's not worry about those things right now. Professional users of the internet will never really feel comfortable as "conservatives," if only because conservatives are routinely complicit in the state's attempts to censor, regulate, and thereby ruin the internet.

How large is the population that I'm talking about? Very large, though very far short of a majority of voters. It does *not* include everyone who has a computer and occasionally connects to the Net in order to find an address, order a book, or enjoy some pornographic pictures. If that's how you use the

Net, you can use it every day and still be a Cretin for Clinton.

But the core group is big, and full of magma. Here are people who are proud of their individual competence, suspicious of government, and comfortable with the idea of voluntary and unregulated communities, such as one finds and can create on the internet. So far, these people's learning and reflection about political principles is thin, as thin as the earth's topsoil; but it's eminently worthy of cultivation.

So, who is cultivating it? What are libertarians doing to educate and organize this natural constituency?

I'll wait for the answer.

—SC

The loins of Dixie — Even a stodgy anarchist like me has to applaud the efforts of Libertarian Party official Bill Winter, who is fighting for free-market orgasms in Alabama, where a state law prohibits the sale of sex toys such as vibrators. Those who flout the law are subject to a \$10,000 fine and one year at hard labor. An adult-shop owner and a woman (identified as Jane Doe) who uses sexual aids on the advice of her doctor are suing to overturn the law, which took effect last July.

Supporters of the law argue that there is no constitutional right to buy a sex toy, thus implying that any act not explicitly permitted by the Constitution can be properly forbidden by law. Winter replies: ". . . we Libertarians suspect that the thrill people get from sex toys is nothing compared to the thrill politicians get from controlling other people's lives."

The anti-sex-toy law forbids "any device designed or marketed as useful primarily for the stimulation of human genital organs." Winter quips, ". . . it could make Bill Clinton illegal in Alabama." Goes to show you: even the worst of laws can have salutary unintended consequences. —WM

A classic instance — On March 2, an election was held in my town, San Diego. It was held to decide whether the sales tax in San Diego County would be increased from a whopping 7.75% to a still more whopping 8%, in order to provide 423 million dollars for "enhancements" to "community libraries."

The proposal came with the usual verbiage, the usual bizarre combination of feel-good communitarianism and bureaucratic jargon. The money, it was said, would be used to "Modernize with Computers and New technology," "Expand Youth Reading and Homework programs," "Enhance Literacy and Senior Services." But this sticky



"I hate Presidential addresses that start out 'If you know what's good for you. . .'"

embrace of techies, soccer moms, and "seniors" was not totally in sync, shall we say, with the proponents' hard-ball electoral tactics. They engineered a special, one-issue election, hoping that their supporters would turn out and nobody else would. The election cost the community 1.7 million dollars, which might otherwise (who knows?) have been spent on libraries.

That riled some people up. Others were riled by the realization that a similar issue had been proposed, and defeated, less than three years before. Still others were disgusted by the relentlessly favorable publicity given to the proposal by local media and most of the local pooh-bahs, Republicans as well as Democrats, who let it be known that a vote against Prop L was tantamount to an assassination attempt on the Cat-in-the-Hat.

(What! You don't want kids to be literate? That's right; and I want them to go without shoes, too. That's the only reason why I'd vote against a 423-million-dollar subsidy to a socialized shoe factory.)

Among the leaders of the defense against Proposition L were libertarians like Richard Rider, a formidably effective public speaker. They made a good case for their views, wherever they were allowed to make it. The pro-prop people, gallant advocates for the miserable, impoverished, and illiterate users of local libraries, were, of course, incomparably better funded than the opponents. Their signs infested lawns and highways; their leaflets inundated the mails. I never saw an anti-L sign or an anti-L leaflet.

On the night of March 2, when the returns were coming in, some of the local media suddenly discovered that other stories were much more interesting. One TV station devoted the entirety of its 5-minute hourly news report to a traffic accident that had happened on the preceding day. Another put the Prop L story fourth on its news wrap-up. The news, from the local establishment's point of view, was almost too terrible to contemplate. Prop L supporters had turned out to vote, but other people had turned out, too! Needing a two-thirds majority to pass, the measure got only 50.2%, down nine points from its previous electoral support.

And that is how a few libertarians helped save almost half a billion dollars of the people's money. —SC

Ap showers bring My flowers — Back in 1975 Jack Hirshleifer (UCLA economics professor) convinced me that any even slightly important piece of paper requires a date on it. I'll add that the date should be complete and unambiguous, not just month and day. Certainly it should not be the "Monday morning" of some Republican Party fund-raising letters, a heading whose patent phoniness casts suspicion on the contents as well. I am particularly ticked off by all-too-common abbreviations like 8/10/98 and 2/3/99. What do those dates mean, 8 October 1998 or August 10, 1998, 2 March 1999 or February 3, 1999? The latter meaning is apparently the more common in the United States, although the reverse is true in Europe. Furthermore, the order of time units — medium length/shortest/longest — is illogical. Either the European convention or year/month/day would be more logical. In writing dates in full, I am inclined, along with many other people, to use the style I learned in the Army decades ago: 12 February 1999. Down

with ambiguity! One European convention is to abbreviate the months with Roman, not Arabic, numerals. A still better one would abbreviate each month with two letters: Ja, Fb, Mr, Ap, My, Je, Jl, Ag, Sp, Oc, Nv, Dc — for example, 12 Fb 99. Each abbreviation is unambiguous, beginning with the first letter of its month's name and including a second letter not contained in the name of any month with the same first letter. This style is neat, avoiding slashes or dashes or dots between the time units. For the Spanish months I suggest: en, fb, mr, ab, my, jn, jl, ag, sp, oc, nv, dc. In French, German, and some other languages, ambiguities arise involving January, June, and July; and three-letter abbreviations may be necessary for those months. —LBV

The upgrade is in the mail — With all the hype about the computer revolution, I didn't expect it to end up this way: Bill Gates squirming before a parchment-faced Dickensian villain named Joel Klein, people who ought to know better talking in reasonable, measured tones about the breakup of Microsoft or the casting of lots for the license of its operating system. I didn't expect Intel to enter into an agreement with the FTC on its business practices, any more than I expected their new chip to have that privacy-destroying processor serial number, the identifier that will make anonymity in cyberspace a quaint memory (except, of course, for recalcitrant Mac users). I didn't see any need for the computer industry to form its own corps of lobbyists and buy its own senators.

In other words, when the marketing guys asked me, "Where do you want to go today?" and I said "To a society with a radically different appreciation of the messy but ultimately life-enhancing dynamics of the open, unencumbered market," I actually thought I was going to get there.

But no. The computer revolution appears to have succumbed to entropy. The buzzards of the Justice Department now circle lazily over the well-picked carcass of Microsoft.

The industry, from computer makers to software writers, has discovered that they work in an environment like any other: today's adversary is tomorrow's vendor, and there may be limits to what you can accomplish by whining: "Give me back my operating system! I'm going home!" There are reasons for this, and not the least of which is your trillion-dollar corporation might get sued down a bracket or two. A sad fact but one not much different from the reality of the rest of the commercial world.

So now I am waiting for an upgrade: Computer Revolution 2.0.

Bill Gates reportedly has a standing invitation to form a tax treaty with British Columbia, where he will be able to enjoy the vile weather of the northern Pacific Coast free from harassment by strange men wielding video cameras and seeking depositions. If something of that magnitude happens, take it as a hint that the cyber-billionaires are restless again. Then, I want to see Sun Microsystems' self-proclaimed libertarian CEO Scott McNealy put his money where his mouth is about protecting competition and set up a new and independent, and competing, state. I want to see, at the next anti-trust trial, a shouting match between Joel Klein and Virtual Klein, a cyborg generated by 64 parallel Deep Blue computers, the IBM golem that stymied Kasparov.

In fact I'd like to see a Pentium microprocessor made for the government, with a built-in back door, a C chip, if you will, which miscalculates a few decimals if it detects an act of coercion. I hear the IRS is looking to upgrade its system in a hurry, and it might take the bait. This is one computer upgrade that I can't wait for. —BB

Corporate speed — In some ways it was a tempest in a teapot. But the swiftness with which online bookseller Amazon.com responded to criticism about its promotional practices last week demonstrated a couple of important things. A free market buttressed by a free flow of information works more quickly and more effectively for the benefit of consumers than almost any other institution yet devised — especially a creaky government regulatory regime. And information flows more quickly and from a greater variety of sources on the Internet than almost anywhere else.

It all began on a Monday with a story in *The New York Times*. The newspaper reported that publishers who want their books promoted on the bookseller's home page often pay a \$10,000 fee to have a book highlighted with a picture, an author interview, a favorable review or excerpts. Amazon.com spokesman Bill Curry quickly declared that professional book reviewers at the company have to be enthusiastic before a book is eligible for the "cooperative advertising allowance" treatment and that potential co-op books "are rejected every day because the cash is less important than the credibility of the information."

By Wednesday, however, Amazon.com had announced that it was changing policy. As soon as possible — by March 1 at the latest — the company would find a way to distinguish "co-op" reviews for which a fee has been paid from other reviews and recommendations that aren't the result of fees paid. And it has changed its return policy. Previously, any book could be returned for a full refund if it was in "new" condition, but from now on a reader disappointed in an Amazon-recommended book can return it for a full refund even if it is in dog-eared condition.

Was this a real scandal? Well, consumers are almost always better off the more they know, and they didn't know before that publishers were paying for featured treatment. Now they will know — the changes are now in effect on the Web pages.

But Amazon.com is a bookseller, a commercial enterprise, not a news site claiming only to provide disinterested opinions about books. In physical bookstores — as in almost every retail enterprise — manufacturers often provide co-op advertising money or some other consideration like extra discounts to get favorable shelf space like end-caps on aisles or placement in the "New and Hot" section at the front of the store. Retailers seldom put up signs saying "this book (or detergent or taco chip) is here because its manufacturer paid for special placement."

The New York Times has for years partnered with BarnesandNoble.com, placing links to the bookseller (and Amazon.com competitor) near the book reviews on its news website (and getting a percentage when its readers make purchases). Is this a welcome convenience for readers or a sneaky way of making money from them?

Online news sites trying to find a way to cover costs and

make a profit — something only a few have managed despite enthusiasm for Internet-related stocks — are constantly wrestling with the sometimes blurred line between editorial and advertising content. No single solution is likely to fit all circumstances.

In the case of Amazon.com, however, it took all of two days for a company to be criticized and to change its policies in the direction of fuller disclosure. Imagine how long it would have taken if we had to depend on the government to notice the problem, study it, hold hearings, make proposals, get comments, and implement a regulation long after the problem had ceased to be important. —AB

At Horowitz end — As the impeachment trial of Bill Clinton came to its dismal close, *Vanity Fair* and *Nation* columnist Christopher Hitchens stepped forward to contradict the testimony of Clinton capo Sidney Blumenthal, a (former?) Hitchens friend. Blumenthal had denied under oath that he attacked fair Monica as a "stalker" in the presence of journalists. Hitchens swore an affidavit to the effect that Blumenthal had, in conversation with him, referred to Lewinsky as a stalker. This set off a round of criticism from leftist journalists — many of them, like Hitchens, associated with *The Nation*. They referred to Hitchens as a "snitch" and compared him to McCarthy-era informers.

Among his defenders is former leftist David Horowitz, who addressed the issue in his *Salon* column. But Horowitz depicted a version of events that occurred within the confines of his fertile imagination. He espied a multitude of angry renunciations of friendship with Hitchens: "One after another, they have rushed into print to tell the world at large how repulsed they are by a man whom only yesterday they called 'friend,' yet whom they now apparently no longer even wish to know." A few days before, *Salon* had published a sampling of opinion from 15 mostly left-wing journalists. But there were no renunciations of friendship in this sample. In fact, it had two affirmations of friendship with Hitchens and three statements in support of his position.

In his *Salon* column, Horowitz referred specifically to the commentary of Alexander Cockburn, Katha Pollit and Todd Gitlin. But he cited no evidence that these people have ended friendships with Hitchens. The attack from Alexander Cockburn was vicious, enough that one might think it could end their friendship, but Cockburn has attacked Hitchens before. By comparison, the commentaries by Pollitt and Gitlin are milder.

Horowitz declaimed: "The casting out of Christopher Hitchens . . . is a necessary ritual to protect the left's myth of itself as a redemptive force. How could Blumenthal, *who is loyal to their cause*, be connected to something evil, as Hitchens suggests? All of Hitchens' attackers . . . supported the wanton strikes against the Sudan, Afghanistan and Iraq, without batting a proverbial eyelash" [emphasis added]. Every facet of this statement is ludicrous. Horowitz cited no evidence that Hitchens has been cast out of anything — his column still appears regularly in *The Nation*.

No sane person could believe Horowitz's suggestion that Katha Pollitt or Alexander Cockburn are politically allied with Clinton and Blumenthal, or that they supported the president's terrorist attacks on Third World countries. Both

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The Transformation of Libertarianism?

In 1988, only 10 percent of libertarians responding to the Liberty Poll disagreed with Ayn Rand's dictum that "no person has the right to initiate physical force against another human being." In 1998, fully 50 percent disagreed with the proposition. Based on this and other data from the surveys of libertarian opinion conducted by this magazine in 1988 and in 1998, *Liberty* editor and publisher R. W. Bradford concluded that there had been a substantial decline in the sort of libertarian thinking that emanated from Rand's non-aggression imperative.

At the same time, the survey showed an increase of support for the other approach to libertarian thinking — that liberty is desirable because it maximizes people's ability to flourish, to achieve their goals, and to be happy. In brief, the *moralistic* approach, exemplified by the thinking of Ayn Rand and Murray Rothbard, has lost considerable ground to the *consequentialist* approach, exemplified by Milton Friedman, Ludwig von Mises and Friedrich Hayek.

Bradford went on to speculate about why this consequentialist approach was winning out over the moralistic approach, suggesting that the change was not so much a case of consequentialists winning philosophical arguments with moralists, but more a matter of the consequentialist approach faring better in conversations with non-libertarians.

Judging from discussion of Bradford's thesis in online forums and the letters to the editor we received on the subject, it's safe to say that Bradford's conclusions from the data in the surveys, as well as his thesis about the change, have touched off a firestorm of controversy. In an effort to explore the issues surrounding this ideological change, *Liberty* invited several libertarian thinkers to share their thinking on the subject.

In this issue, we present the comments of six libertarians: David Ramsay Steele, David Friedman, David Boaz, Leland Yeager, Tom Palmer and Pierre Lemieux, followed by Bradford's response to their comments.

An Accident of Rebirth

by David Ramsay Steele

When the libertarian movement visibly revived in the 1960s after a century of decline, its revival coincided with the demographic ripple of the postwar birthrate boom. The newly reawakened libertarian movement was dominated by the outlooks of the two writers who had directly influenced the baby-boomer libertarian cadre: Murray Rothbard and Ayn Rand.

The inordinate influence of these two individuals is like the "founder principle" in evolutionary genetics, where the characteristics of a population, perhaps of a new species, are fortuitously influenced by those individuals who happen to constitute the founding ancestors. However, in the case of a local population which may still interbreed with a much larger population, the founder principle may hold purely ephemeral significance.

This is what has happened to the libertarian movement. It was a historical accident that Rothbard and Rand influenced the resurgent movement so heavily in the 1960s. The accident was compounded because Rothbard and Rand had met and influenced each other, so they shared some peculiarities.

Most of what dazzled the youngsters of the 1960s and 1970s in the ideas of Rothbard and Rand was libertarian old hat. The theoretical formulations of Rothbard and Rand are not mountain peaks in the history of libertarian thought. They are dwarfed by the achievements of Mises, Hayek, and Friedman, who are in turn dwarfed by those of Adam Smith, John Stuart Mill, and Herbert Spencer.

As the movement survives and adapts, it inevitably absorbs libertarian ideas from a rich variety of sources. Implicit in this analysis is my view that the peculiarities of Rothbard and Rand hold no special merit when compared with the wider heritage of libertarian thought. What was strongest in the worldviews of Rothbard and Rand was what they shared with libertarians in general. What was weakest was what was most distinctive to them as individuals. As the rabbi said of the New Testament: What's true in it isn't new and what's new in it isn't true.

Neither Rothbard nor Rand were outstanding thinkers.

Neither of them made lasting contributions to any branch of human thought. This is not to say that they were inconsiderable figures. Neither Martin Luther nor Karl Marx would have been of tremendous interest purely on account of the intrinsic importance of their thoughts, and it is in such a light that we should regard Rothbard and Rand — as historical agents who gain historical significance because of their influence on a movement of opinion.

Rothbard may also be seen as a kind of Bastiat, a lively writer who made no enduring original contributions but did restate libertarian truisms in persuasive form for a wide audience. But even in this endeavor, he was outclassed by Milton Friedman, who also made significant contributions to economic theory. Indeed, the consummate success of Friedman in combining the roles of propagandist and theoretician, performing prodigiously in both departments, and not allowing either to cloud the integrity of the other, borders on the miraculous. But as Bradford points out, the reborn libertarian movement was at first little influenced directly by Friedman.

It was inevitable that the libertarian movement would cease to be dominated by Rothbardians and Randists. This has happened in two ways: newcomers to libertarianism have often rejected Rothbardian or Randist principles, while former Rothbardians and Randists have often moved away from those principles, as they have read more widely and been exposed to a wider range of arguments.

The Rand Cult and the Rothbard Cult

On balance, the Objectivist movement has clearly retarded the cause of liberty. (This is true of the record to date; it need not always remain so.) Thousands were recruited into the Rand cult, but many of them became bitterly disaffected and emotionally disturbed by its mindless dogmatism and malicious heresy-hunting.

Rothbard was certainly a different kind of animal. Unlike Rand, he was knowledgeable, often highly perceptive, and in the flesh customarily good-humored. Rothbard did not serve

The theoretical formulations of Rothbard and Rand are not mountain peaks in the history of libertarian thought.

up centuries-old libertarian arguments pretending that they were his own inventions. He practiced and encouraged libertarian intellectual archaeology, doing a lot to revive interest in many neglected writers, like the Spanish Schoolmen, Boettie, and Molinari.

For former Rand-cultists, of course, Rothbardism was a much more comfortable and roomy prison. You were actually allowed to believe in God and to listen to Beethoven!

Yet there was a kind of dogmatic cultism about Rothbard's following, too. His intellectual archaeology had something of the quality of Marx's *Theories of Surplus-Value*. Although the approach to past thinkers is erudite, sometimes exciting, and often genuinely insightful, we are not permitted to forget for long that its chief aim is to sort out the good

guys from the bad guys.

There was a strain of angry orthodoxy and heresy-hunting in Rothbard, allied with a noticeable lack of self-criticism in his intellectual arguments. Time after time in Rothbard, one finds that, just when an interesting objection crops up, it is swept aside by a dismissive gesture.

Partly, Rothbard seems to have gotten this from Mises, who was often guilty of the same uncritical mode of exposition. I conjecture that both Mises and Rothbard may have been influenced by the examples of Bolshevism and National Socialism to think that it would be effective to adopt a rhe-

On balance, the Objectivist movement has clearly retarded the cause of liberty.

torical tone of shining certainty, untarnished by hesitation. Perhaps they both read Chakotin's *Rape of the Masses* when it had its vogue among intellectuals in the 1940s. Rothbard himself appeared to take a schoolboyish glee in emulating the doctrinaire sloganeering of a Bolshevik vanguard party.

Now, under certain circumstances, this Leninesque tone is effective. But for one complicated reason or another, it is less effective in recruiting libertarians today than it was in the 1960s.

The twin pillars of Rothbardian dogma were praxeology and natural rights. There were other credal matters, like a non-interventionist foreign policy, the unique culpability of the U.S. in the Cold War, political anarchism, and the desirability of alliance with whichever political tendency Rothbard was currently courting. But all these were less important.

The Misesian, praxeological approach to economics has important insights to offer, but its wholesale condemnation of empirical and mathematical methods is erroneous. With the exception of Kirzner's work on entrepreneurship, Misesian economists have not in recent years proved fecund in insights readily applicable to the real world. On the other hand, non-Misesian economists have many times made impressive arguments for less government, often in ways that Austrians would condemn on what I believe are wrong-headed methodological grounds.

The Consequences of Natural Rights

Natural rights were seen by most libertarians of the 1960s and 1970s as a way of proving from first principles that private property and laissez faire form the only correct foundation for a just social order.

What did this mean? Any arguments for government intervention, such as rent control, in terms of its good consequences (giving tenants cheaper accommodations) were in practice countered with arguments about its bad consequences (rent control creates a housing shortage). But then the natural-rights libertarians would add that, quite aside from the good or bad consequences, rent control was wrong, and this was something that could be objectively demonstrated, regardless of any consequences.

It was further implied that if you couldn't see that rent control was wrong regardless of its good or bad consequences, you couldn't feel morally outraged about rent con-

trol, and therefore you were likely to go along with this or some other form of state intervention.

And here there was always an equivocation. On the one hand, natural-rights libertarians would usually insinuate that if you were concerned solely with consequences, you would end up supporting state intervention. On the other hand, they did not admit for a moment that there actually existed a case of a state intervention that did have net good consequences. Sometimes, to clinch their case, they would cite horrific examples of the appalling consequences that would ensue if people paid too much attention to consequences.

Listening to this stuff, I used to wonder: Just suppose that it could be demonstrated, as a matter of plain empirical fact, that the implementation of natural principles of justice would lead to a hell on earth. What then? It seems there are two possible answers.

1) It cannot logically be the case that natural rights would lead to terrible consequences. (But then, nothing much seems to be lost by treating good consequences as practically equivalent to natural rights.)

2) It's just a wonderful coincidence that natural rights always automatically lead to the best consequences, and how happy we should be that this is the case, but woe betide us if we take the heretical view that in that imaginable but impossible world where it was not the case, we would take the side of good consequences against natural rights.

It's not true, by the way, that libertarians in practice ever did predominantly argue from axioms rather than from consequences, when they were addressing actual policy issues — though these libertarians did say things that might lead you to think they ought to have argued that way. In my experience, libertarians have always, overwhelmingly in practice, argued from consequences. Bradford's observations on the Cato output are both telling, but this has always been typical of libertarians actually engaged in persuasive argument about specific issues.

For instance, when Rand was asked on "Donahue" about the danger of a monopolist taking over the market, she did not for one second think of saying that this would just be

Grotius, Pufendorf, Locke, or Spencer would doubtless have been staggered to hear that natural rights were an alternative to consideration of social consequences.

tough and we would have to put up with it because to stop it would be to contravene natural rights. Rand instantly responded in standard libertarian fashion: a monopolist (in the special, strong sense) could never arise on the free market.

The natural-rights doctrine of the natural-rights libertarians was a peculiar thing, derived from Rand and Rothbard. It was not quite the same as anything in the natural rights tradition. Grotius, Pufendorf, Locke, or Spencer would doubtless have been staggered to hear that natural rights were an alternative to consideration of social

consequences.

I have many times put to natural-rights libertarians the following challenge. There is a range of imaginable systems of rights (using "rights" here in a purely non-evaluative sense: those rights potentially capable of being recognized and enforced by some legal system). Let's pick from this vast range of possible systems, a much narrower range of systems we prefer, on the basis of demonstrated conduciveness to human welfare in the broadest and most long-range sense. Call this narrower range (which theoretically might approach a single unique system of rights) "natural rights."

I have never yet received an affirmative reply accepting this as a legitimate approach to natural rights. This confirms my suspicion that the natural-rights libertarians are as impervious to the spirit of the natural rights tradition as they are to the arguments of more recent libertarian philosophers, among whom I favor especially the two Jans (Narveson and Lester; Jan Lester's brilliant book on libertarian philosophy is due to come out later this year).

The question arises why the Rothbard-Rand ideas were ever found convincing. Broadly, the answer lies in the youth and inexperience of most libertarians in the 1960s, at a time when support for the libertarian tradition of thought had sunk to its lowest ebb for a century.

There was contemporaneously a libertarian shift among academics and policy-makers who did not call themselves libertarians or join the organized movement so named, but were linked with Mont Pelerin. This movement of intellectual thought was effective in establishing a beachhead. It owed a great deal to Friedman and Hayek, something to thinkers like Popper who were not really libertarians but were effective critics of crucial anti-libertarian ideas, and something to the practical work of people like Antony Fisher. It is sobering to recognize that this broad and effective movement would have made its impact on the world in roughly the same way if Rothbard and Rand had never existed.

For Fabian Anarchism

In general I agree with Bill Bradford's conclusions, but I would sound two notes of dissent.

I don't think we should get into the habit of arguing from what "astonishes" non-libertarians or makes them "shake their heads in disbelief." There are many libertarian positions that do have this effect on people, and some of these positions are well within even a fairly lax threshold of what makes a libertarian: abolition of government schools, abolition of government licensing of physicians, abolition of eminent domain, the liberty to inject oneself with heroin at one's whim, and so forth.

And so it should be. Finding out what people already believe and then agreeing with it in order to gain their respect is one kind of activity. Advocating a political philosophy now embraced by only a tiny minority of people, hoping that it will eventually become less unfashionable, is a distinctly different, and largely incompatible, kind of activity.

Libertarian argument on the topic of anarchism has almost exclusively concerned itself with whether anarchy would work in practice, and anarchists have been winning those arguments. (Rand offered only one argument against

anarchy: it would lead to interminable fighting.) In the broad historical sweep, libertarianism has been becoming steadily more anarchist for several centuries. All anarchist libertarians would no doubt become minimal-state libertarians if they met a good argument showing that anarchism wouldn't work. The remarkable thing is that so far, no such argument has turned up.

A distinct issue is whether libertarians should support half-measures that leave the state intact but move toward more liberty and efficiency. One current case is whether to campaign for charter schools and school vouchers, while ultimately arguing, of course, for the complete removal of government from schooling.

Libertarians should indeed do this. We are not like millenarian socialists, who think that it's futile to tinker with the system, that no good will come until the world is made anew. Piecemeal tinkering sometimes pays off, and nothing else ever does. Small steps in the direction of somewhat greater liberty will yield dividends in human happiness, as well as new information about the way institutions work, to help guide the subsequent direction of reform. Anarchy will come like a thief in the night.

So anarchism (or perhaps minimal-statism) as an ultimate objective and as a theoretical standard should be combined with piecemeal reform as the immediate solution for particular policy issues. If the head-shaking of our non-libertarian friends troubles us, we can always confine the discussion with them to our proposals for immediate reform; we can keep talking with fellow libertarian crazies about anarchism, the demonopolization of the U.S. Postal Service, and similar terrifying schemes.

Rethinking the Data

by David Friedman

Bill Bradford sees the Liberty Poll showing a shift from moralistic libertarianism, as represented by Ayn Rand and Murray Rothbard, to consequentialist libertarianism, as represented by Milton Friedman, Friedrich Hayek, and Ludwig von Mises. While I would be happy to believe that such a shift has occurred, I do not think the poll data provide much evidence for it.

Looking at the poll results for the five people Bradford names, the pattern is clear. Murray Rothbard's influence has fallen dramatically. None of the others have changed very much. Given that Rothbard spent much of the intervening period drifting out of the libertarian movement, in which he had played a central role for many years, the decline of his influence is hardly surprising. Omitting Rothbard and combining the two polls (*Liberty* subscribers and LP convention attendees), Rand comes out precisely in the middle — number two out of four in one poll, number three out of four in the other.

Consider next the evidence on changing views. While it is true that the percentage of anarchists in the sample has declined sharply, it is hard to see that change as evidence for a shift toward the consequentialist approach. Rand, after all, the leading moralist (in Bradford's sense), was also a con-

vinced minarchist, a position that, whether or not it follows from her more fundamental views, most of her followers continue to accept.

Some of the other poll results are consistent with Bradford's conjecture but others are not; the decline in the number of people who believe that one can accept government services without committing an immoral act is fairly striking evidence against. And the answers to the "Moral Problems" show little change. It is possible that the change Bradford describes has occurred, but I do not think it provides a very convincing explanation for the poll results.

An alternative explanation is that the poll results reflect the effect of a widening, and hence an ideological dilution, of

Libertarians who were hard-line ideologues when stating general principles become considerably less so when confronting situations where their moral beliefs lead to unpleasant consequences.

the libertarian movement. During the period in question *Liberty* has roughly tripled the number of its subscribers and the LP has also grown substantially. One result is that fewer of the people polled are libertarian ideologues, moralistic or consequentialist, and more of them ordinary non-ideological Americans who think the world would be a better place with a lot less government.

Let me suggest some evidence in the poll results that supports that interpretation:

- The shift away from anarchism. In the population as a whole, anarchists are a small, vanishing minority. Dilute a population of ideological libertarians, of whom about a third were anarchists, with a lot of people whose ideas are closer to the national norm, and the percentage of anarchists falls sharply.
- The shift away from support for the non-initiation axiom.
- The shift away from support for radical public policy prescriptions such as free immigration.
- The shift away from atheism; the overwhelming majority of Americans are theists.

In the poll of *Liberty* subscribers, there were nine people whose influence rose from 1988 to 1998: Aristotle, Milton Friedman, Barry Goldwater, Robert Heinlein, Thomas Hobbes, Thomas Jefferson, Immanuel Kant, John Locke, and John Stuart Mill. Every single one of them is a name as familiar, or almost as familiar, to non-libertarians as to libertarians. Jefferson, who showed the largest increase, is someone whose work (other than the Declaration of Independence) very few people have read, but whose name is familiar to almost everyone and generally linked with libertarian sentiments. The figures whose influence has declined are, with the exception of Mencken and Rand, people few outside the libertarian movement have heard of.

The best evidence I can see against the interpretation is that the answers to the "Moral Problems" on the poll have stayed fairly constant over time. The reason that is not very strong evidence is that even in 1988 the hard-line positions

("better death than trespass") commanded very little support. Libertarians who were (and are) hard-line ideologues when stating general principles become considerably less so when confronting hypothetical situations where their moral beliefs lead to very unpleasant consequences.

So far I have limited myself to evidence from the Liberty Poll. I have some additional evidence from my own experiences in academia and online. To what extent do those experiences confirm or contradict the implications of the poll?

One fairly clear observation is that libertarianism is spreading among ideologically unsophisticated people. The

Bradford loads the Liberty Poll with crazy questions that he thinks undermine natural rights.

clearest evidence is the frequency with which libertarians online assert that libertarianism is by definition minarchist rather than anarchist. On further discussion, it usually becomes clear that the poster rejects the anarchist variant of libertarianism not because he believes it is wrong but because he doesn't know it exists. I get the impression that such posters are usually fairly new to online political discussion.

A second observation is that the anarchist version of libertarianism is highly visible, and perhaps increasing, in online political discussions. That is consistent with my interpretation since such discussions tend to be dominated by libertarian ideologues (I use the term non-pejoratively, and include myself).

A third observation is that the rights-based version of libertarianism is alive and well online, although perhaps gradually losing ground, at least among anarchists, to the consequentialist version. That is consistent with my interpretation of the poll results but not, I think, with Bill Bradford's. Online argument provides lots of opportunities to try to convince other people, fail, and amend one's argumentative strategies accordingly. If that is the mechanism that is driving libertarians towards consequentialism, the shift should be well advanced in the online communities.

For most North Americans, at least, to point to a policy and say that it is "discriminatory," based on "unequal treatment," or "unfair" is to disqualify it and demand a change. At least when applied to the actions and policies of government, that's not a bad attitude. It is the application of a well-established general principle to concrete issues. In some cases the discrimination is, upon examination, found to be justified; examples might include excluding women from combat roles in the military if evidence is shown that putting women on the front lines would lead to a decline in national security, and differently weighted votes for the U.S. Senate for Nebraskans and Californians, if it helps to preserve federalism and thereby some limits on government power. Thus, the principle against government discrimination among citizens is a rebuttable presumption, but that does not rob it of its force, as anyone who reads the daily newspapers can attest. Natural-rights ("moralistic") libertarians believe that

natural rights should have something like the status that the presumption against discrimination has today. Natural rights are imprescriptible — they are not gifts or dispensations from authority, but they are also defeasible, i.e., capable of being annulled or overridden by other considerations. Imprescriptible and defeasible are not contraries. Being defeasible does not mean that natural rights have no force, nor that they should be discarded whenever one finds it merely convenient or to one's liking.

Finally, to return to the surveys that occasioned Bradford's remarks on moral thinking: a considerable controversy swirls among political scientists on what constitute the criteria that determine the identity over time of a moral or political ideology or movement. Two concrete questions indicate the problems: was F. A. Hayek a liberal? (I say "yes," and most self-identified liberals say "no.") Is Tony Blair a socialist? (I say "no" and he says "yes.") Three commonly proposed candidates are:

1) Consider as holders of that ideology all those who identify themselves by a common name, and ask them what they think.

2) Consider an ideology as a set of interrelated ideas with some coherence and implications, and identify its adherents as those who accept more or fewer of those ideas or who accept more or less of the general network of such ideas.

3) Look to the historical continuity of the ideas, as transmitted from person to person and as developed and refined or adapted by those who hold them.

That list is neither exhaustive nor very well articulated, but I offer it to indicate that there may be some questions about what the suggestive but unscientific poll taken by the editors of *Liberty* entails for our understanding of libertarian ideology.

In short, it is unclear to me what the Liberty Polls tell us about libertarianism (and, given their statistically unscientific nature, what they tell us about self-identified libertarians). Further, despite my deep respect for R. W. Bradford and his journal, I conclude that in this instance Bradford's remarks about distinctions in moral thinking are more confusing than enlightening.

No Contradiction Between Rights and Consequences

by David Boaz

Analyzing a possible change in libertarian thinking on the basis of the Liberty Poll is of dubious value. The poll of self-selected *Liberty* readers and Libertarian Party convention attendees is strikingly unscientific. It also raises a deeper methodological issue: What is an ideology? If a poll showed that self-proclaimed "libertarians" supported progressive taxation and national health insurance, would that indicate a change in "libertarianism"? Or would actual libertarians simply sigh and say, "Well, there's another word we've lost"? But I would not argue that the libertarian ideology could not undergo changes on the margin or in terms of justifications,

so the issues raised by R. W. Bradford are still worth considering.

Bradford posits a distinction between consequentialist and "moralistic" or rights-based libertarianism, and argues that the Liberty Poll indicates a trend among libertarians away from the latter. Whatever the inadequacies of this particular database, I've seen more anecdotal evidence of a similar shift among young people coming to work at the Cato Institute over more years than I care to remember.

For me the biggest question is the validity of this widely perceived distinction. Here's what I wrote about it in the introduction to *The Libertarian Reader* (Free Press, 1997):

Do libertarians believe in free markets because of a belief in individual rights or an empirical observation that markets produce prosperity and social harmony? The question ultimately makes no sense. As Hume said, the circumstances confronting humans are our self-interestedness, our necessarily limited generosity toward others, and the scarcity of resources available to fulfill our needs. Because of these circumstances, it is necessary for us to cooperate with others and to have rules of justice — especially regarding property and exchange — to define how we can do so. If individuals using their own knowledge for their own purposes didn't generate a spontaneous order of peace and prosperity, then it would make little sense to advocate either natural rights or free markets.

Does civil society produce liberty, or does a firm commitment to natural rights produce civil society? Well, both. Locke, Spencer, Rand, and Rothbard have helped to outline a rigorous and consistent theory of individual rights that, if

applied, would protect freedom and allow people to generate all the institutions of civil society. But Hume, Acton, and Hayek would direct our attention to the historical processes by which liberty was actually achieved in the West, and especially in England and America: a long struggle in which the members of civil society demanded specific liberties from their rulers, with those liberties eventually forming a large enough space for freedom of thought and action that we might call it liberty.

Impossible Burdens

Human beings need rules to enable them to live together peacefully and productively. Libertarians believe that history, economics, reason, and the study of human nature indicate that the best results are generated by granting every person the freedom to use his own knowledge and his own resources for his own purposes. For most of us that is both a consequentialist and a moral analysis. And it is necessarily rooted in the nature of our species: no one would propose a natural-rights regime for bees or cows.

Some critics of rights-based libertarianism try to place impossible burdens on the claims of natural rights, then declare victory when the theory won't hold so much. Bradford, for instance, says that "moralistic" libertarians believe that "it is always wrong for one person to initiate force against another." That would mean that there are no circumstances — during war, flood, shipwreck, murderous rampage — when the normal rules for social interaction might be inoperative. But that is not what actual rights theorists claim; rather, they say that in normal circumstances,

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where social and political life is possible, people should respect each other's rights.

Bradford says that natural-rights libertarians believe that non-aggression is "a moral imperative from which all social and political thought can be derived." That would imply that history, economic analysis, common law, personal experience, and intuition played no role in one's understanding of the world. Few people would make such a claim, and I'm certainly not one of them.

Finally, Bradford loads the Liberty Poll with crazy questions that he thinks undermine natural rights: Would

Let's construct an ethics appropriate for normal life and only then consider the extremely unlikely circumstances where it might not hold.

you stop parents from starving their baby to death? Would you, hanging from a 49th-floor balcony, save your life by entering an apartment against the owner's wishes? David Friedman offers, Would you steal a gun to stop a mass murderer? Questions like those make for an amusing parlor game, even an interesting intellectual exercise to test the limits of a theory of rights. But Ayn Rand reminded us that we shouldn't base our ethics on lifeboat situations because we don't live in lifeboats. Let's construct an ethics appropriate for normal life and only then consider the extremely unlikely circumstances where it might not hold. I'm guessing that no *Liberty* reader has ever found himself hanging from the balcony of a misanthrope, or forced to break into a cabin in a blizzard. In the real world, where we live 99.9 percent of our lives, it is wrong to hit people or take their stuff, and everyone knows this. The happy and not coincidental result of following such a rule is more prosperity and social harmony.

As for what libertarians actually believe, in the Liberty Poll nearly 90 percent of "libertarians" agreed that "All men by their nature have a right to life . . . liberty . . . property . . . [and] the pursuit of happiness." Sounds good to me.

Bradford says that "moralistic libertarianism" (and why not just "moral libertarianism" if "natural-rights" is too old-fashioned?) was "formulated by . . . Ayn Rand and appropriated and expanded by Murray Rothbard." But this is a gross historical error. The concept of individual and imprescriptible rights did not begin with Ayn Rand; it goes back to the pre-Socratics, Aristotle, the Scholastics, the Levellers, Locke, Hume, Paine, Jefferson, and Spencer, among others. It may well be that Rothbard uniquely dropped any qualifications from the theory, giving the impression that in all circumstances — maybe even for the balcony-clinger and the blizzard-bound cabin-breaker — a strict non-aggression rule must be followed. But Rand did not; the theory she enunciated, while it appropriately emphasized the rules to be strictly followed in all normal circumstances, allowed that there were indeed circumstances where the adherence to rights would break down (see, for instance, "The Ethics of Emergencies" in *The Virtue of Selfishness*). Nor did other contributors to this long tradi-

tion make such excessive claims. (For my own analysis of the limits of rights, see pp. 84-87 of *Libertarianism: A Primer*, borrowed shamelessly from Douglas Rasmussen and Douglas Den Uyl, *Liberty and Nature*.)

I don't disagree with Bradford's argument that in today's world people seem to respond more willingly to explicitly consequentialist arguments than to a dogged insistence on individual rights. But maybe we should make it our task to ask how we can re-establish the popular commitment to rights that once existed, at least in America. After all, Americans do still believe firmly in the broad outline of rights theory. Imagine someone trying to tell Americans that the great majority of us would be happier if we exiled the Jews, implemented a policy of female genital mutilation, or expropriated Bill Gates. No, Americans would say, that would be a gross violation of rights.

A couple of personal points: I think Bradford has misread *Libertarianism: A Primer* (pp. 74, 82-3) when he says that I "come close to reading out of the libertarian movement those who disagree with" the non-aggression principle. Rather, I think I read the consequentialists into the natural-rights camp by demonstrating that, at root, they do believe in individual, imprescriptible rights. And Bradford also says that, although leaders of the Cato Institute seem to endorse rights-based libertarianism, Cato's policy studies are framed in consequentialist terms. Well, yes. The Cato Institute is a public policy research organization. Its purpose is to analyze public policy in terms of how well they fulfill widely shared values, such as economic growth, the alleviation of poverty, social harmony, and international peace. And those studies, based on empirical research and economic analysis, help to confirm the good results that can be obtained by following the non-aggression principle, and thereby to demonstrate that non-aggression is indeed a moral imperative.

In Defense of Utility

by Leland B. Yeager

I don't know much about the numbers, but I am glad to read that consequentialist or utilitarian libertarianism is gaining ground over the moralistic or rights-based version. Consequentialism is an approach to ethics that appraises actions, practices, institutions, policies, principles, attitudes, and character traits by their likely consequences. Utilitarianism is a subapproach: it attends to the consequences for human happiness or misery in particular. Because it is the most plausible kind of consequentialism, I prefer the more specific term.

Moralistic or rights-based libertarianism has little appeal to the general public, as R. W. Bradford says, because it relies more on dogma and declarations than on evidence, reasoning, and dialogue. It reaches sweeping and detailed policy conclusions in a suspiciously easy way, with scant attention to the real world. Some of them, like Murray Rothbard's conclusions about contracts, bankruptcy, extortion, blackmail, and crime as private transactions between perpetrators and victims, as well as the supposed "heroism" of the scumbags

defended in Walter Block's notorious book (*Defending The Undefendable*, 1976), are outlandish on their face.

That approach downplays even economics. Economists associated with the Ludwig von Mises Institute and its new *The Quarterly Journal of Austrian Economics* have been extending Rothbard's moralistic condemnation of fractional-reserve banking. They insist that all banknotes and checking accounts be backed 100 percent by reserves of hard money. Innovations that might wriggle around this requirement must be stamped out. Any other monetary arrangement is downright fraudulent. No matter how much banks and their depositors might desire it, any alternative violates the first principles of property law and morality. It stands condemned even without any economic analysis. It is ironic that this facile and anti-utilitarian style of argumentation should proceed from professed disciples of Ludwig von Mises, a forthright utilitarian.

The moralistic approach makes bad propaganda because it is philosophically defective. Either it is rank intuitionism or it is utilitarianism disguised and crippled. Its non-aggression imperative, banning any initiation of coercion, either is mere rhetoric or is meant to be taken literally. Taken literally, it rules out any government. Ethan O. Waters (pseudonym of R. W. Bradford) has duly mocked it: "To the question, 'When is it legitimate to initiate the use of force against others?' the libertarian moralist answers, 'Never! Unless, of course, you really need to initiate force . . .'" If that imperative is not an ultimate intuition, it purportedly derives from the two Lockean maxims of self-ownership (personal autonomy) and homesteading (first appropriation through mixing one's own labor with hitherto unowned resources). What basis do those maxims have? Well, what would the alternatives to self-ownership and first appropriation be? Shared ownership of individuals? Second appropriation? How well would those alternatives work? Even Rothbard lapsed into utilitarianism, seeing it as "vitally necessary for each man's survival and prosperity that he be free to learn, choose, develop his faculties, and act upon his knowledge and values. . . . [T]o interfere with and cripple this process by using violence goes profoundly against what is necessary by man's nature for his life and prosperity" (*For a New Liberty*, 1973, pp. 23–25).

Making natural rights the very foundation of ethics and policy substitutes intuition for factual research and reasoning. Furthermore, familiar strands of "rights talk" (Mary Ann Glendon, *Rights Talk: The Impoverishment of Political Discourse*, 1991) debate political discussion. To demand a particular line of policy as a matter of right is to deploy pretty heavy artillery, portraying one's opponents as not merely mistaken or obtuse but immoral. An overblown rhetoric of rights obstructs the democratic processes of public justification and deliberation; it subverts creative search for mutually beneficial accommodations. Continual invention of new personal and group rights simplistically derived from moral axioms or ingeniously read into the Constitution is scornful of custom and precedent.

It consorts with pervasive politicization of life, legalism, and litigiousness.

I am questioning not human rights but the abuse of rights talk. Precisely because rights are important, they deserve a better grounding than reports of definitive intuitions. It isn't

enough to talk of what human nature requires. Of course we are talking about ethics and politics for human beings, not for zebras or ants.

The meaning that seems to fit the typical context is this: a right is a person's entitlement to others' treatment of him that is binding on those others with compelling moral force. Some rights are positive entitlements, like a child's right to support by his parents or each party's right to performance by the other party to a contract. The rights mentioned in the Declaration of Independence are negative rights, rights to forbearances, rights not to be coerced or victimized by other persons, notably including agents of the state. One reason why negative rights are especially stringent is that they are relatively easy to honor — by simply not interfering.

Anyway, rights, being moral entitlements, presuppose an ethical system and cannot provide its very grounding.

[R]ights are themselves never foundational, but rather intermediaries between claims about human interests that are vital to well-being and claims about obligations it is reasonable to impose on others in respect of these interests. Rights . . . gain their content from the requirements of human well-being — and they will be variable as the demands of human well-being vary (John Gray, *Post-Liberalism*, 1993, p. 303).

Richard Epstein finds a utilitarian grounding for natural rights, sensibly interpreted, and for the Lockean maxims of

Moralistic libertarianism has little appeal to the general public because it relies more on dogma and declarations than on evidence, reasoning, and dialogue.

self-ownership and homesteading (symposium contribution in *Harvard Journal of Law & Public Policy*, 1989; *Simple Rules for a Complex World*, 1995).

Ludwig von Mises, Henry Hazlitt, and predecessors such as Thomas Hobbes and David Hume stressed social cooperation, or what some writers nowadays call civil association or civil society. Under whatever name, it is the complex of institutions, practices, precepts, and even attitudes that fosters peace, security, specialization, gains from trade, opportunities for social solidarity and affection within small groups of individuals, and effective cooperation among people seeking to make good lives for themselves in their own individual ways. Serving social cooperation is a utilitarian near-ultimate criterion of institutions, rights and other ethical precepts, and even of character traits. (The ultimate criterion is happiness in a suitably stretched sense of the word.) Applying the criterion of social cooperation does not require "aggregative judgments of utility" (so called by John Gray, introduction to J. S. Mill, *On Liberty and Other Essays*, 1991, p. xxvi). Economics and other social and natural sciences investigate what serves and what subverts social cooperation.

Utilitarianism upholds some basic ethical precepts that are almost invariant from time to time and place to place, the standard ones that have stood the test of experience. A sensible version of utilitarianism lays great emphasis on enduring

principle, as opposed to case-to-case short-run expediency. Specific applications can vary. What serves social cooperation and thereby happiness is indeed conditioned by a society's traditions, customs, historical inheritance, and common moral culture.

These are subject to piecemeal reappraisal and reform, but there is no external standpoint of pure reason or pure intuition from which they can sweepingly be called into question and replaced by newly invented ones. A decent respect for historical context is required precisely on utilitarian grounds.

Of course public policies must square with ethics, but what best serves human goals requires detailed analysis. Libertarianism is best championed by empirical and theoretical research, not by purporting to bypass them.

The Case of the Missing Premise; or, The Axiom That Wasn't Categorical

by Tom G. Palmer

R. W. Bradford has raised a number of interesting and important problems in moral and political theory, but I believe that he has generated more confusion than enlightenment in the process. In an attempt to characterize what he sees as "the New Libertarianism," Bradford makes a number of significant errors. Let's see how.

Bradford contrasts "moralistic" libertarianism, based on a belief in "objective morality," with "consequentialist" libertarianism, based on the belief that "liberty is good for people." This might seem to imply that consequentialism is not a moral theory, an impression that Bradford rushes to correct: "This is not to say that consequentialist libertarians are not moral; in fact, most consequentialists agree that it is wrong to initiate force. Where they part company from the moralist libertarian is that they see non-aggression as a general moral principle, one with profound and positive consequences, but not as a moral imperative from which all social and political thought can be derived."

So Bradford does agree that consequentialism is a kind of moral theory; but he errs in seeing "moralism" as a system of moral imperatives that are not merely moral imperatives, but categorical imperatives. It is a tribute to the great influence of Kant that morality has in recent years come to be associated entirely and only with categorical imperatives, i.e., command actions we would have to take regardless of the consequences and regardless of any other considerations whatsoever. It is at the same time very unfortunate, for it has generated great confusion about the nature of the moral theories of all other philosophers, from Plato and Aristotle up to the modern age. I address this unfortunate confusion at much greater length (replete with scholarly apparatus and quotations) in "What's Not Wrong with Libertarianism: A Reply to Jeffrey Friedman" in a forthcoming issue of *Critical Review*, so I refer the reader interested in intellectual history and rigorous philosophy to that article and offer here a few more commonplace observations. Equating all moral imperatives with categorical imperatives is like the common practice of referring to a particular attitude toward suffering or

joy as "philosophical," when actually the attitude is "Stoic," and not all philosophers are Stoics.

The fact is that Bradford, indeed all consequentialists, believe in "objective morality," for they believe in cause and effect, in observable regularity in the world (including the world of human action and social life). Consequentialism rests on the belief that consequences can be observed and associated with causes and that, if one wishes to obtain good consequences or avoid bad ones, there are actions that can be taken or avoided. The system of rules or principles generated on the basis of such observed regularity is a system of "objective morality." The alternative would be a system of arbitrary will, randomness, or magic. Consequentialists believe in objective morality just as much as do "moralists." Bradford's dichotomy is based on a confusion.

Consequentialism as such, however, is not a complete moral theory, as Bradford also implicitly recognizes. He writes that consequentialist libertarians favor liberty because "liberty is good for people." But consequentialism as such, i.e., always seek good consequences or the best consequences, does not tell us what the "good" or the "best" is. Consider the following account of the good, offered in *The Iliad* as a prayer for his infant son by the Trojan hero Hector:

Zeus, all you immortals! Grant this boy, my son, may be like me, first in glory among the Trojans, strong and brave like me, and rule all Troy in power and one day let them say, "He is a better man than his father!" when he comes home from battle bearing the bloody gear of the mortal enemy he has killed in war — a joy to his mother's heart.

Presupposed in consequentialist libertarianism (which includes, as we shall see, most of those who believe in the "non-aggression axiom," imprescriptible individual rights, and the like) is a theory of the good and the desirable that differs considerably from Hector's, which eloquently expresses the virtues of glory and honor, in contrast to the bourgeois virtues of personal responsibility and security, toleration, and peaceful social cooperation.

There is a missing premise in Bradford's formulation. The formal structure of consequentialism cannot answer the question of what is good or bad, or of for whom or to whom the consequences are to be considered good or bad. Shall we consider what is good for me, or for my friends, or for people like me, or for most people, or for everyone? And who counts as a person? I raise these issues not because I consider them insoluble or especially vexing, but because Bradford's simple dichotomy cannot handle them.

Morality — even objective morality — constitutes a far richer subject than Bradford indicates. Two well developed approaches to objective morality offer different answers to these problems. The classical natural law approach, derived from Aristotle, is based on the natural end (*telos*) of the human being, on the flourishing of that being and the achievement of its natural end, hence on a teleological view of moral life. Modern natural law attempts to answer the skeptic who points out the great diversity in forms of human social life, and who asks "What's natural about X or Y, when we observe plenty of societies that don't follow X or Y?" Broadly speaking, thinkers in the modern natural law tradition respond by identifying certain basic goals they see as common to all or at least to most people (e.g., preservation of life, prosperity, enjoyment of the pleasures of life in peace,

and so on). Then they show what rules or practices are necessary to achieve those goals. The form of the argument is the "hypothetical syllogism," i.e., "You desire X; in order to achieve X you must Y; therefore you must Y." The rule of law, individual rights, property, freedom of contract, and other principles comprise consequentialist, natural law libertarianism.

Observation and reasoning about different situations and discovery of regularities lead to the formulation of principles. These principles may then be used to deal with new situations. They are rebuttable presumptions about what kind of action is appropriate. That's what rights are. That's what the non-aggression axiom basically is — a fancy way of expressing the childhood principle of "keep your hands to yourself."

Bradford tacitly admits as much when he writes, "then perhaps you can convince them that the world would be a better place if a few more aspects of life were regulated by it, that is, if we had more liberty." The "it" is a principle, an axiom of morality. Perhaps some have been misled by the term "axiom" to think that the principle is merely posited or is just pulled out of the air. But that is not what the term normally means. The first definition offered in the *Oxford English Dictionary* is: "A proposition that commends itself to general acceptance; a well established or universally accepted principle; a maxim, rule, law." The non-aggression axiom is a well established (alas not universally accepted) principle; it is a maxim, rule, or law. That does not mean that it holds the status of a categorical imperative. There may indeed be many occasions when the non-aggression axiom does not

Despite 25 centuries of moral and political philosophy, there is still no agreement on whether natural rights exist.

apply, such as cases in which social life is simply impossible. Lifeboat situations may be like that. The bizarre and unlikely scenarios that Bradford describes do not show that principles or axioms or rules are irrelevant as guides to right action, but that there are limits to their range of application.

Rights are supposed to be guides to action. They are justified in most moral systems (Kant's and some others not included) on the ground of the good consequences that they are likely to produce. To say that they are guides to good action is not to predict that they will always and inevitably produce better or more desirable results. It is pointless to exhort people to "always pursue good consequences." We rarely, if ever, know enough about all the possible consequences of our actions to know which course of action would in every case produce the best consequences. That's why we need rules, axioms, guides to action. As David Hume noted in his *Treatise of Human Nature*,

if men pursu'd the publick interest naturally, and with a hearty affection, they wou'd never have dream'd of restraining each other by these rules; and if they pursu'd their own interest, without any precaution, they wou'd run head-long into every kind of injustice and violence. These rules, therefore, are artificial, and seek their end in an oblique and indi-

rect manner; nor is the interest, which gives rise to them, of a kind that cou'd be pursu'd by the natural and in artificial passions of men. (Book III, Part II, section ii, 496-97)

Natural law and natural rights thinking do not deny that consequences matter. The contested issues are at what stage of the argument consequences are to play their justificatory role, and, in addition, what counts as a good or bad consequence and who are the relevant persons for whom the good or bad consequences are to be considered.

I do not believe that there is a general trend, among libertarians or among members of our society generally, to adopt ad hoc utilitarianism and reject more extensive or wide ranging principles or axioms. An example of a principle widely invoked today that plays the role that rights and non-aggression should also play is the identification of a scheme or policy as "discriminatory," an identification that automatically condemns that scheme.

Inescapable Facts, Unavoidable Constraints

by Pierre Lemieux

I don't find overwhelming the reported evidence on the relative influence of consequentialism versus natural rights in libertarian opinion. How do we know that the two populations (of 1988 and 1998) are representative of libertarian opinion? And how do we know that the differences in answers are significant? In any event, the issues raised are interesting from the point of view of a vagrant economist.

Inquiring whether libertarianism is grounded in natural rights or in consequential justifications confronts us with an inescapable fact and an unavoidable logical constraint.

The inescapable fact is that, despite 25 centuries of moral and political philosophy, there is still no agreement on whether natural rights exist, let alone on what they are. True, there are fruitful positive accounts of natural law and natural rights, about how such institutions emerge from social interaction, but these explanations do not bridge the is/ought gap. We also know that, at least at a certain stage of civilization, individuals say "I" and claim rights, but this doesn't prove that rights exist outside of subjective preferences.

We may also assume that any moral theory must show concern for human development. In this sense at least, consequences do matter. The most logical theory of rights would not be worth the logical gates it passes through if did not serve human development. The real issue is, to what extent do consequences matter?

The logical constraint lies in the impossibility of an ethically self-sufficient consequential ethics. Consider the utilitarian basis of either neoclassical or Austrian economics: its normative significance requires some ethical foundation, if only the assignment of moral value to individual preferences. The problem is even more complicated since only certain individual preferences are deemed morally valid, and only certain kinds of harm are forbidden. The pleasure felt by a murderer or by a coercive dominator carries no moral weight. Blowing up a competitor's factory is morally wrong,

while destroying his business goodwill is perfectly permissible. Moreover, the initial distribution of property tints the moral significance of individual preferences: the ones expressed with stolen money hold no moral value.

It seems, therefore, that libertarian political theory cannot be based on a pure, non-consequentialist, conception of individual rights; and, yet, that a consequentialist or utilitarian theory needs an ethical substratum. Even if no "natural rights" exist, the claim would remain that morality is inseparable from human nature; but consequences also matter. Thus, consideration of both morals and consequences appears necessary for a defense of liberty. Perhaps libertarians have discovered this.

In Response to My Critics

by R.W. Bradford

The comments of Friedman, Boaz, Palmer, Lemieux, Steele, and Yeager were all enlightening and provocative.

I will leave for others to discuss whether the change from the moralistic libertarianism of the non-initiation imperative toward the more eclectic, consequential approach of Friedman, Mises, and Hayek is a good thing. At least for now.

Instead, I'll consider first the challenges to the validity of the Poll; then a challenge to the conclusions that I drew; then the validity of the distinction between "moralistic libertarianism" and "consequentialist libertarianism"; and finally, I'll explain the purpose of the "crazy questions" in the Polls.

I. The Validity of "The Liberty Poll"

The Liberty Poll is "strikingly unscientific," David Boaz says, because its responses came from "self-selected" *Liberty* readers and Libertarian Party convention attendees. Pierre Lemieux worries that those surveyed in 1988 and in 1998 might not be "representative of libertarian opinion." Tom G. Palmer asserts that the poll has a "statistically unscientific nature." In a letter to the editor (page 5), Jesse Walker argues that comparing the *Liberty* surveys was "self-selecting, unscientific."

Well. For a poll to be optimally accurate, the following conditions must be met: (1) its sample must be of sufficient size; (2) respondents must understand the questions and answer them honestly; and (3) all members of the sample must respond to the questions put to them (i.e. no "self-selection").

In the real world, it is fairly easy to meet the first two conditions, but the third is impossible to meet: that is, virtually all polls have some degree of self-selection. The important question is whether this survey has a degree of self-selection so high as to render it invalid. Curiously, we did not mention the response rate in the report on the poll, so neither of the writers who criticized it for self-selection (Boaz and Walker) had any evidence that there was a high degree of self-selection. That rate was, in fact, 31 percent. I am told by social scientists who are knowledgeable in this field that this combined with a sample of the size we used (200 individuals) sufficed to provide a high degree of reliability.

Nearly two decades ago, John C. Green and James L.

Guth published "The Socialization of a Third Party Elite," which was eventually reprinted both by the Cato Institute and by *Liberty*. In this study, the two sociologists got a 67 percent response rate from a sample of 100 major donors to the Libertarian Party. They got a higher response rate — probably because they surveyed individuals who had made substantial donations to the Libertarian Party, which implies a higher degree of commitment than those who simply subscribe to a magazine — but sent out only 100 surveys.

When *Liberty* did its survey in 1987 and 1988, I asked three social scientists to evaluate its accuracy, and they all opined that it was reasonably valid as such studies go. One who was familiar with the Green-Guth study (the only scholarly study of libertarian belief and behavior published at that time) told me that our survey was comparably valid.

It is worth noting that the 1998 Liberty Poll was sent to three different groups, with varying response rates (and thus varying degrees of self-selection):

1. A survey was mailed to 200 randomly selected subscribers, with a response rate of 31 percent.
2. 300 copies of the survey were distributed at the Libertarian Party convention, with a response rate of 30.2 percent.
3. The survey questionnaire was published in *Liberty*, and readers were invited to respond. Approximately 3 percent mailed in responses.

Obviously, the first survey has the least self-selection and the highest degree of reliability. So we compared its results to the other two, and found very similar demographic patterns and answers on questions about beliefs and behavior. From this we concluded that it was very likely that the higher degree of self-selection of the mailed-in responses had not in fact prejudiced the data, so we included them in our overall database so that we could more easily analyze the responses of sub-populations. (For example, we could compare the beliefs of respondents who are over 65 years old to those less than 60 years old, or of homosexuals to heterosexuals, or of those who reported that Ayn Rand was "very influential" on their intellectual development to those who reported that she was "not influential at all," etc.)

The second problem — mentioned only by Walker — is that the population we polled included only libertarians who attended the LP convention or read *Liberty*. What about other libertarians?

Well, here there is a serious logistical problem. How can we identify them? We considered asking other libertarian organizations and publications to allow us to use their mailing lists. But figuring that the LP and *Liberty* attract reasonably typical libertarians and knowing how jealous organizations are about their mailing lists, we decided against doing so.

To my mind, what's at issue here isn't whether the Liberty Poll is a perfect measure of libertarian opinion, but whether it is a measure at all, and whether (and how) it could be made more accurate. It seems to me that the answer to the first question, for the reasons I've already stated, is an unqualified "yes." And I have endeavored to find an answer to the second.

I have on more than one occasion asked people who condemn the poll for self-selection how a more accurate poll

could be conducted. None has offered any suggestion, but I have given the matter some thought.

Polling firms use several methods to minimize self-selection. They make contact by telephone in a non-threatening way. They use skilled interviewers who put those contacted at ease. They keep their surveys short. Etc. But no matter how skilled the interviewers are, some people will refuse to answer their questions. And no matter how often the skilled interviewers call, some people are never there to answer. And, of course, some people do not have telephones.

Still, these methods result in much less self-selection than the surveys we conducted, where response rates were roughly 30 percent — response rates that are not surprising, considering that our surveys were extraordinarily long and complex and that libertarians are, well, more cantankerous and privacy-oriented than most other people.

It would be possible to emulate these methods. We could telephone Americans at random and ask each person whether he considers himself to be a libertarian, and ask those who answer affirmatively whether they mind answering our lengthy questionnaire over the telephone. By calling all Americans, we would pretty well eliminate any prejudice arising from limiting the population surveyed to *Liberty* readers and LP convention attendees. And by using the phone rather than the mail, we could improve our response rate.

But since fewer than one American in a thousand considers himself to be a libertarian, we would have to make over 100,000 phone calls to identify even 100 libertarians. And many of these would likely be unwilling to take the poll over the phone. The whole project becomes unwieldy and, well, too expensive for us to afford — especially when it would almost certainly do nothing more than refine slightly the results that we have.

If anyone can think of a practical way to improve the survey's reliability, I invite him or her to contact me. But in the meantime, we'll continue to slog along with the method we've used to date.

One final observation on the challenges to the Poll's reliability: after describing the five polls that we conducted as

We included "crazy questions" because we thought it might be interesting to compare the way people act to the way one might predict they'd act, given their beliefs.

carefully as we found to be practical as "of dubious value" and "strikingly unscientific," David Boaz observes that the ideological trend identified in the poll seems to be valid because he has "seen anecdotal evidence of a similar shift among young people coming to work at the Cato Institute over more years than I care to remember." Wow! Our carefully crafting a survey with nearly 200 questions, distributing to libertarians on as scientific a basis as we were able, and comparing the responses of approximately 800 individuals over eleven years is "strikingly unscientific" and "of dubious value," but his recollections of the opinions of young people coming to work at Cato over the

years somehow offers better evidence!

For the record, I have lots of similar anecdotal evidence too. But I didn't cite this evidence because, unlike Boaz, I didn't consider this evidence to be more convincing than what our polls revealed. I also have data from more-modest surveys we've conducted over the years. But I didn't cite those data because they are rather fragmented (mostly we added a few questions to surveys we conducted as market research).

II. Poll Results on Libertarianism Today

Based on my examination of the data from the Liberty Poll, I concluded that there has been a significant shift among libertarians away from the thinking of Ayn Rand and Murray Rothbard — what I call "moralistic libertarianism" — and toward the approach taken by Milton Friedman, Ludwig von Mises and F. A. Hayek — which I call "consequentialist libertarianism."

David Friedman offers an alternative interpretation of the data presented in the 1988 and 1998 Liberty Polls. He states his case very well and there is no reason for me to restate my own arguments from the February issue of *Liberty*.

But I do suggest that those who want to delve into the matter consider the weight that one should place on various pieces of data. To me, the fact that the percentage of libertarians who do not agree with Rand's non-aggression imperative — "no man has the right to initiate the use of physical force against another" — has increased five-fold over the past is a very powerful piece of evidence for my view that libertarians are moving away from the Rand-Rothbard position and toward the consequentialist view. Friedman is correct, of course, when he points out that this is a move toward a position more similar to that of "ordinary, non-ideological Americans" than to that of ideological libertarians. But this is hardly surprising, since the political views of "non-ideological Americans" are far more similar to those of consequentialist libertarians than to Randians or Rothbardians. I don't see how it undermines my interpretation of the poll data.

His discussion of one of the minor pieces of evidence I cite, the relative ratings of the intellectual spokespersons for the two positions, is intelligent and even prescient. But I think he misses one critical point: Rand and Rothbard ranked first and second in the 1988 poll, while everyone else, whether well known in the broad society or known only within the libertarian movement, was rated substantially lower. In the 1998 poll, Rand fell to a virtual tie with Jefferson, and Rothbard fell well back in the field.

Friedman brings up one new datum that supports his contention that there has been little significant change:

[The] rights-based version of libertarianism is alive and well online, although perhaps gradually losing ground, at least among anarchists, to the consequentialist version. That is consistent with my interpretation of the poll results but not, I think, with Bill Bradford's.

Here I am simply mystified. My thesis is that the libertarianism that emanates from the non-aggression imperative — which in turn derives from a peculiar version of natural rights thinking — has lost ground. Friedman finds this inconsistent with his view that among online discussions of anarchism, rights-based libertarianism is losing ground. On the

face of it, that seems to me entirely consistent with my thesis. (Incidentally, I am not convinced that those who engage in online discussions of anarchism with David Friedman are necessarily, or even likely, to be typical libertarians.)

III. What Are Those "Two Libertarianisms"?

Over a decade ago, I wrote an essay entitled "The Two Libertarianisms." The first — and the one then dominant — was that of Ayn Rand and Murray Rothbard, which emanated from a moral prohibition of the initiation of force. The second variety — whose leading proponents in this century have been Milton Friedman, Ludwig von Mises and Friedrich A. Hayek — valued liberty because its consequences enable human beings to flourish.

As I put it in that essay:

The libertarian moralist advocates liberty because he believes liberty is the condition that results from men acting under the moral law of nonaggression. The libertarian consequentialist advocates liberty because he believes liberty is the optimal arrangement for human society, a way of life under which human beings thrive.

I chose this terminology because in political discourse, the Randian-Rothbardian type of libertarian responded to questions of governmental policy almost exclusively by reference to a moral law, non-aggression imperative; and because the other approach responded to political issues by discussing their *consequences*.

My choice of terminology has led some people — mostly advocates of or apologists for the Randian-Rothbardian approach — to conclude that I believe that consequentialism is not a moral theory or that consequentialists are immoral or amoral. Tom Palmer, for example, begins his criticism of my distinction between the two approaches to liberty with these words:

Bradford contrasts "moralistic" libertarianism, based on a belief in "objective morality," with "consequentialist" libertarianism, based on a belief that "liberty is good for people."

Here Palmer is already confusing the matter. Yes, I do believe that "moralistic libertarians" base their belief on what they take to be "objective morality." But I nowhere suggest that that is their salient characteristic. Again and again, I identify the defining characteristic of moralistic libertarianism as a belief that it is always wrong to initiate force (i.e., the non-aggression imperative.)

Palmer goes on to demonstrate that, supposedly unbeknownst to me, I actually believe in objective morality. You can practically hear him say "Gotcha!" when he writes: "The fact is that Bradford, indeed all consequentialists, believe in 'objective morality.'" I am, of course, very well aware that consequentialism is an objective moral theory. It differs from moralistic libertarianism not in its acceptance of morality, but in its acceptance of social moralities other than the non-initiation imperative.

But my major error, Palmer explains, is in seeing moralistic libertarianism as a categorical imperative, rather than a "merely moral imperative." Here he is partly correct: I certainly do see moralistic libertarianism as a categorical imperative. And I defy Palmer to demonstrate that it isn't. That is, I defy him to demonstrate that the non-aggression imperative — i.e., the proposition that it is always wrong to initiate force

against another human being — is anything less than a categorical imperative.

The balance of Palmer's essay, it seems to me, is an interesting discussion of some aspects of moral theory as it relates to social theory. Unfortunately, it never addresses the issues that I raised. Palmer completely ignores my definitions of the two libertarianisms. Instead, he focuses briefly on the labels I attach to them, then riffs on what's right and what's wrong with the schools of thought that he thinks ought to be associated with these labels. It's interesting and provocative, but it's not about the subject at hand.

Boaz seems to suffer from a similar misreading of my argument. He suggests that I somehow see a contradiction between natural rights libertarianism and consequentialist libertarianism. I don't; but again, that's not really the point. I'm concerned with the non-aggression imperative, not with natural rights. Most natural rights proponents define natural rights in a way that does not entail the non-aggression imperative: there is nothing in the writing of Locke, Hume, Jefferson or Bastiat, for example, to suggest that their very eloquent espousal of natural rights involved the non-initiation imperative. My criticism is directed only toward those who embrace the non-aggression imperative, notably Rand, Rothbard and their adherents. I never said that my criticism applied to all natural-rights libertarians, and I have no idea where Boaz got the idea that it did. He writes:

Bradford says that natural-rights libertarians believe that non-aggression is "a moral imperative from which all social and political thought can be derived."

But I didn't say that. Here is what I said:

Where they [consequentialist libertarians] part company from the moralist libertarian is that they see non-aggression as a general moral principle, one with profound and positive consequences, but not as a moral imperative from which all social and political thought can be derived.

While it is certainly true that *some* natural rights libertarians (i.e. Randians and Rothbardians) see non-aggression as a

When we were writing the survey, it occurred to me that philosophy professors might not be the only ones who harbor a discrepancy between professed belief and behavioral beliefs.

moral imperative, it is likewise true that many others (actually, just about all others) do not. My criticism of moralistic libertarianism was in no way directed at natural rights thinkers in general, but only at Randians and Rothbardians.

Given the confusion into which my use of the term "moralistic libertarianism" has thrown two social thinkers as intelligent and perceptive as Palmer and Boaz, I'm tempted to wish I'd chosen different labels for the two libertarianisms. The most philosophically descriptive labels for the two approaches are probably the rebarbative terms "deontological" and "teleological," since the Randian-Rothbardian approach is grounded in a theory of moral obligation, while the consequentialist approach has its origin in the ends of social and political institutions and arrangements.

But I write for a political magazine, not a journal of philosophy, and in that milieu, I believe, the terms "moralistic libertarianism" and "consequentialist libertarianism" are more appropriate than the technical and academic terms.

IV. Those "Crazy Questions"

Friedman cites the "moral problems" presented in the Liberty Poll — the problems that David Boaz characterizes as "crazy questions that [Bradford] thinks undermine natural rights" — as "the best evidence" for his interpretation of the data. For what it's worth, I do not think these questions "undermine natural rights." Nor do I think they support Friedman's interpretation.

The reason why these questions were included in the survey was not because we* thought they (or the responses to them) would somehow undermine natural rights. We included them because we thought it might be interesting to compare the way people act to the way one might predict they'd act, given their beliefs.

I remember a professor of philosophy, from my college days, making an elaborate argument for the notion that we have no way of knowing anything about the physical world. For example, he said, we have no way of knowing whether our car might suddenly vanish as we drove down the highway, leaving driver and passengers skidding along the concrete on their sorry asses. It occurred to me that he drove a car to work every day despite this belief. About the same time, I read Martin Anderson's *The Federal Bulldozer*, and I was struck by his citation of an ancient proverb: "Exterior acts reveal interior beliefs." What did my philosophy professor actually believe? He continued to drive his car.

Whether he actually believed that his car might vanish without warning or not depends a lot on what one means by "belief." But it seemed plain that by examining behavior one could determine the depth of *professed* belief.

When we were writing the survey, it occurred to me that philosophy professors might not be the only ones who harbor a discrepancy between professed belief and behavioral beliefs. The same thing might be true of those libertarians who argue that it is always wrong to initiate force. Now I realized that it would be difficult to put these people in situations where initiation of force might be in their self-interest and observe their actions. But we could pose questions about what they'd do in a specific situation and see whether they at least contemplated acting on the non-initiation imperative.

The most extreme form of the question we posed was the notorious flagpole question:

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

In this case, obeying the non-aggression imperative meant certain and immediate death. And only about 2 percent of respondents — including, by the way, one fairly well-known libertarian theorist, who chose to sign his name to the survey — chose that option.

The other "crazy questions" involved situations in which death was not so certain or not so horrible, or in which one might be tempted to initiate force to save an innocent life. Most respondents — including most who professed the non-aggression imperative — chose to initiate force in these cases as well.

This says something interesting about human life and opinion. But the "crazy questions" were *not* intended to get

While it is certainly true that some natural rights libertarians (i.e. Rothbardians and Rand-ans) see non-aggression as a moral imperative, it is likewise true that many others do not.

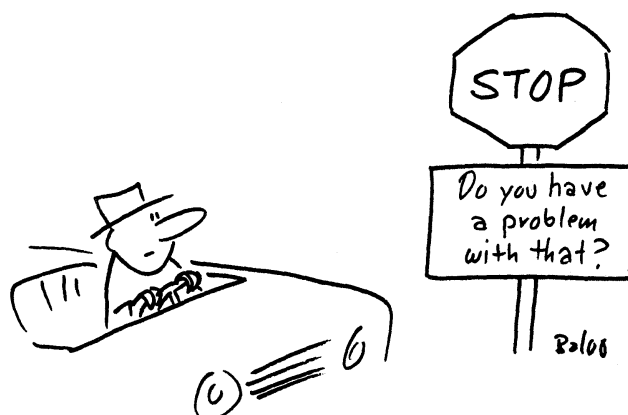
information about respondents' professed beliefs, so they had little relevance to the changes in the professed beliefs of libertarians. So however much the professed ideology of respondents changed, there would be little change in answers to these questions.

V. What's Next for Liberty?

I remain convinced that the data published in the Liberty Polls of 1988 and 1998 offer powerful evidence that the libertarian movement is undergoing a profound change: a gradual but definite rejection of the view that liberty is good because it is entailed by the non-aggression imperative and an increase in acceptance of the more eclectic view that liberty is good because it enables human beings to thrive.

You have no doubt noted that three of the comments in this symposium — those of Leland Yeager, David Friedman and David Ramsay Steele — agree with my conclusion that this is a favorable development. Tom Palmer and David Boaz, on the other hand, seem to disagree with what I say, but ultimately appear to share the more eclectic, consequentialist approach that I advocate. Pierre Lemieux takes no sides, but tries instead to focus our attention on the real problem that libertarians face.

I encourage those individuals who, like me, are continuing to struggle with the issues that surround the interrelation between the two libertarianisms to re-read Pierre Lemieux's comments. In a few short paragraphs, Lemieux does an extraordinary job of describing the challenge that thoughtful libertarians face. □



* The survey was written by Stephen Cox, Ross Overbeek, Timothy Virkkala and me.

Too Smart for Our Own Good

by Randal O'Toole

Liberal elitists have just the thing to cure our environmental woes: Turn the nation into one big Los Angeles.

Are you among the 50 percent of Americans who live in the suburbs? How about the 90 percent of Americans who drive to work? Do you sometimes shop at Price Club or the local mall?

If you answered "yes" to any of these questions, then hold onto your steering wheel and circle the lawn mowers: Al Gore has declared war on you and your lifestyle. People who live in the suburbs, who drive to work, or who shop at malls are a danger to the country, says Gore. So he has put together, and is campaigning for president on, a multi-billion-dollar package of carrots and sticks aimed at forcing metropolitan areas all over the country to bust their suburbs and get people to stop driving. Gore and the Environmental Protection Agency (EPA) would like to see all metro areas adopt these "new urban" or "smart-growth" policies:

- Urban growth boundaries, beyond which urban services will be denied and, if possible, zoning will disallow any development at all
- Redevelopment of existing low-density suburbs into medium- to high-density areas of apartments, condominiums, rowhouses, offices, and shops
- An end to highway construction
- Massive increase in spending for expensive yet useless rail transit systems
- A reduction of existing roadway capacities through so-called "traffic calming"
- Mandating pedestrian-oriented shopping areas and restricting auto-oriented shopping malls

When Gore announced his "anti-sprawl" campaign in January, his proposal to create a \$10 billion fund for communities to buy open space generated the most publicity. That fund, however, would also be available for other activ-

ities, such as "suburban renewal" programs that condemn low-density housing and replace it with high-density housing.

You Must Be Calm

Another \$1.6 billion per year would go to "congestion mitigation," which often means activities that will increase congestion. For example, Portland, Oreg., spends \$2 million per year on "traffic calming," which means placing barriers on roads to reduce speeds and flows. Traffic calming began as a way to keep people from speeding on neighborhood streets. But smart-growthers use it to convert four-lane expressways with auxiliary left- and right-turn lanes into a "boulevard" with no right-turn lanes and limited left-turn lanes. This can reduce road capacities by 30 percent or more, which obviously increases congestion.

Gore also wants to spend a record \$6.1 billion per year on public transit, mostly for rail construction programs similar to those that have already failed in Portland, Atlanta, Los Angeles, and many other cities.

Most insidious of all, Gore wants to spend \$2.2 billion per year promoting "aggressive community-based programs" of planning and rezoning of the sort found in Portland. But the community has no input into "community-based programs." Professional planners pursue a predetermined conclusion: that suburbs have "compact development" and "transit-oriented design." Ironically, much of this money would come from motor vehicle fuel taxes.

Shortly after Gore presented his program, EPA Regional

Administrator John DeVillers announced his agency would aggressively use statutory authority to oppose projects that contribute to so-called sprawl. Under the Clean Air Act, the EPA must deny highway funds to any "nonattainment area," that is, any area with persistent air pollution problems, unless that area has prepared a satisfactory plan to solve those problems. Guess what kind of plan the EPA considers satisfactory? As of December, 1998, a total of 130 cities containing 113 million people were nonattainment areas. These include most of the 100 largest cities in America as well as many smaller towns such as Boise, Idaho; Kalispell, Mont.; and Yakima, Wash. The EPA wants to require that all such cities adopt smart-growth plans to get federal funds. EPA Assistant Administrator Charles Fox also says that smart-growth "can have major benefits for water quality," so EPA may begin to restrict its distribution of water grants to cities that have adopted smart-growth policies.

Smart Piracy

In short, cities that don't adopt smart-growth policies won't get the highway, water, and other funds they expect. Cities that do adopt smart-growth will be eligible for even more funds that Gore will give the EPA to hand out. Gore's plan is based on the "New Urbanism," which — as I have described in previous articles in *Liberty* — is a planning theory based on the idea that increasing population densities will reduce traffic congestion. If people are packed close enough together, the New Urbanists say, they will be able to walk to the grocery store and take the train to work.

But "New Urbanism" sounds elitist and boring. It is not surprising that its advocates have come up with the newer, more user-friendly term, "smart growth." But the basic idea hasn't changed: compact development, mixing housing with retail and commercial uses; rails instead of roads; and urban-growth boundaries, all enforced by zoning and onerous mandates for employers and commuters. If you own a home in a neighborhood of single-family houses rezoned for smart growth, you will soon see houses and vacant lots replaced by apartments or row houses. Smart-growth zoning includes minimum-density requirements: If your house burns down, the new zoning law may prohibit your replacing it with another single-family home — it won't meet the density requirement. And you may have a hard time selling your home because banks won't lend on houses that can't be replaced after a fire.

Smart-growth advocates say these policies are needed to reduce congestion, clean up the air, protect open space, and provide affordable housing. In fact, smart-growth fails all four tests, as shown by the experience of Portland and other cities that have adopted smart-growth plans:

Congestion. Packing people together leads to only a slight reduction in individual driving. But a 5 to 10 percent reduction in per capita driving combined with a 50 to 100 percent increase in population density translates to a 35 to 90 percent increase in total driving. Since smart-growth calls for no expansion of highway capacity, the result is a huge increase in congestion.

San Diego adopted a smart-growth plan in 1980 that led to near gridlock by 1990. Portland planners say that a 65 percent increase in population density combined with an opti-

mistic 4.5 percent reduction in per capita driving will lead to a tripling of highway congestion.

That's just the point, for some smart-growth advocates, who think more congestion might get a few more people out of their cars and punish the rest of them for driving. As Portland planners say, congestion "signals positive urban development."

Air pollution. EPA's own data and research show that smart-growth won't reduce air pollution. According to a

Portland planners project a tripling of congestion and a 10 percent increase in smog as smart-growth policies take effect.

1993 EPA report, "Clean Air Through Transportation," land-use planning that reduces commuting distances by 10 percent will produce less than a 2 percent reduction in air pollution. But even the most draconian smart-growth plans won't reduce commuting distances by 10 percent. Portland planners optimistically predict that their plans will reduce trip lengths by just 2 percent.

But the major cause of air pollution is not trip length. It is congestion. Cars pollute more when they go slowly and when they accelerate — which they do far more often in stop-and-go traffic than in uncongested traffic. So smart-growth will make air dirtier, not cleaner. Not surprisingly, the cities that the EPA rates as having the dirtiest air are those with the highest population densities and the worst congestion. Portland planners project a tripling of congestion and a 10 percent increase in smog as smart-growth policies take effect.

Federal law requires transportation planners to focus on air pollution, especially if they work for metro areas with clean-air violations. Rather than worry about actual air pollution, however, the EPA has adopted a simple-minded opposition to driving. Anything that reduces "vehicle miles traveled" is good, says the EPA, even if it leads to dirtier air. The agency measures all the effects of its programs in terms of a reduction in driving, not a reduction in air pollution.

Open space. Smart growth is supposed to protect both urban and rural open space. But urban open spaces such as vacant lots, golf courses, and even city parks, are among the first areas to be developed under smart-growth. Given a mandate to increase population densities, and given that many neighborhood activists resist zoning changes, cities soon discover that open spaces are ripe for development.

Rural open spaces will only be protected by draconian rules on landowners. Zoning that sets 10- to 40-acre minimum lot sizes, for example, will lead to a rapid subdivision of lands outside metropolitan areas as wealthy people who don't want to live in dense cities buy and build on their exurban parcels.

Oregon is attempting to enforce a double requirement that rural lots be at least 160 acres in size, and that landowners earn at least \$80,000 farming the land before they are allowed to build a house on it. Since less than 20 per-

cent of Oregon farmers earn \$80,000 annually from farming, this will supposedly protect open space. But the wealthy and powerful usually can find a way to get around such rules.

Oregon Governor John Kitzhaber is a strong proponent of smart growth. But he told a Portland newspaper that his fondest wish is to retire and build a house on ten acres in rural Oregon. Larry George, of the property rights group

Urban open spaces such as vacant lots, golf courses, and even city parks, are among the first areas to be developed under smart-growth.

Oregonians in Action, checked and found that Kitzhaber is one of the few people who got an exemption from the 160-acre, \$80,000 rule.

Meanwhile, the urban open spaces that Portland-area residents cherish most are disappearing. Planners have slated 10,000 acres of prime farm lands for development. Bureaucrats plan to convert a golf course (previously dedicated "in perpetuity" as open space) into 1,100 homes and 200,000 square feet of office space. The city of Portland is even selling city parks to developers on the condition that they build high-density apartments.

Affordable housing. Smart-growth is least able to provide affordable housing. Urban growth boundaries by definition create artificial land shortages. Land prices in Portland have septupled in the last nine years. On a percentage basis, the lowest-income neighborhoods suffer the greatest increases in housing costs.

Welcome to Los Portland

Smart-growth has mushroomed in Portland because voters in 1992 approved the creation of Metro, a regional planning agency with dictatorial powers over 24 cities and three counties. Proponents of the measure promised that the agency would help save Portland from becoming like Los Angeles.

In 1994, the agency analyzed the nation's 50 largest urban areas and found that the city closest to its smart-growth ideal was — surprise, surprise — Los Angeles! The L.A. metropolitan area has the highest average population density and the fewest miles of freeway per capita of any urban area in the nation. (New York City has a higher density than Los Angeles, but the New York metropolitan area density is lower than the L.A. metro area.) Metro planners concluded that Los Angeles "represents an investment pattern we desire to replicate" in Portland.

Most metropolitan areas don't have a Metro with such dictatorial planning powers. EPA plans to step into this gap to make sure cities adopt smart-growth, no matter what the cost. Do you want some of the billions that Al Gore promises to give out for open space? Then you'd better adopt smart-growth. Do you have air pollution problems and want highway funds to relieve congestion? Then you'd better adopt smart-growth. Local officials, always desperate to get "free" federal dollars, will eagerly comply with EPA's demands —

despite the best interests of their residents.

Under a 1991 federal law, all cities must develop a regional transportation plan to qualify for federal highway funds. To ensure that community-based urban planning produces the "right" results, EPA has given huge grants to non-profit smart-growth advocacy groups. Bicyclists make up just 0.4 percent of all commuters in the U.S., but EPA has given the Bicycle Federation of America \$465,000 to participate in local planning. Transit riders make up just 4 percent of all commuters, but the EPA has given \$175,000 to the pro-transit Association for Commuter Transportation.

Auto drivers make up 90 percent of all commuters. How much has the EPA granted to automobile groups to participate in planning? You guessed it — zero.

Other EPA grants include:

- \$625,000 to the Surface Transportation Policy Project, Washington, D.C.'s, leading smart-growth lobby group
- \$500,000 to the Local Government Association to encourage elected officials to adopt smart-growth policies
- \$564,000 to the Center for Clean Air Policy to promote smart-growth in local planning
- \$125,000 to the Congress on New Urbanism, \$155,000 to the Urban Land Institute, and \$115,000 to 1,000 Friends of Oregon for various national conferences promoting smart-growth

In 1996 alone, the EPA gave out more than \$4 million to various groups to either promote smart-growth or to discourage auto driving. The groups receiving these funds work to oppose highway construction, promote rail boondoggles, and mandate smart-growth plans in cities across America. While \$4 million is a drop in the federal budget, it represents a huge windfall for these nonprofit activist groups.

Want the Feds to Run Your Town?

At least a few members of Congress have asked why the federal government should give money to lobby groups to distort supposedly local planning processes. But a bill to halt such grant-making failed in the last session of Congress. Instead, Congress decided to give the Department of

EPA plans to make sure cities adopt smart-growth, no matter what the cost.

Transportation the authority to give out \$20 million per year in similar grants. Few members of Congress who voted on this measure understood what it really meant, especially since it was just one part of a \$200 billion transportation package.

If Al Gore and the EPA were genuinely interested in cleaning up the air, they would fight smart-growth tooth and nail. If, for some reason, they were unable to do so — perhaps because smart-growth was mandated by law — they would support three simple steps to mitigate its effects on air quality:

First, catalytic converters can greatly reduce air pollution,
continued on page 48

Repealing the Codes of Silence

by Lester H. Hunt

The University of Wisconsin is no longer niggardly about free speech.

One day, in September 1992, I came to my department office at the University of Wisconsin-Madison, as I normally do during the week before classes begin. My department chair told me he needed to see me in his office. He seemed rather nervous and even muttered something to the effect that "this is most embarrassing." I found his behavior disconcerting, coming, as it did, from someone who is normally completely unflappable.

It immediately became obvious why he was upset. He had been warned, he said, by the university's office of affirmative action and compliance, that they were about to send him a document in which an American Indian student from my political philosophy class the previous fall accused me of using anti-Indian language in my lectures, in discussions with her, and in the margins of her papers.

Like everyone else investigated on similar charges at the University of Wisconsin, I was eventually found to have done nothing that deserved discipline. But the month-long ordeal of serial interrogations that followed on the heels of that document was as painful as any experience I have had. For various reasons, academics must rely heavily on the reputation they manage to earn among a closed group of qualified individuals: their colleagues. Anybody who accuses you of absolute, completely unjustifiable evil (which is how most academics view racism) damages your reputation simply by making the charges. In a university setting, your colleagues will then think twice about giving you certain committee assignments or trusting you to deal with certain sorts of students. Perhaps they will hesitate to respect you fully as a human being.

In the months that followed, I was oppressed by a sense of being a passive victim. The only remedy for this, I decided, was to try to do something. There was little question concerning just what I should do: work to repeal the code. In order to justify interrogating me, the affirmative action office gave me a copy of a vague and bafflingly obscure document, the University of Wisconsin-Madison faculty speech code. When I

first began to talk to people about the code, I was unable to find anyone who knew it existed. The reason for this is simple: The code was buried, as most speech codes are, inside the University's harassment rule. According to this rule, you are harassing someone if you create a "hostile environment" for them. The "speech code" applied this reasoning to the instructional setting: instructors are liable to discipline if they use epithets, comments, or teaching techniques that "demean" people in terms of their "gender, race, cultural background, ethnicity, sexual orientation, or handicap condition."

I had little trouble persuading Donald Downs, a professor of political science who had written several books on free speech issues, to join me in my campaign. We decided that the best thing to do would be to write a letter explaining why the code was unjust and chilling to classroom speech, get a significant number of people to sign it, and take it as a sort of petition to the university committee, an elected body that recommends legislation to the faculty senate. I wrote up a statement that was as incisive as I could make it and we began to collect signatures. But we never got enough signatures (eight or ten at the most) to justify taking our cause to the university committee when they had no other reason for being interested in it. The letter gathered dust in my desk for months. Meanwhile, using money from the Wisconsin Association of Scholars, I brought several speakers to campus who criticized speech codes and explained the value of free speech, including Jonathan Rauch, P. J. O'Rourke, and Glenn C. Loury. Also, Downs and I continued speaking against the code in various forums, and writing op-ed pieces.

Then two events suddenly occurred that changed everything.

First, in the spring of 1996, a nasty episode took place in the history department: A committee, appointed by the chair, actively sought students who would inform them of insensitive expressions on the part of professors, anything that might constitute evidence of racism, sexism, and the like. Eventually, their investigations began to focus on a few professors, and one of them, Robert Frykenberg, hired a lawyer and sued the university. The university quickly settled, paying most of his legal expenses (approximately \$15,000). The next semester, I brought Alan Dershowitz to campus, and he gave a brilliant

When I first began to talk to people about the speech code, I was unable to find anyone who knew it existed.

and spellbinding speech denouncing our code as an "abomination" and imploring us to repeal it. By pure luck, one member of the audience, geologist Mary Anderson, was a member of the university committee, and she was impressed by what Dershowitz said.

She was also interested in a panel organized by historian Stanley Payne, the faculty committee on academic freedom and rights. Set up in the wake of the mess in the history department, this committee functioned mainly as a legal defense fund, using a large grant from the Bradley Foundation of Wisconsin to help any faculty member who might be treated as Frykenberg had been. On Anderson's initiative, the university committee called in Payne — together with Donald Downs, who was also an officer in Payne's committee — to explain what they were up to. Downs asked me to come along as well, saying this was my chance to talk to the university committee about the code. I dusted off my letter, made myself the sole signatory, and sent it to the committee in advance of our appearance. As a result of that meeting, committee members held a series of interviews about the code and, finding no good reason to keep it in its present form, organized an ad hoc committee charged to investigate the desirability of either revising or abolishing the code.

The formation of the ad hoc committee, however, was delayed a week or two by fierce arguments over its membership. The main bone of contention was whether to put me on it. Anderson wanted both me and Downs to serve, but her efforts met bitter resistance. The overwhelming majority of the university committee apparently felt that, as I was "an aggrieved party," I would be unable to approach the issues with an open mind. Unfortunately, they failed to apply the same reasoning to the original author of the code, retired law professor Ted Finman. Over Anderson's objections, to the effect that Finman had "pride of authorship" and couldn't possibly approach this matter with an open mind, they asked him to serve on the new committee, though as a non-voting member.

The ad hoc committee met over 40 times, throughout both semesters of 1997–98. I think I was present at over half of its meetings, though only as a spectator. Anderson's warnings about Finman proved well founded. He took every proposed fundamental change in the code personally and resisted them all, sometimes evincing hurt feelings and anger. He exerted enormous influence over the proceedings.

Thanks largely to Finman's presence on the committee, the majority eventually came up with not abolition, or even a new code, but simply a revision of the old code. They rewrote the code in a way that made it considerably less obscure. They included procedural guidelines, including an appeals process (something absent in the old rule). They also changed somewhat the standard for identifying the prohibited expressions: in the old rule, language was "demeaning" if considered as such by members of the group allegedly demeaned; in the proposed new rule, it would only be punishable if "the university community" in general considered it demeaning. By any sane standard, these were real improvements, but they did not deviate from the basic character of the old rule. That rule censored faculty expression based on the intellectual content of what is expressed. To say something that "demeans" someone is, after all, simply to express the view that they are inferior to some reference group (presumably, one's own), that their rights and their happiness are not as important as the reference group's. It was to prevent people from sending this sort of message that the old code was written, and the new one was, in this respect, identical to it.

A large minority of the committee, including the chair of the committee itself and its three student members, maintained that the proposed revisions did not go far enough, and refused to sign the majority proposal. Over the following summer, the minority picked up another vote. This made the tally nine votes to eight — razor thin. What the minority proposed was to add

An undergraduate English major told the Senate of an incident meant to show how urgently needed speech codes really are. One of her professors had used the word "niggardly."

one crucial qualification to the majority-backed rule: that an expression could only be punishable if intended to demean people. On Monday, December 7, both majority and minority proposals went before the faculty senate for preliminary discussion. The university committee had endorsed the majority proposal. The tone of the discussion, however, jolted everyone like a thunderclap, including the anti-code forces. Of the 16 senators who spoke, not a single one of them said anything good about the majority proposal. Many were hostile to the very idea of speech codes as such. Perhaps the university committee had picked the wrong side.

The issue came up again for discussion at the senate meeting of February 1. Obviously, the university committee had a problem. How could they turn things in their favor? Their solution: pack the first half of the hour allotted to discussion of the code with pro-majority speeches, after which opponents would only be allowed to speak in two-minute sound bites. The centerpiece of this presentation was a 20-minute long speech by Carin Clauss, a law professor who had been in the majority faction of the ad hoc committee. She argued at length that the law actually requires all schools to have speech codes: employment law, she said, now embraces the "hostile environment" conception of discriminatory harassment, and demeaning people in terms of their race, gender, and so forth,



Spines of Jello, Not Steel

by Sheldon Richman

It's that time again when America's big tough steel companies and steel workers go whimpering to the federal government asking for protection from foreign steel bullies. "Prices are too low," they cry to the government. "Protect us!"

Since World War II this has happened more times than you can count. Every year the big integrated steel companies file suits claiming that foreign steel makers are "dumping" their products in the American market.

"Dumping." You know what that is? It's like a sale at K-Mart.

Indeed, imports do account for a larger part of the U.S. market than previously. The import share of hot-rolled steel, a key product, has risen from 23 percent to a record 35 percent. The price is down 18 percent, hitting a record low. American firms are cutting production and laying off some employees.

Before anyone panics, I have just two words: That's

business. Economic conditions are always in flux. Jobs disappear, freeing up workers to take new jobs that, in a free economy at least, are always coming along.

The domestic companies say that the Japanese, Russians, and Brazilians are selling below cost. They want duties imposed to force the price back up. But foreign steel makers could have many good reasons for cutting prices. Asia's economic problems have dampened the demand for steel in that region. The companies have inventory to sell off. The American market is thriving. Of course they will try to sell here.

But is it unfair to sell below cost? How could it be? Trade between consenting adults can't be labeled "unfair." The parties would not engage in the trade if they didn't expect to come out ahead. Each values what he gets more than what he gives. That's true of all free exchange.

There is an easy way to cut through the dumping propaganda. Forget "cost of production." Those are yesterday's costs. Economic activity is aimed at the future. In deciding how much to accept for a product, a seller isn't guided by costs paid yesterday. He tries for the best price today in light

of what he thinks will happen tomorrow. If a price below "costs" serves his interests better than a higher price, he will take it. (That's why K-Mart has sales.)

We should not accept the American steel interests' claims at face value. Past charges of selling below the cost of production were based on dubiously high cost figures. Rather than using actual costs, the Americans used a formula cooked up to demonstrate dumping regardless of the actual situation.

The steel interests also argue that higher prices are good for all Americans. This is easily refuted. It may be good for the steel interests. But how in the world are higher prices good for American steel users, say, the auto makers? If they have to pay more for steel than their foreign rivals, they will be at a competitive disadvantage. They might have to cut production and lay off workers.

There is a profound lesson in this. Whenever government protects one set of Americans from competition (foreign or domestic) it hurts another set of Americans. This makes a mockery of the alleged solidarity of labor. When the United Steelworkers trudge to

Washington demanding shelter from foreign steel, they might as well be saying, "Throw the auto workers out of their jobs so that our members can keep working." The cause isn't quite as noble as they make it sound.

All barriers to foreign trade suffer from these defects. They violate the natural right of individuals to trade peacefully with whomever they choose, and they lower the living standards of consumers and other workers by artificially raising prices and making the protected companies lazy.

Ordinarily, there is nothing wrong with looking out for one's own interests. But when one does so by asking government to harm others, that is wrong and in the long run it isn't even good for the beneficiaries of the protectionist policies.

If we want peace and prosperity, free trade is the only way to go.

Sheldon Richman is senior fellow at The Future of Freedom Foundation in Fairfax, Virginia, which published The Case for Free Trade and Open Immigration, and is editor of the magazine The Freeman: Ideas on Liberty.

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creates a hostile environment. She warned that, if we abolished our code, the federal government could cut off our federal funds. Though Clauss's speech had obvious flaws (for instance, though it concerned freedom of speech, it never once mentioned the First Amendment), her status as a lawyer made it almost impossible for most senators to doubt the absolute reliability of what she said. Our hopes of dissecting it in little sound bites were of course virtually nonexistent.

Then we got another surprise.

The other pro-code speakers were all students. The last one, an undergraduate English major, told the Senate of an incident meant to show how urgently needed speech codes really are. One of her professors, in a discussion of Chaucer, had used the word "niggardly." She had spoken to him after class, telling him that as an African-American she found this

One of the reasons we succeeded, despite such daunting opposition, was that (as odd as this may sound) we did not rely too much on organized collective action.

word offensive and hurtful. He said something agreeable and that was that. The next time the class met, however, he brought up the issue of the word again, defined it for the class (probably explaining that it means "stingy" and has no etymological connection with the N-word), and used it a total of seven times, despite the fact she had told him not to, and despite the fact that he could see (according to her account) that his insensitivity had now reduced her to tears.

This single anecdote, which suggested to many people that some students would go very far to control faculty speech if the system gave them a chance to do so, caused a stampede of vote-switching to the anti-code side.

The issue of the code would probably be up for voting at the Monday, March 1, senate meeting. In trying to come up with a straight abolitionist alternative to both the majority and minority proposals, I took another look at the majority rule. Among the changes recommended by the committee was a preamble to the "instructional settings" part of the harassment rule, which affirmed the paramount importance of free speech. That part of the rule began with an assurance that all expression germane to a course is protected from disciplinary action. There followed several pages explaining the ways in which, nonetheless, such expression is actually not protected. It occurred to me that if you cut all the ifs, ands, and buts, this would make an excellent document. So I did. The result: a motion holding that free speech is of paramount importance, and that subject-related discourse is protected, period. Many anti-code people, including some students, looked at the motion and suggested changes. I incorporated many of them. Downs signed the motion and so did two scientists who were also senators: Eric Triplett and Lawrence Kahan. We submitted the motion to the university committee for inclusion on the senate agenda.

In yet another unforeseen reversal, the committee indicated it would switch sides and back our motion if certain changes were made. They had evidently been holding a wet finger aloft and knew which way things were going. The changes they

wanted seemed to me either harmless or actual improvements. This was Wednesday, five days before the Monday showdown in the senate, and we, the revolutionaries, were now part of the establishment. It seemed too good to be true.

And, of course, it was.

I am not sure where he had been all this time, but Ted Finman finally reappeared. The committee held an emergency meeting that Friday evening. There Finman read to the committee a few lines to add at the end of the crucial sentence that said that all expression germane to the course is protected. The added language said that such expression is actually not protected if it constitutes illegal discrimination, and discriminatory expression is not protected by academic freedom or the First Amendment. University committee members pronounced the motion, with the additional language, "a reasonable compromise." I pointed out that it was nothing of the sort. It disemboweled our motion by incorporating the pro-code theory that all speech that demeans protected groups of people is, per se, illegal discrimination, and that its prohibition violates no valid legal or moral safeguards. The committee, however, voted unanimously for the new language and adjourned.

At the senate meeting on Monday, all the discussion, nearly two hours of it, centered on Finman's contaminating language. There was a flurry of amendments to strike part of it, to rewrite it, and generally to render it harmless. The winning amendment, I am a little embarrassed to say, came not from my friends and me, but from someone we had never heard of, a physicist named Marshall Onellion. He motioned to remove Finman's entire interpolation. This passed by a hand vote of 71 to 62, bringing our motion back to where it was before the committee had eviscerated it. In that form, it passed by a voice vote so huge that no show of hands was needed.

Looking back over the last six years, it occurs to me that one of the reasons we succeeded, despite such daunting opposition, was that (as odd as this may sound) we did not rely too much on organized collective action. My anti-code friends and I performed at our poorest level the weekend before the last senate meeting, when we made the mistake of trying to draft a written amendment as a group. It proved incredibly difficult to reach agreement on even the smallest details. The product we came up with was flawed and had to be abandoned before the big meeting rolled around. Things had gone much more smoothly when I was taking suggestions from people and including them (or not) in our original motion as I saw fit. Others could decide — again, as individuals — whether to support it or not.

Eventually, so many individuals supported the motion that it passed overwhelmingly. Thus the University of Wisconsin-Madison became (to the best of my knowledge) the first institution of higher learning to voluntarily rescind its classroom speech code. The people who did this had not been forced to do it (as other institutions had been) by a lawsuit, or by a humiliating campaign of public ridicule and outrage. They had suffered no such scandalous, shocking abuses of the code. They simply got rid of it because they thought that doing so would be right.

I hope others will draw inspiration from our success and give the era of speech codes the death blow it has earned so many times over. □

Eulogy

We Could Give It Back . . .

by Ralph Reiland

Bill Clinton thinks Americans are too stupid to save for their retirement. So he'll do it for them, and pork up some federal programs, too.

The projected federal budget surplus, on average, equals \$27,000 in tax overpayments per family over the next ten years. Altogether, thanks to a robust economy and a federal tax grab that's now at a peacetime record high as a percent of income, the federal tax surplus is expected to total \$2.4 trillion over the next decade. Overall, taxation by the federal government is now skimming 20.5 percent off the nation's gross domestic product (GDP), the first time since the World War II year of 1945 that Washington has seized so much of the economy.

The overflowing federal coffers have prompted congressional Republicans to propose an across-the-board, 10 percent income tax cut.

In response, predictably, Bill Clinton and congressional Democrats are playing the class-envy card again, calling the proposed tax cut a massive giveaway to the "rich." By the same twisted logic, Democrats would call it a "giveaway" when someone gets his wallet back from a thief.

That higher-income families would get bigger tax refunds than lower-income families is simply due to the fact that they pay much more in taxes. The IRS reports that the top 50 percent of American earners pay 96 percent of all personal income taxes. Looking even higher into the ranks of the "rich," the top 25 percent of American families (those earning more than \$46,000 a year per household) pay 81 percent of all personal income taxes. Going even higher, the richest 10 percent of households pay 62 percent of all personal income taxes, the top 5 percent pay 51 percent, and the richest 1 percent pay 32 percent.

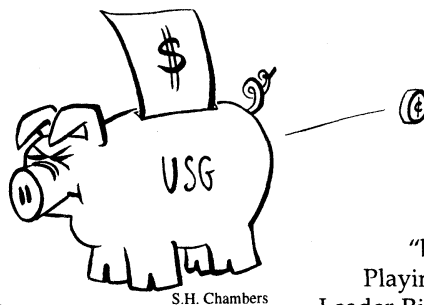
The "rich," in short, are picking up a vastly disproportionate share of the federal tax burden. Households in the top 1 percent of income earners, for instance, earn 16 percent

of the nation's total personal income and pay 32 percent of all personal income taxes. In contrast, the bottom half of American families (households earning under \$23,000 a year) pay only 4 percent of all federal income taxes. In fact, families earning under \$20,000 now pay no federal income tax on their earnings; instead, thanks to the Earned Income Tax Credit, they receive income tax refunds even though they've paid zero in federal income taxes.

Bill Clinton, seeing it as somehow unfair that tax cuts would most profit those who pay the most in taxes, says the proposed income tax cuts would "benefit, clearly, the wealthiest Americans."

Playing the same class-envy card, House Minority Leader Richard Gephardt (D-Mo.) says it'll be nothing but "a massive GOP tax cut for the wealthy" if the federal government refunds just a bit of the tax over-payments to those who earned the money in the first place.

As it turns out, the proposed 10 percent across-the-board income tax cut would return to the "rich" a smaller share of the tax cut than the share they pay of total federal income taxes. A recent report from the House Ways and Means Committee shows that the bottom 62 percent of taxpayers (those with annual household incomes below \$40,000) pay 5 percent of all federal income taxes and would pocket 10 percent of all tax refund dollars. In contrast, the richest 2 percent of



S.H. Chambers

America's households (those earning over \$200,000 a year) now pay 40 percent of all federal income taxes and would get back 39 percent of all tax refund dollars — and nothing more, of course, than just a portion of their own tax dollars, i.e., money that they've already overpaid in federal taxes.

Instead of a tax cut, Bill Clinton is proposing that 62 percent of the \$2.4 trillion tax surplus should be set aside, i.e., \$17,000 per family over the next decade, to "save" Social Security (with no one allowed to invest a dime of their own Social Security taxes in private retirement accounts). To dispose of the remaining \$10,000 per family, Mr. Clinton is pushing a plethora of new federal spending initiatives, programs unleashed in his Santa-like State of the Union address at a clip of \$5.8 billion per minute.

The key issue is whether spending and retirement planning is best done by the government or the people who've earned the money. Mr. Clinton provided his answer to that fundamental question the day after his State of the Union speech at a speech in Buffalo. "We could give it back to you," he said, speaking of the surplus, "and hope you spend it right." That, he declared, was too risky. It's much better, he

told the crowd of Buffalo taxpayers, if we trust the D.C. politicians to "spend it right." That's the logic of a true statist, a president who's turned his own personal life into an international joke and yet still has the chutzpah to tell the rest of us that he doesn't trust us to even spend our own personal incomes.

With Bill Clinton, it's always more government and less personal responsibility, a mirror image of how he's run his own appalling life. During his six-year watch in the Oval Office, total federal tax revenues grew 52 percent faster than total personal income, and last year's federal tax revenues grew 70 percent faster than the nation's total personal income. Each year, in other words, America's spending has become more socialized, more controlled by Washington's bureaucrats and politicians. Now, on top of that and faced with a projected federal surplus of \$782 billion over the next four years, Bill Clinton's latest budget is recommending changes in the tax laws that would result in a five-year net tax hike of another \$45.8 billion.

Clearly, Bill Clinton's "the era of big government is over" declaration in 1997 was as honest as his finger-wagging snivel, "I did not have sex with that woman." □

Coming in *Liberty*

"The Libertarian of the Century" — The accounting firm of Galt, Danneskjöld & Roark has certified the votes, and the results will be made public in the gala June *Liberty*.

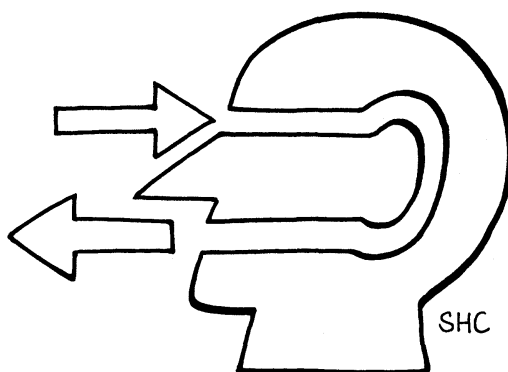
"Libertarianism as if the Other 99% Mattered" — Why are 99% of Americans indifferent — or outright hostile — to liberty? *Loren Lomasky* tackles this vexing problem.

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Know Your Regulator

by Jefferson Meyers

"Know Your Customer." Such a friendly ring to it. And such evil intentions.

Last December 7, the Federal Deposit Insurance Corporation (FDIC) published a proposed regulation in the *Federal Register*. Like most proposed regulations mixed into the hundreds of pages in each day's edition, the "Know Your Customer" (KYC) regulation received little attention except by those the regulations directly effect.

But Rep. Ron Paul (R-Texas) was paying attention. The measure required banks to develop profiles of their customers — how much money they make, how much they typically deposit and withdraw, where they got their money. Any deviation in a customer's profile obliges the bank to report that activity to the government, with predictable results. Paul has long had a special interest in government infringements on people's privacy, and the proposed new regulation alarmed him. And as a member of the House Banking Committee, he was in a position to do something.

It's easy to see why Paul was alarmed. As R. W. Bradford wrote in the February *Liberty*, "if you sell your car and deposit the proceeds in your bank account, your bank can report you to federal authorities. Then you can expect a visit from guys in cheap suits who just want to ask you a few questions about your private affairs."

The FDIC, the Federal Reserve, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, figured KYC regulations were necessary to combat money laundering and help them detect other crimes their customers might commit. An FDIC memo warned "the integrity and reputation of the financial services industry" is at stake. The December 7 *Federal Register* announcement notes:

Financial institutions are able to attract and retain the business of legitimate customers because of the quality and reliability of . . . the sound and highly respected reputation of the banking industry . . . When transactions at financial institu-

tions involving illicit funds are revealed, these transactions invariably damage the reputation of the financial institutions involved and, potentially, the entire financial sector.

In addition to "safeguarding" the banks' reputations, the FDIC claimed KYC would "level the playing field between institutions that already have adopted formal Know Your Customer programs and those that have not." In other words, the government needs to make sure that all banks took on the expense of customer surveillance because some banks, under government pressure, had already done so.

The proposed regulations put bank employees on notice: they were about to be drafted to fight the government's War on Privacy. Bank employees would work part-time as government spies, required to snitch on the very customers they're supposed to serve. The damage this would do to banks' reputations seems to have escaped the policymakers — one wonders whether the real reason they wanted to force all banks to implement KYC procedures was to prevent non-KYC banks from gaining a competitive advantage. Who would prefer to bank with an institution that spies on them and reports any deviation from their normal behavior to federal police?

The scenario Americans faced looked grim. Implementation of KYC regulations would forfeit the privacy protection provided by the Fourth Amendment. Once KYC was adopted, banks would have until April 1, 2000, to "know their customers" (i.e. implement a program to spy on

their customers and report anything unusual to the federal authorities).

Enter The Opposition

Rep. Ron Paul saw the draft of the new regulations before they were published in the Federal Register. And Paul was prepared. In September, he'd organized an informal Privacy Coalition including organizations from across the political spectrum, from the ACLU on the left to the Eagle Forum on the right, and included the Drug Policy Foundation, Consumers Union, and the Free Congress Foundation.

On November 30, he wrote in his weekly column: "Despite the warm and fuzzy name, the federal regulators

KYC put private bank employees on notice: they were getting drafted to fight the government's War on Privacy.

are not interested in the banks 'getting to know their customers.' Their only interest is in monitoring and controlling every aspect of life, so they can create the illusion of phantom crimes, and therefore justify their existence."

Paul's public criticism raised the cry of alarm. And he encouraged the public to take advantage of a crucial restriction on all proposed regulation. Namely, before the feds can make a regulation final, all those affected — in this case, all Americans — have an opportunity to comment on the record. Paul publicized the mailing address, the fax number and the email address of the FDIC, and the protests began to pour in. Within days of releasing the KYC proposal, the FDIC received several thousand angry comments, many from "Middle America."

Liberty got word of the proposed rules a day after they were published, and R. W. Bradford quickly wrote a brief analysis and denunciation of the measure in time to appear on the newsstands by the end of December. A month later, the Libertarian Party issued a press release denouncing the proposal. By this time, others in the Privacy Coalition that had first met in Paul's office in the fall had joined the fray. Lisa Dean of the Free Congress Foundation, warned: "KYC allows for international organizations, such as the Financial Action Task Force, to investigate American citizens as suspects." Gregory T. Nojeim, Legislative Counsel of the ACLU, told Congress that "Know Your Customer regulations inappropriately and unnecessarily infringe on the privacy rights of bank customers. The regulations should be withdrawn and Congress should ensure that no remotely similar regulations take their place."

The Eagle Forum's Phyllis Schlafly observed that it was "completely phony for the Clintonites to complain about the 'poisonous politics' of spying on public officials' misbehavior when the Administration has a comprehensive plan to spy on private citizens' whereabouts and money."

The Cato Institute's Solveig Singleton compared KYC to the spy system used in communist China. She questioned why regulators were so hot and bothered over money laun-

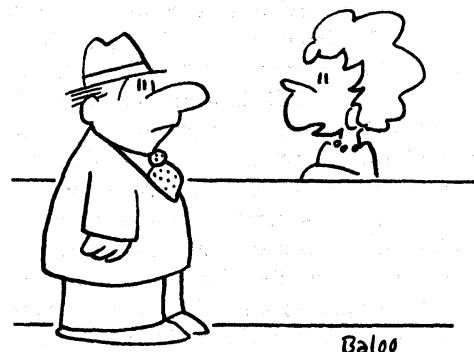
dering when "of the 7,300 defendants charged with money laundering from 1987 and 1995, only 580 were convicted."

Business organizations joined the fray. "The proposal is equivalent to the post office . . . being required to identify each patron, identify their vendors, addressees, customers, etc., monitor their normal and expected deliveries, and report suspicious deliveries or receipt of deliveries, to ensure that the mails are not used in the commission of a crime," complained the California Bankers Association. Opposition to KYC grew fierce enough for the timorous American Bankers Association to hazard that KYC did not "level the playing field" by imposing similar regulations on credit unions, and securities and insurance firms — a cowardly reason to oppose KYC, but opposition nonetheless. Karen Kerrigan, president of the Small Business Survival Committee, tried giving career bureaucrats a badly needed lesson on doing business in the private sector. "With most small business owners or self-employed individuals — and those just starting a business — cash flow can be quite erratic," she explained. "But it is just these spikes and valleys in cash flow that could trigger suspicion from the government."

Banking regulators started to sweat. They had expected the usual 30 or 40 comments on the proposed regulation, but had already got thousands. They tried shrugging off opposition as whining from the black-helicopter crowd. But it was too late: the calamity over KYC had broken into the mainstream media. Newspapers throughout the country ran stories about the row, and the issue began turning up on opinion pages. Writing in the *Washington Post*, Feb. 3, Michael Kelly noted delightedly: "The Know Your Customer regulation seems to be on the way to a well-deserved strangling in the cradle." For regulators, the worst case had transpired: rather than pass unnoticed from the *Federal Register* to the force of law, people had found their plans out.

By mid-February, the measure had drawn over 50,000 comments, over 99.9 percent of which were negative. The measure was effectively dead.

The final nail for its coffin was being prepared by the Libertarian Party. On February 17, it launched a well publicized website, which promised to forward signatories' comments to the FDIC, posters' U.S. representative, and their two senators. By the time the period for public comment ended, the LP website had flooded the feds with another 170,000 messages against the proposal.



"I'm sorry, sir, but your account was so small, we gave it to the Salvation Army."

In all, FDIC received more than 250,000 comments. All but a few dozen of these attacked the proposed regs.

On the Hill

Meanwhile, on the legislative front, Paul introduced three bills designed to put an end to KYC, and for good measure, kill other invasions of people's financial privacy. H.R. 516, the Know Your Customer Sunset Act, would prohibit banking regulators from implementing KYC regulations. H.R. 517, the FinCEN Public Accountability Act, would allow Americans to see and contest information about themselves at the Financial Crimes Enforcement Network. (FinCEN gets reports from various financial institutions, federal agencies, state governments, and various private organizations such as credit unions, which is compiled into a database with files on virtually all Americans, which it makes available to federal law enforcement and tax authorities.) H.R. 518, the Bank Secrecy Sunset Act of 1999, seeks to repeal the Bank Secrecy Act, the pernicious anti-privacy law that gives bank regulators monitoring authority in the first place. Paul's privacy package immediately drew support from privacy advocates, as well as from the Law Enforcement Alliance of America, one of the largest police officers' organizations in the country. With 45 co-sponsors, including congressional heavyweights Tom DeLay and Dan Burton, H.R. 516 has the greatest potential of the three bills to be enacted.

Paul was not content to wait on the fate of his legislative package. On March 5, he and Rep. Tom Campbell (R-Calif.)

"With most small business owners cash flow can be quite erratic. But it is just these spikes and valleys in cash flow that could trigger suspicion from the government."

tacked an amendment to H.R. 10 that would have killed the current version of KYC and any other version the bureaucrats might concoct, as Paul had long advocated and as the ACLU had recommended. But before Paul's amendment could come to a vote, Richard Baker (R-La.) and Bob Barr (R-Ga) offered an amendment to limit its scope to the currently proposed new KYC regs, leaving existing invasions of privacy in place and the FDIC able to implement the new regs piecemeal after the anti-KYC noise has quieted. Baker's amendment, which effectively gutted Paul's, was passed.

The Senate also moved to deal with its own KYC outbreak on March 5. Senators Phil Gramm (R-Texas) and Wayne Allard (R-Colo.) added a KYC-killing amendment to the education flexibility bill. Like the amended version of H.R. 10, the Senate bill does not guarantee the death of KYC. But Gramm took the opportunity to do a little red-baiting of his own, declaring: "If you ever wondered whatever happened to the people in the former Soviet Union who used to run things there and now are permanently out of work, the answer is they're all in the Clinton administration, and they're running the banking authorities of this country."

Paul cautions: "A minor victory in the battle for liberty should inspire us not to drift into dull complacency, but to press on with renewed vigor toward the goal before us."

While Paul's efforts ultimately led to enough publicity to kill the new KYC regs, they have so far failed to get rid of existing similar regulations.

And existing regulations are so invasive, you wonder why the federal authorities wanted the new regs. The Bank Secrecy Act already authorizes the Treasury Department to make banks and other financial institutions keep records of personal financial transactions that "have a high degree of usefulness in criminal, tax and regulatory investigations and proceedings" and to require banks to report any "suspicious transaction relevant to possible violation of law or regulation." Needless to say, the Treasury has gone ahead and required banks to spy on their customers, keep the records and file the reports.

What's in the reports? The instructions on how to fill out a "Suspicious Activity Report" specify that banks "p]rovide a chronological and complete account of the possible violation of law, including what is unusual, irregular or suspicious about the transaction."

Regulations made pursuant to the law give banks no choice in the matter:

A national bank shall file a SAR [Suspicious Activity Report] with the appropriate Federal law enforcement agencies and the Department of the Treasury in accordance with the form's instructions, by sending a completed SAR to FinCEN [Financial Crimes Enforcement Network of the Department of the Treasury] in the following circumstances . . . Whenever the national bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating \$5,000 . . . or [if] the transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.*

So even without the new KYC regulations, banks are required to spy on their customers and report any deposit or withdrawal anyone makes for which the bank "knows of no reasonable explanation."

And the U.S. is trying to force this sort of regulation on other countries, including those where people have legal guarantees of financial privacy. At the instigation of the U.S., the United Nations is encouraging member states to enact regulations specifying "mandatory reporting of suspicious activity and removal of bank secrecy impediments to legitimate investigation." And the U.N.'s executive director for the Office of Drug Control and Crime Prevention, Pino Arlacchi, sneers that "criminal investigations should not be impeded by bank secrecy."

The defeat of KYC is a small victory at best. But it's the only victory free citizens have had in the battle for financial privacy since the Bank Secrecy Act was passed more than 20 years ago. It is the first time that serious opposition has ever emerged to government intrusions on financial privacy. Perhaps it is a portent of things to come. □

* Here I quote from the regulations on national banks. Identical regulations apply to other banks and credit unions.

Behind Bars

by Dyanne Petersen

You don't really know what it's like until you've been there.

The conditions of pretrial confinement and the process of preparing a criminal defense are perfectly designed to encourage a plea agreement and to discourage any notion of pursuing a lengthy, expensive trial. From New York's Riker's Island to the Multnomah County Detention Center (MCDC) in Portland, county jails are the feedlots for state and federal prisons. Each is intended to hold securely the maximum number of detainees while providing the minimum amount of amenities. Whether arrested for a traffic violation or serial murder, one begins the arduous journey through the criminal justice system in a county jail. MCDC, in downtown Portland, held me from the time of my arrest for possession of narcotics until I was sentenced and assigned to a federal prison.

Persons facing federal charges have a prescribed routine of appearances before a grand jury for indictment and at bail hearings, invasive interviews with the prosecutor's pretrial and pre-sentence investigators, information gathering and strategy meetings with defense attorneys, negotiations with the prosecutor's office and offers of leniency for "cooperation," threats of maximum sentencing, and offers of plea agreements. There are statements, declarations, responses, motions, addenda, hearings, a decision and, finally, sentencing. If one is certain to be released on bail pending trial or to be acquitted, dreams are of home; one certain of conviction dreams of a quick transfer to the more comfortable, social environment of prison.

Unlike state and federal prisons, which rely heavily on inmate labor for day-to-day maintenance and support services, county jails use public employees or private-sector contractors. This drives up the costs of custody and creates a boring, unproductive existence for those detained. At the same time, the imposed inactivity can seem attractive to those transient, lesser criminals who, every November, get themselves arrested for minor crimes like aggressive panhan-

dling, petty theft or drunken vagrancy to escape, for a few winter months, life with a shopping cart on the streets or under a bridge.

County jails often offer a cleaner, safer alternative to homeless or battered-women shelters, an opportunity to kick a drug habit, complete a pregnancy or to just rest and fatten up out of the snow and cold. In one egalitarian unit of cells, on almost any given day, you might find a murderess waiting for arraignment or trial, a foreign national with an INS detainer, a homeless grandmother guilty of no crime other than poverty and separation from family, a businesswoman with an expired gun permit, a money launderer returned from federal prison for a sentence reduction hearing, a prostitute finishing her 120-day sentence, and every rainbow flavor of drug law violator, from medical marijuana user to international heroin smuggler. They will be arguing over who has the greatest need to make a phone call, and debating which species of animal produced the patty of "mystery meat" on their lunch trays.

MCDC's eighth-floor women's units have the acoustics of a shower stall and the aesthetics of a Chicago public housing project, a result of steel, triple-pane glass, poured concrete and cinderblock construction, inside and out. Even more austere were the attitudes and behaviors of MCDC personnel: from guards to nurses to food servers, there was a uniform indifference and lack of humanity, which seemed to have been a prerequisite for employment.

Each inmate was locked into a 6' by 8' single cell for 21-23 days, allowed out into the closed unit at prescribed times by

the unit's officer to shower, make collect phone calls, eat, watch TV or play cards with the other women. Two or three times a week we were able to enjoy recreation time in a small, locked, windowless gym or in a fenced-in area on the roof of our mid-city skyscraper jail. We could walk in a circle or take turns playing ping-pong for a full hour. The food was usually not recognizable by known food groups and barely edible.

Twice a week we had unit cleanup and a room-by-room inspection. We passed if no contraband was found and cleanliness met the well-established but low standard. The reward for passing was popcorn, handed out on Friday nights in small, individual bags to be eaten alone in cells. The women were fanatical about their popcorn and about passing inspection.

Yet everyone had contraband on her person or hidden somewhere in her Spartan cell; two pairs of socks instead of one, an empty tube of toothpaste with the end cut off and rolled up to make a tight-fitting shower nozzle, extra magazines or paperbacks over the permitted four, a clip or cartoon torn from the unit's daily newspaper or scraps of food smuggled back to the cell from a meal tray. Rarely did anyone get caught. But the one who did, who would cost the unit their popcorn treat, was an outcast, poison, dirt for at least a week.

Afraid of earning that distinction when I saw the two tiny packets of salt floating in my toilet after returning to my inspected cell, I went immediately to the unit officer to ask if I had a "write-up" and to try to explain that the salt was given to me by the nurse for gargling, the packets clearly initialed by her. "Back off" was the response. I did, returned to my cell, fished the packets out of the clean toilet water, placed them on paper and returned to the officer's station to show her the nurse's approving initials. "Roll up, Petersen," the officer barked, the order to prepare myself for a move off the unit and into disciplinary custody. I had questioned the officer's authority — landing me on lockdown status 23 hours a day for 30 days for the offense.

The nurse had given me the salt for bleeding gums so severe that my sink looked like the crime scene of an axe murder every time I brushed my teeth. The inability to purchase and use dental floss, combined with an inadequate diet, vitamin deficiency and extraordinary stress, took its toll in less than two months at MCDC. The nurse's unwillingness or inability to offer better treatment was matched by that of MCDC's psychiatrist, a woman possessing the professional expertise and compassion of a velociraptor. After a three-minute dialogue to evaluate my complaints of chest pains, anxiety attacks and sleeplessness, she suggested a prescription for Prozac and Trazadone, without offering any other recommendations for relief.

It seemed ironic that unlicensed women in my block of cells, who diagnosed their own emotional and psychological problems and medicated themselves with drugs not approved by the FDA, were facing jail terms and prison sentences, while the licensed nurse and doctor were free and entirely useless. And it seemed absurd to earn a 30-day disciplinary action for trying to defend my possession of salt.

There is no opportunity in county jail to forget, not for a nanosecond, that one is in custody, under absolute control. No choice, no decision is yours to make other than when you'll use the toilet. And even then you are not free to forget

where you are. Conversation-hungry and female-starved men, housed on the floors above and below the women, use their toilets to talk to you. You'll feel or hear taps on the stainless steel commode, the signal that the toilet will soon become the inmate telephone system. Impossible requests will be made of you to perform all manner of perversions, or to simply pass on a message to the "home girl" in a cell a few doors down. The toilet-talk becomes the only diversion and entertainment for most of the men and women on 23-hour lockdown; the only way to escape the tapping and chatter is to sacrifice your one plastic-covered foam pillow and jam it into your toilet.

Trapped in such a controlled, sensory-deprived atmosphere, forced into inactivity and idleness, it is extraordinarily difficult to maintain the clear thinking necessary to wage an effective legal defense, make intelligent strategic decisions and appear credible and worthy of serious consideration before a federal judge. As too many defendants do, I chose the easiest and fastest way to get out of MCDC, without cooperating with prosecutors to make criminal cases against others: I accepted a plea agreement, took my chances that it would be honored as discussed and wound up with a sentence of 108 months in federal prison, 21 months more than I had bargained for.

Within a month of sentencing, I was in transport to FCI Dublin, a.k.a. "Club Fed."

Flying ConAir

I was surprised by how much I had accumulated in three and a half months as I packed for my transfer out of MCDC. This high-rise facility had held me from the time of my arrest until sentencing and assignment to a federal prison. My last look through the sliver of window in my cell told me dawn was still more than an hour away. I could see the day's first commuters crossing the Morrison Bridge into the business district, headlights mixing with streetlights to penetrate the March morning's fog. The officer clicked open my door from her control panel. I dragged a pillowcase full of letters, legal papers and publications with one hand and carried my bed roll under my other arm. I kicked the door closed behind me with a wonderful finality.

I was escorted to a first-floor holding cell, already full of women waiting to be taken to court, and given a sack breakfast which was greedily accepted and divided among my temporary cellmates. Just outside our door, MCDC officers and U.S. marshals were preparing the chains and cuffs for the men who would be moved out before us. It would be another two hours before I'd be shackled ankle-to-ankle, handcuffed to a heavy waist chain, and taken to the local military airport. No one would tell me where I was going and I could make no calls to my attorney, family or friends.

By 11:30 I was on a Bureau of Prisons plane, known more popularly as ConAir, with about two dozen female and 80 male prisoners. Women were seated in the first rows to spare them the indignity of being paraded past the men. Portland was the third stop on the morning's route, which had begun in Oklahoma before I was awake. The passengers, anxious and exhausted, sat uncomfortably in their leather upholstered seats, all shackled. Few would use the toilets, as it was virtually impossible to get one's pants down or up. The next

stop, Sacramento, was less than 90 minutes away.

It had been over 100 days since my long flight from the Maldive Islands to Singapore to Tokyo to Portland International Airport, where I was arrested for possession of narcotics. Knowing that this would probably be my last flight for many years, I stared out the window, absorbing with new appreciation the views of hills, patchwork farmland, suburbs and cities from the sky-prison.

Our flight was met at a Sacramento air base by more U.S. marshals, federal corrections officers who would serve as new escorts, and a heavily armed security force, unidentifiable in their all-black uniforms and masked helmets. All were positioned strategically around the plane, at the gates and on the tarmac, brandishing enough firepower, from sidearms to anti-aircraft mini-missile launchers, to discourage, if not stop, an Iraqi invasion. Part of the human cargo was unloaded and divided into groups for the waiting ground transports. Everyone remained shackled, but now we were chained in pairs for added security and discomfort.

Thirteen women were designated for Federal Correction Institution (FCI) Pleasanton; FCI Lompoc was the destination for about twice as many men. A lead car provided escort to the three-van caravan for our two-hour drive. The windows in my van were opened slightly, letting in fresh air that managed to sneak back to us through the bulletproof partition separating inmates from officers. With the air came a hint of music, the first I had heard in months. Restaurants and liq-

It took nearly four hours to process the 13 women for admission. We were led past the men's Federal Detention Center to our FCI Pleasanton. The facilities were separated, and surrounded by rows of twelve-foot electrified cyclone fence topped and sandwiched with roll after roll of razor wire. Dusk had long surrendered to dark when we were taken to our housing units — only the outlines of trees and neighboring buildings could be seen as we walked through the compound.

The three double-unit housing facilities were named Units A-B, C-D and E-F, thankfully free of annoying

Knowing that this would probably be my last flight for many years, I stared out the window, absorbing with new appreciation the views of hills, patchwork farmland, suburbs and cities from the sky-prison.

attempts at creativity. They were identical, built in late 1960s, two-storied, chalet-styled wood, glass, cinderblock and poured concrete. Four of our original 13 were assigned to C-D: a 35-year-old woman of East Indian descent and mother of two preteen children who was a legal resident alien convicted of drug-related mail and wire fraud, the two young co-defendants from Montana serving eleven-year sentences for a variety of marijuana conspiracy charges, and me. We had all heard the rumors that C-D was where Patty Hearst had lived because it was the only unit with carpeting in the lobbies. I later learned that the other units had damaged theirs so badly that it had to be ripped up.

Our officer-escort showed us to our Admission and Orientation rooms where "new admits" live. We rubber-necked our way through the spacious lobby and first TV room, a massive area with cathedral wood-beamed ceilings, skylights, recessed spot-lighting and Danish Modern furniture. We passed one of the unit's two, small, common-use kitchens with sink, ice machine, microwave and tap for steaming water, set up for inmate use to prepare commissary-purchased food. We saw the mini-library, writing rooms, three more TV rooms, card tables, pool table, hair-care room, study hall, phone booths, laundry rooms, snack and soft-drink machines, two dozen showers and six staff offices, all serving the needs of the 300-plus women who lived in the double unit.

The illusion of spaciousness and comfort was shattered upon arrival at our A&O quarters, a series of depressingly small, dark, 8' by 12' rooms located in a sublevel tunnel-like hallway that connected the lobbies. Each room had two double bunk beds, four lockers, a sink and a toilet. We were assured that we'd spend less than a month in A&O and would be moved to three-person rooms as soon as they became available; it could take up to a year to work up to one of the 24 double "wing" rooms. Unit C-D, like the other housing units, was over capacity.

When the officer-escort left us, an ad hoc inmate

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Trapped in such a controlled, sensory-deprived atmosphere, forced into inactivity and idleness, it is extraordinarily difficult to maintain the clear thinking necessary to wage an effective legal defense.

uor stores teased us from the streets; children played, dogs chased birds, men walked with women — the sights and sounds of daily living one takes for granted but pays little attention to when one is among the free. City turned into suburbs, suburbs into country, flatland into hills, and just over the highest of the hills, right outside of Dublin, we entered Camp Parks.

In the 1940s, Camp Parks served as an internment site for hundreds of Japanese-Americans. Today, it's a prison and military installation that serves as a training facility for the local sheriff's department and for military forces. The FCI, Federal Detention Center (FDC) and Federal Prison Camp (FPC) with their support service buildings make up its central portion. Upon arrival, we were herded into a holding area where our shackles were removed; we were strip-searched and issued institution clothing, linens and toiletry kit; given photo cards for identification purposes and use at the commissary; reviewed quickly by staff for housing assignments; and given an inmate handbook to inform us of all the things we were not allowed to have or to do. Our personal property was inspected; we were told it would be returned to us, if allowed by policy, within a few days.

A Man's Right to Abortion

by Barry Loberfeld

What's sauce for the goose is sauce for the gander.

Of the many things said by pro- and anti-abortion activists in the wake of the sniper-murder of Dr. Barnett Slepian last October, the most striking was his eulogization as a man who gave his life for a "woman's right to choose." That's exactly right, but not in the sense the eulogist meant. He was a man martyred for a freedom that he as a *man* did not enjoy.

What is it that a woman aborts? Certainly not a "human life" or an "unborn child" or a "developing individual." The answer is: any legal responsibility to the offspring she conceived. That's it. We might add that a woman retains this right even if she chooses to forgo an abortion, by putting the child up for adoption — in the words of constitutional alchemist Laurence Tribe, the Constitution guarantees "equality for women . . . the same ability to express human sexuality without the burden of pregnancy and childbirth that has always been, by accident of biology, available to men."

I didn't know this. Neither, I suspect, do most men. In fact, the opposite is true: there is emphatically no "equality for men" when it comes to the expression of human sexuality. Men live without the legal ability to escape the consequences of an unwanted pregnancy that for the last quarter-century, by no accident of law, American women have enjoyed. For example: If Miss Jones informs Mr. Smith that he has impregnated her, can he, in *Roe v. Wade* America, legally respond: "Thanks for the info. In the spirit of reciprocity, I wish to inform you that I hereby exercise my constitutional right to abort all legal responsibility to the offspring I conceived. Have a nice life"?

Consider how our enlightened age views pregnancy. It is not seen as the development of a new individual, one for whom both parents possess both rights and responsibilities, but as a condition — a state — of a woman's body. This view precludes the involvement of any other body. There is a "mother" — even a "father," at least when it's time to pay the bills — but no child. Canadian feminist Kathleen McDonnell sums up the consequent position on abortion: "It

is our bodies and our lives that are the issue, so the decisions must be ours as well." The woman alone has the right to determine whether to terminate a pregnancy.

And therein lies the problem. If a man's rights end at the point of ejaculation, so do his responsibilities. Where an individual has no rights, he has no responsibilities. Current law forces a man to bear the consequences of a choice in which he plays no part. Since a man is allowed no voice in the decision whether to abort, he cannot be held responsible for the outcome, be it termination or childbirth. If the woman alone possesses the right to determine whether a pregnancy will be terminated, then she alone possesses the power to determine *whether a child will be born*. For all practical and *legal* purposes, the woman's decision *not* to abort constitutes the true moment of conception. *Roe v. Wade*, which began by defining life and, consequently, human rights, ends by transforming human reproduction into an act of parthenogenesis.

Those feminists and fellow-travelers who object to these conclusions refuse to recognize the implications of their own dogma. If it is "her body, her decision and her right," it follows that the responsibility does not rest with the "father" or the taxpayers. There's no avoiding it. If, as so many "pro-choicers" tell us, faulty contraception shouldn't force some woman into unwanted motherhood, why should a leaky condom force some man into unwanted fatherhood? And if no "male-dominated legislature" should dictate to a woman whether she will become a mother, then why should this same woman be allowed to dictate to man whether he will become a father?

It is outrageous to deny grown men a right extended even to 12-year-old girls. To correct this inequity, action is needed on two fronts. On the political level, this requires confronting lawmakers. On the moral, it requires challenging feminists to demonstrate real commitment to their ostensible ideal of equal rights for men and women. If they continue their campaign for "choice," let them expand it to include reproductive rights for men. If they stand by *Roe v. Wade*, let them also stand by its implications.

In her 1997 year-end report, Kathryn J. Rodgers, executive director of the NOW Legal Defense and Education Fund, digressed briefly while decanting the house rhetoric about women's "constitutional right to reproductive freedom" to lament that "somehow an old myth [has] reasserted itself. A myth that child care is not a societal responsibility, but a per-

sonal and individual responsibility — in fact, the primary responsibility of women, whether they work outside the home or not." Translation: Childbirth, the decision, is the right of the woman; child care, its consequence, is the responsibility of everyone else. Or in Naderite terms that may be more familiar to NOW members: Decision-making is privatized, while consequence-taking is socialized. And in Rodhamese: It Takes a Village (and a government to make sure the village knows it).

The hypocrisy and selfishness of all this is so glaring that only a Patricia Ireland could miss it. Those of us to whom the principle of "equality" means respect for the individual liberties of all, we cannot allow the word to become feminist Newspeak for a society in which women exercise their rights and men do their duty. □

Reflections, continued from page 17

have regularly denounced Slick Willie, as well as his liberal and leftist supporters, in their respective *Nation* columns. Horowitz must have read between the lines in order to make his opponent's words support his thesis. He quoted Pollitt as asking, "If Clinton is evil, are the forces arrayed against him any better . . ." then chimed in with his two cents that, "of course, Pollitt doesn't for a moment think that Clinton is evil." But if he had bothered to read Pollitt's *next sentence* where she observed that, "[i]t's not as if [Clinton's Republican pursuers] oppose capital punishment and bombing Iraq and the other things *we all hate Clinton for*" (emphasis added), he might have discovered that she has a strongly negative opinion of Clinton.

Horowitz blamed the attacks on Hitchens on a left-wing "hatred of the truth," but judging from his multitude of errors, Horowitz has no great love of truth himself. —CS

Gene Siskel, RIP — For Gene Siskel, criticism was a noble calling; he wanted people to think about film and didn't care if he had to step on toes in the process. Tributes to Siskel in the wake of his death on February 27 focus on his love of good movies, his loathing for bad ones, his practice of

diving headfirst into every endeavor, his commitment to his family and faith, and his unceasing effort to maintain his work ethic even after undergoing brain surgery and enduring consequent deteriorating health. Libertarians may want to remember him for his frequent, albeit inconsistent, stands in favor of individual liberty — he was a harsh opponent of racism, he favored drug legalization, and movies like *Waco: The Rules of Engagement* got his thumb up. All this is worth remembering. But one of the most important lessons of his career may be that he helped demonstrate the inseparable nature of competition and cooperation.

Gene Siskel and Roger Ebert were vicious competitors to the end, fighting over opinions, petty personal differences, and even TV screen time (even the Siskel tribute episode of *Siskel and Ebert* allotted about as much screen time for Ebert as it did for Siskel). But they also shared an enduring friendship and camaraderie, made consistently stronger by respect for each others' refusals to back down from a worthy fight. Siskel's career is a reminder that consensual competition brings out the best in people, not the worst, and that we're more likely to cooperate with people who have this competitive integrity, and seek them out as friends. —EDD

Randal O'Toole, "Too Smart for Our Own Good" continued from page 34

but they are only effective after they warm up. Most new car pollution comes from cold starts. A pollution-emissions fee designed to encourage people to use catalytic converter heaters would eliminate this major source of pollution.

Second, most of the pollution comes from just 10 to 15 percent of all motor vehicles. Instead of the expensive and ineffective inspection programs used in most places, cities could install cheap and unobtrusive sensors along roadways. Such sensors can identify vehicles that produce high levels of pollutants, enabling officials to compel offending owners to reduce their vehicles' emissions.

Finally, reducing congestion will reduce air pollution. Most congestion results from bottlenecks and poorly designed on- and off-ramps and highway merging facilities. By employing a combination of congestion tolls (charging more during peak periods) and simple highway improvements, congestion can be reduced significantly.

Low-density suburban development, which the smart-growthers denounce as "sprawl," also reduces congestion. Government need not encourage such development because most people seem to prefer it anyway. But if Gore and the EPA really want to lower levels of air pollution, they should stop smart-growth efforts to discourage low densities.

None of these steps requires federal intervention. In fact, getting the federal government out of the picture would improve matters considerably. Congress should eliminate the federal gas tax and let states and local areas decide their own transportation policies and futures. But Congress won't face the gas-tax question again until 2003. Until then, it should make sure that Al Gore and the EPA get out of the way of communities that want to reduce their air pollution using simple, effective measures rather than cumbersome, self-defeating central planning. □

Reviews

***Freedom Will Conquer Racism and Sexism: The Civil Rights Act Is Damaging Everyone in America, Especially Blacks and Women*, by J. Edward Pawlick. Mustard Seed Inc., 1998, 312 pages.**

The Empress Has No Clothes

Wendy McElroy

The Civil Rights Act (CRA) of 1964 has not only been a disaster for white males, but it has also hurt the very people it ostensibly protects — blacks and women. The CRA clearly prohibits consideration of race, religion and national origin in employment practices. Instead, the Act sought to encourage *merit* irrespective of a person's color or any other secondary characteristic. In order to secure passage of the CRA, advocates such as Senator Hubert Humphrey specifically assured critics, "there is nothing in it that will give any power . . . to require hiring, firing, or promotion of employees in order to meet a racial 'quota' or to achieve a certain racial balance." In *Freedom Will Conquer*, lawyer J. Edward Pawlick provides a sophisticated and sometimes brilliant legal history of the law. His analysis of the CRA's history is, by itself, well worth the price of the book.

It seems to me that Pawlick's political analysis, while fundamentally sound, veers off course at times. I agree with him that any attempt to impose morality — e.g., a code of social fairness — by law is doomed to fail, harming society in the process.

The best the law can do is provide full and equal protection to all persons and their property. Then it should back away and get out of people's lives.

Pawlick is also right when he asserts that, by enforcing a non-discriminatory code, the law has become a system of privilege by which members of unprotected groups pay for sins they never committed. The law has become a remedial historian, rewriting the wrongs of 19th century America, such as slavery. Non-discrimination may or may not be a noble goal — I advocated it as one — but the relevant political question is, "even with laudable intentions, do you have the right to impose your moral judgments about fairness on peaceful human beings who disagree?" Pawlick's answer is a thunderous "No!" And I applaud him. It's a gutsy act for a white male in America to stand up and declare affirmative action an Empress without clothes. "I would not write this book while I

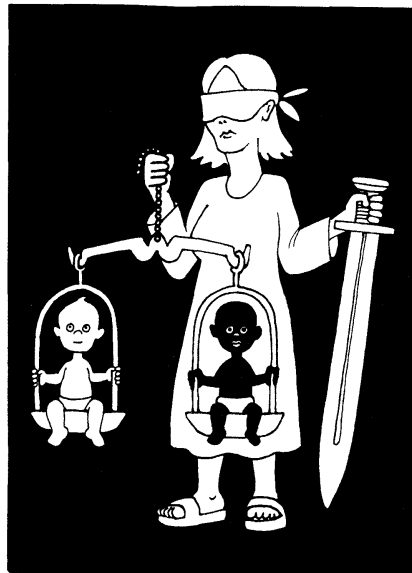
still owned a business," he declares. "It would be equivalent to committing suicide."

But, after the applause dies down, I am left with some disagreements. One in particular stands out. As a feminist who writes on the CRA, my focus naturally riveted on Section IV of *Freedom Will Conquer*, "It Hasn't Helped Women." Well, it hasn't. No argument. Nor do I dispute Pawlick's analysis of how the feminist movement has drifted politically since Betty Friedan's *The Feminine Mystique* (1963) — the book that established the feminist movement as surely as Warren Farrell's *The Myth of Male Power* (1993) inspired the men's rights movement. Pawlick readily admits, "I read it [Friedan] in 1964, and I agreed with a lot of it," adding, several pages later, ". . . never realizing that we [white males] would soon be blamed for all of the ills of the world and that men in

the United States in the later years of the 20th century would be blamed for all the problems that women had ever suffered or were now suffering throughout the entire history of the entire world." Feminists who dismiss the men's rights movement as a whining males' club would do well to consider Pawlick's shift from sympathy to a sense of betrayal.

What happened?

Friedan had voiced the unspoken complaints of women in the '50s, and she placed responsibility upon *them* to change their circumstances. She demanded a common-sense equality with men: genderless laws and, maybe, men who vacuumed a floor every once in a while. An amazing number of men,



S.H. CHAMBERS

including Farrell, became staunch supporters. Subsequent feminist theorists added their own elements, including rage at men and a class analysis that placed the two genders at war with each other. The theorists subtracted one

By enforcing a non-discriminatory code, the law has become a system of privilege by which members of unprotected groups pay for sins they never committed.

element: women were no longer responsible for the problems within their own lives. Men were. All men. After they recovered from the shock of being identified as part of "the rape culture" (a.k.a., American society), former male allies became vocal critics.

This was the beginning of a lamentable crusade to seek restitution from men as a class through the power of legislation, especially Title VI of the CRA. In doing so, women perpetuated the same political system against which their predecessors had fought so valiantly — a system that embedded gender into law and gave preference to one sex at the expense of the other.

At this juncture, the disagreement I must express with Pawlick's analysis is two-fold. First, I do not condemn the entire agenda of the new feminist theorists, as the author does. Among the positions he decries are: "Women will work outside of the home"; and, "free and easy sex will be the norm." I, too, reject the proposition that "a self-respecting woman will work outside of the home." If a woman wishes to be a housewife and the man wants to support her, that's their business. Nevertheless, on a personal level, I believe all women would benefit from being able to support themselves without depending on a man, or any other human being.

As for "free and easy sex being the norm," I have not encountered such behavior within the movement on a widespread basis. Indeed, modern feminism virulently opposes pornog-

raphy and prostitution. These stands would make the accusation of New Puritanism seem more appropriate than a charge of licentiousness. Even tracts advocating lesbian sex do not generally have a "free and easy" aspect to the depiction of sex: an anti-male one, yes, but not free and easy. Rather, feminist literature on this issue advocates that women should have full control of their own sexuality, including access to birth control and abortion. In the presence of such control, most feminists I know have made the same choice as I have: to enter a heterosexual, monogamous relationship (in my case, marriage). In short, I simply do not agree that sexual choice leads to moral decay.

Also, I believe Pawlick is arguing — to some extent — against a feminist stereotype that does not reflect reality. He is reacting to the most extreme voices within the movement without sufficiently acknowledging the more moderate women who form the mainstream. Certainly, much of current feminist policy comes from extremists, whose voices are shrill and sometimes filled with an almost blind rage. But they have succeeded on such issues as affirmative action only because throngs of far less strident women see some justice in their positions. These more moderate feminists are not man-haters: they are wives and mothers and sisters. For them, affirmative action has the patina of justice because it promises equality of opportunity.

That promise dovetails nicely with traditional American values of equality before the law, and the ability to rise through hard work. Indeed, Pawlick himself declares, "America must once again strive toward becoming a color-blind society, where a person's color or sex is unimportant." Affirmative action is an ideal gone tragically astray, and I believe the blame can be cleanly ascribed. A moral position, a demand for fairness, is being imposed through law. Using force to control peaceful behavior has severely weakened the two social institutions that have most benefited women — the free market and individual rights. Thus, Pawlick is correct. The CRA has damaged women and men alike. On an optimistic note, I think many women have come to

realize that the legal system is a debacle, which presents a great opportunity to argue for the free market alternative.

I have slighted two significant aspects of *Freedom Will Conquer*. First, the book offers a sound analysis of affirmative action as it applies to blacks and other minorities. Pawlick draws on the insights of the eminent black authors Thomas Sowell (*Preferential Policies*, 1991) and Walter Williams (*The State Against Blacks*, 1982) in formulating his well constructed and well written arguments. The theme concerning blacks is perhaps best captured by a quote offered from theorist Shelby Steele:

If my benefits come to me primarily as a black, and not as an American, then the effect over time is to undermine common society — the common culture and democracy of America — America is my enemy. This kind of thinking causes me not to move into the American mainstream. Which correspondingly causes me to fall farther and farther behind.

To rephrase this sentiment in feminist terms: "If benefits come to me

Using force to control peaceful behavior has severely weakened the two social institutions that have most benefited women — the free market and individual rights.

because I am a woman rather than because I am a human being who deserves them, I will fall farther and farther into dependency on government. When has *that* ever helped the individual, male or female?"

Second, *Freedom Will Conquer* thoroughly covers the history underpinning the CRA. The act was passed in the wake of President Kennedy's assassination as a tribute to the slain leader, who supported the measure. President Johnson pushed it through as part the agenda for his Great Society, a political blueprint that has shaped the world in which we live. The excellent historical overview has earned this book a permanent place in my study. □

Too Good To Be Forgotten: Changing America in the '60s and '70s,
by David Obst. John Wiley & Sons, Inc., 1998, 282 pages.

Blowhard in the Wind

Jonathan Ellis

The scene is the University of California at Berkeley on a May day in 1969.

Chancellor Roger Heyns might be the most despised man on campus. The day before, he expelled students from People's Park, a million-dollar piece of university property taken over by student revolutionaries and street people as "living proof that power could, and should, flow from the bottom up."

Berkeley's ready to blow. Thousands of surly students amass for a rally. Radicals spit and snarl over the university's bourgeois perfidy. Tension builds as the Red-Guard fustian flows like a gusher. Finally, one of the speakers demands an end to the talk and a commitment to action. "That was all we needed," writes David Obst. "Thousands of us trotted toward the target. Crash! The front window of the Bank of America was broken. We were intoxicated by our own power."

The mob aims to liberate People's Park and return it to the people. Police armed with shotguns and tear gas quell the uprising. One person is killed in the violent confrontation and the revolutionaries are routed. Property rights remain safe for another day, and rich-kid Berkeleyites skulk back to their free-love communes to plot the coming revolution.

Or maybe they went home that night and pulled bong hits. After all, writes Obst in *Too Good To Be Forgotten: Changing America in the '60s and '70s*, the 1960s in Berkeley "was

the most fun time to be alive in the history of the world. . . you could sleep with anyone . . . You could take any drug . . . You could be as outrageous as you wanted." Apparently, you could also cut class and be a make-believe revolutionary.

The '60s and '70s remain alive and kicking, so what's with Obst's title? We've laughed at Woodstock revivals featuring monstrous ticket prices and third-rate acts. And we can thank Oliver Stone for resurrecting the king of third-rate musicians, Jim Morrison and his Doors. Volkswagen's sputtering magic buses still clog the highways, and now they've gone and reissued the Beetle. Disco grooves, and LSD's hip again. Even the old free-love movement, once thought to have been made extinct by AIDS, flourishes in the Oval Office.

Indeed, the '60s and '70s will be with us long after Social Security's a "remember when" and the last of the baby boomers are stashed in nursing homes. The next few decades will see hundreds, maybe thousands, of boomer retrospectives littering your favorite bookstore. There'll be more movies, more documentaries, more wretched television programs like "The Sixties" — NBC's recent miniseries.

I expect the media lunacy to create grave social upheavals among non-boomers. Many will be pushed to madness, many more will expatriate to South America. The reason for this is simple: the baby boom generation is widely perceived — rightly or wrongly — as self-righteous, turgid, whiny, and hypocritical. Boomers snicker about

how great drugs were, while whooping up the drug war. Many who protested Vietnam are the first to call on the U.S. to play global cop. More than anything, it's the boomer attitude that's a source of loathing. If you don't know this nauseating attitude, read *Too Good To Be Forgotten*.

Obst smothers his introduction with bilge you'd expect from an aging ex-high-school athlete recalling his triumphs on the gridiron and with the cheerleading squad. "Roughly one hundred thousand generations lived before us baby boomers. More change will take place during the course of our lifetimes than in all one hundred thousand of those previous generations combined." Alas, this attitude hopelessly infests the entire book. Unfortunately, Obst applies this same level of humility to himself, boasting "if something was happening in America during that tumultuous period, I was able — through chance, guile, and fortune — to be in the middle of it."

That's a slight overstatement. But to be fair, Obst did witness or actively participate in a number of big-time events, starting with a "tour" in

Boomers snicker about how great drugs were, while whooping up the drug war. Many who protested Vietnam are the first to call on the U.S. to play global cop.

Southeast Asia. He went to Taiwan in 1967 not to soldier, but to study Chinese. Encounters with American GIs on leave from Vietnam affected him profoundly, and he decided Vietnam was no place for him. But his accounts of these conversations are hobbled. He misidentifies the M-1 as the standard-issue rifle in Vietnam (it was the M-14 early on, the M-16 later). And anecdotes he claims the GIs conveyed to him tell us nothing about Vietnam that Hollywood already hasn't.

Returning home to California in the Spring of '68, Obst immediately secured a draft deferment. Free from the prospect of compulsory service, he

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used the spring and summer of that year to bum around the country. While visiting friends at Yale, he had the good fortune to befriend Strobe Talbott, Bill Clinton's Oxford roommate and current deputy secretary of the State Department. For his part, Talbott displayed a prodigious aptitude for working in bureaucracy by showing Obst how to steal food from Yale dining halls.

Through the connections of a friend's father, Obst got credentials to attend the 1968 Democratic Convention in Chicago as a journalist. He dodged a police clubbing in that legendary riot by jumping through a broken window and making his way to the top floor of the Hilton, where he watched the mayhem from *Newsweek's* hospitality suite. By most accounts, Mayor Daley's goon squad mercilessly savaged anyone they could connect with. Obst offers a simpleton's explanation for this, claiming adults were increasingly uncomfortable with the youth movement's swelling political ambitions:

Messing with the status quo was acceptable as long as it confined itself to music, clothes, mating, and other social rituals. Up until now we were just an amusing sideshow. When we started going after the political power — no way, this is where they drew the line.

This theory is ludicrous. Certainly most adults were not amused by the specter of shag-carpet hairy youths publicly fornicating in mud bogs. And if adults really were afraid of youths pirating the political system, why did they allow adoption of the 26th Amendment less than three years later, lowering the voting age to 18?

Obst enrolled at Berkeley in the fall of 1968. There he burrowed deep into the anti-war movement with Dispatch News Service, "an anti-war news service devoted to telling the 'truth' about what was happening in Vietnam." Obst's opposition to Vietnam rests largely on platitudes: the South Vietnamese were incompetent allies; innocent civilians got killed; American GIs dehumanized the enemy soldiers by calling them "gooks." Yet these gripes could just as easily apply to World War II: the French were incompetent allies; innocent civilians got killed; enemy soldiers were dehumanized with slurs like "krauts" and "Japs."

Obst's opposition to Vietnam in *Too*

Good To Be Forgotten looks damn capricious, and I wonder if his anti-war feelings have grown flabby with age. He doesn't condemn the state for dragooning young men into military service. Nor does he argue against the sort of interventionist foreign policy that justifies the United States stomping around the globe looking for a brawl. With the bulk of today's political system in the grip of baby boomers, I have to wonder if Obst supports his friend President Clinton's "peace keeping" mission to Kosovo, or the inveterate campaign against that chubby, tinhorn dictator in Iraq. Certainly the nefarious Red Menace seems a more worthy adversary.

No matter. Regardless of his feelings today, we know Obst profited from the anti-war movement of yesterday. In 1969 he moved Dispatch News Service to Washington, D.C., where he met and assisted Seymour Hersh with Pulitzer Prize-winning coverage of the My Lai massacre. My Lai, says Obst, made him a "big shot," and more success followed. In 1971, Obst helped Daniel Ellsberg collect and disseminate the Pentagon Papers, the "highly classified documents the Defense Department had put together to trace the history of the Vietnam War." Ellsberg's stunt attracted the interest of book publishers, and Obst took on the role of agent.

By the time Vietnam fizzled, Obst's life was rolling at full bore. He represented some of the biggest authors of the day, including Watergate figures Bob Woodward, Carl Bernstein and John Dean. In only a few short years, Obst had gone from living in a commune to employing a business manager.

Perhaps connections with the publishing world helped in getting *Too Good To Be Forgotten* between covers. Certainly it wasn't the prose, which when read aloud can sound worse than nails dragging on a chalkboard. In spots the book is downright embarrassing — I didn't need to know about his bumbling efforts to lose his virginity, for example. Still, there are interesting moments, like his theory on the identity of Deep Throat.

But weighed in full, Obst has put out an unintelligent, puerile and gratuitous book, making *Too Good To Be Forgotten* very forgettable indeed. □

All-American Anarchist: Joseph A. Labadie and the Labor Movement, by Carlotta R. Anderson. Wayne State University Press, 1998, 324 pages.

A Man For All Freedoms

Sharon Presley

It's the writers and speakers in a social movement who get the glory. Those who aid their causes by publishing, editing, and bookselling are far less likely to bask in the limelight, even though these efforts are just as critical to their causes. Where, for example, would the writers and speakers in the libertarian movement be without Laissez Faire Books? How easily could they find those wonderful books with all those incisive arguments and useful facts? Ludwig von Mises down at Borders or Barnes & Noble? I don't think so. How would we be able to enjoy the pleasure of reading *Our Enemy the State* by Albert Jay Nock or *The State* by Franz Oppenheimer if it weren't for Free Life Editions in the 1970s and Fox & Wilkes in the 1990s? At your local library? Lots of luck unless you live in a town with a good university library.

As someone who has worn nearly all the above hats, from writer to bookseller, I'm in a unique position to appreciate the contributions of these facets of social activism. So it was with particular pleasure that I read the biography of Jo Labadie (born 1850), anarchist printer and publisher extraordinaire. Though I had read about Labadie in anarchist histories, I first came to truly appreciate his contributions when I was asked by Mark Sullivan and Carlotta Anderson in 1975 to help them sort out the printed materials left in the estate of Laurance Labadie, Jo's son. What treasures we found!

Both Jo and Laurance were pack rats, a boon to the Labadie Collection (now one of the world's best anarchist and radical archives, thanks to the legacy of materials left to the University of Michigan by Jo). Besides all those delicious copies of Moses Harman's *Lucifer the Light Bearer* and Tucker's *Liberty*, we found Jo's own Bubbling Waters editions of his poetry. Lovingly hand-bound in exquisitely designed wallpaper, they were esthetic treats in looks if not style (Jo's poetry, while fascinating because of its context and content, tends to be a bit overwrought by today's standards). Many leaflets and pamphlets published by the two Labadies were found too, with wonderful titles like "I Welcome Disorder," "I Like You But Hate Some Things You Do," and "What Think Ye of Christ?"

Jo's scrapbook, account book and photographs that Laurance left behind helped in the research for the biography to which Carlotta Anderson, Jo's granddaughter, so lovingly devoted her time for many years afterwards. The Olympian effort was well worth it. Anderson's *All-American Anarchist* is a richly detailed and carefully researched biography of Labadie and a vibrant portrait of American anarchism in the early part of this century.

Jo Labadie was an untiring leader in fighting for workers' rights and social justice. He was active at various times in the Knights of Labor, the Greenback party, the American Federation of Labor, the single-tax movement, land reform, and the eight-hour movement. He started out as a Socialist, but soon became disenchanted with the party's

authoritarian devotion to government intervention. Like Voltairine de Cleyre, who was to write the classic "Anarchism and the American Tradition," Jo saw the antecedents of American-grown individualist anarchism in the American libertarian tradition of Thoreau, Emerson, Jefferson, and Bronson Alcott, who questioned: "Why should I employ a state to govern me? Why not govern myself?"

In 1883, his growing distaste for socialism and burgeoning interest in anarchism led Jo to write a letter to Benjamin Tucker's *Liberty*, a publication he had read since its start in 1881. He remained friendly with Tucker till Tucker left the country in 1908, never to return. So tolerant and open-minded a man was Jo that he called labor leader Samuel Gompers and radical socialist labor leader Eugene Debs friends, too. Both communist anarchist Peter Kropotkin and crusty libertarian H.L. Mencken liked him as well.

Though a few readers may get bogged down in Anderson's details of Jo's early involvement with the labor movement, the descriptions of his anarchist activities, the picture of his color-

One of the most unusual and striking facets of Labadie's extraordinary personality was his almost total lack of sexism and bigotry.

ful and engaging personality, the observations about other anarchists and characters in the rich drama of late 19th and early 20th century social activism are fascinating. Jo's involvement with Tucker and *Liberty*, Emma Goldman's brutal frankness, the loving printing efforts at Bubbling Waters, the role of Jo's wife Sophie in helping preserve the anarchist materials for posterity, the sad retreat of Tucker after the disastrous fire that destroyed his bookshop and all his anarchist materials — these stories and many more make the American anarchist movement of the turn of the century come alive.

One of the most unusual and striking facets of Jo's extraordinary personality was his almost total lack of sexism

and bigotry. This was not a time that fostered egalitarian attitudes toward women or minorities, but Jo, true to the spirit of anarchism, stood up for the rights of these oppressed groups. Often called the "gentle anarchist" because of his nonviolent stance and genteel manners, he frequently expressed admiration of dynamic women and dared to challenge segregated unionism.

I have always been fascinated by individuals who stand out from and above not only their culture but their comrades-in-arms. Jo was such a man. Many of the labor activists of his day fought only for the rights of white men. Even many of the anarchists were less than totally devoted to the cause of women's rights, let alone women's emancipation. Because he thought other issues were more important, Jo probably would not be considered a feminist by today's standards, but he treated women with respect and encouraged their struggles — behavior even more remarkable a century ago than it is today.

An extra boon to those who appreciate anarchist history is the story of how the Labadie collection came into being and curator Agnes Inglis's role in saving it from obscurity. It was primarily Inglis who built the Collection into what it is today. Inglis also saved the works of Laurance Labadie, a publisher and writer in his own right, from undeserved obscurity, thanks to his grandniece Carlotta Anderson's fond efforts. Some of us are fortunate enough to own copies of such beautifully bound pamphlets as "Slaves to Duty" by John Badcock, Jr., which Laurance published in 1938 as well as Laurance's own writings.

"Laurance," writes Anderson, "is considered by some to have surpassed his father as thinker and essayist." His essays, she continues, had a "profound" effect on the decentralist School of Living movement founded by Ralph Borsodi in the 1930s. "Few of today's libertarians," writes the author at the end of the book, "are aware of the role Laurance played in keeping the ideology alive, nor do most know much of Jo Labadie, Benjamin Tucker and their circle."

Tireless in their devotion to individual liberty, Jo, along with his son Laurance and Agnes Inglis, deserve to

be remembered and honored as important contributors to the anarchist movement and to the cause of freedom, as

well as philosophical ancestors of today's libertarians. This rich narrative does them credit. □

The Lord's University: Freedom and Authority at BYU, by Bryan Waterman and Brian Kagel. Signature Books, 1998, 474 pages.

Inside the Mormon Ivory Tower

Eric D. Dixon

Most universities experience tense relationships among students, faculty, and administrators. Many schools welcome this conflict as an integral part of university life. Not so at Brigham Young University. The school's policies are approved by BYU's board of trustees, a panel that includes the president and other high-ranking officials of the school's sponsoring organization, The Church of Jesus Christ of Latter-day Saints — men revered as prophets by church members (commonly known as LDS or Mormons).

How do students challenge the status quo in an environment shaped by their religious leaders? People who have grown up in the church are familiar with this statement from *The Doctrine and Covenants*, a standard Mormon book of scripture: "The glory of God is intelligence." The church encourages gaining knowledge, including spiritual knowledge attained through personal revelation. Thus many students arrive at BYU already thinking for themselves, only to encounter BYU's stifling policies on dissent and the expression of unorthodox opinions.

The Lord's University: Freedom and Authority at BYU offers a history of Mormon attitudes toward education, using BYU's past few decades as a case

study. It traces the development of the school's positions on feminism, evolution, student appearance, the school newspaper, and other turbulent topics.

This book particularly interests me because several chapters focus on controversies that took place while I attended BYU, during the 1990-91 school year and again from 1994 through 1997. These include the firings of feminist English professors Cecelia Konchar Farr and Gail Turley Houston and anthropology professor David Knowlton, as well as the investigation and subsequent resignation of English teacher Brian Evenson.

Surrounding these high-profile dismissals were cases of censorship of the official student newspaper, *The Daily Universe*, and investigations of contributors to the unofficial, off-campus student newspaper, *The Student Review*. *The Lord's University* authors Bryan Waterman and Brian Kagel are particularly qualified to document conflict surrounding BYU's student media because they served as editors of the *Review* and the *Universe*, respectively.

I also worked for both of these papers in a variety of positions — the *Review* during my freshman year, 1990-91, and again in late 1996, and the *Universe* from 1994 through 1996. Despite my involvement in student journalism, I was unable to stand firmly on any side of the academic freedom controversies erupting around me.

As an ardent supporter of the First Amendment and John Stuart Mill's concept of the marketplace of ideas, I favored free speech and the unrestricted flow of ideas, even though I often disagreed with some of the professors who were fired or were under investigation. On one hand, I didn't agree with the university's actions in firing and intimidating these teachers. But on the other hand, I believed private organizations have a fundamental right to hire or fire whoever they want, for any reason, whether the law allows them to or not. This put me in the awkward position of defending both the intellectual freedom of professors whose views I disagreed with, and the university's right to fire them, even though I disagreed with the university's doing so.

Waterman and Kagel begin their book with historical chapters on Mormon education, the development of feminism at BYU, the evolution of the student newspapers, and the student dress and grooming standards, providing essential background information for understanding later controversies at BYU. They point out that Mormon education is based on the church's rejection of Protestant authority in the 19th century, setting itself "in opposition to 'the world' in education, theology, government, economics, and eventually marriage patterns — and [this] opposition implied a Mormon superiority. . . . At the same time, however, Mormonism — and especially its founder Joseph Smith — yearned for recognition and legitimation from the very culture it so fiercely opposed." Waterman and Kagel view subsequent decades of BYU policy through this lens, portraying a university that "on one hand . . . pined for the approval of the American mainstream; on the other, it wants to maintain that legitimacy while preserving the authority of church leaders to maintain doctrinal purity."

This dichotomy is evident to students, who follow a set of dress and grooming standards primarily left over from the 1950s. As political unrest escalated throughout the 1960s, BYU's president, Ernest Wilkinson, gradually developed an appearance code that first discouraged, then forbade, long hair and beards for men, and short skirts, pants and the "no-bra look" for women.

Wilkinson had a set idea of what he didn't want at the school. "Certain kinds of people who seemed to be oddballs and had no regard for the culture or responsibilities of a civilized people were first characterized as 'deadbeats' and are now referred to as 'beatniks.' There is no place at BYU for the grimy, sandaled, tight-fitted, ragged-levi beatnik. If any appear on campus, we intend to 'tick them off.'" Wilkinson also told students "we want no 'go-go girls' nor their pseudo-sophisticated friends, nor will we tolerate any 'surfers.'"

The authors note Wilkinson's evident anti-California cultural bias "that probably reflected the increase at BYU of California students (no doubt too highly represented, in Wilkinson's view, among troublemakers) as well as the increasingly notorious activities of Berkeley students." BYU sought to avoid even the appearance of political dissent.

BYU's appearance standards have changed over the years. Women were allowed to wear pants in recreational areas beginning in 1967, and universally in 1971, although denim privileges were still several years away. Perhaps they

changed because so many students ignored them: "A BYU Survey Research Center study conducted in March [1971] revealed that almost 40 percent of the students violated dress and grooming standards in some way, and that over 85 percent of that group did so knowingly."

Despite the changes, the university designed appearance standards to make BYU an example to the rest of the world of how university students should look. This emphasis on surface factors like appearance is telling — BYU has always striven to maintain its image, even at the expense of the freedom of student inquiry: freedom of the press, academic freedom and even at times the right to assemble.

The biggest academic freedom conflicts at BYU have revolved around feminism. This is a little surprising in a historical context, since the church, in its early years, had a comparatively progressive attitude toward women in higher education. However, even though the church has encouraged women to attend college, it always insisted that "their divinely ordained

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TO END PROHIBITION AND POLICE STATE BRUTALITY

Item #T132

role is that of mother," and couched its encouragement of women's education in the value it would hold for men. Former BYU president Dallin Oaks echoed the thoughts of the church's president when he said in 1975: "Some

Many students arrive at BYU already thinking for themselves, only to encounter BYU's stifling policies on dissent and the expression of unorthodox opinions.

have observed that the mother's vital teaching responsibility makes it even more important to have educated mothers than to have educated fathers. 'When you teach a boy, you are just teaching another individual,' President Harold B. Lee declared, 'but when you teach a woman or a girl, you are teaching a whole family.'

For decades, the church's policy of encouraging women to stay at home meant that most of the women hired were either unmarried or non-Mormon. When BYU started a new nursing school in 1954, "the school survived only because most of its posts were filled by non-Mormons; all of the graduate degree holders on its faculty were non-LDS. Over time the program was able to carry itself with Mormons gradually joining the faculty, but the school's initial message was clear: church leaders considered it more important for Mormon women to stay home than for BYU faculty to be LDS."

As the feminist movement grew stronger and more radical throughout the 1960s and '70s, BYU and the church maintained strident opposition to feminist-supported legislation like the Equal Rights Amendment and Title IX of the Civil Rights Act. Despite counsel from church leaders "that in the employment and compensation of women — as in all other matters — you give careful observance to the requirements of the law," Dallin Oaks announced "BYU's unwillingness to comply with six of Title IX's regulations" largely due to concerns about gender-separated housing and student

appearance. The Department of Health, Education, and Welfare "assured BYU over the next four years that the government would not interfere with limitations imposed by private institutions for religious reasons."

Feminism at BYU was on shaky ground, and the authors note that "Mormon opposition to the Equal Rights Amendment . . . would drive feminism in Provo underground for nearly a decade." Feminism resurged in the late 1980s and early 1990s, largely starting with the formation of a feminist campus club in 1988, named Voice in 1989. Cecelia Konchar Farr, who had earned her master's degree at BYU in the mid-1980s, became one of Voice's faculty advisors in 1990. When BYU advised that women be accompanied by men while walking on campus at night because of recent violent incidents against women, Voice ridiculed the advice. It gained media attention by posting satirical flyers all over campus, stating that men would no longer be allowed to walk on campus at night unless accompanied by at least two women, "to demonstrate that they are not threatening." Campus staff tore down the posters, triggering a protest by over 400 students.

Farr's activities generated increasing hostility at the school, including her participation in a pro-choice rally and Voice's "Take Back the Night" demonstrations. She claimed, to the outrage of many conservative church members, that she was "a conservative and believing Mormon and also . . . a committed feminist." She was eventually dismissed, triggering more student protests.

Gail Houston, another feminist English professor, was warned before her third-year review to modify her "feminist orientation and advocacy," and was eventually placed on provisional status for a year until the school discontinued its provisional category, returning her to full status. The review cited several offenses, such as complaints from students that her classes were too politicized, with which she had not been confronted previously. She was fired, with much controversy, at her sixth-year review in 1996. According to BYU, Houston had "engaged in a pattern of publicly contradicting fundamental Church doc-

trine and deliberately attacking the Church." As with Farr, many of her students and colleagues were baffled by these claims, believing that the school fired her for her political views.

Others were investigated for different reasons. BYU fired anthropology instructor David Knowlton at the same time as Farr, following a controversy surrounding a paper by Knowlton on why Mormon missionaries made useful targets for Latin American guerrillas. Church leaders released a statement "warning against presentations that 'jeopardize the effectiveness or safety of our missionaries.'" Despite the critical stance many in the church took toward Knowlton's study, he probably wouldn't have been fired for this alone had he not publicly disputed the critics of his paper.

Brian Evenson, another member of the English department, left BYU vol-

BYU has always striven to maintain its image, even at the expense of the freedom of student inquiry: freedom of the press, academic freedom and at times the right to assemble.

untarily after a lengthy investigation of a book of short stories he published before he was hired. I didn't know Evenson personally, but his harassment hit closest to home for me. I read his nationally-acclaimed book, *Altmann's Tongue*, months before the university expressed any concern about its content. Evenson was one of only two Mormon fiction writers whose work excited me and inspired my own attempts at writing — and now he was under attack for his fiction.

An anonymous student note triggered the investigation, decrying the book's ostensible graphic violence and amorality. Evenson acknowledged "that *Altmann's Tongue* is one of the most difficult books ever written by a Mormon . . . but I also think it is one of the most uncompromisingly moral books as well, and many people have agreed." He saw his fiction as a realistic portrayal of evil and violence that countered glamorized

depictions seen elsewhere. School officials disagreed. After continual pressure, Evenson announced in 1995 that "he was taking a year's leave from school for a position at Oklahoma State University. A year later he resigned when the position there became permanent." Anonymous notes to church leaders have become a fairly common occurrence at BYU, leading to the fear among some faculty members that they may be attacked for misunderstandings without having an adequate opportunity to defend themselves.

Waterman's and Kagel's account of censorship on the campus newspaper in *The Lord's University* is true to my own experience. In addition to administrative intervention, the *Universe* practices intense self-censorship, excising most controversial opinions (and sometimes entire topics) before going to press, often due to fear of reprisal:

The ever-present issue for the *Universe* . . . is censorship. Lorin Wheelright, overseeing the *Universe* under Dallin Oaks, once commented that "we control so much of the environment [at BYU] . . . that the temptation to manipulate the news is beyond human capacity to resist." He added, though, that administrators needed to exercise patience with young journalists, unless the school was openly willing to sponsor "a house-organ polyana [sic] sheet in which sweetness and light will be so glaring that we will die of ennui if not from blind staggers or a sour stomach."

On the other hand, the off-campus *Student Review*, because of its student ownership, was not subject to official censorship. But it is banned from campus distribution. BYU also forbids campus-owned organizations, such as the BYU Bookstore, from advertising in the *Review*. This, combined with an adversarial relationship with the *Universe*, has caused the independent paper editorial and financial strains over the years, leading students almost to the point of abandoning production several times. The authors' coverage of BYU's newspapers is the topic they are most qualified to discuss, but here they also show a bias. For example, here is a paragraph discussing a student who was fired by the *Universe* after covertly working for both newspapers simultaneously:

Political science student Russell Fox

. . . had been involved with the *Review* and the *Universe* before accepting a paid position with the latter in the summer of 1992. He did a good job as city editor, and that fall the position of political editor was created for him. What the *Universe* did not know was that at the same time Fox was also a volunteer editor at the *Review* — under the pseudonym Michael Ho. While faculty advisors and Fox had had a few mild run-ins during the semester, it was not until election day itself — as Fox was organizing the complicated network of reporters, photographers, and copy editors who would be putting together the *Universe's* coverage — that [Universe faculty advisor John] Gholdston learned of Fox's secret identity. Fox was fired on the spot and *Universe* editor-in-chief David Farnworth and others assumed control of the effort.

Waterman and Kagel fail to mention that Gholdston learned of Fox's dual affiliation on election night because Fox left the *Universe* newsroom to attend a *Review* staff meeting that evening — arguably the most important evening of the semester for a political editor. In that instance, a conflict of interest was clear — but the authors' view of Fox as a good guy causes them to leave out his responsibility for the situation.

But in all, Waterman and Kagel have captured the essence of the BYU experience for those students and faculty members who don't maintain as strict an orthodoxy as the administration would prefer. In a church of ten million people, views differing from the norm will always pose a problem:

John M. Armstrong, a philosophy student, wrote that one serious problem with the academic freedom document was that it assumed there is a set of values that all LDS people have in common. The list of fundamental LDS values and doctrines is shorter for some people than it is for others, he argued. "It seems inevitable that, in the coming years, those with the long lists will want all others to adhere to their lists." Armstrong wrote that when others "do not adhere, and the peer review process upholds the opinions of the so-called 'rebel,' there is nothing to stop those people with the long lists from contacting their General Authority friends as they have done historically in an effort to squelch the infidel."

Most BYU students don't share these concerns, content instead to follow the administration's cues and at times ridicule those who question school policy. Even so, the church's attitude of maintaining such strict orthodoxy at its college is somewhat perplexing, considering that church leaders encourage students to attend college all over the world. In the early 1990s particularly, church leaders emphasized that college-age Mormons shouldn't set their hearts on attending BYU, instead encouraging

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them to attend other schools, particularly local colleges and universities, while maintaining church activity and attending church-sponsored Institute courses (the equivalent of the religion classes taught at BYU).

This acknowledgment that Mormon students can enjoy successful, faithful educational experiences at secular schools stands in sharp contrast to BYU policies. If it's OK for Mormon students to gain exposure to controversial and secular ideas and environments elsewhere, why are church leaders so apprehensive about students' exposure to

these things if they happen to attend school in Provo? One of the most important functions of a university is to expose students to new ideas and concepts, to challenge and stimulate, to provoke and sometimes disturb. With such a large support base in place, Provo seems to me to be the safest place for Mormon students to confront the unfamiliar. At any rate, surely the church is strong enough to manage campus tension without squelching dissent. After all, many other universities do, even those that don't claim to be "the Lord's University." □

Booknotes

Enemies of the Stasis —

Virginia Postrel's excellent *The Future and Its Enemies* (Free Press, 1998, 265 pages) details the many ways in which the forces of dynamism conflict with the forces of stasis. The book is an excellent journalistic treatment of the pervasiveness of these opposing perspectives throughout our society. The title clarifies the very real risk that the stasis forces may prevail, that the world may well reject progress and stagnate. Indeed, for most of human history that has been the story. Postrel ends her book detailing the tragedy of China, which sank from world leader to backwater country in a few centuries as the stultifying forces of bureaucracy gained ascendancy. Implicitly the book suggests that this fate might await America.

But one is left at the end of the book with a feeling of "Now what?" How has it happened that America — the "Can Do" nation of almost naive optimism — has become so pessimistic? Why is it that so many in America — especially among the intellectual classes — shifted so decisively toward the forces of stasis? Knowing that progress is threatened is useful; knowing why this threat has grown in recent decades would be far more so. And here *The Future and Its Enemies* is strangely silent.

Let me suggest a possible cause, specifically the popularity of Malthusianism — the Terrible Too's belief that there are too many of us, that we consume too much, and that we rely too heavily on technology which we understand too poorly — among

America's intellectuals. This is new. At the end of World War II, the left was optimistic — from Marxist to New Dealer, the political left championed dynamism; it was the conservatives who feared change, who worried about the erosion of America, the lack of stability. Today, the left has changed sides — seeing "progress" as illusory. Why?

I argue that dynamism and stasis are instrumental, not primary, variables. An individual favors the one or the other depending upon whether he believes that change benefits or threatens his core values. The left was once optimistic about change because it believed the future belonged to it — almost everyone believed (as Whittaker Chambers commented) that the left was the "winning side." Today, the left is far less confident — it sees America moving back to skepticism over central planning and political control, the loss of faith in the Gospel of Efficiency — and thus they have changed sides. And, as Hayek noted long ago, intellectuals are important in a modern society. When the intellectual community favors stasis, the odds shift dramatically toward stagnation.

Why all intellectuals aren't stasists, why some — like Postrel and most readers of *Liberty* — retain their belief in Progress is a critical question. We do have faith in the future — but why? I believe the answer to this basic question — and thus whether the forces of dynamism can prevail — requires a better understanding of the competing cultural values in America and how

these values have waxed and waned in overall influence over the last century. That analytic task — and the subsequent action agenda that would stem from it — remains the critical task for those seeking to preserve the Future from its Enemies. In that effort, Postrel's book can provide useful anecdotes but little policy guidance.

—Fred L. Smith, Jr.

What Makes Harry Run? — Some libertarians objected to Harry Browne's run for the presidency in 1996 on grounds that when Browne waded into the political fray, he contradicted a core principle espoused in *How I Found Freedom in an Unfree World* (1972, new edition Liam Works 1998, 387 pages).

They point to several passages in *Freedom* to justify their criticism. For example, Browne describes a variety of traps in which people enslave themselves as they struggle to improve their lives. One of them he dubbed the Group Trap, in which one's success depends on the efforts of others. That sounds suspiciously like a political campaign.

Not so, says Browne in the Afterword to the 25th anniversary edition of *Freedom*. "I ran because I wanted to, and I enjoyed it immensely," he writes. "I may even do it again in the year 2000."

He asserts that "success wasn't dependent on winning the election. I ran to please myself, and I encouraged others to participate only if they would enjoy the experience. Fortunately, Libertarians aren't prone to self-sacrifice."

As for the "politics is evil" camp, nothing Browne says would, or even could, satisfy them. On most days, I admit, I am sorely tempted to agree that to engage in politics is to tread the path of corruption. Nonetheless, I still hold out hope, however faint, that the principles of freedom will recapture the popular imagination. In other words, I still hope to someday live in a free nation. But, as Ayn Rand said, "It's not as late as you think." We ain't there yet. To get there, we need the best ambassador for libertarian ideas we can find to sell the voters on true liberalism. Someone like Harry Browne.

Browne may have weaknesses, as

Jacob Hornberger asserted in the last issue of *Liberty*. He wrote that Browne "failed to generate any significant degree of excitement among voters." It could be argued, however, that some of the LP's previous candidates were a tad too fun and exciting. So much so that they scared off the voters. Browne's engaging and genial style gives him an in with the public. If he designs a savvy media campaign that puts him on television, he will win votes. Browne remains, to my mind, the nation's best

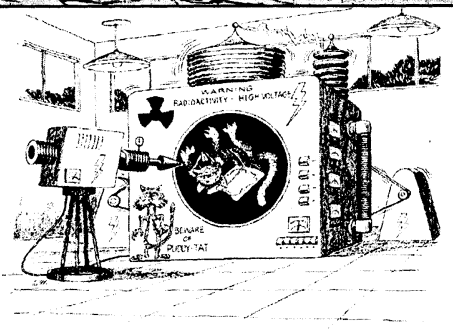
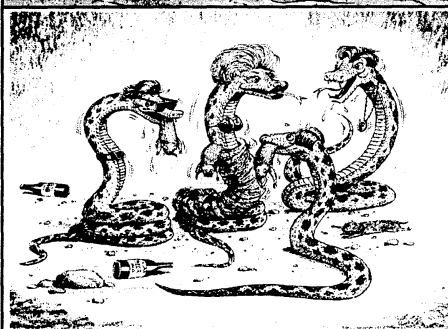
hope for the cause of liberty.

Political considerations aside, *How I Found Freedom in an Unfree World* is an outstanding primer on attaining personal freedom. For people who have a vague sense that something's wrong with their lives that they can't put their finger on, this is the tonic.

—Terrence Campbell

The Synthetic Man — In *The Political Philosophy of Herbert Spencer* (Avebury, 1996, vii + 251 pages), Tim

Jurassic Horde Whisperer of Madness County



This new novel by Titus Stauffer is a wacky tale of lawyersaurs, Quart Low Trackers, Ale Run Hubba-Bubba and His Church of Omnology, Panderwood, and officials at THEMNOTUS and NADGRAB run amuck. A tale so utterly bizarre as to defy all rationality. A tale beyond belief.

But then we get to the annotated end portion of the book and we see that *Jurassic Horde Whisperer of Madness County* is based on FACTS - facts too irrational, crazy and destructive to be pure fiction. Church, State, media, and Hollyweird have provided all the madness spoofed here. Fun, yes, but also a disturbing warning about how destructive irrationality runs rampant in our modern, supposedly enlightened scientific age.

Other works by Titus Stauffer: *Bats in the Belfry, By Design* is a near-future hard science fiction novel about a U.S. weapons designer who regrets helping a freedom fearing government. *Freedom From Freedom Froms* is a sequel which continues to throw pointed barbs at many who fear real freedom.

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S. Gray performs a noble service: saving Herbert Spencer's ideas from the misinterpretations of both friend and foe.

Spencer's thought has always been controversial. In his day he was widely influential; an evolutionist who formulated the principle of "survival of the fittest" before Darwin's *Origin of Species*, he both profited by and suffered from the designation "Social Darwinist" (though, as sociologist Jonathan Taylor astutely remarked, Darwin might more justly be thought of as a "Biological Spencerian"). As a libertarian writing as the popularity of individual liberty descended from its mid-century peak, his reputation was sure to reach a nadir in our mid-century. F.A. Hayek, whose career as a social theorist can be seen as one long riff on Spencerian themes, astutely minimized any citation of the maligned thinker.

Gray concentrates on the tension in Spencer's thought between "individualism" and "holism." Most commentators have judged Spencer schizoid on the

subject, and deemed untenable his solutions to the theoretical problems of whole and part, society and individual, and methodological holism and methodological individualism. Gray carefully weighs all the traditional charges against Spencer's method in both positive and normative thought, showing where Spencer erred, and where (more often) his commentators proved themselves inattentive to Spencer's surprising subtlety.

It's about time somebody performed this service. The constant complaints about this "contradiction" in Spencer's thought have always seemed to me more than a bit simple-minded. After all, Spencer defined his task as "synthesis," by which he meant reconciling "opposites" to the extent they can be reconciled, using as many methods as necessary to obtain a complete understanding of the complex phenomena that life presents us. He began the first installment of his ten-volume *Synthetic Philosophy — First Principles* (1860) — with as clear a statement as any: "We too often forget that not only

is there 'a soul of goodness in things evil,' but very generally also a soul of truth in things erroneous." Spencer's method may best be seen as a rescuing of the truth from rival philosophical camps. He was not only well aware of tensions in his thought, he *exploited* them for his grand purpose: understanding.

This method — I'm tempted to call it "dialectical," but Spencer's prose and position seem so far from Hegel's that the term is almost indecent — confuses many readers. But it is surely his strength. Gray is one of the few Spencer scholars to see this method as fundamental, and to present sophisticated analyses of Spencer's *syntheses*.

And, in the process, Gray has written one of the most readable treatments I've encountered of general methodological problems. His careful discussions of the meanings of controversial terms — such as individualism, for starters — alone provide enough reason to recommend the book.

—Timothy Virkkala

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Notes on Contributors

welcoming committee arrived and offered each of us cigarettes, coffee, instant soup cups, candy, information and more questions than we were able or willing to answer. We shared a collective exhaustion and sense of relief as we bunked down that first night, all pleased to be out of our county jails and finished with transports, shackles and processing.

The morning gently massaged my senses awake through the open window. Unidentified birds sang and argued in nearby bushes and joined the smells and sounds of grass, clover and chamomile being cut in the warden's lawns. I pulled open the curtain above my head to see what I couldn't see eight hours earlier. Shocking blue and a radiant sun, so unlike the gray and wet of the Portland sky, promised a perfect day. I closed the curtain and sat up in bed, my head barely clearing the ceiling. I was thankful and surprised that I had slept peacefully through the visits from officers who were required to count us at midnight, 2:30 a.m. and 5:00 a.m. each night.

I heard a grunt, gas and the splash of fecal matter hitting the toilet's water. I looked to the top bunk across and 18 inches away from me to see my East Indian friend still asleep; the two bottom bunks were empty, one occupant out of the room, the other casually relieving herself less than two feet from the end of our beds. The animal odor from her activity quickly reached my head and powerfully reminded of the reality of my situation.

It had been so easy to relax, to drop most fear and anxiety, along with the chains and shackles, once securely inside the FCI. The fear I had held was of the unknown; anxiety came with anticipating the worst, always more difficult than knowing the worst and preparing to survive it. It seemed clear that the worst was behind me — the many long, boring days alone in a small cinderblock cell at MCDC, the helplessness and intimidation I had felt every time I appeared in federal court, the waiting, the hoping, the not-knowing, the dependence on attorneys, investigators and jail guards, the inability to make plans for a future that was in the control of others. □

Brien Bartels is a reporter in Ellensburg, Wash.

David Boaz is the author of *Libertarianism: A Primer* and *The Libertarian Reader*.

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Sandy Shaw is co-author with Durk Pearson of *Freedom of Informed Choice: FDA vs. Nutrient Supplements*.

Fred L. Smith, Jr., is president of the Competitive Enterprise Institute.

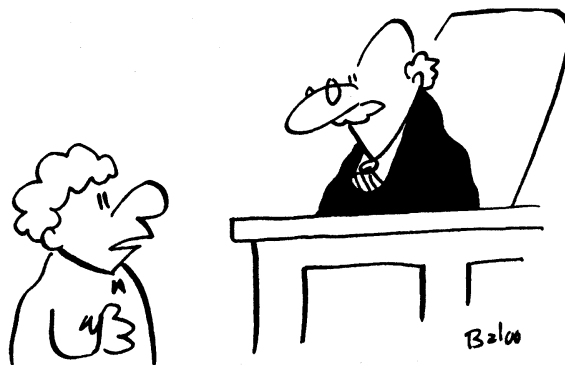
Martin M. Solomon is assistant editor of *Liberty*.

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Clark Stooksbury has written for *The American Enterprise*, *Chronicles* and *The Washington Times*.

Timothy Virkkala is executive editor of *Liberty*.

Leland B. Yeager is Ludwig Von Mises distinguished professor emeritus at Auburn University.



"It's not that I don't want to pay for things, your honor — I just steal stuff to avoid the sales tax."

Terra Incognita

China

Advance in the culinary arts, reported by the *Wenhui Daily*:

Health authorities report that 11 of 45 restaurants inspected were adding opium poppies to their soup to keep customers coming back for more.

Pleasanton, Calif.

The triumph of aesthetics over property rights, from *The Oregonian*:

City Council members who want Neil and Pat Nelson to paint their unfinished home a darker shade voted 3-2 to give the Nelsons an ultimatum: Paint your home a darker color or we won't let you move in. The Nelsons are defying the council and have occupied the home without a permit. The city is considering how to get them out of the house.

U.S.A.

Curious specimen of historical revisionism, as reported by *The New York Times*:

The United States Postal Service unveiled a new stamp celebrating Jackson Pollock's contribution to Abstract Expressionism. The stamp is a reproduction on a 1949 *Life* magazine photograph showing the denim-clad artist, a chain smoker, in his studio pouring paint onto canvas, a cigarette hanging precariously from his mouth. On the stamp, however, the cigarette has been airbrushed out.

Boston, Mass.

Meaningful gun-control in the enlightened Northeast, as seen in *USA Today*:

More than two centuries after the British tried to disarm upstart American colonists at Lexington and Concord, plans for the largest re-enactment of the battle are in jeopardy because of a new state gun law that requires childproof trigger guards on all guns — including replica muskets. Musket owners whose guns don't have the locks could face up to ten years in jail and fines of up to \$10,000.

U.S.A.

A threat to the moral health of our nation's children, indented by Naomi Wolf in *George*:

"On the popular, award-winning show *Cow & Chicken*, drawn by veteran animator David Feiss, I encountered Cow and her red udder, whose enormous teats are drawn in such a way that their movement is central to the action. A companion cartoon called *I.M. Weasel* features a baboon with an exaggerated red distended rear, and another show, *The Powerpuff Girls*, has a character in a maid's costume and high-heeled dominatrix boots. . . . The non-profit organization the Lion & Lamb Project which advocates against violence in children's toys and games, has reached out to Senators Joe Lieberman of Connecticut and Herb Kohl of Wisconsin, who are considering holding hearings on sadistic programming for children."

San Francisco, Calif.

Expanding human rights, from the *San Francisco Examiner*:

Prompted by an angry confrontation over "anti-fat" advertising by a local fitness club, the head of the city's Board of Supervisors has proposed adding overweight people to the list of those legally protected from discrimination. The proposal came two days after about 25 overweight people picketed a local gym to protest against a billboard warning that when space aliens finally do encounter humans, "they will eat the fat ones first." The protest was organized by self-described "fat advocate" Marilyn Wann who warned "It's really not safe to alienate us, because we might just sit on someone."

Finland

Interesting alternative to the cocktail, reported by Reuters:

Some teen-age Finnish girls are experimenting with tampons dipped in vodka as a way of getting tipsy without parents detecting boozy breath, an anti-drinking group claims. The group's executive director said he had received reports of individual cases of girls in eastern Finland using alcohol-soaked tampons, hoping the alcohol would then enter their bloodstreams. "I believe tampons are supposed to keep things in and not let them seep out," said Tapio Jaakkola at the Irti Huumeista drug and alcohol center.

Seattle, Wash.

Advanced political activism in the Evergreen State, reported on the Washington State News Wire:

Jim Mulligan with the Partnership for Religion and the Environment reported that groups ranging from Catholics to Sufis gathered for a meeting to look for moral guidance in dealing with the proposed listing of Chinook salmon as an endangered species. The meeting at Seattle's Saint Mark's Cathedral was part vigil and part planning session.

Russia

Interesting observation about the most powerful woman in the world, Madeleine Albright, by Gennady Zyuganov, head of Russia's Communist Party, reported by Reuters:

"I am alarmed by this madame, whom I call Madame War. She is a woman, after all. Rattling rockets and bombs — it is simply against nature. I want to say to all the women's organizations of the planet and especially of Europe. She is bringing shame on the entire female sex and the female tribe."

Seattle, Wash.

Economics observation from Drug Czar Barry McCaffrey, during a speech on the threat posed by British Columbian marijuana:

"Wide availability is driving consumption."

(Readers are invited to forward news clippings or other items for publication in *Terra Incognita*, or to email them to TerraLiberty@hotmail.com.)

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The Nazification of the Money Supply • J. Orlin Grabbe is the author of the standard reference on international financial markets.

Here he explains how and why the government has seized control of the banking system — and how you can foil their plans and get your privacy back. (audio: A132; video: V132)

Sexual Correctness • A new breed of feminist has declared war on individual liberty, in the process undermining women's autonomy — the very value they claim to uphold. **Wendy McElroy** runs down the latest illiberal court precedents and speaks up for the civil liberties of men and women alike. (audio: A155; video: V155)

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The Four Political Types • Fred L. Smith, Jr. points out some nasty roadblocks on the way to freedom — and how libertarians can navigate around them. (audio: A147; video: V147)

How I Found Slavery in a Free World • Douglas Casey's acerbic tales of government failure — at home and in the 120 countries he's visited. (audio: A208; Video: V208)

How Hillary Got Rich • Join one of the most successful speculators in the nation, **Victor Niederhoffer**, as he analyzes Hillary Clinton's history with beef — the hooved commodity. Did she get amazingly lucky, or was there something else more sinister going on? (audio: A114; V114)

Will Technology Advance Liberty or the State? •

For every glowing prediction of the liberating effects of technology, there is a clipper chip, a phone tap, or a spy satellite. **Harry Browne** presides while **Ross Overbeek**,

David Friedman, **R.W. Bradford**, and **Sandy Shaw** measure the capabilities of freedom and Leviathan. (audio: A303; video: V303)

Liberty and the Press • Where does media bias come from, or does it even exist? Join veteran reporter **Bruce Ramsey**, *Slate* editor **Jack Shafer**, **R.W. Bradford** and **Jane Shaw** as they dissect the press. From a freedom perspective, what's wrong with the media — and what's right? (audio: A216; video: V216)

The Liberty Group • R.W. Bradford, **Bill Kauffman**, **Jack Shafer**, **Douglas Casey**, and **Durk Pearson** look at the hottest topics of the day and make some interesting predictions — many have come true today. Topics include a preview of the 1996 election and its candidates, the anti-tobacco movement, Ron Brown and Vince Foster, Clinton's nose job, and drug smuggling politicians. You listen to conservative and liberal pundits on the radios and television. Find out how libertarian pundits measure up! (audio: A201; video: V201)

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