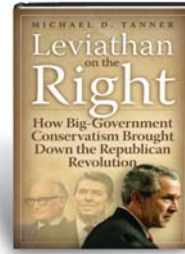




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CATO

March/April 2007

Policy Report

Vol. XXIX No. 2

The Roots of Modern Libertarian Ideas

BY BRIAN DOHERTY

The libertarian vision is in the Declaration of Independence: we are all created equal; no one ought to have any special rights and privileges in his social relations with other people. We have certain rights—to our life, to our freedom, to do what we please in order to find happiness. Government has just one purpose: to help us protect those rights. And if it doesn't, then we get to “alter or abolish it.”

It's hard to imagine a more libertarian document, but there it is: a sacred founding document of the United States of America. Libertarians may worry that the drafters of the Constitution compromised too much and ceded too much power to government, but they clearly understood that state power is forever trying to overwhelm political liberty and that they needed to be diligent in its defense. Despite some serious shortcomings, the modern American libertarian can feel real patriotic fervor when contemplating the founding of the United States.

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BRIAN DOHERTY is a senior editor at *Reason* and the author of *Radicals for Capitalism: A Freewheeling History of the Modern American Libertarian Movement*, just published by Public Affairs.

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A new Cato Institute book, *The Improving State of the World: Why We're Living Longer, Healthier, More Comfortable Lives on a Cleaner Planet*, was the cover story in a December issue of the *Spectator*, Britain's leading political and literary magazine. **MORE ON PAGE 3**



BY WILLIAM A. NISKANEN

“The most surprising opportunity for a limited near-term reform is to change the most costly provisions of the Sarbanes-Oxley Act.”

Chairman’s Message What Should We Expect from Divided Government?

For the past several years, as you may know, I have been studying the major effects of divided government, in which the presidency and at least one house of Congress are controlled by different parties. The major effects of a divided government, relative to those by a unified government, are the following:

- The rate of growth of real per capita federal spending is significantly lower.
- The probability of a war is much lower.
- The probability of a major increase in entitlements is much lower.

The apparent reason for those effects is that each party has the opportunity to block the most divisive measures proposed by the other party. In addition, fortunately, a mixed government does not preclude some major policy reforms.

Democratic control of the 110th Congress, I expect, will lead to each of those effects. The rate of growth of real per capita federal spending is likely to be lower than in any prior year of the Bush administration, in part because many congressional Republicans will remember their commitment to fiscal responsibility, and maybe Bush will remember where he lost his veto pen. The U. S. military role in Iraq will probably phase down over the next two years, and Congress will not authorize an expansion of the war to Iran and Syria. And congressional Democrats are not yet ready to propose a major new entitlement such as universal health insurance.

On the other hand, divided government is likely to lead both Bush and Congress to a combination of misleading rhetoric and mischievous legislation such as Bush’s energy proposals and Speaker Pelosi’s one-hundred-hour agenda. And both Bush and Congress will again defer addressing the major long-term problems, such as the looming explosion of entitlement spending. But all is not lost. There is not likely to be a major new threat to limited government in the next two years, and we can use the time to refine and promote the reforms necessary to address the major long-term problems.

And there is some opportunity for the 110th Congress to approve several important reforms. Remember that the tax reform of 1986 and the reforms of agriculture, communications, and welfare legislation in 1996 were all approved by a divided government.

The most important prospect for a major near-term reform is a comprehensive immigration bill, one that addresses the 12 million illegal aliens now in our country as well as improved border control. Such a bill was proposed by President Bush in 2005 and passed the Senate last year but was blocked by the House Republicans; the current Democratic majority in the House is likely to lead to a bill more like last year’s

Senate bill. As I argued in this space last year, the primary problems of uncontrolled immigration would best be addressed by building an effective fence around the welfare state, not around the country.

The most surprising opportunity for a limited near-term reform is to change the most costly provisions of the Sarbanes-Oxley Act, the consequence of several reports documenting the nature and magnitude of those costs and the concentration of the financial community in northeastern states now represented by Democrats. The new chairmen of the House and Senate banking committees have announced that they will hold hearings on the issues raised by those reports, one of which was cosponsored by Sen. Charles Schumer (D-NY), and the Securities and Exchange Commission has already made some of the changes recommended by the reports. The outcome of this process, however, will not be a major reform and may be somewhat of a mixed blessing if paired with controls on executive compensation.

Two other domestic programs *ought* to be subject to serious attention even if the administration and Congress are not yet ready for a major reform: agriculture and health.

The administration’s proposal for the 2007 farm bill, unfortunately, is a hodgepodge of the good, the bad, and the ugly, an insufficient reform to rescue the Doha Round of multilateral trade negotiations. And congressional Democrats seem most inclined to renew the expensive and trade-distorting 2002 farm legislation. One or two provisions of the administration’s proposal, however, merit serious attention as steps toward a broader reform. Price floors on major crops would be set at 85 percent of a rolling prior-year average of market prices, and the limits on subsidy payments per farmer would be substantially reduced.

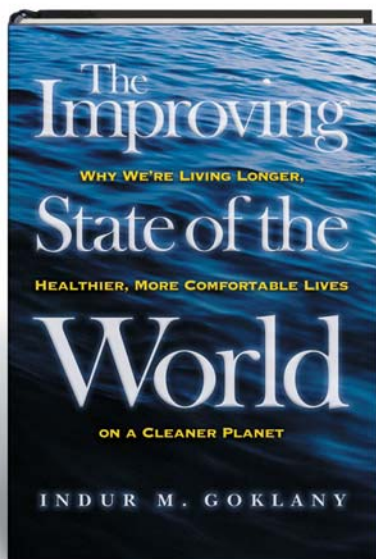
President Bush’s innovative health care proposal would provide a standard tax deduction of \$15,000 for families and \$7,500 for individuals who have health insurance, however that insurance is purchased and whatever the cost of the insurance. This would eliminate the current tax bias in favor of employer-provided health insurance and allow people to choose a policy more consistent with their preferences. Bush also proposed to allow states to reallocate about \$30 billion of federal funds to assist people in buying private health insurance. The administration estimates that these provisions would increase the number of insured by three to four million people. A major health care reform may be too complex to negotiate as a package, and the Bush proposal would be a good first step.

“An antidote to the prophecies of doom”

New Book Details Our Improving World

If the media do one thing well, it is reporting crises. With global warming, AIDS, poverty in the Third World, authoritarian governments, international terrorism, and other topics dominating the headlines, it is easy for even casual observers to conclude that the world is in dire straits. But what the media do not do as well is provide context. The reality of sweeping global trends can be lost in the day-to-day grind of bad news. Indur Goklany's new book, *The Improving State of the World: Why We're Living Longer, Healthier, More Comfortable Lives on a Cleaner Planet*, fills in the gaps to present a fuller picture of the effects of globalization and technological progress on the environment, the world economy, and humanity's well-being. In the words of Nobel laureate Robert Fogel, Goklany has written “an antidote to the prophecies of an imminent age of gloom and doom.”

Goklany is a 30-year public policy veteran who has worked with the federal government and the private sector. His data-driven 500-page book presents many surprising facts: Despite an 83 percent growth of population in developing countries over the last 50 years, chronic undernourishment has fallen from 37 to 17 percent because of growth in the food supply. Disabilities among the elderly in developed countries are in decline. Economic freedom has increased in 102 of the 113 countries for which data are available for both 1990 and 2000. Goklany exhaustively backs up his claims with dozens of charts and tables, which he explains in terms understandable to the nonstatistician.



Even before publication, environmental scholar Indur Goklany's new book—with more than 100 charts and tables—had drawn coverage from London's *Times* to the *Vancouver Sun* to *El Universal* of Caracas.

Some observers might say that improvements in areas such as air and water pollution only came about because the heavy hand of government softened the effects of growth. But Goklany's evidence contradicts that thesis. For example, he points out that the important environmental laws of the 1970s—the Clean Air Act of 1970, the Clean Water Act of 1972,

and the Safe Drinking Water Act of 1974—were actually passed after indicators of air and water quality were already improving.

A discussion of the future of the planet would not be complete without mentioning predictions of catastrophic climate change. Goklany explains that global warming is not a new problem as much as it is something that may worsen existing problems such as malaria and coastal flooding. It takes decades for reductions in emissions to register as reductions in warming, so he proposes that

instead of regulation, countries use new technologies to adapt to the effects of a changing climate.

Proponents of free markets cannot merely criticize the record of government intervention in curing the world's ills; they must also play defense. *The Improving State of the World* provides one of the most comprehensive cases yet that economic growth, globalization, and technological change are the most powerful anti-poverty, pro-health, and pro-environment tools we have found.

The Improving State of the World is available in hardback for \$29.95 or paperback for \$19.95 at catostore.org.

NEWS NOTES

RANDAL O'TOOLE and DANIEL J. MITCHELL have joined the Cato Institute as senior fellows.

Mitchell will study tax and spending issues, especially the flat-rate tax and the attempts of governments worldwide to prevent tax competition. He was previously the McKenna Senior Fellow at the Heritage Foundation. Prior to joining Heritage in 1990, Mitchell served as an economist for Sen. Bob Packwood of Oregon. He also covered the Federal Reserve System for the Bush/Quayle transition team and was director of tax and budget policy for Citizens for a Sound Economy.

He is the author of *The Flat Tax: Freedom, Fairness, Jobs, and Growth*.

O'Toole is one of America's leading experts on both public land issues and urban growth and transportation issues. He began his career in the 1970s as a consultant to environmental groups seeking to influence national forest policy. O'Toole's research on below-cost timber sales and forest economics persuaded him that government solutions to environmental problems usually created more problems than they solved.

O'Toole began applying this view to urban land-use and transportation planning issues in the 1990s. His work showed that urban planning was not making cities more livable; instead, it was increasing congestion and making housing less affordable.

Before joining Cato, O'Toole was senior economist at the Thoreau Institute, an Oregon think tank that focuses on public land issues. He has been a visiting scholar at Yale University and the University of California (Berkeley). *Newsweek* listed him as one of 20 “leading movers and shakers” in the West.

O'Toole has written two books, *Reforming the Forest Service* and *The Vanishing Automobile and Other Urban Myths* and is working on a book on government planning that will soon be published by the Cato Institute.



MITCHELL



O'TOOLE

Remembering Milton Friedman and Adam Smith

Protecting Property Rights, Avoiding War with Iran

DECEMBER 1: Last November the property rights movement bounced back from the 2005 *Kelo v. New London* Supreme Court decision with numerous state ballot victories protecting property owners from abuse of eminent domain. A Cato Conference, “Property Rights on the March: Where from Here?” convened major voices in the movement to discuss its future in light of those developments. Steven Anderson, director of the Institute for Justice’s Castle Coalition, and Steven Eagle of George Mason University discussed the fallout from *Kelo*. Ross Day of Oregonians in Action, Richard Mersereau of the California State Assembly Republican Caucus, and Carol LaGrasse of the Property Rights Foundation of America explained the challenges facing defenders of property rights on the state level. Bobby Harrell, Speaker of the South Carolina House of Representatives, told the story of his state’s battle to stop abuse of eminent domain and regulatory takings.



Ted Galen Carpenter, Cato's vice president for defense and foreign policy studies and author of the study "Iran's Nuclear Program: America's Policy Options," talks with journalists after his remarks at a December 11 conference, "How to Deal with Iran."



Sen. John Sununu (R-NH) talks with David Boaz (left) and P. J. O'Rourke (right) before O'Rourke's Book Forum on his book *On the Wealth of Nations*, January 9.

DECEMBER 11: Even as American troops continue to fight in Iraq and Afghanistan, some commentators already claim that military force is the United States' only option for dealing with Iran's development

of nuclear weapons. Cato held a half-day conference, “How to Deal with Iran: Options for Today and for the Future,” to discuss what other choices the United States has and what to do if current policies fail. The first panel featured Trita Parsi of the National Iranian-American Council; Sanam Vakil of the Johns Hopkins School of Advanced International Studies; former National Security Council staffer Flynt Leverett; and Ted Galen Carpenter, vice president for foreign policy and defense studies at Cato. The speakers on the second panel were Thomas McNerney of the Iran Policy Committee; Lawrence Korb of the Center for American Progress; Michael Eisenstadt of the Washington Institute for Near East Policy; and Justin Logan, foreign policy analyst at Cato.

DECEMBER 13: Even after the attacks of September 11, 2001, the chances of any person in the world being killed by an inter-

national terrorist attack during his lifetime are about the same as the chances of being killed by a comet or an asteroid. At *Overblown: How Politicians and the Terrorism Industry Inflate National Security Threats, and Why We Believe Them*, a Cato Book Forum, John Mueller of Ohio State University examined how, despite that fact, public officials often present terrorism as an existential threat. Mueller argued that the biggest worry should be the overreaction to terrorism; the U.S. response to 9/11—such as the war in Iraq—has killed more Americans than the 9/11 attacks themselves. Former Virginia governor Jim Gilmore discussed how overreaction can threaten civil liberties. He said that statesmen should avoid sacrificing freedoms in hopes of gaining security and instead speak honestly to the public about the risks of terrorism.

DECEMBER 18: The death of Milton Fried-

man in 2006 deeply saddened classical liberals all over the world. But the outpouring of praise for Friedman carried in the media after his death represents a victory for their ideas. As Cato's executive vice president David Boaz pointed out at "Remembering Milton Friedman," a Cato Capitol Hill Briefing, when Friedman first rose to prominence, he was viewed as well outside the mainstream. But today many of his ideas, from his views on inflation to his opposition to the draft, are not only mainstream but often accepted as the conventional wisdom. Boaz also introduced a showing of a segment of Friedman's PBS documentary *Free to Choose*.

JANUARY 9, 16 and 29: At Cato Book seminars in Washington, Boston, and New York, P. J. O'Rourke, best-selling humorist, *Atlantic Monthly* correspondent, and H. L. Mencken Research Fellow at Cato, discussed his new book, *On the Wealth of Nations*. He explained that he read Adam Smith's *The Wealth of Nations*—all 900 pages of it—so others don't have to. Few of Smith's insights into human nature are



Cato senior fellow Alan Reynolds, author of the Cato study "Has U.S. Income Inequality Really Increased?" listens to a commentary on his study by Diana Furchtgott-Roth, former chief economist of the U.S. Department of Labor, at a January 11 Policy Forum.

intuitive, O'Rourke said. It is easy to forget, for example, that, when freely conducted, all trade is mutually beneficial. O'Rourke also discussed outsourcing, Wal-Mart, and other areas of public debate that would benefit from Smith's wisdom.

JANUARY 11: Statistics are notoriously easy to twist. Alan Reynolds, senior fellow at Cato, is very skeptical of recent statistical claims that U.S. income inequality has dramatically increased in recent decades, and he explained why he is not convinced at a Cato Policy Forum, "Has U.S. Income

sarily a bad thing. What is truly important, she said, is that there is mobility for all people in the U.S. economy, which appears to still be the case.

JANUARY 18: What if you had only one key to unlock your home, your car, your bank



Nigel Ashford of the Institute for Humane Studies asks a question at a crowded Cato Forum on January 9 for P. J. O'Rourke and his book *On the Wealth of Nations*.

Inequality Really Increased?" Some of the reported differences in income, for example, are a product of changes in the tax code. But as Reynolds pointed out, changing the way you file taxes does not make you any richer. Gary Burtless of the Brookings Institution agreed with many of Reynolds's criticisms of the data but said that the overall picture still shows an increase in inequality and that Reynolds is too quick to accept flawed data showing otherwise. Diana Furchtgott-Roth of the Hudson Institute argued that even if inequality has increased, that is not neces-

sarily a bad thing. What is truly important, she said, is that there is mobility for all people in the U.S. economy, which appears to still be the case.

account, your Social Security account, and more? Anyone who gained control of that key would have nearly complete access to your identity and thus be in a strong position to manipulate you. In his book *Identity Crisis: How Identification Is Overused and Misunderstood*, Jim Harper, Cato's director of information policy studies, explains how, through the REAL ID Act, the federal government is imposing a nationally uniform system of identification, which should worry anyone concerned about civil liberties. At a Cato Book Forum, Harper argued that the private market can supply



Rep. Adrian Smith (R-NE), Cato director of government affairs Brandon Arnold, Rep. Bill Sali (R-ID), and vice president for government affairs Susan Chamberlin listen to Cato scholars at a Cato-sponsored Capitol Hill breakfast for new members of Congress on January 18.

the credentials people need to make the transactions that now require government IDs, but with less risk of manipulation. James Lewis of the Center for Strategic and



At a December 11 conference, Cato foreign policy analyst Justin Logan says that military action against Iran would be disastrous, and that while deterring a nuclearized Iran is a nightmare, there is no reason to believe it is impossible.

International Studies and Jay Stanley of the American Civil Liberties Union both discussed some of the difficulties with a private identification system and said that

only the government can supply certain standards of security and fairness.

JANUARY 23: Many Americans view public education as the bedrock of democracy and civic life. Neal McCluskey, policy analyst at the Center for Educational Freedom at Cato, challenged that conventional wisdom at a Cato Policy Forum, “Why We Fight: Do Public Schools Cause Social Conflict?” He argued that, since there cannot be a single system of education that reflects the values of everyone, public schools are inherently divisive. They force some parents and children to submit to ideas and methods with which they disagree, from evolution to political correctness. But McCluskey also said that Americans do share one value: freedom. An educational system based on freedom of choice could allow families to pick schools that comport with their values and promote social unity by allowing people to transcend racial and religious boundaries. Charles Haynes of the Freedom Forum First Amendment Center and Gerald Bracey of the High/Scope Educational

Research Foundation defended public schools as sites where Americans reconcile their differences and find a common good.

JANUARY 25: Crafting foreign policy almost always involves choosing between less than optimal courses of action, as Iran’s development of nuclear weapons demonstrates. At a Capitol Hill Briefing, “Iran’s Nuclear Program: The Costs and Benefits of America’s Policy Options,” Ted Galen Carpenter, vice president for foreign policy and defense studies at Cato, explained that stronger sanctions on Iran will probably not yield results, as historically sanctions have caused regimes to abandon only low-priority policies. Using military force against Iran is even more problematic, he argued, as it would most likely drive millions of moderate Iranians into the arms of the clerical regime. The one option that has no real downside, Carpenter said, is to offer Iran a grand bargain of economic and diplomatic ties. Justin Logan, foreign policy analyst at Cato, noted that Iran’s decision to yield during the Iran-Iraq war shows that the country does indeed practice realpolitik and so can most likely be deterred should the grand bargain fail.

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Harper Spurs REAL ID Rebellion in States

Jim Harper, director of information policy studies at Cato and author of *Identity Crisis: How Identification Is Overused and Misunderstood*, has been a leader of the burgeoning rebellion in states around the country against the REAL ID Act.

The law requires states to tighten security requirements for driver's licenses and make databases of driver information available nationwide if their licenses are to be used for such purposes as boarding airplanes. The National Governors Association calls REAL ID an \$11 billion unfunded mandate. Bills to oppose or opt out of the law are pending in some 21 states.

Harper's recent travels sound like a tour of the states that David Boaz and David Kirby described in the last issue of *Cato Policy Report* as libertarian-leaning states that Republicans were in danger of losing. So it's no surprise that they're the states where the revolt against the REAL ID Act is beginning.

Harper was in New Hampshire twice last year as that state took its first run at rejecting REAL ID. After Republican leadership in the state Senate bottled up the bill to reject REAL ID, control of



Sen. Arlen Specter (R-PA), ranking Republican member of the Senate Judiciary Committee, talks with Jim Harper after testimony on the problems with "data mining" of government databases. Most congressional testimony by Cato scholars is posted on www.cato.org.

the legislature switched from the Republicans to the Democrats for the first time since 1922.

In late January Harper spoke at a community meeting in Maine, and the next day the state's legislature rejected REAL ID. On a Tuesday in February he testified before the Utah legislature. That afternoon he flew

to Boise, Idaho, for a State Capitol forum with Rep. Phil Hart and then testified the next morning before a House committee on Hart's resolution.

He has also testified in New Mexico and spoken to both the National Conference of State Legislatures and the American Legislative Exchange Council.

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Please contact Yana Davis at (202) 789-5231 or ydavis@cato.org if you have questions about making a contribution to the Cato Institute. We can advance liberty and limited government only with your help.

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Niskanen Raps SarbOx, Tanner Rips Arnold

“I did sort of envision riding on the Metro with a bunch of bureaucrats and them saying, ‘There he is. Let’s get him,’ and then chasing and whacking me with their federal badges.”

What had Chris Edwards, Cato’s director of budget studies, done to lead him to imagine this nightmare scenario, which he jokingly described in the August 28 *Baltimore Sun*? Two weeks earlier, Edwards had published an op-ed in the *Washington Post*. He had written about how, contrary to the stereotype that federal government workers are underpaid, average compensation for federal workers is far more generous than average compensation in the private sector. The ire aimed at him in ensuing

a Briefing Paper by Timothy Lynch, director of the Project on Criminal Justice, as a launching pad for a discussion of how politicians abuse language. Charles Osgood of CBS Radio also mentioned Lynch’s study on *The Osgood File*.

■ Roger Pilon, vice president for legal affairs, appeared on *The O’Reilly Factor* on January 9 to discuss how state ownership of forests has led to recent wildfires in California.

■ On October 10, the day after the alleged North Korean nuclear test, *USA Today* ran a cover story on the diplomatic crisis that quoted Ted Galen Carpenter, vice president for defense and foreign policy studies, on the logic behind North Korea’s move.

■ John Samples, director of Cato’s Center for Representative Government, discussed a

several Latin American newspapers including *El Universal* of Caracas and *El Universal* of Mexico City. Coronel also published an op-ed about the study’s arguments in the November 30 *Miami Herald*.

■ The *Financial Times* editorial page on August 16 described a Cato Book Forum for *Buck Wild*, a new book by Stephen Slivinski, director of budget studies at Cato.

■ *Morning Edition* on National Public Radio interviewed Stephen Slivinski; Neal McCluskey, policy analyst at the Center for Educational Freedom; and Jim Harper, director of information policy studies, for stories in December and January. Also, Robert Siegel of NPR’s *All Things Considered* did a feature interview with Brink Lindsey, vice president for research, in December



letters to the editor from bureaucrats shows that being vocal about limiting government will make you quite unpopular in some circles, especially in Washington. But Cato scholars continue to make the case for liberty against some of its biggest critics in many of the most well-known media outlets in the world. A few recent examples:

■ Cato chairman William Niskanen contributed to the January 3 *New York Times* an op-ed headlined “Enron’s Last Victim: American Markets.” He discussed how the Sarbanes-Oxley Act is an overreaction that is discouraging small companies from trading publicly and driving foreign companies away from American stock exchanges.

■ On November 27 the Associated Press, in an article that appeared in dozens of local newspapers around the country, used “Doublespeak and the War on Terrorism,”

lottery for voters on *ABC World News Tonight* on May 23.

■ Cato senior fellow Jerry Taylor and Rep. Dennis Kucinich (D-OH) sparred over the congressman’s support for a windfall profit tax on oil companies on CBS’s *Early Show* on July 28.

■ On January 11, a few days after Gov. Arnold Schwarzenegger announced his new plan for universal health coverage in California, the *San Francisco Chronicle* published an op-ed by Michael Tanner, Cato’s director of health and welfare studies, criticizing the plan because it would reduce consumers’ control over their health care decisions.

■ Gustavo Coronel’s recent Cato Development Policy Analysis, “Corruption, Mismanagement, and Abuse of Power in Hugo Chávez’s Venezuela,” received attention in

about the potential alliance between libertarians and progressives.

■ A *Wall Street Journal* article on December 27 about how farm subsidies trap Third World farmers in poverty quoted from a recent Trade Briefing Paper, “Grain Drain: The Hidden Cost of U.S. Rice Subsidies,” written by Daniel Griswold, director of the Center for Trade Policy Studies.

■ Justin Logan, foreign policy analyst, talked about the Pentagon’s policy options for Iraq on Fox News on November 20.

Despite the constant stream of media attention, Cato scholars should not get too comfortable. With all the op-eds they write and TV and radio appearances they make, and the strong appeals to limited government expressed therein, it is hard to tell what will happen the next time one of them is on a train with a group of bureaucrats.

San Francisco Chronicle

Schwarzenegger gets it wrong on universal coverage

By Michael Tanner

In his previous career, Arnold Schwarzenegger undoubtedly ran across some very bad ideas (anyone remember the "Last Action Hero"?), but none is a match for his new health-care bill. Gov. Schwarzenegger's back-breaking expensive plan gets almost everything wrong, and it will end up hurting everyone: workers, employers, health-care providers and patients.

To reduce the costs of care for uninsured individuals seeking treatment in hospital emergency rooms, the governor proposes both an employer and an "individual mandate" requiring everyone living in California to buy a specific government-defined health-care plan.

This amounts to swatting a fly with a sledgehammer. The Council for Affordable Health Insurance, a research and advocacy group for insurance carriers, estimates the cost of uncompensated care at just 2.5 percent of health-care spending nationwide. Even if that is somewhat low — other estimates put the cost at between 3 and 5 percent and California is likely on the higher end — uncompensated care is a problem, but hardly a crisis large enough to justify such a radical response.

Schwarzenegger's plan is driven almost entirely by a desire to achieve universal coverage, which many voters claim to want, at least in the abstract. If he can give everyone in California a piece of paper saying they have insurance, he will claim success, no matter what the cost in lost jobs and higher taxes.

Yet even at these terms, his plan is liable to fall short, and its mandates are likely to prove difficult to enforce. After all, California has an auto-insurance mandate, but more Californians drive without auto insurance (25 percent, according to the Insurance Research Council) than go without health insurance (20 percent, according to the California Healthcare Foundation). Many of the state's uninsured — the unemployed, mentally ill, transients, and illegal immigrants — are beyond the reach of any mandate. How are people without a fixed address going to be tracked down so their insurance can be verified? How will people without jobs and who do not file taxes be punished for failing to meet the mandate?

Schwarzenegger seems to believe that the problem with health care in California is too few government regulations, controls and subsidies (for example, he would require insurers to cover all applicants, regardless of whether they are in perfect health or on their deathbeds. Adding sicker people to the insurance pool will increase the overall cost of insurance, requiring younger and healthier people to pay higher premiums.)

“Governor Schwarzenegger’s back-breakingly expensive plan gets almost everything wrong, and it will end up hurting everyone: workers, employers, health-care providers and patients.”

—MICHAEL TANNER WRITING IN THE SAN FRANCISCO CHRONICLE, JANUARY 11, 2007

The New York Times

Enron's Last Victim: American Markets

By William A. Niskanen

WASHINGTON WHEN the new Congress begins its session tomorrow, two familiar faces will not be present:

Senator Paul S. Sarbanes and Representative Michael G. Oxley, who are both retiring. Mr. Sarbanes, a Maryland Democrat, has served for 30 years; Mr. Oxley, an Ohio Republican, for 26 — and their main legacy will be their joint attack on corporate corruption, the Sarbanes-Oxley Act of 2002.

The act, which was passed hastily in the wake of the Enron scandal, was surely well intentioned. But it has proven counterproductive in the extreme, and Congress would best honor the departing lawmakers by repealing it.

Sarbanes-Oxley has seriously harmed American corporations and financial markets without increasing investor confidence. The section of the law requiring companies to perform internal audits has turned out to be far more costly than proponents projected, especially for smaller firms. These costs have led some small companies to go private, hardly a victory for public oversight, and some foreign firms to withdraw their stocks from American exchanges.

In addition, the average "listing premium" — the benefit that companies receive by listing their stocks on American exchanges — has declined by 19 percentage points since 2002. This explains why the percentage of worldwide initial public offerings on

our exchanges dropped to 5 percent last year, from 50 percent in 2000.

Other costs associated with the act may turn out to be more important. For example, more stringent financial regulations and increased penalties for accounting errors may make senior managers too risk-averse. Most chief executives are not accountants, so the requirement that they personally affirm tax reports —

confidence is the price-earnings ratio — the price that investors are willing to pay for each dollar of a company's reported earnings. The overall price-earnings ratio for the Standard & Poor's 500-stock index, however, has declined continuously since the Sarbanes-Oxley Act was being drafted in the spring of 2002.

Several leaders of the new Democratic Congressional majority have

CHICAGO SUN-TIMES

THE EXQUISITE ART OF DOUBLESPEAK

The Bush administration has mastered a deft form of double-talk: To say what you don't mean and don't mean a thing you say.

BY TIMOTHY LYNCH

Editor's note: Following is an excerpt from a *Cato Institute* white paper on the Bush administration's use of propaganda to advance its anti-terror agenda. Timothy Lynch, an analyst at the *Libertarian think-tank*, wrote the paper; presented here in an edited form.

FIVE years have passed since the catastrophic terrorist attacks of Sept. 11, 2001. Those attacks ushered in the war on terror. Since some high-ranking government officials and pundits are now referring to the war on terror as the "Long War" or "World War III," because its duration is not clear, now is an appropriate time to take a few steps back and examine the disturbing new vocabulary that has emerged from this conflict.

One of the central insights of George Orwell's classic novel *Nineteen Eighty-Four* concerned the manipulative use of language, which he called "newspeak" and "doublethink," and which we now call "doublespeak" and "Orwellian."

"That novel tells the story of a totalitarian state in which government agents monitor all aspects of citizens' lives. The three doublespeak slogans of the state are seen on posters everywhere: 1. War Is Peace; 2. Freedom Is Slavery; 3. Ignorance Is Strength.

By corrupting the language, the people who wield power are able to fool the others about their activities and evade responsibility and accountability. Professor William Lutz, author of *The New Doublespeak*, notes: "Doublespeak is language that pretends to communicate but really doesn't. It is language that makes the bad seem good, the negative appear positive, the unpleasant appear attractive or at least tolerable. Doublespeak is language that avoids or shifts responsibility, language that is at variance with its real or purported meaning. It is language that conceals or prevents thought, rather than extending thought, doublespeak limits it."

It is true, of course, that dishonesty has always been a part of the human experience, but doublespeak is a pernicious variation of dishonesty. Doublespeak perverts the basic function of language, which is to facilitate a common understanding between human beings.

Homeland security

After 9/11, lobbyists and politicians quickly recognized that the best way to secure legislative approval for a spending proposal is to package the idea as a "homeland security" measure even if the expenditure has nothing to do with our national defense. Here are few examples of "homeland security" spending:

- \$250,000 will be spent by city officials in Newark, N.J., for air-conditioned garbage trucks.

- \$557,000 will be spent on communications equipment by town officials in North Pole, Alaska.

- \$100,000 will be spent by the city government of the District of Columbia to send sanitation workers to Dale Carnegie classes. According to government officials, the classes will help sanitation workers develop the skills that will be necessary to deal with panicky customers in the aftermath of a disaster.

- \$900,000 will be spent on the Steamship Authority in Massachusetts, which runs ferries to Martha's Vineyard. When asked about the hefty expenditure, the local harbormaster confessed, "Quite honestly, I don't know what we're going to do, but you don't turn down grant money."

Not conscription

During the 2004 presidential election debate, President Bush told a nationwide TV audience to "forget about all this talk about a draft. We're not going to have a draft so long as I am the president."

To evaluate the accuracy of that statement, one must pay careful attention to the word "draft," for, as the economist Thomas Sowell once observed, "All statements are true, if you are free to redefine their terms."

Shortly after 9/11, President Bush declared a "national emergency" and simultaneously authorized Pentagon officials to issue "stop-loss" orders.

A stop-loss order means that members of the military may not leave the service, even if they have fulfilled the terms of their enlistment contract. Once a stop-loss order is issued, an individual's duty status changes from voluntary service to involuntary service.

Although the legality of the stop-loss orders has been upheld by the judiciary, those orders have clearly changed the nature of military service for many soldiers.

National security letters

Government officials cannot deny the fact that the U.S. Constitution places limits on the power to search and seize private property. To bypass those limits, the government argues that the Constitution limits only the way in which "warrants" can be issued and executed. If the government uses another document and gives it an official-sounding name like, say, "national security letters," voids, the constitutional limitations on the search powers of the government no longer apply.

The Fourth Amendment provides, "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized." It is important to note that the Fourth Amendment does not ban all governmental efforts to search and seize private property, but it does limit the power of the police to seize whatever they want, whenever they want.

Asymmetrical warfare

The American prison facility at Guantanamo Bay, Cuba, has been a frequent target of criticism because of Bush administration policies concerning the detention and treatment of prisoners. Whatever one may think about those detention and treatment policies, it is clear that the U.S. military has employed doublespeak to describe events at Guantanamo.

"Self-injurious behavior incidents" is the Pentagon's phrase for suicide attempts by prisoners, for example.

And when three men hanged themselves in their cells, the camp commander, Rear Adm. Harry Harris, went so far as to say that the suicides were "an act of asymmetrical warfare" against the American military.

Warfare? A terrorist engages in asymmetrical warfare when he straps explosives to his body and then detonates the bomb when he gets close to his human targets.

But if "warfare" is stretched so far as to include an enemy's taking his own life, it is difficult to identify what actions a prisoner might engage in that would not constitute warfare.

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Lessons about the benefits of liberty are embedded in American history, not merely American ideology; the Plymouth and Jamestown colonies suffered famines in their early days because of experiments in agricultural communism, which provided grim examples of the importance of private property and free trade. The failure to abolish slavery at the outset perpetuated injustice and even multiplied it. The failures to implement liberty are as instructive as the successes. The American past is complicated, and libertarianism's full realization is still a task for the future.

The Prehistory of Libertarianism

Of course, the idea of severe restrictions on the power and reach of government goes back long before the American experience. Libertarian-sounding rhetoric can be found in Confucius's disciple, Mencius, who wrote that "in a nation, the people are the most important, the state is next, and the ruler is the least important." And in the Western tradition, Judaism taught that the king ruled beneath God and was subject to His rules. A separate priestly caste meant that the king wasn't responsible for interpreting his own mandate. The heart of Judaism was the contract between Jehovah and the Jews—meaning that even God, the highest source of government, had obligations to His people, as long as they kept up their end of the bargain. In classical Greece, *Prometheus Bound* by Aeschylus (featuring Prometheus defying Zeus in the name of a justice higher than the gods), *Antigone* by Sophocles, and Euripides's attacks in various plays on slavery and the barbarity of war indicate a people who understood the distinction between what earthly, or even divine, authority commanded and what was right and just. A natural law and natural rights tradition that recognizes discoverable, rational standards for justice above and beyond the decisions of earthly governments runs throughout Western intellectual history and has strong libertarian implications.

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Libertarian ideas about human politics go back even to prehistory, to the creation of the state itself. Although theories of the origins of the state are merely implicit in most libertarian writers, the German anthropologist Franz Oppenheimer described its origin in *The State* as being in blood and conquest, the result of conquerors trying to live off others' efforts through taxation and the provision of "protection." Oppenheimer distinguished between the "political" means of acquiring wealth—taking it—and the "economic" means—production and exchange.

Reliance on the economic means to wealth is what has created not only the wealth but also the liberty we enjoy today. Libertarians see the promise of free exchange and call for limiting the use of the political means to wealth. The political means is especially dangerous when it masquerades as law. The 19th-century libertarian pamphleteer Frederic Bastiat in *The Law* complained of "the law perverted," of the law "not only turned from its proper purpose but made to follow an entirely different purpose. The law became the weapon of every kind of greed! Instead of checking crime, the law itself guilty of the evils it is supposed to punish!"

An American Radicalism

It was in America that the ideas and practices of liberty initially went furthest—and thus it is not surprising that the modern libertarian movement arose here. Libertarianism has its basis in economic, moral, and political theory, rooted in ideas about how workable order can arise uncoordinated by a single controlling mind, how and where it is proper for a human to use force against another, and the likely dire effects of concentrated, unchecked power. But the element that distinguishes libertar-

ianism's unique place in political thought is that it is *radical*, taking insights about order, justice, and the struggle between liberty and power further and deeper than most standard American liberals, patriots, or old-fashioned Jeffersonians.

But that radicalism is itself characteristically American. Americans were, first, Englishmen; and, as historian of the American Revolution Gordon Wood has pointed out, "no people in the history of the world had ever made so much of [liberty]. Unlike the poor enslaved French, the English in the 18th century had no standing army, no letters de cachet; they had their habeas corpus, their trials by jury, their freedom of speech and conscience, and their right to trade and travel; they were free from arbitrary arrests and punishments; their homes were their castles."

The progress of markets, wealth, and technology has mostly eliminated aspects of early American life that would strike us as tyrannous today: the sharp distinctions of rank; the religion-based busybodiness in the towns; and the most prominent stains on American's libertarian heritage, the restricted legal status of blacks and women. (In the form of social pressure as opposed to strict state action, those problems have not entirely disappeared.)

Americans were Englishmen particularly jealous of their liberties, enflamed by pamphleteers such as John Trenchard and Thomas Gordon, of the famous *Cato's Letters* (after which the Cato Institute is named). The widely read Trenchard and Gordon believed in inherent natural human rights that no government may violate; government existed solely to defend citizens' persons or property. As one of their heroes, Algernon Sidney, a martyr to the tyranny of kings, said, free men always have the right to resist tyrannical government. Colonial American libertarian heroines such as Anne Hutchinson, who rebelled against Puritan rule as early as the 1630s, relied on the Western Christian tradition in arguing for human liberty untrammelled by

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restrictions from state or church and helped lay the ideological groundwork for the next century's radical revolution.

Thomas Paine knew that however much they invoked ancient English liberties, American revolutionaries were something new: “We see with other eyes; we hear with other ears; and think with other thoughts than those we formerly used.” American revolutionaries were, as the Declaration of Independence states, fighting not just for the historic rights of Englishmen but for the natural rights of all mankind. Americans had, too, a fresh vision of civic virtue. Virtue was no longer, as in classical times, based only in participation in affairs of state. The new virtue, as Gordon Wood put it, “flowed from the citizen's participation in society, not in government, which the liberal-minded increasingly saw as the principal source of the evils of the world.”

Commerce, that great emollient of social ills, that creator of wealth and happiness, was breaking free of the old contempt that dogged it. Americans were to enjoy a great commercial republic, a society steeped in libertarian principles.

Although the march of American history took the nation far from that original vision, great libertarian thinkers continued to dot American history through the 19th century. The intellectual and political movement for slavery's abolition was led by brave libertarian thinkers, most prominent Frederick Douglass and William Lloyd Garrison, who pointed out with uncompromising moral fervor, and in the face of actual physical danger, how American practice violated the libertarian promises of the Declaration. Another great abolitionist and individualist was the Massachusetts-born Lysander Spooner, who wrote impassioned and devastating polemics pointing out how government violated standard bourgeois virtues that Americans otherwise believed in, acting in essence like a gang of brigands and killers yet demanding respect and obedience.

Another 19th-century American liber-

tarian thinker, of great public renown in his time, was the Episcopal priest and Yale University sociologist William Graham Sumner. Sumner was a great anti-imperialist as well as an advocate of *laissez faire* and a celebrator of the spirit of enterprise who saw that the market order is so brain-bustingly complex that government attempts to manipulate it are apt to lead to unpredictable and very likely negative results.

Sumner celebrated “the forgotten man,” the independent middle-class producer who gets torn between the plutocrats who influence the powerful and the paupers who receive benefits from government reformers, yet has to pay for all the schemes designed to help them both. Sumner also rightly predicted that the 20th century, given the burgeoning combination of socialism and warmongering, would be “a frightful effusion of blood in revolution and war.” He opposed foreign interventionism and mordantly noted in his classic essay “The Conquest of the United States by Spain” that, while it may seem the United States won the Spanish-American War, in fact we allowed Spain's imperial system to conquer our Republic. “We have beaten Spain in a military conflict, but we are submitting to be conquered by her on the field of ideas and policies.”

Libertarianism in Europe

Modern libertarianism, though it flourished on American soil, is also a cosmopolitan philosophy, celebrating a world united by liberal ideas and free trade while still reveling in the panorama of freely embraced local peculiarity that only relatively free polities can provide.

Back in Europe, partly inspired by the Americans, partly inspiring them, a movement for liberty spread across the Continent. French economists, historians, and

sociologists in the early 19th century created a very libertarian class analysis. To those French *économistes*, the relevant class distinction was not between bourgeois and proletariat but between the productive and the predatory—with the productive being anyone working in the market and the predatory being the state and its agents and dependents who steal from the productive. Here we see the vital libertarian distinction between society and state, between the forces of productive human cooperation and those that prey on it.

Following in the French liberal tradition was the greatest libertarian publicist of the 19th century, Frederic Bastiat. This witty pamphleteer against protectionism followed closely the actions of Richard Cobden and John Bright, the English liberals who succeeded in overturning Britain's Corn Laws. Bastiat's writings were brought back into print regularly by libertarian institutions in the 20th century. The most popular book of libertarian economics in the 20th century, Henry Hazlitt's *Economics in One Lesson*, is a contemporary updating of Bastiat's approach of looking at the secondary and tertiary effects of government economic intervention, of looking beyond the apparent intended good.

Bastiat was a great epigrammist for freedom. “The State is the great fiction by which everybody tries to live at the expense of everyone else” is one classic. He mockingly argued that under protectionist logic France is better off if its exports sink at sea before they can be sold, and the profits used to buy imports that make the balance of trade “worse.” He composed the perfectly logical, on protectionist grounds, petition of the candlemakers against the sun, arguing that for the benefit of French industry it must bar this dastardly source of free, imported light. Bastiat celebrated the abundance markets create and mocked the blinkered small-mindedness of producer-centered economics, which makes human life less abundant. He showed how free markets achieve what the 19th-century social-

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ists hoped to achieve through the state: more wealth and a better life for all.

The most radical of the 19th-century European liberal economists was Gustave de Molinari. Molinari was the first, apparently, to explain how the principles and practices of the free competitive market could apply to military defense, thus potentially kicking the props out from under any need for government. He was a follower of French liberal economists Bastiat and Charles Dunoyer and published a paper in the *Journal des Economistes* in 1849 that shocked even them by reasoning that if free competition works in other fields, we ought not assume beforehand that it could not work in defense.

As Molinari wrote in his 1849 book *Les Soirées de la Rue St. Lazare*, “Aren’t there men whose natural aptitudes render them specially fitted to be judges, policemen and soldiers? On the other side, haven’t the property owners a need to protection and justice? . . . If there are on the one side men fitted to attend to the need of society, and on the other side, men disposed to attend sacrifices upon themselves to obtain the satisfaction of that need, doesn’t . . . political economy . . . say if such a need exists it will be satisfied, and it will be better under a regime of full liberty than under any other?”

The German Wilhelm von Humboldt, relied on by John Stuart Mill in his more famous *On Liberty*, argued in his *The Sphere and Duties of Government* (1792) that government’s only proper function was the provision of security, and that social progress required that people be free to conduct cornucopian experiments in living from which we can learn the manifold possibilities and pleasures of human living.

Humboldt was possibly the first to summon certain arguments for liberty—for example, the almost metaphysical one, going beyond mere politics to the nature of what it means to be properly human. As historian of liberalism Ralph Raico put it, Humboldt explained it is “only when men are placed in a great variety of circum-

stances that those experiments can take place which expand the range of values with which the human race is familiar, and it is through expanding this range that increasingly better answers can be found to the question, ‘In exactly what ways are men to arrange their lives?’”

Herbert Spencer was the most influential in his own time of 19th-century European philosophical radicals. Spencer came from a humble Quaker background in England and, after an early career as a railroad draftsman, became a classically energetic Victorian intellectual, writing huge books summing up all his thoughts on various sciences, physical and moral. He was an early evolutionary theorist who invented the phrase “survival of the fittest”; he coined the term “law of equal freedom” to sum up the libertarian message that we had a right to all the freedoms that did not infringe on another’s freedom; and he was largely responsible for whatever laissez-faire sentiments existed in elite thinking in the late 19th century.

More than 350,000 copies of his works were sold in America from 1860 to 1903. The *Atlantic* in 1864 declared that “Spencer . . . represents the scientific spirit of the age” and that his ideas “will become the recognized basis of an improved society.” Spencer is perhaps best known in American legal-intellectual circles for Oliver Wendell Holmes’s summoning of him, in his dissent in the 1905 *Lochner* case (which overturned a maximum-working-hours law on principles of economic liberty that Holmes felt the Constitution did not protect), which declared that “the 14th Amendment is not an enactment of Mr. Herbert Spencer’s *Social Statics*.” More’s the pity, to the libertarian mind.

Those forebears helped inspire the 20th-century American journalists, novelists, economists, and philosophers who launched modern libertarianism, fighting rearguard actions against the Roosevelt New Deal revolution that cemented the 20th-century vision of American government as one of ever-growing and continuous extensions of state power in the names of order, welfare, and warfare. The likes of H. L. Mencken, Isabel Paterson, Rose Wilder Lane, and the immigrant Russian novelist Ayn Rand wrote and demonstrated how the power of the free individual, not state power, is what creates the wealth, ideas, and delights that make life worth living.

A World Shaped by Libertarianism

Although it remains easy for believers in untrammelled liberty to despair about the current American state’s enormous power to tax, control, and wage war, it is true that in some very important ways, just as the United States has become the world’s dominant nation, so have important aspects of the libertarian ideas at America’s root shaped the modern world. Those ideas have helped to create a world that enjoys widespread wealth and a glorious range of free choice, both here and abroad, that is well worth celebrating.

Although tens of millions were killed in the name of Karl Marx’s dream, we are not living in his world. We live, rather, in a world shaped by the beliefs of Marx’s political-economic enemies, the classical liberal precursors of modern libertarians, the thinkers who, in line with the principles of the American founding, believed that a harmony of interests is manifest in unrestricted markets, that free trade can prevent war and make us all richer, that decentralized private property ownership creates a spontaneous order of rich variety.

The ideas and implications of those forebears fed into a 20th-century tradition that attempted to revive, extend, and apply their

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Understanding and Responding To the Threat of Terrorism

Many politicians and pundits today argue that civil liberties must give way to greater security. At *Overblown: How Politicians and the Terrorism Industry Inflate National Security Threats and Why We Believe Them*, a Book Forum held on December 13, author John Mueller of Ohio State University and commenter James Gilmore III, former governor of Virginia and former chairman of the Congressional Advisory Panel to Assess Domestic Capabilities for Terrorism Involving Weapons of Mass Destruction, discussed how an incomplete understanding of the terrorist threat can cause civil liberties to be needlessly sacrificed. Congress's recently passed REAL ID Act, which establishes national standards for identification cards, is an example of a policy that some observers say is necessary after 9/11. But at a January 18 Book Forum for *Identity Crisis: How Identification Is Overused and Misunderstood*, author Jim Harper, director of information policy studies at Cato, argued that the nation should move away from a national ID and toward market-based identification systems.

JOHN MUELLER: Terrorism is a threat and there are bad guys out there, but the scope of the threat has been substantially exaggerated, and it is something we can live with and deal with. It is by no means an existential threat to the United States.

On *60 Minutes* a few years ago, Michael Moore said that the chance of any of us dying in a terrorist incident is very, very, very small—a fact that is overwhelmingly true. Bob Simon, his interviewer, said, “But no one sees the world like that.” In many respects, both statements are true.

Just to give you some context here, one of my friends, an astronomer, has calculated the worldwide chance of anyone being killed by international terrorism outside

of war zones over an 80-year lifetime, assuming, incidentally, that every several years there is another 9/11. It comes out to be 1 in 80,000. Since he is an astronomer, he has also calculated the chance of being killed by a comet or asteroid over a lifetime of 80 years, and it comes out to be about the same.

The only way that could change hugely would be if the terrorists were able to obtain weapons of mass destruction. It's extraordinarily difficult to get the right material for nuclear weapons, transport them, and set them up in the right place. Biological weapons are unlikely to kill very many people and are very hard to control. The pathogens have to be spread as an

aerosol. Many of them decay, and so forth.

Chemical weapons basically are not weapons of mass destruction. In World War I, they accounted for seven-tenths of 1 percent of the battle deaths. You can also kill people with bullets and ice picks. But weapons of mass destruction have to kill a lot of people in a short period of time with a relatively small number of weapons.

Radiological weapons are sometimes considered weapons of mass destruction. They also are not. Most people writing about them refer to them as weapons of mass disruption. If a radiological weapon went off and if you stayed in the contaminated area for 40 or 50 years nonstop, your chance of getting cancer would increase by one-hundredth of 1 percent, or maybe somewhat more.

My second point is that the costs of terrorism very often come from the fear and consequent reaction or overreaction terrorism inspires. Osama bin Laden said: “It is very easy for us to provoke and bait. All we have to do is wave a flag that says al-Qaeda on it, and the generals rush there. What we are trying to do is spend the United States into bankruptcy.” Terrorists hope to cause fear and overreaction. And by becoming too fearful and overreacting, I think we play into their hands.

That was the case even for 9/11. Admittedly, 9/11 was the most costly terrorist event by far in history. But the costs of reaction to 9/11 were greater than the death and destruction. For example, the 9/11 attackers caused an incredibly high economic cost of maybe \$40 billion. The Department of Homeland Security's budget for a single year is that big. The attacks, of course, made politically possible a couple of wars in Asia that are going to cost in the trillions of dollars. The huge expenditures by local governments, the military, and all kinds of other people to try to deal with potential terrorism vastly outpace

anything the terrorists did on 9/11.

More Americans have died in reaction to 9/11 than died on 9/11. One study indicates that the number of Americans who died between September 11, 2001, and the end of that year because they drove rather than flew in safe airplanes was more than 1,000. In addition, the war in Iraq alone, which was made politically possible by 9/11, has killed far more Americans, military and civilian, than died on 9/11.

There are also opportunity costs. If every passenger is required to wait an additional half-hour at the airport, how much does that cost the economy over the course of a year? The number comes out to be something like \$8 billion to \$15 billion, by various estimates.

The third point is that policies should focus as much on reducing the fear and anxiety as inexpensively as possible as they do on reducing the rather limited dangers terrorism is likely to actually pose.

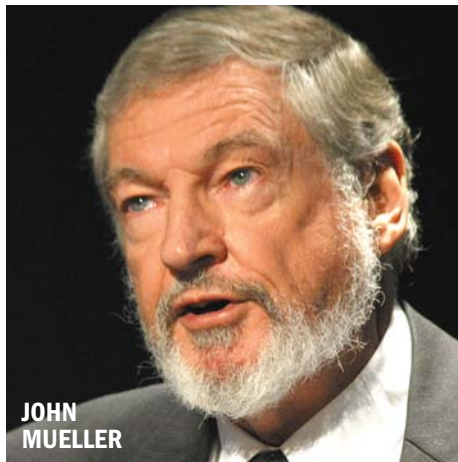
Early on, the Department of Homeland Security was ordered to come up with a list of probable terrorist targets in the United States. Since there are an infinite number of targets in the United States, including this room, that strikes me as an exercise in futility.

Let me give you a quick outline of certain policies that seem to me to be reasonable. One is a certain amount of policing to get the terrorists, particularly international policing, which seems to have been comparatively successful.

Another would be to try to deal with the nuclear weapons issue. I think the possibility of terrorists acquiring nuclear weapons is incredibly small. But I would not mind at all if it were even smaller. Not because the probabilities are very high but because obviously a huge amount of damage could be done should terrorists get their hands on nuclear weapons.

There can also be efforts to reduce costs. Do we really need to spend practically a billion dollars a year on air marshals who are supposed to prevent hijackings of airliners, something that is probably impossible given what happened on the fourth plane on 9/11? The passengers and crew will not allow it to happen.

Despite U.S. overreaction, the campaign—I much prefer that word to “war”—against terror is generally going rather well. Let me give you a quote from Stephen Flynn, who writes a lot about terrorism. He opened an article in *Foreign Affairs* a couple of years ago with this statement: “The United States is living on borrowed time and squandering it.” And at the end he said, “The entire nation must be organized for the long, deadly struggle against terrorism.”



“It’s extraordinarily difficult to get the right material for nuclear weapons, transport them, and set them up in the right place.”

In the middle, however, he said: “How much security is enough? When the American people can conclude that a future attack on U.S. soil will be an exceptional event that does not require wholesale changes in how they go about their lives.”

It seems to me that, by that standard, we are very secure.

JAMES GILMORE: I am here to congratulate John Mueller on his wonderful study. His book adds a great deal to the analysis of and thinking about terrorism in the world today, and I certainly would recommend it.

I agree that there needs to be a sense of perspective about terrorist attacks in the United States. But do not kid yourself here. We saw the 1993 attack on the World Trade Center. We saw the attack on Khobar Towers. We saw the attack on the USS *Cole*. And we saw the attacks, of course, on the World Trade Center and on the Pentagon. There is a very real possibility that the enemies of this country could get into this country and launch another attack.

This is not to say, however, that the book is wrong. We have to have some sense of proportion here. The enemy would like to create fear in the United States, fear that causes us to overreact, fear that causes us to diminish our civil freedoms, fear that causes us to enter into unwise foreign policy commitments or initiatives that in the end do severe damage to this nation.

Fear comes from misestimating what the damage might be and exaggerating the potential threat. We have a duty to understand what the threat actually is and to take that into consideration, instead of imagining things that are unlikely.

There are many elements in our free society that work against us in the war against terrorists. I have decided to start talking about “war on terrorists” now as opposed to “war on terror.” We have seen terror throughout human history. We are specifically dealing here with real people who are terrorists. We have to understand them and what they are in fact doing.

I am a recovering politician, but I may fall off the wagon again soon. Politicians who are responsive to the people in a true republic or democracy have to be very cautious. The American people expect that we will do all that is reasonable to keep them secure.

If the enemy gets in here and sets off a bomb and kills people, the politicians do not want to be blamed. That is the reality of the world we live in. And, as a result of that, you hear a lot of flamboyant language and see a lot of reaction and a lot of money.

A lot of reckless comments are made in the government and in the media. We live in an entertainment society. News is now available 24 hours a day, seven days a week. That is an advantage for the American peo-

ple. They now have a menu of information that they never had before. But there is competition within the news industry for entertainment. There is every incentive in the world to be flamboyant and exaggerate, which has dangerous policy implications for the country.

The duty, in my view, falls to the public. This war against terrorists creates an opportunity for public virtue that we have not seen for a long time. It is the duty of the people of the United States to educate themselves and make judgments on their own as to the merit, value, weight, and significance of the war on terror and what has to be done.

There is a sense today of tradeoff. If we are going to give up our privacy or our freedoms in return for more security, we ought to understand the true nature of the threat.

As a matter of policy, I believe the challenge of statesmanship is to keep the American people secure and free and to not accept a tradeoff. We have come too far to be trading off the freedoms of the people of the United States at this point.

Yes, security people will say, "Well, gee, if we tell you the truth, then the enemy will hear it." But the fact is that there is a greater good here. And that is the opportunity to educate and inform the American people, who are the citizens that we speak for. At the end of the day, they cannot exercise public virtue unless they have evidence and facts and information.

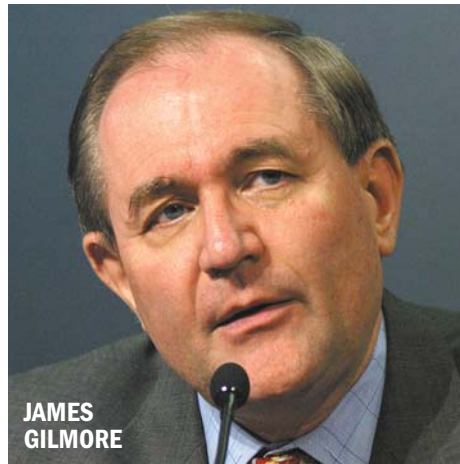
I agree that the enemy cannot bring down this republic nor do injury to any of our liberties that we have fought for all through our days. Only we can do that to ourselves. We have a duty to remember that great founding father Benjamin Franklin, who warned us at the beginning of this great experiment that is American that they who would sacrifice liberty in return for security are entitled to neither freedom nor security.

JIM HARPER: I think many of us have it in our guts that we do not want to have a national ID. But why is that? Why is it important for a free country to avoid a national ID?

In the past, we shared information

about ourselves with organizations, individuals and governments, and the information was collected, perhaps on paper, and then the paper was deposited in a file somewhere. So, we shared that information; it was in theory maybe even publicly accessible, but it was very difficult to get to. It was practically obscure.

With digital technology, practical obscurity is declining. More and more information is collected electronically,



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stored electronically, and easily accessible, easily sharable, because of digitization. This is not an unalloyed bad thing, of course. We get a lot of benefits from it. But it is an important change in the social, political, and economic contexts of our lives. And it is something to enter into very carefully.

The first reason we should want to resist national identification, or any kind of uniform identification system, is that such systems hasten the decline of practical obscurity. We will over time move to a society in which more things about us are known. And we have to digest this change at an

appropriate pace. But if we are forced into this change too quickly, we will not be able to take the steps that are necessary to protect our interests in anonymity—the interests that keep us free to act the way we want to act; our interest in anonymity for political purposes; our ability to speak freely, to resist, to criticize authority, and so on—because information is power.

The decline of practical obscurity and the rise of surveillance, for good or for bad, have important consequences in terms of an individual's relationship to government. A related concern with national IDs is the power that identification systems give to institutions.

Now, many people object—and they are entitled to—to corporate manipulation. But I am much more concerned with government power to access people. If the government knows where you are, if it knows where your assets are, if it knows how to reach you, and if it knows how to grab you, it is in a much better position to come after you. The government does not have to go through the difficulties that it traditionally did.

Large databases about people change the incentive structure that law enforcement and national security agencies face. This is overly simplistic, of course, but, traditionally, law enforcement agencies have been asked to investigate crimes. They have learned of something bad happening or something bad about to happen, and they have gone after that. More and more, with data available about everybody, they will be in a position to investigate people.

It is a small change. It is happening gradually. But it is a very important change that is a threat to our society and our freedoms. Places like Nazi Germany, the Soviet Union, and apartheid South Africa all had very robust identification systems. True, identification systems do not cause tyranny, but identification systems are very good administrative systems that tyrannies often use.

So avoiding a national identification system is a bulwark against tyranny. If our identity systems are difficult to navigate, that provides us security against broken democracy. I am very proud of our government

Continued on page 19

P. J. O'Rourke Reads Adam Smith So You Don't Have To

P. J. O'Rourke, H. L. Mencken Research Fellow at Cato and noted humorist, was tear-gassed by riot police in Seoul. He explored Iraq as the United States launched the second Gulf War. He even plumbed the inscrutable depths of federal bureaucracies in his bestseller, *Parliament of Whores*. After those adventures, writing a book about Adam Smith's *The Wealth of Nations* might seem like a leisurely Sunday afternoon activity.

That's not how it turned out, O'Rourke says. "I didn't realize how big of a bite I was about to chew." It's "no contest" that hunkering down with a 900-page, 200-year-old tome like *The Wealth of Nations* is more difficult than writing one of the travel and reporting pieces for which he's famous.

"Writing about places where all sorts of exciting stuff is happening is not that hard because you get all sorts of vivid impressions," O'Rourke explains. "When you're trying to first understand and then explain something that's fairly intellectually weighty, that's heavy lifting."

That's the idea behind O'Rourke's *On The Wealth of Nations*, published by the Atlantic Monthly Press. O'Rourke does the heavy lifting for the reader. He sifts through Smith's tricky and lengthy prose and makes connections with America's trade deficit, the value-added tax, and Martha Stewart, among other things. He brought his findings to four Cato events, a Cato Book Forum on January 9, the Benefactor Summit, and seminars in Boston and New York. O'Rourke explained the need for his book when he spoke at Cato: "No one reads these great books anymore, and no one is ever going to read them again. With the advent of television, we entered the postliterate age. Now we have the internet, Wikipedia, and Google—we've entered the postintelligent age. We will live to see the day when a cultivated and learned person is spoken about as being well-

blogged." His job then, as a journalist, is "to tell us what we would have read in the great books if we'd read them and what we would have thought about what we read if we did any thinking."

One discovery O'Rourke made is that Smith "gave economics a reason to exist," as he puts it in the book. Before Smith, no thinker really had a clear grasp of why economics is worth studying, O'Rourke

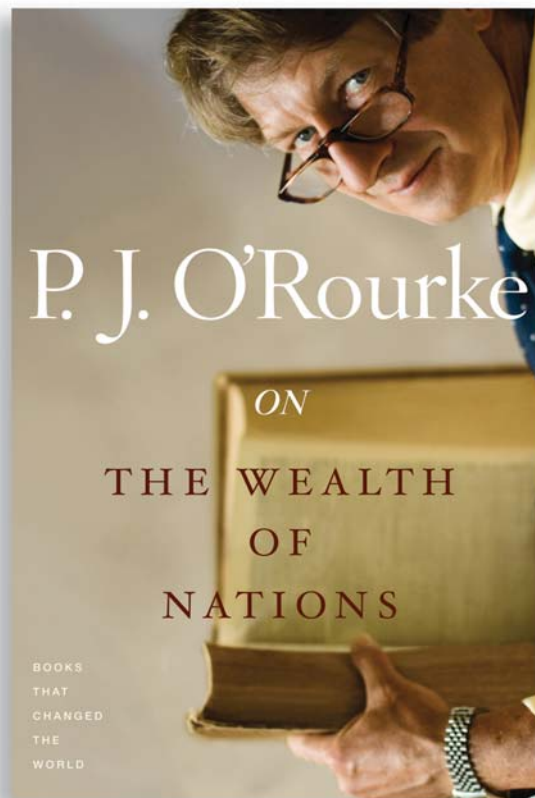
on jurisprudence). O'Rourke says it is impossible to fully understand Smith's approach in the second book without understanding this first book on morality. "I was really morally impressed with him. I didn't realize how much his free-market economics were based on core ideas of individual dignity, of respect for the individual, of individual freedom, of equality before the law."

On the Wealth of Nations also shows how Smith's ideas are relevant to contemporary controversies, yet underappreciated. With arguments still used by defenders of the free market, Smith eviscerated claims that tariffs are needed to protect jobs and that countries should pursue a positive balance of trade. All one has to do is turn on *Lou Dobbs Tonight* to see that Smith's thinking does not reign as the conventional wisdom.

O'Rourke's experience as a father, which he says he may write about in the near future, helps him explain just why Smith's view on economics is often counterintuitive. "The ideas of free markets are very hard for humans to accept on a psychological level. All you have to do is watch a toddler to see that, at a gut level, humans are believers in zero-sum economics. Anything that you get, you somehow get from me. The idea that free markets benefit all of us requires a long timeframe and foresight. But it also goes against basic human psychology."

What does this mean for people trying to counter economic fallacies and generate popular support for freer markets? Can libertarians compete with people's gut instincts?

O'Rourke is optimistic. "Fortunately, there is another side to human beings, which is a tremendous love of freedom and individuality, and we have to harp on that," he says. "We have to show people that economic freedoms are material expressions of the freedoms we really hold dear."



says. "Was it to set up an ideal society? Was it to show man's place with God? Was it to show God's plan for the world? Smith says, 'No, the purpose of understanding this stuff is to get rich!' It's to make the world prosperous."

But Smith was far from a Gordon Gekko-like figure who put rapacious greed first, as left-wing critics sometimes paint him. O'Rourke places *The Wealth of Nations* in its full context as the second of a set of three books. The first book is *The Theory of Moral Sentiments* (Smith died before he could write the third book,

The Dangerous Rise of Big-Government Conservatism

Republicans in Congress and the White House have significantly expanded the federal government. As conservatives recover from the midterm election loss and search for a new direction, the important question about big-government conservatism may be this: why have Republicans embraced bigger entitlement programs, more federal control over education, expansion of the executive's ability to act beyond the constraints of the rule of law, more energy subsidies, and countless other big-government policies?

Are Republicans simply governing pragmatically and enacting the policies that they think will keep them in office? Or do they "have no particular beef with big government," as Newt Gingrich once professed, on ideological grounds?

To answer that question, Michael Tanner, director of health and welfare studies at Cato, has written a comprehensive taxonomy of big-government conservatism, *Leviathan on the Right: How Big-Government Conservatism Brought Down the Republican Revolution*. The book makes a powerful case that too many conservatives have espoused the ideological belief that, as Tanner writes, "they know what is best for every American, and because they know best, they should

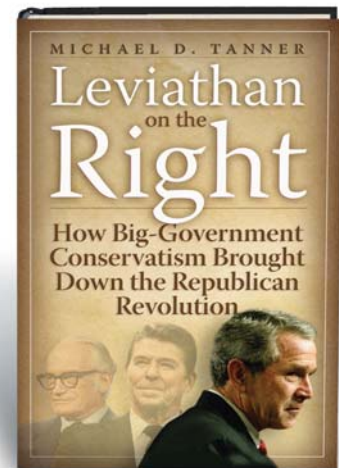
guide the rest of us in the proper direction." The book was reviewed in the *New York Times* on Sunday, March 4.

Two intellectual currents have traditionally dominated American conservatism: First, there is classical liberalism, which emphasizes individual liberty. Second, there is a philosophy influenced by

“A powerful argument that explains how today’s brand of ‘conservatism’ is fundamentally different from that advocated by Barry Goldwater and Ronald Reagan.”

—CC Goldwater,
Executive Producer,
*Mr. Conservative: Goldwater
on Goldwater*

Edmund Burke, which emphasizes respect for tradition. Those two approaches certainly have places of disagreement, but, according to Tanner, they were "united by an opposition to overweening federal power." He explains the nature of the current conservative factions whose ideas bear little resemblance to the traditional view



and its skepticism of government. Neo-conservatives, "national greatness" conservatives, the religious right, and similar ideological groups, to varying degrees, accept the welfare state as a given, believe that freedom is a value that should be subordinate to "societal virtue," and suspect that the market is a contributor to social decadence. All of those beliefs cause such groups to endorse massive federal government action.

After tracing the philosophical roots of big-government conservatism, Tanner explains why it fails on practical grounds.

You can order *Leviathan on the Right* for \$22.95 in hardcover at catostore.org.

Regulation: Smoking Bans and Global Warming

New York City; Cottonwood, Alabama; Washington, D.C.; Corvallis, Oregon; and Minneapolis—what do those towns have in common? They have each banned smoking in all bars and restaurants. Joining those towns are several entire states. Smoking bans have been propelled to such popularity by a flurry of arguments. But in the Winter 2006–2007 issue of *Regulation*, Thomas Lambert of the University of Missouri–Columbia School of Law examines each of those arguments in turn and finds that none of them actually justifies smoking bans. Externalities are illusory, he says, because owners have property in the air in their establishment—air to which patrons voluntarily expose themselves. The owners bear the costs of the

patrons they drive away by permitting smoking, thus negating the possibility of market failure. Furthermore, he argues that smoking bans may actually increase the number of smokers by entrenching a "forbidden fruit" perception. Finally, Lambert finds that even chronic exposure to second-hand smoke creates a negligible absolute risk of cancer and heart disease.

In addition to calling for smoking bans, another popular activity among intellectuals has been raising alarms about global warming. The most significant recent warning is the Stern Report, a report for the British government by economist Nicholas Stern, which argues that governments could invest only small amounts of current global gross domestic product in

order to prevent massive GDP losses due to global warming in coming decades. But in "A Critique of the Stern Report," Robert O. Mendelsohn of Yale University finds that Stern has, intentionally or not, rigged the cost/benefit analysis in favor of his conclusions. Mendelsohn argues that Stern makes many assumptions about factors such as future population and income growth, the extent to which humans can adapt to climate change, extreme weather patterns, and other variables—all of which inflate the damage expected to be caused by global warming.

Subscriptions to *Regulation* are \$20.00 per year and can be purchased from the Cato Institute at 800-767-1241 or at the Cato online bookstore at www.catostore.org. *Regulation* articles can be found online at www.cato.org/regulation.

Can We Deter a Nuclear Iran?

If and when Iran successfully develops nuclear weapons, how should the United States respond? In “The Bottom Line on Iran: The Costs and Benefits of Preventive War versus Deterrence” (Policy Analysis no. 583), Cato foreign policy analyst Justin Logan disputes the notion that military strikes would be the best option. Intelligence about Iraq’s weapons programs turned out to be flawed, and information about the location and nature of Iran’s nuclear facilities looks even sketchier, Logan argues. He further explains how preventive war against Iran is not only unlikely to succeed but also carries enormous costs: Iran would be likely to respond to a U.S. attack, and there would be a host of unintended consequences inside and outside Iran. Fortunately, Logan finds that the Iranian government’s past behavior shows it would be deterred if the United States made clear that any improper use of its nuclear weapons would be met with a devastating response. Logan concludes that a policy of deterrence can deal with Iran’s nuclear threat while avoiding the catastrophes that would result from military strikes.

Mine Your Own Business

Since September 11, 2001, much has been said about whether or not we should give up some liberty for more security. But Jeff Jonas, an engineer and scientist with IBM’s Entity Analytic Solutions Group, and Jim Harper, director of information policy studies at Cato, argue that, in the context of data mining, a proposed method for finding terrorists, the assumed tradeoff between liberty and security is false. In “Effective Counterterrorism and the Limited Role of Predictive Data Mining” (Policy Analysis no. 584), Jonas and Harper explain how using data mining, the process of searching data for known patterns and using those patterns to predict future outcomes, to catch terrorists would be a misdirection of precious national security resources because of the high probability of false positives and other problems. Their study reveals that sifting through the personal data of thousands of Americans in an attempt to find the patterns of terrorists takes away important liberties without making us any safer.

Measuring Markets

Andrew Coulson, director of the Center for

Educational Freedom at Cato, defines a free market in education as “a system that provides the freedom for producers and consumers to voluntarily associate with one another, as well as the incentives that encourage families to be diligent consumers and educators to innovate, control costs, and expand their services.” “The Cato Education Market Index” (Policy Analysis no. 585) objectively measures school systems in the 50 states in terms of how conducive they are to the rise of competitive marketplaces. Unsurprisingly, Coulson finds that the U.S. education system has a long way to go to become a free market. But with “the Cato Education Market Index,” he hopes to provide a tool to inform policymakers about the conditions necessary to bring about real competition in education.

Lies, Damned Lies, and Inequality

Editorial headlines announce that we are living in a “new gilded age.” Paul Krugman writes of “a stunning increase in inequality throughout the U.S. economy” over the past 30 years. Democrats now use the assumption that income inequality is growing as the basis for such policies as

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raising the minimum wage. In “Has U.S. Income Equality *Really* Increased?” (Policy Analysis no. 586), Cato senior fellow Alan Reynolds argues that the problem with the federal income tax return data used to support those claims is that they’re not measuring what they claim to be measuring. Large changes in U.S. tax rules in recent decades raise the share of reported incomes at the top. As Reynolds explains, those changes make it meaningless to compare income data from the 1970s and 1980s with more recent data. He finds that the real story on inequality is not about a “new gilded age” but about misleading statistics.

Today’s Lesson: Social Division

In the 1800s Catholics and Protestants came to blows over which version of the Bible would be taught in public schools. And groups continue to use the public schools to try to force their moral agendas on other people today, as Neal McCluskey, policy analyst at the Center for Educational Freedom at Cato, demonstrates in “Why We Fight: Do Public Schools Cause Social Conflict?” (Policy Analysis no. 587). He uncovers 150 incidents of social conflict from the 2005–06 school year alone. A school district in Dover, Pennsylvania, required biology students to hear a dis-

claimer that evolution is just a theory. A student at a California high school was reprimanded for displaying an American flag from her back pocket. The Nebraska legislature split Omaha’s school district down racial lines. McCluskey uses those and many other examples to illustrate that clashes are inevitable in a system in which all Americans are required to support public schools, but only those with the most political power control them. As an alternative, McCluskey advocates empowering individual parents to select schools that share their moral values and educational goals.

TERRORISM *Continued from page 15*

and our system, but we should take care to protect ourselves by adopting failsafe mechanisms like the absence of a national identification card.

Finally, there is the individual insecurity that national ID and uniform ID systems bring us. And that is best exemplified by identity fraud.

One of the reasons why such fraud is so easily engaged in is the fact that a Social Security number is pretty much the only key that one needs to access people’s financial lives. Because the system is so simple and economically efficient, it is also efficient for criminals. They navigate the system easily and use the SSN, plus one or two other identifiers, to break into people’s financial lives.

All of us are used to securing our physical assets with six, eight, or ten different keys. Why on earth we would want to secure our intangible lives with one single key, I do not know. Many technologists, and of course governments, think that a single key is great. Single-key systems work very well for institutions, but they do not necessarily secure us.

As soon as you are willing to put your home, your office, your safe deposit box, your bike lock, your gym key, and your desk key all onto one and ask the government to issue that one key, you will be okay with the national ID. But until then, we need to think more in terms of diversifica-

tion of identification systems.

You cannot stop technology from advancing. There is no plausible “stop the world, I want to get off” argument. We all agree that the train tracks we are on now toward a national ID are the wrong tracks, and we are agreed on slowing or stopping that. But I make an argument in my book for switching us to another track, which is to foster a diverse, competitive identification system.

Right now, you can conceive of identification as an economic and social service. Telecommunications and credit reporting are both network services that are very valuable to society. They are also privately provided.

Identification and credentialing are a monopoly service provided by government. What you get when you have a monopoly provider, especially a government monopoly provider, is a far more expensive and poorer-quality product than you should get.

I think that is illustrated well by government-issued ID, which is essentially uniform. You cannot decide which identifiers you want to use. You cannot decide when you want to present your ID and to whom. There aren’t the diversity and competition that you get when you shop for something in the market. We need a competitive identification and credentialing market for many reasons, including protection of privacy and civil liberties.

LIBERTARIANS *Continued from page 12*

ideas about the blessings and fecundity of peace, liberty, tolerance, free markets, and free trade. That tradition has come to be known as *libertarianism*, and those who continue in this intellectual struggle for human betterment, while always alert to and embracing new ideas and applications, are entrenched in the long and vital tradition of political thought, and even political practice, in both American and European history. To the extent that our world has followed those traditions, it has prospered and been a world well worth living in. But power is always fighting back against liberty, and the libertarian’s task of explaining and advocating liberty’s benefits is eternal.

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“To Be Governed...”

EQUALITY ISN'T NATURAL

But [Canadian finance minister Jim] Flaherty did not address a much broader economic problem that has been troubling people who follow the nation's economy. Although Canada's economy as a whole is expected to grow by a healthy 2.8 percent this year, there is an expanding gulf between the eastern and western halves of the country.

—*New York Times*, Nov. 24, 2006

CHEER UP, KIRK DOUGLAS, AND READ INDUR GOKLANY

“Let's face it,” [Kirk Douglas] writes to “America's young people”, “THE WORLD IS IN A MESS and you are inheriting it.

“Generation Y, you are on the cusp. You are the group facing many problems: abject poverty, global warming, genocide, Aids, and suicide bombers to name a few. These problems exist, and the world is silent. We have done very little to solve these problems. Now, we leave it to you. You have to fix it because the situation is intolerable.”

—*Guardian*, Dec. 11, 2006

EVEN THE PENTAGON IS NOT REPORTING THE GOOD NEWS FROM IRAQ

The Pentagon said yesterday that violence in Iraq soared this fall to its highest level on record and acknowledged that anti-U.S. fighters have achieved a “strategic success” by unleashing a spiral of sectarian killings by Sunni and Shiite death squads that threatens Iraq's political institutions.

In its most pessimistic report yet on progress in Iraq, the Pentagon described

a nation listing toward civil war, with violence at record highs of 959 attacks per week, declining public confidence in government and “little progress” toward political reconciliation.

—*Washington Post*, Dec. 19, 2006

OOPS, I MUST HAVE ACCIDENTALLY STUCK THE WRONG PAPERS IN MY PANTS, HIDDEN THEM UNDER A CONSTRUCTION TRAILER, COME BACK TO GET THEM, AND CUT THEM INTO SHREDS

On the evening of Oct. 2, 2003, former White House national security adviser Samuel R. “Sandy” Berger stashed highly classified documents he had taken from the National Archives beneath a construction trailer at the corner of Ninth Street and Pennsylvania Avenue NW so he could surreptitiously retrieve them later and take them to his office, according to a newly disclosed government investigation.

The documents he took detailed how the Clinton administration had responded to the threat of terrorist attacks at the end of 1999. Berger removed a total of five copies of the same document without authorization and later used scissors to destroy three before placing them in his office trash, the National Archives inspector general concluded in a Nov. 4, 2005, report. . . .

But instead of admitting he had removed them deliberately—by stuffing them in his suit pockets on multiple occasions—Berger initially said he had removed them by mistake. . . .

Although the report reiterates that Berger's main motive was to prepare

himself for testifying before a commission investigating the Sept. 11 attacks, it makes clear that he not only sought to study the documents but also destroyed some copies and—when initially confronted—denied he had done so.

—*Washington Post*, Dec. 21, 2006

NEXT UP: DEMOCRATS' PLAN FOR TAX AUGMENTATION

[Sen. Chuck] Hagel, a Vietnam veteran, angrily condemned the “escalation” of the [Iraq] war. “To ask our young men and women to sacrifice their lives to be put in the middle of a civil war is . . . morally wrong. It's tactically, strategically, militarily wrong.”

“I don't see it, and the president doesn't see it, as an escalation,” [Secretary of State Condoleezza] Rice replied.

Hagel looked stunned. “Putting 22,000 new troops, more troops in, is not an escalation?”

“Escalation is not just a matter of how many numbers you put in,” Rice ventured.

“Would you call it a decrease?” Hagel pressed.

“I would call it, Senator, an augmentation.”

—*Washington Post*, Jan. 12, 2007

REALITY CHECK: SPENDING UP \$1 TRILLION IN 7 YEARS

“We've done a better job of holding the line on domestic spending. . . . By continuing these policies, we can balance the federal budget by 2012.”

—*President Bush in the Wall Street Journal*, Jan. 3, 2007

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