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July 2007

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by Scott Stein

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*by the Editors & Contributors of Liberty, including David Boaz,
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Monopoly's Socialist Roots

by Bruce Ramsey

Darwin in the Dock

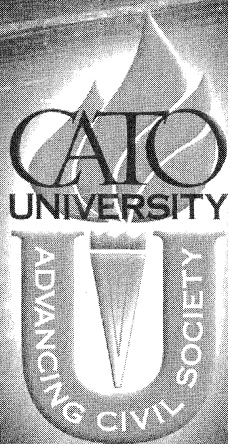
by Jo Ann Skousen

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Letters

The Ties That Bind

Gary Jason effusively congratulated Utah on its new school voucher program (Reflections, May), praising its generous availability to "every one" of its half-million students, while regretting that it did not provide a larger benefit equal to a per capita share of the education budget. I read it, then glanced quickly at the cover to confirm that, yes, I was reading *Liberty* magazine.

My naive understanding was that libertarians favored individual responsibility and liberty and, therefore, limited government (big government tending to encourage dependency and threaten liberty). Yet the biggest government program of all, taken collectively, is public education. (More is probably spent on national defense in dollars, but in numbers employed and influence on society, it is a pale second.) Most of us accept it nonetheless because, individually, few of us are qualified to teach our children what they need to know technically for success in today's world. We therefore hire professionals who are qualified and we conduct that professional education as a public program to spread the cost.

Those of us who do not have children are still willing to pay for this public enterprise since we feel, to varying degrees, a communal tie, a responsibility, to educate the next generation and to help thereby to improve the communities in which we live. The fact that most U.S. education is conducted locally both strengthens that tie and alleviates any concentration of government power over education.

But school vouchers break that tie. Public education was never a moral requirement of civilization, just a valuable civilizing tool. Once removed from community control (direct control, mere specification of "standards" is not enough), we are no longer discussing

"public" education. We are discussing a welfare program for parents (many of whom have greater income than those of us without children). That is just what we need, a vast new government middle-class welfare program.

No thank you, not with my tax dollars, you don't. Once education reverts to private control, the salient moral fact is that parents, not the rest of us, are responsible for caring for and educating their own kids. So, good luck to them (and may they spawn like salmon).

That, Mr. Jason, is the difference between public and private education. We pay for it through taxes because it is public. If it is private, then the parent pays for it out of his own pocket. And that is why public education is one of those functions which, if government is to require it at all, it should perform directly. As for privatization as a goad to better teaching, perhaps some real market-style competition could be organized between schools within our school systems. Or if, as Jason does, we find teacher unions to be so detestable, then use whips! That I could support, but not vouchers.

Anthony Teague
Oakton, Va.

Jason responds: If I apprehend Mr. Teague's point correctly, he seems to be saying that while public education is fine, allowing vouchers would be bad because: (1) any government function should be performed directly by government (i.e., using all and only government employees); and (2) vouchers constitute some kind of unfair welfare program for rich and middle-class parents. I buy neither point.

The first point seems to me to be just silly. While there are libertarians of a more anarchic bent, I am more of a classical liberal. I hold that government has a legitimate right to tax citizens to promote certain functions and projects

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it would be impossible or impractical for groups of private citizens to do. Mr. Teague seems to agree. I have in mind here things such as a court system, police departments, armed forces, major infrastructure projects (such as highways), and so on. But much waste and mischief occurs when we (as too often happens) slide from the view that the government has the responsibility to do such projects to the view that government employees alone should be utilized to do them.

Specifically, while indeed a major role of government is to maintain armed forces, it would be folly to have government employees man all the munitions, planes, and warship factories. It is far more efficient to have the armed forces let out contracts with private companies to make the guns, planes, and so on. Again, while indeed many roads are built by state construction workers, observation shows us that it is cheaper generally to have government collect the taxes, contract out the projects to private construction companies under competitive bidding (no Davis-Bacon crap), and have a relatively small number of employees whose job it is to make sure the projects are done to specifications.

So my classical liberalism is one that has a regulative maxim: even if a task is one that government ought to do, we should always try to do it with the fewest inefficient government employees. This especially applies to public schooling: by allowing vouchers, many more of the teachers will be private ones, and

the remaining public ones will be faced with competition.

Regarding the second point, I think that Teague is not considering the reality of the current educational system. As it is, the rich can pay the massive property and other taxes that government takes and still well afford to send their kids to private schools, which they routinely do. But lower middle-class folk usually cannot — by the time they pay those taxes, they usually can't come up with the extra money to send their kids to private schools. The whole idea of vouchers is in effect to give those parents a rebate that can then be used to send their kids where they wish, as well as to empower the poor to choose as well. And absent that, there is no "real market-style competition" between public schools — which is precisely the case now.

Those who are inclined to agree with me ought to consider sending a donation to the Milton and Rose Friedman Foundation, which has for 50 years been promoting the voucher concept.

Last Bastion of the Great Society

I'd like to correct a minor mistake in Bruce Ramsey's otherwise excellent May feature ("The Next President of the United States"). In it he calls Massachusetts "the nation's most left-leaning state." While that was probably true back in 1972, when it alone gave George McGovern a majority for president, the Bay State has changed a great deal in the intervening 35 years. I know because I grew up there, and spent a

large part of my adult life living in or near Boston.

Now I live in Vermont, which probably is the most leftist state in the Union today. Massachusetts can't hold a candle to the looney-tunes (read: Democrats) that dominate the state legislature and bureaucracy up here. These folks have never seen a tax they don't like — indeed, Vermont has the highest combined state and local tax burden in the nation.

The notion of growing the state economy is utterly foreign to many Vermonters. Real jobs providing real incomes are few and far between. In 30 years the entire population of the state will probably consist of rich retirees, welfare recipients, and state employees. Whether there will be enough revenue to pay those state employees is highly questionable. The political class here, however, seems largely oblivious to the fiscal freight train that is bearing down upon them.

The rural folk remain for the most part solid, but among young people in particular a strong sense of entitlement can be discerned. It's almost as if Vermont is stuck in a time warp, namely, the 1960s and '70s.

Compared to Vermont, Massachusetts seems almost conservative. And I say this despite the recent election of that state's first Democratic governor since 1990. Maybe New York could give Vermont a run for the title of most leftist, but Massachusetts would definitely come in third.

Ramsey, being based on the West

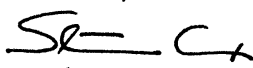
This issue marks the end of Liberty's teenage years. We will be 20 years old next month. (Yes, I know that we are currently in volume 21, but that's because our volumes, unlike our lives, start afresh each January.) Our next issue will include a birthday celebration — but this issue is our last chance to be, technically speaking, teenaged.

It's an accomplishment for a journal to get to this ripe old age. It took a lot of daring and determination. At least half our total supply of those qualities was bequeathed to us by our founder, R.W. Bradford, who remains our guiding example of what a libertarian writer and editor should be.

In many ways, however, Liberty has never grown up. We'd like to drive

the great black limousine of state, though neither the Democrats nor the Republicans seem inclined to let us have the keys. We still have as many internal conflicts as the normal teen; and if you want the proof, take a look at the range of opinions in this issue alone. We're still quirky and volatile, and oddly humble at times (that's part of our volatility); but we have definite views, and we don't intend to be ignored. We can be annoying, especially to people who have grown up a little too thoroughly; but we're also a lot of fun. I hope you'll always enjoy hanging out with us.

For Liberty,


Stephen Cox

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Coast, can be excused for pegging Massachusetts the most left-leaning. As to the state that is truly the most leftist in the nation, I hope at some point to publish a full treatment of that strange phenomenon I call the People's Republic of Vermont.

Jon Harrison
Poultney, Vt.

Getting Some

"When I use a word,' Humpty Dumpty said, in rather a scornful tone, 'it means just what I choose it to mean — neither more nor less.'" I'm not Humpty Dumpty, or a professor of literature, so I can't just make up what a word means (or doesn't) — especially when it's used by someone else. I'm forced to resort to common usage. For that, I use a dictionary. One of my favorites is m-w.com, because (among other reasons) it is readily available to anyone who has access to the internet. I looked up "some" (as an adverb) and found this:

usage: When *some* is used to modify a number, it is almost always a round number (a community of *some* 150,000 inhabitants) but because *some* is slightly more emphatic than *about* or *approximately* it is occasionally used with a more exact number in an intensive function (an expert parachutist, he has *some* 115 jumps to his credit — Current Biography).

I share your dislike of pompous prose, but Stephen Cox's assertion that "some" adds "nothing" to "four decades after" ("Word Watch," May) is simply wrong.

Bob Booze
Annapolis, Md.

Cox responds: Mr. Booze is right. It adds pomposity.

The Right to Laugh

Stephen Cox says ("The Constitution and Its Emanations," May) that "Justice William O. Douglas had to discover in [the U.S. Constitution] a 'right to privacy,' a right that he could locate only among the 'penumbras, formed by emanations from [the] guarantees' of the Bill of Rights."

I assume he and Henry Mark Holzer are thus disparaging the thinking that would construe the 9th Amendment as making reference to, and thus affirming the existence of, unenumerated rights, rights not explicitly mentioned in the Constitution. Why?

An alternative, very plausible way to think about this is that we have some rights that the framers thought important to mention explicitly, since they were being violated directly by the government of the English king. But we have innumerable other rights — the right to laugh, to sing, to dance, to stare at the sky, to . . . well, the right to do anything and everything that does not conflict with the very, very few powers of the government. The right to privacy — and thus to use contraceptives — would be such a right, given that the government is not constitutionally empowered to regulate our consensual sexual conduct.

Tibor R. Machan
Silverado, Calif.

Enumerate the Rights?

Stephen Cox declares "patently dishonest" the idea that the Supreme Court of the United States found a "right to privacy" in *Griswold v. Connecticut*. The objection appears to be that a right to privacy had to be "discovered" in the "penumbras, formed by emanations . . ." in the Bill of Rights.

It is exceedingly clear that the Founders intended that people, being inherently free, have a multitude of rights regarding the way they conduct their lives. Because it would be impossible for anyone to think of what every one of those rights might be, the Founders added the 9th Amendment to clarify that not every conceivable right had been spelled out in the Constitution and that many more rights, not enumerated, existed. Simultaneously, they were very clear in the 10th Amendment that the federal government had only those powers explicitly spelled out within the wording of the Constitution.

Unfortunately, modern thinking is antagonistic to the Founders' principles. The McCain-Feingold Incumbent Protection Act, for example, declares that speech is *not* protected by the First Amendment, and the Supreme Court agrees. Federal expansion into medical care, Social Security, the Patriot Act, undeclared wars, ad nauseam are seen as legitimate exercises of constitutional powers. When a proponent of liberty such as Cox (unintentionally, I believe) buys into this "interpretation," even partially, the cause of freedom is set back considerably.

continued on page 34

Reflections

Sincere fraction — Some libertarians are in favor of open borders; others aren't. But it's clear which side the media are on. While generally admitting that the turnout for the open borders demonstrations on May 1 was only a "fraction" of what it was the year before, news stories eagerly retailed the march organizers' explanation: would-be marchers were afraid of being arrested and deported. (As far as I could tell, there was no evidence that that might happen, or that anyone was afraid of it.) The day started with news stories proclaiming that "dozens" of demonstrators were assembling here and there, and "hundreds" were rallying. Favorable publicity has seldom been cheaper.

The Google index gave this title to a story from the Denver Post: "Marches smaller but sincere." Isn't it nice when the media pat you on the head?

— Stephen Cox

The badgering state

— An AP story (May 9) illustrates yet again that if the government does not subsidize an activity, it will probably prohibit it. The state of Wisconsin has admon-

ished a service station owner in Center City for possible violation of Wisconsin's Unfair Sales Act. The owner's alleged crime was that he sold gas at a discount to senior citizens and people supporting local youth sports. The Act requires that every station sell gas for about 9% more than the wholesale price.

The governmental Scrooges have warned the station owner to raise prices forthwith or face a lawsuit.

— David T. Beito

Potemkin hospital

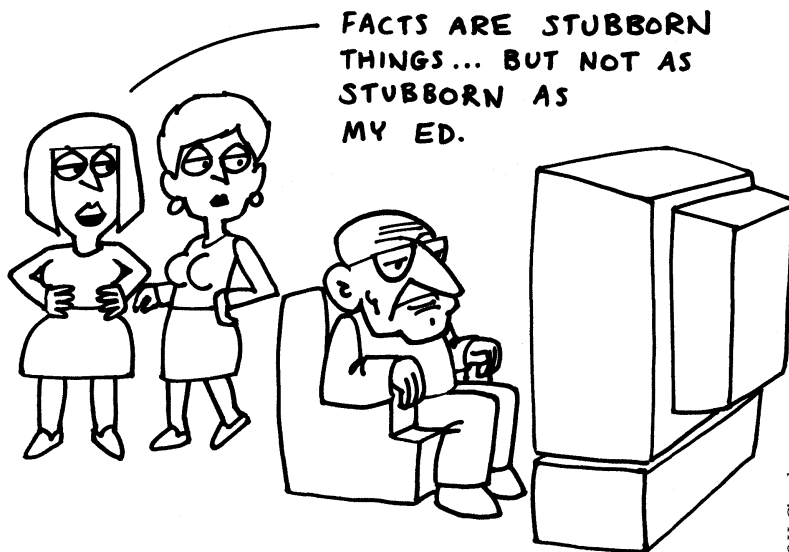
— Controversial filmmaker Michael Moore has come under investigation from the Department of the Treasury. As a stunt for his upcoming film on health care, he flew a planeload of ill rescue workers who had been involved in the 9/11 disaster to Cuba for medical treatment. (Michael Moore is a very popular figure in Cuba, partly because of his anti-American agenda, and partly because scarce food supplies mean that few Cubans have ever seen a man weighing more than 200 pounds.)

Cuba, of course, has free health care for every citizen,

no infant mortality, and no malpractice. That's because the Cuban government controls all medical information. Whereas in America, we use technological advances and complex modern pharmaceutical products to raise our standard of health care, Cuba is able to surpass us using only a little bottle of Wite-Out. And they are certainly in better shape. I don't know a single American who can swim 90 miles, but thousands of Cubans attempt that feat every year.

If Michael Moore really wanted to make a point about America, he should have offered to fly all Cuban patients willing to travel to America for treatment. However, I doubt his millions would be able to charter enough planes for that trip.

— Tim Slagle



S.H. Chambers

The Ségosphère

— The followers of Ségolène Royal, the now-former candidate for the French presidency, were said to live in the Ségosphère. As far as I can tell from following Royal's career, the Ségosphère was a place where old French socialist policies had a new face and a new scent. The

face was pretty, and the scent was delightful. But the landscape in the Ségosphère was vague, obscured by fog. The very planks that Royal trod in the Ségosphère could not be clearly drawn. The clouds in the Ségosphère drifted on winds of government largesse. The wind itself, the source of funds, was invisible, and nobody knew where it might blow from. Asked how she would raise taxes, Royal said she would raise them "fairly."

To me, this sounded like a winning candidature, especially in France.

Then the son of a Hungarian immigrant, Nicolas Sarkozy, burst the Ségosphèrical bubble. He beat Royal badly in the April and May elections. This he achieved despite a prickly personality and promises to institute painful reforms, including a repeal of the 35-hour work week.

The leading French socialist daily reports that, after the final election, Royal met her supporters, and she looked up, tilted her head, and smiled at them "for a long time." As the Royal sunset lingered in the Ségosphère, her supporters sniffed their tears.

What went right?

Since the '80s, French-style collectivism has left France's economy and society stagnant. Slow growth and high unemployment have been the rule. The Left, the center Left, and the center Right have promised to tinker with but never dismantle any part of the collective. This never worked very well, but it got them elected.

It took a long time, but I think the French are losing faith in the empty promises of collectivism. They are finally descending from the *Ségosphère*. May theirs be a happy landing.

— Michael Christian

Don't bogart the milk thistle, man — As the push to ban smoking from all "public" places sweeps the earth, the tobacco foes have made a rendezvous with irony. Right now the European Union is debating a ban on smoking in all restaurants and bars — which means that the famed coffeehouses of Amsterdam would be made smoke-free. Although proposed legislation in the Netherlands exempts cannabis smoke from the ban, many hashish users enjoy cutting their recreational pastime with tobacco, a practice which would become verboten after Jan. 1, 2008, if the ban passes the Netherlands Parliament.

Coffeehouses are reportedly experimenting with other herbs to substitute for tobacco, although inhaling burning milk thistle only appears healthier because of the lack of statistics against it. It would seem to me that almost any smoke would contain carcinogens similar to those in tobacco smoke, but the rarity of the practice has resulted in a dearth of research and warnings against it.

— Tim Slagle

The heavens declare — Intelligent Design theory definitely proves something. It proves how conceited we human beings are, thinking that we are the center of attention in a universe that has no center and has never paid us the slightest attention.

Begin with the fact that the universe is mostly empty and inert, vast stretches of vacant space punctuated by cosmic potholes that even light can't climb out of and billions and billions of balls of burning and exploding gases that will eventually run out of gas, leaving a spent, dark, diffuse, out-of-business, nobody-home universe. Add countless, pointless asteroids and comets and other lumps of rock and ice sometimes colliding with lifeless moons and airless planets that make the most derelict and insipid abandoned New Jersey strip mall look like paradise.

Then consider the one life-sustaining, inhabited planet we know of. Most of it is uninhabitable by humans, too wet, dry, hot, or cold, and the most durable animals on it are the most loathsome and stupid, like cockroaches. Or rats, which can go for weeks without food, tread water for three days, gnaw through cinder blocks, climb vertical walls, and endure extremes of heat and cold, while more attractive animals, like butterflies and songbirds and fashion models, succumb to an unfavorable breeze.

Among human beings high intelligence is rare and beauty is fragile and transient and creativity more so, with the real intelligent designers, the people producing the great poems and paintings and books and buildings and theorems and sonatas, often in precarious health and dying young or going

mad or reduced to destitution. Societies of great creative accomplishment tend to go down quickly, too, like Athens or the Italian Renaissance city-states, crushed by bigger, stronger, stupider regimes, and something similar happens to intelligent directors in Hollywood. A Stupid Designer, then?

Maybe there really was an Intelligent Designer who had us in mind. He would have to resemble the late, great cartoonist Rube Goldberg, because in that case the universe is a laughably elaborate exercise in convoluted, ironic indirection and inefficiency. But on the evidence it would make more sense to think that the universe was designed by a Supreme Boulder on behalf of rocks or an Almighty Void for the sake of empty spaces. Or getting back to the rats, maybe an Intelligent, Provisional Celestial Rodent.

If the universe had been expressly designed for us human beings, on the other hand, it would probably look like the neat little bandbox cosmos endorsed by the medieval church, with the earth in the center and the lighting, the sun and the moon and the stars, conveniently arranged in concentric transparent spheres, like a New York City studio apartment with lots of shelves.

— Eric Kenning

The iconic face — If a picture is better than words, a face may be best of all. Six million dead in the Jewish Holocaust is an abstraction. Anne Frank — young, female, innocent — personalizes it. We have her photo, and what's more, her diary, which is her voice.

Now the Palestinians have Rachel Corrie, a 23-year-old American from Olympia, Wash. Rachel died March 16, 2003, in Rafah, Gaza, under the tracks of an Israeli army bulldozer. Rachel was publicly protesting, blocking a bulldozer with her body so it wouldn't wreck Palestinian homes. She and other "internationals" did it that morning, and stopped the bulldozers. Then the Israelis went away and came back, and this time the bulldozer in front of Rachel did not stop.

One is reminded of the man who stood in front of a line of tanks in Beijing on June 4, 1989. He stopped the tanks only a minute or so, and disappeared without providing his face. But he had provided the most memorable image of resistance to the Chinese state.

There are no images of Rachel walking up the pile of dirt advancing in front of the heavy blade, challenging the driver to stop, then disappearing backwards, legs trapped under the advancing pile. But like Anne Frank, Rachel Corrie left a diary. Excerpts from the diary and emails were printed by the Guardian, a British paper, and made into a 90-minute play, "My Name Is Rachel Corrie." The play was performed in London and New York — though in New York it was first cancelled to please the supporters of Israel. I saw the play in Seattle. It is quite moving.

And so in the West, the Palestinian side has an iconic face.

Logically, its possession of one face should not matter. But it does. The two sides fight over it. The Israeli side does not want its opponents to have an Anne Frank. In the manner of playing a trump card, it offers a different photo. In this one, Rachel is surrounded by Palestinian children and holding up a child's drawing of an American flag, on fire. Rachel is yelling something, and we don't know what it is. It doesn't matter; it looks bad. To supporters of Israel, the image of Rachel with a burning flag cancels out the image of Rachel the victim. It

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The Future of Liberty • What are the prospects for freedom? *David Friedman, Jack Pugsley, Mark Skousen, Durk Pearson, and Sandy Shaw* offer different perspectives in this panel, consistently one of the most popular at our conferences.

CDA-117
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Tribute to R.W. Bradford • Friends and family of Liberty's founding editor share their memories of one of the great men of the libertarian movement.

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nullifies it. Also, they stress, there was a purpose for the bulldozer: it was trying to uncover tunnels, which were used to smuggle weapons.

The original label on Rachel is that she was defending innocent Palestinians. Indeed, she was the very picture of it: young, female, and unarmed, standing in an orange jacket facing two men in a 50-ton Cat D9.

But really, insists the other side, the men were defending. They were using their bulldozer to protect innocent Israelis from terrorists. By blocking the bulldozer, Rachel was protecting the terrorists and therefore was really attacking.

Both sides say they are defending, and both sides believe

it. They struggle over land, over words, and over the face of a dead 23-year-old from Olympia, Wash. The face is important. It has value, and neither side will concede it. — Bruce Ramsey

Vive le Neocon! — Honestly, you couldn't make this up. The results of France's presidential election are in, and the winner by a healthy margin is Nicolas Sarkozy. (He even won the majority of the popular vote among women — surprising, considering that his opponent was a woman.) Sarkozy is the son of a Hungarian immigrant and is definitely right-wing in his views. He favors a number of highly un-French ideas. He is for better relations with the United States. Even more out-

Word Watch

by Stephen Cox

Can it be that one reason why most people now prefer not to read daily newspapers is the increasing prominence of The Hook?

I mean the first part of a modern news story, the "human interest" part that's supposed to "hook" you into reading the rest.

The Los Angeles Times is the king of the hooksters. It's Captain Hook. Some days, every story on the Times' front page begins like this:

Helen Kowalski looked out the window of her 50-year-old, two-bedroom ranch home on a quiet, palm-shaded street in West Gardena. Something unusual was happening.

On the surface, there was nothing extraordinary in the scene before her. Looking to her left, she could see her husband, Frank, mowing the little patch of lawn that separates the Kowalskis' property from the Applegates', next door. The sun was beginning to set. The temperature was 72 degrees, moderate for July in Southern California.

Yet something was clearly wrong.

"I knew it right away," Mrs. Kowalski said. A checker at the local T-Mart, she considers herself an expert at noticing the little things that can make or break one's day. "I could tell there was something going on, something

Continued, page A12.

that wasn't right."

Her husband agreed. Frank Kowalski works as a baggage handler for United Airlines. "You know," he told a reporter who contacted him at his Magnolia Street home, "sometimes you just sense that something isn't right."

And so, as the sun went down in the pink, LA County sky . . .

Etc., etc. Blah, blah, blah.

Warning: no actual articles were injured in the writing of this column. The specific nonsense you just read did not appear in the LA Times. I made it up. But no one can deny that it's typical of the Times and the innumerable papers that lurk in its dank journalistic shade.

And no one can deny that the effect is injurious. How many readers, do you think, have blown out an artery screaming at one of these rags, "What the *hell* is this story *about*?" Was there a mass murder in West Gardena? Did a flying saucer land? Was a nest of bigfoots discovered down the street from the Kowalskis' mansion?

Were there poltergeist phenomena, or did the electricity just go off on its own? Maybe Mrs. Kowalski sighted the first, devilishly subtle hint of a Wal-Mart slouching toward the neighborhood. Did she? Or maybe she didn't. *Tell me!*

Who knows? Who cares? But this is the kind of verbiage that is supposed to "hook" you.

What it really does — if you remain awake — is convince you that somebody is trying to put something over on you. You can assume that no one would use a hook like that unless he or she was (A) trying to make an insignificant story look momentous, or (B) trying to frustrate your natural desire to take matters into your own hands and demand that you be told, right *now*, the answers to the traditional journalistic questions: Who? What? Where? and When?

To avoid this sort of manipulation, people flee newspapers for other media — only to get caught in the same trap there. Consider, for example, a Reuters story that appeared on the internet on April 6. It was an account of the run-up to the recent French election, an account that was aimed at Anglophone readers, the vast majority of whom probably didn't even know that an election was going to take place. But instead of giving the who-what-where-when, the story emitted reflections about the Frenchies' "passion for politics," the observations of a "French-English business consultant who lives in Munich and has just registered to vote," and some half-baked speculations regarding (alleged) Gallic "cynicism" about the country's "ageing, stale political leadership." All the frustrated reader could do was indulge a hope that the next time a business journalist reported on some happening at Reuters, he would postpone all substantive information until after he had editorialized at length about the company's ageing, stale editorial leadership. After all, what's sauce for the *oie* is sauce for the gander.

But there are worse stories. On the same day as the Reuters "report," there appeared an AFP internet story on food shortages in Zimbabwe. Now, Zimbabwe is ruled by a ruthless tyranny that has spent the past several years assiduously creating the conditions for famine and every other form of economic distress. But don't expect AFP to let you in on that. The story begins: "Winnie Mupunga normally produces 40,000 kilograms . . . of the staple corn cereal on her smallholding in southwestern Zimbabwe . . ."

rageously, he firmly supports (gasp!) the security of Israel. He wants to move toward classical liberalism in France's statist economic system, going so far as to call the French 35-hour work week "absurd." He also wants tougher immigration policies and more law and order in the streets. In short, he's a freakin' neocon.

His election sparked immediate riots by leftist youth, *mais oui*. They demonstrated their disappointment by overturning cars and hurling rocks at police. The rioters had no doubt voted for Sarkozy's socialist opponent, being angry at Sarkozy for calling them "scum" in earlier riots.

How he will actually govern is anyone's guess. The

The reader is forced to wait until paragraph 4 to be told that Zimbabwe was "formerly the region's breadbasket" but now has a "drought in several of its 10 provinces." Well, the United States often experiences a drought in several of its "provinces," but strangely, the United States has never experienced a famine. Why are conditions here so much different from those in Zimbabwe? One would never guess.

The article mentions that the nation is "already reeling under [sic] the effects of a 1,730 percent inflation rate." Bingo! Now we're approaching the real problem: the government is wrecking the economy. But that's not the issue, so far as AFP is concerned. The story rambles on for another 20 paragraphs before even mentioning the government, and then it does so only to quote some government propaganda about how the government is getting ready to pay for imported food. Pay? the alert reader asks. With what?

The alert reader may ask that question, but the writer and editor certainly don't. The most that their article does (after wasting several *more* paragraphs) is to tell you that "Zimbabwe is already saddled with economic crisis characterised by a four-digit rate of inflation, unemployment of around 80 percent and chronic shortages of basic foodstuffs like cooking oil, sugar and foreign currency."

Let's see . . . the country is "saddled," eh? Now there's a fresh term. But who's in the saddle? It isn't Milton Friedman, that's for sure. Then who? Could it be . . . the government? Apparently, however, it's too much to expect that possibility to be entertained in the first few dozen paragraphs of a news story about problems manifestly caused by government.

The odd thing is that nobody likes this approach to news. Nobody is taken in by it. Nobody is enticed by it. It's boring everyone silly. Yet it goes on.

I'm reminded of an opposing example. It's from the greatest of all film comedies, "His Girl Friday" (1940). Cary Grant plays a newspaper editor. Rosalind Russell is his reporter. She's writing the biggest story of her life, a story about how her own paper uncovered a monstrous miscarriage of justice. But she gets carried away with her prose and fails to make a timely mention of the newspaper's role in the events she's trying to report. Baffled by this approach, Grant interrupts her, demanding to know where she's going to talk about the paper. Oh, she says, in the second paragraph. That's too much for him. He explodes, "Haven't I taught you anything? *Who's gonna read the SECOND PARAGRAPH?*"

Who indeed? Especially if the first paragraph is nothing but The Hook.

entrenched establishment will fight him tooth and nail every step of the way. Still, we are witnessing a fascinating sight. As America continues to move left, with proposals to socialize medicine and end free trade, Germany, Canada, and now France have elected rightist leaders, with many other nations adopting a variety of classical liberal (or as they call them, neoliberal) economic policies, such as flat-tax systems, vouchers, privatized retirement schemes, and suchlike. As we used to say in my old neighborhood, go figure. — Gary Jason

Precipitating chaos — A New York Times article by Carl Hulse and Jeff Zeleny (May 9) discussed a meeting between President Bush and 30 "moderate" Republicans, who expressed frustration about the Iraq war as heard from their constituents.

According to Hulse and Zeleny, "Lawmakers said Mr. Bush made no commitments, but seemed grateful for their support and said a precipitous withdrawal from Iraq could cause the sort of chaos that occurred in Southeast Asia after Americans left Vietnam."

That's an instructive analogy.

In 1975, after almost two decades of involvement, the United States pulled out and the Communists reunited North and South Vietnam. Bad things happened to people there as a result, though U.S. troops stopped dying there. Over the next several decades, many of the best and brightest, most entrepreneurial, hardest-working Vietnamese moved to the U.S. and helped our economy, as immigrants often do. Communism didn't work in Vietnam, any more than it worked anywhere else. And so Vietnam began to engage in capitalistic acts. Our trade with Vietnam has gone from \$4.6 million in exports, \$0 in imports in 1992 to \$330 million in exports, \$2.2 billion in imports in 2007. We've had a trade deficit (that is, Vietnam has sent us more real goods for our people to enjoy than we have sent them for their people to enjoy) every year since 1997. It has been over \$1 billion every year since 2002, and it continues to grow.

Oh, by the way, there have been no terrorist attacks on the U.S. by Vietnamese over the decades since we've pulled out.

Yes, we just couldn't have anything like that happening in our relationship with the people of the Middle East.

— Ross Levatter

The forgotten man — Media bias was on ample display after the Republican presidential debate. Only this time, the victim of bias was a candidate who took positions that most modern liberals claim to share.

Ron Paul firmly and repeatedly attacked the war on Iraq and called for withdrawal. He closed by blasting Bush's record on civil liberties and pledging to defend habeas corpus if elected. But the post-debate spin shows either completely ignored what he said or, worse, lumped him in with all the rest.

Although Paul came out like gangbusters against a pardon of Scooter Libby, and even criticized Libby's role in deceiving us into war, Chris Matthews had the gall to lament that nobody had taken this position. The last few seconds of MSNBC's segment brought a slight improvement when Keith Olbermann awkwardly announced that Paul had won the network's online poll as the best debater . . . but, of course, time was up and nothing more could be said.

Later that night, CNN's post-debate spin segment sank to an even lower low. The panel included Arianna Huffington and some neocon guy from the Weekly Standard. Nobody mentioned Paul's views. The insufferable Huffington, who either did not watch the debate or lied about what she saw, self-righteously proclaimed that all ten candidates supported the war. Nobody challenged her. Are we to be spared nothing?

The prime movers in the media obviously dislike pro-war conservatives; but, if this example is any indication, they have an even greater dislike of antiwar libertarians.

— David T. Beito

Diff'rent strokes — On April 19, AOL News ran a story about Max Karson, a junior at the University of Colorado. Seems he was suspended from school, and arrested, for making comments others interpreted as sympathetic to the actions of Virginia Tech gunman Cho Seung-Hui.

"CU police Commander Brad Wiesley says Karson made comments about understanding how someone could kill 32 people during a class Tuesday. Students reported the comments at about 1 p.m. Wiesley says people in the class interpreted Karson's statements as threats."

This is understandable, because we are in America. In America, one only commits murder, especially mass murder, if one is dangerously insane, and similarly one only publicly suggests such acts are understandable if one is mentally ill.

Immediately next to this story on AOL News was a picture of a teenage girl carrying a baby while walking across a Baghdad intersection. In the background were destroyed buildings, smashed cars, and body parts. The picture was part of a story announcing that 168 men, women, and children had been killed in Baghdad that day.

White House sources blamed sectarian violence. That is understandable, because they are in Iraq. In Iraq, one only commits murder, especially mass murder, if one is evil, opposed to liberty and freedom, and hates the United States for the freedoms it possesses.

— Ross Levatter

You pays your money, you takes your chances — France has elected a conservative president, signaling a move away from socialism. Not that France was really socialist in the first place — after all, they have a national lottery.

To me, lotteries seem antithetical to the egalitarian ideals of socialism. Perhaps France should instead have a socialist lottery. Rather than only one winner, the prize would be divided equally among everyone who bought a ticket: for the cost of a dollar, you would be assured a prize of about 75 cents.

On second thought: is it fair to only reward those who have enough money to buy a ticket? Perhaps a more equitable lottery would give a prize to every citizen of France, regardless of whether they had bought a ticket or not. — Tim Slagle

Joining the club — In April, the Czech Republic approved a new tax policy: personal income taxes will fall to a flat 15% starting next year, replacing the current progressive scale, which ranges from 12% to 32%. The 15% figure is a bit misleading, because it will include as income government transfer payments (social security, for example) and pri-

vate perks (such as employer health-care contributions); the effective rate will probably be more like 23%. This is still an improvement. No doubt the sight of a former, poorer partner, Slovakia, which has been growing faster than the Czech Republic since Slovakia instituted a flat 19% tax some time back, concentrated the Czech mind wonderfully.

The flat tax club now includes 15 members: the Czech Republic, Estonia, Georgia, Hong Kong, Iceland, Kyrgyzstan, Latvia, Lithuania, Macedonia, Mongolia, Romania, Russia, Serbia, Slovakia, and Ukraine. Greece and Croatia are planning to adopt the flat tax system in the immediate future, and it is under serious scrutiny in Germany and the Netherlands.

The economic arguments for the flat tax are compelling. It is far simpler than progressive schemes, and would therefore save a huge amount of taxpayer time and money. It is far more economically efficient, and seems likely to raise more revenue. And it would result in less deformation of investment choices; people wouldn't suddenly pull their money out of stocks if some tax break for real estate gets passed, or plunge everything into the stock market if someone lowers the tax rate on dividends.

But experience is even more compelling than the arguments. The sight of more and more countries moving to a flat tax system may finally motivate the U.S. to rise to the occasion. At least, we can hope.

— Gary Jason

No Cossacks in America — Yes, I know July 4 isn't a Jewish holiday, but many of my kinsmen think it should be. And in my heart of hearts I'm well aware that our oldest and fondest prayers invoke Jerusalem, not Washington D.C., but it's entirely appropriate to give thanks for America — the "New Jerusalem."

Europe seems to be regressing to its old Jew-hating ways: especially Muscovy, USSR, Russia, whatever the name, and its Ukrainian suburbs. This inflamed slice of real estate has always been a Jewish death camp. Who else but Russian Jews would have originated the expression, "If G-d lived here, they'd break his windows"? The meaning is a little unclear; either G-d's chosen people would throw rocks at His house to protest his injustice, or the Muscovites would stone G-d as well as the Jews. After all, if his son was Jewish, then He must be one, too.

While Russian Jews suffered pogroms, American Jews were only banned from the country club and endured bad jokes about lengthy noses and frugality. Those of us sensitive to such juvenilia formed our own country clubs and invented rhinoplasty to solve the nose problem. Finally, we made so much money we could afford lavish donations to Jewish charities and still have enough left for country clubs.

How could Jew-haters grab a serious hold on the American heart? As Emma Lazarus announced, we are a nation of "huddled masses." So she said on the Statue of Liberty. All victims — no Cossacks. America, the New Zion, founded by those quirky Puritans, had provided a flourishing home for mavericks like us. The Puritan founders envisioned their Brave New World as having all the sanctity of Jerusalem. They were a rare breed with an affinity for Zion because they were Old Testament believers — separatists who had split with the Church of England. A strong Old Testament core defined them. Even Macaulay, most notable of English historians, tells

us that “they began to feel for the Old Testament a preference.” They were not frivolous folks who preferred pinocle to the study of Isaiah.

Even in the '30s and '40s, when I grew up in Memphis, Tenn., the racial climate was as warm as the Southern weather. Serious anti-Semitism was not trendy, even though some snaggletooth towhead insisted on calling me a “JB.” Means “Jew Baby,” a kind friend informed me.

And I'll never forget Miss Smith, my third-grade teacher at Vollentine School. She was a large woman about the size of two of today's fashion models, with gray hair pulled back from a ruddy, round face. On a day that still lives in my memory, she and I stood facing the class with her arm around my shoulders. She looked out to her students, her eyes focused above them. I looked down. I had just finished reciting a poem to the class, and before I could return to my desk, Miss Smith came to my side. “Children, Teddy is Jewish. And I like Jewish kids. Teddy's people have made some major contributions to the South. How many of you know of Dr. Joseph Goldberger who cured pellagra?” Not one kid knew of Goldberger or pellagra (70 years later, they still don't), whereupon Miss Smith went on to tell her class how the Jewish doctor had deduced that this scourge of the rural South was caused by a dietary deficiency.

She was a good storyteller and told the tale of Goldberger's medical sleuthing with gusto. “But his people [meaning mine and Dr. Goldberger's] are having a bad time, 'specially in Germany, because of an evil man named Hitler. Here in America we'd just send the dogcatcher to pick up a fleahound like Hitler.” According to Miss Smith, the Antichrist had come to destroy the world, and of course he began with the Lord's people, the Jews. It was Armageddon time.

This talk made me nervous. I'd never heard of Joseph Goldberger, either. I was only Teddy Roberts, third-grader in Vollentine Junior High; not the certified representative of the Lord's people, or the Jewish race; or a warrior in the battle of Armageddon.

“I like Jewish kids,” she repeated. “It's a shame we don't have more of them here in Memphis.” That's what she said.

The classroom was full of giggles — because of “Hitler and his fleas,” I hoped, and not because of me and the fact that in Tennessee, Jews were as rare as polar bears. Miss Smith's speeches made me uncomfortable — like singing Christmas carols. But I did like the feel of her big hand on my shoulder.

HEY, LOOK.
THE “DON'T PANIC” LIGHT
JUST CAME ON.



Afterward, we sang “America, the Beautiful.” I wasn't uncomfortable at all.

— Ted Roberts

Reform, reform everywhere — I have reflected before on how bittersweet it is to see classical liberal ideas adopted in other countries while being spurned here. It is sweet, because every such improvement is a step towards the ultimate goal of a free and flourishing world. It is bitter, because our country, hitherto the paragon of classically liberal governance, has been moving in the dirigiste direction for many decades.

It is bittersweet to see countries such as Russia and Estonia

adopt the flat tax, while our tax code grows ever more labyrinthine. It is bittersweet to see welfare states like Sweden completely eliminate the gift and inheritance taxes, while we couldn't accomplish that even when the Republicans controlled Congress and the presidency simultaneously. It is bittersweet to see countries such as Denmark and Sweden have the guts to set up school voucher systems, while we have to fight state by state, enacting such programs in only a few places, and even in those places have to fight an endless stream of attacks by reactionary teachers' unions

seeking to undo the progress. It is bittersweet to see New Zealand work up the nerve to eliminate farm subsidies completely, while we only increase ours.

Especially bittersweet it is to see other countries privatize their pension systems while we sit on our posteriors, watching the slow-motion train wreck that is the Great American Entitlement Ponzi Scheme Boomer Bust. This year — a year in which the vast Boomer cohort is at its earning (hence tax-paying) peak, the entitlement programs (Social Security, Medicare, and Medicaid) consume nearly half the Federal budget. In 20 years or so, when the Boomers will all be holding *their* hands out, and when *their* bodies will be going the way of all flesh, the entitlement programs will consume virtually the entire budget. But our government has done nothing to fix the problem, which in the case of Social Security ought to be complete privatization.

Meanwhile, other countries are moving toward privatizing retirement accounts. Of course, Chile is the exemplar here: it instituted fully private pensions decades ago, and now 95% of Chileans own their own retirement accounts. Sweden now allows workers to divert some of their pension taxes to private accounts.

"Unbelievable." Buddy Mayfield, a retired alfalfa farmer in central Kansas, slapped at his newspaper. He'd just finished his scrambled egg breakfast and was still seated at his kitchen table.

His wife Sarah, wiping the stove with a damp sponge, glanced at him but said nothing.

"Says here," Mayfield continued, "that the NBA has been engaged in spying on American citizens." He ran his thick-fingered hand over his stubbly jowls. "That's the National Basketball Association."

"Misprint," Sarah said. "They mean NSA. National Security Administration. Which is bad enough."

"Ain't what it says," Mayfield squinted at the paper. "Says NBA."

"Misprint," Sarah repeated, her sponging steady, rhythmic, undisturbed.

Once again her husband rubbed his hand unhappily over his grizzled face.



When General Curtis Strong swung open the door to his office deep in the Pentagon, he was surprised to see someone in the room — an extremely tall young black man wearing an impeccable gray suit. The man was stooped over, rooting through one of the drawers in the general's massive oak desk.

"Excuse me," the General said with some indignation. "This is my office. Who are you?"

"Yo," the young man greeted him. "What's happenin'?"

"This is a restricted area," the general said. "Do you have clearance? How did you get in here?"

The young man slid shut the drawer and stood up. His shaved, gleaming dome almost touched the ceiling. "I hope you got some answers to go along with them questions," he said.

"Answers? What sort of answers?" As he advanced, the general found it hurt his neck to gaze up at his towering visitor.

"My man, I see you been makin' some phone calls overseas."

"Of course I have. I know people over there. We've got troops over there."

The young man adjusted the knot in his red silk tie. "And that's who you been callin'? Troops? You ain't been callin' nobody else?"

"Well, I don't . . . say, who the hell are you? What gives you the right—"

Smoothly the visitor extracted a small notepad from his breast pocket and flipped it open. "This here, lemme see, Rasheeda Nawaz. Over there in Pakistan. She a troop? She al Qaeda, a lady friend, or what?"

His knees suddenly weak, the general sat himself in front of his desk in a padded wooden chair. He noticed, oddly, that there was a Spalding basketball resting next to his computer. "I wouldn't call her a 'lady friend,' exactly," he stammered. "We're acquaintances. We know each other, sort of."

"Uh huh. You been callin' her a lot."

"Well, we're pretty close acquaintances." Using a handkerchief, the General dabbed at some moisture on his upper lip. "Not something my wife needs to know about, by the way."

The young man peered down at him awhile. "That's cool," he said finally. "If that's what it is, that's cool. We check it out."

Seeing the general staring at the basketball, the visitor snatched it up with one spidery hand. He returned the notepad to his breast pocket and poised the basketball on the tip of his right index finger. Flicking the ball with his left hand, he caused it to spin rapidly, magically, like some subatomic particle. Its balance never wavered.

The general's eyes brightened. "Say, haven't I seen you on TV?" he asked.

The young man smiled faintly, revealing a gold tooth. He seized the basketball and dribbled it a few times ferociously. *Boing boing boing!*

"You're the Dunkster!" the general blurted. "You got suspended last year for clotheslining Kobe Bryant in the playoffs. He fell out of the sky like a helicopter!"

The Dunkster shrugged. "Kobe gotta gimme my space. Just like al Qaeda gotta give us *our* space, you know what I'm sayin'?"

The General nodded. He seemed confused and dazzled. "My grandson loves you," he said. "He'd really appreciate your autograph. You think maybe . . ."

Once again the Dunkster produced the notepad. He scooped an engraved pen off the desk and scribbled something on the pad, ripped out the sheet of paper. He dangled it before the General.

Timidly the general extended his fingers, but the autographed paper danced just out of reach.

"Twenty-five dollar, my man," the Dunkster said.



In his sunlit kitchen, a pair of black-capped chickadees singing outside, Buddy Mayfield folded his newspaper and tossed it on the table. "I guess you're right," he said. "The NBA spying on people . . . It don't hardly make sense."

"It don't make no sense at all," Sarah said. She placed the sponge on the back of the sink and turned on the water, preparing to rinse her hands. "Sometimes you worry too much."

He cast his gray eyes out the window. "Shaquille O'Neal, he's a good man. He ain't no domestic spy."

"Certainly not."

"Allen Iverson, LeBron James . . ."

"Newspapers make mistakes," she soothed him, drying her hands. "Everyone does. Here, let me cut you a nice piece of apple pie." — Greg Jenkins

But for sheer political moxie, you can't find a better example than our neighbor to the south. Mexico has succeeded in passing a major reform of the government employee pension system, a fiscal nightmare whose deficit was projected to balloon in the near future. President Felipe Calderón, who won the presidency with only 34% of the vote, managed to build a coalition between his party and opposing parties to get the reform bill passed.

Under this bill, new state employees (teachers, bureaucrats, and others) will start paying into their own accounts in a state-run pension fund. Existing workers can either switch to this new plan or stay with the existing one — but if they stay, they will face increasing contribution requirements and a later retirement age. After a transition period of three years, the government-run fund will have to compete with the private-sector funds set up for private-sector employees in 1997. After those three years, both state and private-sector employees can select any fund they wish for their contributions.

What are the chances that Bush could convince his own party, let alone the Democrats, to institute such a profound reform? *Absolutamente cero, amigos.* — Gary Jason

Ignorance is bliss — Questionably talented celebrity Paris Hilton was found guilty of driving on a suspended license and sentenced to 45 days in jail. Her attorneys managed to finagle a delay in sentencing so that the tabloids could ruminate over it for a few weeks, and prepare space in next month's issue for the orange jumpsuit layout.

I wonder if this was the correct sentence. Although there is a public outcry for some sort of justice to be levied against this scofflaw, all the surrounding publicity only serves to feed her insatiable appetite for attention. There's a very good chance that her manager is right this minute salivating over the possibilities of a new reality show, and perhaps another underground porno tape. It is one of those rare occurrences that make me wish I were King of the World. Rather than sentence this creature to 45 days of front-page press, I would order that everybody just ignore her for a month. I imagine the torture of being treated like a normal person would be unbearable, and possibly corrective. — Tim Slagle

Why the tigers broke free — Bad people do bad things. There's nothing to be done about it, except to use the still-warm bodies to prop up political agendas. Several interest groups wasted no time in doing that with the Virginia Tech shootings.

That incident inevitably dredged up memories of the previous ones. Columbine is the best remembered. There's a temptation to think of the two as part of the same phenomenon: deranged kids who play violent video games and write violent stories and listen to violent music, who decide to shoot their peers and then turn the guns on themselves. Indeed, the Tech shooter, in the videos he left behind, called the Columbine shooters "martyrs."

Still, the motivations are quite different. Columbine and Virginia Tech are different in an instructive, and therefore important, way.

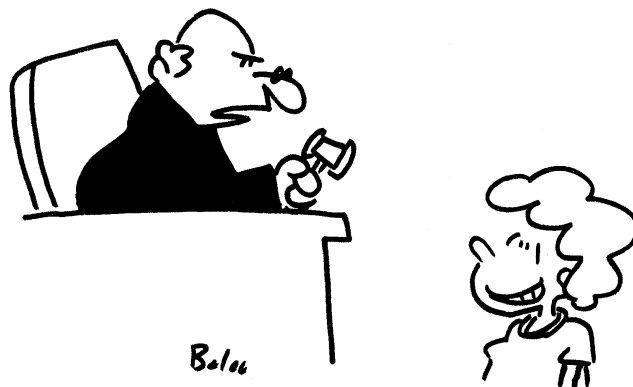
I have a friend my age, mid-20s, who found school

annoying and boring at times, but basically okay. For me, school was hell. With a few blessed exceptions — a teacher here, a class there — it was an oppressive system of tyrants who got off on having power over me. When the teachers weren't coming for me, the bullies were. My friend doesn't understand Pink Floyd's "The Wall." For me, its significance is almost religious.

My friend doesn't understand how a kid in one of our education factories could flip and shoot the place up. I can. Editorial custom requires the disclaimer that I could not, and would not, kill innocent people myself; something is wrong with the mental machinery of the Klebolds and Harris and Cho Seung-Hui of the world. But that doesn't mean I can't empathize with the way kids feel when they inhabit the lowest rung of a school social hierarchy.

My friend doesn't understand how I could empathize with the shooters. I don't understand how he couldn't. I can't help but feel *that's* what causes school shootings like the one at Columbine: two radically different and irreconcilable conceptions of the school experience. Between my friend and me, it is not a problem — but between a "troubled" child and an incompetent school principal, or between a bullied kid and a daft "zero-tolerance" legislator, the stark incomprehension is a recipe for disaster. The last thing a kid pissed off at the world needs is a helpful "intervention" by a school counselor, or a one-size-fits-all punishment from a school administrator, before getting stuck back in a classroom with the same kids who will drive him to shoot up his school.

Virginia Tech wasn't a Columbine. I don't know what caused it, probably no one really does, and it doesn't matter. Thirty-two people are dead and they're not coming back, and Cho Seung-Hui isn't going to be shooting any more people, ever. But he was a legal adult taking a class from Nikki Giovanni. He could cut class, or leave school, or move to a different city, any time he cared to. That's a very different thing from a couple of kids taking geometry and English classes in high school under a compulsory attendance law. There are many implications to this. The only one I'm concerned with



"How the devil could it have been the other car's fault? — It was parked in an auto showroom!"

here is that school shootings aren't a uniform phenomenon, and that anyone who wants to fix the problem should start by recognizing that maybe there isn't a problem. Maybe the world is an imperfect one in which crazy people sometimes shoot up classrooms.

— Patrick Quealy

Where have all the liberals gone? — Does anyone else sense that the philosophical and practical, if not perhaps yet quite political, decline of contemporary liberalism may not be far off? The idea of liberalism for much of the 20th century was that bigger government is better. As it happens, unlike many libertarians, I don't believe that more government is necessarily a great evil. Far too many libertarians, it seems to this humble reflector, equate a slightly higher marginal tax rate with storm troopers at the door in the middle of the night.

To be clear, I think it is typically correct to oppose higher marginal tax rates, but this is not my point. Rather, my point is the intellectual bankruptcy of contemporary liberalism. The fact is that contemporary liberalism has largely degenerated, at the local level, to higher pay for existing government workers. In other words, contemporary liberals do not seek more tax money for new programs to do (in their eyes) good things. Rather, they seek and use new tax money simply for higher pay and better benefits for existing government positions. It's hard to see much liberal about that.

Besides standing for higher pay for government workers, contemporary liberalism at the local level often works hard to make it more difficult for people to build or improve homes or businesses. It is hard to see anything very liberal about that, either.

At the state and national levels, liberals typically oppose educational reform. Once again, it's hard to see this as liberal, particularly when American public education is doing such a poor job for so many children, especially poor and minority children.

At the international level, liberals often oppose free trade. They would like people in the United States not to enjoy all the benefits of free trade, so that people in developing countries can remain without those benefits, too. And from an ecological perspective, liberals too often oppose the technological innovation that might literally save the planet.

In short, it was one thing when liberals said, we want more money to build more roads and open new schools. Individuals can differ over the appropriate functions of government, and they certainly differ about particular expenditures. But it is a different argument to demand more money for roads and schools than it is to demand more money for higher pay for government workers, or to make it difficult for people to build, or to stymie educational reform, oppose trade, and oppose progress. Contemporary liberalism is out of touch with reality. The policies it favors do not comport with the ends that liberals say they seek.

For these reasons, and many other good libertarian ones, the end of contemporary liberalism may be sooner than we think. Contemporary liberalism just isn't very liberal.

— Lanny Ebenstein

Hot topic — For those interested in the global warming debate, there are two recent shows that haven't gotten much airtime that are well worth listening to. First, as a reader kindly informed me, a British TV program called "The Great

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Global Warming Swindle" is now available on the internet. If you google the title, you can download and watch it. The show caused quite a stir in Britain, being a blunt critique of the whole global warming theory. Thank God for the internet — the mainstream media can no longer just spike stories that go against the received wisdom.

The show features quite a few prominent scientists who express their doubts about various postulates of both the Narrow and the Grand Theory of Warming — scientists from prestigious institutions, such as MIT, NASA, the International Arctic Research Centre, and others. I can't say I agree with everything the show presents, but it's a vigorous presentation.

A second show that went unnoticed in the major media was a debate held on NPR about the Intelligence Squared U.S. program. Again, you can find the home page (and download the audio of the entire debate) by googling "NPR Global Warming is Not a Crisis." Arguing in favor of the not-a-crisis proposition were Michael Crichton (bestselling author and filmmaker), Richard Lindzen (MIT professor of meteorology and probably the best known critic of global warming), and Philip Stott (emeritus professor of biogeography at the University of London). Arguing against the proposition were Brenda Ekwurzel (climate scientist with the Union of Concerned Scientists), Gavin Schmidt (climate modeler at the NASA Goddard Institute for Space Studies), and Richard Somerville (professor at the Scripps Institute of Oceanography). Both sides articulated their positions well, giving an unusually balanced presentation of a highly politicized topic.

It is interesting that in a vote before the debate, 30% of the audience agreed with the motion, 13% was undecided, and 57% opposed (i.e., believed that global warming is a real crisis). After listening to the debate, 46% agreed with the motion, 12% were undecided, and only 42% remained opposed.

— Gary Jason

Give me martyrdom, but not yet — We are in a war against Islamofascism, we are told. They hate us because of their fanatical religion, we are told. They have declared war against the West with no reason — we have done nothing to them — and they know no answer except force. We cannot compromise with them, we are told, because they have no fear of death. They believe that when they die they'll be greeted by 72 virgins.

Why do so many otherwise sane people find that in any way believable? Christians, too, believe in everlasting life after death, albeit (as Mark Twain delightfully lampooned in his "Letters From the Earth") without sex. How many Christians do we see cutting their lives short in order more quickly to enjoy the benefits of everlasting bliss in the hereafter? Why aren't more Muslim fanatics saying to themselves and their leaders, as a counterpoise to St. Augustine's famous aphorism ("Oh Lord, give me chastity, but do not give it yet"): "Yes, 72 virgins sounds like a good deal. Can you sign me up in, say, 20 years?"

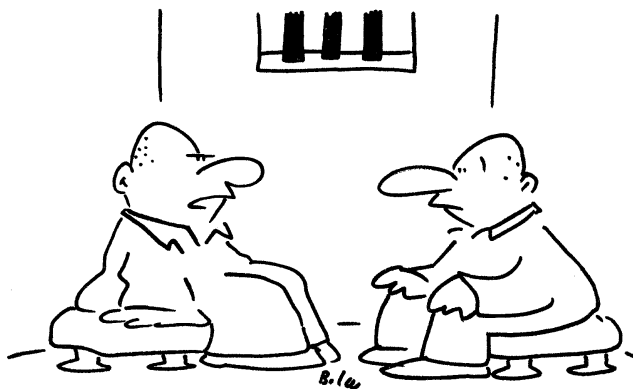
Granted, Christians, unlike jihadist Muslims, may think they'll be denied the blessings of heaven if they commit suicide or otherwise deliberately cause their own deaths. But I

have never seen any study indicating that those who truly believe in everlasting bliss after an earthly demise act more recklessly: use their seatbelts less often, bungee-dive more, or otherwise do anything that at the margin hastens their shuffling off this mortal coil earlier than their more secular brethren. So why do we so easily believe it of those whose religion is, like themselves, more foreign? Because it is easy to believe tall tales of those whom you see as your enemy? Because it stops us from having to look for more straightforward explanations?

Such as this: here's an excerpt from Robert Fisk's "The Great War for Civilization: The Conquest of the Middle East," a magisterial history of the Middle East in the 20th century. Fisk is a journalist (and masterly writer) who has covered the region for more than three decades, and has personally interviewed all principals, including Osama bin Laden. This passage is from the beginning of Chapter 19, "Now Thrive the Armourers . . ." Fisk is visiting a 24,000 square foot exhibition center demonstrating the latest and greatest in weaponry, right in the middle of Abu Dhabi:

[T]here lay on display some of the most sophisticated and most lethal ordnance ever made by man . . . a French missile, a German tank, an American Hellfire rocket, a British armoured vehicle, a Dutch self-propelled gun, a shelf of Italian pistols, a Russian automatic rifle, a South African army video-screen of crimson explosions . . .

For twenty-five years now, the crudest and most fabulously designed bullets, rockets, missiles, tank shells, artillery rounds and grenades have been hurled in my direction [as he covered the many wars of the Middle East] . . . Israelis with American Hellfire air-to-ground missiles, Syrians with Russian T-72 tanks, RAF pilots with American cluster bombs, Afghan mujahedin with Russian AK-47 rifles, Russians with Hind helicopter gunships, Iraqis and Azerbaijanis with Russian-manufactured Scud rockets and Iranians with US-made sniper rifles and Americans with Boeing fighter-bombers and battleships whose shells were the size of Volkswagens . . . In a quarter of a century, I've seen thousands of corpses — women



"Well, I learned something from all this — alien abduction makes a lousy alibi."

and children as well as men — blasted, shredded, eviscerated, disembowelled, beheaded, lobotomised, castrated, and otherwise annihilated by the multi-billion dollar arms industry. Almost all of them were Muslims. This is a symbol of our triumph over the Middle East in Abu Dhabi this hot March day of 2001, our ability to kill Muslims — and to help Muslims kill other Muslims — with our weapons. They have no weapons that can touch us. Not yet. Not for another six months.

Perhaps one need not posit the delights of otherworldly hymen breakage to understand what might motivate some Muslims to despise the West. Perhaps we need not believe they have a visceral hatred of freedom and democracy to find some explanation for their bizarre actions. Perhaps we need only realize that, not being Christians, it was unreasonable to assume that they would forever turn the other cheek.

— Ross Levatter

Joining Team America — The election of Nicolas Sarkozy as president of France prompts the observation that, rhetoric aside, many of the leading nations in the world are moving in an American direction. France, Germany, and Canada have now replaced leaders relatively lukewarm to America with relatively pro-American ones. The Anglo-American alliance, with Tony Blair, has been strong, and now that he has resigned his post, it appears possible that Conservative David Cameron will win the next election in Great Britain. In Asia, Japan and Australia have, if anything, moved even closer to the United States than they historically have been. U.S.-Indian relations are stronger than ever, in part because of the perceived shared twin threats of China and militaristic Islam.

In short, notwithstanding rhetoric and impressions to the contrary, voters in leading nations around the world are entrusting their governance to leaders who support an active role for the United States in the world. I have always

questioned the large segment of the libertarian movement that almost reflexively adopts superficially pacifist policies — the segment that opposed the Vietnam War, opposed military expenditures in the Nixon, Ford, and Reagan administrations, opposed an antiballistic missile system and then the Strategic Defense Initiative, opposed the deployment of intermediate-range ballistic missiles in western Europe in the 1980s, opposed the Gulf War, and that now opposes the Iraq War. It would be possible to identify libertarian leaders who have taken every single one of these (in my view) mistaken policy positions, and, what is worse, continue to maintain them.

Bad policy ideas are very difficult for people of any political orientation to shake. Moreover, it is always possible to question the implementation of policies, as distinct from their general direction. But, if the voters of the world are a leading indicator, things may just yet turn out better in Iraq than now hoped.

— Lanny Ebenstein

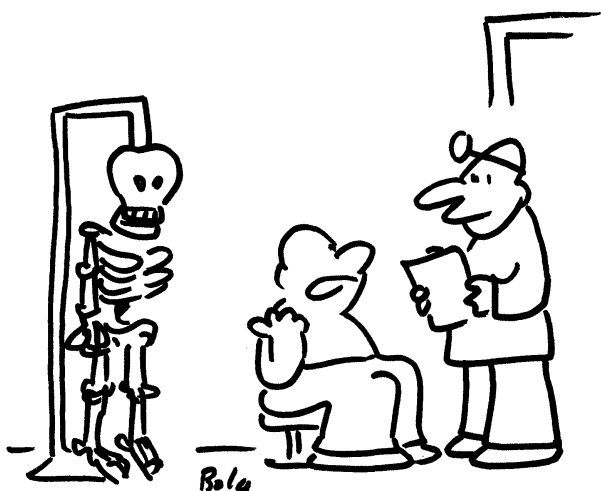
Nuke sensation — Nuclear power seems to be making a comeback in America, and Texas is leading the way. TXU Corporation has announced it is canceling plans to open a bunch of coal-fueled power plants and will instead open nukes. Other Texas utilities, such as Amarillo Power, Exelon, and NRG Energy have also announced plans to open nuclear plants (pronounced “newkewler” in that region of the country). Indeed, if all the planned reactors actually open, within a decade Texas will have more newkewler plants than any other state.

Some news that will make libertarian hearts glow (so to speak): under Texas’ new deregulated system, any cost overruns will be covered by the power company shareholders or by the federal government, not by the consumers or residents of wherever the new plants are going. This should lessen NIMBY resistance — though paying people near the plants a yearly stipend would be even better.

Less welcome news is that TXU will be buying the reactors from Mitsubishi Heavy Industries Ltd., a Japanese company. As plants get built around the country, other likely reactor suppliers will be Westinghouse, formerly an American company, but bought by Japanese years ago, and Areva, France’s major supplier of reactors. GE is the sole remaining American supplier, and it cannot possibly handle all the new orders.

So the sad fact is that if America does finally return to nuclear power, it will be paying massive amounts of money to foreign companies using American technology to do the job. When you think of all the highly skilled jobs destroyed when the environmentalists and other antinuclear activists killed nuclear power in the 1970s, it is nauseating. We destroyed an entire industry, turned to foreign oil, shipped trillions of dollars to people who want to kill us — and now we may need that industry back, so we’ll have to buy it from abroad for higher prices. Amazing.

I have a modest marketing suggestion. Since the aging hippies who did in the nuclear power industry in the 1970s are still around, maybe we should rename the technology . . . something like “New Kewler Power”? — Gary Jason



“Which HMO does *he* belong to?”

The Failed Playwright of Virginia Tech

by Scott Stein

Can studying a killer's art help us prevent future carnage?

After Cho Seung-Hui killed 32 people and himself at Virginia Tech on April 17, 2007, media attention quickly turned to the "warning signs." Whenever one of these mass school shootings occurs, much is made of the warning signs that were missed. How could school officials or family members not have known what these shooters were planning? How could they not have known about the bullying, the hours in the garage building pipe bombs, the rage, the isolation? How could they not have seen the violent video games and aggressive music as the clues that, in retrospect, some believed they clearly were?

This standard narrative that follows mass school shootings unraveled before it really got going in the Virginia Tech case. Cho's warning signs were everywhere, and no one seemed to miss any of them. There were stalking accusations, psychological evaluations, police reports, and freaked-out professors and students. Even Cho's creative writing — the ostensible cause of the freaked-out professors and students — was taken as a warning sign.

In fall 2005, Cho's poetry professor, Nikki Giovanni, insisted that, because his "poetry was so intimidating — and his behavior so menacing," he be removed from her course. According to [cnn.com](#), "Giovanni went to the department's then-chairwoman, Lucinda Roy, and told her, 'I was willing to resign before I was going to continue with him.' Roy took Cho out of Giovanni's class."¹ Roy taught Cho herself, one on one, but "[h]is writings were so disturbing, she said, that she went

to the police and university administrators for help."² His poems, to my knowledge, have not been made available to the public. However, two of his plays have been. Shortly after the shooting, Cho's former classmate Ian MacFarlane, an AOL employee, posted an entry on AOL News Bloggers containing the full text of "Richard McBeef" and "Mr. Brownstone." Both pieces were submitted by Cho to a playwriting class that he and MacFarlane attended. The plays are described, in a warning by AOL, as containing "disturbing content."³ MacFarlane goes further:

When we read Cho's plays, it was like something out of a nightmare. The plays had really twisted, macabre violence that used weapons I wouldn't have even thought of. Before Cho got to class that day, we students were talking to each other with serious worry about whether he could be a school shooter. I was even thinking of scenarios of what I would do in case he did come in with a gun, I was that

freaked out about him. When the students gave reviews of his play in class, we were very careful with our words in case he decided to snap. Even the professor didn't pressure him to give closing comments.⁴

Early in the blog's comments section, there was broad agreement about the clear signal the plays were sending. One woman, Judi, wrote, "Why didn't his instructors see

Cho's warning signs were everywhere, and no one seemed to miss any of them.

that something was very seriously wrong with this man at the time of this writing[?]"⁵ Another commenter, Blackdog, wrote, "I'm very surprised that writing like this didn't get the attention of the school authorities. He was obviously a very angry young man and relayed issues that he had through his writing."⁶ A third commenter, Linda, wrote, "Guess I'm naive, but this piece of porn should've elicited some kind of action when he turned it in. Perhaps, in our depraved society, this was not considered out of the 'norm'.⁷

These early commenters on the blog did not know when they wrote the above that, indeed, Cho's creative writing had attracted the attention not only of school authorities but also of the police. When asked, however, "about Roy's concerns that Cho was writing troubling plays and poems in his classes," Chief Wendell Flinchum said, "These course assignments were for a creative writing course and the students were encouraged to be imaginative and artistic. The writings did not express any threatening intentions or allude to criminal activity. No criminal violation had taken place."⁸

Giovanni said that the poems were not violent. "It's not like, 'I'll rip your heart out.' It's that, 'Your bra is torn, and I'm looking at your flesh.'"⁹ No student or professor who had read Nabokov's "Lolita" or much that has been published in recent decades would be frightened by this sexually charged content, in and of itself. If the plays — which, unlike the poems, do contain violence — are any indication of the disturbing content in Cho's creative writing, I would argue that not only hadn't a criminal violation taken place, but the writing itself wasn't much cause for concern, and wasn't enough reason to contact the police.

I've been teaching creative writing on the university level for about seven years. I've taught such courses as writing fiction, writing humor and comedy, and introductory creative writing. Before the Virginia Tech shooting, receiving a story with the kind of violence contained in Cho's plays — absent some exceptionally odd student behavior — wouldn't have elicited a second thought. Cho's classmate MacFarlane refers to the plays' "twisted, macabre violence," and a commenter refers to them as "porn." While "Richard McBeef" certainly has some violent content, it's rather tame, cartoonish violence and is not gruesome. "Mr. Brownstone" is hardly violent at all.¹⁰

In "Mr. Brownstone," the characters do curse a lot. They are at a casino and spend much of the play complaining about their mean teacher, Mr. Brownstone. They talk about wanting to kill him. They see him at the casino, and they taunt him. They sing a song. Then they win a slot machine jackpot, and Mr. Brownstone accuses them of stealing his jackpot. Brownstone is believed, and the kids are thrown out of the casino. The play ends with all three kids yelling, "You won't get away with this, Brownstone! You old muthafucker! Muthafucker! Muthafucker!" That's it. No one is killed or even assaulted.

In "Richard McBeef," John begins by saying to his stepfather, Richard, "What's up, Dick!" Richard attempts to have a talk with John, to try to get along with him, but John is having none of it. He chews on a cereal bar "angrily." When Richard casually rests his hand on John's knee for a second, in an apparently innocent, fatherly manner, Cho throws in a couple of lame pedophilia jokes, having John refer both to Catholic priests and to Michael Jackson's Neverland Ranch. John accuses Richard of murdering his biological father in order to get into John's mother's "pant." Richard denies it and remains calm, and John stays on the offensive, continually cutting Richard off and finally saying, "You want me to shove this remote control up your ass, buddy! You ain't even worth it man. This remote was five bucks. You are such a—"

This impertinence brings the first threat of violence from Richard, who says, "NOW THAT'S ENOUGH," and "raises his hand to strike his stepson." John's mother, Sue, walks in at this moment, confronts Richard, and mocks his "chubby face." John accuses Richard of trying to "touch my privates," and Sue then attacks Richard, slapping him in the head "multiple times" and even hitting him with her shoes, hard. The violence and over-the-top dialogue continue from here, with Sue throwing a plate at Richard and calling him a "fat piece of pork" and a "bisexual psycho rapist murderer."

John is alone in his room at this point, throwing darts at a picture of Richard's face and talking to himself about killing Richard. He then rejoins the others and once again accuses Richard of molesting him. Sue drives Richard from the home by brandishing a chainsaw. At the end of the play, alone in the car with Richard, John goes on an extended rant, insulting his

Every reader can name, in a minute, dozens of respected and popular works that are far more violent than anything Cho wrote.

stepfather for a long paragraph before sticking his "half-eaten banana cereal bar in his stepfather's mouth and [attempting] to shove it down his throat." Richard removes the cereal bar, and the play ends with stage direction: "Out of sheer desecrated hurt and anger, Richard lifts his large arms and swings a deadly blow at the thirteen year old boy."

"Richard McBeef" *does* conclude with, presumably, a murder (taken literally, John is killed by Richard's "deadly blow"), and there *is* the use of shoes, plates, and a cereal bar as weapons. But the violence hardly seems real, and is mostly derivative — killing with a chainsaw is a movie cliché, seen in both "The Texas Chainsaw Massacre" and "Scarface." And it should be noted that in Cho's play the chainsaw never actually harms anyone. An angry woman throwing plates at a spouse isn't original, either. We've all seen that in a movie or TV show. Richard isn't even injured by the plate that hits him in the head. The violence reads like a cartoon, without the glee, of course, though Cho makes a pathetic attempt at wit with the insults hurled at Richard by John and Sue. Only the shoving of the cereal bar down Richard's throat stands out as truly violent. It's the play's most intimate, visceral moment, coming closest to projecting real rage. Having characters chase each other with chainsaws is easily dismissed as imitation. The cereal bar, the forcing of something down another person's throat, is angrier, more personal.

Lacking the context of Cho's behavior and demeanor, even this violent use of a cereal bar would not ordinarily be viewed as a warning sign. Actually, it's the only bit in the entire play that successfully conveys what the author intends, and is just the sort of memorable detail that a writing instructor might point to as effective. It isn't genius or anything, but it beats "brandishes a chainsaw."

The violence in "Richard McBeef" is not remarkable. There's an entire genre of horror movies, and a subgenre of slasher movies. And action movie fans have delighted in high body counts for decades. Short story writers and novelists haven't shied away from scenes of torture and murder, either. The movie "Saw" and the novel "American Psycho," just as two examples, contain far more explicit horror and violence than anything a student is likely to produce, though some students try. Whatever one thinks of such works, they have received their share of commercial success and critical attention, and it shouldn't shock anyone that writing students have been influenced by these and hundreds of other works full of violence. Every reader can name, in a minute, dozens of respected and popular works that are far more violent than anything Cho wrote.

One need not point only to contemporary examples. Cruelty and murder abound in Shakespeare's tragedies; the treachery and the body count in "Hamlet" are impressive. Just the other day I was discussing Edgar Allan Poe's short story, "The Black Cat," with my students. More than a few of them found it disturbing, particularly when the narrator tells the reader that, furious with his cat, he "took from a waistcoat-pocket a penknife, opened it, grasped the poor beast by the throat, and deliberately cut one of its eyes from the socket!"¹¹ Few writers have ever commanded prose to such concisely powerful violence as when Poe's narrator tells us that, in a rage at his wife, "I withdrew my arm from her grasp and buried the axe in her brain. She fell dead upon the spot without a groan."¹²

Whether writing students are influenced by TV shows like "24" and "The Sopranos" or by writers like Poe, some of them are going to produce violent stories and plays. I've had stories handed in to my fiction workshops about all manner of murder and mayhem. "Richard McBeef" doesn't come close. There

is no shortage of mobsters and hitmen in student stories I have read, with someone always getting whacked. Students trying to write thrillers develop convoluted fight scenes, with loving descriptions of each punch and spin kick knocking some teeth loose. One student recently wrote about a suicide club that the protagonist stumbled upon; blood was on the floor and walls,

Cho's play "Richard McBeef" has some violent content, but it's rather tame, cartoonish violence and is not gruesome.

and people were slashing their wrists. Another student wrote about a woman who lured men to her apartment on dates, and then, after invariably discovering that they were hiding from her the fact that they were married, killed them. An especially ugly story was about a home invasion that ended with quite graphic descriptions of people killing each other. The list goes on and continues to grow. Should I have reported the author of the suicide story to the counseling center, for the student's own protection? Pedro, responding to the comments on MacFarlane's blog post, said it well:

You can't "turn someone in" because they create a piece of art that you think may say something about them. It's a work of imagination (or it's supposed to be). Perhaps he was just getting inside the mind of a young sociopath. Turns out he had issues obviously, but you know how many thousands of plays, stories and poems are submitted to creative writing classes that are way more disturbing than that? You can't just assume that means someone is demented.¹³

The violence in a creative writing piece isn't itself a warning sign. Stephen King, known for writing some violence of his own, agrees: "Certainly in this sensitized day and age, my own college writing — including a short story called 'Cain Rose Up' and the novel *RAGE* — would have raised red flags, and I'm certain someone would have tabbed me as mentally ill because of them."¹⁴ Despite the attention being paid to Cho's plays, creative writing instructors must avoid reading student stories as predictors of future real life violence. King writes, "For most creative people, the imagination serves as an excretory channel for violence: We visualize what we will never actually do."¹⁵ Pedro is right that these kinds of stories are handed in every semester to writing workshops across the country and that they don't tell us much about the writer. Some of the stories are even well-crafted. Cho's plays are not.

King thinks that this matters: "On the whole, I don't think you can pick these guys out based on their work, unless you look for violence unenlivened by any real talent."¹⁶ CNN tells us that Cho's poetry "had no meter or structure or rhyme scheme. To Giovanni, it was simply 'a tirade.'" She said, "There was no writing. I wasn't teaching him anything, and he didn't want to learn anything."¹⁷ It is true that Cho's plays

are very, very bad. They aren't stories at all. But I can't agree with King that identifying violence without talent might help us "pick these guys out." There are a lot of people out there without any talent filling their screenplays with blood and guts. Most of these people will never hurt anyone. Maybe the imagination serves as an excretory channel for the untalented as well as the talented. Maybe the violent content has nothing to do with an excretory channel, and aspiring writers are just imitating what they have read and seen.

Although Giovanni was referring to Cho's poetry, I would also describe his plays as "tirades." It's just him emoting, projecting, and posing. There's no plot development, no coherence, and no attempt really to tell a story. The plays also demonstrate a lack of maturity and logical thought. As a blog commenter named Stacy asked, "This is something written by a senior in college? It reads and sounds like something a 9th grader might write."¹⁸ An immature, not overly bright ninth-grader, one might add.

So it's tempting to say that, though it isn't especially violent, Cho's writing's immaturity and illogic indicate that he was dangerous. Of course, when I read the plays for the first time, I already knew that he'd killed 32 people. But had I not known that, if I am being honest with myself, I believe I would have thought, "This is a crappy play by a bad writer." Probably, even though I have read some directionless student work in my time, I would have also thought, like some blog commenters, "This is a college student?" Cho's work is markedly immature and illogical, but I just don't think I would have seen any of it as a warning sign about impending violence in the real world.

Yet his professors and fellow students did. Based on what I've seen of it, I believe that Cho's writing could not, or should not, by itself, have driven a professor to contact authorities. His behavior and demeanor were the main warning signs. He barely talked with anyone. Lucinda Roy "recalled Cho exhibiting a palpable anger and secretly taking photographs of other students while holding the camera under his desk." Giovanni described him as "menacing."¹⁹ The police had also received stalking complaints. It was Cho the person, not Cho the writer, who was the warning sign.

College professors become accustomed to having troubled students — students who stop showing up for weeks at a time; students who grumble under their breath; students dealing with depression or drug problems or family crises; students

with odd personalities; students who are socially awkward or say inappropriate things; students who cry because of a recent breakup with a boyfriend or girlfriend; students who are angry at the whole world. Long before Cho's rampage at Virginia Tech, many professors have found themselves becoming wary of a student or two and have had to decide whether to seek outside assistance, and not necessarily because they were expecting a violent outburst. In creative writing classes especially, where the order of every day is critiquing a student's work — work in which a student may have a great deal invested emotionally — tactfully managing the personality of the occasional troubled student is required.

Even given all the troubled students whom a career in teaching exposes professors to, Cho's demeanor and behavior must have stood out. The raw, pointless anger in his writing might have completed the picture for his professors, but that alone doesn't explain their concern. It's worth keeping all of this in mind as the fear caused by the massacre at Virginia Tech brings an inevitable overreaction when dealing with students' writing and other forms of self-expression. Already, little more than a week after the shootings, a high school senior was arrested for the violence in his creative writing assignment.²⁰ Eighteen-year-old Allen Lee's essay seemed to contain an outright threat, and he faces two disorderly conduct charges. Given recent events, the least that can be said is that Lee's work was monumentally stupid:

According to the complaint, Lee's essay reads in part, "Blood, sex and booze. Drugs, drugs, drugs are fun. Stab, stab, stab, stab, stab, s...t...a...b...puke. So I had this dream last night where I went into a building, pulled out two P90s and started shooting everyone, then had sex with the dead bodies. Well, not really, but it would be funny if I did."²¹

It seems clear that this student is messing around, but he also wrote, "[D]on't be surprised on inspiring the first CG [Cary-Grove High School] shooting."²² Does a high school teacher ignore this? Should he? Note that the assignment told students to "write whatever comes to your mind. Do not judge or censor what you are writing."²³ Whether you think Lee is guilty only of poor judgment or of making a serious threat, whether you think the school and police overreacted or were vigilant, this one case is just the beginning, if we fool ourselves into thinking that we can prevent future horrors by looking for warning signs in student writing. □

Notes

1. "Killer's manifesto: 'You forced me into a corner,'" CNN.com (April 18, 2007); <http://www.cnn.com/2007/US/04/18/vtech.shooting/index.html>.
2. *Ibid.*
3. "Cho Seung-Hui's Plays," posted by Ian MacFarlane, AOL News Bloggers (April 17, 2007); <http://newsbloggers.aol.com/2007/04/17/cho-seung-huis-plays>.
4. *Ibid.*
5. *Ibid.*, comment by Judi at 2:59 p.m., Apr 17, 2007.
6. *Ibid.*, comment by Blackdog at 3:02 p.m., Apr 17, 2007.
7. *Ibid.*, comment by Linda at 2:56 p.m., Apr 17, 2007.
8. "Killer's manifesto."
9. Allen G. Breed, "Giovanni confronted Cho in poetry class," The Cincinnati Enquirer (April 19, 2007); <http://news.enquirer.com/apps/pbcs.dll/article?AID=/AB/20070419/NEWS01/704190350/>
10. All references to and quotations from "Richard McBeef" and "Mr. Brownstone" are based on the version accessible through AOL News Bloggers.
11. Edgar Allan Poe, "The Complete Tales and Poems" (Dorset, 1989), 478.
12. Poe, 481.
13. "Cho Seung-Hui's Plays," comment by Pedro at 2:55 p.m., Apr 17, 2007.
14. Stephen King, "On Predicting Violence," Entertainment Weekly (April 20, 2007); <http://www.ew.com/ew/article/0,,20036014,00.html>.
15. *Ibid.*
16. *Ibid.*
17. "Giovanni confronted Cho in poetry class."
18. "Cho Seung-Hui's Plays," comment by Stacy at 2:28 p.m., April 17, 2007.
19. "Killer's manifesto."
20. "Student arrested for essay's imaginary violence," CNN.com (April 27, 2007); <http://www.cnn.com/2007/US/04/27/student.essay.arrest.ap/index.html>.
21. *Ibid.*
22. *Ibid.*
23. *Ibid.*

The YouTube Wars

by James Walsh

The internet is serious business — and America's copyright laws are not up to the challenge.

Many people are drawn to libertarian political philosophy because of its emphasis on property rights. Others are drawn to its emphasis on personal freedom. These different draws explain why people as diverse as tweedy law professors and pierced anarchist punks call themselves "libertarians."

These different perspectives come into conflict with regard to intellectual property. Which is the true libertarian take on IP? Fierce protection of copyrighted material, or anarchic "free use" of images and ideas? There is no general agreement about which laws or legal theories best apply to intellectual property in the online world. Chaos has therefore been the default position of the marketplace. The recent legal dispute between Viacom Inc. and Google Inc.'s YouTube online video-sharing unit may give shape to the chaos.

In March, Viacom sued Google, claiming that more than 150,000 unauthorized video clips of Viacom intellectual property (mostly snippets from television shows) had been "viewed an astounding 1.5 billion times" on YouTube.

The lawsuit will turn on the mechanics of the Digital Millennium Copyright Act (DMCA), which was passed by Congress and signed by Bill Clinton in 1998. The new law didn't replace existing U.S. copyright laws; it just added another layer of regulation on top of what was already there.

The DMCA has created the back-and-forth system of internet copyright enforcement that is familiar to anyone who's ever seen a funny or memorable video clip online . . . and then found it disabled a few hours later. In short, the DMCA puts

the burden of copyright enforcement on the copyright owner. The owner has to scan the marketplace, looking for unauthorized use of the copyrighted material; when the owner finds a violation, he or she — or *it*, in the case of a corporation — has to inform the violator and any intermediaries who've handled the unauthorized material. These "intermediaries" include internet service providers and websites like YouTube. In legal circles, this process is called a "notice and takedown" system.

To encourage the cooperation of the intermediaries, the DMCA includes a "safe harbor" provision that holds intermediaries legally blameless if they've acted in good faith and respond in a timely manner to the claims of the copyright owner.

Herein lies the legal beef between Viacom and Google.

Google argues that YouTube is protected by the DMCA's safe harbor provision; it claims that YouTube's standard policies explicitly comply with the provision. Specifically, YouTube limits uploads of material that's not original to ten minutes in

length, and it has a formal, posted policy for removing copyrighted material immediately upon the owner's request.

Viacom argues that YouTube is *not* protected by the safe harbor provision because it has built its business model on the knowing, unauthorized use of copyrighted material. Among the things Viacom lawyers have said in their lawsuit and related public statements:

"YouTube is a significant, for-profit organization that has built a lucrative business out of exploiting the devotion of fans to others' creative works in order to enrich itself and its corporate parent Google."

"YouTube has failed to employ reasonable measures that could substantially reduce, or eliminate, the massive amount of copyright infringement on the YouTube site from which YouTube directly profits."

The DMCA safe-harbor provision (section 512 of the Act, for anyone who wants to read its complete language) states that intermediaries like YouTube cannot "receive a financial benefit directly attributable to the infringing activity" and must not be "aware of facts or circumstances from which infringing activity is apparent" in order to be held blameless. In previous lawsuits, the music file-sharing sites Napster and Grokster tried to claim safe-harbor protection and failed — because they each did these prohibited things.

So, Google and YouTube could have a problem.

Taking a step back from the legal mechanics, the Viacom-Google lawsuit may just be a hardball negotiating tactic that will end in some kind of settlement that allows ongoing use. License deals that YouTube has recently made with companies similar to Viacom lend support to this theory.

Taking a couple more steps back, a rational person sees that technology and marketplace advances are making a hash of U.S. copyright laws. Even the DMCA, relatively recent at ten years old, seems to have been lapped by the rise of companies like YouTube.

The main issue that complicates all copyright claims — under the DMCA and other intellectual property law — is "fair use." This legal theory is, effectively, a longstanding loophole to copyright protections.



"The way Walter does day-trading, it should be done under cover of night."

Fair use allows people to use excerpts or parts of copyrighted work when discussing, criticizing, satirizing, or explaining the ideas in or style of that work. Fair use is the reason that book critics can quote from the books they review; it's the reason news programs can show short bits of TV shows that are themselves newsworthy.

Online media have always drawn heavily on the fair use of text, images, music, and video; internet-based ventures like Napster and YouTube clearly test the limits of the theory. Their users and proponents argue that "information wants to be free" and that, ultimately, copyrights and trademarks are obsolete notions.

The DMCA tries hard to slap down that line of argument. Among other things, it makes the mere possession of certain software programs that can be used to duplicate copyrighted material a crime — even if there's no evidence the person possessing the software ever violated anyone's copyright. (Also, local versions of the DMCA passed recently in states like Michigan, Colorado, and Oregon turn up the prohibitions of and punishments for possessing such software.)

Here, it may begin to sound like the DMCA is another nanny-state excess. But the problem isn't so much the law's overreach as it is the law's confusing effects. People are filling, or threatening to fill, the U.S. court system with increasingly bizarre intellectual property claims.

A man claiming to be the inventor of the "Electric Slide," a popular dance from the 1970s and still a staple of wedding receptions, sent DMCA takedown notices to a group of people posting videos on the internet. The group included everyone from a Silicon Valley software engineer to the television talk show host Ellen DeGeneres. Richard Silver of Groton, Conn., filed a copyright for the Electric Slide in 2004 and has been sending legal notices to people since, arguing that any video of someone doing the dance "incorrectly" must be removed.

And a corporation that has a license for the movie and television rights to George Orwell's novel "1984" has made noises about suing the creators of the fan-made satirical ad for Barack Obama that combines an iconic Apple computer ad with clips of Hillary Clinton as a Big Brother-like character. "The political ad copies a prior commercial infringement of our copyright," the president of Rosenblum Productions Inc. said in a press release. "We recognize the legal issues inherent under the First Amendment and the copyright law as to political expression of opinion, but we want the world at large to know that we take our copyright ownership of one of the world's great novels very seriously."

Is the DMCA the cause of this confusion? Or is it simply a reflection of confusing circumstances in the marketplace?

It's easy to convince people that something needs to be done about the internet's effect on intellectual property. Computer networks make sharing IP so easy that the very notion of "ownership" of that property becomes blurred. But what, exactly, is the *something* that needs to be done?

In the late 1990s, Congress and the president believed that *something* was a law prohibiting programs that might be used to erode IP ownership, and encouraging copyright owners to send out lots of cease-and-desist letters. But they didn't predict YouTube. Frankly, no one did.

Often, ineffective laws like the DMCA are the result of

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The Books of Summer

There's nothing like a good book on a summer day. Liberty's experts offer some advice about where that book can be found.

I get asked a lot, "What's a good book about economics?" Seriously, I do. And while you may think that says something sad about my life, think about the people who are asking.

My own study of economics started with "Economics in One Lesson" by Henry Hazlitt (1946), which is still a fine introduction, though it was written in the 1940s and covers a lot of specific economic fallacies that we don't hear much any more. If you want something more substantial, you might pick up a couple of readable college textbooks, "The Economic Way of Thinking" by Paul Heyne (1963), or "Economics: Private and Public Choice" (1976) by James D. Gwartney and Richard L. Stroup. For the serious student with a lot of time, there's "Human Action" by Ludwig von Mises (1949) and "Man, Economy, and State" by Murray Rothbard (1962). Or for something a little more fun, you could try the works of some modern-day Hazlitts: "The Armchair Economist" by Steven Landsburg (1993), "Hidden Order" by David Friedman (1997), or "The Undercover Economist" by Tim Harford (2005).

But increasingly, I've decided that the best answer to the question "What's the best book to start learning economics?" is "Eat the Rich" by P.J. O'Rourke (1998). P.J. is not an economist, as the aforementioned gentlemen are, but he plays one very well. And he's hilarious, which means your niece might actually read the book.

On page 1, P.J. starts with the right question: "Why do some places prosper and thrive while others just suck?" Supply-and-demand curves are all well and good, but what we really want to know is how not to be mired in poverty.

He writes that he tried returning to his college economics texts but quickly remembered why he hated them at the time — though he does attempt, for instance, to explain comparative advantage in terms of John Grisham and Courtney Love. Instead he decided to visit economically successful and unsuccessful societies and try to figure out what makes them work or not work. So he headed off to Sweden, Hong Kong, Albania, Cuba, Tanzania, Russia, China, and Wall Street.

In Tanzania he gapes at the magnificent natural beauty and the appalling human poverty. Why is Tanzania so poor? he asks people, and he gets a variety of answers. One answer, he notes, is that Tanzania is actually not poor by the standards of human history; it has a life expectancy about that of the United States in 1920, which is a lot better than humans enjoyed in 1720, or 1220, or 20. But, he finally concludes, the real answer is the collective *ujamaa* policies pursued by the sainted postcolonial leader Julius Nyerere. The answer is "ujamaa — they planned it. They planned it, and we paid for it. Rich countries underwrote Tanzanian economic idiocy."

From Tanzania, P.J. moves on to Hong Kong, where he finds "the best contemporary example of *laissez-faire*. . . . The

British colonial government turned Hong Kong into an economic miracle by doing nothing."

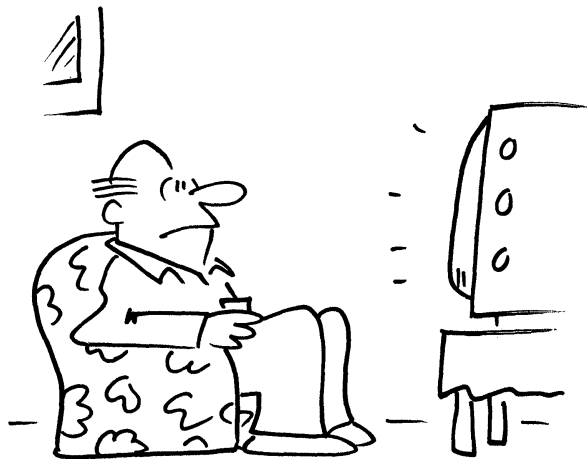
Your niece could do worse than to take a semester-long course on political economy in which the texts were two O'Rourke books, "Eat the Rich" and "Parliament of Whores" (1992).

David Boaz is the author of "Libertarianism: A Primer" and editor of "The Libertarian Reader." He blogs at the Guardian's "Comment is free" site and at Cato@Liberty.

I'll start with a title that most if not all of you have already read — "Capitalism and Freedom" by Milton Friedman. To me this book is bedrock. It and Hayek's "The Road to Serfdom" (1944) form the foundation of my personal philosophy of libertarianism. Read it again with 1962 (its date of publication) in mind. Big government liberalism was approaching its apogee. Real intellectual guts were required to buck that trend, and Friedman showed he had them.

I think that most of us will agree that given America's Middle East entanglements, we need a better understanding of recent events in that sorry region. "The Looming Tower" by Lawrence Wright (2006) is the best thing yet to appear on the background to 9/11. "The Shia Revival" by Vali Nasr (2006) is a great one-volume summary for anyone who wants to know more about the sectarian division in Islam and what it might portend for the future.

As we are at war, and fighting under leaders who have displayed an astonishing combination of hubris and incompetence, I highly recommend two classic works by the late, great Tory historian and MP Alan Clark. "The Donkeys" (1961) tells the tale of leaders whose stupidity ravaged the British Army in World War I, and all but brought about Britain's defeat in that war. "Barbarossa" (1965) recounts the German-Russian war of 1941–45, probably the most important land campaign fought since Marathon and Plataea. Here we see the hubris and incompetence of tyrants and their minions bringing



"This has been a test — put your pencils down *now!*"

untold suffering and death to millions. Clark, in addition to being a fine stylist, shows a wonderful feel for his subjects.

Reaching back once more into the past, I recommend Gore Vidal's "Burr." I can remember reading and re-reading it one summer when I was a teenager. If I recall correctly, when the book came out one reviewer termed it "a splendid entertainment." And so it is. The prose never flags. The wit is as dry as good champagne. I also like its skewering of one of libertarianism's false gods — Thomas Jefferson. Jefferson's concept of liberty extended only to white men possessing property. The vast majority of his fellow human beings — women, blacks, Indians, and white men lacking property — were second-class citizens, at best, in Jefferson's view. At some point in his life, Jefferson *said* the right thing about every topic, including liberty. His actions, however, always spoke louder than his words. He was a canting hypocrite and a physical coward. "Burr" shows the great democrat in his true light; Vidal's novel opened the way for the critical studies of Jefferson that have since appeared. If you enjoy "Burr," be sure to pick up its sequel, "1876," which is nearly as good.

Jon Harrison lives and writes in Vermont.

I have two books to recommend: "Watchers," by Dean Koontz, and "Golden Days," by Carolyn See (1986).

"Watchers" is Koontz at the top of his form — the matchless storyteller who knows how to make the hair stand up on the back of one's neck, the romantic who understands the courage required to love without conditions and without fear. It is the story of a government experiment in genetic engineering, an experiment which has produced two creatures — one murderous, the other benign — so opposite that only one of them can survive, and of the lonely recluse and the beautiful, lost woman whose lives become entwined with theirs and with each other. The suspense builds chapter by chapter, inexorably, to a final, spellbinding confrontation.

Typical of Koontz, this book refuses to present a simplified portrayal of good and evil; both good and evil are represented as complex, full of ambiguities and nuances. We may want to hate the evil creature, but in the end, we cannot . . . not quite. But we can love without reservation one of Koontz's best-drawn and most fascinating characters: Einstein, the golden retriever who has leaped the enormous gap between an animal who is highly intelligent and a being who is self-aware, and thus capable of rational judgment. Forget any animal in fiction that you ever have loved, and prepare to meet the unforgettable and noble Einstein — and to thrill at the prospect of finding another intelligent species to share our vast, cold universe. As Koontz writes: "What miracle could bring more joy, more sheer exuberance over the unanticipated wonders of life?"

I had a strange experience when I read See's "Golden Days." I was about halfway through the book, gripped and intrigued by it — yet wondering if I really liked it — when I suddenly started to cry. I don't mean that I had tears in my eyes; I mean that I was weeping, and I continued to do so, helplessly, until I had finished the book, constantly wiping fresh tears away so I could see the pages.

I thought at first that the book had hit some very personal

chord in me, that perhaps something about my mood on that day or the recent events of my life had caused so powerful and unusual a reaction. I would wait a couple of weeks, I decided, when I would be more measured and objective in my reaction, and read it again.

Two weeks later, I reread "Golden Days" — with the identical reaction. And I realized that my tears were not tears of pain; they were like the tears one sheds while listening to music almost too beautiful to endure, the tears that come from a kind of exquisite agony.

This small marvel of a book, witty and wise and mad, is the story of a woman and of nuclear war — but it is unlike anything on either subject you have ever read. It is a fusion of exaltation in the midst of despair, of hope that falters but cannot be killed, of a well-earned cynicism together with a triumphant conviction of the glory of fallible and stumbling human beings. It is clear-eyed and realistic and unsentimental — and it is an anthem, a hymn to the human will to survive and prevail.

There are very few books about which one can say: after I read it, the world was never quite the same again. This little gem is one of those books.

Barbara Branden is the author of the biography "The Passion of Ayn Rand."

Summer is the perfect time to visit London. Except, you don't really want to go there, do you? Not only is the exchange rate against you, but there is also that hideous London Eye disfiguring the skyline. I say we cease travel till they pull it down.

But that's not to say that you can't experience London, anyway. Better yet, you can experience it at four pivotal moments in its history, through the books of Liza Picard. In "Elizabeth's London" (2003) she presents a well-drawn portrait of two towns, London and Westminster, converging to become the most important and powerful city in Europe. The presence of the Virgin Queen permeates the pages as the era's most recognizable symbol — but Picard's gift is her ability to bring to life the day-to-day existence of Elizabeth's subjects. We can see the finer shadings of their education, their amusements, their medicines, their repasts, and the clothing and styles that filled their busy streets. We read about their trades, their crimes, and their religious beliefs — lovingly detailed from original sources, with humorous asides befitting the very British voice of the author.

Elizabeth died without issue in 1603. Turmoil followed, culminating in regicide and a brief flirtation with parliamentary rule. Soon, however, Charles II, the son of the murdered king, was back from exile to claim the throne. Picard undertakes the next era in "Restoration London" (1997). It is fascinating to see what changed and what didn't in the almost 60 years between Elizabeth's Golden Age and the reign of Charles II. My favorite passage in this book is a weekly Bill of Mortality from 1665. Among the various causes of death it includes this one: "Killed by a fall from the Belfry at Alhallows the Great — only one casualty [that week]." New building codes — enacted in the aftermath of the great fire of 1666 — changed the face of the city to the now-familiar flat-faced brick. Fashions, of course,

fluctuated with the whims of Paris, and there were some new Christian sects in town, but everyday life for the hoi polloi stayed much the same. Samuel Pepys' journal accounts of his life as an up-and-coming Londoner are priceless.

"Dr. Johnson's London" (2000) looks at the years 1750 to 1770, when George III still had his wits and lucky London had Dr. Johnson — 18th-century England's most important man of letters. Not only did Picard have the good doctor's recollections

Thomas Jefferson's actions always spoke louder than his words. He was a canting hypocrite and a physical coward.

tions from which to draw; she was also blessed with the illustrations of William Hogarth, who turned an unflinching eye upon the squalor of the London poor, and whose line drawings (several of which she includes in this book) stand in contrast to the sumptuous drawing-room portraits more familiar to modern minds.

In "Victoria's London" (2005), Picard dives into the next great shift in London and the lives of its citizens. Will you enjoy as much as I did turning to the first chapter and seeing the title, "Smells"? The Thames stank; the streets stank; houses stank; people stank. The most important person of 19th-century England may very well have been Joseph Bazalgette, who saw the whole putrid mess and engineered the London Main Drainage System. Hooray! Another major change was the interest that the rapidly growing middle class began to take in the poor. Schools sprouted everywhere — some weeds, some roses — but all giving little pickpockets a place to while away the daylight hours.

The best of all worlds awaits you in the books of Liza Picard. London lives in its glory and strife and growth and renewal — without any of its literal stench and grime and disease. There is no London Eye to offend the tourist's sensibilities, and the whole 400-year journey can be owned forever for less than \$100.

Justine Olawsky explores literary and cultural issues in her popular blog, sadiesbugsmom.blogspot.com.

Few libertarians have read "The Road to Disunion: Secessionists at Bay, 1776–1854," vol. 1 (1990), but more should. In more than 600 pages of compelling prose, the author, William W. Freehling, examines the interdependence between slavery and politics. Moving beyond the familiar dichotomy of free and slave states, he highlights the little-studied regional divisions within and beyond the South. In the Upper South and Border States, for example, political and economic forces were slowly unraveling slavery, while in the Deep South it was becoming even more entrenched.

"Out of Work: Unemployment and Government in

Twentieth-Century America" (1997), by Richard K. Vedder and Lowell E. Gallaway, offers an equally persuasive interpretation of another major crisis. The authors underscore the historical links between high unemployment and policies to increase real wages beyond sustainable levels. Most strikingly,

There were regional divisions within and beyond the South. In the Upper South and Border States, for example, political and economic forces were slowly unraveling slavery; in the Deep South it was becoming more entrenched.

they find that real wages were actually higher in 1933, the worst year of the Great Depression, than in 1929, the heyday of prosperity. It is no coincidence, of course, that in 1933 unemployment skyrocketed to a still-standing record of 25%. As free-market economists had warned, any gains for individuals were illusionary because employers had compensated by laying off workers. Vedder and Gallaway put the blame on the federal government and its policies of central banking manipulation, prevailing wage laws, pressure tactics, and subsidies.

In contrast to the more theoretical approach of the previous books, Thomas Fleming in *"The New Dealers' War: Franklin D. Roosevelt and the War Within World War II"* (2001) uses a rich narrative to expose FDR's tragic wartime blunders. The most destructive of these was the proclamation he made in 1943 to accept nothing less than the unconditional surrender of Germany and Japan. The unintended, but entirely predictable, consequence of this policy was to spur the German military to fight on to the bitter end and thus short-circuit promising plots to overthrow Hitler. In the case of Japan, unconditional surrender fostered an all or nothing mentality on both sides, a mentality that ultimately resulted in the needless slaughter of innocents at Hiroshima and Nagasaki.

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I used to read grand-themed books like Jared Diamond's *"Guns, Germs, and Steel"* (detailing why Pizarro conquered the Incas instead of the Incas conquering Spain) and Charles Mann's *"1491"* (revealing that the pre-Columbian civilizations of the Americas may have been more populous, widespread, and advanced than we normally assume).

But for most of the last year my reading has concentrated on the ills of higher education in the United States — informative and intriguing to me, but, well, narrow.

So I must go back a few years to share with you a book that

I believe deserves everyone's attention. It is Tom Bethell's 1998 exploration of property rights, *"The Noblest Triumph."*

Libertarians already respect property rights, so why read this defense of property rights written for the public? The main reason is that understanding how property rights (which Jeremy Bentham called the "noblest triumph of human nature over itself") produce prosperity and social cooperation may help keep these rights from being discarded. Successful economies depend on property rights, more than anything else.

In spite of their critical importance, property rights suffered a long period of scholarly neglect — a neglect, says Bethell, that ended only in the 1980s. He credits economist Armen Alchian for the rediscovery. (In fact, Alchian once said that he was "constantly amazed at the idea that somehow . . . I've played a role in establishing a new field called property rights.") Yet even the new awareness of property rights was incomplete. Richard Pipes' *"Property Rights and Freedom"* was published in the year after Bethell's book. It's a good book, but its perspective is limited. It is about how property rights underlie political freedom; in essence, the story stops at British parliamentarianism.

Bethell's story delves deeper. It begins with Jamestown and Plymouth and the peculiar arrangement with their investors that led to a "tragedy of the commons." In Plymouth, for example, the investors worried that allowing colonists to own their own homes and cultivate their own land would keep them from paying the promised return on investment. So they demanded that everything be produced in common, a rule that led to near-starvation.

Just getting such powerful illustrations from American history into popular literature is one of the great gifts of Bethell's book. But there is much more. Given my limited space, I must jump to his assessment of the future of property rights. He sees growing acceptance in China but an erosion of property rights in the United States, through zoning, eminent domain, and environmental takings. He associates such actions with the "feudal temptation" — the tendency to make owners "stewards who hold their property at the pleasure of the state." Perhaps more readership of this book will slow that tendency.

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I want to recommend a dazzling, yet nearly forgotten work: Dorothy Baker's 1962 novel *"Cassandra at the Wedding,"* a book that the New York Review of Books' stellar reprint series very commendably brought back into print in 2004. When Baker (1907–68) is remembered at all it is for her 1938 *"Young Man with a Horn,"* a jazz novel famous in its day, thanks especially to the Kirk Douglas movie it later inspired. What dazzles about *"Cassandra,"* her last book, is the voice that Baker brings to electric life on the page: the lyrical voice of a hyper-articulate, skittish, witty literary intellectual, the suicidally self-loathing Cassandra Edwards.

A half-hearted Berkeley grad student dutifully trudging through her dissertation, Cassandra has a tenuous hold on her life but is in full command of a gloriously caustic and piercing verbal energy, which Baker displays in abundance by devot-

ing much of the novel to her interior monologues. We meet this charming narcissist just as she is finishing her grading of a stack of spring semester exams and setting off for the wedding of Judith, her obsessively loved and already intensely missed twin sister. Heading home for the event, Cassandra is heading as well toward a painful reckoning with the *idée fixe* of her precarious emotional existence: that she and Judith are perfect life partners who must never leave one another. Sabotage the wedding, or just not show up, or kill herself or the fiancé: such are the options Cassandra weighs in a panic that, with desperate suavity, she seeks to control even as it flares into violence.

The wedding will be at the home of their widowed and adored father, a former professor of philosophy who retired “unconventionally early” to devote his time to “mostly thinking, and drinking” and making notes for a book on Pyrrhonic skepticism. As if infected with his mordant sense of futility, Cassandra too, in effect, is toying with retiring early, haunted not only by the father’s example but also by the death of her mother, a famous novelist whose career Cassandra uses to mock her own scholarly labors. Preferring to be a novelist herself “and have all those others writing their theses about me,” she notes that “it’s not easy for the child of a writer to become a writer. I don’t see why; it just isn’t. It’s something about not wanting to be compared. And not wanting to measure up, or not measure up; or cash in either. It’s not that I have anything against my mother. I loved her, I think, but my mother’s only been dead three years . . . and I’d rather wait a decent interval and then try. Or not try. But first write the idiotic thesis and get the gap-stopping degree.”

Without giving away what happens, I will say that one of the miracles of this novel is the unsentimental evocation of hermetic, intoxicating family love in its destructiveness and exhilaration, an achievement that brings inevitable comparison to the past master of this territory — J.D. Salinger. Baker, like her famous contemporary, is one of the few novelists capable of creating characters who are themselves possessed of distinctive and self-conscious literary sensibility. But Baker’s sensitive English major is blessedly free of the annoying Salinger tics of whimsy and preciousness and slyly self-loathing self-promotion. In short, “Cassandra at the Wedding” is a novel of startling individuality. Of modest length but unrelenting emotional intensity, it is a book that will grip you and anyone else lucky enough to read it.

Ross Posnock teaches at Columbia University. His most recent book is “Philip Roth’s Rude Truth.”

Some people like to read novels over the summer; others like to use the time to catch up on serious reading — in both cases, typically, doing something they don’t get the chance to do during the rest of the year. In my case, it’s often some of both. For serious reading, I have a recommendation for Liberty readers who are interested in the ideas of Friedrich Hayek but haven’t had the opportunity to study him: the “Cambridge Companion to Hayek,” edited by Edward Feser (2006). It includes essays on his economic thinking, of course, but also on his philosophical writings about society, law, justice, liberalism, and even the philosophy of mind and con-

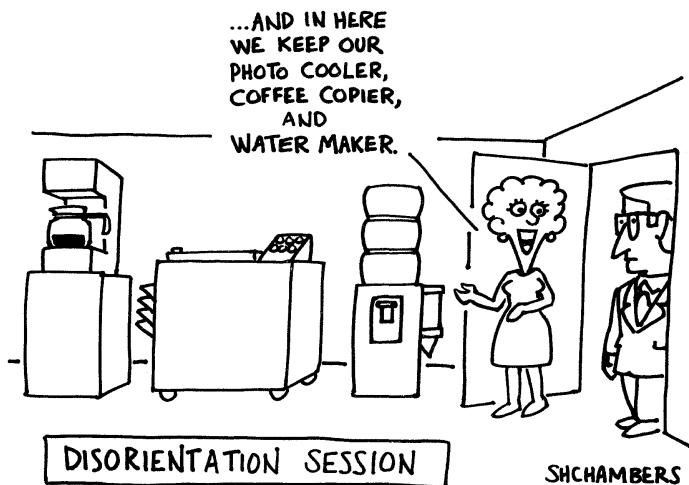
sciousness. This would be a terrific way for the non-specialist who is intrigued by Hayek to learn a lot more in a short time. And I’d say that even if I weren’t a contributor.

As for fiction, my summer plans include “Good Omens,” by Terry Pratchett and Neil Gaiman (1990). It was out of print for a while, and is newly back in print. As described to me, it’s a satirical fantasy in which an angel and a minion of Satan collude to prevent apocalypse, because if that happened, they’d lose their comfortable lifestyles. Sounds like the kind of satire readers of this magazine will appreciate. If you missed it the first time around, as I did, you can now take advantage of its reappearance.

Aeon J. Skoble is chair of the philosophy department at Bridgewater State College in Massachusetts. He is the author of “Deleting the State: An Argument About Government,” and writes widely on philosophy and popular culture.

Summer should afford the chance to tackle a lengthy classic or two, lingering over pages a few at a time between catnaps and sips of sweet iced bourbon. Such endeavors are, at present, out of fashion: who’s got the energy to focus on all those *words*? So I recommend feasting your eyes instead on the panels and spreads of a good-sized graphic novel: they offer intrigue, suspense, and humor in greater abundance than the now-traditional “beach read,” and they’re also large enough to cover your face when the sun becomes too much.

Mystery: “From Hell” (1998) by Alan Moore. This is the masterpiece (so far) of a career that includes the creative peaks of “Watchmen,” “Swamp Thing,” and “Promethea.” Moore put several dissertations’ worth of research into reconstructing the London of 1888, the London in thrall to Jack the Ripper. Over it he laid a potent psychogeography (check out the coach-drawn tour of the city: those chilly churches! those obscene obelisks!) and a grand conspiracy including the royal family, the Freemasons, and five unfortunate whores. The art is suitably grim and gritty, and Moore’s extended notes in the appendix are a rollicking read in their own right. If, on the



other hand, you prefer your mysteries a little less occult or gory, try perhaps the British spy series "Queen and Country" (2002-) by Greg Rucka.

Romance: "Blankets" (2003) by Craig Thompson. At first glance, this appears to be a coming-of-age, young-love story; but further examination reveals a penetrating look at the gradual refinement of the young artist who is the principal subject. Thompson's line drawing is beautiful and inventive, so much so that it's sometimes hard to concentrate on the story; still, there's plenty of love, heartbreak, angst, and genuine pathos to go around. Stories of the sort seen in mass-market paperback romance are rare in comics, which as a rule channel their readers' wish-fulfillment fantasies toward superhero tales. Certain works of Japanese manga provide romance, but since they don't completely cover the face while sleeping they cannot be considered true summer books. If you want more steam in your comics masterpiece, you might pick up one of the storylines of the punk-rock epic "Love and Rockets" (1981-96, 2001-) by Los Bros Hernandez. If, however, you prefer the type of antiromantic family drama that ends in alienation and small, shattered dreams, you're in luck: lock up the guns and the booze and curl up in a fetal position with Chris Ware's "Jimmy Corrigan: The Smartest Man on Earth" (2000).

Fantasy: "The Sandman" (1988-96) by Neil Gaiman. I figure any book featuring as characters Lucifer, William Shakespeare, and Norton I, Emperor of the United States of America, is probably worth a look. A meditation on story in the form of a 2,000-page epic about Morpheus, King of Dreams, "The Sandman" is a great work of literature, perhaps the best produced in the graphic medium during the past few decades. In structure it can only be compared to a work of scripture; in scope it switches from the individual to the cosmic without ever feeling forced. Readers who go in for science fiction may prefer the impeccable style of "Hellboy" (1993) by Mike Mignola, with its Nazi scientists, homunculi, and Lovecraftian gods. An all-ages pick now available in a single volume is Jeff Smith's weird and whimsical "Bone" (2005), which Disney has so far, thank God, failed to adapt to the screen.

Political thriller: "Transmetropolitan" (1997-2002) by Warren Ellis. Presenting the adventures of political journalist and professional horrible bastard Spider Jerusalem,

"Transmetropolitan" extrapolates from the present day an extreme future America: crude, explicit, doped to the gills, but still recognizable and strangely lovable.

"Transmet" extrapolates from the present day an extreme future America: crude, explicit, doped to the gills, but still recognizable and strangely lovable. Jerusalem is basically Hunter S. Thompson shifted forward a few centuries, and an inspira-

tion to everyone who has dreamed of taking on (or at least pissing off) the corrupt state and its crooks by simply telling people the truth. Other works of quality are thin on the ground in this genre; like our political system, political intrigue can't seem to shake the spectre of 9/11. If that's what you're looking for, you'd be better off with Rick Veitch's well-executed allegory "Can't Get No" (2006). But if it's actual political journalism you want, check out the books of Joe Sacco, including "Palestine" and "Safe Area Gorazde" (2000, 2001).

Andrew Ferguson is managing editor of Liberty.

Twelve years ago, when Brian Doherty began writing "Radicals for Capitalism: A Freewheeling History of the Modern American Libertarian Movement" (2007), he sent me the draft chapter on Milton Friedman, and I realized he was doing something very important: providing a record of our movement and talking to the last members of the age of greatness while he still could get their stories firsthand.

What I didn't expect was that this book would be a great read. But it is. "Rads" is structured around five people: Ludwig von Mises, F.A. Hayek, Ayn Rand, Murray Rothbard, and Milton Friedman. Friedman is the only one of this group whom Brian was able to interview, and he interviewed him extensively. Concerning others, Brian talked to associates, students, and friends. It's not surprising that the section on Rothbard sparkles with life and wit and warmth; it's a reflection of Murray's personality as much as his scholarship.

Brian was not content to study the five giants, or their distinguished forebears. What really makes the book a delight to read are the sketches — sometimes only a few lines, sometimes (as with Bob Nozick, Charles Murray, Julian Simon, and Thomas Szasz, to name a few) more extensive portraits.

Perhaps future generations will not appreciate the brilliance and influence of Roy Childs, but they will know he was loved and admired by almost all who came in contact with him. I'm glad Brian included Sam Konkin, wild and wacky as he was. And of course we hear about the fire and foibles of Robert LeFevre, Andrew Galambos, Rose Wilder Lane, and Isabel Paterson, as well as Henry Hazlitt, H.L. Mencken — on and on.

Speaking of wild and wacky, there's a fair amount of gossip in these pages. You might know why Rothbard was kicked out of Ayn Rand's group early on, but I'll bet you don't know why Leonard Liggio was banished. And I sure wish I could have hung around Leonard Read's Foundation for Economic Education during the '60s — who would have imagined what Leonard Read and his merry band were doing in The Shanty?

Don't be intimidated by the length of Brian's book (about 700 pages) or the extensive index (poorly done by the publisher). This book is fun. You don't have to read it straight through: start reading whichever section appeals to you most, and hop around all you like. For sure you'll eventually go back and read the parts you skipped.

Andrea Rich heads Stossel in the Classroom, John Stossel's project to develop critical thinking among high school students by introducing challenges to conventional wisdom.

The books I want to recommend all came to mind when I listened to a talk by Chris Mooney, who was promoting his book "The Republican War on Science" (2005). As the title suggests, Mooney thinks that Republicans are basically anti-science, in contrast with liberal Democrats, who are paragons of Enlightenment tolerance of free scientific inquiry. So, he urges, we who support science need to vote for leftist Democrats.

This struck me as plainly delusional. I don't doubt that some Republicans can be characterized in that way, but so can many contemporary liberals, and *they have all the power in academe*. The list of topics of scientific research that have been contorted by modern liberals and leftists is rather long, and the space allotted me rather short, so I will content myself with a few books that cover scientific work that was or is regarded as politically incorrect.

Consider a masterly (and delightful) review of the extensive work on gender differences in cognition, a review by one of the leading scientists in the field, Doreen Kimura. Her "Sex and Cognition" (2000) presents a powerful case that men and women differ in cognitive abilities, and that their differences are in great part due to the prenatal physiological effect of hormones on brain structure, causing boys and girls to experience the world in subtly different ways, from birth onward. The idea that gender differences are not mere social constructs may seem obvious, but it is not at all the received wisdom of much of the academy. I recall reading an article by a feminist philosopher of science, in one of the top journals in the field, arguing that funding of the scientific study of gender cognitive differences should immediately be stopped!

Another fine book in an area that has aroused liberal feminist fire is Brian Robertson's "Day Care Deception: What the Child Care Establishment Isn't Telling Us" (2004). Robertson makes the case that putting children in day care while the parents work results in a higher incidence of behavioral and medical problems, and that research on this topic is being silenced by the daycare establishment. Now, I'm for the free market: parents who want to put their children in day care should be free to do so, but the free market is thwarted if consumers are denied the relevant information on risks.

A fine book that nevertheless caused a great deal of resentment in certain feminist circles is "The Myth of Repressed Memory: False Memories and Allegations of Sexual Abuse"

(1994), by Elizabeth Loftus and Katherine Ketcham. Loftus, one of the best researchers in the history of experimental psychology, debunked much of the "recovered memory" therapy that was so popular in the 1980s and '90s — procedures in which "therapists" created "memories" of incest. It all fitted nicely with the academic feminist view that women are psychologically crippled by the men in their lives. Loftus' research was fiercely opposed, but it established conclusively that false memories can be created. Alas, before that fact became clear, many innocent people were sent to jail.

Gary Jason is a writer and philosophy instructor. His books include "Critical Thinking: Developing an Effective Worldview" and "Introduction to Logic," both published by Wadsworth Publishing Company.



My recommendation is an author whom I discovered during my summer vacation last year. Perusing the ship's library during a ten-day cruise, I came across "Spies" (2002), a novel by Michael Frayn that was so good I ended up reading two more of his novels, back to back. I had known Frayn as a versatile playwright, with hits as diverse as the riotous backstage farce "Noises Off," the historical dramas "Democracy" and "Copenhagen," and the biting satire, "Bene-

factors." What a delight to discover that I could enjoy his brilliant writing in the comfort of a beach chair.

Frayn brings the same versatility to his novels that exists in his plays. His stories don't fit a particular genre, but they are all wonderfully written, full of metaphoric surprises, empathetic characters, and unexpected imagery. "A Landing on the Sun" (1991), a story about a government clerk who has become detached from life, begins:

On the desk in front of me lie two human hands. They are alive, but perfectly still. One of them is sitting, poised like a crab about to scuttle, the fingers steadying a fresh Government-issue folder. The other is holding a grey Government-issue ballpoint pen above the label on the cover, as motionless as a lizard, waiting to strike down into space next to the word *Subject*. These hands, and the crisp white shirtsleeves that lead away from them, are the only signs of me in the room.

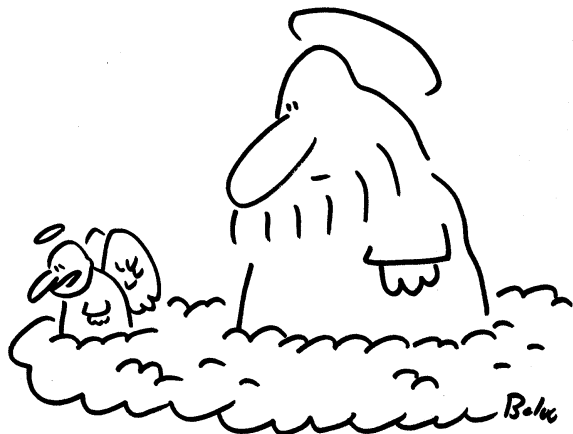
"Headlong" (1999) has a completely different tone and theme. It's an art history lesson within a scam within a domestic squabble. Martin Clay, a philosophy professor, has moved

into the country so he can (finally!) finish his dissertation in peace. He becomes distracted, however, when he thinks he has stumbled onto Breughel's missing painting of "Spring" being used as a fireplace screen by an eccentric neighbor. The problem of how to research the painting's history for authenticity and purchase it without the owner's realizing its value, all the while deflecting his own wife's growing belief that he is having an affair with said neighbor's wife, builds to a comic ending, with a playwright's perfect sense of timing. The details of Breughel's iconography offer an entertaining art lesson — and anyone who has suffered from writer's block will sympathize with Clay's willingness to accept any distraction rather than sit at his desk.

Olfactory memory, the theme of "Spies," is a powerful force. Do you remember what childhood smelled like? I do. It has been 35 years since I left California, and more than 40 years since I left childhood, yet when I arrive for a visit in San Diego, the air still smells like home. When I read the first line of "Spies," I was hooked:

The third week of June, and there it is again: the same almost embarrassingly familiar breath of sweetness that comes every year about this time. I catch it on the warm evening air as I walk past the well-ordered gardens in my quiet street, and for a moment I'm a child again and everything's before me — all the frightening, half-understood promise of life.

In this story the protagonist, Stephen Wheatley, returns to his childhood to reconstruct the most significant summer of his life, when England was at war with Germany and suspicion was in the air so palpably that you could smell it. Anyone might be a German spy — perhaps the neighbor down the street, perhaps even one's own mother — and spying on the spies was not a game, but a duty. But children's games can have adult consequences, and Wheatley returns to his childhood home to revisit those consequences. It was with a rush of both anticipation and regret that I turned each page, know-



"Oh, they go on and on, but what it boils down to is that they want you to have mercy on their souls."

ing that the end of the story would bring the end of a literary world where I wanted to linger.

Jo Ann Skousen is entertainment editor of Liberty. She lives in New York.

The spread of deadly disease, especially when the dumb humans can't see it stalking them, can make for chilling history. One of the finest histories of infection in which I've immersed myself is Steven Johnson's "The Ghost Map" (2006). It tells the tale of the deadly outbreak of cholera in London in 1854, and how two men, a doctor and a preacher, proved how it was spread, even though not once did they see a cholera bacillus.

The doctor, John Snow, had the theory that the disease was spread through infected water, but the water under indictment smelled and tasted pure. How could he prove that it was deadly? He did so partly with a map — a map of infection.

In parallel to the detective story is a revolting description of London in the early industrial age. The industrial revolution made London the earth's largest city with the earth's largest waste problem. Libertarians will note that market mechanisms did arise to handle this, though they were, in the author's estimation, not so good. They will note that the first solution imposed by government made matters worse — but that the second one was better. The book also shows how the provision of sewers and a clean water supply ended cholera epidemics by the last quarter of the 19th century.

While on the subject of diseases, I'll suggest a couple of older books that remain on my shelf. The first is Gina Kolata's "Flu" (1999), which is the story of the influenza epidemic of 1918, an epidemic spread by the movement of soldiers in World War I. The second is Randy Shilts' "And the Band Played On" (1987), a grim and haunting history of the AIDS epidemic by a man who later succumbed to it. The Shilts book, which was made into a superb TV movie, outlines the conflicts between disease control and sexual freedom that arose in San Francisco as the result of AIDS.

Bruce Ramsey is a journalist in Seattle.

If you're like me, you may find that the approaching summer puts you in a reflective mood; and if so, you may be interested in the two books that come to my own mind.

One of them is "Waiting for the Barbarians," a novel by J.M. Coetzee. This short allegory, first published in 1980, has to do with many issues that are particularly relevant now: issues of justice, law, authority, security, torture, and the interplay among them. A young friend gave me a copy, and it cheers me that the next generation is still thinking about fundamental issues. On the other hand, I suppose that next generations always have, yet we still manage to botch things up on an incredibly grand scale. At one point, the magistrate in this story reflects:

I wanted to do what was right, I wanted to make reparation: I will not deny this decent impulse, however mixed with more questionable motives: there must always be a place for penance and reparation. Nevertheless, I should never have allowed the gates of the town to be opened

to people who assert that there are higher considerations than those of decency.

I do not think that anyone will find the answers in this book, but it does pose some of the questions very powerfully.

The second book is "Grayson" (2006). This little gem was written by a most remarkable woman, Lynne Cox, who swam the English Channel at the age of 15. Her book recounts an event that happened two years later. She was swimming off the coast of California (a three-mile, early morning workout in 55 degree water) when she became aware that an 18-foot baby whale was following her. Separated from its mother, the young gray whale was lost and his life in jeopardy. The book recounts Cox's thoughts and experiences as she deals with this situation. At one point, when she is trying to maintain contact with the baby (and failing), she summarizes her feelings as follows:

There are all sorts of ways to think about the world, and so many people who think differently. Still, I believe that there are two basic ways of thinking: one of possibility and hope, the other of doubt and impossibility. When I think of impossible things, I think of a friend of mine who did the impossible, and that makes me believe impossible things can become possible. If I try, if I believe, and if I can convince other people to help, the impossible isn't impossible at all.

She was referring to a friend who had become one of the first to achieve human-powered flight.

"Grayson" is a tale of heroism, near-tragedy, and ultimate success. In the world we live in, the actions depicted in this story are almost unbelievable, and that is unfortunate. Treat this book as a vitamin capsule for the soul.

Ross Overbeek has been a professor at Northern Illinois and a senior scientist at Argonne National Laboratory. Most of his past research was in computer science, but in 1989 he met Carl Woese and has since focused on understanding microbial life. He most recently was a founder of the Fellowship for Interpretation of Genomes.

Two works of fiction I like are Jim Harrison, "The Woman Lit by Fireflies" (1990), and Robertson Davies, "What's Bred in the Bone" (1985). The latter is an especially great ride; but the first story in "The Woman Lit by Fireflies," "Brown Dog," is hilarious and moving in its own way. Davies was one of Canada's greatest novelists, and the series of novels he wrote in connection with "What's Bred in the Bone" is well known for its wit and urbanity.

In political and moral philosophy a great but neglected work is Jeremy Bentham's "The Principles of Morals and Legislation" (1789, available in many editions). Particularly its first four to six chapters are vital for understanding the reasonableness of the utilitarian view. John Stuart Mill's "Utilitarianism" (1861) is the classic statement of the 19th-century utilitarians, notwithstanding that Mill and Bentham are thought (largely inaccurately, in my opinion) to differ on the question of "quality" and "quantity" of pleasures and pains.

Anything by Mill is great to read. Although there are contrasting strains in his thought, I can never understand why people who read him do not consider him strongly in

the libertarian tradition. But to paraphrase the author himself, he thought that truth, in the great practical matters of life especially, is largely a matter of the reconciling and combining of opposites. His "Principles of Political Economy" (1848) remains one of the best texts in political and economic thought, and is well worth reading in full, together with with "Utilitarianism" and, of course, "On Liberty" (1859) which remains perhaps the most read work on human liberty.

Anything by Henry David Thoreau is a good summer read. In 2000, a final manuscript, "Wild Fruits," was published, and I've enjoyed looking at it. I've always thought that Thoreau is as good a libertarian exemplar as anyone. I'm going to read "Walden" this summer — how does it end? "The sun is but a morning star."

Lanny Ebenstein is author of "Friedrich Hayek: A Biography."

In the spring of 2002 I heard of a New York libertarian gathering in which the majority vociferously favored sending American military into the Middle East. Had I been there, I would have screamed, "Are you guys libertarians or neocons? Don't you know that the great libertarians have regarded war, especially American invasions of smaller countries, as a sham perpetrated by politicians and warmongers, often allied with war profiteers? That they inevitably result in an expanded, more intrusive government?"

Recalling this disappointment, I'm pleased to judge that, of all the libertarian books to come my way about the wake of 9/11, as we now call it, the best is an anthology culled from the pages of Jacob Hornberger's Freedom Daily (actually a monthly). Titled "Liberty, Security, and the War on Terrorism" (Future of Freedom Foundation, 2003) and edited by Hornberger and Richard M. Ebeling, this book includes short contributions by familiar libertarian names: Sheldon Richman, Doug Bandow, and James Bovard, along with a foreword by Robert Higgs, a major antiwar libertarian polemicist who is curiously not a contributor, but whose "Against Leviathan" (2004) is a classic.

What the book represents is traditional libertarian isolationism, taking its cue not from any 20th-century publicists but from John Quincy Adams' speech to the House of

In the world we live in, the actions depicted in "Grayson" are almost unbelievable, and that is unfortunate.

Representatives in 1821: "But she [America] goes not abroad, in search of monsters to destroy. She is the well-wisher to the freedom and independence of all. She is the champion and vindicator only of her own."

What's missing from this book is any advocacy of secession, which I take to be the legitimate result of the last presiden-

tial election, in which the states on both coasts unanimously supported one candidate and middle America another. Need I conclude that smaller North American countries would be less predisposed to go "abroad, in search of monsters to destroy"?

Richard Kostelanetz has written many books about contemporary art and literature.

I had a lonely childhood, so to me one of the most important things in the world is friendship. I also care a lot about certain things that other people would call political or "social" causes. But I deeply resent having friendship, caring, or even the proximity of other people thrust upon me. I don't care if it's Beethoven that my neighbor is blaring from his patio (as if it ever could be Beethoven); I resent the intrusion, anyway. I guess you could call this a typically libertarian character formation.

Now comes Liberty's own Scott Stein, with a novel on precisely this theme of self versus other: "Mean Martin Manning"

(2007, beautifully produced by ENC Press). It's a story about a man who is regarded by the whole American nation as nasty, vicious, inhuman, and downright "mean," simply because he wants to exist by himself. He isn't a hero; he isn't a villain; he just wants to exist by himself. His antagonist is a caring social worker endowed with state power to "improve" her un-caring neighbors and perfect them into sociability. She is, in short, the devil incarnate.

There are few really good hardcore libertarian novels. This is one of them. Remember, I said "hardcore." And "good." "Good" doesn't mean "I agree with the message." "Good" doesn't mean "I like the hero." "Good" doesn't mean "This is an agreeable fantasy." "Good" means a lot more than that, and "Mean Martin Manning" is good. It's smart and it's funny. It's exactly as long as it ought to be. Its images, ideas, settings, and characters will linger in your memory far beyond this summer.

Stephen Cox is editor of Liberty. His most recent books are "The Woman and the Dynamo: Isabel Paterson and the Idea of America" and "The New Testament and Literature."

Letters, from page 6

A "right to privacy" is a reasonably and predictably inferred right guaranteed by the Constitution and I feel sorry for Cox if he feels like he is not entitled to privacy. Ironically, Cox shows in the very same article the difference between interpretation and invention when discussing God's commandment "Thou shalt not kill." In interpreting a document, the burden is to find meaning consistent with the intent of those who wrote it. Saying a right doesn't exist because it is not explicitly enumerated, even though the original document claims not to have enumerated every single right, is bizarre.

Given that, it still is possible to agree that judges can misapply legal and constitutional provisions when deciding a case. Cox's example was about a Connecticut law outlawing contraceptive devices. In this case, the (legitimate) right to privacy was invoked by the Supreme Court to invalidate the law. I recognize the right but fail to see the connection. The Court probably should have decided that people have a right to use contraceptive devices, period. Maybe not as lofty as the right to free expression, but completely consistent with the spirit of the Constitution, in that rights are open-ended. And as we discover cases that are not enumerated, the presumption should be that the right exists. To claim, as Cox does, that this is "inventing" rights implies

that the Founders indeed had enumerated every human right and the 9th Amendment was a mistake. For liberty to make any gains, we should — what? Wait for our political rulers to grant us additional rights? I'm not holding my breath.

Dan Coyle
Dayton, Nev.

Cox responds: A modicum of intellectual honesty leads me to state the obvious, that the U.S. Constitution is not a perfectly libertarian document. Its authors had no idea that they were guaranteeing a right to privacy, or even a "right to laugh" (although libertarians can use a laugh, from time to time).

As Mr. Coyle says, the 9th Amendment provides that "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." Certainly, no one involved in drafting those words intended them to mean that the people have a specific and guaranteed right to "privacy" — whatever exactly that means (and no one knows what it means, nor can ever know, "privacy" being as vague a term as anyone could possibly come up with). One may as well argue that the authors intended the 9th Amendment to guarantee the right to a "fair wage," or the right to be free from various kinds of business competition, or the right to be supported as the minister of a state church in New England — all

of which were "rights" retained by people when the 9th Amendment was written. Do you want them back? Then don't be too confident about using the 9th Amendment as a trump card for libertarianism.

The 10th Amendment goes on to say: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." If you argue that the power to restrict — or protect — "privacy" isn't delegated by the Constitution to the federal government, then I suppose you must also argue that this power is reserved to the people or to the states. The creators of the amendment knew, of course, that the states had laws that limited many kinds of "privacy." The 10th Amendment declares, as clearly as words can declare, that the Constitution isn't going to do anything about that. The Supreme Court's decision in *Griswold* went in exactly the opposite direction.

As a libertarian, I claim the Constitution as one of the greatest documents in our intellectual heritage. But I'm not going to raise a laugh at my own expense by insisting that, by the strangest of coincidences, this document guarantees precisely the list of rights that I myself affirm, and does so in such a way that only libertarians like me, two centuries after the document was written, can discover that it did.

Diamonds, In the Rough

by Nelson Hultberg

Baseball owners and players may have agreed on another labor deal, but the sport will remain at risk until the playing field is leveled.

It has been almost 13 years since a strike shut down America's national sport, cancelling the World Series. In fall 1994 there was overwhelming misery in Mudville, and the country's baseball fans are still skittish because of it.

Can such a disaster happen again? The Major League Baseball Players Association and the team owners have signed a five-year agreement that apparently assures peace between players and owners until December 2011. But anything can happen when you're dealing with the kind of money that flows into baseball from the national TV networks. The players and team owners are human, and humans are prone to large parcels of greed and the desire to use legislative privilege to get more out of the system than they could get through voluntary interchange in a free market.

In this essay, I want to examine the issue of "free agency" in baseball from a libertarian point of view. I also want to look at the alleged nemesis of free agency, the "reserve clause," considering the pros and cons of each and the ways in which they are sought after, defined, misunderstood, and abused by the protagonists of the sport.

For the benefit of those who do not ardently follow baseball, these two crucial terms need to be defined, and a brief history provided.

1) *Free agency* means the ability of players to negotiate, without hindrance, with any team in any league. It came into being in baseball during the 1970s in reaction to the fact that

major-league team owners had always required their players to play only for the team that originally signed them up. With the onset of free agency, players were free to move from team to team upon expiration of any contract they had signed.

Before free agency, owners had always held an option on the players' services, an option that could be renewed if the owners wished. Players were locked into one team only. They could not go to other teams and try to get higher salary offers; they could not start a bidding war. A player had to seek a higher salary solely on the basis of his production on the field the previous year. His bargaining strength consisted of his ability to "hold out" and not play in a given year if he felt the owner of his team was being unfair in his salary offer.

2) The *reserve clause* was language contained in all standard player contracts that bound the players to the teams with which they originally signed. It began to be used in the late 19th century, when baseball teams became businesses and started making large amounts of money. Owners realized that if their players were free to roam from team to team each year,

bidding wars would break out, salaries would skyrocket, and profits would be diminished. Thus the reserve clause. All rights to the player were retained by his original team and its owner. The player was able to work for another team in the National and American Leagues only if his original team and owner released him.

The courts of the early 20th century ruled that playing professional baseball did not constitute "interstate commerce," and thus antitrust laws did not apply to baseball. This allowed the reserve clause to stand as a permissible requirement between owners and players. But by the 1970s this began to change. The Major League Baseball Players Association started demanding elimination of the reserve clause. In 1975 Andy Messersmith of the Los Angeles Dodgers managed to test the strength of the reserve clause by playing the whole year without a contract and then declaring himself a free agent for 1976 — a player capable of signing with other teams. The case was decided by an independent arbitrator, Peter Seitz, in favor of Messersmith; and a new era was born. Now players were granted free agency after six years of service to their original major-league signing team. This allowed them to solicit other teams' salary offers and bid up their earnings.

No one can dispute that the demise of the reserve clause changed the game dramatically. Whether the change was beneficial or detrimental is a contentious issue among baseball fans and many legal authorities. Yet the labor-management problems that have resulted from the demise of the reserve clause are terribly misunderstood by the American people. Their misunderstanding is worsened because media pundits usually side with the players against the owners whenever the two start disputing over salaries, free agency, employment conditions, and so forth.

During the last ten years, some of this bias has begun to wear away, at least among sports writers and commentators. But other pundits are still heavily arrayed on one side. Many would still be willing to follow the example of columnist James J. Kilpatrick, who in 1994 stated his very clear idea about how to handle the owner-player impasse during the baseball strike: "If Congress had acted to make baseball sub-

The voluntary relinquishment of certain freedoms is one of the signal characteristics of civilized societies.

ject to federal antitrust laws, that would have put the fear of prosecution into the hearts of the baseball owners." He went on to explain that "fear of prosecution" was the way to have ended the baseball strike *before it began*.

We expect such statist reasoning from liberal punditry — but despite conservative encomiums to free enterprise, most conservatives (such as Kilpatrick) also feel that whenever economic disruption occurs in the market, we must turn to Congress

and the courts for a solution. We dare not leave people alone to work out their problems on their own.

But if Congress is to "make baseball subject to federal antitrust laws," that is, eliminate the baseball owners' antitrust exemption, then by all the rules of equity, Congress should also axe the players' exemption. Why do we hear so much

Fiscal "discipline" is futile when labor is allowed to walk out, but management is not allowed to hire replacements.

clamor about the owners' cartel and not the players' cartel? Why are owners considered *wicked* when they collude, but players pronounced *righteous* when they do so? What else is the players' union but a cartel of all the best talent? What else are its mandatory agreements about tactics but collusion?

Of course, eliminating antitrust exemptions is not the solution to any of this. If we want to solve baseball's labor-management predicament in a substantive way, then we need to eliminate antitrust itself. We need to refrain from temptations to drag players and owners into the courts so as to inflict more regulation. We need to be working toward *rescinding* the Byzantine body of antitrust law.

Owner Lords and Player Serfs?

In America, we are supposed to uphold freedom of contract. This means that any two parties of adult age are free to sign any agreement they wish, and if they sign it they must abide by it. No one holds a gun to the players' heads and commands them to play major-league baseball. They are free to join a team in the American or the National League, or not to join. They are free to join other leagues, or form their own leagues. They are also free to work at other jobs. The major-league "reserve clause" was not forced upon the players, as shackles were placed on slaves in the Old South — although this is the image that the media often present.

Baseball's century-old reserve clause did cartelize the industry and reduce salary competition among teams. But this was not unjust, and it was not contradictory to a free-market philosophy.

As numerous libertarian economists have pointed out, both competition and cooperation are necessary in a market economy. There need not be 100% competition within one particular industry; there need only be free movement and competition within the marketplace as a whole. Many cartelized industries are beneficial — so long as the cartelizers gained their position through persuasion and productivity, and not through coercion, or the coercive mandate of the legislature or judiciary. In other words, as long as the baseball owners lack the force of law to restrict the entrance of other teams and leagues into the field, then even though there is no immediate competition present between the existing teams, there is always the threat of competition if exploitative tactics

are adopted by the owners' cartel. Potential competition acts in the same manner as actual competition to limit the power of corporate owners. Over the past 30 years, this fact has been clearly documented and articulated in the works of such scholars such as Dominick Armentano and Yale Brozen.

To the collectivist mentality, baseball's owners appear to possess "unchecked power" and to be abusing it, and this must of course be prohibited by antitrust laws or other means. But owners in a *free* market do not have "unchecked power" so long as the cartelization is achieved by meeting market demand, not by legislative exclusion. Workers in a cartelized industry are free to unionize and strike at any time to alter unfair working conditions or upgrade pay scales they deem too low. Consumers can withdraw their patronage at any time to lower a cartel's exorbitant prices. Competitors can enter the scene at any time to neutralize a cartel's irrational policies. All these things happen, with great frequency. Capital can and does flow to competitors of cartelized industries, whether to bring exploiters into line or simply to offer an alternative to the cartel. This is what the American Football League did in the 1960s, and the American Basketball Association did in the 1970s.

The real "unchecked power" is that gained by legislation and judicial rulings. This is the power that unions fall back on, seeking special privileges granted to them through the Norris-LaGuardia Act of 1932 and the Wagner Act of 1935 (the National Labor Relations Act). Those acts prohibited the federal courts from issuing injunctions against unions in most cases and forced employers to bargain only with the organized union of their industry. Moreover, they established that the NLRB and federal court system can almost always be brought into play as a last resort to dictate terms in favor of labor if an impasse is reached at the bargaining table.

Here is the crux of baseball's labor problems: the bargaining process is grossly rigged in favor of the players. Because violence (or the threat of violence) is a tolerated tactic for labor to use, and because government intervention favorable to labor always lurks in the background as a potential last option, the players have a greatly diminished incentive to negotiate the vital issues at a bargaining table. Even if violence is not employed against replacement workers, the threat of it is always there. Those who dare to cross a picket line run the risk of intimidation, ostracism, and physical harm for their desire to work.

The replacement players of 1994 felt the sting of this in a big way. All minor-league players who signed on to play for the owners during the strike of 1994–95 as replacement players were branded pariahs by the players' union — people never to be associated with, never to be spoken to; people to be treated with contempt once they made it to the major leagues after the strike was settled. They were insulted and demeaned in their clubhouses; they had to sit alone at the end of the dugout bench; often, their lockers were sabotaged. Some of the insults naturally flared into physical altercations.

And, of course, Congress got into the game. No sooner had the owners begun to hire replacements before spring training in 1995 than congressmen began braying about how greedy they were, and how Congress would have to withdraw the owners' antitrust exemption if they were not able to settle the conflict soon. Half a dozen members of the players' union

paraded up to Capitol Hill to testify about how "unfair" the owners were being for locking them out and attempting to bring in replacements. This intensified Congress' interventionist threats, which understandably intimidated the owners. Members of the media jumped in with articles about the owners' stupidity, the ridiculousness of trying to play a full season with nothing but minor-league replacement players, the probability of Americans' abandoning the grand old game if the owners didn't come to their senses pronto, etc., etc.

It didn't take long for the pressure to have its effect. Midway in the strike, the players' lawyers filed unfair labor practice charges with the NLRB, which voted to seek an injunction against the owners. When U.S. District Judge Sonia Sotomayor backed it up, the owners capitulated. They had been fully prepared to go the distance on the strike and play the entire season with replacement players if Congress and the courts had remained neutral. Unfortunately, the process was not allowed to continue under a neutral government.

Now, if the threat of government meddling had been absent, and the owners had continued to buck the strike with replacement players, it is very possible that the members of the players' union would have shown their true colors and indulged in violence on the picket line, instead of insults and ostracism. Unions often refrain from violence only so long as they don't need it. In this case the players didn't need it, because they were able to win through congressional threats and court rulings.

Why should players negotiate a settlement that requires compromises they do not wish to make, when all they need to do is pretend to negotiate, arouse congressional sympathy, let an impasse be declared, then bring in the NLRB and its federal officers, who are almost certain to settle the issue by fiat in favor of the players? This is why owners usually cave in to players' demands. The players bargain from strength because their lawyers know that government is always there to back them up.

This past year the negotiations between owners and players were said to be a "smooth process" leading up to the new basic agreement on Oct. 23, 2006. But the "smoothness" only came about because the owners were forced to cave in during the 1994 strike, when they understood the impossibility of

There's an old adage that says we get the politicians we deserve. In baseball, we get the owners we deserve because of the sick system we have allowed to evolve.

confronting a players' union backed by a labor-friendly NLRB and congressional threats to "force a settlement" once the use of replacements was attempted by the owners. Such backing and threats from government destroyed the owners' only bargaining leverage, which was their ability to use replacements.

This time around, the owners decided to take what they could get without any fight, so as not to be pilloried as ogres by the media. They had found the players' union cartel an unbeatable adversary.

The way to solve the problem is obvious: repeal the Norris-LaGuardia Act and the Wagner Act. Government should not be an intervener in these issues at all; it should merely be a neutral umpire to make sure that both sides refrain from physical force. This was supposed to be the American way.

The Beauty of the Reserve Clause

None of this can be rectified, however, until a better understanding is gained of baseball's structure under the reserve clause. The clause developed as a profit maximizer; but it also created stable, workable leagues, playing a game in which the audience could remain interested, because individual teams were able to hold onto good players.

To this end, the reserve clause gave owners the ability to build up and maintain extensive farm systems to develop players. Without such a clause, any player who reached the major leagues could skip out on his team after millions of dollars had been invested in his development over five or six years in the minors. There are, of course, other ways of developing talent. As critics of the reserve clause point out, soccer leagues in England get talent from independent teams. This may be, but it is not the superior talent development that major-league baseball desired. The reserve clause gave owners the ability to develop sophisticated minor-league systems that they owned and regulated according to *their* philosophy of talent development. This sort of development would be hard to achieve by using independent teams.

The guiding of a rookie baseball player toward the major leagues is a very intricate and intuitive art. Teaching a youth how to throw a slider or a changeup, how to judge the strike zone at the plate, how to read a pitcher in order to steal a base, how to avoid getting a sore arm, how to perform countless training routines that might accelerate his path to the big leagues, how to assure his health by surgically correcting his injuries along the way — these were all things that the team owners and managers wanted to control very strictly. They

The players don't have to endure the pitiful \$2 million salaries they receive for playing a boy's game seven months out of the year.

had an investment in the rookie from the day he emerged from high school, and they could teach him their brand of baseball from that day forward. His development was not to be left up to "independent" teams with less than no stake in his ultimate arrival in the big leagues.

There was certainly nothing un-American about players' contracting to stay with a team. The voluntary relinquishment of certain freedoms is one of the signal characteristics

of civilized societies. We relinquish freedom all the time, in countless areas of our lives — when we agree to pay union dues, when we accept company workplace restrictions, when we subordinate ourselves to the bylaws of our church, when we enter into marriage, when, if we are major-league athletes, we agree to stand at the playing of the national anthem. All of life is a process of voluntarily giving up certain freedoms in order to achieve other freedoms or reach other goals. The only requisite is that there be no threat of force or violence restricting our freedom of voluntary, contractual choice.

The players maintain that they only want what is their right in America — *free agency*. But true free agency would encompass freedom of contract, and it would be totally dependent upon *persuasion* among parties, not upon the ability of the federal government and the NLRB to dictate terms, void agreements, terminate strikes and lockouts, and so forth. True free agency would mean that both parties have the right to accept or refuse the other's offers.

What this means for major-league baseball is that if the team owners wish, they may require employment of a reserve clause in player contracts, and if they don't like the players' salary demands, they are free to lock the players out and contract with other players. Similarly, if the players don't like the way the American and National Leagues operate, they are free to ignore the owners, to walk out or strike for a change in the rules. They are also free to hook up with another league, or form their own league if the owners are too unyielding. And of course they are always free to look into other occupations if they feel they are being "exploited." There are other industries, other fields, other careers in America. They don't have to endure the pitiful \$2 million salaries they receive for playing a boy's game seven months out of the year, then vacationing at Phoenix golf courses and Florida fishing harbors during the winter. No man has to put up with such "exploitation."

None of this should be construed to mean that the major-league owners are angels, or that they are without undeserved advantages in this drama. They are, like all humans, out for the best deal they can get, and are quite capable of exploiting the rules of the system to aid their cause. Their stadiums are paid for by taxpayers, a custom that a truly free market would not allow. The owners also benefit from capital gains; few of their ventures are the losing efforts they publicly claim them to be. They lie about what they earn — and they have to lie, because they are up against a statist, pro-labor mindset in America. Baseball owners are human creatures prone to all the vices and weaknesses of humanity. But the rigged system exacerbates their vices and rewards them.

What's Up With Ownership

Baseball fans, who revel in the great performances of their favorite teams, need to realize that economic ventures of vast scope (which is what baseball teams are) require far more than star employee performances. They require hundreds of millions of dollars of risk capital — to purchase franchises, lease stadiums, maintain personnel, support farm teams, operate scouting networks, run spring training camps, fund travel schedules, and on and on and on.

Baseball is a business subject to the same economic laws as all other businesses. It requires long-range, innovative

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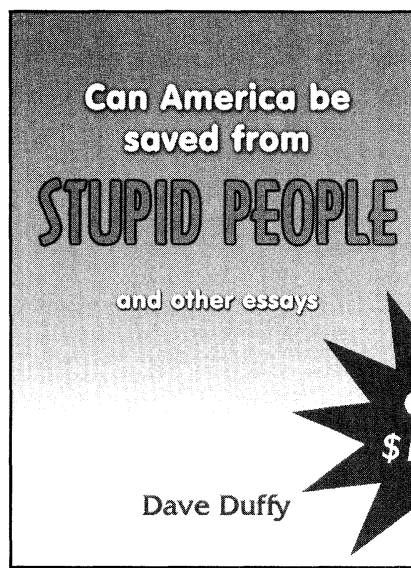
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"...but the topic of stupid people can no longer be ignored, because for the first time in history stupid people have more political power than anyone else, and the consequence of allowing them all that power now looms like the shadow of doom over America." — page 13

"...As it has always done, somehow Government, like some monster from the past, has again outwitted the freedom-loving masses and has convinced them that they don't need protection from Government, but from everything else. And so the age-old beast our founding fathers had tamed is once more banging at our door." — page 145

"...Burglars, and all criminals whose deeds risk violence, destroy parts of society. They are like arsonists, setting little fires all over the place, burning down what the rest of us try to build up. We build hope for the future, and they burn it down." — page 233



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thinking, acute judgment and instincts, the capacity to make managerial decisions quickly and authoritatively, tremendous self-assurance, leadership, inspirational talent and

Those who dare to cross a picket line run the risk of intimidation, ostracism, and physical harm for their desire to work.

organizational ability, combined with hefty profit incentives to sustain its operations. Baseball is not only a "team sport"; it is a vast, interlocking organizational venture.

Owners are first of all entrepreneurs. And what interests them — understandably — is not just profits, but *big* profits. Baseball owners are wise enough to realize that a good deal of their capital gains will be eaten up by inflation. That leaves annual revenues as an important motivating element in their enthusiasm for ownership. If revenues get eaten up by bidding-war salaries, then a great deal of the appeal for team ownership is negated. Owners invest, say, \$200 million of their hard earned capital, and they are not interested in making a paltry 4 to 5% annual return on it. They can get that 4 to 5% in quiet, secure Treasury bonds. High-voltage personalities like Steinbrenner of the Yankees, Reinsdorf of the White Sox, and McCourt of the Dodgers came into the game with expectations of action and 20 to 30% yearly returns, as do all talented entrepreneurs who thrive on risk and the challenge of building something from scratch.

When the owners see mere bench warmers receiving \$1 million annual raises from outside arbitrators who know nothing about the game, when owners see sore-armed pitchers conspiring with their agents to extract three-year, \$30 million contracts (all the while knowing that their arms are shot and only one subpar year is left in them), they see financial disaster lurking ahead. When owners observe average players demanding and getting \$50 million for five years, and superstars demanding and getting \$150 million for ten years, when they observe mega-million-dollar stars shooting cocaine and steroids (and taking time off, while still being paid, to lounge in rehab), the owners know the system is insane — that they have gone down the rabbit hole and have landed at the Mad Hatter's tea party. (There are insurance policies to indemnify owners against injuries to players, but they are extremely expensive, and they are written with so much wiggle room that it becomes very difficult to collect meaningful amounts of compensation for the majority of injuries. The policies help, but not nearly enough.)

It may be asked, "Why do owners pay all that money if they don't think the players are worth it? The owners should discipline themselves." The problem with such a claim is that "discipline" is futile when labor is allowed to walk out, but management is not allowed to hire replacements. Discipline is meaningless in a bidding war in which one's business existence is dependent upon hiring from a talent pool, the con-

tent of which is dictated by the players' union, backed up by Congress and the courts — a talent pool that is not plentiful enough to fill all the owners' rosters with high-caliber players. In such a system, salaries *must* be bid up. "Discipline" wins an owner last place in the standings and a sparsely-filled stadium the following year.

Some of the wiser owners (e.g., Peter O'Malley of Los Angeles and Wayne Huizenga of Florida) saw the writing on the wall and realized that something was sick about the present structure of the game. They opted out of the sickness and sold their teams.

Huizenga might have been a ruthless, uncaring entrepreneur (as some say) because he gutted the Florida Marlins. No doubt he wasn't a high-class guy, but he knew there was something wrong with the sport. Within one year of getting into it, he could see that there were going to be no big profits in Miami, and he resolved to get out unless he could entice the city of Miami to provide him with a stadium that might attain those profits. When he couldn't pull it off, he sold his players and then sold his team.

There's an old adage that says we get the politicians we deserve. In baseball, we get the owners we deserve because of the sick system we have allowed to evolve. We get the Huizengas instead of the O'Malleys. Few would doubt that baseball was better off under the old rules, when it was run by men such as Walter O'Malley of the Dodgers, Phil Wrigley of the Cubs, Larry McPhail of the Reds, Tom Yawkey of the Red Sox, and Horace Stoneham of the Giants.

Commissioner Bud Selig and the team owners understand that the present system of arbitration and "free agency" is a disaster, but they are boxed into the idiocy of it all. They don't realize that the source of their plight lies in the ideological fallacies patched into our political and legal systems over the past 80 years. They only know that they can't make big profits if they don't produce a winning team, and that they can't produce a winning team without the better players. Thus, they are dragged into the annual, lunatic bidding war that the players' coercive cartel of pseudo-free agency has created.

Baseball will, no doubt, survive its present dementia. What kind of game it will become is another question. Our hope should be that the regimenters in Congress and the courts will stay away from it, allowing the contestants of the board-

Why are owners considered wicked when they collude, but players pronounced righteous when they do so?

room and the ball field to work out their differences on their own. Adam Smith would have wanted it that way, and if the issues could be explained properly to them, I'm sure that the great majority of America's baseball fans would too. □

Liberté and Égalité Against Fraternité

by Alex Binz

“The great aim in the struggle for liberty is equality
before the law.”

— Friedrich Hayek

It is hard to imagine two people more different. Alphonse de Lamartine (1790–1869) was a poet who supported socialism; Frédéric Bastiat (1801–1850) was a philosopher who supported *laissez faire*. They were well acquainted — both were members of the French National Assembly after the February Revolution of 1848 — and were at least gracious debating partners, if not outright friends. Still, they disagreed about national workshops, universal credit, minimum wage, protective tariffs, and industrial subsidies — all the political programs of the age.

Lamartine wrote to Bastiat claiming to have discovered the root of their differences. Their exchange was captured in Bastiat’s pamphlet “The Law”: “M. de Lamartine wrote to me one day: ‘Your doctrine isn’t the half of my program. You remained there, in liberty; I followed it with fraternity.’ I answered him: ‘The second half of your program will destroy the first.’”¹

The difference between Bastiat and Lamartine was the central difference dividing classical liberals from socialists — and, in our own day, libertarians and conservatives from modern liberals. Genuine justice, in the classical-liberal tradition of the Enlightenment, is fundamentally opposed to the egalitarian “social justice” of the modern Left. A republican society based on liberty and equality under the law simply cannot coexist with an egalitarian society based on an artificially produced “fraternity” or equality of condition. The greatest threat to the

institutions of the democratic republic comes not from Islamic fundamentalism but from well-meaning politicians preaching “equality of condition,” “fair trade,” and “social justice.”

The Republic: Law, Justice, and Equality

What is this strange creature called “the republic”? Definitions abound, but perhaps the best comes from Thomas Paine’s “The Rights of Man”: “What is called a republic, is not any particular form of government . . . [but is rather the] object for which government ought to be instituted. [It is the] RES-PUBLICA . . . the ‘Public Business’ of a nation.”² Viewed in this way, a republic is defined not by form but by function; not by organization of parts but by the object for which the parts are arranged.

But if that’s a republic, then what’s the *res-publica*? What is the proper business of the state? To understand the answer, we must first inspect the foundations of the classical liberal

ideas that shaped the Enlightenment's view of the republic. In the words of Samuel Adams, "The Natural Rights of the Colonists are these: first, a right to life; secondly, to liberty; thirdly, to property; together with the right to support and defend them in the best manner they can."³ To prevent anarchy and chaos, man is obliged to combine his right of self-defense with the rights of his fellowmen, and to delegate defense to a third, presumably impartial party, government. In the words of Bastiat, "[Law] is the collective organization of the individual right to legitimate self-defense."⁴

Since the rights of the created cannot legitimately exceed the rights of the creator, it follows that governmental activity is limited to cases in which an individual can legitimately use force. Again, Bastiat: "Government acts only by the intervention of force; hence, its action is legitimate only where the intervention of force is itself legitimate . . . that being the case of legitimate defense."⁵ Or, as Friedrich Hayek put it, a free society confronts the problems of chaos and crime "by conferring the monopoly of coercion on the state and by attempting to limit this power of the state to instances where it is required to prevent coercion by private persons."⁶

A republican government has two contractual obligations to its people. First, it must guarantee justice by eliminating injustice. It exists specifically for this purpose, "to guarantee the persons, liberties, and properties; to support each in his right; to make justice reign over all."⁷ Second, a republic must secure equality of treatment by the law. Because government derives its authority from citizens who are equal in rights, it must treat each equally under the law, and not discriminate against any. Legal inequality (discrimination in enforcement of the law) is a clear injustice. If a republic is charged with eliminating injustice in society, how can injustice in its own actions be justified?

As we know, since the Enlightenment period, the concept of "equality" has been grossly overused, and abused, reduced to a cliché or political buzzword. Truly understood, how-

ever, the concept of "equality" that animated classical-liberal ideas is that defined by Supreme Court Justice John Marshall Harlan, who wrote in his dissent in *Plessy v. Ferguson* (1896), "In respect of civil rights, all citizens are equal before the law."⁸ Republican equality is equal protection for rights. It is not an act of empowerment, or some other positive action encouraging success; it is a simple act of protection, a defensive action discouraging crime and violation of human liberty.

Egalitarianism and "Equality of Condition"

Some people want to go farther. Many today see liberty and equality as Lamartine saw them; as secondary results of a broader program to promote "equality of condition." Proponents of this notion of "social justice" promote redistribution of wealth from the haves to the have-nots, using three seemingly formidable arguments.

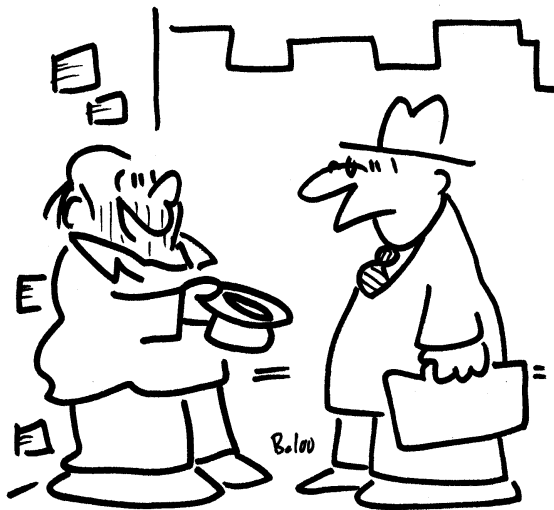
First, they claim that wealth, by its nature, causes poverty; in the marketplace, one person's gain means another's loss. This theory has existed since the days of Plato and Aristotle, if not before, and is the lasting legacy of pre-Enlightenment mercantilism. Bastiat knew it as the concept that human interests are intrinsically antagonistic. We know it today as the "zero-sum game" that was the foundation of Marxist economic analysis, and remains the foundation of most redistributionist schemes. Simply put, the theory claims that the accumulation of wealth, in and of itself, is an injustice to the poor; hence, it is the business of the government to correct it.

Second, these egalitarian thinkers claim that poverty, by its nature, violates human liberty. They claim that the poor are unable to use their faculties to the full, or to receive the full value of their property, since their needs are greater than those of the wealthy and they cannot bargain with them on equal terms. Poverty thus limits their ability to enjoy the fruits of their labor. Again, government must redress the ill; it must declare a "war on poverty" to protect the liberties of the poor.

A third argument is the concept of economic entitlement: the idea that every individual has a basic human right to wealth, which is a debt owed to him by society. Since poverty exists, clearly some people are not receiving their fair share from the societal spigot of prosperity, and those with "excess wealth" are enjoying what rightfully belongs to others. This denial of basic human rights is an unmistakable injustice — once more, an injustice deserving governmental intervention.

Is any of this really true?

Let's begin with a self-evident fact: where there is freedom of action, two individuals exchange commodities only if both gain through the exchange. If trade meant a net loss to either of them, why on earth would they bother? Free enterprise could not be a zero-sum game, simply because if it were, it would cease to exist. This is one of the many corollaries of Jean-Baptiste Say's Law of Markets⁹ (closely related to Adam Smith's idea of the "invisible hand"¹⁰): businesses operate by satisfying the wants of others, creating products of value to trade for what they desire (money, labor, production materials, etc.). An accumulation of wealth is not an injustice; it can be seen, in fact, as a service to the community; for it indicates that an individual provided more value for his neighbors than other people did, and therefore received more value in return.



"Please, sir — I don't want to have to go on welfare and mess up Bush's economic recovery program."

Moreover, poverty does not violate human rights. Modern Americans frequently espouse Bastiat's definition of liberty without understanding its full implications. Liberty, he wrote, is "the open exercise by all persons, of all the faculties that do not injure others."¹¹ Clearly, poverty does not threaten liberty,

The greatest threat to the institutions of the democratic republic comes not from Islamic fundamentalism but from well-meaning politicians preaching "social justice."

since it does not restrict people from using their faculties, or from enjoying the products of those faculties. Discrepancies of wealth are not the result of any social injustice. James Madison identified these discrepancies as a natural consequence of liberty. As he wrote in the tenth "Federalist" paper, wealth and poverty (though we must remember that these are relative terms) are created naturally by "the diversity in the faculties of men, from which the rights of property originate. . . . The protection of these faculties is the first object of government."¹²

Finally, the alleged "right to wealth" does not exist. The right of property, as expounded by classical liberals, was best defined by Thomas Jefferson: "the *pursuit*," not the possession, "of happiness." It is the right to use one's faculties to produce and enjoy utility¹³ (the satisfaction derived from goods and services). The perceived "entitlement" to wealth is a subtle corruption of the original republican "right of property" (to pursue and produce utility or happiness) into the right *to* property (to enjoy a certain level of wealth). However appealing this "right" may be — especially to those who fall below this subjectively established "level" — the right does not exist.

Nor can it exist, from the classical liberal point of view. We must understand that there are two classes of rights. The first encompasses the "natural rights" expounded in the Declaration of Independence, which exist in a state of nature and are an intrinsic component of man. The second includes "civil rights," such as the right to vote, which are only extensions of natural and individual rights to various arenas of social interaction.¹⁴ In other words, no person has any rights besides those that he possesses naturally. No one can *acquire* a right to wealth, since such a right could be secured only by taking wealth from other individuals.

Republican Justice vs. Egalitarian Equality

At this point, the argument for economic equality breaks down completely. If legitimate republican government is limited to removing the stain of injustice from the fabric of free society, and poverty is not an injustice, how can governmental redistribution of wealth be justified? It cannot be defended without attacking the very foundation of republican political

theory. The ideals of egalitarianism contradict the ideals of republicanism: "equality of condition" is incompatible with "equality under the law."

Thus it is that the republican institutions of justice are threatened by the very people claiming to champion those values under the name of "social justice." It is not a little disconcerting to realize that the enemy of liberty is the kindly neighbor who supports welfare for the poor, the well-meaning preacher who advocates the enforcement of the voluntary model of one phase of early Christianity, when "neither did anyone say that any of the things he possessed was his own, but they had all things in common."¹⁵ Yet that is the inevitable and unfortunate conclusion: advocates of redistribution are necessarily opposed to the republic as envisioned by our Enlightenment political forebears.

The problem with redistribution should be clear. As Bastiat states, "You say, 'There are men who lack wealth,' and you address the law. But . . . nothing enters the public treasury for the benefit of one citizen or class, that other citizens and other classes have not been forced to put into it."¹⁶ The state is not a productive entity; it produces no goods or services, besides the service of protection against crime and injustice. Redistribution only spreads existing wealth to new recipients . . . and in the process, confiscates that wealth from its legitimate owners. Thus, by definition, redistribution gives unequal treatment to different economic classes and individuals. Rather than ensuring equality under the law, redistribution abuses the power of government to create a new legal inequality.

This leads to the question of taxes. Insofar as they are used to protect persons and properties against crime, taxes are a legitimate exchange of property for the service of protection.¹⁷ Taxes are levied through the use or threat of force, and thus add to the level of coercion in society; governments must compensate for the injustice inherent in taxation by using those funds to reduce and eliminate injustice elsewhere. If tax funds are diverted from this legitimate function, and used to redistribute and equalize wealth, then that compensation vanishes. The effect of redistributive taxes is to increase the level of injustice. Such taxes are categorically illegitimate and necessarily contradict the republican nature of government.

Good intentions notwithstanding, redistribution is an injustice multiplied many times over. It exceeds the legitimate bounds of republican government. It creates unequal treat-

Free enterprise could not be a zero-sum game, simply because if it were, it would cease to exist.

ment under the law, defining the level of protection afforded to individuals by their personal wealth. It neglects the duty of a republic to eradicate injustice, instead promoting injustice by violating property rights.

Like Thomas Paine, John Adams took his definition of republic from the Latin original, "*res-publica*"; but he derived quite a different definition: "The word *res*, every one knows, signified in [Latin] 'wealth . . . property; the word *publicus* . . . [meant] 'belonging to the people.' *Res publica*, therefore . . . [meant] the property of the people. . . . Republic could be no other than a government in which the property of the people . . . was secured and protected by law."¹⁸ Adams explains that this protection includes, by implication, a protection of liberty, since "property cannot be secure unless the man be at liberty to acquire, use, or part with it, at his discretion."¹⁹

The point remains: for Adams, a republic could only mean a government by which property rights are protected. The protection of legitimate property was so tied to the republican concept of "good government" that for Adams they were one and the same. The founders of our republic realized the full extent of their revolution. No longer would they tolerate an elitist regime in which the word of a single individual could have the force of law. Nor would they tolerate the mercantilist nationalism that trampled the property rights of Englishmen everywhere, so as to bestow a monopoly on a favored group or individual. They designed a representative republic in which the rights to life, liberty, and property were respected

and defended. Their republican ideals ran directly against the notion of "social justice."

Freidrich Hayek never wrote truer words than when he declared that "the great aim in the struggle for liberty is equality before the law." But if we are to cry, with the French revolutionaries, "*Vive la republique!*" we must recognize the full implications of the republican philosophy . . . and the nature of our opposition. Politics may make strange bedfellows, but it makes stranger enemies; the republic's greatest enemies are those who believe themselves to be its friends. They want to maintain the old republican ideals of justice and equality, but they believe that the liberal principles on which the republic was founded don't go far enough to promote the ideal of fraternity. They desire equality for all, but they support policies that conflict with true equality. They perceive injustice in disparity of wealth, but they launch crusades against the cause of that disparity: human liberty and the justice that protects it.

Like the road to hell, the road to serfdom is paved with good intentions. As in the 19th century, so today: the advocates of economic egalitarianism are the great opposition to equality before the law, and the fight against redistribution is the great front in the universal struggle for liberty. □

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Notes

1. Bastiat, "The Law" (from "Oeuvres completes," vol. 4), 357.
2. Paine, "The Rights of Man," 178-9.
3. Adams, "The Rights of the Colonists," 1.
4. Bastiat, "The Law," 343.
5. Bastiat, "Economic Harmonies," 456-7.
6. Ebenstein, "Hayek's Journey," 145 (quoting F.A. Hayek, "The Constitution of Liberty").

7. Bastiat, "The Law," 344.

8. <http://tinyurl.com/2mwy9>.

9. "A product is no sooner created, than it, from that instant, affords a market for other products to the full extent of its own value . . . the mere circumstance of the creation of one product immediately opens a vent for other products." Say, "Treatise on Political Economy," 134-5.

10. "By directing industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this . . . led by an invisible hand to promote an end which was no part of his intention." Smith, "Wealth of Nations," 351-2.

11. Bastiat, "The Law," 376.

12. Madison, "The Federalist" (No. 10) 55.

13. "Property is the right to enjoy for oneself the fruits of one's own labor, or to surrender them to another only on the condition of equivalent efforts in return." Bastiat, "Economic Harmonies," 220.

14. For example: habeas corpus (the right for the accused to know the charges against him) could not exist in a state of nature (there are no other people!) but rather extends natural liberty to societal jurisprudence.

15. Acts 4:32 (New King James Version).

16. Bastiat, "The Law," 361.

17. "Whether I guard my land myself . . . or pay the state to have it guarded for me, does not alter the fact that I make a sacrifice for the sake of an advantage. . . . This is not a loss, but an exchange." (Bastiat, "Economic Harmonies," 444).

18. Kerland, ed., "The Founders' Constitution," 1:119. http://press-pubs.uchicago.edu/founders/print_documents/v1ch4s10.html (quoting John Adams, "Defence of the Constitutions").

19. *Ibid.*

The YouTube Wars, from page 24

sloppy legislators looking to "send a message" about important issues — while holding mistaken impressions about those messages.

The mistaken impression that shaped the DMCA was the image of copyright owners as plucky individual artists and creators trying to get paid for their work. In fact, most commercially active copyright owners are corporations that buy up (or license) IP from creators and exploit it commercially.

The spirit of the law is turned on its head and the DMCA becomes a weapon in the corporate jousting between giants like Viacom and Google.

The original intent of U.S. copyright law, tracing back to the country's founding, was to lend some order to a chaotic marketplace of ideas. There can't be fair use unless creators feel secure enough to bring their intellectual property to market in the first place. Property rights come first — even in the marketplace of ideas. □

Reviews

“Monopoly: The World’s Most Famous Game – and How It Got That Way,” by Philip E. Orbanes. Da Capo, 2006, 288 pages.

Beside the Boardwalk

Bruce Ramsey

I’ve long had a soft spot for the board game Monopoly. In the summer of 1982, in a bonfire of neurons, I programmed the game in Atari Basic, so that my 48k computer would field three players against me: Archibald, Beatrice, and Charlie. I was also a business news reporter, and I knew that the game, which was supposed to mimic the world of business, really did not.

There are all sorts of things wrong with it. Your opportunity to buy is based on luck, and prices are fixed. You rent where you’re ordered to rent, not where you want to. Your object is the creation of a land monopoly, which is not something generally possible in the real world, nor is the bankrupting of all your opponents. The most realistic part of the game is the trading of properties and the demonstration of inflation by the expansion of the money supply. (Most of these ideas are discussed in a 2004 posting* on the Mises Institute web page by Benjamin Powell of the eco-

*<http://www.mises.org/fullstory.aspx?control=1451>

nomics department at San Jose State.) It’s *fun* to bankrupt your opponents at Monopoly – but it’s not how you get ahead in real life.

I always wondered about the political beliefs of the game’s inventor. Now I know. Philip Orbanes’ book tells the story.

The first version of the game was patented in 1903 by Elizabeth Magie, a public stenographer. She called it the Landlord’s Game. The names of the

Monopoly is like the Pledge of Allegiance – it has little-known left-wing roots.

properties were different, but it had a continuous path around the board (a feature she patented), and it had four railroads, Chance and Luxury Tax, Jail, and a Go to Jail square.

Magie was a devotee of Henry

George’s theory of the Single Tax and intended the game as an aid to teach the inequity of monopolizing land. She never produced it commercially, but handmade copies were used in a Georgist community: Arden, Delaware. There the game was played by a young professor of economics at the Wharton School, Scott Nearing. The professor took it back to his class and played it with students for many years. Nearing was a socialist who would later become a Communist, though the party eventually expelled him. He was famously fired by Wharton for his left-wing activities and in 1917 was prosecuted, though not convicted, under Woodrow Wilson’s Espionage Act, for opposing World War I. Nearing lived until 1983, when, at age 100, he committed slow suicide by refusing to eat. He was a leftist all his life.

Back at Wharton, one of his students had been Rexford Guy Tugwell, another socialist. Tugwell played the Landlord game with students as a kind of capitalistic teaching aid. During the early New Deal, Tugwell was hired as undersecretary of agriculture in a department administered by the leftist Henry

Wallace. He later was made head of the Resettlement Administration and got his face on the cover of *Time*. John T. Flynn credited Tugwell with being the New Deal's emblematic planner and the man who sold Wallace on "the theory of State Planning for the well-being of all the people." "Monopoly" has a whole chapter on Tugwell.

From him, the game spread to others, and finally to Charles B. Darrow, a onetime plumber, radiator repairman, and steam engineer. Darrow devised the look of the Monopoly board, with the color codes for the properties, the

imagery of the trains, and so on, and he put the game on the market. Darrow was not an ideological guy; he was trying to make some money by selling a game. And he did. He sold the rights to Parker Brothers. They soon found out about the original inventor, then named Elizabeth Magie Phillips, who had filed an amended patent in the 1920s, and they had to buy the rights from her.

So Monopoly is like the Pledge of Allegiance — it has little-known left-wing roots. And it's still one of the great board games. □

Christian townspeople as an angry mob ready to lynch high school teacher John Scopes (here called Bert Cates)), this production presents Christianity as a more personal and individual philosophy. True, the lighting makes the prayer meeting in Act I look something like a KKK rally, but when the minister, Jeremiah Brown, banishes his daughter Rachel for siding with the school teacher, the townspeople don't rally around his condemnation. They seem to side more with the tolerant Brady, who cautions Reverend Brown, "We must never destroy that which we hope to save."

Drummond and Brady are presented not as archenemies in this production, but as similar men who have taken opposite approaches to the same dilemma. Both seem to have lost their faith, but react differently to that loss. In the powerful end to Act I, after the rousing prayer meeting in which the minister works the crowd into a frenzy of scriptural passion, the two men sit quietly downstage. Drummond is the atheist-leaning agnostic who once believed but now admits "I don't know." Brady's faith, too, is slipping, but he keeps it to himself, not wanting the responsibility of damaging the "hope" and "comfort" of others. Drummond, too, seems saddened by his loss of faith: "When we conquer the air, birds will lose their wonder," he acknowledges.

Some critics have described Dennehy's performance as "stiff" in comparison to Plummer's Henry Drummond, who clearly dominates the second act. But the talented Dennehy isn't stiff. Watch him closely

If there is a villain in this production, it is the media, not either side of the case.

during the courtroom scene of Act II, especially when he is not the one talking. Dennehy's most powerful acting occurs between his lines — he speaks eloquently, but then he listens, pon-

"Inherit the Wind," directed by Doug Hughes. Lyceum Theatre, New York.

Darwin In the Dock

Jo Ann Skousen

"Inherit the Wind" opened this spring on Broadway with a trio of Tony Award winners leading the cast. Christopher Plummer, Brian Dennehy, and Denis O'Hare stepped into the roles based loosely on Clarence Darrow, William Jennings Bryan, and H.L. Mencken (here called Matthew Brady, Henry Drummond, and E.K. Hornbeck) in the famous 1925 "Monkey Trial" that challenged whether evolution could be taught in Tennessee schools (see box on next page).

This production is surprisingly lighthearted, humorous, and fast-paced for a play with such a serious topic. The set is a simple courtroom — two

tables, a judge's bench, and a witness chair. The Lyceum is a small theater, more wide than deep, made even more intimate by a backdrop of about 50 seats on stage for audience members who "become" the townspeople in the courtroom. Before the play begins, people can be seen wandering around the stage, climbing to their seats, whispering to one another as though they have indeed just arrived for the "trial of the century." A pre-show quartet of gospel singers adds to the small-town, middle-America atmosphere even before the play begins.

Director Doug Hughes softens the play's harsh stance against religious bigotry somewhat, but religious zealotry is on trial nonetheless. Unlike the 1960 movie, which presented the

ders, and reflects. His Brady is a man contemplating the difference between what he knows he must say and what he is beginning to doubt. He has already said to Drummond in Act I, "It takes a smart man to admit he doesn't know," but it takes an even smarter man to wait until he is sure that he doesn't know. It is a skillful, masterly performance, demonstrating what his character thinks when he thinks no one is looking.

By contrast, Plummer plays Drummond as a man who knows what he believes and does not have to hide behind appearances. His character is more relaxed, confident, and aggressive. He enters the stage in Act I inexplicably wizened, bent, and raspy, but in Act II he stands erect, takes control, and never lets go. (I have read that Paul

Muni played Drummond the same way, making his initial entrance bent with age. Could this stage direction be a subtle hint of the rise from ape to man?)

As the journalist sent to cover the trial for the Baltimore Globe, Denis O'Hare embodies the acerbic wit and sharp cynicism of journalist H.L. Mencken, on whom his character is based. O'Hare slithers around the stage, delivering his lines with devilish, stylized aplomb, especially as he offers Rachel Brown, the minister's daughter, a bright red apple. Sultry as the serpent, he purrs, "I'm admired for my detestability." If there is a villain in this production, it is the media, not either side of the case.

This point is particularly apparent in the final moments of this production.

Drummond stands alone in the courtroom. He picks up a copy of the Bible that has been left on a table, and then picks up a copy of Darwin's "Origin of Species" that has been left there as well. He holds the books in separate hands, weighing them thoughtfully, and then deliberately places them side by side in the same hand, companions rather than enemies. Earlier in the play Drummond has argued, "What is holy is the intelligence of the human mind," but he seems to realize that there is room for the human spirit as well.

Why produce this play now? Perhaps it's not about determining absolute truth, but about learning how to live side by side when our concepts of truth don't precisely match. We in America might be wise to take counsel from Proverbs 11:29: "He that troubleth his own house shall inherit the wind, and the fool shall be servant to the wise of heart." □

Scoping out the facts —

Scriptwriters Jerome Lawrence and Robert E. Lee never let the facts get in the way of a good story when they wrote their 1955 play "Inherit the Wind." But they shouldn't be faulted too much for their discrepancies with the facts. After all, they changed the names of the participants and included a disclaimer in the prologue stating, "This is not history." However, the film version contains no such disclaimer and is shown in many high school civic classes as only a notch short of documentary. Therefore, it is probably worth noting some of the differences between fact and fiction.

The trial was not really about teaching creationism vs. teaching evolution. "Civic Biology," the state-sanctioned textbook in Tennessee at the time, clearly taught the evolution of plants and animals over millions of years, and the Bible was not taught at all in the public schools. The Butler Act restricted only the teaching of the evolution of mankind as a scientific fact. And perhaps for good reason: Darwin's theories were being applied by some to validate eugenics, the belief that some races are more evolutionarily advanced than others, and that the gene pool should be actively managed to

eliminate certain weaker and less desirable elements — practices that would be espoused by Adolf Hitler a decade later.

Like Rosa Parks, John Scopes was not an innocent bystander arrested by chance, but a deliberately chosen test case who volunteered to stand trial. Nor was Scopes threatened with prison if found guilty — violating the Butler Act was a misdemeanor with a \$100 fine, not a felony with a prison sentence.

Minister Jeremiah Brown and his daughter Rachel, Scopes' love interest in the play, are purely fictional characters.

Bryan was not the buffoonish Biblical literalist the play presents him to be during the trial in Act II, nor was he the Machiavellian agnostic he appears to be at the end of Act I. He had read Darwin years before taking the case, and in his testimony he acknowledged that much of the Bible is written figuratively rather than literally.

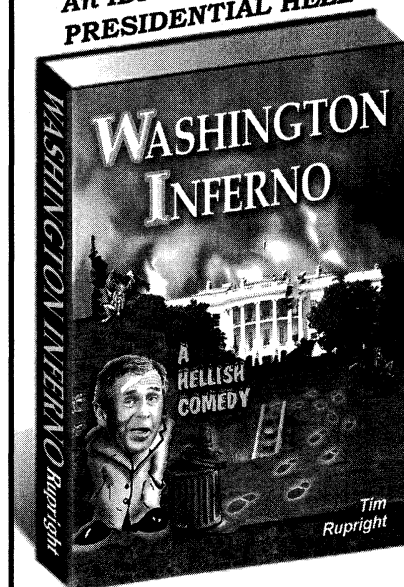
In short, "Inherit the Wind" is inspired by historical events, but it should not be viewed as a depiction of history. For more information about the real case and a point by point analysis of the play, see www.themonkeytrial.com.

— Jo Ann Skousen

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“Liberty and Justice,” edited by Tibor R. Machan. Hoover Institution Press, 2006, 153 pages.

Noble Abstractions

Leland B. Yeager

“Liberty and Justice,” composed of an editor’s preface and four essays, completes a ten-volume series that also includes “Liberty and Equality” and “Liberty and Democracy.”

Ordinarily I am suspicious of attempts to gain knowledge by brooding over the meanings of words, so “Justice, Luck, Liberty,” Anthony de Jasay’s contribution to this volume, was a welcome surprise. Although acquainted with John Rawls’ writings, I had been puzzled by the title of his “Justice as Fairness.” It seemed like discussing “liberty as freedom” or “illumination as light.” Like some other commentators, de Jasay interprets Rawlsian fairness as requiring equality of rewards despite differences in luck — whether luck in the obvious senses or the luck of heredity and environment that governs even a person’s character, including intelligence, ambition, work ethic, honesty and reliability, and drive for self-improvement. Rawlsian justice would require public policy to pursue fairness, compensating somehow for differences in luck even in the comprehensive sense just mentioned. Ideally, all persons would receive equal amounts or indexes of Rawlsian “primary goods,” except only as inequality benefited the least well-off strata of the population (as through incentives and opportunities for better-endowed peo-

ple to work, invest, and innovate to the incidental benefit of the poor).

De Jasay explains why justice, interpreted in any reasonable way, does *not* require policies to even out differences in luck and why such policies, though bound to fail, would infringe on liberty. Rawlsian justice would “destroy the society that tried to live by it.” (This insight deserves to be recognized as broadly utilitarian.)

I wish, however, that de Jasay had recognized more explicitly that justice, like freedom, is best interpreted as a negative concept — “best” for serving clear reasoning and communication and avoiding equivocations. Freedom is the *absence* of coercion and restraint exerted by human beings on human beings. Justice is the absence of unjust acts. Specific unjust acts can be seen as such relatively unambiguously, but their absence defies overall description in positive terms (beyond saying that people should be treated as is their due). To interpret freedom and justice as negative concepts does not dismiss those conditions as unimportant to human happiness; “negative” and “positive” are not terms of disparagement and praise. The rights that Machan and other libertarians defend — see his essay, reviewed below — are negative rights, in contrast with the positive or welfare rights of redistributionists. De Jasay correctly criticizes Rawls’ device of an “original position” in which individuals negotiate a social contract

behind a “veil of ignorance.” As a few other critics have understood, the only person behind the veil is Rawls himself, consulting his own intuitions.

Refreshingly, de Jasay calls the notion or terminology of self-ownership, an axiom beloved of some libertarians, “bizarre.” I agree. A person is not two distinct entities, a self and a body that it owns. Instead, a person is the whole of a physical body and its physical and mental activities. This whole person experiences satisfaction or frustration. Yet some libertarians drag the concept of property ownership from political philosophy and law even into psychology — because, I suppose, they want to reemphasize the importance of property rights. Property rights are indeed vital to a well-functioning society and so to human happiness, but it hardly serves understanding to emphasize their importance even in an unsuitable context.

Jonathan Jacobs, another contributor to this volume, considers “The Exercise of Liberty and the Moral Psychology of Justice.” His “main overall claim is that rational self-determination makes politics unavoidable for human beings, and the examination of why shows that extensive liberties are crucial to a just political order.” Settled civil and political order helps secure the conditions “for many of the cultural activities, traditions, and pursuits and ideals integral to human lives.” Thomas Hobbes comes to my mind: peace and security, maintained by government, are essential to economic development (or, as Hobbes said, to “commodious living”).

Quoting and interpreting Grotius, Aquinas, Hobbes, and Locke, Jacobs recommends “natural law theorizing”

Rawlsian justice would destroy the society that tried to live by it.

for considering what “arrangements of governing authority properly answer” to “valuatively significant features of human nature and human activity.”

Jacobs repeatedly trumpets “moral psychology” and “philosophical anthropology” while explaining only by context, not explicitly, what he means by these approaches. (Formulations like those

Refreshingly, de Jasay calls the notion or terminology of self-ownership, an axiom beloved of some libertarians, “bizarre.”

just quoted give an idea of Jacobs’ style and of his treatment of his topic.) His essay strikes me as a rambling tissue of platitudinous generalizations, along with some remarks about word usage and snippets of history. Whole series of sentences convey no information or insights and say essentially nothing. Since humans are political animals, some sort or other of political order is bound to exist; and it ought to support liberty and justice, since these are good things that can reinforce one another. Jacobs does not come to grips with the anarchist fringe of libertarianism, which envisages the *absence* of political order in the ordinary, governmental, sense.

Jennifer McKittrick devotes her “Liberty, Gender, and the Family” to summarizing and commenting on Susan Moller Okin’s “Justice, Gender, and the Family” (Basic Books, 1989). Okin had bewailed women’s having heavier burdens and slighter opportunities than men because, for example, family responsibilities impede their uninterrupted pursuit of careers. McKittrick warns libertarians against merely brushing such concerns aside. She regrets that even such an early feminist as John Stuart Mill, in his “The Subjection of Women” (1869), had accepted conventional ideas about the division of labor between the sexes. Yet she also warns against Okin’s program of comprehensive governmental remedies, which might include requiring employers to grant pregnancy and

childbirth leave and parental leave, arrange flexible part-time working hours, provide high-quality on-site day care, and “issue two paychecks equally divided between the employee and his partner” (94). McKittrick prefers facilitating marriage contracts whereby a man and a woman can tailor the terms of their marriage to their particular circumstances and preferences. She denies that women would be at a clear disadvantage in negotiating such contracts. Her article serves as an example of how a thoughtful person can have both feminist and libertarian sympathies.

Editor Tibor Machan begins his “Libertarian Justice: A Natural Rights Approach” with the Socratic question: “What is justice?” As already hinted in comments above, words do not dependably label definite things or actions, and knowledge is not available from brooding over their individual meanings. The question to ask about a word is what one or more interpretations best fit its use in its usual contexts.

So conceived, justice is best interpreted negatively, as the absence of unjust acts, which, although numerous and varied, are relatively readily identified as such. Justice itself does not have a single correct positive meaning. As Jeremy Bentham explained, meaning is to be sought in complete propositions — in sentences or paragraphs — rather than in individual words out of context.

Machan uses the word “justice” in social and political contexts having to do with protection of people’s lives, liberty, and property and their natural

rights to these goods. General usage recommends, I think, interpreting those rights as entitlements to treatment of oneself by other persons that are binding on those others with especially strong moral and perhaps legal force. (Prototypically, these are entitlements not to be interfered with coercively or fraudulently.) Machan’s formulation seems almost equivalent: rights identify borders within which one’s life, liberty, and property should be secure from invasion by other persons or agencies. An entity’s rights depend on its nature. Inanimate objects do not have rights. Human beings, because of their nature, including their conative propensity, have more comprehensive rights than other animals do.

A footnote (115) recognizes that rights are not the absolute foundation of moral and political philosophy. In my view, anyway, its foundation lies deeper. That rights exist is a theorem, not an axiom. Precisely because of their great importance, rights deserve a secure grounding: they can be argued for, not just postulated. Recognizing and respecting rights are consistent (certainly more consistent than the opposite approach) with the kind of society that affords people good opportunities to achieve satisfying lives in their own diverse ways. This argument also is broadly utilitarian. Although he might not accept that label, Machan does express “what civilized life is all about: a society in which members are expected to treat one another as citizens, not subjects, and in which those who fail to do so are brought to book as

Calling All Economists!

Taking from the rich to give to the poor doesn’t just draw money but manpower downward upon the hierarchy of production, and the manpower faster than the money. For manpower doesn’t merely follow money but anticipates it. And with manpower and competition among the poor increasing faster than the redistributed money, they’ll be poorer than they would have been without it.

Forcing wages above market levels could only price labor out of the market. A firm must compete for workers as well as customers. The marginally profitable are already doing so to the limits of profitability. So forcing them beyond those limits could only force them out of business, and their employees out of work.

But while domestic policies price American labor out of the market, cheap imports, reducing the cost of doing business in America, price it back in. So, without them, there would not be more but fewer jobs in America.

For the new ideas that the old libertarians don’t want, and another golden age of freedom, see ***Intellectually Incorrect*** at intinc.org.

criminals for violating the rights of others" (123). Also consistent with a kind of utilitarianism is the middle paragraph on page 126, where Machan writes that we, including the least well off among us, enjoy the best opportunities for survival in a society in which "the rights of all are respected so that the creation of the means of survival can flourish without arbitrary obstacles."

A couple of Machan's rather specific insights are noteworthy. The right to honestly acquired private property does not depend on people's *deserving* their property. People do not deserve their livers or good looks, either; yet they have a right to them (131). We ought not to generalize our evaluation of exceptional behavior in so-called lifeboat cases "to all similar behavior in normal circumstances" (125). Ayn Rand's admonition to remember the context comes to mind.

As for democracy, "it must necessarily remain a process directed at selected issues in need of administration lest it become self-destructive" (129). The scope of democratic government must be limited. What counts more than the form of government is the integrity of law and the rule of law, "secured via the establishment, via freely given consent, of a system of constitutionally spelled-out negative rights that function as a system of consistent standards of justice" (131-2). Positive or welfare rights, so called, conflict with libertarian justice and with individual rights to life, liberty, and property (132).

Refreshingly if unfashionably, Machan condemns political and ethical relativism. Some ethical codes and types of social and political arrangements are indeed better than others; the "fact of our mutual humanity has certain enduring ethical and political implications" (135).

A verdict on the book as a whole — especially considering the longest of its four essays, that of Jacobs, which deals, even more than the others, almost entirely in abstractions rather than definite cases and issues — must be that it is a mixed bag. □

LEGAL SERVICES

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Filmnotes

by Jo Ann Skousen

Truer than fiction — In 1971 McGraw-Hill signed a record-breaking book deal with author Clifford Irving to write an authorized autobiography of the world's most eccentric recluse, billionaire Howard Hughes. Trouble was, Irving was making it up. His deceit combined plagiarism, forgery, and outright fabrication as he penned handwritten letters, stole files, and photographed classified documents to create a masterpiece that was ultimately unpublishable. "The Hoax" (directed by Lasse Hallström; Miramax, 2007, 115 minutes) tells the story of how it was done.

What motivated Irving to fabricate this lie? According to the film, the same flaws that motivate any villainous protagonist: pride, revenge, and financial desperation. When Andrea Tate, his editor at McGraw-Hill, gives him the brush-off, Irving's injured pride drives him to claim that he has the "book of the century." If Tate doesn't show up for a meeting the next day, he will shop it around elsewhere. Surprisingly, she shows up (at a bowling alley, no less!), and even more surprisingly, she believes him.

Anyone who has dealt with a publisher (or wants to) will get a kick out of watching Irving work the publishers and their attorneys as he scrambles to stay ahead of their disbelief. They know it isn't possible that Howard Hughes would choose this little-known author to ghostwrite his autobiography, yet they accept his explanations because they can't risk the humiliation of letting such a book slip away.

Numerous clips of Tricky Dick appear throughout the film to remind us that the early '70s were the culmination of a decade of deception, leading to the disgrace of Richard Nixon's resignation. In the background a TV newscaster reporting on the scandal says, "It's a story not just about this man, but

about our age." It was an age of dishonesty, an age when integrity crumbled. Who can blame Irving for crumbling along with it?

Hallström makes this setting a character in the film, even giving it lines of dialogue through the lyrics of '60s tunes playing in the background. But this is a hoax too: We hear the words of "Sun King," for example, but it is a cover band singing it, not the Beatles. And "Sun King" itself is a hoax, filled with Spanish sounding words ("cuando para mucho, yada yada . . .") that McCartney and Lennon admit to having made up simply because they sounded good.

The film opens with another hoax of sorts, as the actors walk on each other's lines in a technique developed by director Robert Altman to mimic the way people talk in normal conversations. It works when Altman and Meryl Streep do it, but the knockoff here is simply annoying. Fortunately for the audience, Hallström seems to have

"The Lookout" is not your typical bank heist movie. In fact, the bank heist doesn't even begin until two-thirds of the way through the film.

realized this early on, because the acting technique does not continue past the first scene.

Richard Gere gives a multi-layered performance as the author who has to make up his story on the spot. Hope Davis is good as the agent who suspends all disbelief in her eagerness to

publish the story. But the real standout is Alfred Molina as Richard Susskind, the children's book writer and fastidious researcher Irving enlists to help him research the "autobiography." Molina's character is the antithesis of Irving: honest to a fault, loyal to his wife, dedicated to uncovering and presenting the truth. He is enticed into Irving's web by the same weaknesses as Irving: financial desperation and pride of authorship. Molina plays Susskind as an exhausted stooge, excellent at researching but absolutely worthless at lying.

"The Hoax" is not a gripping thriller, but it is well-paced and intellectually satisfying. Following his own advice to "write what you know," Irving creates the story as he goes along, weaving actual events from his own life into a spellbinding tale of his imagined relationship with Hughes, a tale that even he begins to believe.

Although the interviews and authorization were a hoax, the book itself was well-written and probably even accurate, based on documents Irving and Susskind managed to copy, steal, or photograph. Irving's mistake was calling it nonfiction. So is the original book publishable as a work of fiction? Does art have to be true to be valuable? Irving has spent the past 30 years trying to get it republished. If O.J. Simpson can ink a deal for a true book that pretends to be fiction, perhaps today's setting is ripe for publishing a fiction that pretended to be true.

Eye on the goal — "The Lookout" (directed by Scott Frank; Miramax, 2007, 109 minutes) is not your typical bank heist movie. In fact, the bank heist doesn't even begin until two-thirds of the way through the film. It's more a cautionary tale, complete with a blind prophet who guides the protagonist as a "lookout" on his journey for self-discovery.

The story begins with a car accident in which protagonist Chris Pratt (Joseph Gordon-Levitt), high-school hockey star and all-around Big Man on Campus, is driving. Two of his friends are killed. Four years later he is a bank janitor, scoring goals with a mop and a urinal puck and struggling to overcome his brain injuries with the help of his

blind roommate Lewis (Jeff Daniels).

The film sometimes feels formulaic and self-important, as though it was written as a master's project at USC. It has all the classic characters, with ample dramatic foreshadowing and clever cinematographic tricks. Music swells at all the right times to enhance the suspense. Yet even when I'm aware of how the director is manipulating me, I appreciate the rush of heart-pounding adrenalin. It's a good story on several levels.

The film has a message, delivered through the blind roommate. "Stories are what help us make sense of the world," Lewis intones when Chris struggles with a class writing project. "Start at the end and work backwards."

You can't write a story if you don't know where it's going." It's a theme popular in self-help books today, from Steve Covey's "Seven Habits" to Laura Zigman's "The Secret": keep your eye on the goal and then make it happen.

The script sometimes plays like a creative writing course, as when Chris uses his teacher's composition formula to get out of a jam: "Remember there are three organizational strategies: ritual, pattern, and repetition." But despite the formula and heavy-handed foreshadowing, the film works. Chris is a likeable tragic hero, the villains are nasty, and the story is suspenseful and satisfying. Movies don't have to be great to be fun, and this one has a lot to offer. □

"The Science of Success," by Charles Koch. Wiley & Sons, 2007, 194 pages.

Business Class

Mark Skousen

"The stone which the builders refused has become the chief cornerstone."

— Psalm 118:22

Commenting on business leaders in "The Anti-Capitalist Mentality," the Austrian economist Ludwig von Mises said bluntly, "There is little social intercourse between the successful businessmen and the nation's eminent authors, artists and scientists. . . . Most of the 'socialites' are not interested in books and ideas."

Mises would find an exception in Charles Koch, the 71-year-old CEO

who transformed his father's oil and gas operation in Wichita, Kan., into the world's largest private company, Koch Industries. His new book, "The Science of Success," quotes liberally from economists and social thinkers such as Adam Smith, Friedrich Hayek, Joseph Schumpeter, Albert Einstein, Daniel Boorstin, Michael Polanyi, and yes, a half-dozen times from Mises' 900-page tome, "Human Action." Ayn Rand would be proud of this modern-day John Galt.

John Maynard Keynes' dictum, "Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the

slaves of some defunct economist," amply applies to Charles Koch (pronounced "coke"). It takes a genius to transform arcane economic theory into a profitable enterprise, and in his book,

Koch describes his full-time mission to apply the ivory-tower concepts of the Austrian school to a trademarked business style called "market-based management."

Notes on Contributors

Baloo is a *nom de plume* of Rex F. May.

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Ted Roberts' humor appears in newspapers around the U.S. and is heard on NPR.

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Mark Skousen holds the Benjamin Franklin Chair of Management at Grantham University and is author of *The Big Three in Economics: Adam Smith, Karl Marx, and John Maynard Keynes*.

Tim Slagle is a standup comedian living in Chicago. His website is timslagle.com.

Scott Stein's new novel, *Mean Martin Manning*, a satire of libertarian proportions, is available from encpress.com. He teaches at Drexel University.

James Walsh is author of *Liberty in Troubled Times: A Libertarian Guide to Law, Politics and Society in a Terrorized World* and a contributor to *The Value of a Good Idea: Protecting Intellectual Property in an Information Economy*.

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Why the Austrian school? Few MBAs have heard of Mises, Hayek, or the other members of this laissez-faire school of economics. The Austrians were railroaded out of academia during the Great Depression, and are obliterated from most of today's textbooks (mine are an exception). Austrian economics, with its emphasis on disequilibrium, dynamic "creative destruction," heterogeneous capital, structural imbalances, and macro disaggregates, has found little room in today's world of Keynesian interventionism, monetary aggregates, and econometric model building.

Hence, business leaders who know about the Austrians are usually self-taught. Koch may well have discovered Mises and Hayek as a result of his engineering background (Koch earned two degrees in engineering at MIT). The Austrian emphasis on the stages of production and dynamic "creative destruction" would appeal to engineers.

So now thousands of Koch engineers and managers are being taught Mises and Hayek, and the Austrian methodology has become the chief cornerstone in Wichita. Two years ago, Koch established the "Market-Based Management Institute" at Wichita State University. Will it be long before MBA students at Harvard and Stanford are assigned "Human Action" or Hayek's "Individualism and the Economic Order"? There's nothing like a big success story to transform B-school pedagogy.

And there's nothing bigger on the scene today than Koch Industries, which has transformed itself into a giant

Economics of late has been transforming itself from the dismal science to the imperial science.

commodity and financial conglomerate. Under Charles Koch's leadership, the book value of Koch Industries has increased 2,000-fold since 1961, when he joined his father's firm. With its

acquisition two years ago of Georgia Pacific, it now has 80,000 employees in 60 countries with more than \$90 billion in revenues. That may be as good as

The Austrians were railroaded out of academia during the Great Depression, and are obliterated from most of today's textbooks.

Warren Buffett's Berkshire Hathaway. Is the paradigm shifting from Omaha to Wichita?

Economics of late has also been transforming itself — from the dismal science to the imperial science. It has invaded politics, finance, history, law, religion, and now business management. In Koch's MBM guidebook, the Austrian concept of opportunity cost of capital is "Economic Value Added (EVA)," property rights have become "decision rights," and Hayek's rules of just conduct translate into "principled entrepreneurship." The book is an essential translation of Austrian theory into business practice.

Koch is perhaps the most successful businessman you've *never* heard of. That's because, unlike Buffett's company, Koch Industries is a private company, a fact that Koch prizes. He doesn't have to worry about Sarbanes-Oxley, the draconian securities law for publicly traded companies, nor how quarterly earnings and executive stock option compensation distort the stock price. "Perverse incentives make managing a public company long term extremely difficult," he writes.

Undoubtedly, many businesses and B-schools have matched Koch's performance by incorporating such MBM concepts as incentives, integrity, internal profit centers, local autonomy, economic value added, sunk costs, comparative advantage, and marginal price analysis. At Columbia Business School, John Whitney taught MBM for years, and I followed in his footsteps

using Koch Industries, Whole Foods Market, and Agora Publishing as case studies. These companies are run by libertarian CEOs who apply market strategies to "create long-term value." Koch doesn't have a monopoly on these market concepts.

Koch has trademarked MBM throughout the book, which can only be justified by his unrelentingly systematic application of its principles. The work is peppered with examples of successes and failures; but in this respect, it is too short for my taste. In only 194 pages, there's not enough space to determine how much of Koch's success is due to MBM and how much to engineering brains, business experience, and just plain luck. For instance, in a 15-page summary of the evolution of Koch Industries, he states, "Thanks to my brother David's leadership, [Koch Industries] has grown its process equipment and engineering business more than 500-fold." Amazing, but how was it achieved? Charles doesn't tell how David used MBM principles to accomplish this monumental goal.

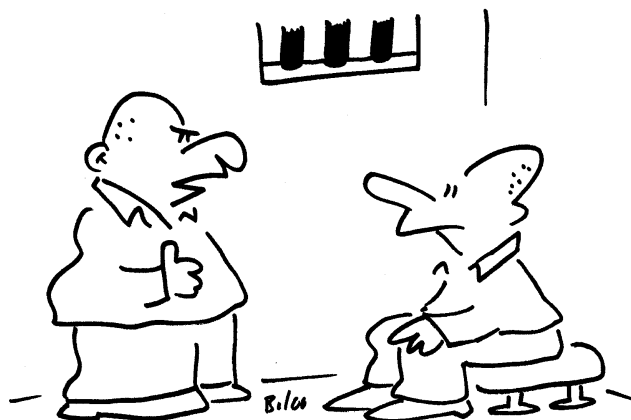
Is "Success" a science? Koch goes to great lengths to prove that his MBM methodology is universal and objective, but it is not without controversy. Koch's politics are libertarian, and he is a major contributor to free-market foundations such as the Cato Institute and the Institute for Humane Studies at George Mason University. For many business schools, it's hard to separate science from politics. My course at Columbia was rated highly by the MBA students, but an illiberal department chair refused to renew the course, calling it "too political." (At Columbia, can anything be "too political"?)

Koch is certainly not a Keynesian businessman. According to his book, he is no fan of meaningless make-work projects, guaranteed employment, automatic pay raises, seniority, centralized planning, or

running to the government for subsidies or trade protection. Most employees at Koch Industries are union, but must be flexible if they are going to survive. Koch aggressively searches for only "A" or "B" grade employees; those rated "C" must improve or they are let go. Koch Industries doesn't tolerate failure for long. I like his anti-Marxist slogan, "From each according to his ability, to each according to his contribution." Now that's marginal analysis at work!

Though he is antistatist to the core, Koch's book reveals some things that will surprise libertarians. For example, many libertarians practice "minimum" compliance with state rules, but Koch teaches "maximum" compliance with environmental and other government regulations. In today's litigious society, it is suicide to act otherwise: Koch Industries faces 159,000 lawsuits and employs 125 full-time lawyers.

Until now, Koch's Market Based Management, Principled Entrepreneurship, and other trademarked management techniques were taught to company officials and employees, and there was always a shroud of mystery about his guiding principles. His new book is a giant step in the right direction. He has demonstrated the truth of Ben Franklin's saying, "It is incredible the quantity of good that may be done in a country by a single man who will make a business of it." □



"If justice is blind, how come I keep getting caught?"

Santa Fe, N.M.

Pluto rising in the House of Representatives, noted by the *Las Cruces Sun-News*:

International astronomers may have formally demoted Pluto to a dwarf planet, but it's still a planet in the eyes of some state lawmakers.

Under a measure approved by the House, Pluto will regain its status as a planet as it passes through New Mexico skies.

Pluto's discoverer, the late Clyde Tombaugh, helped found New Mexico State University's astronomy department. His daughter, Annette Tombaugh-Sitze, said her father would have been pleased with the House's move.

"I'm thrilled," she said. "It brings back a little of Pluto's dignity."

Denver

Hermeneutical exercise, from the *Denver Post*:

"Rocky Mountain High," the John Denver ballad unofficially thought of for decades as Colorado's state song, has been elevated to that status by Capitol lawmakers, though some said they were concerned the ballad is about drug use.

Sen. Bob Hagedorn, the Aurora Democrat who sponsored the measure, accused his dissenting colleagues of making too much of the lyrics, which include "friends around the campfire and everybody's high." "They are just words," he said. "It's how people want to interpret them."

Hagedorn said the line could refer to "a bunch of guys who spent the day hunting or fishing and are having a couple six-packs" or "kids piggig out on s'mores."

Philadelphia

Cataracts on the third eye, spotted by the *Philadelphia Inquirer*:

Alerted to an obscure state law banning fortune-telling "for gain or lucre," the city's Department of Licenses and Inspections is closing storefront psychics, astrologers, phrenologists, and tarot-card readers who charge money for their services.

The owner of fortune-telling shop Psychic, who would not give his name, noted that critics "considered that Jesus was a psychic, a fortune-teller, and they crucified him." He saw a certain parallel. "Look what they want to do with the fortune-tellers," the man said. "We might be coming to the end of the world."

Waitakere, New Zealand

Accountability in government, seen in the *New Zealand Herald*:

Waitakere City Council successfully prosecuted itself last week in the name of even-handed administration of regulations after it failed to get consents to move six houses.

In Waitakere District Court the council was fined \$4,800 and ordered to pay \$780 court costs and will pay the money — aside from the court's 10% share of the fines — to itself.

The Friendly Skies

Advance in Charon's ferrying methods, noted in the *Times of London*:

A British Airways passenger travelling first class has described how he woke up on a long-haul flight to find that cabin crew had placed a corpse in his row. The body of a woman in her seventies, who died after the plane left Delhi for Heathrow, was carried by cabin staff from economy to first class, where there was more space. Her body was propped up in a seat, using pillows.

The woman's daughter accompanied the corpse, and spent the rest of the journey waiting in grief.

The passenger, Paul Trinder, said, "I remember looking at this frail, sparrow-like woman and thinking she was very ill. She kept slipping under the seatbelt and moving about with the motion of the plane."

Olympia, Wash.

Cruel and unusual punishment in the Evergreen State, from the *Seattle Times*:

Gov. Christine Gregoire cited the deaths of three Seattle-area officers when announcing a state Department of Corrections plan aimed at tightening the supervision of convicted felons who violate the terms of their prison release.

Under the new policies, community-corrections officers will have specific punishment guidelines for these offenders, including an apology letter, a book report, and increased support-group meetings.

Provo, Utah

Early warning of Mexican diabolism, from the *Provo Daily Herald*:

Utah County Republicans ended their convention by debating Satan's influence on illegal immigrants.

Don Larsen, chairman of legislative district 65 for the Utah County Republican Party, told those gathered that illegal immigrants "hate American people." He cautioned that illegal aliens, working in tandem with Democrats, are trying to "destroy Christian America" and replace it with "a godless new world order — and that is not extremism, that is fact."

At the end of his speech, Larsen began to cry, saying illegal immigrants were trying to bring about the destruction of the U.S. "by self invasion."

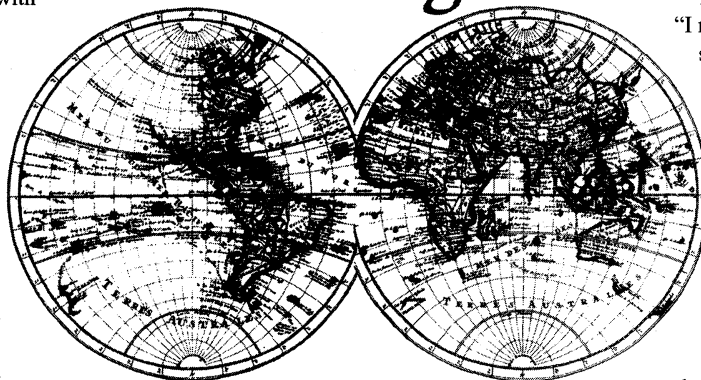
Port Townsend, Wash.

Keeping outcome-based education simple, in the *Peninsula Daily News*:

A \$15,000 grant will help fund a program aimed at helping fifth-grade students make a smooth transition into sixth grade.

Mark Decker, Blue Heron Elementary principal, said that the transition is especially important. "Our goal is to assist students who are on that bubble," Decker said. "The ultimate goal is to help students successfully complete high school."

Terra Incognita



Special thanks to William Walker and Russell Garrard for contributions to Terra Incognita.

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

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- **John Mackey**, Whole Foods Market: “My Personal Philosophy of Self-Actualization: How I Turned a Money Loser Into a \$9 Billion-Dollar Company.”
- **José Piñera** (Cato Institute), on “The Greatest Worker-Capitalist Revolution in the World: Will China be Next to Reform Social Security?”
- **Nassim Taleb**, author of bestseller “Fooled by Randomness” on his new book “The Black Swan: How We Can Predict What Really Matters.”
- **Charles Murray**, on “How to Write a Classic — What Constitutes a Perennial Bestseller.”
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- **Eamonn Butler**, Adam Smith Institute: “Why the House of Lords and the Monarchy are Libertarian.”
- **Jack Pugsley**, The Sovereign Society: “The Case Against Free-Market Think Tanks.”
- **Michael Denton**, M. D., microbiologist, University of Otago: “Evolution, Yes; Darwin, No!”
- **Lanny Ebenstein**, philosopher: “History’s Most Dangerous Philosopher: Karl (but Not Marx).”
- **Nelson Hultberg**, America for a Free Republic: “How Ayn Rand and Murray Rothbard Took Liberty Down the Wrong Road.”
- **Brian Doherty**, Reason Magazine: “Radicals for Capitalism: A Freewheeling History of the Modern American Libertarian Movement.”
- **Andy Olree, J.D.**, (author, “The Choice Principle”): “The New Testament: For or Against Freedom?”

Plus other top speakers: **Nathaniel Branden** (“Self-Esteem and Its Enemies”), **Steve Moore** (*Wall Street Journal*), **Jerome Tuccille** (“It Usually Begins with Ayn Rand”), **Ted Nicholas** (marketing guru), **Tom DiLorenzo** (Loyola College), **Mark Tier** (Hong Kong/Philippines), **James O’Toole** (Aspen Institute), **Greg Lukianoff** (FIRE), **James Marsh** (University of Hawaii), **Jo Ann Skousen** (film panel), **Bill Westmiller** (Republican Liberty Caucus) **Terry Savage** (author and Chicago TV personality), **David Theroux** (Independent Institute), **Doug Casey** (author, “The International Man”), **Jon Utley** (Antiwar.com), and **Mark Skousen** (“The Big Three in Economics”)...
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A Special Message from MARK SKOUSEN, *Producer:*

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