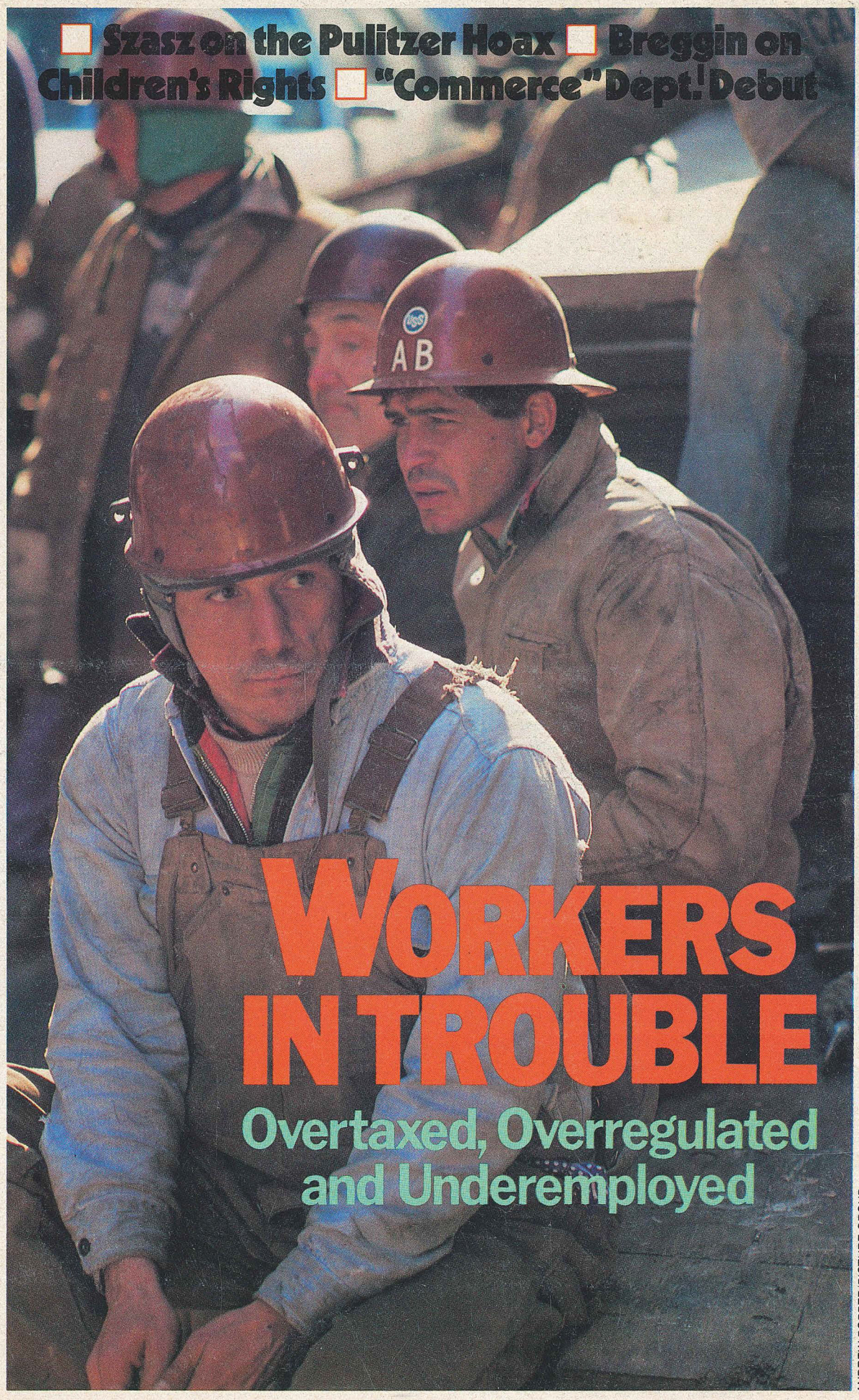
THE LIBERTARIAN REVIEW

July 1981
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Szasz on the Pulitzer Hoax ☐ Breggin on Children's Rights ☐ "Commerce" Dept.! Debut



WORKERS IN TROUBLE

Overtaxed, Overregulated and Underemployed

ANDREW POPPER/PICTURE GROUP

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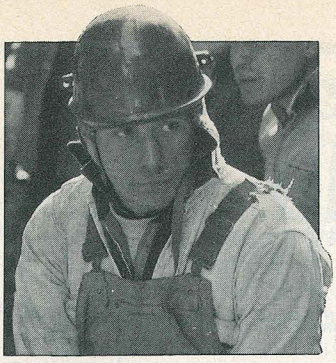
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20th ANNIVERSARY YEAR

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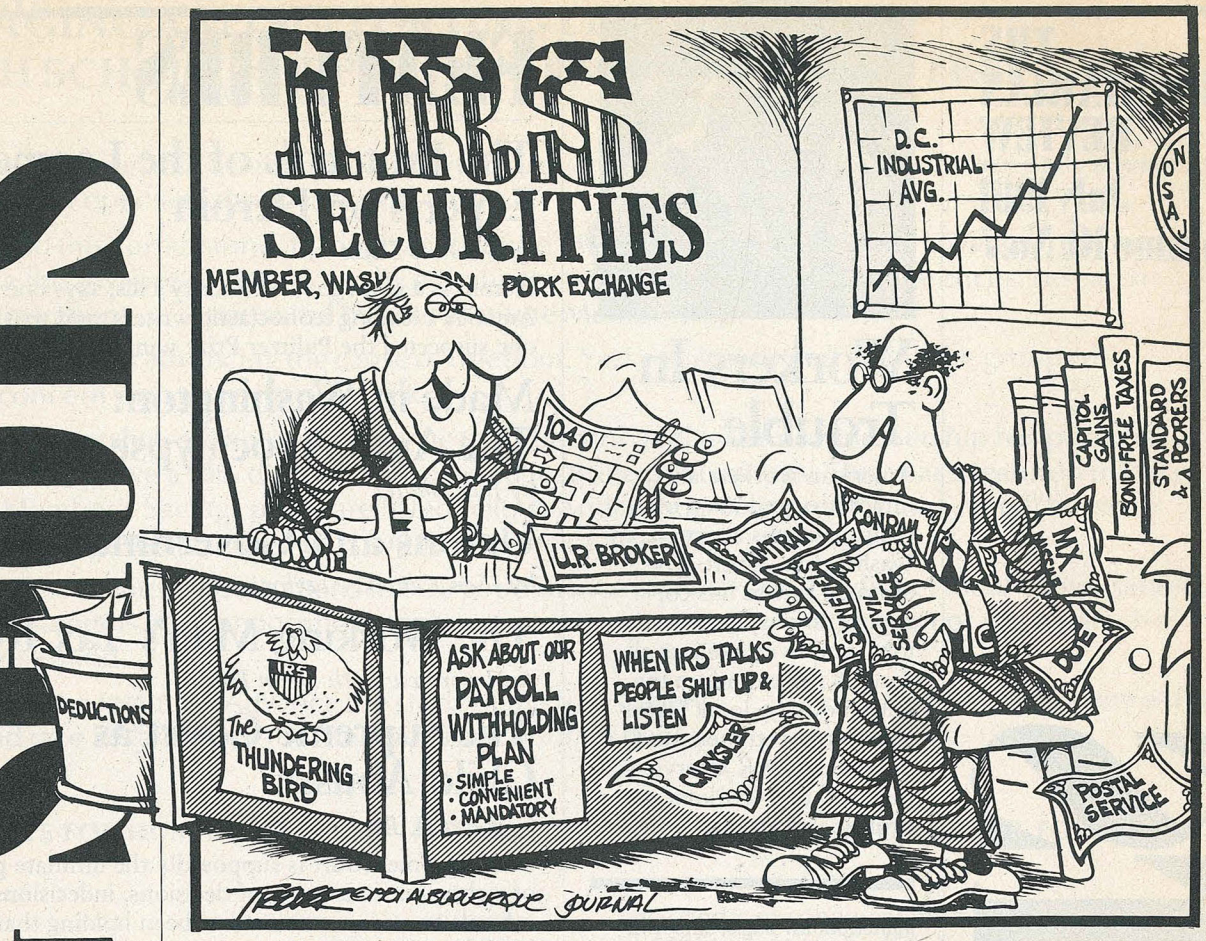
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OPENING SHOTS



COPLEY NEWS SERVICE

"THANK YOU FOR YOUR BUSINESS, SIR, AND GOOD LUCK WITH YOUR INVESTMENTS!"

BILL BIRMINGHAM

"IN CHILE," GOVERNment economist Alberto Martin told the *Washington Post* (April 3, 1981), "everybody can write what they want. The only censorship that exists is against new publications. All the authorized magazines write without censorship of any kind." Glad that's been cleared up.

Even the most stalwart of advocates of free trade might think twice about buying foreign submarines, but the U. S. Navy is contemplating just that. Navy Secretary John Lehman says that unless American shipyards make themselves more competitive, "we are prepared to look at offshore procurement" of subs. Meanwhile, Mr. Lehman's civilian colleagues successfully pressured the Japanese government to pressure Japanese automakers to cut their exports to the U. S. in order to make themselves *less* competitive. Apparently what's good for the Pentagon is not what's good for General Motors.

Fat chance: "Roscoe L. Egger Jr. was sworn in yesterday as commissioner of the Internal Revenue Service and immediately promised to 'shore up' the agency's image with American taxpayers." (*San Francisco Chronicle,* April 18, 1981.)

In its never-ending struggle to keep us free, the State Department refused to extend Soviet scholar Georgi Arbatov's visa, lest he take part in a TV debate. Arbatov, head of Moscow's Institute of United States and Canadian Studies, had planned to appear on "Bill Moyers' Journal," but that fell through when he had to leave the country. "It's a petty action that results in senior American officials acting as if they were bureaucrats in a third-rate paranoiac, totalitarian country," said Moyers. "Now I will understand a bit more about the policies of the new administration than I knew before," said Arbatov. As will we all.

The Camel's Nose Dept.: Director Bernard Rostker of the Selective Servitude System wants a "limited program" to screen out draft registrants with physical and mental disabilities. In a perhaps related move, the SSS is also looking for people to serve on draft boards, if and when. None of this, of course, should be taken to mean that the draft itself will be revived. Certainly not.

First they took the gold out of the dollar, then they took the silver out of the dime, now the Treasury plans to take the copper out of the penny. Or most of it, anyway; by next fall all new one-cent pieces will be made of 97.6 percent zinc, with a copper "wash" to make them resemble the undebased coin. Thanks to inflation, copper prices are approaching $1.12 per pound, at which

point each penny costs more than one cent to mint. When the price tops $1.50 per pound, the coin's copper content alone will be worth more than the face value.

China's rulers have called off their two-year fling with greater political, cultural, and economic freedom. Vice Chairman Deng Xiaoping's reforms gave increased independence to factory managers and relaxed controls on the arts and political dissent. But things went *too far:* "In some places," Deng charged in a speech last December, "people are setting up illegal organizations, publishing illegal journals, spreading anti-party and anti-socialist sentiments and even establishing secret ties with one another." Obviously an intolerable state of affairs, and so the lid went back on. Anything to avoid a repetition of last fall's local elections when, so it seems, "Some people practiced anarchism and extreme individualism."

As if John Paul II were to embrace atheism... John E. Bryson, president of the California Public Utility Commission, actually went before Congress on April 6 and declared that power companies may no longer be "natural monopolies," and "we should at least look at the possibility of deregulating electricity generation." No word yet on how his colleagues on the PUC are taking Bryson's apostasy.

TV Guide usually gets thrown out each week with the Saturday morning coffee grounds, but a recent article on Donald Baruch, the Pentagon's Hollywood liaison man ("He let Lassie fly in a B-52," April 4, 1981), deserves closer attention. Baruch works for the Defense Department's public affairs office, and he provides technical assistance to TV and movie producers, "for projects his office approves." His office did not approve of the first script for "Enola Gay," the TV-movie about the atom-bombing of Hiroshima: "The characterizations seemed all wrong, and the sympathies were all on the Japanese side." (Tsk, tsk!) So a retired Navy man rewrote it to remove the excessive sympathy for the bomb's victims and "placed the mission in a context: faced with a fanatical enemy and ignorant for the most part about radiation, the Americans were dropping the bomb they thought might end all bombs." Thus equipped with the correct political line, the film makers were permitted to use military planes and buildings. "Without these props, said [executive producer Frank] Levy, the film would have cost ten times the $5 million it took to produce it —meaning it would never have been made. 'And nothing we had to do,' said Levy, 'in any way compromised the picture.'"

The Quotable George Will: "Implicit in [Adam] Smith's theory is a sharp distinction between society and government, and the seeds of hostility toward government. The theory makes government seem merely coercive and barely necessary: Society is essentially independent of, and morally superior to, political institutions. Society is natural, spontaneous, cooperative, and productive. Government is of marginal importance and negligible dignity... That is why I find the Adam Smith necktie lovelier than his philosophy." (The *Washington Post,* March 22, 1981) "Although the vast majority of the proposed [budget] cuts are sensible, and all are arguable, there has crept into some advocacy of them a tone that is unworthy of, and dangerous for, the Reagan administration. It is a tone of dogmatic disparagement of government... You cannot tell people over and over that government is a klutz that cannot help Cleveland, and then suddenly say: Oh, by the way, give the government $1.3 trillion for military assets, and support its attempt to do something about Cuba." (*Ibid,* March 26, 1981)

Crimes by private citizens are on the rise, and the Justice Department's Bureau of Justice Statistics reports that the U. S. murder rate (8.8 per 100,000 population in 1976) is seven times that of Great Britain and five times that of Japan. Anyone with a knee to jerk and an ear to listen to Teddy Kennedy *knows* that our lack of gun control is the reason. The Bureau also reports, however, that the incidence of rape in America is ten times higher than in Japan, and twelve times higher than in Great Britain. We can't imagine how Teddy explains that one.

Last month yr hmbl srvnt hailed the California State Senate's courageous defense of the right to wok one's dog. We regret to report that the Senate reversed itself two weeks later and voted to outlaw the eating of dogs and cats. Intensive lobbying from "animal welfare groups" was credited, if that is the word, for the turnaround. These worthies also bombarded the Archdiocese of San Francisco with protests when a local priest suggested that Southeast Asian refugees (whose reported taste for canine flesh started this whole fuss) be allowed "to go to the local humane societies and claim unclaimed pets for personal consumption. I would especially encourage this for people on meager salaries." (Let them eat Peke?) One irate caller threatened to take the matter to the Pope.

Proposed cuts in two government agencies may prevent publication of the papers of Washington, Jefferson, Franklin, Madison, and the Adamses. The National Historical Publications and Records Commission and the National Endowment for the Humanities pay nearly half the costs of editing the founding fathers' papers, but Reagan's proposed budget eliminates those funds. The George Washington project has the best chance of getting its money restored, says its editor: "Jefferson may be too radical for some."

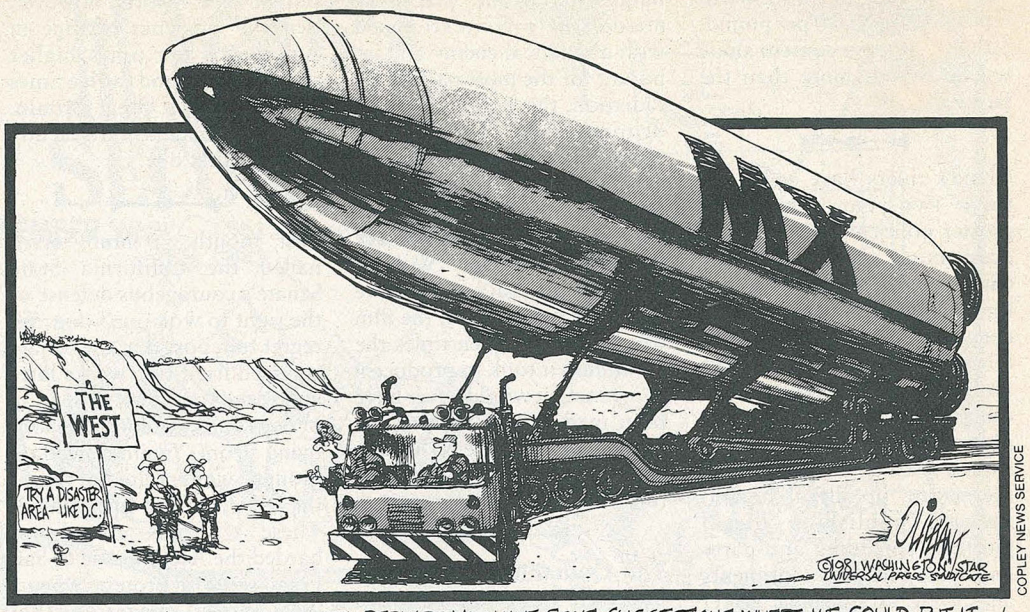
"The Committee for the Free World" took out a full-page ad in the April 6 *New York Times* to proclaim that "We—a group of intellectuals and religious leaders — applaud American policy in El Salvador." To hear the committee tell it, "it is the government of El Salvador that today represents progressive change" and the U. S. must help the junta "strengthen democratic institutions" lest El Salvador "be added to Cuba and Nicaragua as instruments of the further expansion of the burgeoning Soviet empire." Writing in the April 18 *Nation,* John S. Friedman notes that the Committee bears a resemblance to the Congress for Cultural Freedom, a CIA front of the fifties and sixties (they even have some members in common, like Sidney Hook and Raymond Aron), and got nearly half its starting capital from the CIA-linked Smith Richardson Foundation and the Scaife Family Charitable Trusts. The 184 "intellectuals and religious leaders" who signed the ad include chairthing Midge Decter, her husband Norman Podhoretz, Barbara Amiel, Edward C. Banfield, Edith Efron, Arnaud de Borchgrave, Guenther Lewy, Edward Luttwak, Bayard Rustin, and Ernest van den Haag—easily the most distinguished assemblage of half-bright apologists for the warfare state since William F. Buckley last dined alone.

Senator Orrin Hatch (R-UT) used to be a real fire-breather before he was burdened with the responsibility of chairing the Senate Labor Committee. For example, he recently proposed to abolish the minimum wage for teenagers to fight teen-age unemployment. When labor interests objected, Hatch revised his plan so that employers could pay less than the minimum wage — but the taxpayer would make up the difference. As the *Wall Street Journal* observed, "For this we need Republicans?"

One Jack Gregorio is president of something called Taxpaying Parents Against Smut, a Tampa, Florida anti-sex education group. He has been photographed carrying a sign reading "Save Our Kids From Smut." So guess what he's just been arrested for? Right: "Sexual battery" of a 17-year-old boy, and "lewd and lascivious behavior" with an eight-year-old girl.

According to an official British government publication, "A large scale nuclear attack on this country would completely disrupt the banking system." (Quoted in *New Statesman,* March 20, 1981) ❑

LETTERS TO LR



'WELL, IF WE CAN'T PUT IT OUT HERE, PERHAPS YOU HAVE SOME SUGGESTIONS WHERE WE COULD PUT IT...'

Bearish on California

I SEE IN YOUR MAGAZINE that one of your writers [Jeff Riggenbach, "The Politics of Aquarius," *LR,* March 1981] believes that California is going to be the new intellectual leader of the nation — that California is already where the West looks for leadership.

I beg to disagree. California is universally regarded as the home of the decadent, the shallow, and the vapid. Most look upon the state as a member of the Moral Majority looks at a porno theater: half-disgust and half-titillation. The self-centered petulance of the newest TV star symbolizes the personality of the Californian. The super-annuated plots of "Fantasy Island" typify its culture. The West has no leader.

My town, Houston, is seemingly on its way to becoming the Boston of the South. So, the throne is open. Just don't nominate the Bear State for it. That state cuts a pretty pitiful figure to all but the Californians themselves.

PAUL D. BRENT
Houston, TX

Libertarian s.f.

FIRST RODE IN MICHAEL Grossberg to attack my novel, *Alongside Night:* [*LR,* March 1980] Then came Michael Dunn to go after L. Neil Smith's *Probability Broach.* [?] Now we have Bill Birmingham attacking Heinlein's libertarianism in *Number of the Beast* and *Expanded Universe* [*LR,* March 1981] — with gratuitous slams at Smith, F. Paul Wilson, myself, and libertarian science fiction in general. How many morons defending literature from libertarianism—and libertarianism from its own literature — are we going to have to put up with ... and in libertarian publications, of all places?

It is impossible to take on, in the space of a letter, all the inaccuracies, idiocies, and illogic in Birmingham's diatribe against Heinlein *qua* libertarian, and Heinlein has the right of first challenge anyway. But we already know how little Heinlein thinks of critics. At the convention near the end of *Number of the Beast,* Heinlein has reserved a special hell for critics; a suite where (without paper) they can write criticisms to each other throughout eternity. To escape all they must do is prove they can *read.* Obviously Birmingham doesn't know how, or he would have picked up on this....

For those interested in Heinlein's libertarian science fiction, I refer them to *The Moon is a Harsh Mistress, Revolt in 2100, Between Planets, Citizen of the Galaxy,* and *Farnham's Freehold.* If Birmingham has been reading Heinlein since five, I don't know how he missed these. Each is a masterpiece of science fiction with a libertarian theme.

Which is what "libertarian science fiction" is all about. It is not about preaching the dogma of "libertarian realism" or demanding that literature adhere to any ideological standards. All fiction has a worldview; most of the time it isn't noticed since it parallels the status quo. Libertarian science fiction is merely science fiction written by authors with a libertarian worldview. Period. If by having this worldview fiction promotes libertarian ideas, so much the better, but this is not its sole *raison d'etre.* If Birmingham and his kin would rather people read fiction that reinforces the statist mythos, fine. But I wish they'd get the hell out of the libertarian movement and leave those of us libertarians who write fiction alone.

J. NEIL SCHULMAN
Long Beach, CA

The editors reply:

MR. SCHULMAN MUST BE, in part, mixing us up with some other magazine. The review *we* ran of L. Neil Smith's *Probability Broach* was by Victoria Varga [*LR,* April 1980], and it was so positive that Smith's publisher quoted it on the jacket of his subsequent book.

Increase or decrease?

THE EDITORIAL "TREADing Water" [*LR*, April 1981] was seriously misleading. The author, Lee Williams, claims that there are indications that President Reagan will increase government spending and interference rather than the reverse. But Williams fails to give those indications.

Williams compares Reagan's plans for government spending for 1982 with the actual level of government spending for 1981, which Reagan can do very little about, and finds an increase. But he fails to state 1982 spending in terms of 1981 dollars. If all of Reagan's proposals were accepted, the 1982 budget would be $696 billion, a *nominal* increase of $33 billion over the 1981 budget, but a *real* decrease of 5 percent, or $36 billion, assuming an 11 percent rate of inflation. This would be the largest percent decrease in real federal spending since the end of the Korean War and the largest absolute decrease since the end of World War II. I am assuming, of course, that Williams' figure for 1982 defense spending, $189 billion, and not Ravenal's estimate of $222 billion (see Earl Ravenal, "The Reagan Restoration," same issue) is correct....

Williams attempts to support his argument that Reagan would increase interference by pointing to interventions that Reagan would keep. But keeping ain't increasing. He gives only one piece of evidence of a proposal for increased government interference, the Danforth-Bentsen quota to limit U. S. imports of Japanese cars, but Reagan has not yet even taken a position on that proposal. In any reckoning of whether Reagan will increase or decrease regulation, one would have to list Reagan's proposals to reduce regulation. But Williams says not one word about Reagan's plans to pare down Securities and Exchange restrictions that prevent small firms from going public, Department of Energy restrictions, and OSHA restrictions, nor about his proposals to reduce the size of the enforcement arms of the Immigration and Naturalization Service, the Drug Enforcement Agency, and the IRS. Nor does Williams mention the fact that Reagan has already rescinded the humiliating restriction that prevented us from having our office buildings at the temperature that we, rather than Jimmy Carter, wanted. He says nothing about the fact that Reagan abolished the Council on Wage and Price Stabiilty, the agency that was enforcing Carter's "voluntary" wage and price guidelines and in all likelihood would have enforced future price controls.

Libertarian Review should be radical and should call proudly for eliminating whole agencies and programs. But they should also be able to distinguish an increase from a decrease.

DAVID R. HENDERSON
Visiting Assistant Professor
University of Santa Clara, CA

Williams replies:

DR. HENDERSON ASsumes an 11 percent rate of inflation for 1982 in answering my charges about the Reagan budget. Yet Reagan himself assumes an inflation rate of between 7 and 8 percent, and further predicates his proposed budget on sharply reduced unemployment and interest rates. Obviously these two predictions offer a discrepancy, and no one can say which is more accurate. But since Dr. Henderson accepts Reagan's numbers in the overall budget — despite the fact that budget revisions upward are by now a commonplace — he ought to accept his assumptions, as well. If we assume, as Reagan does, an inflation rate of 7 percent, then the Reagan budget does indeed represent a cut in real terms—of some 2 percent, rather than the 5 percent Henderson claims. If inflation is closer to Henderson's assumption, then Reagan is likely to go back to Congress and request more money. In either case, when one recalls Reagan's oft-proclaimed motto, "Government is the problem, not the solution," it would seem that the President's proposed budget is a dismal failure. Looking at it another way, the "Reagan revolution" addresses *only* 2 percent of the problem.

In fact, it is that part of the President's budget which offers taxpayers absolutely no return of goods or services — arms and the military — which Reagan has increased drastically. Reagan's proud boast is that "defense" spending will increase even more over the next few years, and that he will spend more than $1.5 trillion on this boondoggle. Lately, however, conservatives and liberals alike have begun to suggest that it may increase even more, particularly if Reagan has underestimated price increases in military-related areas, which many experts believe to be the case. In real terms, then, Reagan is offering us a reduction in domestic spending, and a drastic increase in defense spending. And if defense spending in fact harms the economy more than spending for social programs, the Reagan budget, despite the supposed 2 percent real reduction, may actually be *worse* for the economy in many ways than the proposed Carter 1982 budget.

Dr. Henderson would have me list more examples of government "interference" in the economy. Yet the entire federal budget is one gargantuan example of government intervention. Every dollar seized from the private sector means less productivity and a lower standard of living.

Whittling away at the budget is not enough. If Reagan intends to differentiate himself in a positive way from past Presidents, then he must propose substantive cuts in government spending, including spending for the military. Until then he is just "treading water" and should be exposed as doing such.

A few pluses

MANY THANKS FOR ROY Childs' excellent article on El Salvador in the April *Libertarian Review*. Newspaper articles on foreign affairs are unreliable at best, so I depend on *LR* for much of my information concerning international developments. I look forward to many more such articles in the future.

PAUL THIEL
Covington, KY

I MUST COMMEND VERN Hansen for his outstanding article on Robert LeFevre [*LR*, April 1981].

His piece was my introduction to LeFevre and his steadfast contributions to liberty over the years. I only regret missing the opportunity to have attended one of LeFevre's seminars before he retired.

Our present course of political thinking is eroding all hope for a better, more prosperous, and peaceful future.

LeFevre's answer to the dilemma of our overpowering government is the example he has given us with his life's work.

NORMAN J. FARIA
Bristol, RI

ENJOYED, MAYBE THAT'S not the right word, was enlightened by your piece on the IRS. ["Preaching at the Juggernaut," by Joan Kennedy Taylor, *LR*, April 1981]

But should we be surprised that the courts have ruled as they have? I think not. There is an unwritten Catch-22 type clause in the U. S. Constitution, which had it been written might well be something like this: "Nothing in the Constitution of the United States shall be so construed as to put in question the very existence of the federal government."

If the Founders did not write any such clause, it was only because they didn't think they had to, they thought it was self-evident. Their purpose was to found a government, primarily to make the (physical) country safe for property and business enterprise. For that same reason, they wanted to limit the powers of that government. But the last thing in the world they intended or would have countenanced was someone finding some tricky way of interpreting the Constitution which would in effect do away with the government.

I am a little surprised that none of the courts, defending the powers of the IRS, have made this obvious comment, saying, "The first principle of the Constitution, overriding all others, is that the life and existence of the United States Government shall not be threatened."

I have only now read (part of) my first issues of *Libertarian Review*, and what I have seen interests me very much.❑

JOHN HOLT
Boston, MA

LR EDITORIALS



COPLEY NEWS SERVICE

Destabilizing America's allies

ONE OF THE PRESUMPtions behind America's apparently endless series of alliances, treaties, and multinational agreements is that the interests of America and of its allies are one and the same. The Reagan administration is finding out that this isn't necessarily the case. In fact, intentionally or not, some of the Reagan administration's recent moves in the international arena are helping to destablize the governments of some of its allies. Two decisions by the administration have played a key role here: the decisions to carry through on President Carter's proposal to station 572 new nuclear weapons on European territory, and to pressure Europeans and the Japanese to increase their military capabilities.

In his very first press conference, Reagan announced his conception of Soviet intentions and capabilities and attacked the Russians with classic right wing cold war rhetoric, claiming that they were after world domination and that they would do anything—lie, cheat, steal, you name it—to achieve their goals, which had not changed, he alleged, since the time of Lenin. Last February, Alexander Haig went public with a collection of captured documents purporting to demonstrate Soviet coordination of the shipment of massive amounts of military equipment to the rebels in El Salvador—even through a careful reading of the documents themselves showed neither "Soviet coordination" (in fact, the Soviets had given Salvadoran communist Handal the cold shoulder) nor any evidence of "massive" arms transfers. And in March, Reagan national security adviser Richard Allen chided our Western European allies for their alleged "pacifism" and urged them to increase their defense spending by at least 3 percent per year in real terms over the next five years. Finally, talks were initiated with the Japanese to convince them to reverse the anti-military policies which they have followed since the end of World War II.

All these U.S. moves have helped to undermine the positions of Western European and Japanese leaders, and may even have helped defeat France's President Giscard d'Estaing and elect Socialist Francois Mitterrand in his place.

France withdrew from NATO and adopted an independent posture in 1966 because it conceived its own national security needs to be quite different from those Americans thought necessary. In recent years, however, Giscard had cooperated closely with the U.S. and NATO in their defense plans and had formed a particularly close relationship with West German Chancellor Helmut Schmidt. In this year's election, Giscard's major opponent, Francois Mitterrand, indicated that while he is anti-Soviet and pro-NATO, he would, if elected, reverse Giscard's policy of discreet military cooperation with the U.S. and return to the independent path. In the heated debates which preceded the elections, Mitterand said that he would try to "insulate" France from Soviet-American rivalry, and would oppose the bipolarization of global politics. A good many French voters were apparently wary of an increasing militarization of Europe, for Mitterrand (with a little help from the U.S.) achieved what many had once thought to be impossible, defeated Giscard, and called for new parliamentary elections.

West Germany is another American ally whose leader faces trouble because of American foreign policy. Chancellor Helmut Schmidt has long been regarded as a leader of unusual stability, he has cooperated more closely with the United States than has any other European leader—and he has been under fire in his country for it. When Schmidt finally gave in to Reagan administration pressure to increase defense spending, he

came under assault from a growing faction in his own Social Democratic Party as well as from leftist opponents who support negotiations with the Soviets and partial disarmament. His talks with Reagan during the week of May 18 failed to get the Reagan administration to back off from its policies; the best he could get was a promise that Reagan would initiate new talks with the Soviets about demilitarizing Europe.

Schmidt had said he would "stand or fall" by the NATO decision to station the 572 new nuclear weapons — partially on German soil — and it appears increasingly likely that he will fall. In a recent West Berlin election, Schmidt's Social Democrats suffered their worst losses since World War II, and the left wing Alternative Party, which took a strongly anti-NATO stand, more than doubled its previous vote, winning nine seats in the city parliament.

In Britain, a third ally affected by Reagan foreign policy measures, the Labour Party is making gains by campaigning, not just against the deployment of the nuclear missiles, but for complete British withdrawal from NATO. And Margaret Thatcher's Conservative government is raising taxes — rather than slashing them, as she proposed when running for office — partly to pay for the defense buildup which Americans want Britain to undertake. Reagan's foreign policy, in short, is partly responsible for the fact that Thatcher is finding it difficult to follow a "Reaganite" program for economic recovery.

And in Japan, the government of Prime Minister Zenko Suzuki is reeling from the effects of American foreign policy moves. Suzuki, visiting the U.S. in early May, told American reporters shortly before talking with Reagan that the Japanese people wouldn't stand for an increase in defense spending and indicated that, if he attempted to push for more, he might lose the next election and open the door for a Socialist-Communist coalition government in Japan.

Nevertheless, the Reagan administration continued to press the Japanese Prime Minister, and by the time he left Washington he had signed a joint U.S.-Japanese communique which said that Japan would make greater efforts to improve its defense capabilities in its surrounding sea and air base.

Japanese public reaction to the communique was so sharp that, within days, Foreign Minister Masayoshy Ito resigned, taking full responsibility for the communique. Resigning as well was Administrative Vice Minister Masuo Takashima. And a week later, when a former U.S. ambassador to Japan asserted that Tokyo had permitted American warships to carry nuclear weapons in and out of Japanese harbors, still more debris hit the fan. Embarrassed Japanese officials made a host of excuses, claimed to know nothing about the matter, then hedged and hedged again. Another "pro-American" government had been undermined by U.S. foreign policy pressures.

It is becoming more and more apparent that the interests of France, the NATO countries, and Japan are rapidly and dramatically diverging from those of the United States. For too long, American foreign policy makers have assumed that the post-World War II global polarization of nations into the "American bloc" and the "Soviet bloc" would last forever. But it hasn't. By such Reagan advisers as Richard Allen this divergence is seen as "a failure of will" or "pacifism," but our allies see it differently. To them, American perceptions of Soviet intentions and capabilities are exaggerated to the point of being a caricature of reality.

Since Reagan's ascent to power, the gap between American perceptions and those of our allies has widened more rapidly than ever before. Conservative or centrist foreign leaders draw close to the United States and its incessant lectures on the Soviet threat — and their domestic support starts to unravel. Naturally interested in political survival, they try to walk a difficult line between their more left-leaning critics at home and the American policy makers who are urging them to respond to Soviet threats they're not even sure exist.

Libertarians are no great fans of the governments and leaders of the Western-style democracies, whether they be conservative, centrist, or socialist. We find it difficult to declare with certainty whether or not a European mixed economy state under, say, a Schmidt is any "better" than one directed by a Mitterrand. Nor do we prize *stability* of regimes as the ultimate value in shaping American foreign policy, unlike the American policy makers who for years have labored desperately to hold together a network of global alliances to force the interests of other nations to mesh with our own.

And this, in a sense, is the whole point. The network of alliances on which U.S. foreign policy is built is coming unglued, whether Americans like it or not. We spend hundreds of billions of dollars "protecting" Europe and Japan with our troops and our nuclear umbrella — and, not surprisingly, the Europeans and Japanese are beginning to see our efforts less as a protection than as a threat. Particularly in Europe, the U.S.-instigated plan to station 572 new nuclear missiles, far from being a security measure, threatens to transform the entire European continent into a nuclear "sponge," which would, in the event of a war, absorb hundreds of Soviet nuclear warheads sent to counter this threat to Soviet security. And, questions of military strategy and tactics aside, American pressure for Europeans and Japanese to increase their military spending is less than welcome in countries whose economies were shaken by the latest series of global recessions.

The Reagan administration is well aware that over 60 percent of the incredible $1.5 *trillion* it proposes to spend on "defense" over the next five years will be allocated, directly or indirectly, to Europe and Japan. But even this is not enough: With no lessening of the American role, the Europeans and Japanese must spend more themselves.

America's continuing dominent role in shaping the affairs of other nations may well be the key to the problem. The Western Europeans and Japanese simply don't agree with the American analysis of the allegedly changing balance of power in the world, and American insistence on using money, weapons, and pressure to extort their acquiescence has upset the very "stability" which the Reagan administration claims it wants.

What American allies need is the freedom to act on their own perceptions and pursue their own interests; they are laying claim to this freedom right now, and true U.S. interests — peace and security — will be served only by giving it to them. The U.S. should announce or negotiate a withdrawal from our political and military involvement in these countries, and cut its own defense spending accordingly.

If such an abrupt foreign policy reversal would require a complete re-evaluation of American foreign policy interests, then the sooner the better. The present American position can't be held. One and a half trillion dollars in military spending will not only undermine Reagan's hope of "an economic program for recovery," but it plays havoc with the domestic politics of other nations and will probably push them in a leftward direction. And, most important, all those dollars do nothing to enhance our own security, but do much to escalate tensions and crises. Reagan's call for "a new beginning" will ring hollow unless it includes turning our back on a failed foreign policy which is making us all poorer and less secure. ❑

—RAC

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POLITICAL EYE



COURTESY SENATOR SARBANES'S OFFICE

Maryland's Democratic Senator, Paul Sarbanes.

Big PAC attacks

CHRIS HOCKER

YOU'VE PROBABLY HEARD of John Glenn, because he was an astronaut, and Howard Baker, because he's Majority Leader. And Bill Bradley because he played basketball, and Harrison Williams because he's a crook, and Edward Kennedy because he's a Kennedy. But you've probably never heard of Paul Sarbanes.

Paul Sarbanes, like the others mentioned above, is a U.S. Senator. A Democrat from Maryland, to be precise, first elected to the Senate in 1976 after serving several years in the House. The number of years doesn't really matter, because no one ever heard of him there, either. News photos make him look a little bit like George C. Scott; no one ever accused George C. Scott of looking like Paul Sarbanes (the name is pronounced "SAR-bains").

The unheralded Mr. Sarbanes, however, has recently gotten more publicity than he ever dreamed of by becoming the Number One target of the National Conservative Political Action Committee, or NCPAC (pronounced "nick-pack"). NCPAC has decided that Sarbanes must be defeated in 1982, and has begun a $400,000 campaign of television advertisements in the state of Maryland to convince voters that Sarbanes isn't fit to clean cages at the National Zoo, let alone represent them in the U.S. Senate.

NCPAC's major complaint against Sarbanes is that he is the most free-spending liberal in the Senate, consistently voting for taxing and spending increases — a charge substantiated by the spending ratings of Senators and Representatives published by the National Taxpayers Union. NCPAC uses this datum with the subtlety of an ax murderer. One TV ad shows a man preparing his income tax returns, tormented by the knowledge that if it weren't for Paul Sarbanes, he wouldn't have to pay as much because, the ad says, "Paul Sarbanes voted to raise your taxes 238 billion dollars." Another ad shows a purported truckdriver — and not a very bright one, either — grunting into the camera that he's finally figured out that the key to

happiness is the defeat of Paul Sarbanes. It's not too hard to imagine a third ad, this one featuring George C. Scott as Paul Sarbanes, shooting mules and slapping soldiers around.

I'm not prepared to argue on behalf of Sarbane's fitness to be a U.S. Senator, or even his fitness to clean cages at the National Zoo, although a point in his favor is that he was one of a tiny group of Senators to vote against the confirmation of Alexander Haig as Secretary of State. To me, the more interesting question is how it came to pass that a group like NCPAC is able to launch an expensive campaign against him a year and a half before the election, before Sarbanes or any other candidates of any party have announced their candidacies.

NCPAC is, of course, a Political Action Committee, one of the few legal forms of political organization allowed by the U.S. government under the Federal Election Campaign Act (FECA). Ten years ago there were no PAC's in the current sense, but the FECA established them to permit groups other than political parties to contribute to campaigns. There are business PAC's, labor PAC's, and "ideological" PAC's — hundreds of PAC's in all — and NCPAC is the largest, having raised and spent over $7 million in 1980.

NCPAC and a few other "ideological" PAC's of the conservative persuasion took credit for the defeat of such well-known liberal Senators as George McGovern, John Culver, Birch Bayh, and Frank Church last year. They say they accomplished this by doing what NCPAC is now doing to Paul Sarbanes — spending hundreds of thousands of dollars in each targeted race expressly advocating the defeat of the Senator in question.

NCPAC's tactics can be charitably described as "hardball politics." In the anti-Church campaign, for example, its TV ads stated flatly that Church had voted in favor of a Congressional pay increase, when in fact he had voted against it. In the anti-McGovern campaign, the ads showed a target of the kind found on shooting ranges superimposed over McGovern's face. And now, with Sarbanes, it's telling Maryland voters that their Senator has raised their taxes $238 billion all by himself. It's arguable whether NCPAC actually deserves full credit or blame for defeating their targeted gang of four in 1980, and it's equally questionable whether the early campaign against Sarbanes won't backfire by giving him visibility and issues he wouldn't otherwise have had. But it's certainly true that NCPAC and other conservative PAC's have had some effect, if none other than scaring the hell out of liberal members of the Senate.

The irony here is that most of the Senators and Representatives who are now the victims of "Big PAC Attacks" were responsible for creating the very legislation — the FECA—which has allowed the PAC's to become powerful. They are, in a phrase, hoist with their own petard.

"Hoist with one's own petard" literally means "blown up with one's own bomb." A petard is a small explosive device, like a grenade.

That faulty Congressional bomb known as the Federal Election Campaign Act became law ostensibly to limit the influence of rich corporations, rich unions, and rich individuals on the political process. Democrats liked it because it prohibited corporations from contributing directly to Republicans. Republicans liked it because it prohibited wealthy liberals like Stewart Mott and Max Palevsky from contributing hundreds of thousands of dollars to Democrats. Both Republicans and Democrats liked it because it made the political system nice and neat and orderly, freezing the two major parties into a position of perpetual dominance, and, best yet, permitting the presidential candidates of these two parties to raid the U.S. Treasury for $20 million apiece, to be adjusted for inflation.

The FECA also mandated disclosing names, addresses and occupations of contributors, a complex procedure of federal matching payments for major party candidates in presidential primaries, a required structure for PAC's, and prohibition of individual contributions to candidates in excess of $1,000 — not adjusted for inflation.

In 1975, a broad coalition of liberals, conservatives, and libertarians challenged the constitutionality of the FECA, principally on First Amendment grounds, claiming that its requirements and prohibitions denied or inhibited freedom of speech and association. The case, *Buckley* v. *Valeo,* went all the way to the Supreme Court, which upheld most aspects of the FECA while extending freedom beyond FECA restrictions in two areas. One permitted candidates themselves to spend unlimited amounts of their own money. The other allowed individuals or PAC's to make unlimited independent expenditures to advocate the election or defeat of a particular candidate, so long as the expenditures were in no way coordinated with a candidate's campaign. Groups like Common Cause now refer to these extensions of freedom as "loopholes," in the same way, presumably, that governments which practice censorship create "loopholes" when they allow certain newspapers to publish.

It's the independent expenditure loophole which has allowed NCPAC to take off after its liberal targets, and would just as easily permit liberal PAC's to blast away at conservative candidates. They may spend unlimited amounts of money at their own discretion to advocate the defeat of certain candidates so long as there is no apparent coordination with any other candidate's campaign.

Without the maze of rules and regulations in the FECA affecting other aspects of campaigns which shut off other channels of political expression, groups like NCPAC would be far less influential. Under the present law, PAC's are the only available alternative for anyone who wants to make a sizeable contribution to a candidate's campaign. But if anyone could contribute any amount directly to a candidate, who would need NCPAC?

Predictably, liberal victims of conservative PAC's are muttering that these things shouldn't be allowed to happen and they'd better close up that loophole—the same mutterings we'd hear from conservatives if liberal PAC's were clobbering them. They're going out of their way to evade the fact that it was their own damn law in the first place that made it possible for PAC's to become powerful. Hoist with their own petard.

The problem with the FECA isn't the loopholes, it's the loops—the twists and turns of regulatory machination which preserves and fossilizes the political system and systematically abridges the First Amendment for rich and poor alike. The loopholes shouldn't be closed, but rather widened all the way out, past the edges of the FECA. Then perhaps Senators like Paul Sarbanes can gain fame or oblivion through the actions of free individuals exercising their full rights of political expression, rather than through the activities of artificial structures created and sanctioned by the State. ❑

Chris Hocker is the publisher of *LR*. His "Political Eye" column appears monthly.

COMING SOON IN LR

Jeff Riggenbach on Urban Decadence

Chris Hocker on Transportation

Roy Childs on Crime and Drugs

COMMERCE DEPT.



ILENE PERLMAN/PICTURE GROUP

Ralph Nader

The destruction of Poletown

SHELDON RICHMAN

WHEN FELIX ROHATYN and other corporate leaders wax eloquent about the need for government/business cooperation to solve economic problems, it's all very abstract and remote. For example, Rohatyn, a Wall Street investment banker and architect of the New York City bailout, complains that the U.S. government looks helpless next to the governments of Japan, West Germany, and France: "There, governments do seem to govern. There are direct links between the identification of a problem, a recommendation for action, and public debate, which are then followed by a decision and implementation."

It all sounds so clinical and tidy. Who could object to identifying problems and implementing recommendations after "public debate"? What the proponents of government industrial policy slyly avoid are concrete descriptions of their programs.

Unfortunately, a perfect illustration of this policy is on display in Detroit. General Motors is closing two outmoded Cadillac and Fisher Body plants there. GM told the city government that if it wants to keep GM in Detroit, it had better come up with a 500-acre site for a new $600 million Cadillac plant. The city government, fearing the loss of GM and tax revenue and expecting 6,000 new jobs at the plant (unemployment is at 18 percent in Detroit), came up with a plan. It would acquire the acreage through eminent domain, improve the roads and rail facilities—all at a cost of more than $200 million, mostly in federal funds and guarantees — and resell the whole shebang to GM for about $8 million. GM said okay.

Most of Detroit applauded this enlightened cooperation between business and government; the news media, organized labor, and the civic and political leaders all beamed with pride. The bastions of business — the Chamber of Commerce and *The Wall Street Journal,* for example—held their tongues.

There was one hitch, though. Some 3,500 citizens would have to be run out of the many homes, 150 businesses, 16 churches, and one hospital that stand on the 250 acres of an old ethnic neighborhood in northeast Detroit called Poletown. Many of the persons evicted are elderly Polish immigrants and first-generation Americans. About 10 percent of them have refused to take the little money offered by the city and have vowed to fight for their land. So far, they have lost every court battle. Now the bulldozers are rolling over their homes and businesses for the benefit of General Motors.

When the residents organized the Poletown Neighborhood Council to fight condemnation, they called in GM's traditional foe, Ralph Nader, for help. Nader responded by assigning about a half-dozen of his young followers, full-time, to the cause. They sued the city in the state courts, arguing that eminent domain is improper *in this case* because it is for private benefit. They conceded the state's authority to expropriate property for "public use." Predictably, they lost. The Michigan Supreme Court upheld the taking 5-2, despite eloquent dissents. Two federal suits under the National Environmental Policy and Clean Air acts also failed.

Poletown may be a preview of things to come. As the statist economy runs down, business and government will seek shelter with one another. Many corporations will attempt to socialize costs through the state apparatus: most of the money Detroit spent to acquire and renovate the GM site came from federal grants and loan guarantees, saving GM the trouble of buying the properties at market prices and paying the full costs itself. Governments will eagerly do favors for business in order to maintain or expand their tax bases: even with a 50 percent, 12-year property-tax abatement (in itself unobjectionable), GM will pay $8.1 million a year in taxes. Wage taxes on the new workers will amount to some $1.5 million a year.

One of the shameful things about the Poletown case is that the job of fighting the state has been left largely to Ralph Nader, an unlikely defender of property rights, indeed. (The exception has been the Washington-based, free-market business group with which I am associated, the Council for a Competitive Economy.) With Nader in the fray, the press has interpreted the battle as one between, as *The New York Times* put it, "little people and corporate power." But this is precisely what it is not. General Motors has no power of eminent domain, no power to tax, no power to force the taxpayers to guarantee loans. But the Detroit and federal governments have.

The problem, then, is not corporate power (whatever that may be), but *political* power. For all of GM's wealth, it has never been able to force anyone to buy its cars. Now, thanks to Detroit's politicians, it is able to force people to sell their land. This doesn't make GM less culpable for its crime; it merely locates the source of the crime.

Nader and his group shot at the wrong target. They conceded the authority of the state to seize property under certain conditions, then argued whether those conditions obtained in Poletown. Their objection is that a new plant would benefit GM, not the public. The court's majority retorted that 6,000 new jobs will benefit the public. "When a legislature speaks," the court said, echoing the U.S. Supreme Court, "the public interest has been declared in terms 'well-nigh conclusive.'" Quoting another case, the court said, "When there is such a public need, '[t]he abstract right [of an individual] to make use of his own property in his own way is compelled to yield to the general comfort and protection of the community, and to a proper regard to the relative rights in others.'"

Associate Justices John W. Fitzgerald and James L. Ryan dissented, but they accepted the premises of eminent domain. Fitzgerald warned that "no homeowner's, merchant's or manufacturer's property, however productive or valuable to its owner, is immune from condemnation for the benefit of other private interests that will put it to a 'higher' use."

Justice Ryan quibbled over the difference between "public use" and "public benefit" in venting his frustration with GM's orchestration of the project. "Eminent domain is an attribute of sovereignty," Ryan wrote. "When individual citizens are forced to suffer great social dislocation to permit private corporations to construct plants where they deem it most profitable, one is left to wonder who the sovereign is." Implicit here is the fallacy that "the people" are sovereign under some other use of eminent domain. But if eminent domain means anything, it is that the people serve the state and its purposes.

Ryan, however, broached the critical issue when he wrote, "The concept of public benefit is indeed protean. It is also nebulous. The state taking clause has now been placed on a spectrum that admits of no principles and therefore no limits."

This is the real point. There is no meaningful distinction between public and private. Everything and nothing is a "public purpose." GM's plant will benefit some people, but so do the shops and homes being bulldozed. On what grounds does only the former win the accolade "public"? No cost-benefit "balancing of interests" can provide an answer. The benefits to those who get the jobs cannot offset the misery of the victims of expropriation.

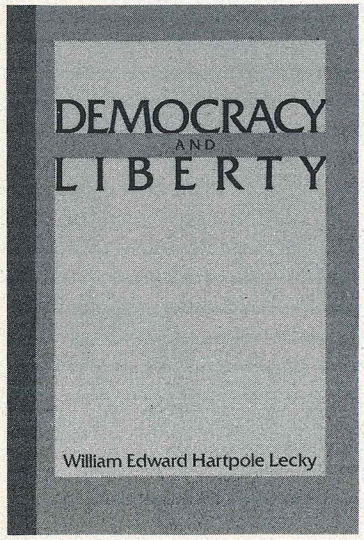
The public/private controversy can be cleared up by realizing that the public is a myth; there are only particular persons. The notion—held by GM, the justices, and Ralph Nader—that individuals may be sacrificed to the public can only mean that some people may be sacrificed to other people. State power, then, is always exercised against some for the benefit of others. One cannot legitimately grant the state the power to seize property and then complain that it picks the wrong beneficiaries. That is arbitrary nit-picking.

Poletown is a property rights/civil liberties case. If people are to be secure in their lifestyles, they must be secure in their property. GM has made itself the enemy of both by seeking to profit by state power. Poletown is not a contest between business and people, but rather between people who wish to go about their business peacefully and those who don't. Nothing much changes in the world.

Systematic property rights/civil liberties violations underlie all proposals for "reindustrialization." The state cannot direct the economy; it can only regiment people and dictate the use of their property. The Poletowners are tragic symbols of that truth. ❑

Sheldon Richman is the editor of *Competition*, the newsletter of the Council for a Competitive Economy. His column, "Commerce," will appear regularly in *The Libertarian Review*.

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By William Edward Hartpole Lecky

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The Protocols of the Learned Experts on HEROIN

The Lesson We Should, But Won't, Learn from the Lie That Won the Pulitzer Prize

Thomas Szasz

"The children of each generation are taught to want what they are taught they must not have."

R. G. Collingwood (1939)

Why did the forgery of Janet Cooke's ugly story about an "8-Year-Old Heroin Addict [Who] Lives for a Fix" go undected at *The Washington Post?* Why did it win a Pulitzer Prize? Although these are two quite unrelated questions, the same answer fits both. I believe that this fabrication went undetected and won a Pulitzer Prize because it purported to prove, once more, that heroin is our deadliest enemy.



NOUR/NEWS PHOTOS WORLDWIDE

Janet Cooke

Religious and medical propaganda to the contrary notwithstanding, I hold some simple truths to be self-evident. One of these truths is that just as the dead do not rise from the grave, so drugs do not commit crimes. The dead remain dead. Drugs are inert chemicals that have no effect on human beings who choose not to use them. No one has to smoke cigarettes, and no one has to shoot heroin. People smoke cigarettes because they want to, and they shoot heroin because they want to. Furthermore, so far as the connection between heroin and crime is concerned, I contend that, the propaganda of the anti-drug crusaders to the contrary notwithstanding, this truth is also self-evident: people under the influence of a powerful central nervous system depressant drug, such as heroin, are less rather than more likely to commit crimes than are people who are not under the influence of such a drug; on the other hand, people who live in a society in which the use of certain drugs is popular, in which the sale of those drugs is prohibited, and in which the drug-prohibitions are not enforced, are indeed more likely to commit crimes than they would be in the absence of those conditions. However, since no one is so blind as the man who does not want to see, these truths are quite powerless against popular mythologies, as *The New York Times'* editorial comment on the Cooke affair illustrates. Under the title "The Pulitzer Lie" (April 17, 1981), the editors of the *Times* emphasize their puzzlement:

We do not know what possessed Janet Cooke to invent an interview with an imaginary 8-year-old drug addict who aspired to grow up to be a heroin pusher in the nation's capital. Nor do we know why *The Washington Post* was so quick to claim the protection of the First Amendment when city authorities sought help in locating children so obviously needing help. We do not know why this contested tale was then pushed for journalism's highest honor, or why the Pulitzer Prize judges jumped the entry from one category to another to bestow the award.

Although I do not want to sound (or be) arrogant, I believe that I know the answer to these questions. Indeed, I believe that the editors of the *Times* know it too, albeit they do not want to admit it, or, as Freud has put it, they repress it. And the repressed, as Freud observed, invariably returns.

In this case, the repressed appears in another editorial only a few inches above "The Pulitzer Lie." In that comment, entitled "To Fight Crime, Fight Drugs," the editors admonish the Reagan administration for its insufficient zeal in fighting the drug menace. "The East Coast is currently swamped with heroin," we are informed. "In New York, drug-related robberies and burglaries have more than doubled in three years." But I am afraid that just as Janet Cooke's story about "Jimmy" was not true, so *The New York Times'* editorial about "drug-related crimes" is also not true. The crimes in question are not "drug-related" but "drug-prohibition-related," which is not the same thing.

It is sad how quickly people have forgotten that when Nelson Rockefeller ran for Governor, his principal campaign strategy consisted in placing full-page advertisements in the newspapers showing the arm of a young black male injecting heroin. In the accompanying caption Rockefeller pledged to free the people of New York State from this "plague" and the crime it "causes."

People seem also to have forgotten that only a few months ago Governor Hugh Carey offered this "truth" to explain why so many thugs stole so many gold chains in New York City. "The epidemic of gold-chain snatching in the city," declared Carey, "is the result of a Russian design to wreck America by flooding the nation with deadly heroin." If the Russians "were using nerve gas on us," the Governor continued, "we'd certainly call out the troops. This is more insidious than nerve gas. Nerve gas passes off. This doesn't. It



The original art for "Jimmy's World," the front page story that ran in the Washington Post *September 28, 1980.*

Drug-related burglaries are really drug *prohibition*-related burglaries, which is not the same thing.

kills, I'm not overstating the case."

In love and war all is supposed to be fair. The love of saving people from the Devil and the war on Evil have indeed always been regarded as ample justifications for fabricating strategic lies. Let us face it: Cooke's story was *not* a "weird and atypical hoax," as the *Post* characterized it in hindsight. On the contrary, it was typical anti-drug propaganda, virtually indistinguishable from the standard pharmacomythological tales with which "professionals" and the media have been deluging the American public for the past two decades. If Cooke's story had been "weird and atypical," the editors of the *Post* would have displayed more skepticism toward it and the Pulitzer Prize judges would not have gone out of their way to honor it.

The adjective invariably used to describe the images that Cooke evoked is "shocking." Were a reporter to paint a similarly shocking picture today about, say, Jews poisoning wells or black men raping white women, no respectable newspaper would print the story, nor would it win any prizes. That Janet Cooke's concoction was published and that it won the coveted Pulitzer Prize thus signifies that she tapped a vital artery in America's body politic, a vessel nourishing our most sacred fears and prejudices. There is much evidence to support this view.

First, we have learned that, at the Pulitzer Prize board, one of the most enthusiastic defenders of Cooke's article was an editor from the *Washington Star* who, according to the *Times,* maintained that the piece deserved the prize because it "'had done a great service' by alerting Washington residents to the problems of juvenile drug addition." Then, there is the reaction of *Post* readers to Cooke's story and the reaction of *Post* staffers to it, both before and after its exposure as a fabrication. According to *Time* magazine, the editors at the *Post* "were comforted by letters from readers who claimed they knew Jimmy or children like him." At the *Post,* City Editor Milton Coleman was "very frankly surprised" that the police had not located Jimmy, and was so impressed by the piece that "he wanted another story on young addicts."

After the hoax was exposed, *Post* Executive Editor Benjamin Bradlee revealed that the *Post* can dish it out better than it can take it. In an ironic inversion of the Watergate scenario, in a front-page interview in the *Detroit Free Press,* Bradlee incriminated himself by "obstructing" not justice (since no crime had been committed), but what may be even more important, truth (since a lie had been published). Asked "Have you talked to Cooke recently? What happens to her?" Bradlee replied:

> Well, I talked to her mother and father, but I haven't talked to her since early this morning. We're going to take care of her. We're going to see that she has professional help. We've talked to professional help about her, and we're going to get it for her and pay for it.

But Janet Cooke is neither a child nor an incompetent mental patient. Why talk to her parents? Why talk to "professional help"? Why call psychiatrists "professional help"? Why pay for the psychiatric treatment of a former *Post* employee who "resigns" to avoid being fired? I object to Bradlee's imposing an "insanity plea" on Cooke. Janet Cooke is a liar, not a lunatic, and Bradlee's casual categorization of her as a mental patient only serves to further diminish his own, and the *Post's,* credibility.

More recently than most people care to admit, multitudes in the West celebrated their collective revulsion against what they then considered to be evil incarnate, the Jew, and its carrier, "International Zionism," through the mythopoesis of "The Protocols of the Learned Elders of Zion." Today, multitudes in the West celebrate their collective revulsion against what they now consider to be evil incarnate, heroin, and its carrier, the "pusher," through the mythopoesis of what could be called "The Protocols of the Learned Experts on Heroin." The Nazis did not have to invent new lies about Jews. Janet Cooke did not have to invent new lies about drugs.

The infamous "Protocols of the Learned Elders of Zion" was purported to be a true account of a conspiratorial plan for Jewish world conquest, drafted at a secret meeting of the first Zionist Congress in Basel, Switzerland, in 1897. The story was first published in the Russian newspaper *Znamia* ("The Banner") in 1903 and was quickly translated into German, French, English, and other western languages. The spurious character of this document was not revealed until 1921. Subsequently, it was established that the "Protocols" were commissioned by the Russian secret police. The full story of the forgery, at least so far as it could be uncovered, was not told until 1942.

We may not know it, or may not want to know it, but we live in an age in which we are deluged with a similar sort of allegedly true, but actually spurious, propaganda — about "drugs." Once such example must suffice here.

Early in January, 1968, Raymond P. Shafer, then the Governor of Pennsylvania and subsequently the chairman of President Nixon's Marijuana Commission, announced to the press that six college students stared at the sun while under the influence of LSD and were blinded as a result. The story was all over the country. Less than two weeks later, *The New York Times* reported that "The Governor, who yesterday told a news conference that he was convinced the report was true, said his investigators discovered this morning that the story was 'a fabrication' by Dr. Norman Yoder [Commissioner of the Office of the Blind]... He said Dr. Yoder, who was unavailable for comment, had admitted the hoax." What happened as a result of this disclosure? Nothing. Dr. Yoder and his lies were disposed of by the method characteristic of our age. Pennsylvania Attorney General William C. Sennet diagnosed Yoder as "sick" and attributed his fabrication to "his concern over illegal LSD use by children." Janet Cooke and *The Washington Post* were no doubt similarly concerned over heroin use by children.

At this point, it is necessary to focus on, and to expose, the key role that the imagery of helpless children—cared for by good people and corrupted by evil people — plays in the rhetoric of scapegoating. Gathering under this banner, the drug-mongers lost no time defending the morality of anti-heroin mendacity, even before the clamor over the non-existent "Jimmy" had died down. For example, William Buckley (who should really know better), pleaded that we "go easy" on Janet Cooke because "the story of an 8-year-old addicted to heroin is, in our wretched times, far from unlikely." No doubt, the idea of the menace of children

as drug-abusers seems "far from unlikely" to Buckley, just as the idea of the menace of children as self-abusers (masturbators) must have seemed far from unlikely to his father or grandfather. It is regrettable, however, that Buckley's boundless fear and loathing of heroin drive him to almost glorifying Janet Cooke by comparing her well-intentioned deception to the demonic deeds of the "pusher." "As one member of the white majority," writes Buckley, "I'd prefer the company of a black newspaperwoman who fabricated a story centered on a mythic *but entirely plausible little victim* [emphasis added] of drugs, to the company of the relatively untroubled black (or white) drug pushers who ride around in their Cadillacs sowing their poison."

But what has driving Cadillacs got to do with the morality of using heroin? Is murder more wicked if the killer leaves the scene in a Cadillac then if he leaves it on foot? If providing people with heroin is a grave wrong, as Mr. Buckley clearly believes it is, then giving it away gratis is at least as wicked as is selling it for a high price. In fact, Buckley is using cheap anti-capitalist rhetoric to whip up hatred against a scapegoat. Moreover, it is implicit in Buckley's argument that selling heroin is very bad, but selling cigarettes is not so bad or not bad at all. Surely, it is unimaginable that Buckley would employ his anti-Cadillac rhetoric against the American tobacco barons and the "pushers" who distribute their toxic products.

Buckley's foregoing remarks articulate what is now considered to be the received truth about heroin. A lead letter in *The New York Times* by Don Russakoff—identified as the President of the Therapeutic Communities of America—illustrates further that the American "experts" know everything about "narcotics" that isn't so. Lamenting that the Cooke story proved to be false, Russakoff actually praises the *Post* for publishing it. "Tragically," he writes, "many other stories about pre-teen narcotic addicts never reach the front page, although they are indisputably true." But none of those stories is indisputably true. And even if they were, it would not follow—except as a leap of faith—that prohibiting the use of certain selected "dangerous drugs" is the correct social policy for dealing with the problem.

Revealingly, Russakoff, like Buckley, also bases his argument on a propagandistic use of the imagery of the child as drug victim. "Not long ago," he writes, "at one of our professional conferences, a physician described the case of a 6-year-old child who had overdosed on 'angel dust.'" And what is that supposed to prove? That perhaps that physician too was a liar? That some parents neglect their children? That we should prohibit vacations in the Alps lest children overdose on poisonous mushrooms—or fall off the cliffs? Buckley and Russakoff are not presenting evidence or offering argument; they are whipping up mindless passion in the people against a scapegoat. Cooke may have written a false story and the *Post* may have been misled into publishing it. But the Satanic threat remains and the vigilance of the vigilantes is now more justified than ever. "The *Times, Washington Post,* and many other responsible publications," concludes Russakoff, "have reported often on the worsening drug epidemic. It is real, not imaginary. And a high proportion of its victims are children. *Small children.*" (Emphasis added)

As I suggested some time ago, the contemporary American attitude toward "dangerous drugs" is best understood in religious-mythological terms—that is, as the "ritual expulsion of evil" incarnated in a scapegoat. In the Yom Kippur ceremony, the scapegoat is a goat. In Christian anti-Semitism, it is the Jew. In contemporary America, it is heroin (and the other illicit drugs). Once people accept something—an animal, a person, a people, a drug—as a scapegoat which incarnates Evil, they ipso facto consider destroying the scapegoat as Good. Consider, in this connection, the following:

- Formerly, Christians feared the Jews because they allegedly poisoned wells; accordingly, the Jews were savagely persecuted. Today, Americans fear heroin because it allegedly poisons people, especially young people; accordingly, heroin and heroin "pushers" are savagely persecuted. In fact, the Jews did not poison any wells, and heroin does not poison anyone. (The difficulty the contemporary reader has in seeing the difference between heroin poisoning someone and a person poisoning himself with heroin is a major symptom of the success of the anti-drug propaganda.)
- People who believe in a scapegoat do not want to understand it, they want to destroy it. When people regard Jews as Christ-killers or vermin, they do not want to understand Jews, they want a society free of Jews ("Judenfrei"). Similarly, when people regard heroin as a "killer drug" or as a worthless "poison," they do not want to understand heroin, they want a society free of heroin.

Perhaps deep in her soul Janet Cooke actually believed that "The Protocols of the Learned Experts on Heroin" were true, and perhaps she simply wanted to support their admonitory tale by adding to it a fresh chapter of her own. Let us not forget that, in the past, many devout persons had dramatic encounters with devils and saints, and no one called them liars; and that, in our own day, many "devout" persons have dramatic encounters with heroin pushers and cured addicts, and no one calls them liars. Janet Cooke told a rousing good tale, as a good writer should. She inflamed the public passion against the Enemy, as a good rhetorician is supposed to. To expect that her story should also be true—when hardly anyone else's about "drugs" is—seems almost unfair.

Concerning Janet Cooke's mythic hero, Jimmy, one more reflection is in order. Some people in Washington actually believed that they knew him. Cooke herself maintained for as long as she could that Jimmy was real. Obviously, there was virtually no way of proving that Jimmy did not exist. All this made Cooke's denial or admission of the forgery exquisitely important. Which leads to my final observation—namely, that it seems quite possible that had Janet Cooke not lied about her academic credentials, her lies about heroin (for which the mythic Jimmy was, after all, only a vehicle) would probably have gone down America's collective gullet of gullibility just as smoothly as have all the other lies about heroin now passing as the received truth.

There is a moral to this story and it is this. No doubt unwittingly, Janet Cooke has done us a favor. She has held up a mirror in which we can catch a glimpse of a prevailing popular delusion. In the future, when people will worship at other shrines, they will scoff at our drug mythology just as we now scoff at the blood and race mythologies of our fathers and grandfathers.

Will we ever learn one of history's more obvious lessons—to be especially on guard against those who lie to us by appealing to the welfare of children? How many Jews were murdered to save Christian children from being turned into matzo? The ritual murder of people has always been preceded by the ritual murder of the truth—and, indeed, by the ritual murder of language itself. ❑

Thomas Szasz is the author of 17 books, including *The Manufacture of Madness* and *Ceremonial Chemistry.* His latest book is *Sex By Prescription.*

Made in Washington: The Auto Apocalypse

JACK SHAFER

DETROIT — The hottest retail item in the Motor State of Michigan these days is not the heralded General Motors "J" car, the Chrysler "K" car, or the Ford Escort/Lynx which somehow escaped alphabetical designation. It is an import, though not Japanese, and it costs only $2.50. It is the Sunday *Houston Chronicle* with a classified section packed fat with employment and real estate listings.

The old euphemisms — business slowdown, economic lull, recession — no longer cut it in Michigan. People all over the state are speaking the forbidden word, "depression." Official unemployment, that is, government reported unemployment, tops 12.6 percent, beating the national average by more than 5 percent. In Detroit, unofficial unemployment hits 25 to 30 percent in some areas. State tax revenues are down 10 percent, while an unprecedented 14 percent of the population (some 1,275,000 Michiganders) is receiving some sort of welfare. Business bankruptcies and federal seizures of businesses for unpaid taxes are three times what they were in 1979. Real estate values are tumbling. In ever increasing numbers, with or without the aid of the *Houston Chronicle* classifieds, Michiganders are migrating from the center of the beleaguered industrial Heartland to the thriving Sunbelt where jobs can be found.



MICHAEL GORDON/PICTURE GROUP

Gas lines are the non-cash price we paid for artificially controlled oil prices.

The causal link between the withering of Michigan and the plummet of the Big Three, General Motors, Ford, and Chrysler, is simple and clear. Though Michigan has other important industries — paper, pharmaceuticals, agribiz — it is basically a one industry state, and for good reason. Its natural economic advantages, the railroads and the Great Lakes, connected the fledgling auto industry to raw materials and retail markets, and for the better part of the century cars and Michigan thrived.

So when Chrysler crawled to Washington in 1979 and threatened to die right on the spot if denied a long drink at the public trough, Michigan flinched. Chrysler got its federal loan guarantees, but that didn't prevent the Big Three engine of profit from backfiring and belching out $4 billion in 1980 losses. Auto sales dived from a 1972 high of 11.4 million units to a dismal 6.6 million in 1980. An eventual 1,400 auto dealers nationwide closed up shop, some 300,000 auto workers were put on indefinite layoff, and another 200,000 supplier workers joined them. A good number of these jobs were lost in Michigan where Ford closed one plant and Chrysler five. As the primary producers were laid off an incalculable number of service workers they indirectly employed, like waitresses, teachers, and civil servants, joined the jobless. And there seemed to be no end in sight. In early 1981 Ford and Chrysler posted another $700 million in red ink, and Ford was rumored to be the next in line for handouts.

But while scribes and politicians have been quick to match

There was no Japanese takeover of the American car market. The American market, burdened with inflation and regulation, collapsed from within.

Michigan's withering to the Big Three's, a consensus villain responsible for the crackup of the Big Three has not been forthcoming — perhaps because, realistically, the blame is thick enough to spread on everybody. One could blame the United Auto Workers (UAW) and its $20 per-hour-including-fringe-benefit contracts for the crackup. One could blame the Big Three for not having the vision to foresee the coming auto apocalypse and build small, efficient cars like the Japanese. One could blame OPEC and Iran for stealing the 29.9 ¢ gallon and replacing in with the 39.9 ¢ liter. One could blame the Japanese, as most now are doing. Japanese xenophobia is even surpassing Iranian xenophobia. One industry insider likens the Japanese automakers to a carnivorous animal telling its victim to relax as it devours the victim alive. Most people today seem to agree: the predatory Japanese have destroyed at least two-thirds of the Big Three.

But not so. When you turn the wreck of the American car industry upside down and read the bottom it does not say, "Made in Japan." It reads, "Made in Washington, D.C." In a masterfully written article in the November, 1980 *Harper's*, "The Wreck of the Auto Industry," William Tucker sums it up: "The problem that has confronted Ford, General Motors, and Chrysler is that they have had to operate mainly in the American market—the last place in the world where consumers and politicians have been able to conspire among themselves to preserve the illusion of cheap gas." According to Tucker, only gasoline prices and availability have any effect on the size car Americans buy. As the government has jiggled and jury-rigged fuel prices, so too has the American car industry had to jiggle and jury-rig its supply of large and small cars—not to meet the demands of a rational market, but to meet the whims of a distorted market created by the government.

While the government's meddling in the oil market goes back farther, Tucker begins his story of government intervention a decade ago, when domestic oil production peaked, and the Nixon administration decided to rescind restrictions on imported oil so that we could meet our growing domestic demand. Nixon had imposed wage and price controls in 1971 to cool the Vietnam inflation and buy the 1972 election, and the controls had created all kinds of shortages, including a gasoline shortage in the summer of 1973. Small car sales surged to 40 percent in response to that shortage, and all four American car makers shifted to increase their small car output.

Then, with the Arab oil boycott, came the 50¢ gallon and an even greater rush to small cars. Even Volkswagen and the "visionary" Japanese ran short of cars. But by the spring of 1974 the small-car panic buying had ended and both domestic and foreign car sales were down about 25 percent and Detroit found itself so loaded down with small car inventory that it resorted to a cash rebate program to clear the market. Consumers had begun to drift back to a mixture of small and big cars.

Why? Hadn't the world discovered the new rules of the oil market, that is, that the foreign oil producers were starting to act like good, capitalist, maximizers-of-profit? Most of the world had, but in America, Nixon's 1971 price controls on oil were still in effect and Americans were paying nowhere near the world price for oil. In 1975, as those price controls were about to expire, President Ford attempted to steer the price of oil toward the world price, but an economically illiterate, Democratic-controlled Congress declared the shortage a hoax and decided to buy the 1976 election for themselves by *lowering* the price of oil. And President Ford went along.

Almost overnight the car market made a U-turn. The consumer was being fed the false information that the days of cheap oil had returned. Big car sales boomed. The factories that the Big Three had converted from big car production to small car production had to be shifted back to big car production once more.

Tucker's version of the wreck of the auto industry concludes with the toppling of the shah of Iran, when the availability of gasoline was thrown into question once again, and again Americans viewed TV images of long gas lines in California. Overnight the market switched back to small cars. Consumers learned that standing in line is a non-cash price one pays. The political winds blew the price at the pump up toward world price levels and the lines disappeared. Finally, gas prices were making sense, but the "wild gyrations that no manufacturer could possibly keep up [with]" had done lasting damage to Ford, Chrysler, and small American Motors. Only General Motors had the resources to span the entire range of the market and have whatever vehicle the government's dislocations of the moment might cause the public to want. Today, taxpayers keep Chrysler afloat, Ford subsidizes its domestic operations with its healthy auto profits overseas, where governments haven't interfered with the price of fuel, and American Motors has found stability under the control of the French Government-owned Renault.

But Washington's destructive intervention in the automotive market goes even deeper than Tucker's analysis outlines. The politicial manipulation of fuel prices did have the indirect effect of so distorting the market that the domestic car makers could not keep up. But concurrently the federal government was extending the powers of regulation it had won in the Nader mid-sixties to *directly dictate* the exact design, construction, and operation of automobiles. Not only can the auto crisis be imprinted, "Made in Washington, D.C.," the cars themselves can, too.

Like any other market, the car market is complex and subject to change. Bringing a completely new model onto the market, such as General Motors's X-car, requires at least three years planning and tooling and about a $2 billion investment. So while Detroit was surveying the rapidly-changing market to build the sorts of cars it thought would sell, Washington was using its power to force the auto makers into risking additional capital, *Detroit's capital,* in another direction — to build the sorts of cars Washington thought America *should* want.

Washington mandated:

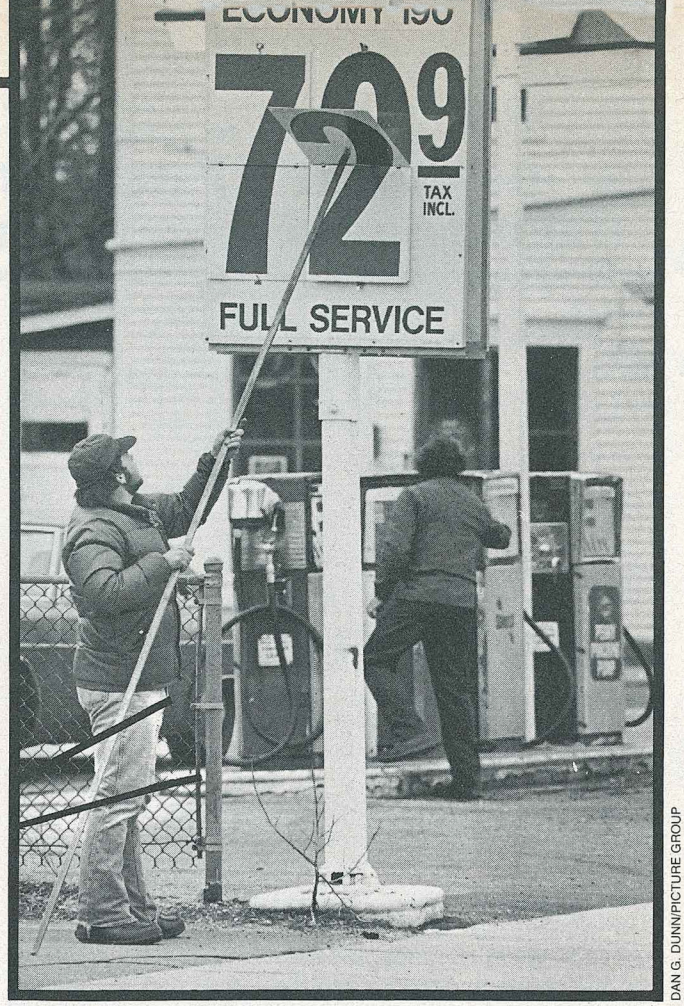
- Crash bumpers, side-door beams, and roof-crush resistance, all of which added little or nothing to motoring safety. According to Jack Solomon in the March, 1978 *Reason,* what they did add was hundreds of dollars onto the

cost of a car and extra weight that played havoc with the very fuel economy Washington was supposedly so committed to.

- An ignition interlock system which caused such a consumer uproar that Congress ordered it discontinued after only three months of production, but not before a vital $250 million of consumer money had been wasted.
- A catalytic emissions control system which required unleaded gas. Catalytic emissions controls made Detroit beholden to unstable Soviet and South African suppliers for the platinum, palladium, and rhodium used in their production. Unleaded gas required more petroleum to produce and new refinery construction, but other federal agencies made rules hampering new refinery construction.
- Nationwide speed limits of 55 miles per hour. The new speed limit, along with rising prices for gasoline and automobiles, discouraged car use and thereby extended the life span of the average car. The future car market, a market Detroit had counted on, contracted accordingly.
- Corporate Average Fuel Economy (CAFE) standards. The fleet-average economy standards the car industry must obey began to tighten up just as the oil that had been made $1 a barrel cheaper by Congress and President Ford hit the market. Ford Motor Company had to *ration* the limited number of V-8s CAFE standards allowed them to build. The 10 mile per gallon vans, which were exempt from CAFE standards until 1979, sold like mad in this period. Rather than tooling up a complete line of economy cars to satisfy CAFE standards — cars for which there was no market because Washington was holding down the price of fuel — Detroit companies imported foreign cars under their own labels — Colts, Fiestas, and Isuzus. But then Washington banned imports from being figured into the fleet average—a move contrary to the government's own stated goals of conservation. The paradox Detroit faced was it had to retool, at a cost of tens of billions of dollars, to build cars the distorted market had no use for in order to satisfy the CAFE standards.
- Continuing antitrust pressure. Antitrust legislation prohibited the auto makers from collaborating on safety, emission, and economy standards. Each company had to invest separately in research. Ironically, Father Washington, who for so many years made sure His children in Detroit weren't playing footsy with one another, later tried to arrange a shotgun marriage between troubled Ford and Chrysler. Chrysler's loan guarantee required it to seek a merger partner as a condition to the bailout — but Ford quickly rejected merger talks.

The government's destruction of money and credit has also contributed to Detroit's slide. The average new car buyer comes back to the showroom about every three years. Each time he returns he finds a sticker price hundreds or thousands of dollars higher, due to inflation and regulation. And those still brave enough to try for auto loans have found that the refusal rate has jumped from an average of 10-15 percent to 50 percent. You can't buy something you can't afford. Meanwhile, the Japanese have continued to make cars from their relatively inflation-free base.

To look at the headlines one would think that those clever Japanese had mounted a takeover of our car market just as our guys got winded from a little regulation. But actually, there was no takeover—the American car market collapsed. In 1978, the Japanese sold 1.4 million cars in the U.S. and American firms sold 9.3 million. In 1980, the year of the Japanese "takeover," the Japanese sold 1.9 million cars, or a mere 500,000 more, while American car sales nosedived to



DAN G. DUNN/PICTURE GROUP

Only gas prices that reflect world levels have ever made Americans conserve fuel or buy compact cars.

6.6 million. The headline-makers merely parlayed these numbers into percentage figures to show the Japanese market share jumping from 12 percent to 21 percent in two years. The supposed Japanese takeover is nothing more than a shell game played with percentages.

But Washington threatened trade restrictions. And fearful of a trade war that might extend to the other goods—TV's, motorcycles, electronics, steel — that Japan must sell to survive, the Japanese meekly agreed to cut car shipments to America by 7.7 percent for one year. Quickly, Canada, and then Europe, the world's largest car market, pressed the Japanese for similar export restraint.

But no one is helped by curbs on trade. Reduced Japanese imports will only drive up the costs of all new cars, foreign and domestic, and all existing used cars, instead of giving a boost to the domestic new-car market. That there are trade barriers to American products around the world is a moot issue. In the long run, foreign markets can only sell as much to us as they buy from us or their currencies will go to hell. Besides, until recently the Big Three made no car which could sell in Japan, and Detroit has traditionally exported automobile *plants* rather than automobiles. In the lucrative European market, GM and Ford subsidiaries control 21 percent of the market, or roughly what the Japanese "takeover" share is here. Ford has been, with the UAW, one of the most insistent promoters of trade curbs. Yet the very same Ford is putting the finishing touches on a $400 million engine plant in Mexico. Those engines will be exported to America to be fitted into American-made Fords. One wonders if Ford wants to apply those trade curbs universally or just against the yellow automotive peril.

Lee Iacocca, chairman of Chrysler, was among the first to

pinpoint Washington as the source of the industry's problems, but that didn't prevent him from going to Washington for loan guarantees. And who could blame him? More than $409 billion in federal loan guarantees to ship builders, steel companies, airlines, farmers, the railroads, and New York City were already in place. With such ample precedent Chrysler would have been crazy not to get in line. Iacocca and others, like Felix "the Fixer" Rohatyn, insist that federal rescues of bankrupt firms save taxpayers money, but as Murray Rothbard writes in *Inquiry,* (April 27, 1981), this is "a fascinating inversion of the obvious fact that it is the federal *rescue* of inefficient and insolvent corporations that will cost the taxpayer — and the consumer, because it perpetuates the inefficient use of resources — all too dear." Iacocca and Rohatyn doublethink has it that government intervention is both the problem *and* the solution. Their call for a "new" partnership between business, government, and labor to solve our industrial ills ignores the fact that a similar old partnership, which is still in place, is exactly what got us into trouble in the first place.

In addition to fueling the $409 billion loan-guarantee gravy train, the old partnership *already* shapes this country's industrial development. The Defense Department purchases half of all aircraft, televisions, and radios, one-fourth of all engineering and scientific instruments, and one-third of all electron tubes and non-ferrous forgings produced in America. The government funds 35 percent of all U.S. research and development and employs, directly and indirectly, 30 percent of all our engineers and scientists. While the old partnership benefits from this orgy of consumption, our industrial economy is steered away from producing consumer goods that could be competitive with goods from Japan and Germany where there is no such defense stance. A recent study by Pentagon critic Representative Les Aspin (D-Wis.) shows that defense plants can hire machinists—the experts who set up our factories — away from consumer industries because the military budget will always allow extra money for that purpose.

The Reagan administration claims to oppose any socialistic industrial policy, but by calling for an increase in defense spending the administration is setting into motion a chain of events which will further damage our consumer industries. By directing investment to the defense industries, capital and labor will be bid away from consumer industries. And because most of the defense industries are in the Sunbelt this dislocation of our economy will scuttle any possible resurgence of the battered and abused Heartland.

Perhaps the best years of the automobile industry are better seen through the rear-view mirror rather than the windshield anyway. In the last decade one out of every six jobs was auto related, but because of demographic, economic, and cultural upheavals it could be that any government move to keep auto king is doomed. Consider:

- America has become a zero population growth country. The average household has fewer than three people and most households own at least two vehicles. The market is saturated.
- As the size of the family drops and the expense of owning a car rises, three-car families are becoming two-car families, two-car families are becoming one-car families, and some are giving the car up altogether.
- The American market demanded large, comfortable cars to travel the long distances cheap gas and subsidized highways encouraged. Costly gas and downsized cars have made those trips expensive and uncomfortable. This means that consumers are wearing out their cars at a slower rate.
- Big cars cost only slightly more than small cars because the major costs in making a car are in manufacturing, not material. Many buyers can't get excited over small, costly cars.

It is no wonder the Japanese have no desire to produce cars in our shrinking, regulated market. But that hasn't prevented Washington from staking Chrysler so it will have the capacity to build cars nobody will buy. It is assumed that General Motors needs to sell about 5,000,000 cars a year to remain profitable. Even if the Japanese weren't in the picture that would leave only 3,000,000 or so cars at present for Ford, Chrysler, American Motors, and Volkswagen America to make a profit on. It is dubious if all the domestic makers can survive for long on that low figure.

The only way out of the mess is for Washington to let Detroit compete. Instead, Lee Iacocca calls for something called "fair trade" over free trade. Fair trade, it seems, is loan guarantees like the ones that have made the ship builders, steel, airlines, farmers, and railroads captive industries of Washington. Fair trade is tariff regulations and a National Recovery Act which would recast the ad hoc old-partnership of government, business, and labor into a statist "new" partnership with the force of law and the stench of fascism. Fair trade bears the same relationship to free trade as "fair speech" does to free speech, or "fairdom of religion" does to freedom of religion. That is, none at all.

Fair trade bailouts will only bring us closer to the British abyss. A Glasgow auto plant built with government subsidies has sunk three auto makers: Rootes Motors, Chrysler, and Peugeot. The political decision to make jobs and an industrial base in Glasgow has proved a poor substitute for a business decision. Taxpayers were milked to provide temporary jobs for workers and three owners went broke, plus capital was stolen away from businesses that might have thrived.

The Reagan administration is prepared to reject 35 regulations, a move that could save the auto makers $1.4 billion and consumers $9.3 billion over the next five years, but that only scrapes the top of the iceberg of regulation floating in Washington, the 1,500 regulations that add $1,125 onto the average 1981-model car cost. It may be too little help, too late, to save the industry.

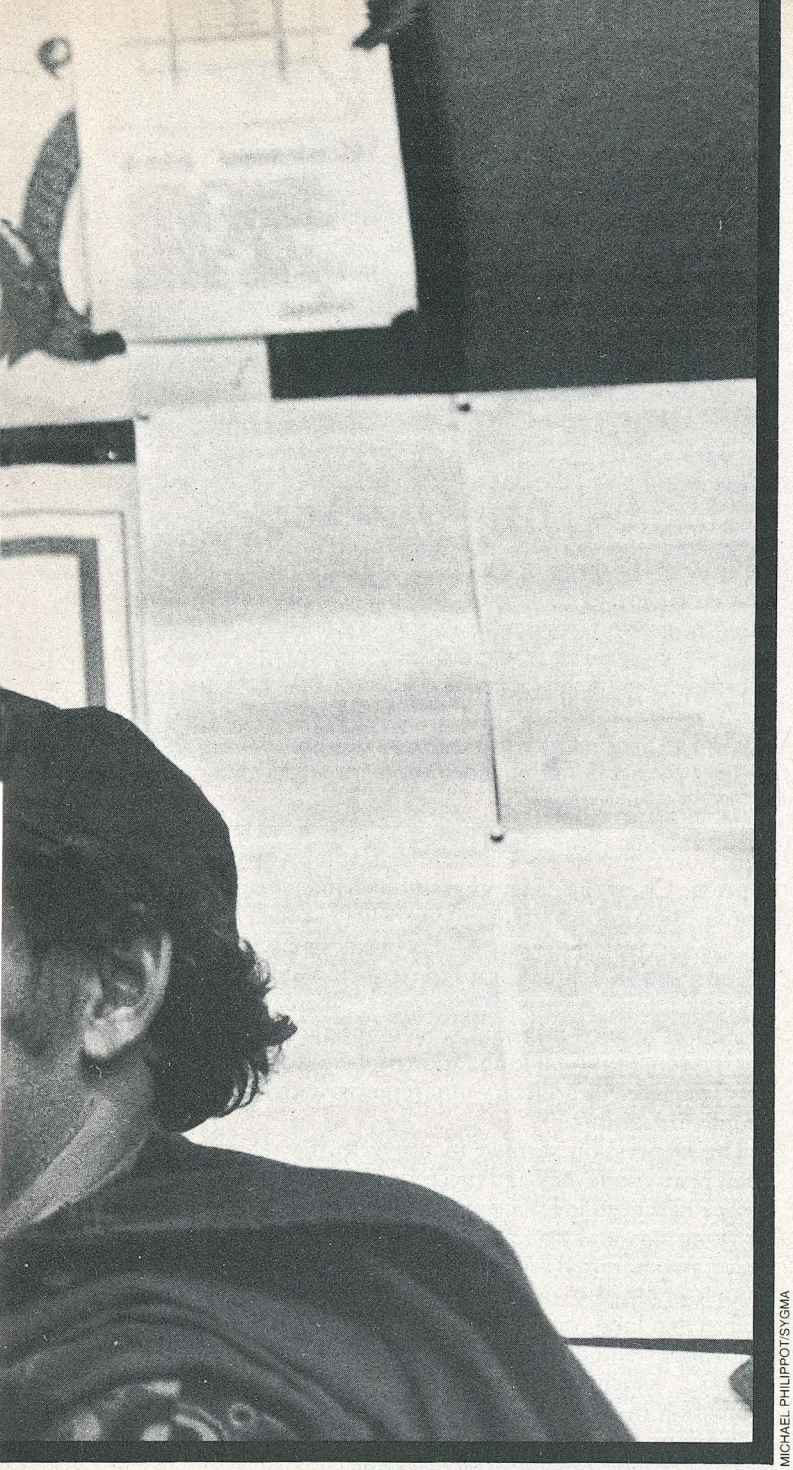
Washington must get out of the car business altogether. Reagan has said nothing about future CAFE standards which will once again put Detroit to the financial wall and force it to retool its entire line of cars. The CAFE standards are not a business decision to meet consumer demand. They are a political decision. Washington's energy policy is to reduce oil consumption and to make Detroit pay the price for that policy whether it drives Detroit under in the process or not. Even in Europe, where gas topped $2 a gallon in the mid-seventies, no car maker's fleet-average exceeded 25 mpg because none of them could make any money by blindly throwing tens of billions of dollars at fuel economy. At some point the cost of retooling for greater fuel economy becomes greater than the cost of the fuel that will be saved. In the economist's parlance this is the point of diminishing returns. We passed that point with the CAFE standards, the safety standards, and the emissions standards, long ago. Unless we want to completely destroy what car industry we have left, we should abolish all of them immediately and free Detroit to invest its capital as it sees fit.

The auto apocalypse was made in Washington, D.C. It can only be unmade in Washington, D.C. ❑

Jack Shafer is a contributing editor of *LR*.



Unions and Government Power



MICHAEL PHILIPPOT/SYGMA

JOAN KENNEDY TAYLOR

At a time when the Polish union movement is amazing the world by the bravery and gallantry with which it is opposing the communist government of Poland, few Americans are expressing similar feelings toward our own domestic union movement. You see people wearing Solidarity T-shirts at parties—no one wears UAW or Teamster T-shirts. Why? What's the difference between the unions in Poland and unions in the United States? For that matter, what's the difference between the union movement in the early years of this century, that championed free speech and the rights of petition and assembly, and today's unions, whose leaders seem to take the establishment point of view on every issue?

It's a question of government power. Solidarity reminds us of what a union can be, because it is opposing the government, who is the only employer in a communist country. The government is what the union is organized *against*. Similarly, the early union organizers in this country were supporting the right of individuals to organize and combine against the government-supported employers who were trying, by force, to keep them from asserting this right. But American unions did not repudiate the use of government force, instead they seized it for their own end, the advancement of their members; even, as we shall see, to the extent of using the government to enforce racial discrimination.

Before the American Revolution, the colonies were governed by British law. And England had been a feudal country, with a tradition of regulating labor—in fact, of forced labor. A statute passed in 1349 required that every English subject "not living in merchandize, nor exercising any craft, nor having of his own whereof he may live" be compelled to work at such wages as "were accustomed to be given in the places where he oweth to serve," on penalty of imprisonment. In 1548, Parliament forbade any organized efforts by laborers to fix wages and hours, and in 1563 it passed a law requiring the unemployed to work for any who wanted them and allowing justices of the peace to set *maximum* wages and fine any employer who exceeded them, while other statutes kept workers from moving from their localities in search of other jobs.

These restrictions on the rights and activities of workers culminated in the idea that any organization workers might form was a criminal conspiracy. And this doctrine not only crossed the Atlantic but was retained in American law.

It was as late as 1842 before the legality of forming a union was established in a case brought against workers merely for forming a society, *Commonwealth* v. *Hunt*. The Supreme Judicial Court of Massachusetts declared, "The manifest intent of the association is to induce all those engaged in the same occupation to become members of it. Such a purpose is not unlawful. . . . [I]n order to charge all those, who become members of an association, with the guilt of a criminal conspiracy, it must be averred and proved that the actual, if not the avowed object of the association, was criminal." However, the courts still reserved the right to judge the objectives of union activity, and looked with disfavor on economic and social pressures being used to "compel" employers to modify the way they managed their businesses or workers to join unions.

But the labor movement continued to grow, fanned by the wave of immigrants that was arriving on American shores, many of whose members brought with them the ideas of European revolutionary socialist and anarchist movements. By the third quarter of the nineteenth century, it had become sizable. The Knights of Labor, which had begun as a secret society of tailors in Philadelphia, became a national industrial union in 1878, and by 1886 had over 700,000 members. And in 1886 a rival organization was formed that was to outstrip it — in December of that year, some 25 labor groups met in Columbus, Ohio, to found the American Federation of Labor, and organization of craft unions.

The movement wasn't growing without violence. The "Molly Maguires," a miners' group with ties to revolutionaries in Ireland, operated in Pennsylvania in the 1870's. A general railroad strike in 1877 led to violent



THE BETTMAN ARCHIVE

A confrontation between police and anarchists in Haymarket Square in Chicago (1886) gave unions a violent image.

confrontations with state militia and federal troops. There were widespread boycotts and strikes during 1884-1886, and in May of 1886 the famous Haymarket Square incident occurred, in which an anarchist meeting to support a strike was broken up by police, a bomb exploded, and seven anarchists were sentenced for murder.

With the passage of the Sherman Anti-Trust Act in 1890, which declared "Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce" illegal, the stage was set for a renewed attack on labor unions. According to the late Supreme Court Justice, William O. Douglas,

> While corporate business fared quite well under the Sherman Act, labor soon felt the full sting of the new law....
>
> In 1894 Eugene Debs had led a strike against the Pullman Company for better wages, and in response the Department of Justice moved in and got an omnibus injunction against the strike. While never advocating violence or lawlessness, Debs stood firm on the strike. Yet he was cited for criminal contempt, found guilty and sentenced to prison.... Thereupon he sought habeas corpus in the Court, which denied relief. The Court sustained the injunction not under the Sherman Act but under other federal acts extending national control over railroads.
>
> ...In prison Eugene Debs turned to socialism and emerged to proclaim that "industrial slavery" would be abolished. The entire episode caused many to conclude that the Court was nothing but a servant of the moneyed interests.

The Court's ruling in the *Debs* case, which resulted in making the injunction a major legal weapon against unions, was similarly characterized by constitutional scholar Edward S. Corwin in a 1932 article in *The American Political Science Review* advocating social planning: "[T]he Court held in that case that the Executive has the prerogative right to enter the national courts independently of statutory authorization, and obtain an injunction to protect any widespread public interest of a proprietary nature, and to support the injunction with all requisite force." (The "requisite force" in the case of the Pullman strike included swearing in 3,400 men as special deputies to keep the trains running and sending in federal troops to keep order.)

A period followed in which it became commonplace for businesses to be granted federal or state injunctions to end or prevent strikes, and in which, in the words of Murray Weidenbaum (later to be Chairman of President Reagan's Council of Economic Advisers), "there were numerous and successful prosecutions of labor unions under the Sherman Antitrust Act." (*Los Angeles Times,* July 3, 1979)

But the unions continued to grow, in size and influence, and in 1914, the Clayton Antitrust Act (a law called "labor's Magna Carta" by Samuel Gompers, founder and first president of the A.F. of L.) was passed. It increased the reach of the Sherman Act in some respects, but it specifically limited the use of legal force against labor. It stated that "the labor of a human being is not a commodity or article of commerce; nothing in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural and horticultural organizations... nor shall such organizations or the members thereof be held or construed to be illegal combinations in restraint of trade under the antitrust laws." (It also made strikes, peaceful picketing, and boycotts legal, and limited the use of the labor injunction to cases in which the courts held it necessary to prevent violence or "irreparable damage to property." However, the interpretation of this Act was still up to the courts, who decided which activities were peaceful and which were damaging.)

For the labor movement, it was not enough to be free of government restraint; it wanted to use government power to pass legislation to gain limits on working hours, restrictions on immigration, better working conditions, minimum wages — in general, it wanted social planning. And social reform was in the air; it seemed scientific. As Edward Corwin was to put it in 1932, "We are no longer headed for Heaven in a perambulator labeled Evolution, *Laissez Faire,* or any other uncomprehended force. If we get there, it will be on our own power."

The reforms of Progressivism were enacted at first by state legislatures. But as fast as such legislation was passed, the Supreme Court (using a rather dubious interpretation of the words "due process" to justify its belief in social Darwinism —"the survival of the fittest," i.e. business) declared it to be unconstitutional. States, said the Court, would have to justify any interference with business's "liberty of contract." The effect of such decisions was to uphold property rights, but the constitutional foundation of them was so shaky that they were seen as arbitrary interferences with the will of the people for reform.

The Depression seemed to prove to the reformers that what restrictions they had succeeded in putting on economic power had been insufficient to ensure the protection of the working man and woman. During Herbert Hoover's term in office, two national bills became law that furthered some of labor's objectives: the Davis-Bacon Act of 1931 which required that labor on public works projects be paid "prevailing wages," and the Norris-La Guardia Anti-Injunction Act of 1932, which placed new limitations on the use of the injunction in labor disputes, forbidding injunctions to sustain antiunion employment contracts, as well as those to prevent strikes, boycotts, or picketing.

But it was under Franklin Delano Roosevelt's leadership that an entire program of national regulation of the economy was not only planned, but passed by Congress.

The Supreme Court, some of whose members were still under the influence of social Darwinism, struck back. In 1935, it declared the National Industrial Recovery Act (NIRA) to be unconstitutional for three reasons: because it delegated legislative power to the executive, because there was no constitutional authority for such legislation, and because it extended the commerce power to the federal regulation of all wages and hours, even of those of persons engaged in intrastate commerce. In 1936, it invalidated the Bituminous Coal Conservation Act, which protected unions from interference by coal mine operators, not on the ground that governments shouldn't interfere with contract negotiations, which might be thought to follow from the concept of "liberty of contract," but because they should be regulated by state law rather than federal law because "[t]he relation

of employer and employee is a local relation. At common law, it is one of the domestic relations."

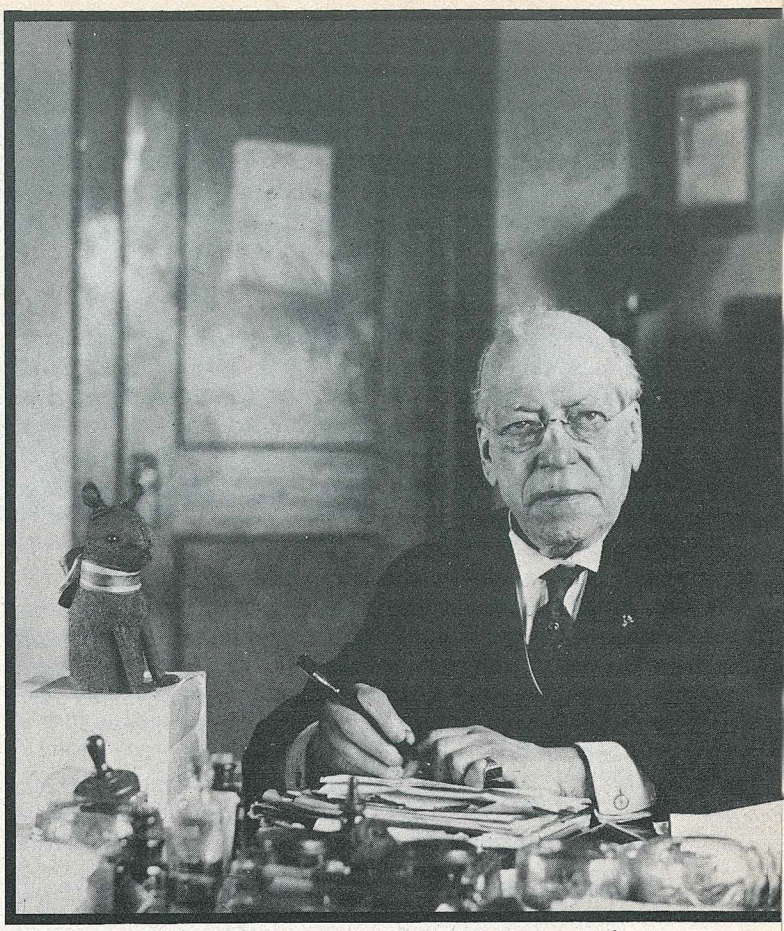
The Court also struck down the Agricultural Adjustment Act as being an unconstitutional extension of the power granted the federal government by the welfare clause, and a New York State minimum wage law for women, which it said interfered with liberty of contract.

In 1935, after the NIRA had been declared invalid, Congress passed an even stronger bill, one that would give labor the government protection that it had long been seeking. The National Labor Relations Act (also referred to as the Wagner Act or the Wagner-Connery Act) was intended to diminish the causes of labor disputes, and their subsequent bad effects on interstate and foreign commerce, "by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection." How did it intend to accomplish these things? By creating a National Labor Relations Board (NLRB) with the power to supervise union elections, to determine the appropriate collective bargaining units (unions), to then certify the chosen trade union, to determine that certain actions described as "unfair labor practices" had been taken and to hold hearings and take testimony about such practices, and to issue binding cease-and-desist orders on the basis of its findings, which were to be enforced by the courts.

Unfair labor practices included not only any interference with attempts of employees to organize into unions, any discrimination against any employee because of union activity, and any refusal to bargain in good faith with the designated union, but also any interference in or attempt to influence union elections. The union could demand not only a "union shop" (in which any non-union employee must agree to join the union within a designated period of time) but a "closed shop" (where only union members may be considered for employment). In any case, once a majority of the workers in a business were union members, even if non-union workers could still be employed (an "open shop"), the employer was bound to deal exclusively with union representatives in setting all conditions of employment, and was further bound not to employ outside workers (scabs) in case of a strike.

It was predicted that the Supreme Court might find this law an undue extension of the power to regulate commerce, as well as an interference with employers' liberty of contract. But President Roosevelt had a trick up his sleeve that forced the Court into line. James F. Simon, in his 1980 biography of Justice William O. Douglas, *Independent Journey,* summarized what happened.

> The Court's assault on the New Deal and similar attempts at social and economic reform at the state level naturally produced a fusillade of criticism. How could a handful of old men in black robes thwart the majoritarian will? It was a question asked throughout the country, but most importantly, at the White House. For Franklin D. Roosevelt, braced by the greatest landslide victory in modern political history, decided that he could challenge the Court's work as they had his. The President's Court-packing plan followed. FDR proposed that he appoint one new justice for every sitting justice over seventy; that would have given him six appointments and effective control of the Court. The justices looked on uncomfortably while the political debate over the Court's fate raged. In the spring of 1937, one member of the Court majority, Justice Owen Roberts, changed his attitude and vote in several critical cases involving reform legislation. The Court was asked to rule on a state minimum wage law, not unlike the New York statute that it had knocked down only nine months earlier. This time, however, Justice Roberts voted with Justices Louis D. Brandeis, Benjamin N. Cardozo, Harlan F. Stone and Chief Justice Hughes to uphold the law. Two weeks later, an astonished nation learned that the same majority of five justices had upheld the constitutionality of the National Labor Relations Act.
>
> ... The modern Supreme Court, like its wiser predecessors, would have to announce its constitutional principles clearly but never without considerable respect for the political process. For the post-1937 Court, that meant that the justices would leave social and economic legislation — no matter how unwise they thought it to be — to the policy-makers in the other branches of government. The primary constitutional mission after William O. Douglas took his place on the Court [on April 17, 1939] would be of a different sort — not to favor one economic or social philosophy over another, but rather to define the constitutional dimensions of civil rights and liberties.

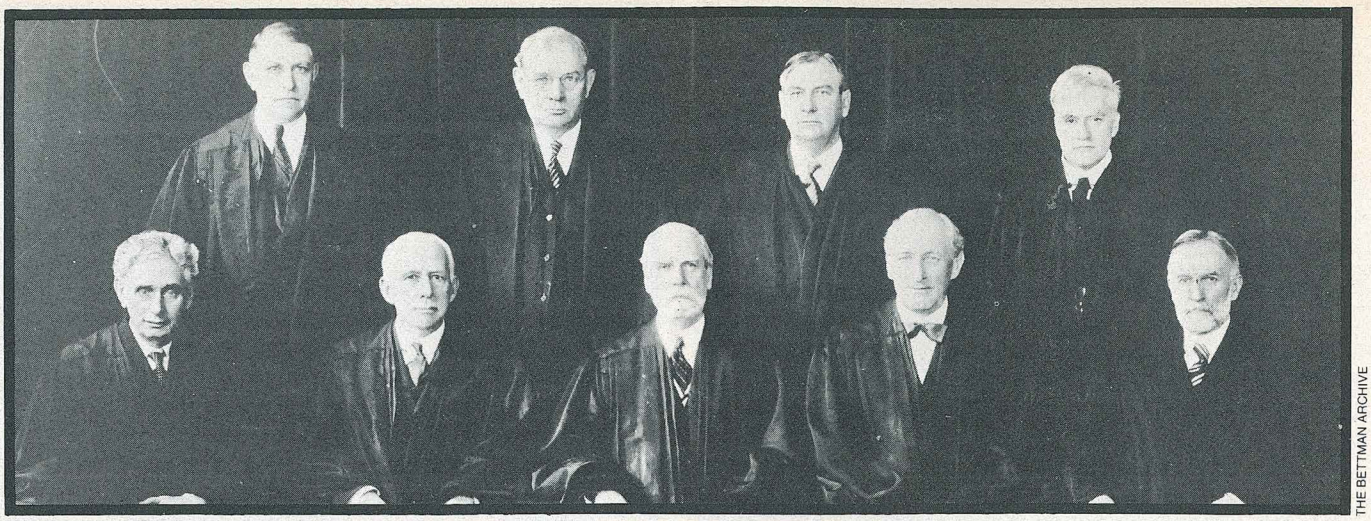


THE BETTMAN ARCHIVE

Samuel Gompers, first president of the American Federation of Labor, protected the interests of white, male workers.

After years of suffering coercion, organized labor had achieved a place among the coercers. Henceforth it would be the businessman that would feel the full force of the law in any disagreement with the union. In the process of achieving this, it had been necessary to vastly expand the power of the federal government to regulate commerce, because, as Edward Corwin had observed, "planning means coercion for intransigent minorities—that at least—and if coercion is to be applied by the national government, it must usually be under the commerce clause."

This was the victory that was hailed by New Deal liberals as a triumph of what they saw to be the correct philosophy —one that might be opposed by "old men in black robes" or what Corwin called "intransigent minorities" (read *businessmen*), but not by any right-thinking people who had the



THE BETTMAN ARCHIVE

The Supreme Court avoided FDR's "Court-packing" plan when Owen Roberts (top left) voted with the minority on the NLRA.

interests of the working poor at heart.

But was it? It was not widely publicized at the time, but there was another "intransigent minority" that opposed the National Labor Relations Act as it had opposed the regulation of wages and hours in the National Industrial Recovery Act before it — and not for conservative reasons. That minority was the black community.

In a 1977 book, *Black Labor and the American Legal System* (Vol.1: *Race, Work, and the Law*) Herbert Hill, for many years National Labor Director of the NAACP wrote:

> A significant aspect of the public controversy surrounding the passage of the National Labor Relations Act was the intense opposition of the NAACP, the National Urban League, and other Negro interest groups. The most important feature of the Act was taken from Section 7a of the National Industrial Recovery Act (which became Section 9 of the NLRA). This section established labor unions as exclusive collective bargaining agents through a process of governmental certification by the National Labor Relations Board. Because most of the unions affiliated with the American Federation of Labor either excluded Negro workers from membership (the United Mine Workers of America was the major exception), thus preventing their employment in union-controlled jobs, or engaged in other discriminatory practices, spokesmen for the black community vigorously opposed Section 7a.

In fact, Mr. Hill reports, the union movement had a long history of trying to displace or exclude nonwhite workers. In 1890, the Brotherhood of Locomotive Trainmen demanded that the Houston and Texas Central Railroad replace all black workers by whites. In 1911, 10 black firemen were killed during a strike called to protest the hiring of blacks by the Cincinnati, New Orleans and Texas Pacific Railroad. Between 1882 and 1900 there were "at least fifty strikes by white workers against the hiring of blacks...the success of a number of them meant that blacks were effectively barred from almost all the higher paid skilled work in iron and steel manufacturing, in tobacco factories, and in other industries." Samuel Gompers used his considerable influence to promote a doctrine of white supremacy, and also led anti-Oriental campaigns. Hill quotes Professor Frank E. Wolfe as saying that, during the late nineteenth and early twentieth century, "Negroes were seldom admitted into a union in any part of the country," and also lists some of the unions that specifically listed being white as a qualification for membership — cigar makers, iron molders, carpenters, bricklayers and masons, machinists, typographers, locomotive firemen, and masters, mates, and pilots, among others. Those unions that did not exclude blacks often set up segregated black locals. "The existence of segregated locals and racial auxiliaries usually prohibited blacks from gaining knowledge of, and intervening in, the collective bargaining process," writes Hill.

Nor were such practices ended by the turn of the century. Hill recounts that Local 28 of the Sheet Metal Workers International Association removed a "Caucasian-only" clause from its constitution in 1948, under orders from the New York State Commission for Human Rights, but that 15 years later, not a single Negro had been admitted "to union membership and union-controlled employment." And then the National Labor Relations Act was passed. Hill also quotes Raymond Wolters, writing in *Negroes and the Great Depression: The Problem of Economic Recovery:*

> During the 1930's several examples of trade unions using their power to force the dismissal of black workers came to the attention of Negro leaders, an experience which understandably served to confirm their original pessimistic suspicions. In Long Island City, New York, the Brotherhood of Electrical Workers, Local No. 3, organized several electrical supply shops, refused membership to the Negro workers already employed there, and used its newly won power to force the managements to discharge several dozen Negro employees. In Manhattan, some locals of the Building Service Employees' Union demanded that employers discharge Negro workers and fill the vacancies with white unionists. As a result, several hotels, restaurants and office buildings were forced to discharge Negro elevator operators and restaurant workers and hire whites.... In St. Louis the depth of this anti-Negro sentiment was strikingly illustrated when all the AFL men working on the Homer Phillips Hospital (a $2 million hospital for blacks built in the middle of a Negro neighborhood) walked off the job and halted construction for two months in protest against the General Tile Company's decision to employ a Negro as the setter. Examples such as this naturally made other contractors reluctant to hire black labor.

These actions, it should be stressed, were effective precisely because the union's power was enforced by the NLRB and, ultimately, the courts. As Herbert Hill sums it up, "Labor unions ... derive their power to act as exclusive representatives of employees from federal law—that power is a consequence of government action." As a result of this action, union members have become a privileged elite. According to Robert Crandall of the Brookings Institution, present salaries in the steel industry (one of the American industries that is in decline, partially due to its non-competitive costs in the international market) average $40,000 a year.

Labor unions are formed to help their members, at least in part by excluding non-members. Their strong anti-

immigrant and anti-Negro biases in the early days of their history were crude attempts to achieve this end—their later support of social legislation has been viewed by some as a more sophisticated program leading in the same direction. In a January 1981 interview in *Human Events,* for instance, Walter Williams, the black conservative economist, stated, "There is, unfortunately, an unholy alliance between blacks and labor unions, even though labor unions through a lot of their activities cause blacks to be unemployed. The unions support the Black Caucus and their handout programs, CETA, food stamps and the like, in return for black support of labor unions and even various of the labor programs that in effect exclude blacks."

It wasn't the complaints of black leaders (who tried in vain to get the National Labor Relations Act amended to reflect *their* interests before it passed), it was concerted action by the business community that secured the passage of the Taft-Hartley Act in 1947, which extended the coverage of the NLRB to include "union unfair labor practices" and limited unions in other ways, such as forbidding them to contribute to political campaigns and requiring them to disclose their finances to the public. But the best-known section of the Taft-Hartley Act is Section 14(b), which gives permission to the states to pass individual "right-to-work" laws—laws that outlaw closed and union shops. Despite attacks by union leaders, who called the Taft-Hartley Act a "slave-labor law," and from friends of labor (such as Lyndon Johnson, who called for the repeal of right-to-work laws in 1965), there are now 20 states that have enacted such laws.

Conservatives, and even some libertarians, support right-to-work laws as a counterbalance to the power given to the unions by the National Labor Relations Act. *Reason* magazine, for instance, ran an article on the subject in May 1979: "Right to Work: What is it? Who has it?" by Thomas R. Haggard, which endorsed at least the tactics of supporting such laws because such support "necessarily involves exposing the underlying coerciveness of collective bargaining agreements and the federal laws that facilitate them," although the article also recognized that many such laws impose criminal sanctions upon the parties, are applied indiscriminately to all union shop agreements, whether coerced or uncoerced (and to situations where an employer might want unilaterally to hire only union members), and "operate like any other so-called antidiscrimination statute." Indeed, inherent in the very phrase *right-to-work* is the idea that the employer may not deny employment on some basis or other, whereas in a truly free society the employer offers employment, and should have a right both to refuse to hire a union member and to insist on hiring one. The worker offers his labor, and has a similar right to refuse to work for a specific employer—a right which may seem to be an empty one, until one considers that, without it, the worker is a slave. The employer has no "right" to labor, except by agreement. But the worker has no "right" to the job before agreement has been reached.

Despite the "balancing" intent of Taft-Hartley, the NLRB has a long record of pro-labor decisions. In 1965, Stuart Rothman, former general counsel for the National Labor Relations Board, wrote an article for the May issue of *Nation's Business,* entitled "Let's Stop Labor Board's Unfair Practices." In it, he said, "Organized Labor's leaders are having more and more to say about how you run your business as a result of National Labor Relations Board decisions. . . . They limit, for example, your right to:—Sell or close your business . . ."

Sixteen years later, the situation seems unaltered. In April of 1981, the Supreme Court heard oral arguments in a case that sought to overturn the NLRB's ruling that a company's closing down of a losing part of its business was a subject about which it must bargain in advance with the union. The company protested that this involved "holding a plant hostage," and claimed that, just as an employee has the right to quit, so "an employer has the right to quit as an employer."

But, sixteen years later, unions are also in obvious trouble. Union percentage of the total work force has been declining (from 28 percent just after World War II to 20 percent today), as has labor's political influence. In one industry alone, the automobile industry, which has almost 200,000 unemployed members, it is anticipated (according to an article by Alexander Cockburn and James Ridgeway in the *Village Voice* last April) that "[o]ver the next decade the autoworkers anticipate attrition of their work force by as much as 400,000 jobs, one third of the current union membership." Runaway shops, which used to move to the South or the West where non-union workers could be found, are running overseas to countries whose standard of living is but a fraction of our own.

More and more, unions in America are seen to be dinosaurs. The very government power that they have grown fat on has left them out of condition to deal with changing times, and they are exposed as being in large measure ineffective, and even corrupt.

Union sympathizers are left with little to propose except stop-gap measures to hang onto power. In the December 6 issue of *The Nation,* for instance, Stanley Aronowitz suggested, after describing our many dying industries, "American unions and liberals should turn to the advocacy of a mixed economy. True, public ownership of dying industries merely socializes misery. But when public ownership is combined with public energy corporations that would provide adequate investment for solar and other renewable energy sources, as well as develop cheap domestic fuels, some of these plants could be saved for a long time." So we are not getting to Heaven on our own power, as Corwin predicted—the path has led us to the point where we look forward to socializing misery.

Perhaps the answer to the question with which I started this article—what is the difference between our unions and the Polish Solidarity?—is to be found in contemplating the effects of government power, and seeing that such power doesn't only corrupt; it leads to stagnation. Who can feel inspired by the thought of socializing misery? The working man and woman of industrial America, without quite understanding what happened, have been moved from supporting self-reliance, the dignity of work, and opposition to government planning and enforcement of the status quo. Instead, they are expected to cleave to the most narrowly conceived and bureaucratically enforced self-interest, in the name of which they will try to get government power to preserve unviable and even obsolete factories for "a long time." The only answer that bureaucrats know to the abuse of power is to counteract the abuse with more power, and that is the philosophy to which the labor movement in this country has delivered itself.

Union. The very word is supposed to mean people together, agreeing and joining in supporting what they see as a common good. To all too many people, it now means make-work jobs, featherbedding, lowering of standards, special privileges for members who need do nothing at all to earn them, incompetence.

Solidarity forever, certainly. But not propped up by government power—rather, standing against it. ❑

Joan Kennedy Taylor is senior editor of *LR*.

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LP/10

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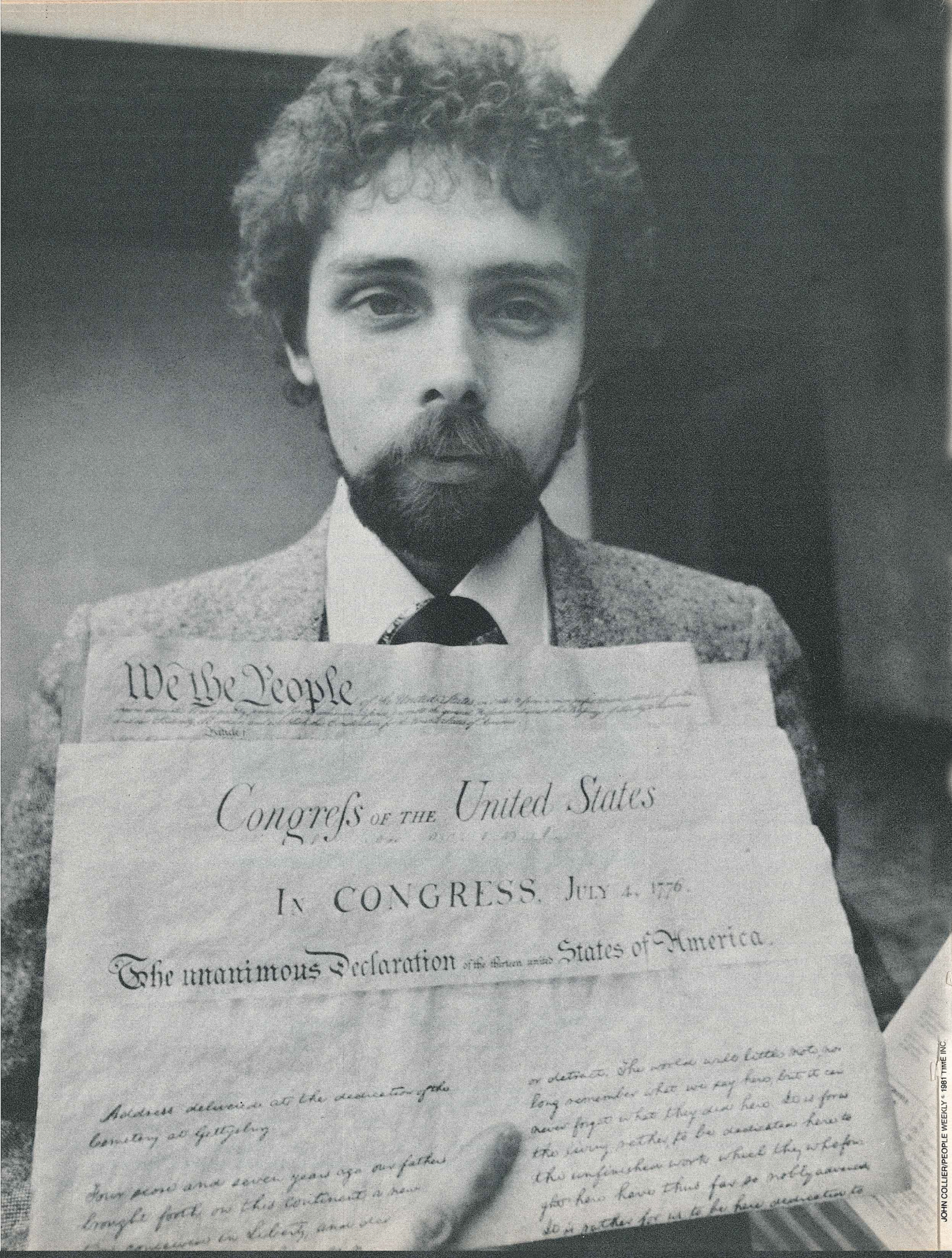
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AN LR INTERVIEW

An IRS official called it "the biggest or at least one of the biggest tax protest movements in the country." Treasury Secretary Donald Regan angrily classified it as "tax fraud" and vowed to initiate the "fast prosecution" of those involved.

At the center of all this controversy is a Pontiac, Michigan based organization called We the People ACT (American Citizens' Tribunal) led by Dean Hazel, a GM assembly line worker. Since he helped to found it in 1980, Hazel has seen ACT's membership grow from a handful of Pontiac and Flint autoworkers and independent businessmen to nearly 800 concerned citizens. In addition, over 3,000 autoworkers have followed ACT's example and are challenging their IRS tax bills. In retaliation, Hazel was indicted in federal district court on April 14 for filing false W-4 forms.

At 28, Hazel has managed to compile a formidable knowledge of American constitutional history and tax law. While he does not consider himself a libertarian, his views on taxation will undoubtably be of interest to LR's readers. Hazel, while on an organizing tour in Chicago, consented to an over the phone interview for LR with David Beito.

LR: Could you briefly describe the history of ACT?

Hazel: I sat at my kitchen table one day and decided that the only way to cure the problems of this country was to get our people aware of what they can do to turn things around. I decided to form a group and it started out essentially as me and my typewriter. I tried to get some of the fellows at work involved, and some of them did (two to be exact), and we managed to get some press coverage. As a result of the press coverage, another fellow, who had been involved in the same kind of activity for a number of years, contacted me and we decided to put together a larger group.

We didn't have a charter, or become officially open for membership, until January 1, 1980. Before that, we were really just an informal association of people who knew each other. We took money out of our pockets to pay for lecture halls and printing costs and finally decided to set up a formal organization where others could come in and share the burden.

LR: Are there any authors or other figures that have played an important role in shaping your political and economic views?

Hazel: Harry Browne had an effect on me, but I think the first book that had a major influence on my beliefs was *The Unforgiven,* by Charles Walters, Jr. It gave me some facts on taxes, finance, and the banking history of this country and why the Vietnam War was fought. It gave me a lot of information and led me on to other things.

Irwin Schiff's writings will make your blood boil. I thought things were bad and then I read *The Biggest Con* and found out that they were even worse than I had believed. I'd have to say, though, that a lot of my political ideas came from books like the *Federalist Papers* and the writings of Thomas Jefferson. I've always been kind of a fan of Jefferson and been interested in the history of how this country was formed. You might say that I've always had a star in my eyes and really believed that liberty, freedom, and justice are what this country is all about. In a way, talking in the past tense, that may have *been* what this country was all about but somehow we've fallen into the depths of decay.

LR: *Newsweek* quoted you as saying that the income tax is unconstitutional. On what part of the Constitution do you base this belief?

The Working Man's Tax Revolt

Dean Hazel, the 28-year-old head of We the People ACT (American Citizens' Tribunal), founded the organization to challenge income tax laws.

Hazel: The income tax is constitutional. What I base their article on is bad journalism. They also said that I—a 28 year old Pontiac man—founded the movement 14 years ago. My teachers thought I was a pain in the neck but not quite to that extent.

I've been on talk shows and some law professors have come on there and said, "These people are saying that the Sixteenth Amendment is unconstitutional and that's obviously incorrect." Of course, it's part of the Constitution itself and it was never held to be unconstitutional by the courts. We've never said it was unconstitutional. All we said is what the Supreme Court said in a number of cases, which was that the Sixteenth Amendment gave Congress no new taxing power. Congress always had the power to lay taxes on income without the Sixteenth Amendment and they used to lay taxes on wages right up to the *Pollock* case in 1895. In that case, the Supreme Court ruled that a tax on income derived from personal property, real estate, or rents was a direct tax and must be subject to the rule of apportionment. That opened the door for the laborer not to be taxed because, according to the interpretation of the courts, your labor is your property. Now, you'll find that you can sell your property like you can sell any other good. Well, if you sell goods and don't make a profit on them, you don't pay a tax, do you? Now, if someone pays you what your labor is worth, do you make a profit on it? Do you have to show a receipt from God?

LR: Could you explain the mechanics of apportionment?

Hazel: The founding fathers said that taxation without representation is tyranny; they linked the two together. That's why in Article 1 Section 2 Clause 3 of the U.S. Constitution it says, "Representatives and direct taxes shall be apportioned among the several states," and Article 1 Section 9 says, "No capitation, or other direct tax, shall be laid, unless in proportion to the Census..."

Now, if they decide to lay a tax on property, which is a direct tax, they take the census and divide it into the total amount of revenue they want to collect. Let's say they want to collect one million dollars and they find that the state of Illinois has ten percent of the U.S. population. That means that Illinois gets ten percent of the U.S. Representatives and is responsible for collecting ten percent of the tax revenue ($100,000). The state can impose a tax on its people to collect the $100,000, but only the kind of tax that the Illinois constitution empowers it to lay. Or, if the state government already has enough money in the treasury, it can pay out of there without laying the tax at all. It's up to the state government to collect and pay. The graduated income tax, as it has been applied, is unconstitutional because it fails to abide by the rule of apportionment.

LR: Has this apportionment requirement been constitutionally tested recently?

Hazel: No, our arguments have never been in the courts. The *Brushaber* case in 1915 was the first case to test the Sixteenth Amendment and the Supreme Court held it to be constitutional but also pointed out that the requirement of apportionment that had existed previously remained in force.

LR: *In These Times* reported that ACT supports higher defense spending. Another newspaper article reported that your group supports a ban on abortions. Does ACT, as an organization, take stands on any of these issues?

Hazel: Last year a petition from a group called the American Heritage Protection Association circulated among our club members. Our members seemed to like it so we voted on whether it was a worthy thing to circulate, and we did. One of the grievances on the petition was that tax money was being used to pay for abortions. Basically, all we were saying is that we don't want government tax dollars to be used for that purpose. As far as the issue of abortion itself, we neither came out for it or against it. As far as I'm personally concerned, it's up to the individual to decide.

The only thing we ever said about defense spending is that the government doesn't need to levy an income tax to defend the country; there's plenty of other taxes it can use instead. That's all we said.

In our club charter it says that no one can speak the mind of another. So, rightfully, no one person can speak for the entire club. I can really just give you my views.

LR: What is your opinion of the government's present defense policies?

Hazel: I think it's kind of ridiculous that the government is spending all this money on troops overseas. If the government of Russia ever decided to move militarily, those people wouldn't be able to hang on long enough to have another Dunkirk. If the U.S. government had stationed troops in Afghanistan, we'd be fighting there now. From a military standpoint, I think we're wasting our tax money, but as a political strategy, it's beautiful.

LR: How do you mean?

Hazel: The reason I said it's beautiful is that if your object is to get us politically involved in all kinds of little controversies around the world, it's the best strategy to pursue. If that's what you want, that's exactly what's going to happen. I personally don't see the sense in it.

When we get on the defense topic at our meetings, I point out that the government is taking at least one third of the revenue it has, aside from the personal income tax, and spending it on the military. What is that revenue being used for? Is it being used to defend this country or is it being used to defend the German and Japanese autoworker? And who's paying for it? The American autoworker. Maybe the Germans and the Japanese would have to be more competitive in the marketplace if they had to pay for their own defense. I believe this country needs to be defended, but we ought to have a military strategist do it, not a politician.

LR: Would you describe yourself as a libertarian?

Hazel: No. My biggest disagreement with the Libertarians, from what I read in the Party platform, is their outlook on immigration. The American Indians had lousy immigration laws and look what happened to them. The Constitution was set up not only to protect our rights to property but also our rights to survive. I think that unrestricted immigration would end up threatening those rights of survival. I do find the philosophy behind libertarianism interesting and, from what I've seen, it's very tolerant.

LR: What do you think of some of the Libertarian Party's other positions, such as their views on prostitution?

Hazel: When it comes to morals, it's really a question of freedom of religion and belief. People have certain First Amendment rights and I think the government has got its nose out of joint in dealing with moral issues such as prostitution. Local communities might get involved dealing with prostitution with their own little laws, but on the federal or even the state level, I don't think they have that right. My opinion is that it shouldn't be illegal in the first place. What it comes right down to is that I think everybody's freedom and liberty go right up to the point where they start to physically endanger another person. Maybe that's a little — what, liberal? — for some people, but that's what I believe.

LR: We know that you don't consider yourself a libertarian, but how would you describe your views?

Hazel: I'm just basically a Constitutionalist. To me, the political spectrum has total anarchy on the right and totalitarian government on the left and somewhere in between is a golden mean and that's where constitutional government is located. I don't know how far the libertarians go toward anarchy, but the Constitution is as close as I want to get. I think if we followed the Constitution we'd have a better society and a healthier economy. We'd have a much smaller government and more individual freedom than we've known in our lifetime.

LR: Do you subscribe to the libertarian view that all forced taxation, even in a society where it could somehow be made constitutional, would still be theft and illegitimate?

Hazel: Basically, taxation is theft anyway. It started when we first got government. I think that if you were to look at history, you'd find out that a long time ago there were two kinds of people: those who produced and those who plundered. Then there were the good guys, who came along and plundered the people that produced, in a nice way. They kept the other plunderers away—and that was government. That was protection, and governments were basically formed to protect property rights, and when they become so big, like ours, they become the plunderers again. What we have to do is to make sure that a document like our Constitution is followed. Jefferson said, "The Constitution is the chains by which we bind up government to where it can do no mischief." I believe that Madison said, "The powers granted to the Federal government by the Constitution are few and well defined." You don't hear too many people who work for the government say that anymore, do you?

LR: Then you do believe that taxation has some purpose?

Hazel: Well, it does have the purpose to provide us with a government, to take care of our basic needs.

LR: Couldn't people provide those needs voluntarily?

Hazel: Well, they're supposed to be doing that; haven't you heard? The IRS has an outlook that taxes are voluntary, too, and they explained it at Irwin Schiff's trial. They said that it's like a red light. You either stop for it or you get a ticket. It's a voluntary thing.

LR: That's certainly a novel concept of volunteerism.

Hazel: There's another concept, too, which I think is more frank. You hold up a gun to somebody's head and whatever they do is voluntary on their part, because they can refuse to do it. Their brains may be plastered all over the wall behind them, but they had a choice. This is what I feel: how can you say you're free when you fear government? This is supposed to be the home of the free and the brave, but today it seems to have become the home of the meek and the cowards.

There's good men in the government, but they're a little few and far between right now. A favorite quote of mine that relates to this subject is from Sidney J. Harris, who said, "The world has always been betrayed, not by scoundrels, but by decent men with bad ideas." I've found that when I talk to government officials, even those who work for the Federal Reserve System, that many of them agree with what we're trying to do. We've even had the Federal Reserve bankers at the Detroit branch agree with us behind closed doors. They've even said that they hope we're successful, but they have their doubts. Unfortunately, they're pretty cowardly and afraid of losing their jobs. They're doing what Benjamin Franklin criticized people for doing. He said,



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Dean Hazel, leaning on the "We the People" storefront.

"Those that would give up essential liberty for a little temporary safety deserve neither liberty or safety." Our problem today is that we have a lot of people who don't see what's at stake.

LR: Why do you think that is?

Hazel: Maybe it's our poor educational system. Locally we even made some headlines when we found that the school textbooks had rewritten parts of the Constitution. In Article 1, where it says that no "direct tax shall be laid, unless in proportion to the Census," the textbook had an asterisk and at the bottom of the page it said "Changed by the Sixteenth Amendment." However, according to the Supreme Court, the Sixteenth Amendment gave Congress no new taxing power.

And there's another thing that they're doing in the schools too. They're asking kids questions like this and grading them on it: They give an example of a lifeboat that holds six people and there's eight of you but you happen to have an oar so you can probably fight your way into it. Among the other people is a fireman, a doctor, a policeman, and an invalid old lady. What are you going to do? They're trying to teach people to just lay down and die and let everybody else into the boat. You can't sit there and foretell the future and be able to tell what to do in a situation like that. Who do they want the kids to put first? The policeman, the doctor, and the fireman. Maybe, they're trying to give them the idea that they should be a fireman, a policeman, or a doctor.

They're putting kids through this kind of stuff at school and trying to pound in their heads the idea that they just don't matter. It's the Great Society that everybody is told to look out for, and the individual is considered unimportant.

LR: What do you see as ACT's essential purpose?

Hazel: We're just urging people to study and to find out what the Constitution, the case law, and the statutes say, and what they feel is necessary. Everyone should do what they feel is right but should be sure that they know the consequences beforehand.

We also urge our members to write letters to Congress and promote various bills that have been proposed. There are bills in Congress right now that are supposed to knock down the Sixteenth Amendment. There's the Liberty Amendment, the best part of which is Section 4 which says, "After the Sixteenth Amendment shall stand repealed and thereafter Congress shall not levy taxes on personal incomes, estates, and or gifts." Another bill that sounds good is HR 391, proposed by Representative Ron Paul. It would repeal the privilege of banks to create money. There's one I really like, HR 2389, which has been called "the taxpayers' bill of rights." It provides that if people go into court and win in their arguments against the IRS, IRS has to pay the cost of their defense. It also has a provision that if the IRS conducts illegal surveillance, it has to pay any actual dam-

ages that are suffered by the plaintiff.

LR: You mentioned a bill proposed by Ron Paul. Are you aware that he has proposed another bill, HR 5134, to abolish the Selective Service System?

Hazel: I've argued that if the Thirteenth Amendment was really taken at face value you wouldn't think that there could be a Selective Service, but they have case law to the contrary. I had always contended that the Thirteenth Amendment would have protected me from going to Vietnam, and maybe it would have, but I never had the opportunity to go before a jury. If I had, I would have stated that if the jury upholds the Constitution, then I know that my country is secure from domestic enemies. Which means that I'd go down and enlist right away if the jury shows me that the Thirteenth Amendment means what it says. I think I probably would have received a judgment in my favor with that argument.

I don't mind fighting for my country, but what makes me sick is that when you start studying history you find out how we got involved in a lot of these wars. In Vietnam, it seems that all we were in there for was to protect the leases that the oil companies had with the government in the south. Once that government was crushed, look what happened. The oil companies came in and negotiated with the new masters, but they were kicked out. The Communists told them, "We're not going to let you plunder our people and steal their resources." I can respect them for that.

LR: You've been quoted as saying the IRS operates through fear. Could you give us some examples of how the IRS has used fear as a tactic?

Hazel: I've seen IRS employees on talk shows who have admitted that the whole premise behind audits is to instill fear so they can get more voluntary compliance. Our members, especially the ones who aren't well informed, might get scared the first couple of times that they confront the IRS. It's surprising, though, how quickly the fear leaves them once they sit down and study the laws and learn how to assert their rights, or rather, how not to surrender them unknowingly.

On this issue of IRS tactics, there's something that I'd like to clear up. Reports have been getting in the newspapers that we've been telling people to claim 99 dependents on their W-4 forms. If you look at a W-4 withholding allowance certificate, you'll see that it says on line one, total number of allowances; on line two, additional amount of money you want deducted from each paycheck if your employer agrees to it; and on line three you claim exempt if you don't have any tax liability at all, and nothing will be withheld. Now, where does it say dependents? It keeps coming up in the newspapers and it just burns me up to see it. The only thing I can think of is that it makes us look like liars right off the bat, because nobody has 99 dependents. Most of our members claimed exempt, not 99 dependents. We've contacted the AP, the UPI, and our local newspapers and television stations.

LR: Where do you think the media is getting that information?

Hazel: IRS! I know that because the reporters *told* me that the IRS gave them that information. In one case a company changed one of our members' W-4 form. They crossed out exempt where he'd written it and wrote 99 allowances. Which, by the way, doesn't mean that you get any exemptions, but you expect to have $99,000 that isn't taxable. He found out about it and went in and ripped his W-4 form up.

LR: Many critics of the tax revolt movement have charged that it favors the rich. They claim that the wealthy gain a disproportionate windfall from tax revolts and that the poor who depend on government services are unfairly harmed. How do you respond to those charges?

Hazel: Why are the poor on government services? They're on government services because the people aren't buying trucks, cars, or other goods and services that could provide the poor with employment. When people have to pay taxes to the government, which doesn't have to produce, it takes money out of the marketplace that could otherwise provide the poor with jobs.

The day before ACT went national I was a guest on a radio program. A woman called in who worked for HEW in their Headstart program, and I thought she was going to tear me apart. But she said, what you guys are saying is absolutely correct, and she told me that she could name five or seven private charitable organizations that could do exactly what her program is doing if they shut it down tomorrow. If you abolish the tax on wages, the workers of this country would be able to give 100 percent of that money to a local charity that, unlike government, is under their control.

If you say the tax revolt favors the rich, when was the Ford Foundation and the Rockefeller Foundation created? 1913, or at least in that time slot. The rich aren't going to pay, no matter what happens. It's funny, if you go back and read the arguments when the Sixteenth Amendment was passed, they were going to soak the rich. Look who's paying it now.

Our organization is made up mostly of blue collar workers and small businessmen. I wish we had some philanthropists, because we could use the money.

LR: Are there any plans to extend ACT outside of Michigan?

Hazel: Not really. I was speaking in Wisconsin this last week and everyplace I went I tried to recruit people into a club, their *own* club. I'm a guy that believes in liberty and individualism, and I realize that if our club gets too big we're not going to represent all our members properly. We'd have the same problem that the federal government and the national labor unions have, or any other organization that gets so large that it can't at least maintain a third party relationship with its members. I think the members of every club should all live in the same community.

LR: Have you had any success on your organizing tour?

Hazel: I think so, but the kind of success we have, you don't find out until much later.

LR: I'm sure that many of *LR*'s readers would like to have more information on or would like to make a contribution to ACT. Could you give us the address of ACT?

Hazel: Sure. We the People ACT, P.O. Box 134, Pontiac, Michigan 48056.

LR: Is there anything else that you'd like to say?

Hazel: Yes, there is something. This is what Teddy Roosevelt had to say about patriotism, and this is why I feel that our group is patriotic: "Patriotism means to stand by the country. It doesn't mean to stand by the President or any other public official save exactly to the degree to which he himself stands by the country. It is unpatriotic not to oppose him to the extent that by inefficiency he fails in his duty to stand by the country." Don't you think that the United States government is failing to stand by the country, because it's so inefficient?

LR: Thank you, Mr. Hazel. ❑

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THE SUPREME COURT AS CHILD ABUSER

PETER R. BREGGIN, M.D.



In a nation growing alarmed about "epidemic child abuse," the Supreme Court of the United States has become the seat of *national* child abuse. In a string of decisions, indecisions, and refusals to review lower court decisions, the Supreme Court has consistently deprived children of their constitutional safeguards. In conflicts between parental and state authority, the Court has encouraged the state to work its will upon parent and child alike.

What difference does it make anyway? How much are our everyday lives affected by the Court's decisions on matters concerning children? If you are a child in any kind of trouble with authority, the Court's decisions are tragically important. Because of the Supreme Court, you can be beaten with clubs by your teachers or principal, while your cries for "due process" or protection from "cruel and unusual punishment" go unheeded. Thanks to Chief Justice Burger and his associates, even your parents will have no say about whether you get manhandled in your school. Worse still, if you are a youngster in trouble with the police, you'll get little or no protection during your interrogation, unless you have the sophistication to ask for an attorney. Ask for your probation officer or any other interested adult,



THE BETTMAN ARCHIVE

Thanks to Chief Justice Burger and his associates, parents have no say about whether their children will get manhandled in school.

and the police can turn you down. Even ask for your parents, and there's a chance the police may not have to comply with your wishes. Worse yet, the Court not only refuses the protection of the Bill of Rights to children, it provides parents with state power to use against their children. Suppose your mother or father thinks you are "mentally ill" or retarded, and decides to commit you to a mental hospital or other state facility. Can you ask for a lawyer or some other adult advocate? Can you demand due process, including a hearing at which you are present? Not according to the Supreme Court.

But childrens' rights are important even if you aren't a child. A society whose children are raised without respect for their rights is a society whose children will grow up without a commitment to or understanding of rights in general. At present we are "training" our children to become subservient, model "citizens" in a state which knows fewer and fewer constitutional restraints. The Supreme Court's assault on the rights of children prepares us for future generations of adults who will have reached maturity in relative unawareness of their own rights or the rights of others within the society.

Beating children in school

Many parents may falsely assume that official childbeating is a thing of the past. Actually, it is on the upsurge. My own disillusionment began with reading Nat Hentoff's series of stirring articles in the *Village Voice* in 1980, in which he denounced the New York State teachers' union for resisting legislation to outlaw corporal punishment in the schools. Dismally, Hentoff confirmed that teachers' unions, the courts, and the legislature favor corporal punishment in New York State, despite case upon case proving that children are being grossly abused and severely injured.

Any doubt I harbored about the status of beating children in the United States was finally laid to rest when I read the 1977 Supreme Court decision in *Ingraham* v. *Wright*. The Court not only facilitated and condoned the beating of children in public schools, it sided with the state in any conflict between parents and school officials. According to the Court, the school, not the parent, decides the appropriateness of physical punishment.

Do not imagine that the Court was sustaining the practice of an occasional "lovingly delivered pat on the behind." The two students who brought the suit which reached the Court were severely beaten, according to the Court's own report. These boys, one an eighth-grader and one a ninth-grader, had been struck with an instrument authorized by school board regulations — a stick "measuring less than two feet long, three to four inches wide, and about one-half inch thick." More like a club than a paddle!

Routine punishment in this Florida county consisted of one to five blows to the buttocks. But one of these boys had been held over a table in the principal's office while being administered more than twenty strokes. His crime? He had been "slow to respond to his teacher's instructions . . ." Still according to the official court report, "The paddling was so severe that he suffered a hematoma [a mass of clotted blood] requiring medical attention," and an eleven-day absence from school. The other boy was paddled on the arms on two occasions for "minor infractions," and he lost the "full use of his arm for a week . . ." We certainly can agree with the headnote to the opinion, which observed, "The evidence showed that the paddling of petitioners was exceptionally harsh."

Many teachers' unions, courts, and legislatures favor corporal punishment, despite proof that children are being abused and severely injured.

The majority opinion freely admitted that beatings were frequently administered in the Dade County system without procedural safeguards: "Contrary to procedural requirements of the statute and regulation, teachers often paddled students on their own authority without first consulting the principal." A footnote to the dissenting opinion described wholesale corporal punishment administered to innocent persons: "The Court of Appeals panel . . . noted numerous instances of students punished despite claims of innocence . . . and was 'particularly disturbed by testimony that whole classes of students were corporally punished for the misconduct of a few.'"

No one knows how frequently these abuses are carried on throughout the United States. But the majority opinion believed that Dade County is not exceptional. It pointed out that only two states, Massachusetts and New Jersey, had prohibited corporal punishment in the schools while 21 others, including my own Maryland, had authorized it. In the remaining states, according to the Supreme Court, corporal punishment flourishes in many communities. As Nat Hentoff has amply documented, in New York State, which has no law on the books, corporal punishment enjoys widespread support.

The Court's legal arguments for beating kids

By a five to four majority, Justices Burger, Powell, Blackmun, Stewart, and Rehnquist held (1) that the paddling of children in the public schools does not constitute "cruel and unusual punishment" as defined by the Eighth Amendment, and (2) that school children subject to beatings are not protected by the "due process" requirements of the Fourteenth Amendment.

The legal arguments of the majority seem contrived: the "cruel and unusual punishment" provisions of the Bill of Rights are intended to protect criminals, not school children; children don't need this constitutional protection because the schools are "open to public scrutiny and . . . supervised by the community"; and children and their parents can sue in the courts if they have been abused by their teachers.

The minority opinion easily disputed these contentions. White, Brennan, Marshall, and Stevens argued that the punishment of criminals cannot be sharply distinguished from other forms of institutional punishment and that the punishments in questions were "so severe that if they were inflicted on hardened criminals for the commission of a serious crime, they might not pass constitutional muster." They also attacked the "openness" theory of the public schools, not so much to deny it as to declare it irrelevant. According to an "openness" standard, prisoners in a minimum security prison would be denied the constitutional protections afforded prisoners in a maximum security prison, and floggings or executions held out in the "open" would not be subject to the same constitutional restraints as those carried out behind the walls of an institution. The minority also found that the availability of other legal recourses, such as suing teachers, was no justification for abrogating constitutional rights. Besides, they pointed out, no child in Florida had ever successfully sought protection through these allegedly available legal means. The minority concluded that the majority opinion would "afford the student no protection no matter how inhumane and barbaric the punishment inflicted . . . " When a punishment becomes "so severe as to be unacceptable to a civilized society," it should not become "any more acceptable just because it is inflicted on children in public schools."

The majority's denial of procedural safeguards, such as a prior hearing, to the students are equally contrived and easy to refute. Most ironically, in defiance of the Court's own summary of the case, the majority of justices concluded that safeguards are not required because "the risk of error that might result in violation of a student's rights could only be regarded as minimal, in view of the low incidence of abuse of corporal punishment by school authorities, the openness of the public schools, and the common law safeguards." How then did the Court explain away these two severe beatings? How did it deal with evidence that entire classrooms were beaten for the transgressions of a few students? The Court simply ignored its own data.

The majority opinion in *Ingraham* v. *White* also offered social and political commentary. One does not have to read between the lines to find extra-legal influences on the decision; the biases were openly stated.

The Court traced the history of child beating to colonial schools, not to discredit it, but to honor it. The Court admitted that corporal punishment in the criminal system can also be traced to colonial times, but that *it* has been abandoned. Professional opinion may now be "sharply divided" about paddling kids in school, but it is still practiced in "most parts of the country," and "we can discern no trend toward its elimination." In a truly conservative vein, tradition and community standards were placed above constitutional and individual rights.

With a conservativism that begins to smack of totalitarianism, the Court further found that state authority in the matter of beating children in the schools now supplants parental authority: "... the concept of parental delegation has been replaced by the view — more consonant with compulsory education laws — that the State itself may impose such corporal punishment as is reasonably necessary 'for the proper education of the child and for the maintenance of group discipline.'" The *tradition* of family authority was thus sacrificed for the more modern concept of state compulsion in education; and the existence of compulsory education *per se* was used to justify still further encroachments on the rights of parents and children.

The Court actually *favored* corporal punishment, and withdrew the protective umbrella of the Bill of Rights precisely because it would make it more difficult to rain down blows upon the children. Even so slight a requirement as "informal hearings" prior to the use of beatings "would significantly burden the use of corporal punishment as a disciplinary measure." We were exhorted to consider the unhappy fate of school authorities who "may well choose to

abandon corporal punishment rather than incur the burdens of complying with the procedural requirements" of prior notice and a hearing. As a result of this impediment, "Teachers, properly concerned with maintaining authority in the classroom, may well prefer to rely on other disciplinary measures — which they may view as less effective — rather than confront the possible disruption that prior notice and a hearing might entail."

No one denies that it is easier to beat children than to reason with them. It is also more "effective" to beat children than to reason with them, if one is concerned with time, efficiency, and group conformity. The same may be said of beating prisoners, mental hospital inmates, army recruits, or any other victims of total, compulsory systems. That is precisely the point of constitutional safeguards—to make it more difficult to inflict physical pain as an easy method of control in difficult disciplinary situations. The august justices of the Supreme Court missed the point entirely, and the Bill of Rights was dismissed as an encumbrance in the way of the authorities.

The blatant "law and order" slant behind their reasoning was displayed in a footnote to the majority opinion which stated, "The seriousness of disciplinary problems in the Nation's public schools has been documented in a recent congressional report." This was the only research cited in defense of the lengthy argument about the need for discipline. Absent was any investigation into *why* discipline is a growing problem. The justices announced their views within a social and political vacuum wholly isolated from modern critical analyses of the failure of our schools.

As if protecting their brethren from embarrassment, the dissenting opinion by the liberals utterly failed to mention the atavistic moral and social opinions of the majority, and instead focused upon more legalistic issues. More unfortunately, the dissenting opinion did not bring up the single most important issue of all — the special vulnerability of children which renders them even more susceptible to abuse at the hands of authority, and hence still more in need of constitutional protections. The "liberals" could have twisted the tail of the conservative majority for undermining the authority of the family itself by placing institutional requirements for control above the right of parents to prohibit the school from paddling or clubbing children.

Denying *Miranda* to children

In *Miranda* v. *Arizona* the Warren Court had taken a giant step in the protection of citizens accused of a crime by the police. *Miranda* determined that the accused individual must be read his or her rights prior to interrogation, and that the interrogation must be ended the moment the individual invoked the right to remain silent or the moment the individual asked to see an attorney. In *Fare* v. *Michael* the California supreme court reversed the murder conviction of a sixteen-year-old boy on the grounds that his request to see his probation officer was an invocation of the Fifth Amendment right against self-incrimination in exactly the same manner as an adult's request to see his attorney. But Blackmun, Burger, Stewart, White, and Rehnquist overturned the California higher court's decision, with a partial dissent by Powell, and a full dissenting opinion by the liberal team of Marshall, Brennan, and Stevens.

The youth had an extensive record of arrests and a term in a youth corrections camp when he was again arrested, this time in association with a burglary and murder. He was read his rights in the station house, after which he asked to see his probation officer. This was refused, and when reminded he could see an attorney, he protested, "How I know you guys won't pull no police officer in and tell me he's an attorney." The police again refused to call the probation officer, and the boy agreed to speak without an attorney present. During the interrogation that followed, he was crying much of the time. He admitted to participating in the crime, and was subsequently convicted.

The California supreme court, in overturning the conviction, cited precedents that a youth who requests to see his parents has invoked the Fifth Amendment, and its ruling extended this principle to the probation officer whom it saw as an ally similar to the parent. It found it "fatuous" to suppose that a juvenile would have the wherewithal to call a lawyer rather than a trusted adult.

In a twisted legalistic argument, the Supreme Court of the United States took the position that the child or youth should *not really trust the probation officer,* since that officer also had duties to uphold the law. That the probation officer is not a wholly perfect ally is irrelevant; he is an adult, a person committed in part to the welfare of the youth offender, and much more to be trusted than the police who are carrying out the interrogation. As one of his functions, the probation officer could have assured this particular youth that a lawyer could be called without the police sending in one of their own men disguised as a lawyer. In reality, probation officers are often strongly identified with the welfare of youthful offenders, and do lend support to them when they are in conflict with the law or with their families.

The Court let the cat out of the bag when it warned that the right to call a probation officer might open the way for a "juvenile's request for almost anyone he considered trustworthy enough to give him reliable advice. . . ." The Court was appalled at the thought that a youngster's request for a reliable adult of his own acquaintance would trigger all the "rigid" requirements of *Miranda.* But this is precisely the point. A youth in the hands of the police is very vulnerable to coercion, and should be carefully protected until the arrival of an interested adult. This adult then can help to implement the youth's rights and, especially, help to find a lawyer.

The court is obviously resentful of the "rigid" requirements of *Miranda* as established by the Warren Court. According to Burger and his colleagues, it is the "totality of circumstances" that should determine whether the individual has invoked his *Miranda* protections. This would be a good concept if it were being used in the interest of the accused; looking at the overall situation from the viewpoint of the accused would give added protection. Consider the teenager in this case, who rejected his right to see a lawyer because he was afraid that the lawyer would turn out to be a policeman in disguise. The "totality of circumstances" clearly indicated that this youth was frightened and immature, and gave up his rights precisely because he was afraid to invoke them. But instead, by considering the totality of the situation the Burger Court's intent was to give the police greater latitude. The new approach "refrains from imposing rigid restraints on police and courts in dealing with an experienced older juvenile with an extensive record . . ." Flying in the face of every concept of "objective justice," the Court wanted to grant fewer protections to these "experienced" and presumably guilty youths. The idea that the boy in this case is more "experienced" and therefore more able in defending his rights is absurd. It is precisely the youngster who has been repeatedly caught within the mill of the

criminal justice system who is least able to take care of himself.

The dissenting opinion in this case did recognize the inherent vulnerability of the young person. It called for invoking *Miranda* protections "whenever a juvenile requests an adult who is obligated to represent his interests." In this case, almost any humane parole officer would have been an advantage for the accused. In most cases, the presence of even a disinterested or remotely interested outside adult would lend protection to a child undergoing an interrogation.

Putting children away

In all my experiences as a psychiatrist I have seen few more tragic situations than that of the child committed to a mental hospital or institution for the retarded. Many of these facilities are mass custodial lockups which rival concentration camps for their wretched conditions. In the worst, children will be found lying about naked amid feces and urine on bare dungeon floors while unskilled, potentially brutal aides content themselves with maintaining a semblance of order. Even in the best, the child is isolated from society, and robbed of basic amenities and dignities. Most of the time, he will be "snowed under" with a so-called major tranquilizer, a severely toxic drug which paralyzes the nervous system and performs a chemical lobotomy. If the children of our society need to be protected from anything, they need to be protected from commitment to these institutions. Not so, according to the Supreme Court.

In 1979, the Court rendered two decisions which effectively stripped all constitutional safeguards from children during the commitment process. In *Parnum* v. *J.R.* the commitment statutes for children under 18 in Georgia were tested and found constitutional, and in *Secretary of Public Welfare* v. *Institutionalized Juveniles,* the commitment laws in Pennsylvania for children under age fourteen were given a similar clean bill of health. In both cases a District Court had found the statutes offensive to the due process requirements of the Fourteenth Amendment, and in both cases these libertarian advances were overturned by Burger, White, Blackmun, Powell, and Rehnquist.

The main argument of the majority comes down to this: Parents, psychiatrists, and the state are well-meaning, and we shouldn't hamper their good intentions by subjecting them to judicial scrutiny or constitutional restraints. The Court is vociferous in its defense of the good intentions of psychiatrists, and laments, "Ironically, as most states have expanded their efforts to assist the mentally ill, their actions have been subjected to increasing litigation and heightened constitutional scrutiny." Suffering either from outrageous naivete or downright deceit, the Court declares that psychiatrists can be trusted, because it's written into the law that their "sole concern under the statute is whether the child needs and can benefit from institutional care." In this same vein, the Court declares that the state would have no reason to confine people who don't deserve to be confined when it is so costly to do so: "The State obviously has a significant interest in confining the use of its costly mental health facilities to the cases of genuine need." In effect, we are told that the state is so eager to save money that we don't have to bother with constitutional protections. Ultimately we are told that both psychiatrists and the state can be trusted to act like a good parent.

As for parents, they too can be trusted. The majority completely ignores the obvious reality that parents who would knowingly commit their children to these wretched institutions are precisely those parents we wouldn't wish to trust with a pet dog, let alone a child. The Court actually fails to separate the child as an individual from the parent, and declares that a child committed by a parent is a "voluntary admission" because the *parent* desires the admission. Wholly missing the point of the Bill of Rights, the Court warns that the requirement of procedural safeguards, such as a hearing at which the child is present or represented, would discourage some parents from availing themselves of commitment.

The dissenting opinions in these cases are stronger than in earlier ones. Brennan, Marshall, and Stevens remind us that persons incarcerated in mental hospitals are deprived of friends and family. More important, "They are subject to intrusive treatments which, especially if unwarranted, may violate their right to bodily integrity. Such treatment modalities may include forced administration of psychotropic medication, aversive conditioning, convulsive therapy, and even psychosurgery."

The minority also holds that children should not be deprived of the benefits of the Constitution. "Constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional rights." Because "childhood is a particularly vulnerable time of life," children need *greater* protections: "Indeed, it may well be argued that children are entitled to more protection than are adults. The consequences of an erroneous commitment decision are more tragic where children are involved."

The dissenting opinion also attacks the notion that the commitments of children are "voluntary" because their parents want them incarcerated. If parents want to sign themselves into mental hospitals, they are "free to become martyrs," but they are not free to make martyrs of their children.

Both the majority and minority opinions fail to call into question the fundamental concepts used to justify the commitment of children—mental illness and involuntary commitment. This is not the place to repeat the arguments made by Dr. Thomas Szasz and by myself that mental illness is a myth and that no one should be incarcerated "for his own good" in a psychiatric facility. Here my emphasis is upon children, and upon the Court's particular lack of responsiveness to their vulnerable situation. By removing constitutional protections from the commitment of children, the Court places them in triple jeopardy at the hands of their parents, the state, and a psychiatric system that knows no ethical self-restraint.

Trusting the state or the parents

Clearly the state cannot be relied upon to act in the best interests of children, even though individual judges will on many occasions come to the rescue of abused or neglected children. Nor is it enough for parental authority to be enforced uncritically. The law too often has assumed that a child is owned by its parents, as it used to assume that a wife was owned by her husband. Now we recognize that women are entirely separate individuals with rights, but we have yet to recognize the right of self-determination for children, too. Children must gain greater control over their own destinies, and, in particular, they must become more able to contest and to overthrow abusive authority.

It is true that children as a class are different from adults as a class—all children in the earliest years need supervision

and care. Which brings us to a problem; who will represent the child when its parents violate its rights? If we are not to answer, "the state," then other adults within the society must have some capacity to monitor and control what happens to children whose plight they observe. Such intervention must not take place on behalf of the state, but on behalf of the child who may not be able or mature enough to bring suit to separate itself from parents, or to gain protection from abuse or neglect within the family.

One case which the Supreme Court refused to review in recent years illustrates dramatically the court system's assumption that the child is owned by its parents. Phillip Becker, age 13, was refused life-saving cardiac surgery by his parents on the grounds that his life was not worth saving. In language that closely parallels German psychiatric justifications for the murder of mental patients and retarded persons, beginning in 1939, a pediatrician backed Phillip's parents with the statement that Phillip is devoid of "those qualities which give human life dignity."

Phillip suffers from Down's Syndrome, a form of mental retardation commonly called mongoloidism. And because his parents consider him a burden, he will be doomed to an early death. Despite his parents' neglect — they rarely visit him — Phillip is thriving at present, and might continue to thrive for many more years in a relatively sheltered environment. He enjoys life, carries out routine chores, participates in a Boy Scout Troop, and is well-liked. But without cardiac surgery he will die long before his time, *despite the willingness of private citizens who are not his parents to care for him,* people who asked the courts to permit them to adopt him and provide him with the surgery that could save his life.

We will never know why the Supreme Court refused to intervene in this case. But the outcome makes clear that, in the eyes of the court system, the *life* of a child can be sacrificed to the idea that it belongs to his or her parents.

At a minimum, it seems to me that there should be three ways in which the legal system should be changed to reflect the rights of children: children should have the right to some sort of process of "divorce" from parents with whom they have irreconcilable differences; they should be able to bring suit against parents who neglect or abuse them; they should be able to seek emancipated status at any age at which they can prove their capacity to live independently of their parents. These rights would have to be implemented, of course, by assuring that children had the full protection of the Bill of Rights, by repealing child labor laws so that minors who are capable of earning a living are legally allowed to do so, and by setting up mechanisms to allow interested adults to offer alternatives in child abuse situations. Parents, in turn, should be able to protect themselves, their privacy, and the integrity of the family by bringing countersuit, should a legal inquiry be frivolous or persecutory.

Ultimately, it is societal attitudes rather than the law that will provide the important reforms. People in general must give much greater recognition to the needs of children and to their potential to determine the course of their own lives. Children must be recognized as human beings with rights. Certainly the Supreme Court, supposedly the ultimate protector of rights in our present legal system, is proving woefully inadequate for this task. ❑

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BOOKS AND ARTS



Keith Stroup

Book Reviews

The lobby that went to pot

GORDON S. BROWNELL

High in America: The True Story Behind NORML and the Politics of Marijuana, *by Patrick Anderson. The Viking Press, 328 pp., $13.95.*

IN HIS NEW BOOK *HIGH in America,* Washington journalist Patrick Anderson has captured with a blend of drama and humor the first ten years of the National Organization for the Reform of Marijuana Laws.

High in America is the most thorough account to date of the history of NORML and the turbulence surrounding that group's efforts over the past decade to change our nation's legal approach towards marijuana. It is also a penetrating biographical profile of NORML's charismatic and controversial founder, Keith Stroup, and while the book clearly views the events it chronicles through his eyes, it pulls no punches in portraying Stroup as very much a humanly flawed hero. It is this quality which makes *High in America* a refreshing contrast to most "official biographies."

Besides recounting the successes and failures of NORML and the adventures of its founder, *High in America* is a well-researched history of marijuana politics in the 1970s, probably the most significant decade in America's sixty-year experience with marijuana prohibition. For it was in the Seventies that marijuana finally broke loose from the subcultures in which it had previously been confined, and firmly established itself as a permanent part of mainstream America, with 25 million regular users who cut across all the class, race, and sex barriers which once limited pot smoking in the United States.

It is in this context of the 1970s and the cultural wars taking place then over marijuana that *High in America* is set. Using the "new journalism" style popularized by Tom Wolfe, Anderson treats the cast of characters in his book as if he were writing a novel, recounting events, confrontations, and conversations in a highly readable and anecdotal manner.

Patrick Anderson is well-equipped for this task. A longtime Washington political reporter and former speechwriter for Bobby Kennedy and Jimmy Carter, Anderson has written half a dozen books, including *First Family,* the first novel in recent history to be denounced by the White House. Anderson met Keith Stroup in 1972, and a month later Anderson's first article on NORML was the cover story in the *New York Times Magazine.* He later did a *Playboy* interview with Stroup and along the way picked up enough knowledge and insights about the marijuana issue to write a good book about it.

While he has never been affiliated with NORML, Anderson clearly sympathizes with the organization's goal of repealing criminal penalties for marijuana use. He admits to being an occasional smoker himself, but his personal views don't interfere with what is essentially a dispassionate account of a most passionate crusade.

At the same time, Anderson minces no words in describing what he considers the "mind-boggling" American experience with marijuana prohibition. "We have wasted billions of dollars," he writes, "polarized the nation, damaged thousands of lives, and defined millions of respectable people as criminals, all over a mild intoxicant that every serious study has pronounced less harmful than beer." Calling

our nation's marijuana policy "a national disgrace," Anderson aptly notes that "It is difficult to imagine how we, or indeed our worst enemies, could have developed a more wrong-headed policy."

High in America includes an informative pop-history of marijuana in the United States, tracing it from the days of its first planting near Jamestown, Virginia, in 1611. Grown for its valuable fiber, Indian hemp, as marijuana was commonly referred to then, was a big cash crop until the Civil War. And though Ronald Reagan might call marijuana "the most dangerous drug in America," Anderson points out that George Washington was a hemp farmer, growing the then legal weed at Mount Vernon.

Tracing marijuana from these early days, Anderson includes colorful accounts of the roles played by powerful pot prohibitionists such as Harry Anslinger, whose sensational fear-mongering created such a mythology about the weed that it was "impossible to debate the marijuana issue in America: There was no issue, because marijuana was universally accepted as so insidious a drug that society had no choice but to use the harshest measures against it."

It was in this climate of fear and ignorance, at a time when the penalties for pot smoking were at their zenith in the United States, that its use suddenly exploded, taking it out of the barrios and ghettos, the jazz clubs and beat coffee houses, and into the white middle class. There were many factors behind this emergence of marijuana from behind closed doors, but Anderson is among those who believe the crucial factor in turning young America on to marijuana was the Vietnam war.

First enacted by white lawmakers against a social activity confined almost exclusively to blacks and Mexicans in the early twentieth century, laws against marijuana use had their origins in racism. As long as these politically powerless groups were the only ones using marijuana, there was no movement to change the laws which made criminals out of pot smokers. All this changed with Vietnam, for a myriad of reasons both substantive and symbolic. "Because of the war and the angry passions of the times," Anderson observes, "marijuana became politicized, evolving into a central symbol in the most bitter generational dispute in American history."

It was at this point in time that Keith Stroup dreamed up the idea of NORML. In the mid-to-late Sixties, as the increase in marijuana use led to mounting arrests and the initial stirrings for change in the laws, the American marijuana reform movement was born.

Though NORML was to emerge as the most effective and prominent of the pot reform groups, it was not the first. The very first one, called LeMar (for Legalize Marijuana) originated in San Francisco in 1964. Founded by a Goldwater Republican named James R. White III (an attorney who represented a man who walked into a San Francisco police station, fired up a joint and demanded to be arrested), LeMar eventually merged with another West Coast-spawned legalization group, Amorphia, The Cannabis Cooperative.

Amorphia was the first reform group to become sufficiently self-supporting to carry out a legitimate political program, raising almost a quarter of a million dollars over several years through the sale of Acapulco Gold cigarette papers. For a while, in the early Seventies, Amorphia seriously contested NORML for dominance of the marijuana reform movement. Anderson's novelistic style is especially effective in describing the personalities and feuds which characterized the often acrimonious relations between the two organizations, and the different styles and approaches they embodied.

Amorphia, like NORML, was a consumer-based group, seeking to legalize marijuana by mobilizing the millions of new smokers into a nationwide constituency and movement. Amorphia emanated from the counterculture, and though it was later to merge with NORML, its early goals and programs placed it consciously outside the legal system it sought to change.

Keith Stroup had a different idea. A young attorney who had spent several years working on Capitol Hill, Stroup became drawn to the marijuana issue in 1970, following the bust of a good friend. Realizing there wasn't an organization in the country which was actively working to change the marijuana laws, Stroup soon identified what he wanted to create — a Nader-style, public interest lobby, which would work in the courts and legislatures to repeal the marijuana laws, representing the straight, middle-class smokers who were becoming the major new factor in the marijuana political equation.

Stroup named his group the National Organization for the Repeal of Marijuana Laws (NORML) and set out to build credibility and to raise funds. An early booster of NORML was former U. S. Attorney General Ramsey Clark, who provided Stroup with encouragement and moral support at a time when others laughed at his idea of a lobby representing a criminal class. It was Clark, in fact, who convinced Stroup to drop the word "Repeal" in NORML's name, and substitute "Reform," which he maintained had a long and honorable political heritage in America and would be easier to build a political base around.

Despite his energy and vision, Keith Stroup could never have gotten NORML off the ground had it not been for Hugh Hefner and the Playboy Foundation. Hefner and his associates had created the Playboy Foundation to pro-

"Penalties against possession of a drug should not be more damaging to an individual than the use of the drug itself.



...Nowhere is this more clear than in the laws against possession of marijuana in private for personal use.
...Therefore, I support legislation amending Federal law to eliminate all Federal criminal penalties for the possession of up to one ounce of marijuana."

President Jimmy Carter
Message to Congress, 8/2/77

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Until the Peter Bourne affair, the Carter White House worked for decriminalization, and NORML used Carter in their ads.

vide financial support for important civil liberties issues, especially those which were editorial favorites of *Playboy* magazine. The Foundation gave NORML its first seed money, a $5,000 grant that was to grow to over half a million dollars in grants and assistance in the course of the next decade. This support transformed NORML from a dream into a reality.

Anderson provides amusing accounts of Keith Stroup winning the hearts and minds of Hefner and others in the Playboy world. Stroup's contacts with Playboy were not all fun and games, however, and Anderson's book includes a particularly sobering reminder of how the government can use the drug laws for political purposes, in this instance the vicious prosecution of Bobbie Arnstein, Hefner's most valued assistant, who became a tragic pawn in the Nixon administration's efforts to "get" Hugh Hefner.

Another publishing empire which Anderson takes us into is that of *High Times* magazine, and the world of its visionary founder and publisher, Tom Forcade. The support which was provided to NORML by *High Times* was, like Playboy's, both editorial and financial. A dope smuggler-turned Yippie activist-turned magazine tycoon, Forcade is affectionately described by his friend Stroup as "the craziest, most drugged-out motherfucker I ever met." Their personal friendship, and the relationship between the pot lobby and the dope magazine, are entertainingly treated in Anderson's book.

Like Bobbie Arnstein, Tom Forcade was to kill himself during a depression brought about by his wars with the drug police, and their constant assaults on his friends and culture. *High in America* contains other memory checks of the tragic side of marijuana prohibition, including such victims of harsh laws and mindless judges as college students Jerry Mitchell and Frank Demoli, and the crusades of people like Lynn Pierson and Bob Randall, who have fought valiantly to make marijuana legal for medical purposes.

Most of all, however, *High in America* is about Keith Stroup and the organization and movement he headed for almost a decade. Though the book has excellent sections about contributions made by other pot reform activists (the chapter on various state battles for decriminalization bills is particularly good), the colorful Stroup remains the principal character, just as he did when he was with NORML.

It is in his treatment of Stroup, an intensely complex and often contradictory individual, that Anderson is at his best. His years of covering NORML and Stroup were obviously beneficial, for Anderson's portrayal of the man once described by *New Times* magazine as "the John L. Lewis of the marijuana movement" is exceptionally insightful.

Despite his energy and vision, Keith Stroup could never have gotten NORML off the ground without the Playboy Foundation.

As *High in America* makes clear, Keith Stroup was blessed with commitment, vision, inexhaustible energy, intelligence, and qualities of leadership and self-sacrifice that few persons possess. He was also hampered by a proclivity for rash actions, angry outbursts, and self-destructiveness. And Anderson's book doesn't just dwell on Stroup's many fine qualities; it also focuses on his shortcomings.

This is most evident in Anderson's coverage of the broken marriage between NORML and the Carter administration, especially in the stormy relationship between these two institutions' principal point men on federal marijuana policy: Keith Stroup and Peter Bourne.

Like his characterization of Stroup and others, Anderson's portrayal of Jimmy Carter's top drug policy advisor, Peter Bourne, "a well-intentioned man who ventured beyond his political depth," is excellent.

High in America both begins and ends with an event later known in NORML circles as "the Bourne affair," a regrettable happening which brought down two of the best friends the decriminalization movement ever had. Though much has been written about this incident, Anderson's account is by far the most complete. It deals with Peter Bourne's alleged public use of cocaine at the Saturday night party during the annual NORML conference in 1977 and Keith Stroup's role in eventually publicizing Bourne's indiscretion. When the dust finally cleared, Bourne had resigned his job at the White House and Stroup had been censured by the NORML Board of Directors. Stroup later resigned from his position as NORML National Director, which he had held for more than eight years. Neither NORML nor the marijuana movement has ever been quite the same since.

Anderson's handling of this episode is exceptionally well-done, allowing his readers to feel the tension and tragedy of two dedicated and powerful persons, former friends turned foes, caught up in a swirl of circumstances and events over which both had lost control.

High in America goes behind the headlines of this notoriously sad chapter in NORML's history. Once there, the reader learns of an abortive "pie attack" on an invited panelist at a NORML conference, of possible White House intrigue aimed at toppling Stroup as NORML's director, of Stroup's two marijuana busts in Canada, and of the poisoning of Mexican marijuana fields with the deadly herbicide paraquat. Anderson weaves all these events together with true craft.

As Anderson points out, Stroup's Achilles heel was always his volatile temper. "His anger had fueled his tireless work at NORML, had enabled him to create the pot lobby and finance it and publicize it," but there were "the times when Stroup felt wronged or rejected and his anger would explode into wild, irrational rages." In the end, Stroup's anger caught up with him. When he had the opportunity to stop columnist Jack Anderson from running the explosive story about Bourne's reported cocaine use at the NORML party, Stroup let the story go out. "It was the most important decision of his career," Anderson notes, "and he made it quickly, on the basis of his anger at Bourne over the paraquat issue." The rest, as they say, is history.

Yet Patrick Anderson does not judge Stroup on that one incident, nor should he. "To have conceived NORML in 1970, to have brought it into being, and to have made it the formidable national organization it became were quite remarkable achievements. In the process Stroup had helped a lot of people no one else had the talent or inclination to help. A lot of people were not in jail who would have been if NORML had not existed. Whatever his shortcomings, Stroup had made NORML about as effective and respectable as any marijuana lobby could expect to be, and he had associated it with people who represented excellence in many fields.... Stroup's critics might not consider him a proper model for the young, but he had fought effectively for what he believed, and history teaches that the people who step forward to lead unpopular causes are not often perfect gentlemen."

The aftermath of the Bourne affair both demoralized NORML and triggered a resurgence in the moralistic movement to prop up marijuana prohibition in the United States (a movement which had

begun in 1976-77). Peter Bourne, who supported decriminalization, was replaced as Carter's drug adviser by Lee Dogoloff, who essentially functioned as a White House bureau chief for the Drug Enforcement Administration.

Anderson concludes his book with a sensitively written chapter focusing on Sue Rusche, an Atlanta woman whose DeKalb County (Georgia) Families in Action soon became the new darlings of the Carter White House, which embraced their anti-pot crusade with an enthusiasm it had never shown for NORML and decriminalization.

For persons interested in the politics of marijuana, or, more broadly, in the politics of personal choice and individual freedom, *High in America* should be required reading. It tells us much about America and social change, as well as about how things get done and don't get done with controversial political issues. The book contains important lessons on effective lobbying and organization-building which should appeal even to readers whose interest in marijuana is only marginal.

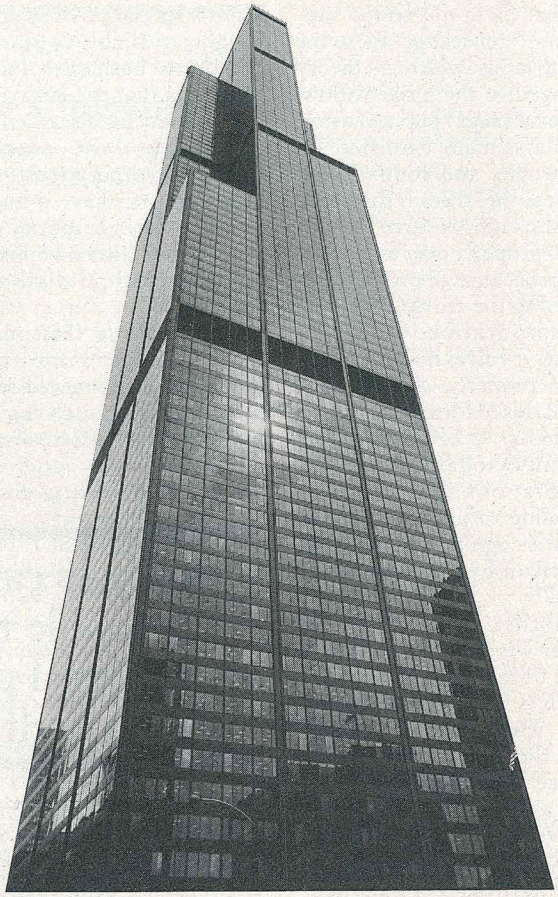
While much of the movement folklore in *High in America* will have its greatest appeal to the rather limited activist audience which cares about such trivia, there is also much to appeal to general readers who are interested in learning something about the politics of pot. For example, the lively interfacing of the many celebrities who made up the world of Keith Stroup and NORML — Hunter Thompson, Willie Nelson, Chip Carter, Hugh and Christie Hefner, among others — with the rather mundane, frustrating, and thankless work of trying to change the marijuana laws makes for exceptionally interesting reading. There is an overemphasis on celebrities, perhaps, and many of the real heroes of NORML and the marijuana movement aren't mentioned at all, but it seems that it's "big names" who sell books, not the unknown activists in the trenches.

Anderson's book ends on a more pessimistic note than subsequent events have borne out. For while he seems to equate Stroup's departure from NORML with the demise of the pot lobby, recent events have proven otherwise. Though the anti-marijuana forces are now dominating the state legislatures and Congress, NORML has rebounded from its dog days of the late Seventies and its future looks much brighter than it appears in the closing pages of *High in America*.

This is certainly an encouraging sign for the forces of personal freedom. For though NORML is still far short of accomplishing its goals, it has made a great deal of progress in its first decade, especially given the climate of fear and ignorance that marijuana has been enmeshed in for a half century.

As Anderson notes in his conclusion: "In just a few years we advanced from widespread arrest and jail for smokers to a national consensus that simple marijuana-smoking should not be punished by jail, and toward serious debate of marijuana's eventual legalization. NORML's role in all this was quite remarkable. There had been presidential commissions before, and Ford Foundation projects, but there had never before been a national lobby on behalf of people who were violating the law. For a few amazing years in the middle of the decade, largely because of Stroup's creativity and audacity, a well-organized pro-marijuana minority was able to seize political momentum and pass decriminalization laws in a dozen states. Inevitably, the anti-marijuana majority caught on to what was happening and a reaction set in, but the issues had been raised, progress had been made, and the debate will never be so one-sided again."

Gordon S. Brownell is an attorney and marijuana activist who spent seven years as head of the West Coast office of NORML and six months as that organization's National Director.



BOHDAN HRYNEWYCH/PICTURE GROUP

An answer to Nader

DOUG BANDOW

In Defense of the Corporation, *by Robert Hessen. Hoover Institution Press, 133 pp., $7.95.*

"[G]IANT CORPORATIONS are a testament to the ability of free men, motivated by self-interest, to engage in sustained, large-scale, peaceful cooperation for their mutual benefit and enrichment. As a result, Americans today enjoy a standard of living ... that is unprecedented in world history...."

So begins Robert Hessen's bristling — and at times, eloquent — defense of corporations. It is an abstract one: Hessen is defending only the legal structure of the corporation, not the sociological and political role that it has played in society. But the book dramatically answers those who question the corporation's right to exist as a legal entity, demolishing *Taming the Giant Corporation,* by Robert Nader and his associates, in the process.

Hessen's is a task often made thankless by present-day corporate America, with its support for statist politicians, government restrictions on competition, and taxpayer subsidies for unprofitable business ventures. But he cheerfully and effectively fulfills the assignment he has set himself (which involves defending none of these activities), first challenging the myth, promoted by some conservatives as well as by Nader, that corporations are privileged creatures of the state, since they exist through government consent.

He finds that this "concession" theory of the corporation began, appropriately enough, in 1066 A.D. with William the Conqueror, who confiscated all the lands he conquered and

handed them out to his supporters, "conceding" them the use of lands which in theory belonged to the king. Various medieval kings "pursued a policy of systematic extortion" of the people, and continued to develop the theory that they had the right to turn the extorted property over to favored nobles because all property belonged to the crown.

Incorporation today, of course, involves no such transfer of property, and is but a standardized formality. Hessen concludes, "It is ironic indeed that critics today seek to make corporations subservient by appealing to a theory created centuries ago to justify acts of extortion by absolute monarchs."

Another contention of Nader's is that corporations must obtain a state charter, which is "in effect an agreement whereby a government gives the corporate entity existence and that entity, in return, agrees to serve the public interest." But Hessen points out that a corporation's charter — its articles of incorporation — is also a formality.

Indeed, he notes that the filing process is akin to that for a birth certificate, or to legally validate a marriage. And "who, for that reason, would describe a marriage as a creation of the state, or claim that a marriage certificate contains a promise to serve the public interest?"

Again, Hessen traces the history of Nader's concepts, saying that "Nader's devotion to this anachronistic concept [the charter] undoubtedly reflects his nostalgia for an absolute political philosophy. His idea that a charter contains a promise to serve the state is a carryover from the sixteenth and seventeenth centuries" when freedom of commerce was but a selective royal privilege.

Hessen moves to the three specific corporate attributes which Ralph Nader argues are special privileges justifying special government control:

Entity status. Hessen points out that entity status merely means that corporations can sue, *and be sued,* as a unit, and is not a special privilege, being roughly available to all unincorporated businesses. Indeed, he argues that the entity concept should be discarded and replaced by "the inherence theory of corporations — the idea that men have a natural right to form a corporation by contract for their own benefit, welfare, and mutual self-interest."

Perpetual life. This means that the articles of incorporation needn't be renewed. Many partnerships, such as law firms, are also effectively permanent.

Limited liability. Stockholder assets are not liable for corporate debts because of an implied contract between the corporation and corporate creditors. As Hessen points out, creditors can, and often do, require guarantees by the major stockholders before they will extend credit.

Business cannot coerce, unless it is able to grab control of political power in order to shield itself from competition.

Liability is also limited in tort cases, such as suits for negligence. There is no contract here, but Hessen argues that inactive shareholders should not be liable; instead, he believes that the legal doctrine of employer liability for employee torts should be applied only to those who exercise managerial control, regardless of the legal form of the business.

Hessen reemphasizes the arbitrariness of the attack on the corporation by exploring the continuum between the corporation and the partnership. He argues that the corporation "consists only of individuals," as does any other organization. Since only individuals can enjoy property and transact business, "anyone who proposes to deny or destroy the right of a corporation is really attacking individual rights."

Moving away from these theoretical discussions, Hessen spends the better part of three chapters debunking a critical element of Nader's attack — that corporations, far from being run for the mutual benefit of shareholders and managers, are but a battleground between these groups of "mutual adversaries."

Indeed, Nader postures as an ally of the shareholders, opposing the officers who, with the acquiescence of the directors, allegedly are looting the corporation. Nader contends that, without his help, the shareholders are impotent and unable to control the autocratic corporate rulers.

To redress this perceived imbalance, Nader proposes draconian measures to ensure "corporate democracy." He would strip officers of their decision-making powers and thrust the shareholders — willing or not — into active control of the corporation. Nader goes so far as to argue that his proposal would lead to the "abolition of the most rigid, totalitarian system that comes under the guise of democratic election. . . ."

Hessen ridicules Nader's notion of corporate democracy, noting that "Equating the options open to shareholders and Soviet citizens would be comical if it were not so morally obscene." He goes on to demolish Nader's utopian view of nineteenth century corporate democracy, and concludes that "[f]ar from being the antithesis of free choice and continuous accountability, . . . the publicly traded giant corporation is the highest embodiment and expression of these ideals."

Hessen also disputes the contention that shareholders are victimized by corporate officers and directors, arguing that, "in fact, officers and investors are allies, not adversaries." He points out that there is no reason to believe shareholders want to spend their time managing the company, and that the threat of a swift, massive, sell-out is one of the most powerful safeguards for shareholders.

In moving to the related issue of the relative permissiveness of state incorporation statutes, Hessen catalogues the inaccuracies of many of Nader's claims, throwing the accuracy of Nader's entire work into question. He also dissects the inconsistency of Nader's contentions that, for instance, stockholders are poor and unfairly deprived of their dividends, while simultaneously rich and feasting off the helpless consumer.

Hessen confronts the demagogic charges as well. Nader contends that, among other things, competition has been lessened, advertising artificially maintains market shares, large firms are immune to competitive pressures, consumer choices are restricted, and economic stagnation has set in — all because of the existence of corporations. Hessen demolishes the factual foundations of these contentions, as well as Nader's proposal for an antimonopoly court to break up large companies. After exploring the impracticalities of Nader's scheme, Hessen acidly points out:

> But if one company holds more than 12 percent of the market, or if four companies hold more than 50 percent, whose rights have been violated? Who has been wrongfully deprived of anything? By what right and in whose name does Nader propose to veto the verdict of the marketplace? And why are the rights of producers to be denied in the name of his axiom? If a man described as a consumer advocate proposes to break up companies that have supplied products of proven excellence and acceptability, what would a "consumer enemy" do?

Hessen's final chapter shows no mercy in ridiculing Nader's proposals and behavior. Typical is his comment on Nader's appeal to the United Nations for international control of

multinational corporations:

> To whom did Nader address his attack on corporate oligarchy and his plea for international corporate democracy? To the representatives of Leonid Brezhnev of the U.S.S.R., . . . of Idi Amin Dada of Uganda . . . and other world leaders whose everlasting devotion to democratic principles and institutions was beyond doubt.

He also scores the far-reaching potential of Nader's proposals, which could be extended to churches, unions, educational institutions, and the media. He suggests that once the "subjugation" of the corporation "is accomplished, the forces of goodness can nominate other candidates for federal chartering."

Finally, Hessen exposes the sophistical use of the phrase "private governments" to characterize corporations, which eliminates the distinction between economic and political power. He points out that, unlike government, business cannot coerce, *unless* it is able to grab control of the levers of political power to shield itself "from both foreign and domestic competition by means of subsidies, loan-guarantees, protective tariffs, import quotas, and arbitrary licensing requirements." Even then, Hessen points out, the solution is not greater federal regulation, but less government power to bestow special favors.

Hessen concludes with a look at Nader's utopian society — decentralized, opposed to affluence, and governed through mandatory civic obligations. A society where the arbitrary standards of a few govern. A society where freedom is a low priority.

Indeed it is a view of society shared with the kings of England, who Hessen notes, failed to "recognize the principles of individuals rights [and] freedom of association." This disregard for freedom threatens all Americans. Hessen says of Nader:

> Instead of holding that government is the protector of man's inalienable rights, he believes that government is the creator of rights, which it can revoke at will. His persistent use of the vague and rubbery phrase "the public interest" serves the same purpose as the theory of the divine right of kings to justify the government's exercise of arbitrary and unlimited powers.

This book does provide the definitive answer to Ralph Nader and his fellow "miscorporatists." But it is limited in scope: it should be followed by volume two — written by Hessen, of course — tracing the historical role of the corporation in America.

The enduring strength of *In Defense of the Corporation* is its emphasis on *morality.* Hessen does not get lost in pretentious discussions of legality and efficiency; instead, he boldly declares, "A proper defense of corporations must stress that they are created and sustained by freedom of association and contract, that the source of freedom is not governmental permission but individual right. . . ."

It's a message worth repeating.

Doug Bandow is an attorney and writer, who is now working at the White House.

On View

The Questing

DAVID BRUDNOY

THE HOLY GRAIL. THE Fountain of Youth. The Eternal Woman. The Pepsi Generation, for that matter. All engage us (or engaged somebody) in quests, and most quests — whether or not we include the other cola is open to question — are worthy or at least time-consuming. And sometimes they make nifty subjects for books, occasionally even for movies. The quest, broadly defined, occupies us this month at the movies, this while the summer glut descends upon the theaters and we are overwhelmed by sequels to sequels to mediocre horror films.

The Hand

Speaking of which, *The Hand* comes to us superficially as just another sleazy scary film, but it is considerably better than the ads suggest. An adaptation of Marc Brandel's classic horror story, "The Lizard's Tale," this film boasts not only another remarkably believable performance by Michael Caine, who terrified blondes and moviegoers last year in *Dressed to Kill,* but also a poignant variation on the theme of questing. Jon Landsale (Caine) is a mildly popular cartoonist who loses his hand in a freak accident. His wife (Andrea Marcovicci) is driving too fast, this in the midst of a domestic dispute, and Jon waves a truck back, but unsuccessfully. Splat! The hand is severed, the shrieking is something fierce, and we have before us one cartoonist with his drawing hand untidily removed. We are set up for poor Jon's troubles quickly: his wife is into mind-expanding exercises conducted by a not terribly convincing fellow with more than mind-expansion on his mind; his young daughter is terribly precocious and something of a vegetarian bore; and the guy can't draw.

He can fantasize, however, and yearn for what is gone. After he has been stitched up and more or less patched together, Jon goes out to the



ORION PICTURE COMPANY

Camelot's King Arthur (Nigel Terry, center) does battle with his son, Mordred (Robert Addie), in Excalibur, *an "unintentional comedy" that is a "monumental failure."*

highway and the grassy patches to find his hand. No hand in sight, though his signet ring turns up. A rational fellow, Jon reasons that the hand is now decomposed, and life goes on. The hand, however, is not decomposed, and certainly it's anything but gone. It has been scampering about in search of Jon, and as time goes by it manifests a rather jealous nature and does unspeakable things to a young lady with whom Jon begins an affair, and to various others. It is also none too happy with Jon. It is an unpleasant hand, a vengeful and awesomely powerful hand, and the movie celebrating it is spooky and wonderfully cogent though absolutely gaga.

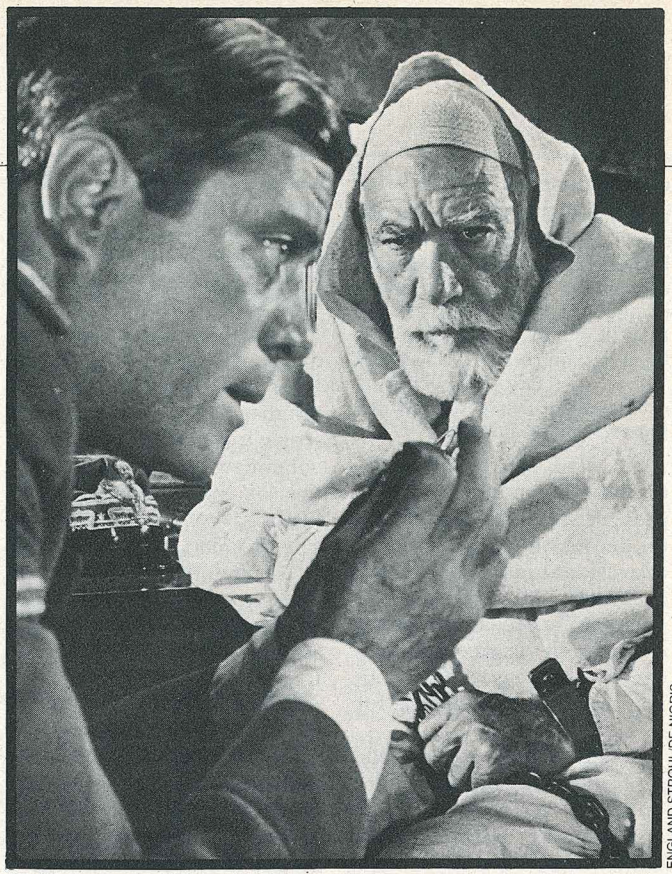
Maybe the hand is doing all this; maybe Jon is to blame. We see the hand, Jon sees the hand, some victims and would-be victims see the hand, a psychiatrist, played with unaccustomed control and near understatement by Viveca Lindfors, sees the hand, but who can prove that the hand exists? *The Hand* functions splendidly on two levels, both as horror story and as a psychological thriller. Oliver Stone, who wrote and directed the movie, treats us to that rarity, a film offering two intriguing interpretations, the one, of course, hysterical nonsense, the other one perfectly down-to-earth though just as perfectly suited for a case study of psychopathy.

Our cartoonist friend observes early on that he still feels his missing fingers. He learns, as all victims of amputation learn, that phantom feelings remain for years, often forever. He wants something that is gone; he also wants to vent his fury on those who cross him; he wants ultimately to destroy himself. His quest is for more than a missing appendage; it is for a satisfactory marriage where there is no longer any satisfaction, it is for love with an improper stranger, it is for the restoration of wholeness in a life that is off-balance in part, but only in part, because Jon's is a body now grotesquely off-balance. The interpretation of just what all this actually signifies must be yours, but I lean to the psychological rather than to the other approach.

Excalibur

Not that every guy who loses a hand suffers the additional torments inflicted upon Jon. In John Boorman's *Excalibur,* a nearly three-hour lesson in how not to bring the Arthurian legends to the screen in 1981, most of the sad examples of the force of sword against flesh merely cry out in agony and topple to the wayside. The focus here is Camelot in bloom and Camelot in disarray, Arthur conceived in magic, permitted by his gifts to extract the sword from its stone, creating the Round Table, cuckolded courtesy of Guenevere and Lancelot, and done in by his wretched son Mordred. Misery in a grand medieval style provides the gory backdrop for the majestic story of Arthur's dream and Arthur's nightmare, and Alex Thomson's gloomy, sometimes haunting photography adds a lush, oddly inviting setting.

Excalibur is an unintentional comedy. Merlin (Nicol Williamson) gives the film its life and its humor, the actor evidently having decided to try out every note in his vocal range, and every intonation, and to hop about as if auditioning simultaneously for a burlesque and a second-rate tragedy. Everybody else is morbidly serious, and since Mr. Boorman has opted to compress nearly the full scope of Malory's "Le Morte d'Arthur" into one film, all the principal actors are engaged most of the time in declaiming, posturing, striking attitudes, such that they are reduced almost to walking concepts: Pride, Lust, Virtue, Deceit, Remorse, Vengeance. The movie is not helped by its casting of the major parts, most of which have been filled by strikingly attractive people who seem to have dropped off the pages of *Gentlemen's Quarterly* or, possibly, *Playgirl,* but who have been too busy fixing their hair to learn to act. No one is believable in *Excalibur,* neither in the freshness of its first half hour nor in the agonizing decline that follows, neither when Arthur (Nigel Terry) and Lancelot (Nicholas Clay) fight and become fast friends, nor when Guenevere (Cherie Lunghi) captivates her Arthur and then his buddy, nor, at long last, when snippy Mordred (Robert Addie) goaded on by his mother, Morgana who is his mother, Morgana, who is also Arthur's half sister (Helen blows with his father.



ENGLAND STROHL/DE NIGRIS

Bedouin leader Omar Mukhtar (Anthony Quinn) refuses to settle with Italian General Graziani (Oliver Reed) in Lion of the Desert.

Excalibur's failure is monumental, not insignificantly because its aim is so high. Its most stirring section deals with the quest for the Holy Grail, which carries us into the region of sanctified madness as well as into the dwindling arena of bad magic. The bright ambition of a valiant brotherhood of knights to come together in an unblemished circle of decency and honor degenerates in the famous story into a dissolution of spirit, as of flesh, all precipitated by the lust that brought Lancelot to take Guenevere from her husband, all in time dissolved into a fanaticism that, though given the gloss of Christian piety, is at heart pagan. Someone once defined a fanatic as a person who redoubles his energies as the original reason for his exertions escape him. The questing in *Excalibur* is by that definition a trenchant example of fanaticism in high gear. *Excalibur* itself is blurry and, ultimately, silly.

Knightriders

Undoubtedly quite by accident, the Arthurian material provides another filmmaker with ample material just as *Excalibur* comes and, not much lamented, goes. George Romero, best known for his horror films, *Night of the Living Dead* and *Dawn of the Dead,* has put his zombies away for a while — a third installment of the *Dead* saga looms not far ahead — and updates Camelot for our time. We are with a group of bikers headed by Billy (Ed Harris), who, as King William, rules and "fathers" a tribe of delayed counterculturists making something of a living by putting on medieval pageants and motorcycle jousts for provincials along the highway.

Merlin (Brother Blue) is

much more entertaining and also believable in *Knightriders* than is Williamson's Merlin in *Excalibur,* and on the whole the characters are more appealing. Certainly the conflicts are less earth-shattering. Billy has his pal in Alan (Gary Lahti), who becomes something of a Lancelot while waiting until the very end to walk off with Billy's queen, and in Morgan (Tom Savini), who didn't know until too late that the first Morgan was a lady, Billy has his nemesis. This Camelot has troubles with the law and troubles from within, and for no particular reason it presents us with a master of ceremonies named Pippin (Warner Shook), who discovers that he is homosexual and finds a lover among the troupe. Billy delivers a series of speeches about his Idea and the purity of that Idea, and after some two and a half hours he relinquishes his crown to Morgan and goes off to die.

I'm not quite sure what George Romero is trying to tell us in *Knightriders,* other than that playing dress-up on motorcycles can be picturesque and that the lure of commercialism can muck up a good latter-day commune, sure as shooting. Somewhere meandering among the vignettes and homey preachments and cozy trysts we can discover a fuzzy lesson about the search for value in an increasingly valueless society. Billy's quest is for the order and peacefulness of a harmonious family. In Ed Harris, George Romero has an actor who exudes beaming blond rectitude, who stoically endures his pains both physical and spiritual, and who rises to the occasion every half hour or so by chastising some knave or proclaiming his complete confidence in the inevitable rightness of all things. Harris is a find. He stands erect, he appears to have not a care in the world, his thinning hair lays in golden wisps on his broad forehead, and wherever he goes in the picture he seems to carry along an implicit bag of virtuous attributes, which he tends alternately to husband and to cast about to the undeserving throng. He won't even sign a little boy's biker magazine because he's pictured inside as some sort of Evel Knievel, though near the end he searches for the boy and gives him his sword.

This is Camelot on a trip. Romero has wisely decided not to mimic the Arthurian personae very closely, and he has not hesitated to borrow from everywhere, here a Friar Tuck, there that beaming young Pippin, elsewhere a little *Easy Rider.* Billy's Camelot is its own reason for being: it is, we assume, because it must be, and fill in the heavy justifications on your own time. Yet however ponderous its message — George Romero must on occasion have forgotten that he had put the zombies away for a while — and however jarring its anachronisms, *Knightriders* is much more successful, on every level but the photographic, than Boorman's *Excalibur.* It is, in fact, strangely moving in its commitment to a quest for spiritual freedom and harmonious communalism, and in its final scene, which of course involves us in the crushing of the dream, it evokes hushed respect from an audience. (*Excalibur's* end inspires only gratitude that the thing has, mercifully, ended.)

Lion of the Desert

Another epic for our time comes to us from a screenplay by H. A. L. Craig, under the direction of Moustapha Akkad. *Lion of the Desert* serves three purposes: it presents a cleverly skewed history of the Italian-Libyan conflict terminating finally in the subjugation of the African territory by the fascists; it hamfistedly leads us to see parallels between that conflict and Mr. Akkad's interpretation of the current troubles confronting the Israelis and the Palestinians; and it zeroes in on two mutually exclusive quests, the one for empire, the other, that of the intended victims of empire for their own nationhood or at least peoplehood.

As Mr. Akkad reads the twenty years of intermittent warfare between the Bedouin people in Libya under Omar Mukhtar (Anthony Quinn) and the Italians, the experience was unequivocally that of virtue versus vice. Almost all the Italians, from General Graziani (Oliver Reed) and Benito Mussolini (Rod Steiger) on down, are venal; all the followers of Omar Mukhtar are valiant. Akkad permits himself one or two nice-looking Italians but by and large he has cast the movie so that the Europeans are unappealing and the prominent Libyans are handsome men and doe-eyed, immaculate women. He has eliminated any complexity from the story, thus inspiring in audiences, at least in the New York City audience with which I saw it, roaring affirmations for the Libyans at every turn and rowdy cheering for every Italian debacle.

Moustapha Akkad has further weighted his picture with innumerable shots of the Bedouins in refugee camps, which are called concentration camps, the better no doubt to remind us of the Nazis, and certainly to remind us of the Palestinians made homeless by the horror of modern middle-eastern politics. It says something about the way American attitudes are so easily shaped to favor anything remotely Third Worldy that we see in our country today not only a radical departure from the previous attitude toward the middle east (recognizing a hefty measure of Arab responsibility for the plight of today's refugees), but also such easily swayed audiences at a movie as patently propagandistic as *Lion of the Desert.*

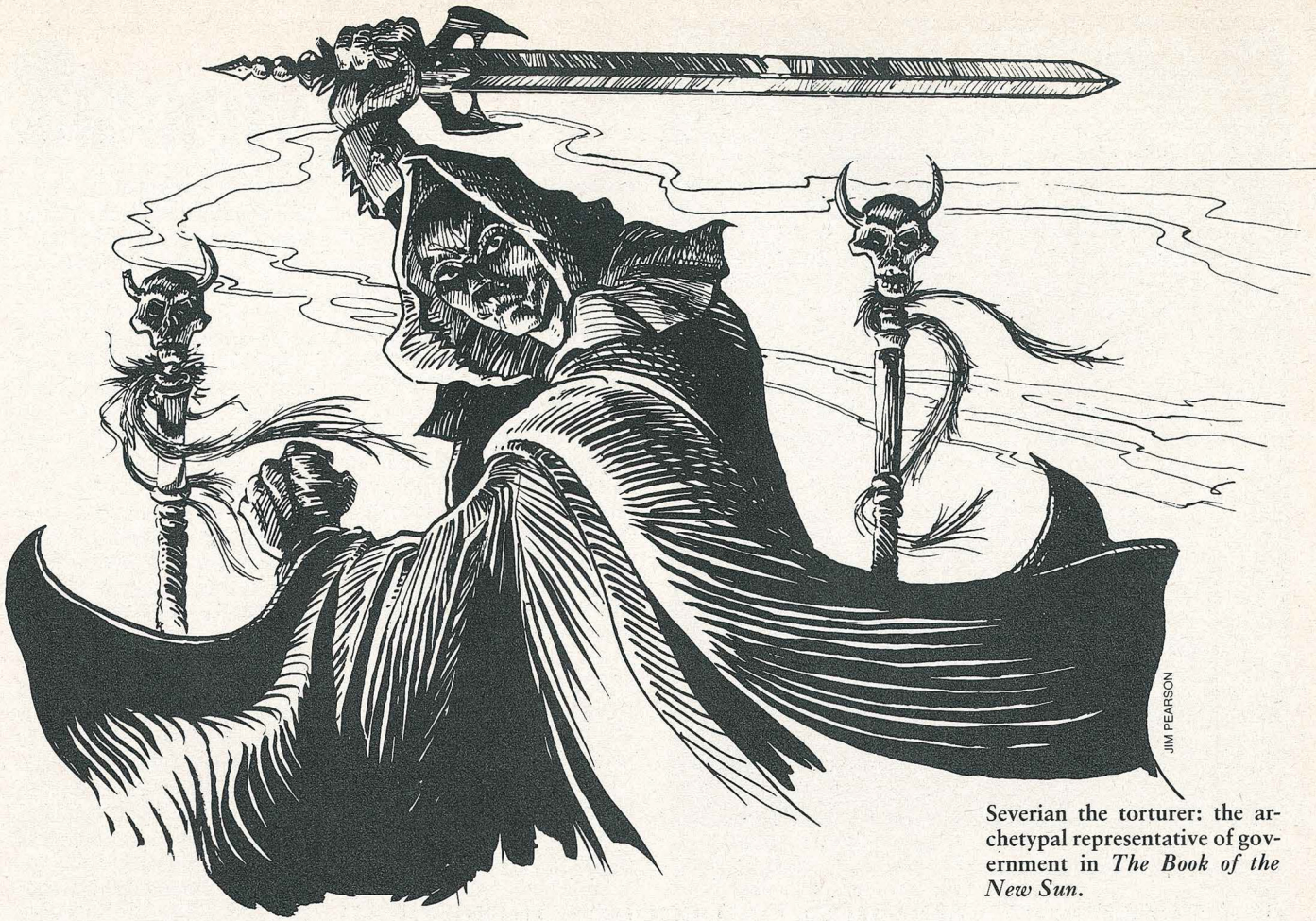
And yet, the movie has enormous force irrespective of its unsubtle approach to history. Quinn has rarely been better, and Reed is delightfully single-minded as Graziani. Rod Steiger has only a few minutes to do his Mussolini imitation but it's a good one and the actor throws himself into his cameo fully. Irene Papas can no longer be suffered in any movie; her very appearance is like a cue to get ready for extended moaning and passionate nobility. But at least she looks properly haggard and put-upon. The battle scenes are among the finest we've been treated to in many years, and the scenery is fine.

More to the point, the contest of values is exciting and provoking. Graziani, seeking glory through Libya as a way to increased influence with Mussolini, who sought glory through many fronts, squares off against Omar Mukhtar, who sought only release from endless war with Italy, though that release had to come by independence, not subjugation. As in reality so, too, in *Lion of the Desert:* Mukhtar is caught and hanged. But whereas in the movie the unwary are led to believe that Libya will be freed by the superior force of Arab virtue, in reality Libya was freed by the British. And for all that, for all the death and misery, Libya wound up at last not free and noble and virtuous, but as a playpen for a government of terrorists and fanatics headed by Col. Qaddafi. So much for another Third World fantasy.

Perhaps it is not the success or failure of the quest but, instead, the act of questing itself that matters. So much of life, so many aspects of our culture, among them the movies, amount to little more than getting by. In the end, of course, to unearth the hoariest of truisms, we are all dead. Some people prefer to head in that direction with some purpose, and some movies, many of them failures but occasional examples among them successes, prefer to examine the quest, the questing, and those who quest, instead of those who merely content themselves with getting by.

***LR*'s film critic also reviews for WNAC-TV (CBS), WRKO-AM (ABC), and *The Boston Herald American*. He hosts "The David Brudnoy Show" on radio and "Nightscene" on television, writes a nationally syndicated newspaper column, reviews books and restaurants, and lectures frequently on popular culture and politics.**

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Severian the torturer: the archetypal representative of government in *The Book of the New Sun*.

The National Letters

Self-help and cheap thrills (Part II)

JEFF RIGGENBACH

WHAT EXACTLY IS A "thriller"? The question is a deceptively simple one. For "thriller" is one of those words ("novel" and "poem" and "essay" are others) which is universally understood yet eludes exact definition. Everybody knows a thriller when s/he sees one, but nobody can say just what it is s/he sees.

Funk and Wagnalls reports that a thriller is "an exciting book, play, or motion picture." But this is no help at all. What excites one reader is almost certain not to excite the next. Ask me to name the most exciting book I've read during the past decade, and I'll probably name *Philosophy in a New Key* by Susanne K. Langer, or maybe *Introduction to Metaphysics* by Henri Bergson, neither of which is likely to qualify in most people's minds as a thriller. Ask David Stockman the same question, and he'll probably name George Gilder's *Wealth and Poverty,* which most people wouldn't think of as a thriller either. It takes all kinds and there's no accounting for tastes and one man's meat is another man's poison. Strictly speaking, there is no such thing as an exciting book; there are only excited readers. And what excites you doesn't necessarily excite me.

So forget Funk and Wagnalls, and look to literary critics for guidance. Go ahead. What you'll find is that most of them have nothing at all to say on the subject and that those who do are in disagreement about it. Take two examples of the latter. Ayn Rand has written in *The Romantic Manifesto: A Philosophy of Literature* (World, 1969) that " 'Thrillers' are detective, spy or adventure stories. Their basic characteristic is *conflict,* which means: a clash of goals, which means: purposeful action in pursuit of *values.*" The prototypical thriller plot, she writes, is one which portrays its main character "fighting for a vital goal—overcoming one obstacle after another—facing terrible dangers and risks—persisting through an excruciating struggle—and winning."

Contrast this view of things with the one offered by the English critic Jerry Palmer, who wrote in his 1978 book *Thrillers: Genesis and Structure of a Popular Genre* (London: Edward Arnold Ltd.) that "it is the element of conspiracy which is, in the ultimate analysis, the distinguishing feature of the thriller as a genre. In its absence, we are left with a hero who is confronted with obstacles and opposition of various types.... The specificity of the thriller is that the hero averts a mysterious conspiracy: a conspiracy that springs up from nowhere, which produces events whose source is incomprehensible." Palmer doesn't require that the hero or heroine of a thriller enjoy complete success, that s/he "win," as Ayn Rand puts it. He is perfectly willing to accept as legitimate what he calls "the negative thriller," and cites Dashiell Hammett's *The Maltese Falcon* as "a perfect instance" of this type. At the end of *The Maltese Falcon,* Palmer writes, the conspiracy is scotched, to the extent that Sam Spade finds out that it is the girl he has been protecting throughout the novel, and with whom he has been sleeping, who was responsible for murdering his partner. He turns her over to the police, and the sensation of bleakness that pervades the closing pages floods the whole barren landscape that the hero inhabits. The ending is climactic, but the climax operates, so to speak, as the inverse of the climax of the positive thriller: instead of taking the reader up, it brings him right down.

For Rand, then, it is only necessary that the hero or heroine of a thriller be involved in conflict; for Palmer it is necessary that the conflict be with a mysterious conspiracy. For Rand it is necessary that the hero or heroine win; for Palmer it is only necessary that the mystery be resolved and conspiracy unmasked—it need not be defeated. These differences are far from trivial. If we accept Rand's definition, we will be forced to exclude authors like Hammett and Raymond Chandler and John Le Carre from the ranks of

thriller writers; and such exclusions would doubtless strike most thriller readers as passing strange. If we accept Palmer's definition, we will be forced to exclude books like Frederick Forsyth's *The Day of the Jackal,* in which the hero is the chief conspirator (Palmer himself excludes this book, in fact, using it as a good example of one of the "forms of writing that are capable of displacing the thriller"), and we will also be forced to exclude books like *Jaws,* in which the hero's nemesis is a wild animal (unless perhaps Palmer would say that a fish can lead a conspiracy)—and again, most readers of these books would probably be surprised to learn that they were not thrillers.

Perhaps more tellingly, regardless of which of these two definitions we accept, we will be forced to exclude books like James M. Cain's *The Postman Always Rings Twice* and Daphne DuMaurier's *Rebecca* from the thriller category, along with every other book of their respective types — the types commonly known as the crime thriller and the gothic thriller. It would seem best, then, to accept neither Rand's definition nor Palmer's, but propose one of our own instead, one which better reflects the reality readers have in mind when they use the word "thriller" to describe a work of fiction: A thriller is a story of violent, action-packed conflict, often but not always involving the solution of a mystery, often but not always taking place in exotic or unusually dangerous locales (some thrillers, of course, depend for their thrills on the introduction of some menace into what would ordinarily be considered a hotbed of normality). Such stories are "exciting" to their readers because they are full of suspense and surprises.

But they are also exciting for another reason. The world of the thriller is a world in which the individual is on his or her own, in which the only organizations are either ineffective or The Enemy, in which, win or lose, it is up to an individual to see that what needs to be done is done. "The view of the world ... that is proposed by the thriller," Jerry Palmer asserts, and rightly, is "competitive individualism."

Of course this is a phrase which might be interpreted in a number of possible ways, so it is worth looking into exactly what Palmer means by it. "The formal postulates," he writes, whose fulfillment is required to develop the concept of competitive individualism are these:

> The individual must be conceived of as radically autonomous. Society must therefore be conceived of as a collection of individuals, and dependent upon them; social structures can have no autonomy. All links between individuals are therefore contractual, entered into by the free will of the individual.
>
> These individuals must be thought to exist in a state of scarcity—otherwise there would be no source of competition. The scarcity may of course be a scarcity of anything. The importance of "success," as the focus of the ethical system, is clear: "winning" (the form it takes in the thriller) is by definition scarce, scarce to the point of exclusiveness.
>
> Formulated in this fashion, there is a clear analogy between the notion of competitive individualism and the notion of the individual postulated in the political economy of the market.

Indeed there is. So it should certainly seem fitting that the thriller, at least in its most characteristic modern forms, the detective story and the science fiction story, should be a distinctively American invention — that it should be the product of a country founded by a libertarian revolution and blessed thereafter with a rich cultural tradition based in the notions of rugged individualism and self-reliance. The thriller derives from British traditions, of course, just as American political philosophy derives from John Locke. The Gothic tale was an English invention, as was the crime thriller (whose earliest examples would seem to be the popular seventeenth and eighteenth century volumes on the exploits of highwaymen like Claude DuVall and Dick Turpin). But it was an American, Edgar Allan Poe, who invented the detective story and, arguably, the science fiction story as well (Jules Verne, the most likely counternominee, was a student and avowed imitator of Poe). And it is these two subtypes which have dominated the thriller genre ever since, even in the hands of its English practitioners. Conan Doyle imitated Poe's Dupin stories down to the smallest detail when he created Sherlock Holmes; and what is James Bond but an American hardboiled detective inhabiting the high tech world of American science fiction and speaking with a British accent? The only decidedly English thing about him, in fact, is that he is *not* a lone individual: he is not only a representative of an organization, he is actually an employee of the government — something you will almost never find in the American thriller. It is significant, for example, that the Soviet police officer who serves as the hero of the current bestselling thriller *Gorky Park* by the American novelist Martin Cruz Smith only begins the book as an operative of an organization. By the time he has tracked his murderer to New York he has himself become a hunted man, wanted by the KGB, the FBI, and the Gotham police. Such is the inherent individualist logic of the thriller genre.

It is fitting that the thriller is an American invention, a product of a country founded by a libertarian revolution.

Needless to say, the thriller has never been taken seriously as literature by any member of the American critical establishment—unless, of course, it was written by a European. In the last century, *Crime and Punishment* and *The Moonstone* were literature, but *The Narrative of A. Gordon Pym* and *The Call of the Wild* were not. In this century, the hardboiled thriller is literature when it's done by Grahame Greene but not when it's done by Horace McCoy, and the science fiction story is literature when it's done by Aldous Huxley or Stanislaw Lem but not when it's done by Theodore Sturgeon or Alfred Bester. "The thriller *can* be lit," the literati seem to be saying, "but it almost never is. So when one of us, like Alfred Kazin, says that nobody ever reads anything any more except self-help books and thrillers, what he means is that nobody any longer reads anything that matters."

Bosh. Piffle. Balderdash. Thrillers matter, fully as much as fiction of any other kind. And when a thriller of the first rank is published, a thriller of genius, a thriller which is a novel of character and a novel of ideas as well as a novel of action—and while such books are rare, they are no more rare (and no less) than works of genius among novels of any other kind—it is nothing short of a literary crime to ignore or contemptuously dismiss it as beneath the notice of serious readers.

And exactly such a book as this is now taking shape in our midst. That it should be doing so in 1981 seems poetically just, for the year is shaping up as a good one for thrillers. Already this year we've had Martin Cruz Smith's aforementioned *Gorky Park* (Random House, 365 pp., $13.95), John D. MacDonald's *Free Fall in Crimson* (Harper & Row, 246 pp., $10.95), and Arthur Lyons's *Hard Trade* (Holt, Rinehart & Winston, 264 pp., $10.95), and among the new novels expected this year is one by science fiction writer Samuel R. Delany called *Stars in My Pocket Like Grains of Sand.* But the thriller of genius I referred to a moment ago is



Gene Wolfe

none of these. It is a mammoth, 1200 page, nineteenth century style novel of the almost inconceivably far future called *The Book of the New Sun,* and it is the work of a fiftyish Chicago area trade magazine editor named Gene Wolfe.

Like the long nineteenth century thrillers of Charles Dickens and Wilkie Collins, *The Book of the New Sun* is being published in installments, in four volumes to be exact, the first two of which, *The Shadow of the Torturer* (Simon & Schuster, 303 pp., $11.95) and *The Claw of the Conciliator* (301 pp., $12.95) are now available. Volume Three, *The Sword of the Lictor* is expected later this year, and the final installment early the next. (Volume One is also available now in paper, from Pocket Books, at $2.50.) But the nineteenth century character of *The Book of the New Sun* derives from much more than merely its length. It derives primarily from Wolfe's narrative technique, which is straightforward, leisurely, crowded with vivid, eccentric characters, and packed with incident—the sort of story you can believe in and lose yourself in for hours or even (depending on your reading speed) days at a time.

But is it a thriller? Well, it certainly contains its share of violent action. Its opening scene is in a cemetery where grave robbery and murder are taking place. And before we have completed the second volume of the tale, we have witnessed scenes of torture, cannibalism, and savage, bloody warfare, we have seen a duel to the death, and we have looked on as the main character of the novel carries out a daring, audacious escape from a prison. And all this action takes place in a landscape which is decidedly exotic: the planet Earth (or "Urth," as it has come to be called) at a time so far in the future that human beings have had time not only to develop a technological civilization capable of reaching the stars, but also to fall back from that zenith of development to a civilization which is practically medieval in character and which looks on those few existing remnants of high technology as "magic." Centuries (millennia?) of contact with other civilizations in other star systems and other galaxies have changed Urth's flora and fauna beyond recognition, and there are hints that its geography has changed as well — which raises the possibility that Wolfe's story is taking place geological eons in the future.

Almost all the action of the first volume, *The Shadow of the Torturer,* unfolds within the confines of the huge city of Nessus, which is located on either bank of the river Gyoll somewhere in Urth's Southern Hemisphere. To the North lie "the wide pampas, a hundred trackless forests, and the rotting jungles at the waist of the world." To the South lies the "ice-choked sea." Is Nessus the city we now know as Buenos Aires? But soldiers are constantly moving through Nessus to the North, headed for war against the "Ascians." If Earth can become "Urth," then perhaps Asians can become "Ascians," in which case perhaps we are in Australia?

It doesn't really matter where we are, of course, except that such geographical questions as these, along with questions about how and why human civilization on Urth has fallen to so low a state, are among the questions the novel's hero, Severian the torturer, sets out to answer for himself (though he is unaware of it as his quest begins) when he leaves Nessus at the end of Volume One, heading North to an uncertain destiny as an ad hoc member of a small troupe of travelling players. His primary objective is to reach the small northern city of Thrax, where he has accepted a position as executioner. But as geographical and historical riddles present themselves—and they

do at almost his every turn — they too become part of his quest, as do riddles of a more pragmatic character: Why does the beautiful woman Agia, a dealer in antiques and collectibles in a small shop in Nessus, follow Severian out of the city and take every opportunity to try to kill him? Are greed and revenge for the death of her brother sufficient motives? Why does the Autarch, the absolute ruler, if not of all Urth, then at least of all Urth that Severian knows, take such an early, active interest in the life of the young torturer? Why does the Autarch's arch-rival Vodalus take an equal interest in Severian's comings and goings? And why do the Autarch and Vodalus seem at times to be working together for common goals? As Severian journeys from gate to gate, from town to town, and from volume to volume, his purpose grows, broadens, and deepens — though of course it is far too soon to anticipate where it will take him.

The same might be said for the themes which run like wild rivers through *The Book of the New Sun:* they become more complex and more mysterious with each page we turn, but we cannot, at this relatively early state in the novel's development, be sure what Wolfe plans to do with them. "We believe that we invent symbols," Severian writes at the end of the first chapter of Volume One of his tale. "The truth is that they invent us; we are their creatures, shaped by their hard, defining edges." One might call this the novel's epistemological theme. "That we are capable only of being what we are," he tells us later in the same volume, "remains our unforgivable sin." One might call this the novel's moral theme. But more important than either of these in the present context, and in light of my previous remarks on the inherently libertarian character of the thriller, is the political theme of *The Book of the New Sun.*

It is obvious from the very beginning that Severian's story is primarily political in its thematic thrust. As a torturer — a member of the Order of the Seekers for Truth and Penitence—Severian is of course an archetypal representative of Government: he is the man who performs its essential, defining tasks. But before the end of the first chapter of the first volume, he has withdrawn his allegiance from the State he has been trained from childhood to serve. "I knew nothing," he writes, "of the dogmas of the movement Vodalus led, but I soon learned them all, for they were in the air. With him I hated the Autarchy, though I had no notion of what might replace it. With him I despised the exultants who failed to rise against the Autarch and bound the fairest of their daughters to him in ceremonial concubinage. With him I detested the people for their lack of discipline and a common purpose. Of those values that Master Malrubius (who had been master of apprentices when I was a boy) had tried to teach me, and that Master Palaemon still tried to impart, I accepted only one: loyalty to the guild. In that I was quite correct — it was, as I sensed, perfectly feasible for me to serve Vodalus and remain a torturer."

If Gene Wolfe's new tetralogy is not to be considered "serious literature," then "serious literature" be damned.

Yet before the midpoint of the first volume, Severian has forsworn his loyalty to the guild as well, by falling in love with one of his victims ("clients," as they are called in that portion which the guild inhabits of the massive Citadel that looms above the city of Nessus on a hillside, sharing space with a vast graveyard), and allowing her to take her own life rather than let her be subjected to the "excruciations" which are his stock in trade. He is banished, is told of the executioner's job in Thrax, and sets out northward. Along the way he meets with Vodalus, a Robin Hood figure who lives with his band of supporters in the forest outside Nessus, and becomes one of his sworn agents against the Autarchy. He also begins to learn more about the ill-defined war which has been waged to the north of the city for as long as Severian can remember. "I've followed if for years and years now," a small town innkeeper tells him, shortly after he has left the city, "though the battles they fight never seem to make much difference, if you understand me. It never seems to get much closer to us, or much farther off either. What I've always supposed was that our Autarch and theirs appoint a spot to fight in, and when it's over they both go home. My wife, fool that she is, don't believe there's a real war at all."

"Where does your wife think the soldiers are going, then?" Severian asks the innkeeper.

"Looking for Vodalus, that's what *she* says. As if the Autarch — whose hands run with gold and whose enemies kiss his heel — would send his whole army to fetch a bandit!"

As he travels, Severian also begins learning bits and pieces of the history of the place in which he has spent all his days. One traveller he meets on the road, for example, tells him of the origin of the Citadel which, until the time of his banishment, had always been his home:

"In the old times, the lords of this world feared no one but their own people, and to defend themselves against them built a great fortress on a hilltop to the north of the city. It was not called Nessus then, for the river was unpoisoned.

"Many of the people were angry at the building of that citadel, holding it to be their right to slay their lords without hindrance if they so desired."

The story thus begun is interrupted in the telling and never resumed. But what we have heard has been enough, for we remember reading more than two hundred pages earlier a conversation between Severian and one of his fellow apprentice torturers.

"The Citadel used to stand some distance north of Nessus, did you know that?" Severian's friend asks him.

I shook my head.

"The city keeps creeping upriver. The armigers and optimates want purer water — not that they drink it, but for their fishponds, and for bathing and boating. Then too, anyone living too near the sea is always somewhat suspect. So the lowest parts, where the water's the worst, are gradually given up. In the end the law goes, and those who stay behind are afraid to kindle a fire for fear of what the smoke may draw down upon them."

If we are attentive readers, we will also recall the conversation Severian had with Master Palaemon at the time of his banishment from the guild — the conversation in which he learned that while those left behind by the city's northward progress may fear to light fires, those within the city must fear to leave it.

"You know of the roads?" Palaemon asks him.

"I know they must not be used. Nothing more."

"The Autarch Maruthas closed them. That was when I was your age. Travel encouraged sedition, and he wished goods to enter and leave the city by the river, where they might be easily taxed. The law has remained in force since, and there is a redoubt, so I've heard, every fifty leagues. Still the roads remain. Though they are in poor repair, it is said some use them by night."

"I see," I said. Closed or not, the roads might make for an easier passage than travelling across the countryside as the law demanded.

"I doubt you do. I mean to warn you against them. They are patrolled by uhlans under order to kill anyone found upon them, and since they have permission to loot the bodies of those they slay, they are not much inclined to ask excuses."

"I understand," I told him, and in private wondered how he came to know so much of travel.

And then there are Severian's dreams, which are frequent and perplexing. In one of them, he is a boy again, enduring an oral examination by his schoolmaster Malrubius. "Severian," the teacher says. "Name for me the seven principles of governance."

It was an effort for me to speak, but I managed (in my dream, if it was a dream) to say, "I do not recall that we have studied such a thing, Master."

"You were always the most careless of my boys," he told me, and fell silent.

A foreboding grew on me; I sensed that if I did not reply, some tragedy would occur. At last I began weakly, "Anarchy..."

"That is not governance, but the lack of it. I taught you that it precedes all governance. Now list the seven sorts."

"Attachment to the person of the monarch. Attachment to the bloodline or other sequence of succession. Attachment to the royal state. Attachment to a code legitimizing the governing state. Attachment to the law only. Attachment to a greater or lesser board of electors, as framers of the law. Attachment to an abstraction conceived as including the body of electors, other bodies giving rise to them, and numerous other elements, largely ideal."

It is doubtless significant that when Malrubius further demands of Severian that he name the nature of his own allegiance to governance, he hesitates for some minutes, then answers, "The first, if I have any." It is doubtless significant, but of what? What exactly are we to make of these constant, ambiguous references to political matters? What are we to make of the fact, which is established at the end of the first chapter of the first volume of *The Book of the New Sun,* that by the time of the writing of his autobiography (the book we are reading) Severian himself has become the Autarch?

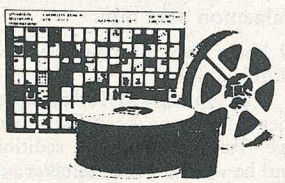
In the words of the old song, it's too soon to know. We have still to read the entire second half of *The Book of the New Sun* before we can judge what Gene Wolfe is developing for us in this political fable. But even when we've finished reading it, we should be prepared still to be dealing with ambiguities and imponderables. In Wolfe's earlier political and quasi-polticial fiction — his novel *The Fifth Head of Cerberus* and his short stories "The Death of Dr. Island," "The Eyeflash Miracles," and "The Horars of War" are good examples — he has frequently, Henry Jameslike, left us with unresolved mysteries on our hands even as we turn his last pages. Then too, the act of literary interpretation is so intrinsically individual an act, so dependent upon variations in individual education and temperament, that the only reasonable response to a question like "What does this novel mean?" is "To what reader?" Susanne Langer says somewhere that grasping the meaning of a story is more like having a new experience than like learning a new set of facts. And it is notorious that even if you and I should have the same experience, we shall very likely differ in our estimate of its implications, of what it "means."

At one point in *The Shadow of the Torturer,* Severian pauses in his narrative to reflect on how his memoir will be apprehended by those who read it. He reproduces one paragraph from a biography of Ymar, one of his predecessors on the throne, and discusses four mutually exclusive interpretations of the paragraph which have been taught to schoolchildren studying the same ancient text. "Of this I feel sure:" he comments, "not one of the explanations for the behavior of Ymar was correct. The truth, whatever it may have been, was simpler and more subtle." Or, to put it in another way, that we are capable only of being what we are remains our unforgivable sin.

Ursula Le Guin pronounced *The Book of the New Sun* "a masterpiece" after reading the first volume. After reading the first two, I can only add that it's easy to see why. Gene Wolfe is one of the most accomplished wordsmiths now writing fiction in English. His two earlier novels, *The Fifth Head of Cerberus* (1972) and *Peace* (1976), would secure him a place in American literature even if he had written nothing more, even if he had not also written some of the most arresting short stories in the language, even, wordsmithery aside, if he had not on many other occasions demonstrated one of the richest, most individual, and original imaginations to be found in or out of the science fiction field. *The Book of the New Sun* is shaping up as far and away his finest performance to date as a writer. It is shaping up as a perfectly stunning work of art. And if it is not to be considered "serious literature," then "serious literature" be damned! I'll have none of it. ❑

Jeff Riggenbach is West Coast Editor of *LR*, and a regular contributor of reviews and essays on literary, artistic, and cultural matters to newspapers, including *The New York Times, The Los Angeles Times,* and *The San Francisco Chronicle*.

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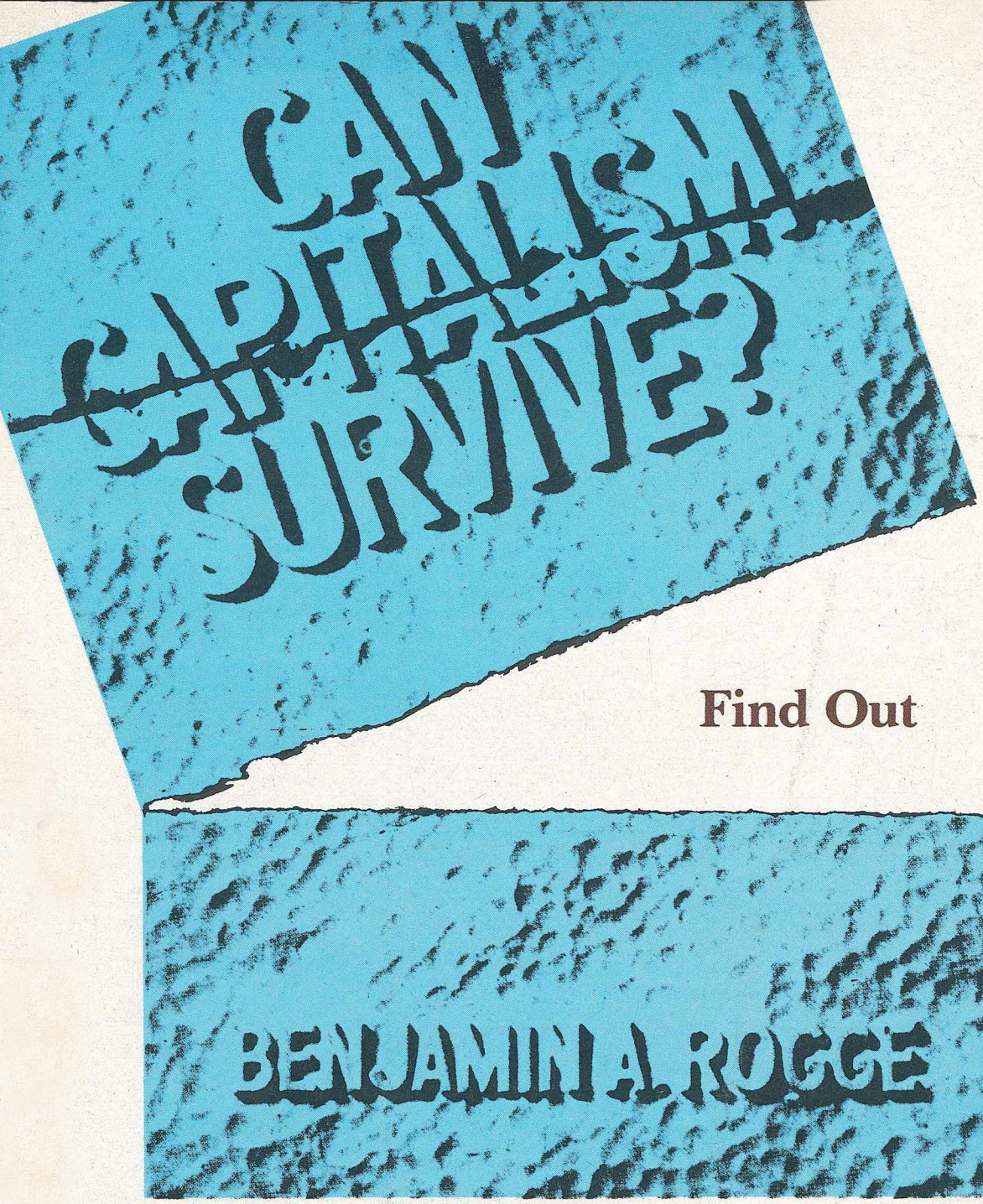
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