

## Why Has Liberty Flourished in the West?

by Jim Powell

**D**espite the claims of those who say one culture is as good as another, the West is clearly superior in at least one crucial respect: it brought liberty into the modern world, and liberty has made possible many other good things.

In this politically correct era, some intellectuals have been surprised to discover that the West is unique in this. For example, Harvard historical sociologist Orlando Patterson had started out to write a book explaining the origins of slavery, but he quickly realized that slavery was universal throughout the ancient world. The question to ask was why liberty emerged in the West and nowhere else, which became the subject of his National Book Award-winning *Freedom in the Making of Western Culture* (1991).

Patterson talked about slavery in ancient Mesopotamia and Egypt. Slavery was commonplace in Africa before Europeans came on the scene, and in China slaves were buried alive. Patterson discussed Cherokee Indians who enslaved the war prisoners they didn't kill. He told of the Tupinamba tribe that, living in South America before the Europeans arrived, actually ate their slaves.

Patterson wanted to know why, "after taking slavery for granted since the beginning of history, the West, in a remarkably short period of time during the late eighteenth century, redefined slavery as the greatest of evils." He continued: "One of the major objectives...is to show that freedom was a peculiarly Western value and ideal...freedom has been the core value of Western culture throughout its history.... It is the West that must be scrutinized and

*Jim Powell is a senior fellow at the Cato Institute, editor of Laissez Faire Books, editor of www.libertystory.net, and author of The Triumph of Liberty: A 2,000-Year History, Told through the Lives of Freedom's Greatest Champions.*



In a ceremony at the Cato Institute, federal judge James L. Buckley (right) swears in Cato adjunct scholar Bradley A. Smith to the Federal Election Commission. Smith's wife, Julie, holds the family Bible.

explained for its peculiar commitment to this value."

When researching *The Triumph of Liberty*, I tried to include people from as many different countries as possible. The largest group is Americans, followed by English and French. There are three Austrians, two Dutchmen, two Italians, two Scots, a German, a Hungarian, an Irishman, a Russian, a Spaniard, a Swede, and a Swiss. Women, blacks, and Jews are well represented. I had a couple of good non-Western candidates but wasn't able to get enough biographical material on them, so the more than 60 people I ended up with were all Westerners, and I've often been questioned about this.

Well, aside from some fragmentary thoughts attributed to the Chinese wise man Lao Tzu, almost all the ideas of liberty are Western: individual rights, secure private property, freedom of speech, freedom of the press, freedom of association, freedom of religion, freedom of trade, separation of powers, equality before the law, and so on.

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# The Case for Optimism



**A**ll too many of us who make a living as policy analysts have become pessimistic about the prospects for desirable policy change, cynical about the motives that sustain bad policies. And there are ample reasons for such attitudes. Many bad policies last for decades, and much current policy debate is about bad new policy proposals from both parties. And some Chicago economists have even developed a

Panglossian rationale for why this is the best of all possible worlds. If that were really the case, there would be little reason for Cato and the other policy institutes.

The case for optimism about policy analysis, however, also has a solid empirical base: many important policies have changed for the better, especially over the past 25 years.

Macroeconomic policy has probably experienced the most dramatic change. Instead of perceiving that we were destined to a regular business “cycle,” we now recognize that economic growth is the normal condition and that recessions are usually the consequence of a policy mistake or the necessary corrections of such mistakes. Monetary policy is now recognized as having a far stronger effect on aggregate demand than does fiscal policy. We have learned that there is no necessary trade-off between unemployment and inflation; experience has proved that both can be reduced with no apparent limit over time. Macroeconomic policy also seems to have been freed from an obsession with the exchange rate or the balance of payments. As a consequence, with the support of both President Reagan and President Clinton, the Federal Reserve has maintained an unusually steady growth of aggregate demand for most of the past 18 years, with a continued reduction of both unemployment and inflation.

Most of the older forms of price and entry regulation have been reduced or abolished since the late 1970s. The substantial deregulation of agriculture, communications, energy, finance, transportation, and international trade has been generally

**“Many important policies have changed for the better, especially over the past 25 years.”**

successful and is now broadly supported by both parties. Older network industries like electricity and wired communications will prove to be more difficult to deregulate, but the general success of deregulation has made it possible to avoid any significant regulation of the Internet.

Early experience with several recent policy innovations is also encouraging. Welfare reform (plus a strong labor market) has substantially reduced the number of welfare beneficiaries, but it is too early to determine whether this reform will reduce public expenditures or survive a weak economy. Several recent Supreme Court decisions have restored some limits on the commerce clause rationale for expanded federal powers, but those 5-4 decisions risk being reversed by the appointment of even one more justice who supports an expansive interpretation of this clause.

Equally encouraging, the major new domestic policy issues in the current presidential campaign are Social Security and school choice. The endorsement of partial privatization of Social Security and experiments with school vouchers by Governor Bush and the prior (but since rescinded) endorsements by Senator Lieberman suggest the potential for a bipartisan consensus on these issues in the near future.

All of the above existing and potential major policy changes have one common characteristic: they had been studied and promoted by Cato long before they reached the political front burner. Good policy analysis has a high rate of return, even if the changes are long deferred. As I have often advised our bright young Cato interns, the virtues of an effective policy analyst are to

- be principled,
- be prepared, and
- be patient.

And the most difficult of these virtues to nurture may be patience.

—William A. Niskanen

Conference looks at expansion of government power, corruption of legal processes

# Clinton's Impact on the Rule of Law Examined

The Justice Department “undermined the rule of law” by not fully investigating 1996 fund-raising events involving President Bill Clinton and Vice President Al Gore, said Sen. Fred Thompson (R-Tenn.) at a July 12 Cato conference, “The Rule of Law in the Wake of Clinton.”

Before Clinton and Gore raised money for use in Democratic National Committee advertising, “everyone believed that that sort of activity was illegal. The attorney general decided that this obvious circumvention of the law was in fact legal,” said Thompson. After University of Virginia law professor Lillian BeVier’s keynote address on the historical context of the rule of law, speakers drew attention to the way the Clinton administration has expanded govern-

ment power through the use of executive orders and declarations of emergencies. “Both in Congress and in the courts, Clinton has shown an utter disregard for the limits the Supreme Court sets on federal power,” said Roger Pilon, vice president for legal affairs at the Cato Institute. Douglas W. Kmiec of Pepperdine University pointed out that the Clinton administration has issued numerous executive orders lacking in constitutional authority and memos that implicitly order unconstitutional actions by agencies.

Clinton has exhibited a “reckless disregard” for constitutional rights, said Nadine Strossen, president of the American Civil Liberties Union, especially on free speech and privacy issues. Timothy Lynch, director of Cato’s Project on Criminal Justice, contended that President Clinton not only has been indifferent to his duty to protect and uphold the Constitution but “has positively undermined many constitutional principles and provisions.”

In a discussion of the Clinton administration’s attacks on property rights, James Wootton, president of the U.S. Chamber Institute for Legal Reform, noted that “neither the federal nor the state governments have been appropriately attentive to the protection of economic liberties, generally, and particularly to the rights of commercial enterprises.”



**John C. Yoo of the University of California at Berkeley discusses the Clinton administration's undermining of the rule of law in foreign affairs.**

The Clinton administration’s willingness to use the law to extort concessions from targeted industries also came under fire. C. Boyden Gray, former Bush White House counsel, argued that “there really is no legal point served by the lawsuit against Microsoft; there is no violation that has been shown. What we have is a situation where competitors have manipulated, abused, the legal system to tame another competitor. This is the worst thing for the rule of law.” Robert A. Levy, senior fellow in constitutional studies at the Cato Institute, said the war on tobacco is a prime example of the misuse of executive power by the Clinton administration. “We have the Depart-

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**Lillian BeVier of the University of Virginia outlines the history of the rule of law in the keynote address to a Cato conference on the topic.**

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Forums on gun control, Mexico, and campaign finance reform

## Smith Sworn in to FEC at Cato

◆ **June 16:** Widespread gun ownership saves lives, reduces crime rates, and helps citizens to protect themselves, said legal scholar John R. Lott at a Cato Book Forum, *More Guns, Less Crime*. Fees, training requirements, waiting periods, and other impediments to gun ownership have the negative effect of limiting gun ownership, often when citizens most need guns to protect themselves, Lott said as he released new research in the paperback edition of his path-breaking 1998 book. Carl Moody of the College of William and Mary and William Vogt of Carnegie Mellon University commented.

◆ **June 26:** Bradley A. Smith, an adjunct scholar at Cato and a professor at Capital University Law School in Columbus, Ohio, was sworn into the **Federal Election Commission** on June 26 at a Cato Institute reception. Smith took the oath of office from James L. Buckley, a federal judge who as a senator from New York led, along with

Eugene McCarthy and Cato president Ed Crane, the court challenge that overturned federal campaign spending limits in 1976. Sen. Mitch McConnell (R-Ky.), a chief congressional opponent of new campaign finance laws who recruited Smith for the FEC nomination, discussed the attacks on Smith by supporters of campaign finance laws. Smith was approved 64 to 35 despite opposition from John McCain (R-Ariz.) and other supporters of campaign finance regulations.

◆ **June 27:** The Cato Institute, the Council for a Livable World Education Fund, and the National Defense University Foundation cosponsored a Conference on Capitol Hill, “**Symposium on National Missile Defense.**” The conference featured addresses by three senators: Carl Levin (D-Mich.), Jon Kyl (R-Ariz.), and Joseph Biden (D-Del.). Other speakers included William Schneider Jr. of International Planning Services, Inc.; Joseph Cirincione of the Carnegie Endowment for International Peace; Peter Huessy of the National Defense University Foundation; Charles Peña, an independent missile consultant; Richard Garwin of the Council on Foreign Relations; and Ivan Eland, director of defense policy studies at the Cato Institute.

◆ **June 28:** Jim Powell, senior fellow at the Cato Institute and editor of *Laissez Faire Books*, discussed liberty’s greatest champions at a Cato Book Forum,



**Openness, not reform, will help China develop a constructive relationship with the United States, independent scholar Liu Junning tells a Cato Policy Forum in July.**

*The Triumph of Liberty: A 2,000-Year History, Told through the Lives of Freedom’s Greatest Champions.* Powell noted that some of those champions have been ordinary people who changed history with their ideas, devotion, and courage.

◆ **June 29:** At a Cato Policy Forum, “**The Future of U.S. Defense Policy,**” syndicated columnist and Cato senior fellow Doug Bandow argued that America should maintain a strong military force but not search abroad for enemies. Bandow rejected calls for America to intervene in various places around the globe, suggesting instead that the United States be a “distant balancer” closely watching emerging threats from abroad and, whenever possible, leaving problems to be handled by local allies. Ivan Eland, director of defense policy studies at the Cato Institute, contended that, compared with its allies, America is spending a disproportionate amount on defense. Frank Gaffney, director of the Center for Security Policy, argued that a national missile defense is necessary to counter threats from China, Russia, and North Korea. Daniel Gouré of the International Security Program Center for Strategic and International Studies argued that U.S. foreign policy should focus on protecting access to vital American interests and maintaining a role in regions of interest.

◆ **July 11:** The outlook for China was discussed at a Cato Book forum, *China’s Future: Constructive Partner or Emerging Threat?* Liu Junning, an independent scholar in Beijing and a contributor to the book, contended that market-oriented reform and openness accelerated by the World Trade Organization, permanent normal trade relations, and the Internet will lead to the continued development of civil society and lim-



**Above: Fausto Alzati, economic adviser to president-elect Vicente Fox of Mexico, tells a Cato Policy Forum that the incoming administration is committed to high-growth policies.**

**Right: Federal judge James L. Buckley (left) discusses campaign finance with Sen. Mitch McConnell (R-Ky.) at the swearing in ceremony for Cato adjunct scholar Bradley A. Smith to the Federal Election Commission.**





At a Cato Policy Forum on campaign finance reform, House Majority Whip Tom DeLay (R-Tex.) holds up a copy of the U.S. Constitution printed by the Cato Institute.

Doug Bandow, Daniel Gouré, Frank Gaffney, and Ted Galen Carpenter field questions from the audience at a Cato Policy Forum on the future of U.S. defense policy.



Best-selling author Barbara Branden (left) discusses the ideas of Ayn Rand with Kathy E. Gornik and Patricia Burnett at Cato University in San Diego.

At Cato University Charles Mensa explains the predicament—and promise—of liberty in Africa.



it the power and scope of government. “Openness is more important than reform,” said Liu, who pointed out that the reform movement “is already losing momentum.” James A. Dorn, coeditor of the book and vice president for academic affairs at the Cato Institute, pointed out that China’s nonstate sector, spurred by foreign competition, already accounts for more than 70 percent of China’s industrial output. Ted Galen Carpenter, coeditor of the book and Cato’s vice president for defense and foreign policy studies, maintained that “it is uncertain that market reforms will produce a liberal democratic China, but developments point to that possibility.”

◆ **July 12:** The Clinton administration’s abuse of the Constitution, the common law, and legal institutions was the theme of a Cato Institute conference, “The Rule of Law in the Wake of Clinton.” Featured speakers included Sen. Fred Thompson (R-Tenn.), who gave the luncheon address; Lillian BeVier of the University of Virginia, who gave the keynote speech; Nadine Strossen of the American Civil Liberties Union; John C. Yoo of the University of California, Berkeley; David Horowitz of the Center for the Study of Popular Culture; and Bill Pryor, attorney general of Alabama.

◆ **July 18:** Are celebrity culture and globalization corrupting forces in society? No, said Tyler Cowen, author of *What Price Fame?* at a Cato Institute Book Forum. “I would like to suggest that a world of commercial culture, our celebrity culture, and the world of commercialized fame is something that is good and something that we should be proud of,” Cowen said. He argued that fame motivates people to achieve and that the world of celebrity is a forum for expressing opinion. “Through this kind of process, there’s actually a very rapid, very swift, and very efficient kind of public dialogue about what ideas we find acceptable or what sentiments or emotions we wish to express.” *Newsday* columnist James P. Pinkerton commented on the book, noting that the separation of fame and merit is the product of market forces.

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# The Rule of Law in the Wake of Clinton

**O**n June 12 the Cato Institute held a conference, “*The Rule of Law in the Wake of Clinton*.” Among the speakers at that conference were Sen. Fred Thompson (R-Tenn.), chairman of the Committee on Governmental Affairs; Roger Pilon, vice president for legal affairs and B. Kenneth Simon Fellow in Constitutional Studies at the Cato Institute; and Theodore B. Olson, a partner in Gibson, Dunn & Crutcher.

**Fred Thompson:** While some people may question whether Travelgate, Filegate, violations of the Privacy Act, and many other cases truly undermined the rule of law, there is no such ambiguity in the campaign finance scandal emanating from the 1996 presidential election and the way in which it was handled.

Since 1973, we have had a publicly financed presidential campaign system. When candidates receive federal funding, they are required to certify that they will not raise additional campaign cash from other sources.

Both President Clinton and Vice President Gore signed such certifications. However, they then proceeded to raise millions of dollars in addition, funneling the money through the Democratic National Committee, having it spent on television ads to benefit their candidacy. The president actually sat in the White House and approved the ads, where they would run, and how often they would run. Before this, everyone believed that that sort of activity was illegal. However, the attorney general decided that this obvious circumvention of the law was, in fact, legal.

Making such a legal determination either way presented her with a conflict of interest—one of the reasons that Louis Freeh, director of the Federal Bureau of Investigation, recommended the appointment of an independent counsel. He pointed out to the attorney general that this circumvention had not even been investigated about two years into it.

He cited Title 18, United States Code, Section 371, which is a conspiracy statute that I used many times as a prosecutor. And it is right on point: 371 prohibits a conspiracy, not only to violate the law, but to

defraud the government. The underlying act in the “defraud the government” section does not even have to be a criminal offense, according to the case law.

If, in order to receive federal monies, a candidate certifies something that is not true, and that does not present at least grounds for an investigation under 371, we ought to abrogate the independent counsel statute. However, the attorney general had no problem in finessing this obvious conflict and refusing to appoint an independent counsel.

On July 8, 1997, the Senate Committee on Governmental Affairs, which I chair, began hearings on the 1996 presidential



**Sen. Fred Thompson (R-Tenn.)**

campaign and the abuses in that campaign. Over the next four months, we saw how millions of dollars in illegal campaign contributions had been funneled into the DNC. Much of this money was coordinated by personal friends of the president and the vice president. Much of it was foreign. In fact, there was evidence that at least six of the major coordinators of illegal campaign funds had ties to the Chinese government.

On the first day of our hearings, I stated that the People’s Republic of China had tried to influence our elections with illegal campaign money. That was clear to me from the classified material made available to the committee. I cleared my statement with the FBI and the Central Intelligence Agency, and I made it. Nevertheless, for the next four months, the Department of Justice and some Senate Democrats tried to undermine my statement. The subsequent record speaks for itself.

The attorney general had a classic, textbook conflict of interest that required her

to use her discretionary authority to call in someone from the outside.

The record shows that the law that was established to deal with scandals such as this was not complied with when it came to the highest officials in the country. The law was not applied consistently, in that there was a lower threshold for activation of the statute for lower-ranking officials.

The ability of the country to have an untainted resolution of the allegations against the president and vice president was thwarted. And the appearance was created that the attorney general was unduly protecting high-ranking officials from the regular legal process that other citizens and other public officials have to undergo, even though the allegations involved extremely serious matters that go to the heart not only of our legal but of our political process.

There can be no clearer example of the undermining of the rule of law. It will forever be a part of the legacy of this administration. Congress needs to look at itself in the mirror and reexamine its institutional role in these matters.

As things stand now, we have demonstrated that we are no longer capable of having a bipartisan investigation of a serious matter, in which both political parties seek the truth in the best interest of the country. Perhaps it is true that we have begun to rely too much on the courts and the legal processes to resolve matters that are best left to the political process. Because, ultimately, that is where it all winds up in a democratic society.

And as frustrating and disheartening as it is to see the breakdown in the rule of law, we know that, in the end, the American people will have the final say. And we will always have the kind of government and the kind of rule of law that we deserve.

However, the pendulum swings. And when our nation faces its next crisis, and when we need leadership and we need direction, who in the government are the people going to be willing to listen to if their leaders have so abused our most cherished institutions? That, to me, is the most important issue facing us today. How we resolve it will play a large part in determining our destiny as a nation.

# “The attorney general had a classic, textbook conflict of interest.”

—Fred Thompson

**Roger Pilon:** We want to focus on a single, simple question: Where does Mr. Clinton find authority for what he is doing or what he is proposing to do? The power to enact or execute most of his programs is nowhere to be found in the Constitution. But, in addition to urging, proposing, and signing legislation that exceeds Congress’s authority, Mr. Clinton has repeatedly defended such laws, when they’ve been challenged, by filing briefs in the courts, especially in the Supreme Court.

Although Mr. Clinton may have once said that the era of big government was over, his political agenda and his legal briefs give the lie to any such pronouncement. Both in Congress and in the courts, he has shown an utter disregard for the limits the Constitution sets on federal power, an utter indifference to the rule of law imposed by our founding document.

Mr. Clinton’s very *raison d’être* is to promise more and more from government, not to pare government back to its legitimate scope. Look at his State of the Union addresses, starting with his and his wife’s universal health care plan, which would have socialized one-seventh of the American economy. When you go down the list of the hundreds of policies and programs Mr. Clinton has proposed or brought into being over the years—from Americorps, to 100,000 new teachers, to family leave, to protection for tobacco farmers, to a patients’ bill of rights, to the Lands Legacy Initiative, to juvenile boot camps, to a flextime proposal, to extended hospital stays for mastectomy patients, to a program to help schools make repairs, and on and on and on—you soon realize that there is no problem too personal or trivial for his, and the federal government’s, attention. “Got a problem? We’ve got a program” is truly the slogan of this administration.

Mr. Clinton continues to fight the Court, every step of the way, in its cautious moves toward limiting federal power. One of the most recent examples can be found in the government’s brief in *United States v. Morrison*, in which the Court found that Congress once again had exceeded its authority when it passed the Violence Against Women Act. At its core, the case was about little but the doctrine of enumerated powers. It raised

a simple question: Did Congress have power under the Commerce Clause or under section 5 of the Fourteenth Amendment to grant victims of gender-motivated violence a private right of action against their assailants? Despite the relative simplicity of that question, and the all but exclusive focus of the case on the doctrine of enumerated powers, the administration’s brief—except in a single footnote, not really on point—never even mentioned “enumerated powers.” Instead of addressing head-on that fundamental doctrine, and the constitutional framework it implies, the brief reads almost like a policy statement: Congress’s power to regulate things that affect commerce is virtually ple-



**Roger Pilon, Cato vice president for legal affairs**

nary, the brief suggests; gender-motivated violence affects commerce; therefore Congress has the power to regulate it. Never mind that at some level everything affects commerce—suggesting that Congress has the power to regulate anything and everything. That implication is simply ignored in the administration’s brief. Indeed, at oral argument Solicitor General Seth Waxman, like his predecessor in the position five years earlier, could think of not a single thing Congress could not regulate—until Chief Justice Rehnquist (alluding to the 1995 *Lopez* case) offered the example of guns at schools! To cast the matter more generally, it’s as if the rule of law—in particular, the limited power authorized by the Constitution—meant nothing at all.

And on the Fourteenth Amendment rationale for the act, the administration’s brief ignores the law as well, this time the plain language of the amendment. Section 1 of the Fourteenth Amendment prohibits states, not private citizens, from violating the rights

of citizens. Yet the Violence Against Women Act gave federal remedies against *private* parties, not against states. There was, in short, no authority for it under the powers enumerated in the Fourteenth Amendment. Yet there was Mr. Clinton’s Justice Department, defending it all the same.

Mr. Clinton is not alone, of course, in his efforts to expand government by ignoring the limits imposed by the Constitution on the power of Congress. After all, Congress had to play its part too. And previous administrations were also less than solicitous of constitutional limits on federal power. Still, the sheer scope of the Clinton administration’s ambition sets it apart from most of its predecessors. Perhaps former solicitor general Drew Days captured it best in his oral argument in *Lopez* when he said that “the commerce power is one of the heads of authority under the Constitution that transformed our country from an agrarian society to one that was a powerful commercial enterprise.” There are doubtless those who believe that it was the federal government, acting under the Commerce Clause, that brought about that transformation. Certainly there are people in Mr. Clinton’s administration who act as if they believe it. For them, the rule of law empowers government.

**Theodore B. Olson:** What will be Attorney General Janet Reno’s legacy? I’ve picked out a few well-publicized incidents that can help us form a conclusion with respect to political influences in the Department of Justice during Reno’s tenure.

Item: The Clinton-Gore fund-raising investigation. The investigators veered away any time their investigation seemed to be getting near the president, the vice president, or top White House or Democratic Party officials. Reno decided that Gore’s telephone calls on government property to raise campaign funds were not illegal because there was clear and convincing evidence that he was only seeking soft money. According to the *Washington Post*, the DOJ task force was told to stop investigating. When the *Post* and other media subsequently found proof that Gore’s calls were in fact raising hard money, Reno declined to appoint an independent counsel to inves-

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*Failures in Kosovo and on Capitol Hill*

# Assessing National Missile Defense

The Cato Institute has released two path-breaking studies on national missile defense. In “Let’s Make National Missile Defense Truly ‘National’” (Foreign Policy Briefing no. 58), Ivan Eland, director of defense policy studies at Cato, writes that a national missile defense (NMD) capable of providing global protection could actually make the United States less secure. A “layered” defense comprised of some combination of land-, sea-, and space-based components holds potential risks for the United States, Eland says. The primary purpose of such an “international” missile defense system “is to facilitate U.S. intervention overseas,” he says. In a related study, “Arms Control and Missile Defense: Not Mutually Exclusive” (Cato Policy Analysis no. 376), Charles Peña, an independent missile defense consultant, says that building a limited missile defense system could achieve U.S. defense goals without endangering arms control efforts. Opponents claim that a robust NMD would lead to a new arms race with Russia and China, while ardent supporters are lobbying to scrap the Anti-Ballistic Missile Treaty—the foundation of the modern arms-control regime—even at the risk of angering Russia. Peña says both factions are misguided. He suggests that a limited NMD system could be built without endangering relations with Russia. He proposes that the United States negotiate new reductions in nuclear stockpiles, down to around 1,500 warheads, which “would be a clear signal that the United States was not attempting to achieve a strategic nuclear advantage over Russia—thus making it easier for Russia to agree to the proposed NMD deployment.”

#### ◆“Dead” Programs Live On

Six years after Republicans captured Congress with promises of downsizing government, few programs have been eliminated and federal spending is surging at the fastest clip in more than 20 years, according to a new Cato Institute study, “The Return of the Living Dead: Federal Programs That Survived the Republican Revolution” (Policy Analysis no. 375). Study authors Stephen Moore, Cato’s director of fiscal policy studies (on leave), and Stephen

Slivinski, a Cato fiscal policy analyst, note that total federal nondefense spending is projected to grow by 11 percent from 1999 to 2001, the largest increase since a 12 percent jump during the 95th Congress (1977–78). What explains this spending binge? Largely the “inability or unwillingness of Republicans to eliminate virtually any government program,” Moore and Slivinski say. “Many of the more than 200 programs that the Republicans pledged to eliminate in 1995 in their ‘Contract with America’ fiscal blueprint now have fatter budgets than they had before the changing of the guard.” The authors examine the 95 largest programs on the GOP’s hit list and find that their combined budgets have increased by 13 percent over the past five years. Indeed, since they were targeted for elimination, several programs have staged a remarkable comeback. Congress has approved steep spending increases for “living-dead” programs ranging from farm subsidies (162 percent) and AmeriCorps (248 percent) to bilingual education (80 percent) and Goals 2000 (112 percent). At the cabinet level, the GOP has spent more on the Department of Education than President Clinton proposed in two of the last three years. “Congressional Republicans have been on a strange odyssey over the past five years,” the authors say. “In 1995 they courageously tried to unplug, all at once, a multitude of federal government programs that don’t work or are counterproductive. Having lost that battle to Clinton during the government shutdown, the gun-shy GOP has concluded that it mustn’t shoot at anything at all.”

#### ◆Securities Markets: A Free-Market Approach

The recent call by Securities and Exchange Commission chairman Arthur Levitt for stepped-up action to link all securities exchanges, such as the NYSE and NASDAQ, in a “national market system” is misguided, concludes a new Cato Institute study. If all exchanges were required to operate under an umbrella system, “that system could easily become an anti-competitive combination of otherwise independent competitors,” writes Dale A. Oesterle, in “Securities Markets Regulation: Time to Move to a Market-Based Approach”

(Cato Policy Analysis no. 374). All exchanges should not be forced to become one national exchange, with a giant regulatory body to match, writes Oesterle, a professor at the University of Colorado School of Law. On the contrary, the proliferation of electronic trading systems and the recent proposal that the NYSE become a publicly traded company point toward less regulation, he says. The role of the SEC should be limited to enforcing disclosure, prosecuting fraud, and ensuring that markets are open and competitive, Oesterle says.

#### ◆Kosovo Intervention a “Conspicuous Failure”

On the one-year anniversary of the end of NATO’s bombing campaign against Yugoslavia, the authors of a new Cato Institute study, “Dubious Anniversary: Kosovo One Year Later” (Cato Policy Analysis no. 373), write that the Clinton administration’s policy of bringing stability to the Balkans and building a multiethnic democracy in Kosovo has been a “conspicuous failure.” The administration’s intervention not only sparked the initial round of ethnic cleansing of Kosovo’s Albanian minority, the study charges, but it laid the groundwork for the new round of ethnic cleansing of the Serbian majority. “Not until NATO began its bombing did Serbia’s objective in Kosovo change from counterinsurgency to a deliberate campaign to expel the province’s ethnic Albanians,” argue Christopher Layne, a Cato visiting fellow in foreign policy studies, and Benjamin Schwarz, a correspondent for the *Atlantic Monthly*. The original intent of NATO’s action was to prevent a humanitarian disaster, they say, but “NATO’s air campaign triggered the very debacle it was said to be preventing.”

#### ◆Federal Afterschool Programs Not Needed

New afterschool programs would merely create more “empty seats,” according to a new study from the Cato Institute. Darcy Olsen, Cato’s director of education and child policy, notes that presidential candidate Al Gore wants to spend an extra \$11 billion on afterschool programs for latchkey kids. In “12-Hour School Days? Why Government Should Leave Afterschool

# “Globalization has made it possible for more people to lift themselves out of grinding poverty more quickly than was ever possible before.”

Arrangements to Parents” (Cato Policy Analysis no. 372), Olsen contends that this is hardly a problem that demands federal attention. Only 2 percent of American children in the critical age group—children aged 5 through 12—are left unsupervised after school, and those who are spend an average of no more than six hours a week alone. What’s more, the average enrollment at existing afterschool programs stands at just 59 percent of capacity, and about the same percentage of low-income Americans as of other families relies on such programs. The federal government already has more than 100 grant and loan programs, administered through seven federal departments or agencies, for underused afterschool care, Olsen says. She notes that there is no evidence that afterschool programs can help boost academic achievement, and afterschool programs have not proven to be effective at curbing juvenile crime. “Instead of funding the expansion of government schools,” she says, “state legislators should adopt universal tuition tax credits that would give parents full latitude to select their children’s schools—including independent schools that offer afterschool programs.”

## ◆Market-Opening Reforms Improve Labor Standards

Foreign trade and investment have been a blessing for the world’s poor, not caused a “race to the bottom,” concludes a new Cato Institute study, “WTO Report Card III: Globalization and Developing Countries” (Trade Briefing Paper no. 10). In the 50 years since the creation of the General Agreement of Tariffs and Trade, the world economy has grown 6-fold, in large part because trade has expanded 16-fold, says Aaron Lukas, a trade policy analyst at Cato. “Globalization, which is furthered by the World Trade Organization, has made it possible for more people to lift themselves out of grinding poverty more quickly than was ever possible before,” he says. Lukas also says that the claims of WTO critics such as the AFL-CIO and the Sierra Club do not hold up under scrutiny. For example, Lukas writes, there is no evidence that a lack of core labor standards in developing countries plays a significant role in

attracting foreign investment. On the contrary, there is strong evidence that sustained market-opening reforms improve labor standards in the developing world. Although employees of U.S. affiliates in developing countries are indeed paid less than their domestic counterparts, they are paid significantly more than the average wage in the country where they live. “Those who wish to improve the lives of the citizens of developing countries—both politically and economically—should be thinking of ways to facilitate globalization, not attempting to stop it,” Lukas concludes.

## ◆Trade Protection Nails Homeowners

The United States often fails to take its own advice about the importance of free trade, according to a new Cato Institute study, “Nailing the Homeowner: The Economic Impact of Trade Protection of the Softwood Lumber Industry” (Trade Policy Analysis no. 11). Brink Lindsey, director of Cato’s Center for Trade Policy Studies; Mark Groombridge, a research fellow at the trade center; and Prakash Loungani, an economist with the International Monetary Fund, point to the U.S.-Canadian Softwood Lumber Agreement, a little-known trade barrier that imposes steep surcharges on Canadian lumber above preset import limits. They call it “a boondoggle that benefits a few lumber producers here in the United States at the expense of millions of workers in lumber-using industries—not to mention millions of American homebuyers.” The value of the trade affected by the SLA is roughly equivalent to that of imported steel, for which Congress considered and rejected quotas last year. The authors find that trade restrictions boost lumber prices by anywhere from \$50 to \$80 per thousand board feet, adding between \$800 and \$1,300 to the cost of a new home. Employees in lumber-using industries pay a price for trade barriers, even though they outnumber employees in lumber-producing industries by more than 25 to 1. The authors recommend that the SLA be allowed to expire as scheduled in April 2001.

## ◆Customers Benefit from Online Auto Sales

State automobile franchise laws that allow only licensed dealers to sell cars over the

Internet harm consumers by impeding competition, writes Solveig Singleton, Cato’s director of information studies, in a new Cato Institute study, “Will the Net Turn Car Dealers into Dinosaurs? State Limits on Auto Sales Online” (Cato Briefing Paper no. 58). Car dealers insist that franchise laws protect consumers from the automakers, but Singleton dismisses that claim. “Laws that ‘protect’ consumers are likely to do more harm than good when they restrict competition,” she says. “There’s a big difference between a lemon law, which provides a remedy for a close cousin of fraud, and a law that blocks certain sellers from making honest deals over the Internet.” Singleton does not think that car dealers are entitled to protect their customer base from competition. “Car dealerships do not ‘own’ their customers,” she says. “Those customers have a right to buy elsewhere if they so choose.” Restrictive auto franchise laws run afoul of the Constitution, according to Singleton. Efforts to limit automakers’ advertising online clearly infringe on free-speech rights, she says, and laws to protect local dealers from out-of-state competition violate the commerce clause. ■

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# “If the Department of Justice is ever investigated we will be stunned.”

—Theodore Olson

**FORUM** *Continued from page 7*

tigate because she had determined that the vice president did not know that he was raising hard money.

Item: The White House coffees. In the fall of 1997 the White House finally turned over 44 videotapes of fund-raising coffees to Senate investigators. The White House explained that it had not supplied the videotapes to the Justice Department because the Justice Department had not asked for them. After the fund-raising scandal had been on the front page of the nation's papers for months, William Safire reported that noto-

rious fundraiser John Hwang had never been interviewed, asked to testify, or required to produce any records.

There have been numerous other cases, such as those of Energy Secretary Hazel O'Leary and Johnny Chung, in which Attorney General Reno has declined to appoint an independent counsel to investigate the administration when there was specific and credible evidence pointing to wrongdoing. Justice waited five years to investigate Nora and Gene Lum—stalled, according to the Associated Press, by Webb Hubbell.

Item: Deputy Attorney General Eric Holder instructs Kenneth Starr to investigate, on the basis of the appearance of a conflict of interest, allegations that Whitewater witness David Hale had received funds from the *American Spectator*. That same standard had been rejected by Reno as an insufficient basis on which to investigate President Clinton. Thus began a long and expensive investigation of the *American Spectator*, a magazine that had broken stories on many of the Clinton scandals.

On numerous occasions the attorney general stated that her decision not to appoint independent counsel to investigate the 1996 Clinton-Gore fund-raising abuses was based on recommendations from career prosecutors. It turns out, however, that FBI director Louis Freeh had strongly urged in writing the appointment of an independent counsel. Her handpicked head of the task force, Charles LaBella, told Ms. Reno “that she had no alternative but to seek the appointment of an independent counsel.” Even the Criminal Division's Robert Litt, described as a Democratic Party loyalist and friend of Bill, twice urged that an independent counsel be appointed to investigate whether Vice President Gore had lied to investigators with respect to fundraising. Despite the recommendations of all those career people selected by the attorney general to head these investigations—that an independent counsel or special counsel be appointed because the department had a conflict of interest—none of those calls has been heeded.

As President Clinton's impeachment trial began in the Senate, Attorney General Reno sent to Kenneth Starr a letter informing him that the Department of Justice was opening an investigation of Kenneth Starr

with respect to his handling of the Monica Lewinsky matter and the “potentially unethical contact between his office and the Paula Jones sexual harassment suit against Clinton.” As the impeachment proceeding was about to start, Starr was informed that the office that couldn't investigate the president was investigating the investigator of the president.

In 1997 Attorney General Reno told the Senate Judiciary Committee that there was no federal legal basis for suing the tobacco companies. In January 1999 President Clinton announced in his State of the Union address that he had instructed the Department of Justice to file such a suit. In October of the following year, it was filed.

When the Defense Department leaked information from Linda Tripp's confidential personnel files to *New Yorker* reporter Jane Mayer following a meeting between Mayer and former White House aide Harold Ickes, the Defense Department's inspector general conducted an investigation that was turned over to the Department of Justice in June 1998. After two years of silence, the Department of Justice announced it was dropping the investigation.

Reports have recently emerged that Deputy Director William Esposito of the FBI was told early in the 1996 fund-raising investigation by DOJ official Lee Radick that Radick was under a lot of pressure not to go forward with the investigation because Reno's job might hang in the balance. Another memo revealed that early in the probe the Justice Department tried to avoid using FBI agents to do investigative work and relied on Commerce Department investigators instead.

Finally, on May 10, 2000, the *New York Times*—hardly a member of the right-wing conspiracy—declared in a lead editorial, “Attorney General Janet Reno has consistently failed to enforce the law against top Clinton administration officials. She has an uncanny instinct for ignoring or misreading the evidence and the law when top officials are credibly accused of misconduct.” I think that if the Department of Justice is ever investigated we will be stunned. But we will never learn the full story if the department remains under the control of the same people who have been running it for years. ■

## Cato Calendar

### Monetary Policy in the New Economy 18th Annual Monetary Conference Cosponsored with The Economist

Washington • Cato Institute  
October 19, 2000

Speakers include Alan Greenspan,  
Robert D. McTeer Jr.,  
Benjamin Friedman, and Mickey Levy.

### Cato University

Montreal • Hotel Omni Mont-Royal  
October 19–22, 2000

Speakers include Charles Murray,  
Alan Charles Kors, and Tom Palmer.

### The New Entertainment Era: The Convergence of Technology & Entertainment Third Annual Conference on Technology and Society

Cosponsored with Forbes ASAP  
Reston, Virginia • Hyatt Reston  
November 9–10, 2000

Speakers include Christie Hefner,  
William Schrader, Michael Robertson,  
and Scott Draeker.

### Perspectives on Liberty: Public Policy 2000

New York • Waldorf-Astoria  
November 17, 2000

Speakers include P. J. O'Rourke.

### 13th Annual Benefactor Summit

Cancun • Ritz-Carlton  
February 21–25, 2001

Updated information on Cato events, including  
Policy Forums and Book Forums not shown here,  
can be found at [www.cato.org/events/calendar.html](http://www.cato.org/events/calendar.html).

# “Liberty flourished where enough courageous independent thinkers risked their lives for it.”

**LIBERTY** *Continued from page 1*

Similarly, all the protections for liberty, such as a written constitution, a bill of rights, an independent judiciary, privatization, and term limits, developed in the West. The West was the first civilization to abolish slavery. While there have been conquerors in the West, there has also been a distinguished anti-militarist tradition, with dissidents courageously speaking out against military conscription and for peace.

Why, then, did liberty originate and develop furthest in the West? Patterson suggested that Greek female slaves were the first to make liberty a value, and during the Persian Wars (492–449 B.C.) Greek men began to fear that they, too, could become slaves if captured, so liberty became a value for them.

Geography probably played a role in the development of liberty. Greece has many harbors that could shelter ships and many islands whose people were most likely to advance themselves through overseas commerce. Europe's irregular coastline, with thousands of harbors, some opening to major rivers, likewise encouraged commerce. Since commerce means contact with all kinds of people, ideas, and goods, merchants must be tolerant and rational if they are to be successful. “Coastal peoples,” Thomas Sowell observed in *Migrations and Cultures* (1996), “have tended to be culturally distinctive. In touch with the outside world, they have usually been more knowledgeable and more technologically and socially advanced than interior peoples.”

That there was much political competition in Europe, fragmented into many states, surely helped make it easier for liberty to arise there. Moreover, the 16th century brought religious competition. Not, it's true, within particular regions where Catholicism (southern and western Europe) or Protestantism (northern Europe) had a monopoly. But there was serious religious rivalry, something not seen in many other parts of the world. Furthermore, Protestantism itself involved competing sects. This meant tragic wars, but it also meant there was no centralized religious state. As Voltaire wrote, “If there were only one religion in England, there would be danger of tyranny; if there were two, they would cut

each other's throats; but there are thirty, and they live happily together in peace.”

Although these factors explain why conditions were favorable for liberty in the West, that outcome certainly wasn't inevitable. During some periods, such as the mid-20th century, Europe was ruled by murderous dictators. Whatever gave birth to liberty wasn't always enough to preserve it.

## **Liberty Depends on Individuals**

When all is said and done, liberty flourished where enough courageous independent thinkers risked their lives for it. We in the West are the fortunate beneficiaries of the courage of somebody who stuck his neck out first and encouraged another and another until the tradition of liberty became well established.

For example, Marcus Tullius Cicero dared to denounce the tyranny of Julius Caesar, the conqueror who had bragged that he slaughtered a quarter million Germans. After Caesar's assassination, Cicero denounced the tyranny of his successor Mark Antony, for which Antony had him beheaded, but more than a thousand years later Cicero's ideas and deeds continued to inspire people in the West.

Cicero was cherished by Erasmus, the Dutch-born champion of toleration during the 16th century. Then in 17th-century England, according to one observer, it was “the common fashion at schools” to use Cicero's *De Officiis* (On Duties) as a text on ethics. Philosopher John Locke recommended Cicero's works. Cicero's vision of natural law influenced thinkers like Locke, Samuel Pufendorf, and *Cato's Letters'* authors John Trenchard and Thomas Gordon, who had the most direct intellectual impact on the American Revolution. In Germany, Cicero was admired by dramatist Friedrich Schiller. The French Baron de Montesquieu, who urged the importance of a separation of powers, considered Cicero “one of the greatest spirits.” Voltaire wrote that Cicero “taught us how to think.” Inspired by Cicero during the French Revolution, journalist Jean-Baptiste Louvet de Couvray boldly attacked Maximilien de Robespierre for promoting the Reign of Terror.

Many of the due process protections we take for granted in criminal justice pro-

ceedings go back to the English “Leveller” John Lilburne, who stuck his neck out for liberty. He wrote pamphlets challenging the brutal religious monopoly of the Church of England. The standard legal practice of the time was to interrogate witnesses until they incriminated themselves, at which point they were off to prison. Lilburne refused to testify against himself. Imprisoned without being formally charged, he demanded that charges be filed so that he would have an opportunity to prove his innocence in a jury trial; these habeas corpus rights had often been disregarded. Lilburne demanded the right to be represented by a lawyer. He demanded enough time to prepare a defense. He demanded the right to cross-examine his accusers. For making these demands, he spent most of his adult life in prison, and he faced the death penalty four times.

After Lilburne's death in 1657, others followed his example and made similar demands, but they weren't hit as hard, and gradually there was a remarkable change. Historian G. M. Trevelyan observed: “The Puritan Revolution had enlarged the liberty of the accused subject against the prosecuting Government, as the trials of John Lilburne had shown.... Questions of law as well as of fact were now left to the jury, who were free to acquit without fear of consequences; the witnesses for the prosecution were now always brought into court and made to look on the prisoner as they spoke; witnesses for the defense might at least be summoned to appear; and the accused might no longer be interpellated by the King's Counsel, entangled in a rigorous inquisition, and forced to give evidence against himself. Slowly, through blood and tears, justice and freedom had been advancing.” Added historian H. N. Brailsford: “Thanks to the daring of this stripling, English law does not aim from the first to last at the extraction of confessions. To Americans this right appeared so fundamental that they embodied it by the Fifth Amendment in the constitution of the United States.”

## **Equal Rights for Blacks and Women**

The ideas of Cicero, Lilburne, and Locke shaped the American political culture through the Founders, especially Thomas Jefferson,

*Continued on page 12*

# “William Lloyd Garrison and Frederick Douglass, the greatest leaders of the movement to abolish American slavery, based their case on natural rights.”

**LIBERTY** *Continued from page 11*

whose eloquence on behalf of natural rights, expressed in the Declaration of Independence and other official documents and thousands of letters, had an enormous impact beyond his time. William Lloyd Garrison and Frederick Douglass, the greatest leaders of the movement to abolish American slavery, frequently cited the Declaration of Independence and based their case on natural rights.

Garrison needed considerable courage, because most people in the North didn't want to hear about slavery. Anti-slavery talk threatened to disrupt business and split the Union, and besides, even people who opposed slavery didn't generally like blacks. Garrison was jailed in Baltimore. North Carolina indicted him for promoting slave revolts. The Georgia legislature offered \$5,000 to anybody who brought him back to Georgia for trial and probable hanging. Six Mississippi slaveholders offered \$20,000 for anyone who could deliver Garrison. Pro-slavery advocates put up a nine-foot-high gallows in front of Garrison's house, and a Boston mob tried to lynch him.

Douglass was born into slavery, fled to Massachusetts, and became a powerful speaker with his personal testimony on the horrors of slavery. He was heckled and beaten a number of times, and he remained subject to capture and return until his friends purchased his freedom. In his speeches he demanded that “the great principles of political freedom and natural justice, embodied in that Declaration of Independence,” be extended to black as well as white Americans.

Housewife Elizabeth Cady Stanton, too, was inspired by Jefferson's words. In 1848, she launched the movement to achieve equal rights for women, and her Declaration of Rights and Sentiments began much like the Declaration of Independence: “We hold these truths to be self-evident, that all men and women are created equal, that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.”

Susan B. Anthony wrote in her last and most poignant letter to her compatriot Stanton, a few months before Stanton's death in October 1902, that “in age as in all else

I follow you closely. It is fifty-one years since first we met and we have been busy through every one of them, stirring up the world to recognize the rights of women. . . . We little dreamed when we began this contest, optimistic with the hope and buoyancy of youth, that half a century later we would be compelled to leave the finish of the battle to another generation of women. But our hearts are filled with joy to know that they enter upon this task equipped with a college education, with business experience, with the fully admitted right to speak in public—all of which were denied to women fifty years ago. They have practically one point to gain—the suffrage; we had all. These strong, courageous, capable young women will take our place and complete our work. There is an army of them where we were but a handful. Ancient prejudice has become so softened, public sentiment so liberalized and women have so thoroughly demonstrated their ability as to leave not a shadow of doubt that they will carry our cause to victory.”

## Challenging Totalitarianism

It's hard to imagine a more hopeless century than the 20th, when governments murdered more than 150 million people in peacetime and tens of millions more during wars, yet it was during this time that some courageous independent thinkers vastly strengthened the case for a free society. Every one of these thinkers lived in the West, and some were exiles from tyranny.

There was the Austrian Ludwig von Mises, who, as a young economist, identified fatal flaws of socialism even before Vladimir Lenin consolidated his power in the Soviet Union. In 1940, after the fall of France, Mises fled Hitler's Europe for the United States where his books *Bureaucracy* (1944), *Omnipotent Government* (1944), and *Human Action* (1949) explained, with great sophistication, why free-market economies outperform government-run economies. He wrote these books while dozens of countries were adopting Soviet-style five-year plans, and prestigious economists ignored or ridiculed his work. Mises was dramatically vindicated by the humiliating collapse of the Soviet Union. As Robert Heilbroner conceded in the *New Yorker* magazine in 1990, “It turns

out, of course, that Mises was right.”

F. A. Hayek, who had studied with Mises in Vienna, proved to be every bit as independent minded as Mises. He had emigrated to London in 1931 and maintained that the Great Depression was caused by government intervention in the economy. The English economist John Maynard Keynes, however, prevailed with his view that government intervention was needed to save the economy. Since Keynes told politicians what they wanted to hear, they embraced him, and Hayek became virtually an outcast in the economics profession. During the early 1940s, in a converted barn in Cambridge, England, he wrote *The Road to Serfdom* (1944), which outraged intellectuals by saying, among other things, that totalitarianism follows from socialism. Typical of the mean-spirited attacks on Hayek was Herman Finer's book *The Road to Reaction*. Hayek, like Mises, has been vindicated by unfolding events, in particular his insistence that political liberty is impossible without economic liberty.

Milton Friedman didn't have an easy time, either. The son of Russian immigrants, he encountered fierce resistance. His Ph.D. was held up four years because of his maverick views. He took a lot of flak for saying that the Great Depression was caused by bad monetary policies rather than the private sector, but the massive documentation he gathered with Anna J. Schwartz has prevailed among economists. And although Friedman was long ridiculed for advocating the repeal of many popular laws, he went on to win friends for liberty around the world.

If there ever was a bold independent thinker, it was Ayn Rand. She grew up under Soviet communism and resolved to escape, which she did in 1926. She dreamed of becoming a Hollywood screenwriter, which seemed preposterous. She earned only \$100 in royalties from her first novel, *We the Living* (1936), but she wouldn't give up. She had a very hard time finding a U.S. publisher for her little book *Anthem*. Her third book, *The Fountainhead* (1943), brought only a \$1,000 advance after four years of work, but still she kept at it. The success of this book and the resulting movie enabled her to spend 14 years working on *Atlas Shrugged*, which together with her

# “History shows that when liberty isn’t adequately defended, it tends to slip away as intellectuals promote statist ideas, special interests lobby for favors, and politicians gain more power.”

other writings made such a compelling moral case for individualism and liberty.

Over the years, there have been many unsung heroes working behind the scenes. For example, the Greek bookseller Atticus who paid Cicero’s bills during his years of exile. Hugo Grotius had been imprisoned for defending free will in Calvinist Holland, but a 20-year-old maid, Elsie van Houwening, helped him escape, and he went on to write his most famous work, *The Law of War and Peace*. The Dutch Quaker merchant Benjamin Furley provided a sanctuary for William Penn, John Locke, and Algernon Sidney when they were exiles. Robert Morris arranged much of the financing for the American Revolution and raised money so George Washington could take his troops from New York to Yorktown, Virginia, where he defeated British General Charles Cornwallis. Marguerite de Bonneville brought the impoverished and dying Thomas Paine into her New York City home, so he could spend his last days in a little comfort. Arthur Tappan, Louis Tappan, and other Quakers backed William Lloyd Garrison, enabling him to carry on. Support from Ellen Winsor, Rebecca Winsor Evans, and Edmund C. Evans made it possible for Albert J. Nock to write some of his best books including *Mr. Jefferson* and *Our Enemy, The State*. Journalist Henry Hazlitt helped land some writing assignments for Ludwig von Mises after he arrived in the United States. Hazlitt helped Mises’ stepdaughter get out of Nazi-controlled Paris and helped persuade Yale University Press to publish Mises’ books *Bureaucracy*, *Omnipotent Government*, and *Human Action*. Harold Luhn now paid Mises’ salary at New York University; he paid F. A. Hayek’s salary at the University of Chicago; he funded lectures that Milton and Rose Friedman turned into *Capitalism and Freedom*; and he approved the grant that enabled Murray Rothbard to write *Man, Economy and State*. Inspired by Hayek, Antony Fisher provided the seed money for the Institute of Economic Affairs in London and then helped to establish free-market institutes around the globe.

History shows that when liberty isn’t adequately defended, it tends to slip away as intellectuals promote statist ideas, spe-

cial interests lobby for favors, and politicians gain more power. All of us can play an important role by keeping ourselves informed, educating our children, speak-

ing up at school meetings, telling our friends, using our professional influence, contributing time and money to help keep this uniquely glorious civilization alive. ■

## EVENTS *Continued from page 5*

◆**July 20:** House Majority Whip Tom DeLay (R-Tex.) led a panel discussion of the infringements on free speech that go hand in hand with campaign finance restrictions at a Cato Policy Forum, “**The Future of Campaign Finance Reform**,” sponsored by Cato’s new Center for Representative Government. He emphasized the importance of an open political process, warning that “big government is the corrupting influence about which we should be most concerned.” Joining DeLay on the panel were Alexander Vogel, deputy counsel to the Republican National Committee, who took a more conciliatory stance against spending restrictions, and James V. DeLong, adjunct scholar at the Competitive Enterprise Institute.

◆**July 27:** Mexico’s Institutional Revolutionary Party (PRI) was voted out of power in July, bringing to an end seven decades of rule. Fausto Alzati, economic adviser to president-elect Vicente Fox of Mexico, discussed the incoming administration’s economic policies at a Cato Policy Forum, “**Mexico in a New Era of Openness: What to Expect from Vicente Fox**.” Alzati predicted that Fox’s “commitment to high growth will be maintained. He’s not stepping back. He believes strongly that high growth is needed” to bring down interest rates and recreate a credit market. Roberto Salinas-León, director of policy analysis at T.V. Azteca in Mexico City and an adjunct scholar at the Cato Institute, warned against “unrealistic expectations” of Fox. Luis Carlos Ugalde, chief of staff of the

Mexican embassy in Washington, discussed the changing nature of the Mexican presidential system.

◆**July 29–August 4:** As part of its Cato University program, the Cato Institute sponsored a seminar at the elegant Rancho Bernardo Inn near San Diego. Faculty at Cato University included Cato’s Tom Palmer and Dan Griswold; University of Alabama



Cato executive vice president David Boaz chats during lunch with Cato University participants. Erne Lewis of Washington listens.

history professor David Beito; Foundation for Economic Education president Donald Boudreaux; Boston University law professor and Cato adjunct scholar Randy Barnett; and Stephen Davies, professor of history at Manchester University in the United Kingdom. Guest lecturers included Virginia Postrel, editor-at-large, *Reason* magazine; Charles Mensa, managing director of the Institute of Economic Affairs in Ghana; best-selling author Barbara Branden; Madeleine Perner Cosman, professor emerita at the City University of New York; and Deroy Murdock, cofounder of Third Millennium and a policy adviser to Cato. ■

Three senators address Cato event on Capitol Hill

## Three Views on Missile Defense Debated

Some proposals to build a national missile defense (NMD) could actually make the United States less secure, Ivan Eland, Cato's director of defense policy studies, told an overflow crowd at a Capitol Hill conference cosponsored by the Cato Institute on June 27.

"If a thicker and wider missile defense causes U.S. policymakers to feel more secure against a direct missile attack and less vulnerable to threatened attacks on its allies," Eland said, "they may be more tempted to engage in reckless overseas military adventures against potential regional adversaries

ing NMD because of the recent appearance of change on the Korean peninsula. "Clearly, it is premature to adjust our behavior" in response to a "smile" by North Korean ruler Kim Jong-Il, Kyl said.

Sen. Joseph Biden (D-Del.), ranking Democrat on the Foreign Relations Committee, said that North Korea's recent behavior fuels his overall skepticism about NMD, which he said hasn't been adequately debated by Congress or the public. He encouraged President Clinton to leave the decision on NMD to his successor. Citing reports that show that NMD wouldn't be a "perfect"

deterrent, Biden said the system would give the president only limited options when dealing with a North Korean threat. "If the objective is to deter any of the rogue states, a missile defense must be perfect," Biden said.

Richard Garwin of the Council on Foreign Relations and a member of the Rumsfeld Commission argued that the midcourse deployment system under development "will

not work from day one in the year 2005 when it is supposed to be deployed with 20 interceptors, and by 2007 with 100 inter-



**Sen. Jon Kyl (R-Ariz.) warned against opposing NMD because of a recent easing of tensions on the Korean peninsula.**

ceptors against the North Korean threat." Garwin said that countermeasures of other countries or anthrax bomblets released from a missile could easily counter NMD. "We should push for a specific boost-phase intercept sea-based system" of missile interceptors based on ships placed close to a nation such as North Korea and authorized to shoot any space-bound missile out of the sky.

Peter Huessy of the National Defense University Foundation countered that the United States needs the mix of a sea-based Navy system, built on the current Navy theaterwide missile-defense program, and a ground-based system. "The more complex a defense is, the more layered it is over time; it doesn't dead-end, and it can meet future threats."

Charles Peña, an independent missile consultant, agreed with Eland, arguing that the Clinton administration's limited land-based system with a few hundred interceptors would be the best means of countering the emerging ballistic threat. "The technology for that system is mature, but there is still work to be done." He warned that "we should not rush to deployment simply for political reasons. We should continue down the path of NMD, but at the same time we need to keep an eye on costs."

The conference, which was cosponsored by the Cato Institute, the Council for a Livable World Education Fund, and the National Defense University Foundation, can be viewed with RealPlayer on Cato's Web site, [www.cato.org](http://www.cato.org).



**Sen. Joseph Biden (D-Del.) advised President Clinton to leave the decision on NMD to his successor.**

possessing weapons of mass destruction and long-range missiles." Eland concluded that "the current—and the next—administration would be well served by continuing to develop only the land-based system."

Sen. Carl Levin (D-Mich.) of the Armed Services Committee, one of three U.S. senators to address the conference, said that he was encouraged by North Korea's new moratorium on missile tests but that the United States "should not assume that that threat is not a real one or that it will go away. I don't believe that cost will be a likely showstopper, nor should it be." To be considered effective, he added, the NMD needs to have a "reasonable chance" of being able to hit incoming missiles.

Sen. Jon Kyl (R-Ariz.), a staunch NMD advocate and a member of the Select Committee on Intelligence, warned against oppos-



**Sen. Carl Levin (D-Mich.) contended that to be considered effective, NMD must have a "reasonable chance" of being able to hit incoming missiles.**

◆Cinda Jones has been named director of communications at the Cato Institute. Jones comes with ten years' experience in nonprofit management. Most recently she was the northeast regional director for a national conservation organization. Before that she led national communications, imaging, and marketing campaigns for the forest products industry as director of marketing for the American Forest & Paper Association. At Cato she will lead the effort to market books, conferences, CatoAudio, *Cato Journal*, and other projects and work to ensure greater exposure for Cato's public policy scholarship.



Cinda Jones

◆The latest issue of *Cato Journal* (vol. 19, no. 3, Winter 2000) looks at the future of the World Trade Organization. Edited by guest editor Dan Griswold of Cato's Center for Trade Policy Studies, the issue presents papers delivered at the center's conference held in September 1999 on the eve of the tumultuous WTO conference in Seattle. Papers in the volume include J. Michael Finger and Razeen Sally on the WTO and developing countries; Douglas Irwin, Brink Lindsey, and William H. Lash III on whether and why we need the WTO; Jeffrey J. Schott on prospects for new WTO negotiations; coauthors Kym Anderson and Paul Morris on agricultural trade; and Russell Roberts and Ronald A. Cass on how to deliver the free-trade message.

◆The latest issue of *Regulation* (vol. 23, no. 2) highlights electricity deregulation in papers by Douglas R. Hale, Thomas J. Overbye, and Thomas Leckey; Severin Borenstein and James Bushnell; and Randolph J. May. Other topics include stadiums and local economic development, medical research, tort awards against out-of-state firms, and the economics of Fannie Mae and Freddie Mac. In a more theoretical article, Richard O. Zerby Jr. and Howard McCurdy take a hard look at the market-failure concept and conclude that "the world portrayed is one that exists only on the blackboard." Most *Regulation* and *Cato Journal* articles can be found at [www.cato.org](http://www.cato.org).

**RULE OF LAW** *Continued from page 3*

ment of Justice's willingness to fabricate what can only be described as wacky legal theories that defy centuries of tort law," Levy said. Bill Pryor, attorney general of Alabama, described the ways the government has used the precedents set by the Microsoft and tobacco cases to expand the war against legal gun ownership.

Discussing the way the rule of law has been replaced by the rule of man, John C. Yoo of the University of California at Berkeley noted that the Clinton administration "has undermined the balance of power that exists in foreign affairs, undermining principles of democratic accountability." Theodore B. Olson, a partner in the law firm of Gibson, Dunn & Crutcher, outlined the way the Justice Department has been politicized under the Clinton administration.

Other speakers at the conference included Daniel E. Troy, a partner in the law firm of Wiley, Rein & Fielding, who pointed out that members of the Clinton administration have been willing to use government power to benefit themselves; Ronald D. Rotunda, professor of law at the University of Illinois and visiting fellow in con-

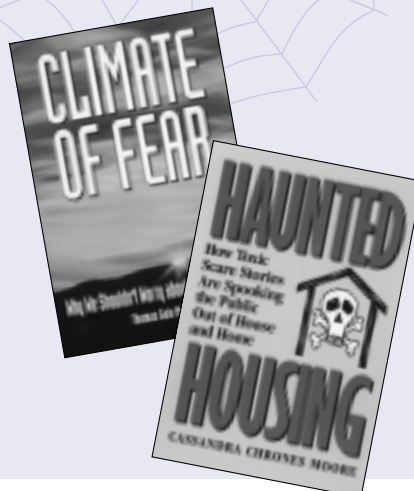


C. Boyden Gray, former Bush White House counsel

stitutional studies at the Cato Institute, who argued that intellectuals have been too willing to allow the Clinton administration to make absurd legal arguments; and David Horowitz, president of the Center for the Study of Popular Culture, who argued that the media and cultural institutions should not be blamed for the Republicans' failed impeachment bid.

The conference, organized by Cato's Center for Constitutional Studies, can be viewed with RealPlayer on Cato's Web site, [www.cato.org](http://www.cato.org). A book of conference papers, *The Rule of Law in the Wake of Clinton*, will be published in September. ■

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## “To Be Governed...”

### ◆The government has \$1.8 trillion and 1.4 million armed troops, and Microsoft has, let's see...

“Microsoft and the government are perfect opponents,” observed David Boies, the government’s lead trial lawyer. “The government has some power, but Microsoft has at least as much.”

—*New York Times*, June 9, 2000

### ◆Since children weigh 100 pounds or so, and bales about 60 pounds, we're betting no farmers wrote these guidelines

This season brings the first national safety guidelines for children working on farms. The North American Guidelines for Children’s Agricultural Tasks ... will be available at fairs ... and other venues. The guidelines contain questions to help parents assess a child’s readiness for specific tasks—“Do the bales weigh less than 10–15% of the child’s body weight?” ... —along with corresponding advice.

—*Atlantic Monthly*, June 2000

### ◆No shame

Immigration officials Wednesday planned to honor the team of federal agents that snatched Elian Gonzalez from his Miami relatives and returned him to his father.

The ceremony for as many as 131 agents is set for Monday and Tuesday in Glynco, Ga., the site of Federal Law Enforcement Training Center. The 131 took part in the raid, many of them in support roles.

Commissioner Doris Meissner of the Immigration and Naturalization Ser-

vice said she would be there to honor the agents “for a job well done” during the raid in Miami’s Little Havana section before dawn April 22.

INS spokeswoman Maria Cardona said all the agents, who came mostly from Florida and Texas, will receive plaques and some of them would receive bonus vacation days, a recommendation by Miami District Director Bob Wallis.

—United Press International, Aug. 9, 2000

### ◆Mongolians get drunk, elect socialists

“Hello, good morning.”

It was late afternoon in this tranquil community of herders and country houses ... in the heart of the Mongolian steppe. But the chief of stamps at the local election booth appeared to be deep into several cups of fermented mare’s milk....

Despite the occasional alcoholic fog, Mongolia took another step forward today, conducting its third election since the collapse of communism....

State radio said the old communist Mongolian People’s Revolutionary Party had won 72 of the 76 seats....

One [voter] wobbled off his horse and crashed to the ground—another casualty of the potent mare’s milk.

—*Washington Post*, July 3, 2000

### ◆Victory for deregulation

The Department of Agriculture has proposed allowing producers to make smaller holes—or, as the regulators call them, eyes—in Swiss cheese.

—*Washington Post*, Aug. 1, 2000

### ◆Union members or students, how to choose?

The New York City teachers’ union has thwarted a plan by the principal of the School for the Deaf to replace 35 teachers who are not proficient in American Sign Language with those who are, officials said.

—*New York Times*, July 2, 2000

### ◆Lobby to stay healthy

Ichiro Kawachi, director of the Harvard Center for Society and Health...looked at national survey data collected annually by the University of Chicago’s National Opinion Research Center and found that people who belonged to lots of voluntary associations like service clubs were significantly less likely to die in any given year than relatively isolated individuals....

What’s more, Kawachi has found that living in a community or a state where residents have lots of civic ties—what social scientists call “social capital”—is better for your health than living in an area where people are relatively less connected....

Kawachi says he doesn’t know why states with lots of social capital are generally healthier—at least not yet. He suspects that people “who actively participate in PTAs, sports groups and other organizations are actually learning a lot of skills that are transferable to the realm of politics.” They use these political skills to lobby government and employers for programs that promote good health.

—*Washington Post*, May 28, 2000

## CATO POLICY REPORT

1000 Massachusetts Ave., N.W.  
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ADDRESS CORRECTION REQUESTED

The logo for CATO, consisting of the word "CATO" in a stylized, blue, serif font.