

## Ayn Rand at 100: “Yours Is the Glory”

by Brian Doherty

This year marks the 100th anniversary of the birth of Alissa Rosenbaum, who won renown and the affection of millions under her chosen identity of Ayn Rand. When Jerome Tuccille wrote his semifictional odyssey of a libertarian activist from the 1950s to the early 1970s, his title seemed inevitable: *It Usually Begins with Ayn Rand*. Rand was the most popular and influential libertarian figure of the 20th century. But what is most enduringly important about her is not necessarily her explicitly political and economic philosophy.

She was born February 2, 1905, in St. Petersburg, Russia, the daughter of a shop-owning chemist. When the Soviets took over, the shop was taken from him. Her family’s (and nation’s) privations and struggles with communism informed her first novel, *We the Living* (1936). In that book’s indomitable heroine Kira Argouva it is easy to see the reflected light of Alissa, another young girl, Soviet by cruel fate but not spirit, with little to motivate her but the desire to escape. Kira’s desire ended in tragedy, Rand’s in triumph.

After years of trying, Rand won a coveted and rare passport out of Russia in 1926 and made it to America. Although her stay in America was meant to be temporary, Rand knew that she’d never return to the trap she’d escaped. For years she’d tell a story that limned the mission she took on. Someone approached her at her farewell party, she says, and told her, “If they ask you, in America—tell them that Russia is a huge cemetery and that we are all dying slowly.”

*Brian Doherty is a senior editor of Reason magazine and author of This Is Burning Man (Little, Brown, 2004). His history of the modern American libertarian movement will be published by PublicAffairs in 2006.*



**Andrew G. Biggs, associate commissioner for retirement policy at the Social Security Administration and former assistant director of Cato’s Project on Social Security Choice, addresses a White House conference on Social Security reform on January 11, as President Bush and other panelists listen. See p. 3.**

She did, most concretely in *We the Living* and more abstractly throughout her career. In doing so, she created a body of work, both fiction and nonfiction, that established her as the 20th century’s dominant Goddess of—not necessarily Reason, or even political liberty—but Heroism and Achievement. Thus, she provided the best possible gift to her adopted country.

### Building an Individualist Movement

Rand knew what she wanted to accomplish as early as 1934. That year she sent H. L. Mencken a copy of the manuscript of *We the Living* and praised him as “the greatest representative of a philosophy to which I want to dedicate my whole life. . . . I have always regarded you as the foremost champion of individualism in this country. . . . Perhaps it may seem a lost cause at present, and there are those who will say that I am too late, that I can only hope to be the last fighter for a mode of

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# Bush's Economic Agenda Deserves Support



**P**resident Bush's second term agenda is the most ambitious in memory. As a rule, a president's second term is characterized by drift, avoidance of the major challenges and opportunities, a high potential for scandals, fractious party leadership, and the various strange rituals expected of would-be presidential candidates. Few important reforms are proposed and approved in a president's second term, even when the president and a majority of Congress are of the same party.

Not so for President Bush. He has committed his administration to major reforms of Social Security, the federal tax code, tort law, and immigration, and the outcomes of the 2004 election should increase the potential for those reforms to be approved. Although Bush has yet to make a legislative proposal for any of those reforms, he has said enough to let us identify the general characteristics of the reforms that he will propose.

The most important economic policy reform to which Bush is committed would allow workers to divert some part of their payroll tax to fund personal retirement accounts in exchange for a somewhat more than proportional reduction of their future Social Security benefits. The primary open issue is the magnitude of the allowed diversion to personal accounts; the Bush proposal would allow a maximum diversion of 4 percent of covered earnings, and the bill with the largest congressional support is Cato's proposal to allow a diversion of 6.2 percent of covered earnings. The major political problems with this proposed reform are that congressional Republicans have yet to agree on a specific reform proposal and that no proposal has yet to receive support among congressional Democrats.

Bush has made a general commitment to reform the federal tax code but with little guidance about the types of changes that he would propose. He wants to reduce the complexity of the tax code, to reduce the taxation of private saving, and to preserve the deductions for home mortgage interest payments and charitable contributions. Bush has appointed a private commission to review various tax reform options; that commission will report by the end of July. Cato has recently completed a tax reform proposal for consideration by the commission. The president's own proposal is likely to come in September. The only tax measure that Bush will propose before then would be to extend indefi-

nately the tax cuts approved during the first term. My guess is that neither Bush nor Congress is prepared for a tax reform as comprehensive, for example, as the 1986 tax reform.

The cost of tort liability is now about 2 percent of GDP, much of which is the compensation of trial lawyers, and that cost is expected to double in the next 10 years if there is no change in tort law. For some years, congressional Republicans have supported various tort reform proposals, only to be thwarted by the Senate Democrats; the four additional Republicans in the Senate should be sufficient for a major reform of tort law. The Bush administration and Congress are best advised to focus on venue issues. Suits against a single out-of-state defendant should be shifted to a court in the state in which the defendant has the largest employment. Class action suits with defendants in several states should be shifted to a federal court. The major danger of addressing tort reform quickly is that the administration and Congress appear tempted to federalize the substance of tort law to address such problems as the occasional

huge awards for medical malpractice. Given the proposed sorting out of venue issues, however, competition among the states should be sufficient to discipline the substance of tort law and is more consistent with a healthy federalism.

For many years, beginning with his experience as governor of Texas, President Bush has wanted to reform our immigration laws in two dimensions: to give legal status to the 10 million or so undocumented aliens in the United States, so that they can have a driver's license, work in a legal job, and the like, and to process the many thousands of new undocumented immigrants a year through legal channels. In recent years, of course, this issue has been complicated

by the general concern about controlling the borders against potential terrorists. The primary substantive problem of the probable Bush proposal is that many undocumented immigrants may not opt for legal status if they would later be deported. Of the four major Bush reform initiatives, this is the least likely to be approved because it strongly divides both parties for different reasons.

Each of these four proposed reforms deserves careful thought and broad support. But all of them are potentially threatened unless the two 800-pound gorillas lurking on the sidelines—the continuing war in Iraq and the large federal budget deficit—are tamed. Although many of us at Cato opposed much of Bush's first term record and will probably oppose some of his future proposals, we wish the best for his second term economic reform agenda.

**“All these reforms are threatened unless the two 800-pound gorillas lurking on the sidelines—the continuing war in Iraq and the large federal budget deficit—are tamed.”**

  
—William A. Niskanen

25 years of scholarship now in the spotlight

# Cato Steps Up Social Security Efforts

The campaign for Social Security choice has intensified with the reelection of President Bush, who has said that Social Security is his top domestic priority for 2005, and the Cato Institute is widely recognized by the media as the original author and advocate of private accounts. A *Time* magazine article prominently featured Cato's work on the issue and dubbed Cato's Michael Tanner an architect of the privatization concept. Cato president Ed Crane appeared on *NBC Nightly News*, Cato vice president David Boaz appeared on the *CBS Evening News* and NPR's *All Things Considered*, and Tanner appeared on *Good Morning America*, *ABC World News Tonight*, and the *NewsHour with Jim Lehrer* to discuss the issue. Tanner and other Cato scholars were frequent guests on the Fox News Channel, CNN, NPR, and other networks. Tanner appeared as a guest on the *Rush Limbaugh Show*. The *New York Times* asked Cato distinguished senior fellow José Piñera to pen a nearly full-page op-ed on his successful reform of Chile's social security system. A December 10 *Washington Times* story described Cato as "the libertarian think tank that has helped the White House hammer out its reform plans."

No organization in Washington has done more to advance the cause of Social Security reform than the Cato Institute. As the



Michael Tanner, director of Cato's Project on Social Security Choice, and Peter Orszag of the Brookings Institution testify before a Senate Democratic Policy Committee hearing on Social Security on January 28. Tanner said that Social Security choice should be a bipartisan issue and reminded the Democratic senators that their former colleagues Bob Kerrey and Daniel Patrick Moynihan had pioneered the discussion of private accounts.

*Washington Post* wrote in February: "The emergence of the center-right phalanx backing the Social Security proposal is a major victory for the Cato Institute, a prominent libertarian group. In the late 1970s and early 1980s, Cato was almost alone in its willingness to challenge the legitimacy of the existing Social Security system, a politically sacrosanct retirement program."

Since the publication of *Social Security: The Inherent Contradiction* in 1981, the Cato Institute has been a tireless advo-

cate of reforming the system by allowing workers to divert a portion of their payroll taxes to personal accounts they would own and control. Cato's work reached a major milestone last summer, when Sam Johnson (R-TX) introduced legislation based on the Cato plan. Initially cosponsored by Reps. Pat Toomey (R-PA) and Jeff Flake (R-AZ), the legislation had 19 cosponsors by the end of 2004—the most of any personal accounts legislation. Johnson has reintroduced the leg-

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Hitchens, Lomborg, and Napolitano are among speakers

## Debates on Europe, Korea, Copyright Law

◆ **December 2:** At a **Liberty and Technology Seminar** in Silicon Valley, experts debated how best to balance the interests of copyright holders against the risk of stifling technological innovation. Maren Christensen of NBC Universal and Lee Hollaar of the University of Utah advocated that third parties, such as Internet service providers and the operators of peer-to-peer networks, be held liable for the copyright infringements of their users. Fred von Lohmann of the Electronic Frontier Foundation and Les Vadasz of Intel Capital warned that such aggressive copyright enforcement threatens technological progress by stifling the development of new technologies and business models. Rick White, CEO of TechNet, delivered the keynote address.



◆ **December 7:** Surveying the results of 1996's watershed welfare reform legislation, Cato policy analyst Jenifer Zeigler presented her state-by-state welfare reform rankings at a Cato Policy Forum. The release of **"Implementing Welfare Reform: A State Report Card"** comes as Congress considers whether to reauthorize the Personal Responsibility and Work Opportunity Reconciliation Act. Zeigler underscored the need for increased reliance on local communities and philanthropic organizations to help strengthen families and encourage self-sufficiency. Wade Horn of the Department of Health and Human Services echoed many of Zeigler's conclusions, arguing that prior welfare policy grossly underestimated the capability of welfare recipients to acquire jobs and attain human capital. Horn further noted that national welfare caseloads had fallen from 12.2 million in 1996 to under five million today. Mark Greenberg of the Center for Law and Social Policy took issue with the study's methodology and expressed doubts about whether a viable ranking of state welfare reform outcomes could ever be achieved. Jon Hobbs of the American Institute for Full Employment analyzed an array of reform options and concluded that the key to reducing welfare dependence was the enforcement of existing incentive-based measures and the minimization of paternalistic approaches to combating poverty.

◆ **December 10:** The attacks of Septem-

ber 11, 2001, focused public attention on the link between poverty and terrorism, said *Washington Post* columnist Sebastian Mallaby at a Cato Book Forum. With that in mind, it is crucial to avoid the policy blunders that have plagued the leading international financier in the developing world—the World Bank. In his book *The World's Banker: A Story of Failed States, Financial Crises, and the Wealth and Poverty of Nations*, Mallaby traces the bank's evolution from Bretton Woods to its current focus on accountability, transparency, and democracy and assesses its current policies. While generally praising Mallaby's book, Harvard professor and former International Monetary Fund chief economist Kenneth Rogoff voiced several significant disagreements, such as his belief that World Bank loans should be phased out in favor of full grants. He also contended that the World Bank remains more effective as a brain trust than a bank, suggesting that the United States should have tapped the World Bank's knowledge of reconstruction in postwar Iraq.

◆ **December 10:** At a Cato City Seminar in New York City, columnist and British expatriate Christopher Hitchens attacked a key pillar of Mayor Bloomberg's nanny state. Outlawing smoking in bars, he argued, is a step toward a city of drab conformity. No longer concerned about the health of third parties, he contended, advocates of smoking bans now seek to protect smokers from their own poor choices—a tendency that Hitchens called sinister. In the luncheon address, Fox News senior judicial analyst Andrew Napolitano warned of increasing threats to liberty in the name of fighting terrorism. Raymond Keating, author of Cato studies on New York City's and New York State's budget problems, blamed the city's perpetual financial crises on years of out-of-control spending.



Judge Andrew Napolitano of Fox News discusses his book, *Constitutional Chaos: What Happens When the Government Breaks Its Own Laws*, at a Book Forum on December 14.

Les Vadasz of Intel Capital, Adam Thierer of Cato, and Fred von Lohmann of the Electronic Frontier Foundation discuss copyright and technological innovation at a December 2 Cato seminar in Palo Alto.

◆ **December 14:** Safeguards against the abuse of power are undermined as the scope of criminal prosecutions expands, argued two legal experts at a Cato Book Forum. Gene Healy, editor of *Go Directly to Jail: The Criminalization of Almost Everything*, asserted that laws are becoming unnecessarily puni-

tive, arbitrary, and bewildering. Blaming that state of affairs on the “unholy alliance” of anti-business liberals and tough-on-crime conservatives, Healy observed that the proliferation of criminal offenses means that ordinary citizens no longer know what the law is. As a consequence, behavior that should be treated as a civil matter is becoming criminalized, state crimes are being duplicated at the federal level, and heavy-handed criminal law enforcement tactics are increasingly employed against nonviolent offenders. Judge Andrew Napolitano, senior judicial analyst for Fox News and author of *Constitutional Chaos: What Happens When the Government Breaks Its Own Laws*, remarked on the precarious nature of constitutional protections during wartime. Napolitano charged that the alleged tradeoff of liberty for safety is spurious, noting that national security has never been breached by an individual merely asserting his right to free speech or due process. He further cautioned that the recently passed National Intelligence Reform Act of 2004 would further override constitutional limitations on the power of government.

◆ **December 15:** With deliberations over CAFTA (the Central American Free Trade Agreement) on the policy horizon, retiring Rep. Cal Dooley (D-CA), one of Congress’s staunchest advocates of free trade, spoke on the need for bipartisan cooperation in the battle for trade liberalization at a Cato Policy Forum. In “Reflections of a Free-Trade Democrat,” Dooley stressed that the United States must not be seduced by the false allure of protectionism, citing the great opportunities for growth that exist in the international marketplace. Attempts to institute insular trade policies are ultimately futile, he argued, as global competition ensures that nations protecting the status quo domestically are left behind internationally. University of Maryland professor Mac Destler, author of *American Trade Politics*, praised Dooley’s work on trade issues and underscored his tireless efforts to bridge the partisan divide. Destler presented a historical synopsis of recent trade negotiations and said that Congress has not been as divided on trade matters since the 1930s.

**Cato president Ed Crane welcomes Texas governor Rick Perry to the Cato Institute for a lunch discussion with Cato scholars and guests on December 2.**



**Policy analyst Jenifer Zeigler presents the results of her study, “Implementing Welfare Reform: A State Report Card,” at a Policy Forum on December 7.**

**Bjorn Lomborg, author of *The Skeptical Environmentalist*, discusses his latest book, *Global Crises, Global Solutions*, at a January 27 Policy Forum.**



◆ **January 6:** In his new book, *The United States of Europe*, self-described libertarian and *Washington Post* reporter T. R. Reid argues that the European Union has succeeded spectacularly in uniting the continent to avert future wars among its great powers. At a Cato Book Forum, he urged Americans to pay more attention to the European project, which will be increasingly important to global politics in the coming centu-

ry. Self-described euroskeptic John O’Sullivan, editor of the *National Interest*, dissented from Reid’s sunny perspective on European integration. Europe, he contended, is economically stagnant, faces a looming demographic crisis, and suffers from an acute lack of democratic accountability that undermines its legitimacy in the eyes of European voters. He credited Western Europe’s half cen-

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**EVENTS** *Continued from page 5*

ture of peace and prosperity to the stabilizing influence of an American military presence.

◆**January 12:** America's policy toward the Korean peninsula is showing signs of age, argue Doug Bandow and Ted Galen Carpenter in their latest book, *The Korean Conundrum: America's Troubled Relations with North and South Korea*. At a Cato Book Forum, Bandow stressed that the rationale for continued deployment of U.S. troops to the region disappeared with the Cold War. South Korea, he noted, is now 40 times richer than its northern neighbor and would be fully capable of fielding an army large enough to defend itself against North Korean aggression. Selig Harrison, author of *Korean Endgame*, agreed with Bandow, noting that the American troop presence is a large and undeserved subsidy to South Koreans who are perfectly capable of paying their own way. As for North Korea, Carpenter advocated a "grand bargain": the United States would give the North the nonaggression pact it seeks. In return, North Korea would agree to terminate its nuclear program and allow nuclear inspectors into the country. Alternatives—such as preemptive strikes or sanctions—would be ineffective or dangerous, or both, he said. Don Oberdorfer, author of *The Two Koreas*, questioned whether such a "grand bargain" could succeed and warned that a rapid withdrawal of troops from the South would be politically impossible.



**Regulation editor Peter Van Doren, author of *Chemicals, Cancer, and Choices*, discusses how to make political decisions about scientific matters at a January 26 Book Forum to release a new book, *America's War on "Carcinogens."***

◆**January 24:** The energy bill defeated in the last Congress is poised for a return this year. Democrats and Republicans in Washington are convinced that, because of market failures, the federal government has a vital role to play in the energy market. But is that really so? In his new book, *Energy: The Master Resource*, coauthor Robert L. Bradley Jr. provides an introduction to the history, technology, economics, and public policy of energy that puts the government's role in a very different light. At a Cato Book Forum, "Energy Policy 101," Bradley argued that, contrary to conventional wisdom, our carbon-based economy is becoming more sustainable and the world is not running out of oil. Resources,

he argued, are not simply found in nature. Rather, people create resources by applying human ingenuity to raw materials found in nature. As fossil fuels become scarcer, he said, human beings will adapt by reducing consumption or developing new forms of energy. He noted that trendy energy sources like wind, water, and biomass are throwbacks to the 19th century. Indeed, some 19th-century observers proposed them as alternatives to coal and firewood—the dominant energy sources of that era. However, those proposals were as impractical then as they are today.

◆**January 26:** A new book from the American Council on Science and Health, *America's War on "Carcinogens,"* criticizes the practice of attempting to identify human carcinogens by the use of high-dosage rodent tests. At a Cato Book Forum, Elizabeth Whalen, the council's president and founder, argued that excessive caution about the results of such tests has led to the removal of many safe and useful materials from the marketplace. Kimberly Thompson of Harvard Medical School, joined by several other leading scientists, argued that American regulators and the general public need to learn better ways of talking about risk. Cato's Peter Van Doren argued that markets and democratic institutions should reflect the preferences of consumers and



**Gabriel Roth, author of a new Cato study on federal highway programs, and budget studies director Stephen Slivinski urge devolution of highway financing to the states at a January 31 Capitol Hill Briefing.**

voters regardless of the scientific merits of those preferences.

◆ **January 27:** Bjørn Lomborg, the Danish author of *The Skeptical Environmentalist*, has recently edited a new book, *Global Crises, Global Solutions*. At a Cato Book Forum, Lomborg described the book's subject: the Copenhagen Consensus, a project in which some of the world's leading economists and public policy experts assembled in Denmark to discuss how best to improve the plight of the world's poorest citizens. After a week of discussion and debate, they ranked a list of 30 development proposals based on their likely benefits to developing nations. The best projects, the experts concluded, were

**Former Washington Post reporter Don Oberdorfer is interviewed after a January 12 Book Forum for *The Korean Conundrum* by Cato's Doug Bandow and Ted Galen Carpenter.**



**Elizabeth Whelan (center), president of the American Council on Science and Health, moderates a January 26 discussion with scientists from Harvard, Yale, Stanford, Michigan State, and other institutions, held to release the book *America's War on "Carcinogens."***

those dealing with infectious diseases and world hunger. The most expensive and ineffective programs, on the other hand, were those dealing with the potential risks of global climate change.

◆ **January 27:** Editor Howell Raines's out-sized ego and poor editorial judgment were major causes of the recent scandals at the *New York Times*, argued Seth Mnookin, author of *Hard News: The Scandals at the New York Times and Their Meaning for American Media*, at a Cato Book Forum. Some *Times* editors suspected that reporter Jayson Blair was engaged in plagiarism, Mnookin said, but Raines's imperious man-

agement style prevented him from receiving candid feedback. Jack Shafer, press critic of *Slate*, contended that the *Times* scandals were a positive sign; newspapers have always had incompetent reporters, he said, but a more competitive media environment and the rise of Internet weblogs have made it more likely that errors would be caught.

◆ **January 31:** The Interstate Highway System was an impressive engineering achievement. But nearly two decades after its completion, the "temporary" gas taxes that financed its construction live on. Congress has become addicted to using the funds to finance pork-barrel projects. At a Cato Hill

Briefing, "Liberating the Roads: A New Direction for Federal Highway Policy," Cato budget studies director Stephen Slivinski called federal highway funding a bad deal for the states and argued that highway financing should be devolved to state and local governments. Economist Gabriel Roth noted that, in many cases, state officials have no interest in the pork-barrel projects that are funded with federal money. Roth highlighted Rep. Jeff Flake's (R-AZ) proposal to gradually lower the federal gas tax from the current 18 cents to 2 cents per gallon. States would be free to raise gas taxes of their own or pass the savings on to their own taxpayers, he said. ■

*Is everything a crime now?*

# Tobacco, Smoking, and Insider Trading

**S**peakers at recent Cato events have highlighted the disturbing trend of lawmakers' abusing the rule of law. At a November 10 Cato Book Forum for his new book, *Shakedown: How Corporations, Government, and Trial Lawyers Abuse the Judicial Process*, Cato senior fellow Robert A. Levy argued that the rule of law was a casualty of the 1990s' war on the tobacco industry. At a December 10 Cato City Seminar in New York, *Vanity Fair* columnist Christopher Hitchens criticized Mayor Bloomberg's nanny state for making New York City increasingly homogeneous. And at a December 14 Book Forum to promote his new book, *Go Directly to Jail: The Criminalization of Almost Everything*, Cato senior editor Gene Healy exposed Congress's increasing propensity to apply federal criminal penalties to conduct that no sane person would consider a crime. Excerpts from their remarks follow.

**Robert A. Levy:** For 40 years, there was no final judgment in any trial against tobacco companies for smoking-related illness. Juries understood that we were each at liberty to consume the products that we want to consume; but if we do so, we assume the risk. And we are therefore responsible for the consequences of our acts.

At the same time that juries were laying down that basic principle, state Medicaid programs were coming under intense financial pressure. States are entitled to sue to recover Medicaid outlays for smoking-related illness if they can show that the tobacco companies caused those illnesses. But they have to do that under a legal process called subrogation. Basically, the state steps into the shoes of smokers who might have sued on their own behalf, except the state sues for them. But the state then bears the same burden of proof that the smoker would have borne. And the state is subject to the same defense that the tobacco company could have asserted. That defense includes "assumption of risk," which posits that the smoker was aware of the risk and is accountable for the consequences.

The assumption of risk defense had been a consistent winner for the industry, so the states had to find a way around it. They came up with a creative solution. They simply eliminated that provision of the law and applied

the new rules—namely, no assumption of risk—retroactively.

Here's what the Florida statute said: "Assumption of risk is to be abrogated to the extent necessary to assure full recovery by Medicaid."

So the tobacco company, selling the same cigarettes to the same smoker, resulting in the same injury, would be liable if the smoker happened to be a Medicaid recipient, but not otherwise. Liability hinged on Medicaid status, a happenstance that was totally unrelated to any misbehavior by the industry.

Then, while they were at it, to absolutely ensure victory in court, the states also eliminated the requirement that they prove indi-



**Robert A. Levy:** "The states came up with a creative solution. They simply eliminated that provision of the law and applied the new rules retroactively."

vidualized causation. In other words, the states did not have to provide any link whatsoever between the tobacco companies' acts and the illness of a particular smoker. All they had to produce were generalized statistics showing that there is a higher incidence of certain diseases among smokers than among nonsmokers.

In Maryland, the president of the state Senate acknowledged that he and his colleagues had effectively denied the industry any opportunity to defend itself. In an unguarded moment, he blurted to the *Washington Post*: "We changed centuries of precedent in order to assure a win in this case, which was

no small feat."

So, faced with those odds in dozens of Medicaid suits, the industry decided to negotiate. The settlement was nothing but extortion, based on a repugnant rule of law. The states needed money. The tobacco companies have money. Ergo, companies pay; states collect.

There were also the settlement's restrictions on advertising. Consider this First Amendment paradox: We protect Klan speech. We protect flag burning. We protect gangster rap, which is targeted directly at kids and says to kids, you can spend your life in the drug culture, and if you happen to have a few spare moments, it's all right to murder some police officers. That's protected under the First Amendment. But if Tiger Woods appears in a cigarette ad wearing a Joe Camel tie tack, we're going to bring the boot of government down on R.J. Reynolds' neck.

There is little or no evidence of a link between cigarette ads and aggregate consumption. The purpose of cigarette ads, like automobile ads, is to encourage consumers to switch brands. Ads are not the cause of the problem. Why do kids smoke? They smoke because of peer pressure, because their parents smoke, and because they're rebelling against authority.

That said, if the plaintiffs in a tobacco suit can prove that they were defrauded, that they became addicted prior to age 18 by the industry's deception, and if tobacco indeed caused their illness, then they may have a decent legal argument. But if they're not addicted by age 18, at that point they're adults. They're the same adults who are allowed to go to war and kill people, allowed to vote and decide who is going to run the country, to get married, to get divorced, to have an abortion, and those decisions are no less weighty than the decision to smoke cigarettes.

If an adult can choose to stop and he doesn't, then he assumes the risk. And we can't hold the tobacco companies responsible, least of all on a retroactive basis.

So what should we do to protect the health of minors who might be seduced by cigarettes? We should vigorously enforce the laws that are on the books in all 50 states that prevent the sale of tobacco products to

# “The problem is not those who have the will to command. The problem is the will to obey. The problem is the people who want to be working for a big protective brother.”

underage smokers. We ought to prosecute the retailers who break those laws. We ought to require proof of age at retail establishments, and even forbid vending machine sales of cigarettes where kids are the main customers, such as in arcades and schools.

And of course, if kids are caught smoking or trying to buy cigarettes, we ought to tell their parents. Parenting is, after all, the job of moms and pops, not the job of the tobacco companies and not the job of the government.

One politician got it right. George McGovern lost a daughter to alcoholism, so he knows firsthand the ravages of abusive behavior. Writing in the *New York Times*, McGovern warned: “Our choices may be foolish or self-destructive, but we cannot micromanage each other’s lives. When we no longer allow those choices, civility and common sense will be diminished.”

**Christopher Hitchens:** I often take the train from Washington, D.C., to New York and back. A few years ago they put the smoking car on the end of the train so nonsmokers wouldn’t have to go through it to get to other parts of the train. And then the day came when they said, “We’re taking that car off the train altogether.” And I thought, “Now we’ve crossed a small but important line.” It’s the difference between protecting nonsmokers and state-sponsored behavior modification for smokers.

And I thought there was insufficient alarm at the ease with which that was done. Because state behavior modification, no matter what its object, should be viewed skeptically at the very least. There’s serious danger in the imposition of uniformity—the suggestion that one size must fit all.

When the complete ban on smoking in all public places was enacted in California, I called up the assemblyman who wrote the legislation and I said: “I’ve just discovered that bars are not going to be able to turn themselves into a club for the evening and charge a buck for admission for people who want to have a cigarette. You won’t be able to have a private club. You won’t even be able to have a smoke-easy, if you will, in California.”

And he said, “That’s right.”

I said, “Well, how can you possibly justify that?”

And he said, “Well, it’s to protect the staff. It’s labor protection legislation. We don’t want someone who doesn’t want to smoke, who doesn’t like it, having to work in a smoky bar.”

And I said, “You don’t think that if there were bars that allowed it and bars that forbade it, that, sooner or later people would apply for the jobs they preferred, and it would sort of shake out?”

He replied, “No. We could not make that assumption.”

So we have to postulate the existence, if you will, of a nonexistent person in a nonexistent dilemma: the person who can find only one job, and that job is as barkeep in a smoking bar. This person must be held to exist, though he or she is notional. But everyone who actually does exist must act as if this person is real.

There used to be areas, like the West Village in New York or North Beach in San Francisco, that are now dull and boring and have to be policed. And I think that’s a terrible loss. I write better when I have a cigarette and a drink. I’m more fun to be with—other people seem less boring. The life of bohemia, of the small cafe and the little bar that never quite closes, is essential to cultural production. It may seem like a small thing. It doesn’t add very much to the GNP. But if you take it away, you may not know what you’ve lost until it’s too late.

But suppose all this was really a good idea—people might live longer. Suppose all that was really true. There would still be the question of enforcement, that awkward little bit that comes between your conception of utopia and your arrival there. The enforcement bit. You could appoint regulators and inspectors to enforce the law. It would take quite a lot of them, but you could do it. There are such people. I know about them because they’ve come after me.

My editor, Graydon Carter, the splendid editor of *Vanity Fair*, and I were having a cigarette in his office. And someone on our staff—it’s not very nice to think about it—was kind enough to drop a dime on us. And round the guys came. “You’re busted!” These people are paid by the city, which evidently has no better use for its police.

I think that’s bad enough. But then Graydon went on holiday, and I went back to Washington. And his office was empty. But

they came round again and they issued him another ticket because he had on his desk an object that could have been used as an ashtray. In his absence. With no one smoking. But there are officials who have time enough to come round and do that.

The worst part is that the staff has to become the enforcers. The waitresses have to become the enforcers. The maitre d’ has to become the enforcer. He has to act as the mayor’s representative. Because it’s he who is going to be fined, not you. If you break the law in his bar, he is going to have to pay.

So everyone is made into a snitch. Everyone is made into an enforcer. And everyone is working for the government. And all of this in the name of our health.

Now, I was very depressed by the way that this argument was conducted. There were people who stuck up for the idea that maybe there should be a bit of smoking allowed here and there. But they all said it was a matter of the revenue of the bars and the restaurants. That was the way the *New York Times* phrased it.

In no forum did I read: “Well, is there a question of liberty involved here at all? Is there a matter of freedom? Is there a matter of taste? Is there a matter of the relationship of citizens to one another?”

And something about it made me worry and makes me worry still. The old slogan of the anarchist left used to be that the problem is not those who have the will to command. They will always be there, and we feel we understand where the authoritarians come from. The problem is the will to obey. The problem is the people who want to be pushed around, the people who want to be taken care of, the people who want to be a part of it all, the people who want to be working for a big protective brother.

**Gene Healy:** In a free society, there ought to be very few offenses for which you can be handcuffed and hauled off to jail. Those offenses ought to be clearly defined. You ought to be able to look them up. And they ought to be limited to the kind of behavior that everybody recognizes as things you can rightfully lose your liberty for—killing people, stealing from them, defrauding them. Serious matters.

*Continued on page 10*

# “Martha Stewart wasn’t even charged criminally with insider trading. Instead she was sent to prison for attempting to cover up something that wasn’t even a crime.”

**POLICY FORUM** *Continued from page 9*

That’s not the system we live under today. Over the past several decades, an unholy alliance of tough-on-crime conservatives and anti-big-business liberals has utterly transformed the criminal law. So while violent crime often goes unpunished, Congress continues to add new, trivial offenses to the federal criminal code. The criminal law has become just another way for Congress to show it’s serious about whatever the social problem of the month is, whether it’s corporate scandals or steroid use.

As you might expect, all of this happened in clear violation of the Constitution. There are only three specifically enumerated federal crimes in the Constitution: treason, piracy, and counterfeiting. The federal government has no general police power to prosecute ordinary crimes. It was never intended to do that. But it acts as though it does have that power. Federal jurisdiction has expanded to include a host of crimes that are already illegal at the state level: drug crimes, gun crimes, robberies, car theft—almost everything short of jaywalking can now be prosecuted federally.

On top of that comes a host of crimes that hardly pass the straight face test. It is a federal crime to deal in the interstate transport of unlicensed dentures. You can get up to a year in jail for that. You can go to prison for up to six months for pretending to be a member of the 4-H Club. You can get six months for misappropriating the character “Woodsy Owl” or his associated slogan “Give a hoot, don’t pollute.” It is a federal crime to disrupt a rodeo. Now, I yield to no man in my desire for orderly rodeos—but why on earth is this a federal issue?

But overcriminalization is not just a matter of a few ridiculous crimes or some violations of federalism. I wish it were. But it’s much more serious than that.

It’s also laws that sweep far too broadly. For example, most people think Martha Stewart went to jail for insider trading. That’s false. She wasn’t even charged criminally with insider trading. Instead she was sent to prison for attempting to cover up something that wasn’t even a crime. She was convicted under an insanely broad

statute covering “misrepresentations to the federal government.” You don’t have to be under oath. And they don’t have to give you a warning. And it’s perfectly OK for them to lie to you. The statute applies to “any matter within the jurisdiction of the executive, legislative or judicial branch of the United States.” Which, given the expansion of federal jurisdiction to every area of American life, is broad indeed.

You can also go to prison for mere negligence. Historically, to lock someone up, you had to show criminal intent—what Blackstone called “a vicious will.” But today we often send people to jail for making mistakes or not understanding the stag-



**Gene Healy: “In a free society, there ought to be very few offenses for which you can be handcuffed and taken off to jail. Those offenses ought to be very clearly defined. That’s not the system we live under today.”**

geringly complex regulations under which businesspeople have to operate.

For example, four years ago, the Supreme Court refused to hear the appeal of a guy named Edward Hanousek. Hanousek was a roadmaster for an Alaskan railroad company. When a contractor working under him accidentally punctured an oil pipeline and caused a spill in the Skagway river, Hanousek was sent to jail for violation of the Clean Water Act. At the time of the spill, Hanousek had the day off, and was at home. Hanousek didn’t break the pipe and didn’t intend for it to be broken. But he went to jail.

Now, no one’s saying that Hanousek and his company shouldn’t have to pay through the nose for the damage they caused. But to put the guy in jail for negligence violates every historic principle of the criminal law. And it puts a great number of people at risk. In their dissent from the Supreme Court’s denial of review, Justices Thomas and O’Connor noted that the lower court’s decision had the potential to “expose countless numbers of construction workers and contractors to heightened criminal liability for using ordinary devices to engage in normal industrial operations.”

And, speaking of heightened criminal liability: three U.S. seafood dealers and one Honduran lobster fleet owner are currently doing hard time in federal prison for importing the wrong size lobster tails and packaging them in clear plastic bags rather than cardboard boxes. They ran afoul of the Lacey Act, a federal statute that makes it a crime to import fish or wildlife taken “in violation of any foreign law.”

The U.S. government argued that they had broken Honduran law because some of the lobster tails in their shipment—3 percent, to be exact—were less than five and a half inches long, and because a Honduran regulation supposedly required them to be packed in boxes.

One problem with that theory was that, according to the government of Honduras, no laws were violated. The Honduran embassy filed an amicus brief in the case saying that the regulations were invalid and no laws had been violated. That view was supported in court by the attorney general of Honduras and the agriculture secretary. Nonetheless, Robert Blandford, Albert Schoenwetter, and Donald McNab, three small businesspeople with no criminal record, are now serving eight-year terms in federal prison. Their partner in crime, Diane Huang, a seafood importer with two kids aged 6 and 10, got off easy. She got two years and will be out in July 2006.

I’m afraid that this is a case where diagnosing the problem is a whole lot easier than prescribing a solution. But as hard as it is to find solutions, it’s urgent that we start talking about how to relimit the criminal law. It’s an issue that goes right to the core of individual liberty and the kind of society we want to be. ■

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# “Ayn Rand recognized her task: establishing a defense of individualism and capitalism that went deeper, more to the roots—more radical in the true sense—than any then existing.”

**AYN RAND AT 100** *Continued from page 1*

thinking which has no place in the future. But I do not think so. I intend to be the first one in a new battle which the world needs as it has never needed before.” It took decades, but Rand did what she’d hoped to do.

In the early 1940s she planned, with drama critic Channing Pollock, to establish a national organization of individualists. Many of the pro-market businessmen whom she and Pollock tried to recruit doubted that any such group was needed—after all, didn’t the National Association of Manufacturers stand up for the interests of business and free markets?

“The first aim of our organization will be intellectual and philosophical—not merely political and economic,” Rand wrote to Pollock. “We will give people a faith—a positive, clear and consistent system of belief. Who has done that? Certainly not the N.A.M. They . . . are merely fighting for the system of private enterprise and their entire method consists of teaching and clarifying the nature of that system. It is good work, but it is not enough. . . . We want to teach people, not what the system of private enterprise is, but why we should believe in it and fight for it. We want to provide a spiritual, ethical, philosophical groundwork for the belief in the system of private enterprise.”

Although the later Rand would doubtless bridle at the word “faith,” she already recognized her task: establishing a defense of individualism and capitalism that went deeper, more to the roots—more radical in the true sense—than any then existing. While still a struggling novelist, she saw herself as a “radical for capitalism.”

That planned organization never got off the ground. But something more important did—her 1943 novel, and first major success, *The Fountainhead*, in which she made her points not through a manifesto but through the imaginative creation of men who lived out dramatically the struggle of ideas and spirit that Rand wanted to win. The plot revolved around the intertwined careers and struggles of two architects, the individualist and heroic Howard Roark and the glad-handing, uncreative,

craven Peter Keating.

Critics often condemn Rand’s characters as unrealistic. In the literal sense, that is true; they are romantic, living evocations of ideas. She romanticizes not just her heroes but also her villain, the modern collectivist intellectual in the person of Ellsworth Toohey, a witty, intelligent, and highly influential architectural and social critic who realized that disarming the human soul through unrelenting attacks on the great and elevation of the mediocre left men open for manipulation by the likes of him.

That the collectivist villain is a critic rather than a politician gives telling insight into Rand’s concerns. She realized that the enemies of individual liberty were not just those who openly advocated tyranny but anyone who chipped away at the foundation of individual greatness. She always contended that evil was inherently powerless and that it won only with the acquiescence of the potentially good. Toohey, the great villain of *The Fountainhead*, and Roark, its hero, meet only once, and anticlimactically. Toohey, eager with curiosity, asks Roark what he, Roark, thinks of him. Roark replies, before walking away, “But I don’t think of you.”

## Using Fiction to Illustrate Ideas

Rand’s next, and last, novel, *Atlas Shrugged*, presented the synthesis of her philosophy and its concretization; in it we see the effects of embracing her philosophy—and her enemies’. We see her path leading to grand achievements, wealth, brotherhood, and peace—and her opponents’ leading to failure, rot, corruption, self-hate, and eventually societal destruction.

The book’s wild, careening plot concerned the first strike by the creative men of the mind. In *Atlas*, especially in the 57-page speech that strike leader John Galt gave to explain to a world heading to ruin exactly where it had made its wrong turns, Rand stitched together her philosophical vision, later known as Objectivism. Galt went on, famously, at great length. But Rand, when challenged, was able to deliver a précis of her philosophy while standing on one foot: “Metaphysics: Objective

reality. Epistemology: Reason. Ethics: self-interest. Politics: capitalism.” Galt’s exposition gave meat, context, and drama to this bare presentation—and connected the nightmare world *Atlas* presented with people’s rejection of one or all of the above premises.

But most important, both *Atlas* and the less explicitly political *Fountainhead* provide what Rand called “emotional fuel.” “Romantic art is the fuel and the spark plug of a man’s soul,” Rand wrote. “Its task is to set a soul on fire and never let it go out. The task of providing that fire with a motor and a direction belongs to philosophy.”

Her novels gave readers a chance to contemplate in dramatic form the thrilling, fulfilling places to which the intelligent, dedicated, and purposeful seeking after goals can lead. And it didn’t matter whether or not those goals were grand in the eyes of the rest of the world—not everyone admired Roark’s architecture. And she didn’t just tell, she showed, with the unique combination that great fiction provides of the emotional and the rational in a package weightier, yet easier to grasp, than either alone.

Although she is sometimes written off as merely a clumsy political-ideological novelist, the most significant part of Rand’s appeal, then, is not purely political. It is her appeal to what conservative movement founder Russell Kirk, echoing Edmund Burke, called “the moral imagination.” While conservatives of the Kirk ilk found little to admire in Rand—and vice versa—she, more than most conservative intellectuals, worked with the notion that the human soul must be fed by more than just politics and policy and economizing Man—that literary art could focus the human soul on greater aspirations.

Rand presented characters that inspire and create an aspiration toward a higher, better, more wondrous and brave vision of what human life can be—however unrealistic her characters might seem because “they don’t talk or act like the folks at the corner store.” Because she showed her heroes and heroines indulging in creative and productive work in the context of business and markets and science, this Russian novelist pur-

# “Rand helps you really see, and really feel, what it can do to a human soul when your effort, your life, your essence are hijacked from your own choices and subjected to the whim of bureaucrats.”

sued a particularly American path, nailing the key to what was really glorious and inspirational about this country.

Barbara Branden wrote in her biography of Rand, *The Passion of Ayn Rand*: “[Atlas] was to be Ayn’s gift to America. A moral sanction. The philosophical demonstration that to live for one’s own rational self-interest, to pursue one’s own selfish, personal goals, to use one’s mind in the service of one’s own life and happiness, is the noblest, the highest, *the most moral* of human activities. . . . Speaking to the unnamed, unchampioned, beating heart of her new land, Ayn was to say: ‘Yours is the glory.’”

Rand knew from the beginning that that glory had as much, if not more, to do with individual creative striving as with politics per se. Young Alissa in Soviet Russia loved America not so much for Thomas Jefferson and the Declaration of Independence as for Cecil B. DeMille and his light, but soul-feeding, Hollywood entertainments. And as the American future unfolds in the 21st century, its truly important figures for the human future are likely to be not politicians but creators—the men and women who will develop new computer technologies; new sources of energy; new methods of bringing the physical world, from steel to our very genes, under our control; and the physical and market techniques to take us off the planet’s surface. It is for those sorts of people—the businessmen and technologists who make life richer and more option filled for everyone—that Ayn Rand is patron saint and inspiration.

## Ideas Have Consequences

Politics does matter, of course—and no one dramatized that in fiction better than Rand, especially in *Atlas*. There we see precisely how the decisions of faceless, malign, or just ignorant bureaucrats lead to dire effects in human lives. We see real-world confirmation of Rand’s notions in the grim, constrained deprivation that gripped the Soviet bloc through much of the 20th century, and on a smaller scale in America where any number of dreams and lives have been destroyed by eminent domain, drug prohibition, estate taxation, and even local zoning and business regulations. (Trying to launch a business in many contemporary American regulatory environments

might not seem like a tragedy, until it happens to you or a loved one.)

Today, Social Security and Medicare and Medicaid seem on track to lead Americans to working more than half their lives merely to feed a government machine dedicated to kicking back some of their own money to them, accompanied by lots of nannying, bullying, commands, and a huge skim off the top. That can seem abstract, especially in a world of income tax withholding. But Rand helps you really see, and really feel, what it can do to a human soul when your effort, your life, your essence are hijacked from your own choices and subjected to the whims of bureaucrats.

## Rand’s Call to Greatness

Despite common misunderstanding based on her use of the phrase “the virtue of selfishness” (used intentionally to shock), Rand’s vision was by no means purely selfish in the sense that she wanted only *herself* to be happy. She was motivated by love and admiration for what she saw as best in humanity and her desire for a world that encouraged and rewarded that greatness. As her portrayal of such characters in *Atlas* as Cheryl Taggart and Eddie Willers shows, a sense of deep compassion for how decent humans were injured in a world that followed wrong premises motivated what Rand’s detractors see as horribly uncharitable contempt for the “looters” who would destroy the values of civilization.

Rand’s critics who hear only hate and heartlessness in her are themselves tone-deaf to peals of glory. As Barbara Branden wrote, “In Ayn’s presence, and in her work, one felt that command: a command to function at one’s best, to be the most that one could be, to drive oneself constantly harder, never to disappoint one’s highest ideals.” As Rand herself put it, the “essence of life is the achievement of joy, not the escape from pain.” *Fountainhead* lovers didn’t just want to hiss at Toohey—they wanted to *be* Roark. And despite cavils about his “unrealism” or “inhumanity,” a man of consummate skill, bursting creativity, and unyielding integrity is a man eminently worth being.

That is the positive side to what is sometimes seen as libertarianism’s purely negative vision of restricting the state. It is a valu-

able addition to the libertarian movement’s “sense of life.” The heart of Rand’s appeal is not contempt but her passionate belief in the possibility of individual glory and greatness, and her burning admiration for it.

Yet in the essence of Branden’s statement about the unyielding command to rise that Rand issued lies the key to another common phenomenon among Rand readers. The political and ethical message of her novels is hard to mistake—in *Atlas*, nearly impossible (though one often hears of people who “skip the speeches”). Rand has had tens of millions of readers. Yet only a very small percentage seems to have internalized and lived out her political and ethical message. People often refer to affection or admiration for Rand as a passion of their youth that they “outgrew.” Branden speculates that “people figured out how unpopular her ideas were, and maybe they didn’t outgrow anything, maybe they were just afraid to admit to it publicly because the wrath of God would descend on them from people they knew.”

Rand’s standards were demanding—a call to be the best you can be, achieve the most you can achieve. But the respect and admiration she showed for those who rose to those demands was a warming, revivifying sun. Rand’s fiction has had such an energizing effect on millions, including almost every significant figure in the American libertarian movement. And her books will doubtless stay in print and continue to capture and thrill future generations—and, through her romantic evocations of heroic individuals, continue to lead a certain observant, thoughtful percentage of readers to really see, and really feel, how personal liberty and limited government are necessary for such heroic striving to reach its zenith.

Libertarianism may not “usually” begin with Ayn Rand anymore. But her literary skills and burning moral passion, as much as her rigorous, systematic approach to the linkages between reason and liberty, will remain a powerful introduction to the idea that your life belongs to you, not to the state or the collective—and to the rich and complex series of conclusions about the proper nature and mission of government that follows from that idea. ■

*Why hydrogen-powered cars aren't green*

# Answering Myths about Socialized Medicine

There is universal agreement on the need to fix America's health care system, but there is considerable disagreement on what reforms are needed. Many people on the left dream of a "single-payer" health care system in which everyone would have a government-guaranteed right to health care based on need rather than ability to pay. But in "Health



John Goodman

Care in a Free Society: Rebutting the Myths of National Health Insurance" (Policy Analysis no. 532), John Goodman, president of the National Center for Policy Analysis, says that such guarantees are fictitious. In reality, he asserts, limited resources

in the absence of a functioning market will make waiting lists or other rationing mechanisms inevitable. Goodman argues that—contrary to myths promoted by advocates of government health care—national health insurance does not offer better, cheaper, or more accessible care. To the contrary,

nations with socialized health care experience long wait times for surgery, high mortality rates, and inexorably rising costs. Moreover, Goodman argues, national health systems discriminate against the elderly, rural patients, and ethnic minorities, as the political competition for resources drives medical decisions to the benefit of the well connected.

## ◆The Perverse Results of Education Subsidies

Federal tuition assistance for higher education has been hailed for its success in making college more affordable to millions of students. But, asks Gary Wolfram of Hillsdale College in "Making College More Expensive: The Unintended Consequences of Federal Tuition Aid" (Policy Analysis no. 531), what if federal higher education subsidies have only made it easier for colleges to raise tuition, leaving students no better off than they were before? He provides empirical evidence and theoretical arguments for that possibility and surveys other studies with similar findings. He also warns that because federal mon-

ey rarely comes without strings attached, federal tuition aid threatens the independence of higher education. And he notes that, under the Tenth Amendment, the federal government has no proper role in funding higher education. He proposes that federal higher education assistance be phased out over a 12-year period.

## ◆Hydrogen-Powered Reality Check

Since the 1970s a string of presidents has poured money into federally funded hydrogen car initiatives. Unfortunately, notes Donald Anthrop of San Jose State University in "Hydrogen's Empty Environmental Promise" (Briefing Paper no. 90), hydrogen must be produced from other energy sources, and producing hydrogen from fossil fuels is considerably less energy efficient than directly burning gasoline in conventional engines. Given that the current fuel mix in the electricity sector relies heavily on fossil fuels, a transition from gasoline to hydrogen would nearly double net greenhouse gas emissions attributable to passenger vehicles, he concludes, and substantially increase national energy consumption. ■

## SOCIAL SECURITY *Continued from page 3*

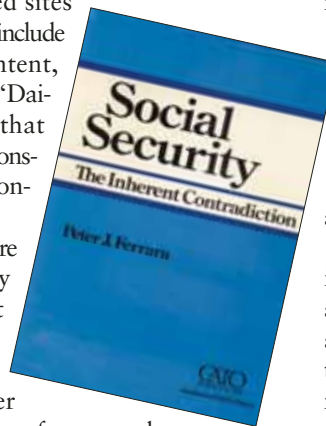
isolation in the 109th Congress.

Cato spent the fall of 2004 building broader support for Social Security reform. A "Community Leader's Guide to Social Security Choice" was sent to all Cato Sponsors and thousands of other influential Americans around the country. Tanner and Susan Chamberlin, vice president for government affairs, embarked on a fall tour of six cities to educate financial professionals at more than three dozen leading financial institutions about Cato's work on the issue. Tanner gave dozens of speeches in support of Social Security privatization to organizations around the country.

With a decisive legislative fight brewing for 2005, Cato hired Patrick Hynes as Social Security project manager. Hynes, a public relations and campaign professional, will be responsible for raising Cato's profile and crafting Cato's message in the Social Security debate. He has begun improving Cato's

Social Security website—[www.socialsecurity.org](http://www.socialsecurity.org), already one of the most popular Social Security-related sites on the Web—to include more fresh content, most notably a "Daily Debunker" that offers quick responses to the day's controversies.

Cato alumni are also playing a key role in the fight for Social Security choice. Lea Abdnor, former Cato vice president for external affairs, served on the President's Commission to Strengthen Social Security and now heads For Our Grandchildren, a grassroots reform organization. Derrick Max, former director of government affairs, is coordinator of the Coalition for the Modernization and Protection of



America's Social Security and executive director of the Alliance for Worker Retirement Security, business-backed organizations working closely with the White House to develop support for change. And Andrew Biggs, former assistant director of the Project on Social Security Choice, is now associate director for retirement policy at the Social Security Administration. He has appeared with President Bush at several rallies and town meetings.

As the debate over Social Security reform intensifies, Cato's scholars will be sought after for their expertise on both the policy and the politics of personal accounts. In 2001 the *New Republic* said that Cato "knows more about the issue than just about anyone else in Washington." As members of Congress and their staffs grapple with the complexities of reform, the expertise of Cato's scholars will prove invaluable in ensuring that lawmakers have comprehensive, accurate, and timely information with which to make their decisions. ■

“As he prepared to run for president, **Bush** sought the opinions of **people who shared his belief in private accounts**, including **Edward H. Crane**, the president of **the Cato Institute**, a libertarian research organization; [and] **José Piñera**, the architect of **the Chilean system**.” —*New York Times*, February 27

“The emergence of the center-right phalanx backing the Social Security proposal is a major victory for the Cato Institute, a prominent libertarian group. In the late 1970s and early 1980s, **Cato was almost alone in its willingness to challenge the legitimacy of the existing Social Security system**, a politically sacrosanct retirement program.” —*Washington Post*, February 13

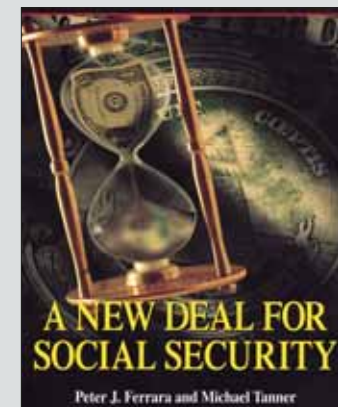
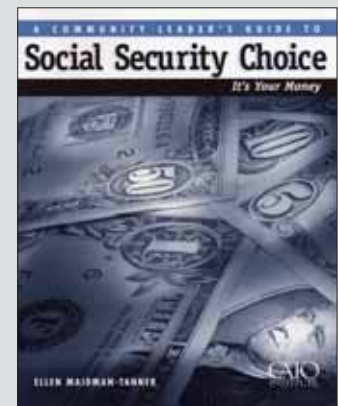
“President Bush's **plan to allow younger workers to divert Social Security taxes into personal investment accounts** will be a centerpiece of his State of the Union address and a barnstorming tour of the country. It is a tough sell to an uncertain public, but **Bush has a secret weapon**: A generation of free-market conservatives like Crane and Piñera has been laying the groundwork for this debate.” —*Los Angeles Times*, January 30

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Cato Journal looks at institutions that support economic growth

# Financial Institutions Studied in *Regulation*

The latest issues of *Regulation* and *Cato Journal* feature in-depth studies of economic development in the United States and overseas, property rights in Chile and Poland, political reform in China, and financial puzzles concerning stock options and short selling.

The latest *Cato Journal* (vol. 24, no. 3) focuses on the relationship between institutions and economic development. An article by former Polish finance minister Leszek Balcerowicz says that a limited state is beneficial for economic growth but that economists nevertheless underestimate the importance of limited government. That, Balcerowicz argues, is because the most important benefit of limited government is the increased sphere of personal autonomy and individual liberty it allows—a benefit economists often ignore.

James Gwartney and Robert Lawson, authors of the annual *Economic Freedom of the World* report, along with Gwartney's colleague Randall Holcombe, examine the relationship between economic freedom and economic development and find that economic liberty has a dramatic impact on economic growth. Economic freedom triggers both greater capital investment and more productive resource use.

Other articles examine institutional changes around the world: China's efforts to tempt businesspeople into the Communist Party

through the "Three Represents" campaign, the sale of Polish farmland to foreigners, and the creation of property rights in the Chilean mining sector.

While *Cato Journal* focused on institutional changes abroad, the Winter issue of *Regulation* examined financial institutions here in the United States. In the cover article, Ronald J. Gilson and Reinier Kraakman, law professors at Stanford and Harvard, respectively, revisit their 20-year-old article on the efficiency of financial markets. They concede that recent advances in behavioral economics have cast doubt on the Efficient Market Hypothesis they championed then, because traders are subject to systematic cognitive biases. Nevertheless, they conclude, those biases are unlikely to have significant distortionary effects on financial markets in practice.

J. Corey Miller of Mississippi State University argues that farm subsidies will be under increasing political pressures due to

international criticism and domestic budget strains. William R. Emmons and Gregory E. Sierra of the Federal Reserve Bank of St. Louis write that the executive compensation structure at Freddie Mac and Fannie Mae gives their leaders strong incentives to take imprudent risks—risks that could leave taxpayers on the hook for

billions of dollars in bailouts. They advocate giving taxpayer representatives a more direct say in executive compensation at such "government-sponsored entities." An article by Robert Krol and Shirley Svorny of California State University, Northridge, critiques the failure of the Los Angeles Community Development Bank.

Both the *Cato Journal* (\$8.00) and *Regulation* (\$5.95) can be purchased from the Cato Institute at 800-767-1241 or via the online Cato bookstore at [www.cato.org](http://www.cato.org). One-year subscriptions to both magazines are available; *Cato Journal* is \$24.00 and *Regulation* is \$20.00 a year. ■



## News Notes

**Jamie Dettmer** has joined the Cato Institute as director of media relations. Dettmer has reported for several news organizations, including the *Times of London*, the *Sunday Telegraph*, and the Washington Times Corp. He has run newspaper bureaus in Washington, the Middle East, Russia, and Europe. He has covered wars ranging from the turmoil in the Middle East to the drug war in the Americas and has reported on four U.S. presidential elections. His media experience is not limited to print, however; he was an associate producer of an award-winning documentary series for the BBC and has been a regular commentator on television and radio news programs on both sides of the Atlantic. He is a graduate of Corpus Christi College, Cambridge University.

Two of Cato chairman **William A. Niskanen's** books have just been published in paperback by Edward Elgar Publishing. *Autocratic, Democratic and Optimal Government* explores the fiscal choices that governments make and their likely outcomes. *Policy Analysis and Public Choice* collects more than 30 papers on such topics as taxation, regulation, Reaganomics, crime, defense spending, and constitutional rules.

Executive vice president **David Boaz** is the author of a new entry in the *Encyclopedia Britannica* on libertarianism. The 2500-word article is currently available in the online edition of the encyclopedia and will be included in the next print edition. Boaz is the author of *Libertarianism: A Primer* and the editor of *The Libertarian Reader*. ■



Jamie Dettmer

*Gingrich, Arme y, Crane, and others debate 10 years of Republican rule*

# Whatever Happened to the '94 Congress?

The election that defined Bill Clinton's presidency was neither his defeat of incumbent George Bush in 1992 nor his easy reelection victory in 1996. Rather, it was the sharp repudiation of his ambitious first-term agenda in the 1994 congressional election. In that election, voters gave Republicans a net gain of 54 seats in the House of Representatives, giving them control of the body for the first time in four decades. The Senate, too, fell into Republican hands. The leaders of the so-called Republican Revolution were swept into power on the popularity of the "Contract with America," a campaign document promising to reduce the size and scope of the federal government and reform the legislative process. The new House majority kept the specific promises of the contract, holding votes on each of its promises in the 104th Congress.

Recently, however, the GOP's commitment to limited government seems to have faltered. A new book edited by Cato scholars Chris Edwards and John Samples, *The Republican Revolution 10 Years Later: Smaller Government or Business as Usual?* examines the record of the Republican Congress in its first decade and finds much to criticize. Former speaker Newt Gingrich and former majority leader

Dick Arme y kick off the volume with qualified defenses of the Republicans' record in office. Gingrich highlights the long, difficult effort required to deliver a Republican

majority. Arme y notes several major Republican achievements, including welfare reform, tax cuts, and reforms to House ethics rules. But Cato president Ed Crane charges that the Republicans have abandoned the principles of the "Contract with America." Since gaining control of the White House in 2000, he notes, Republicans have overseen the largest

expansion of the federal government since Lyndon Johnson's Great Society.

Cato's Chris Edwards discusses one of the highlights of the Republican record: pro-growth tax cuts in 1997, 2001, and 2003. But despite much talk, Republicans have failed to deliver fundamental tax reform. And as Stephen Moore documents, tax cuts have not been matched by spending restraint. Indeed, many of the ineffectual federal agencies

slated for termination by Republican leaders in 1994, such as the Department of Education and Amtrak, have not only survived but have seen their funding levels increased.

Contributors see modest progress on trade, health care, and high-tech policy. Regulatory policy has proved disappointing, with Republicans failing to deliver on initial promises to streamline environmental and other regulations. Ron Haskins of the Brookings Institution hails welfare reform as the "biggest accomplishment of the revolution." Welfare rolls have fallen by more than half, he notes, and most of the single mothers who left the rolls found jobs and a rising standard of living.

Of course, the legacy of the Republican Revolution is still being written. On no issue is that more true than on Social Security. As Michael Tanner writes, Social Security reform was not featured in the 1994 campaign. But over the past decade, Republican leaders have shown an increasing willingness to consider reform, and it appears not to have harmed them at the ballot box. Depending on the outcome of this year's biggest legislative battle, Social Security reform may rank as a crowning GOP achievement or as an embarrassing retreat.

*The Republican Revolution 10 Years Later* is available in hardcover for \$19.95 or in paperback for \$13.95. It can be purchased in bookstores, at [www.cato.org](http://www.cato.org), or by calling 800-767-1241. ■



## Cato Calendar

### Cato University

#### Applied Economics: User-Friendly Tools to Understand Politics, Business Enterprise, and Life

Washington • Cato Institute • April 28–May 1, 2005  
Speakers include Rep. Ed Royce, Michael Munger, Peter Van Doren, Ed Crane, and Tom G. Palmer.

#### The Great Debate: Should Social Security Be Reformed?

New York • Waldorf-Astoria • May 12, 2005  
Speakers include Michael Tanner.

### Cato University

#### The History and Philosophy of Liberty and Power

Washington • Cato Institute • June 2–5, 2005  
Speakers include Steven Davies, Jeffrey Rogers Hummel, Tom G. Palmer, and David Boaz.

### Cato Club 200 Retreat

Santa Fe • La Posada de Santa Fe • September 29–October 2, 2005

### Cato University

#### The Art of Persuasion: Skills for Everyone

Washington • Cato Institute • October 20–23, 2005  
Speakers include Nick Gillespie, Tom G. Palmer, Dan Griswold, and Don Boudreaux.

### Monetary Institutions and Economic Development

23rd Annual Monetary Conference  
Cosponsored with The Economist  
Washington • Cato Institute • November 3, 2005

### Perspectives 2005

New York • Waldorf-Astoria • December 9, 2005

Get more details at [www.cato.org/events](http://www.cato.org/events).

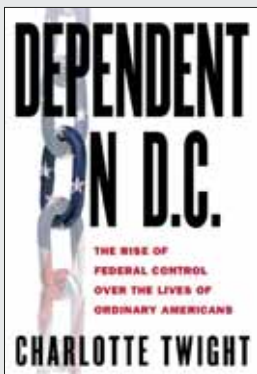
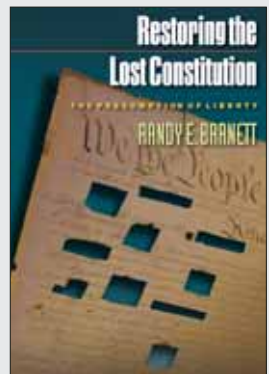
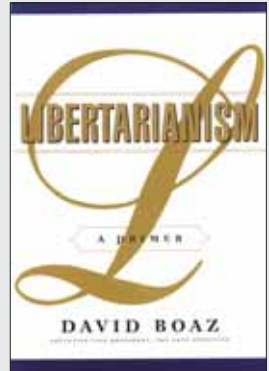
# Have you read these Cato classics?

“In an age in which the end of big government is used by politicians as a pretext for bigger, and worse, government, it is refreshing to find **a readable and informative account of the basic principles of libertarian thought** written by someone steeped in all aspects of the tradition. David Boaz's *Primer* unites history, philosophy, economics and law—spiced with just the right anecdotes—to bring alive a vital tradition of American political thought that deserves to be honored today in deed as well as in word.”

—Richard A. Epstein, University of Chicago

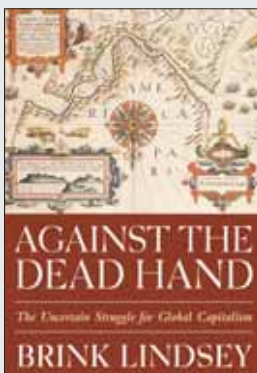
“Step by step, Randy Barnett constructs an intriguing case for a moderately libertarian natural-rights Constitution that allows government action only when, and because, doing so protects the generously defined liberties of each person. Along the way he sheds new light on old controversies. This book **should provoke the kind of controversy that advances our understanding** of the Constitution.”

—Mark Tushnet, author of *The New Constitutional Order*



“After years of combing through congressional debates, federal legislation, and Supreme Court arguments, Charlotte Twight has developed an original and striking indictment of how the federal government has made more and more Americans dependent on it and has worked to increase the costs of resistance to government expansion. Her explanation of how and why the federal government grew so large **reads like a good detective story.**”

—David Boaz



“*Against the Dead Hand* is **the most important book yet published** on the whole subject of globalization—brilliantly original, superbly well informed, and most important, unflinchingly honest.”

—David Frum, author, *The Right Man*

“**Informed, lively, and challenging,** Brink Lindsey's book illuminates the tough road ahead in the fight for free markets and against the dead hand of the past. I have benefited greatly from reading this book and so can everyone who cares about freedom.”

—George P. Shultz, Former Secretary of State



Available at fine bookstores, at [www.catostore.org](http://www.catostore.org), or call 1-800-767-1241.

# WEDDING BELLS



Cato employees **Lesley Albanese**, Cato's director of external affairs, and **Ian Vásquez**, director of the Project on Global Economic Liberty, were married December 5 at the Union League in Philadelphia (left). **Cato Club 200** members **Ken Levy** and **Frayda Levin**, who were introduced by former Cato vice president Bob Borens, were married September 5 at the Adath Shalom synagogue in Morris Plains, New Jersey. Lots of Cato staff and Sponsors were in attendance at both events. More Cato weddings were pictured in the July/August 2003 issue of *Cato Policy Report*.



## DID YOU HEAR...

**Christopher Hitchens** on smoking bans • **Bob Barr** on the national ID card  
**Dan Griswold** on religion and liberty • **Brad Smith** on repressive election laws  
**Tom Palmer** on the history of liberty • **P. J. O'Rourke** on the follies of nation building  
**Fareed Zakaria** on Hernando de Soto • **Thomas Sowell** on Milton Friedman?

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**◆If a statesman is a dead politician, will he be a statesman then?**

Many Republicans are expressing reservations about the political wisdom of President Bush's vision for restructuring Social Security. . . .

"Why stir up a political hornet's nest . . . when there is no urgency?" said Rep. Rob Simmons (Conn.), who represents a competitive district. "When does the program go belly up? 2042. I will be dead by then."

—*Washington Post*, Jan. 11, 2005

**◆Globalization**

Last September, Sebastian Myhre, 21, an associate of the Culinary Institute of Norway, arrived for a one-year term as chef [at the Norwegian Embassy in Washington]. . . .

He calls his style of cooking refined Norwegian, "where you keep the taste in all the ingredients. If you are serving potatoes, you don't drown them in truffle oil or put balsamic vinegar on everything, a trend that is so popular these days in Europe."

No matter what the occasion, "You have to have smoked salmon in one form or another because Norway is so associated with good salmon," says Myhre, who buys smoked fish at Costco.

—*Washington Post*, Nov. 2, 2005

**◆Nice work if you can get it**

In the fallout from an accounting scandal, Fannie Mae . . . said in a regulatory filing that its principal accounting officer, Leanne G. Spencer, stepped down as senior vice president and controller. Spencer,

who was criticized by regulators in a September report, will remain on the payroll for a year in an advisory role unless she resigns or is fired, Fannie Mae said.

—*Washington Post*, Jan. 22, 2005

The turnover at Fannie Mae continued as three more executives who shared responsibility for the mortgage-funding company's accounting stepped down late last week.

Moving into unspecified advisory roles were senior vice presidents Jonathan Boyles, who oversaw accounting policy and tax; Janet L. Pennewell, who oversaw financial reporting; and Sam Rajappa, who oversaw internal auditing, company spokesman Charles V. Greener said. . . .

Arrangements were still being finalized for Boyles, Rajappa and Pennewell, Greener said, "but we expect them to be similar to those of Leanne Spencer."

—*Washington Post*, Jan. 25, 2005

**◆But Clinton was never actually convicted**

Former President Clinton warned Tuesday that Democrats "cannot be nationally competitive when we don't feel comfortable talking about our convictions."

—*Newsday*, Nov. 9, 2004

**◆He oughta know**

John D. Podesta, White House chief of staff under President Clinton . . . said, "I think that most of [Bush's] domestic agenda is driven and run by a political strategy as much as core fundamentals and belief."

—*Washington Post*, Jan. 30, 2005

**◆Soon he'll be back to lecturing on corporate ethics**

In the latest setback for the corporate-governance movement, Yale University's School of Management is quietly forcing out the prize-winning head of its International Institute for Corporate Governance over alleged expense-account abuse. Florencio López-de-Silanes, 38 years old, allegedly double-billed Yale for about \$150,000 in business-travel expenses since mid-2001.

—*Wall Street Journal*, Jan. 10, 2005

**◆Government growth**

For the Washington area, the outlook is even rosier. Economists say our area's real estate market will outperform the nation. They cite the tens of thousands of jobs that are expected to be created in the area next year, mostly by the federal government and federal contractors.

—*Washington Post*, Jan. 1, 2005

**◆Break Republican windows, please**

An impromptu demonstration by a crowd spilling from a "counter-inaugural ball" in Adams Morgan late Thursday turned into one of the biggest Inauguration Day disturbances, leaving windows smashed and nearly 80 people arrested. . . .

D.C. Council member Jim Graham (D-Ward 1) criticized protesters for damaging property in an area of town that is largely liberal and diverse.

"Adams Morgan is not associated with the Republican Party," he said. "We are not the home of George W. Bush."

—*Washington Post*, Jan. 22, 2005

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