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The Power and Poverty of Libertarian Thought

by Richard Cornuelle

In the late 1940s, I went to New York City, fresh from college, to study with Ludwig von Mises, the intrepid Austrian scholar who had, 30 years before in 1920, fully explained the inevitability of the eventual collapse of the socialist economies. The socialists had sent the celebrated Polish economist Oskar Lange into the lists against him, and while Mises clearly won the encounter on points, such was the emotional appeal of communism's promise to set right the alleged iniquities of a capitalist order that Lange was lionized and Mises became something of a pariah.

It was a dark hour for the libertarians, and for Mises, their unanimously acknowledged intellectual godfather. In those days, libertarian ideas were considered not just unfashionable but pernicious. Mises's place in the public consciousness, if he had one at all, was

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in socialist demonology. He was teaching part-time at the Graduate School of Business Administration at New York University because that was the only job he could get. His distinguished student, F. A. Hayek, who would win a Nobel prize in 1975, had been turned down by the Department of Economics at the University of Chicago and a number of other institutions. Hayek had finally found a place on Chicago's Committee on Social Thought after an obscure midwestern foundation, realizing that libertarian scholars were becoming extinct, had arranged to pay his stipend.

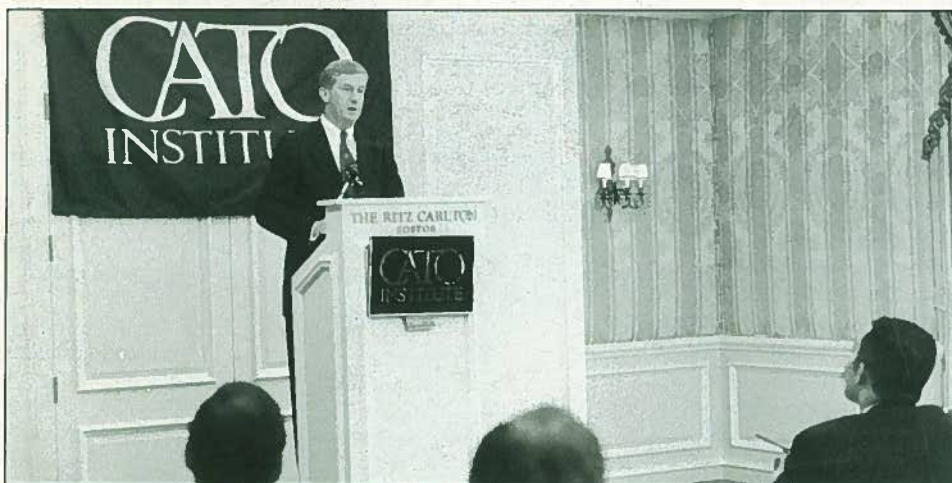
When I joined Mises's seminar, it was meeting twice a week in the late evening in a low-ceilinged cellar room, as befitted an underground movement, in the shadow of Trinity Church in lower Manhattan. We were usually about a dozen. Mises arrived last, always on the stroke of the appointed hour, impeccably dressed. He took a single page of notes in German from a small envelope, grasped the edge of the table with his palms flat on the top and his thumbs under, and spoke without interruption for an hour and a half, in a kind of

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accented chant as if he were reciting scripture from memory. Then there were questions, which he usually answered by repeating, almost word for word, the part of his recitation the question suggested. His method seemed entirely appropriate. We sensed we were in the presence of a towering and uncommonly disciplined intelligence, martyred and misunderstood. We knew Mises had paid dearly for his beliefs. When his monumental *Human Action* was published in 1949, the year I joined the seminar, the *New York Times Book Review's* reaction was to reproach the Yale University Press for publishing it. That sort of thing, of course, only intensified our devotion. We would, except for the practical difficulties, have carved our notes in stone.

So if the collapse of communism caught the CIA and others unawares, it was certainly no surprise to the students of Mises's NYU seminar. We had been expecting it for 40 years. With a confidence no less certain because we had acquired it fortuitously, we knew socialism was doomed and we knew why.



"Limited government, the free-market system, and individual liberty are the touchstones of what I'm trying to do in this state," Gov. William F. Weld of Massachusetts told a Cato seminar in Boston.

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Ignoring Government Failure

Editorial



Are these people nuts or what? Every newspaper I pick up contains two kinds of stories: First, exposés of various government mistakes, outrages, and scandals. Second, proposals that the government take over more aspects of our lives. Are the people in the second group of stories reading the first group?

Take just a few recent examples. The macro-failure of government in our time, of course, is the fall of communism in the

Soviet Union and Eastern Europe.

The failure of communism is important because that system represented the most complete attempt ever made to put government in charge of society's affairs. The extent of communism's reliance on government was matched only by the extent of its failure. It serves as a powerful warning about the inability of government to meet the needs of a dynamic society.

But the collapse of communism is hardly the only example of government failure to be found in today's newspapers. In recent weeks we have learned that federal banking regulators didn't notice a bank that was known worldwide as the Bank of Crooks and Criminals International. In Milwaukee, police stood in the limb-filled apartment of a mass murderer and determined that nothing was amiss.

In Oakland, fire officials apparently ignored a brush fire near town that a few hours later caused \$2 billion in damage. Officials defended themselves by saying that people shouldn't build wooden houses. (Would a fire department run by, say, an insurance company have been so cavalier about the danger?)

A couple of years ago NASA managed to spend several billion dollars to shoot into space a magnificent telescope that doesn't focus properly, and more recently the \$1.7 billion robot explorer Galileo can't seem to send any messages back to Earth.

We could go on: Government has given us a school system that spends more money every year to educate less, a welfare system that traps people in permanent poverty, a drug regulation system that demands years of testing and paperwork while sick people die, a savings-and-loan insurance plan that promised to cover any losses bankers might run up, a military procurement system that—well, why labor the point?

Meanwhile, oblivious to all the evidence of government failure in matters grand and petty, politicians and special interest groups call for yet more government programs. In the same paper that reported the BCCI and Jeffrey Dahmer outrages, Rep. Dan Rostenkowski, chairman of the House Ways and Means Committee, called for government to take

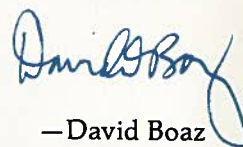
control of every American's health care. Sen. Lloyd Bentsen urges an expanded foreign aid program—that is, he wants the U.S. government to take more money from American taxpayers to give to foreign governments. And Herbert Stein, the conservative economist, calls for more government spending on . . . well, everything. (Okay, welfare, public schools, Medicaid, police, and foreign aid.)

Around the world people are catching on to the failure of government, a failure that gets more profound every day as our society gets more diverse, more dynamic, and more complex. They are turning toward less government, free markets, and privatization, and they are succeeding.

Argentina has privatized its telephone system, Malaysia its post office. African countries are freeing their agricultural markets, and New Zealand has dramatically reduced the tariffs that used to protect its businesses from competition. In Eastern Europe, governments are privatizing shops and factories and even planning competitive, market-oriented school systems. In the past three years, governments have privatized state-owned enterprises worth \$90 billion.

But here in the United States both Democratic and Republican politicians ignore the worldwide trend toward freedom; they push new schemes for tinkering with failure and managing more of our lives—all the while wondering why our economy is dead in the water. It's time for a real new paradigm in Washington, a market-liberal paradigm that would acknowledge the inability of bureaucratic systems to respond to people's needs and would reject coercion as a tool of social change. We should recognize that the needs of 240 million people—or 5 billion people—can be served much better by the dynamic, flexible, responsive marketplace than by stagnant, always-obsolete government programs.

When I hear American politicians proposing to turn our health care over to bureaucrats, or to pour more money into the failed war on drugs or the stultifying public school system, or to shackle our financial system with more regulations designed to solve problems of the past, I can only think, "Get a clue, man. Boris Yeltsin has figured out that government control doesn't work. How long is it going to take us?"


—David Boaz

Can Corporations Commit Crimes?

Sentencing Panel "Rushed to Judgment," Officials Charge

The U.S. Sentencing Commission "rushed to judgment" in drawing up new draconian guidelines for punishing corporations found guilty of federal crimes, charged several former commission staff members at a conference, "Corporate Sentencing: The Guidelines Take Hold," sponsored by the Cato Institute's Center for Constitutional Studies on October 31. The new schedule of increased penalties for "corporate crime" took effect November 1.

The former officials criticized the commission for not analyzing the effects of harsh fines and for being ignorant of the economics of crime deterrence. The speakers included John R. Lott, Jr., of the Wharton School, a former chief economist at the commission who worked with Roger Pilon, director of the Cato Center for Constitutional Studies, to organize the conference; Los Angeles attorney David A. Lombardero; economist Michael Block of the University of Arizona; Jonathan Karpoff of the University of Washington; Mark Cohen of Vanderbilt University's Owen School of Business; and Jeffrey Standen of the Willamette University College of Law.

Lott said the commission failed to estimate the costs and benefits of the higher fines. "We face being haunted by the guidelines' dramatic increases in corporate crime penalties of which the consequences are completely unknown," Lott said. He pointed out that the commission's own findings indicate that the



George Mason University law professor Jeffrey S. Parker asks whether a corporation can have a guilty mind at Cato's conference on corporate crime, as George Washington University professor Stephen Saltzburg and Cato senior fellow Roger Pilon listen.

average fine will be 20 times higher than the previous average. "After seeing how the Commission altered its data and presented other data in deliberately misleading ways while working at the Commission, I place absolutely no faith in the Commission's own estimates," he added. He also told anecdotes demonstrating the lack of sophisticated thinking by commissioners. For example, one commissioner insisted that in her "heart of hearts" she knew that a 100-fold increase in penalties was proper.

Other speakers charged the commission with suppressing staff attempts to conduct research on the effects of changing the penalties. Lombardero accused the commission of pandering to the public's resentment of white-collar crime.

Cohen said his research shows that under the new guidelines, the median fine will probably be 5.5 to 11 times greater than the previous median—increasing from about \$15,000 to between \$80,000 and \$160,000. The average fine is likely to rise from about \$120,000 to between \$800,000 and \$1.6 million.

Defending the guidelines and the commission were Michael Gelacak, a member of the Sentencing Commission; Nolan Clark, its chief legal counsel; and Stephen Saltzburg, professor of law at George Washington University and a former ex officio member of the commission.

The conference closed with a debate on the question, "Does Corporate Sen-

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Hayek Wins Presidential Medal

"New Perspectives" Seminars Held in Atlanta, Boston

Cato Events

October 3: Richard W. Rahn, former chief economist for the U.S. Chamber of Commerce, and Scott W. Rasmussen, founder of the ESPN cable network, were the headline speakers at Cato's "New Perspectives for the Nineties" seminar in Atlanta. Rahn spoke on "Fiscal Policy and Economic Growth"; Rasmussen's keynote address was titled "Entrepreneurs and the Free Market." Stephen Moore, Cato fiscal policy director; Roger Pilon, director of Cato's Center for Constitutional Studies; and Cato president Edward H. Crane spoke on state fiscal crises, natural rights and Clarence Thomas, and term limitation, respectively.

October 8: The Cato book *Liberating Schools: Education in the Inner City* was the focus of a Book Forum. David Boaz, editor of the book, spoke on the dismal condition of our public schools and the need for educational choice.

October 16: A "New Perspectives for the Nineties" seminar was held in Boston, with Massachusetts governor William Weld and economist Walter Williams as the main speakers. Weld discussed his success in cutting the state budget and his concern about Supreme Court decisions that infringe upon civil



Richard Rahn, former chief economist of the U.S. Chamber of Commerce, discusses taxes and economic growth at Cato's "New Perspectives for the Nineties" seminar in Atlanta.



Michael Boskin, chairman of the president's Council of Economic Advisers, discusses the work of F. A. Hayek, Nobel laureate and Cato Distinguished Senior Fellow, who received the Presidential Medal of Freedom on November 18. Hayek's son Laurence Hayek waits to respond.

liberties. Williams's topic was "Deregulation and Economic Opportunity." Cato executive vice president David Boaz spoke on educational choice; fiscal policy director Stephen Moore addressed the fiscal crises of the states; and president Edward H. Crane discussed term limitation.

October 24: A Book Forum was held in honor of the Cato volume *Designing Defense for a New World Order* by Cato senior fellow Earl C. Ravenal. Ravenal's talk summarized his case for disengaging from foreign entanglements and substantially scaling back the military establishment.

October 29: A Policy Forum examined "The Philosophy and Politics of the Clarence Thomas Nomination." Roger Pilon, director of Cato's Center for Constitutional Studies, addressed the political philosophy underlying the debate about the Supreme Court and constitutional jurisprudence. Clint Bolick, vice president of the Institute for Justice, spoke on the changed political landscape revealed by the confirmation process, particularly the differences between the civil rights establishment and the broad masses of both black and white people.

October 31: The Center for Constitutional Studies of the Cato Institute sponsored a conference, "Corporate Sentencing: The Guidelines Take Hold." The speakers examined the new schedule of fines for "corporate crime" that took effect November 1.

November 6: Cato hosted a debate on the proposition "State-Imposed Congressional Term Limits Are Constitutional." Arguing the affirmative, attorney and author Stephen Glazier pointed out that several U.S. Supreme Court cases have affirmed the states' authority to regulate the ballot in congressional races. Morton Rosenberg of the Congressional Research Service responded that term limitation is not a ballot access issue; it is an issue of qualification for office. He said that the Court has already decided that no qualifications for holding a seat in Congress may be added to those already specified in the Constitution.

November 15: Six Cato staff members addressed a group of analysts from the Central Intelligence Agency who were making the rounds of Washington think tanks. The speakers were Cato president Edward H. Crane on the role of Cato, executive vice president David

Transit Subsidies Don't Work, "Fair Trade" Isn't Fair, Papers Say

Federal mass transit subsidies have failed to achieve their stated objectives, according to a recent Cato Policy Analysis. Other studies in the series examine currency reform in Lithuania, the myth of fair trade, and the disastrous government of the District of Columbia.

Mass Transit Failure

Federal subsidies to urban mass transit systems have failed to reduce traffic congestion, reduce air pollution, or save energy, according to "False Dreams and Broken Promises: The Wasteful Federal Investment in Urban Mass Transit" (no. 162). The study exposes and explores a number of popular myths about the benefits of federally subsidized mass transit. The authors, Jean Love and Wendell Cox, found that mass transit ridership has fallen by 2 billion passengers since 1960, despite a taxpayer investment of more than \$100 billion during the same period.

Love and Cox challenge the need for the 20 percent increase, contained in the transportation appropriations bill passed by Congress, in spending for bus and rail systems.

Currency Reform in Lithuania

Lithuania needs to establish a currency board, institute clear property rights, and encourage competition among private commercial banks to put its economy on a firm footing, according to economists Kurt Schuler, George Selgin, and Joseph Sinkey, Jr., in their study "Replacing the Ruble in Lithuania: Real Change versus Pseudoreform" (no. 163). The paper presents a blueprint for creating a stable, convertible Lithuania currency. The authors, all of whom have traveled to Lithuania to consult with the prime minister and members of the cabinet, recommend that Lithuania establish a currency board similar to Hong Kong's to issue the new currency, backed by Lithuanian gold that has been held by foreign banks since 1940, that could at first circulate in parallel with the ruble; establish clear property rights to create collateral for bank loans; and pass legislation to pri-

vate the commercial banking functions of the central bank.

Free Trade versus Fair Trade

Trade barriers, such as anti-dumping laws, countervailing duties, and subsidies for foreign advertising, punish Americans both as consumers and as taxpayers, writes James Bovard, Cato associate policy analyst, in "The Myth of Fair Trade" (no. 164). Under current U.S. trade policy, government officials decide what Americans will be allowed to buy and the price they will pay. Every trade barrier imposes an opportunity cost on the American economy, Bovard writes.

The study reveals that Congress can impose more than 8,000 different taxes on imports, with tariffs as high as 458 percent, and that trade barriers cost American consumers an estimated \$80 billion, or more than \$1,200 per family, per year.

Government Disaster in D.C.

The District of Columbia spends nearly twice the national average per resident without providing a single high-quality government service, according to Cato chairman William A. Niskanen in "The District of Columbia: America's Worst Government?" (no. 165). Niskanen compares 1987 District spending with the national average of state and local government spending for government salaries; education; courts, police, and corrections; public welfare; and public medical care.

The study also compares various measures of social conditions in Washington with those elsewhere in the nation to document the city's poor return on its investment. Niskanen recommends allowing communities within the District to form separate cities, adopting a system of school vouchers, and changing priorities for the use of the police.

This study was widely covered by the broadcast media; Fox Morning News aired a debate between Niskanen and D.C. congressional delegate Eleanor Holmes Norton.

Boaz on the failed war on drugs, chairman William A. Niskanen on international economic policies, foreign policy studies director Ted Galen Carpenter on the pitfalls of the New World Order, global economic liberty project director Melanie Tammen on disengaging from the International Monetary Fund and the World Bank, and senior editor Sheldon L. Richman on the folly of U.S. intervention in the Middle East.

November 15: A reception was held to celebrate the presentation of the Presidential Medal of Freedom to F. A. Hayek, the Nobel laureate and long-time advocate of market liberalism. Speaking at the event were Michael J. Boskin, chairman of the Council of Economic Advisers; James A. Dorn, Cato vice president for academic affairs; Sheldon L. Richman, Cato senior editor; and Laurence Hayek, who accepted the award on November 18 on behalf of his father.

November 21: A Policy Forum addressed "The U.S. Merchant Marine: Can Antiquated Policy Resolve Contemporary Problems?" Rob Quartel, a federal maritime commissioner, argued that America's maritime laws need a fundamental rethinking if the merchant marine is to be competitive in the world economy. Responding was Wallace Sansone, deputy commander of the Military Sealift Command.



George Mason University economist Walter Williams discusses big government's impact on economic opportunity at Cato's "New Perspectives for the Nineties" seminar in Boston.

The Right to Be Left Alone

Policy Forum

On October 16, 1991, the Cato Institute held the second of its "New Perspectives for the Nineties" seminars in Boston. The keynote speaker for the seminar was Gov. William F. Weld of Massachusetts, a Republican elected in 1990.

Governor Weld: I am delighted to be here, for both personal and ideological reasons. I have only one question: if you are classical liberals and I am the new breed of conservative, how come we agree about almost everything?

People like those at the Cato Institute, who are devoted to limited government, the free-market system, and individual liberty, should be relatively comfortable with what's going on in Massachusetts. Those concepts are certainly the touchstones of what I'm trying to do in this state with a little help from Barbara Anderson, Howard Foley, and other people.

With respect to limited government, we are the only state that reduced spending from 1991 to 1992. In absolute dollar terms, the state budget fell from \$13.7 billion to \$12.9 billion, which is more than a 5 percent cut. And of course, given inflation and increasing caseloads, it's substantially more than a 5 percent cut. I don't want to be too critical of Pete Wilson or claim too much for myself. One reason we were able to cut the budget was that citizens here in Massachusetts had gotten so sick of the tailspin of 1989 and 1990 in the wake of the bright promises of 1988 that they were totally fed up. So it may be that the difference between Massachusetts and California is due more to public opinion than to any particular forcefulness on the part of the person who happened to be governor. But for whatever reason, we are doing the right thing.

We've reduced taxes twice. We repealed a sales tax on services, and we were able to enact a credit for research and development that Howard Foley of

the High-Tech Council had championed. I consider myself a disciple of Friedrich Hayek, and I keep constantly in mind that taxes are coercive. For that reason, we try to approach the tax table with giving credits rather than with raising rates in mind. Recently, I proposed new credits for job creation over a 1990 base and for job training. If we can induce desired behavior through a credit, through a carrot, which is less coercive than raising taxes, then that's the way to go. The aggregate tax burden in this country is too high, so I don't think there is any need to consider raising rates.



Gov. William F. Weld: "Piece by piece, case by case, the Supreme Court seems to be holding that government has the right to intrude on our privacy as long as the intrusion serves some government-sanctioned goal."

We're also making some progress toward free markets. Charlie Baker, who was the executive director of the Pioneer Institute and is now in the state Department of Health and Human Services, is the intellectual godfather of our comprehensive proposal to adjust the system of hospital financing to create much more open competition among hospitals and allow contracting between providers and hospitals, which has been forbidden by the heavy hand, the dead hand, of state regulation in the past.

This year we have enacted a school choice bill that two people in the com-

monwealth like. The senate president likes it, and I like it. Everyone else seems to hate it. The principle is that parents get to choose where they are going to send their kids to school. Our theory is that choice puts pressure on bad schools to shape up or ship out, but some people point to that as one of the vices of the system. They say that a lousy school system that has lost 43 students loses money, so we have to make a direct state payment to the system to reimburse it for the lost money. I'm slightly sympathetic because the program was implemented suddenly, so school systems couldn't budget ahead. But the more important point is that putting pressure on schools through the market, through parental and student choice, is exactly what the new program is supposed to do.

In areas such as day care, we are moving toward a voucher system, rather than a contracting system. I'm a great believer in vouchers for empowering people and enabling them to make their own decisions about what they want to consume and where they are going to consume it. I think the use of vouchers for medical care has huge potential.

In the economic sphere, the free market very much animates my thinking about the importance of turning toward international markets. I recently went to Asia and saw how hungry the economies there are for the kind of technology and goods and services that Massachusetts in particular has to offer. I believe the same is true of Europe, particularly Eastern Europe, where areas such as environmental protection and cleanup have been neglected for generations. And developments in the course of the next few years—EC '92, the probable free-trade agreement for North America, further developments in Asia to bring economies other than Japan's closer to par with ours—are going to create enormous opportunities for the United States and for Massachusetts in particular.

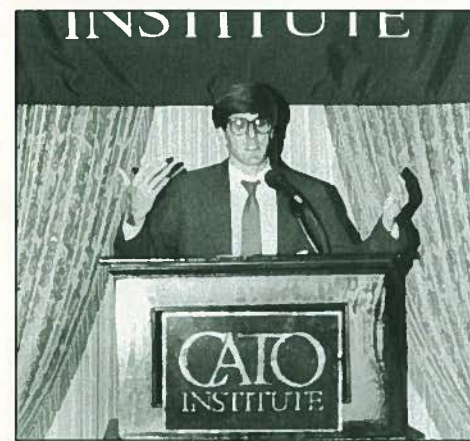
It's important that we not retreat into an isolationist, barrier-oriented approach, or we'll not secure the blessings that international commerce would

shower on us. Looking at it from a parochial point of view, a more free-trade approach to international economics has almost no downside for Massachusetts. We are not about to lose a bunch of 1940s-style assembly-line manufacturing jobs to foreign jurisdictions that pay their laborers \$6.85 a day. We've already lost those jobs. We lost them in the 1940s and the 1950s. What we should do now is take the upside and cash in on our competitive high-tech advantage. That's another application of the free-market principle.

With respect to individual liberty—and this may be casting against type—I'm one who believes that all 10 amendments in the Bill of Rights are still in force, including the Second Amendment, which protects the right to bear arms. I spent seven years as a prosecutor, but I still think we've got to curb our enthusiasm for taking firearms out of the hands of law-abiding citizens.

I'm a pro-chooser in the very touchy areas of birth control and reproductive freedom, which makes me odd man out with my national party. But I've long thought the position of the national party on those complex questions was ideologically inconsistent with its other positions. It may be that time will bring us closer together.

One issue on which I've not seen my way clear to complete agreement with the Cato Institute is the legalization of drugs. I spent too much time as a prosecutor to go for that. I've seen too much of the underside of the drug traffic. But I do think there are some steps that can



Stephen Moore, Cato's director of fiscal policy studies, told the Boston seminar participants that state governments faced budget crises in 1991 because their budgets soared throughout the 1980s.

be taken.

There's a hardy perennial bill pending in the state senate in Massachusetts that would legalize the medicinal use of marijuana to combat diseases such as glaucoma and to relieve the pain associated with cancer treatments. I find it hard to see the argument against that. All prescription drugs are illegal unless you've got a prescription for them. So I associate myself with that bill, which is filed by Sen. Louis P. Bertonazzi every year, and I really don't see why it doesn't go forward.

In short, I think people at the Cato Institute would be generally comfortable with what is happening here in Massachusetts. Now I'd like to turn to a topic that you may not have looked at in depth—but you should. My text is the danger of judicial encroachment on the search and seizure protections of the Fourth Amendment.

The word "libertarian" has been applied to me, and I think it's basically accurate. Despite being a former prosecutor, I'm concerned about what I see as an erosion of our most basic right—the right to be left alone by government.

I am concerned about Supreme Court decisions that, in affirming individual convictions, may give short shrift to the principles on which our system of government is based. Decisions that draw curious limits on our privacy: 1,000 feet for fixed-wing aircraft and 400 feet for helicopters. Decisions that reduce the Fourth Amendment to questions like, was it in a bag or a box . . . or in a knotted green balloon? If it was in a paper bag, was it in a car seat next to him, or was he walking down the street with a closed container in his hand? The answer's different in each of those circumstances. I am concerned about Court decisions that may err on the side of police effectiveness.

As a former prosecutor, I feel it is a moral obligation of investigators to use every tool they have in the fight against drugs and crime. It's the duty of investigators to be aggressive, to push as far as they can.

For me—as U.S. attorney—that included broad use of informants, consensual monitoring, Title III wiretaps, the powers of granting immunity to witnesses, grand jury subpoenas, perjury prosecutions for false testimony . . . an aggressiveness that earned my staff

a reputation for overzealousness. I always knew we had won when the defense attorneys accused us of overzealousness, just as in civil business litigation practice, I was always gleeful when the other side said, "We're going to sue you"—it meant they had no leverage.

Sometimes I wonder where that aggressive attitude could lead under today's developing case law. On bad days, I'm coming to think that the incremental restrictions on our Fourth Amendment rights are accomplishing exactly what our forefathers feared. Piece by piece, case by case, the Court seems to be holding that government has the right to intrude on our privacy—to intrude *ad libitum*—as long as the intrusion serves some government-sanctioned goal.

Does it really matter whether the intrusion is to billet soldiers or to track down drug runners? Does it matter if it is corn and cotton cloth that are being seized or cars and computers? What, exactly, has changed so much in the past two centuries that we no longer need to be concerned about the scope of government authority? I would think that the change has gone in the other direction—that the government is so much more intrusive, so much more of an octopus, that theoretically and ideologically we should be more rather than less concerned about limiting government. But the current trend of developing case law is to worry only about whether people are acting in good faith or whether they say they are acting in good faith. I dare say that the redcoats at the Boston Massacre believed that they were acting in good faith—indeed, John Adams got them acquitted. And the ones who were sent to Concord and Lexington to confiscate the shotguns in the farmhouses probably thought they should be awarded the Order of the British Empire for their successful operations.

I think that recent Supreme Court decisions are leading us down a slippery slope. The focus of decisions has changed. It used to be the Court would ask whether the rights of the individual were abridged; if the answer was yes, the Court would stop—and disallow the evidence. Now, we draw lines on the basis of whether or not the police officer was acting according to departmental policy.

Gov. Weld (Cont. from p. 7)

I find the Court's 1976 description of a "constitutional" roadblock worrisome. I confess, I hate roadblocks. They remind me of Eastern Europe a few years ago. This particular roadblock was about 40 miles from the U.S. border and was intended to catch illegal immigrants. The Court found that as long as the roadblock was permanent—routine—random stops were allowable. Police could arbitrarily refer drivers to a side area for more intensive questioning—even if the referral was made on the basis of racial ancestry. All that was constitutional because it came equipped with the flashing lights, the signs, and the badges that announced the roadblock as official governmental policy.

But, from a practical viewpoint, the Mexican-Americans who got pulled over to the side for additional questioning found themselves in the position of having to prove their innocence to people with guns. That's the real danger here. We are shifting the burden of proof. The state no longer has to prove that it acted within acceptable boundaries. Now, the citizen has to prove that the state didn't. No longer does the state have to be sure that the details are right on the warrant. The citizen has to worry about living next door to someone who's being investigated.

We are shifting the burden to the people the Fourth Amendment was designed to protect. We are shifting the burden to the people who don't have legal degrees, who don't know that they can refuse to answer a police officer, who for some mysterious reason get nervous because there's a guy with a gun between them and the exit. We have created a situation in which it doesn't matter if consent is voluntary, if the warrant is accurate, or even if the police officers knock on the proper door in the middle of the night—all because we want to get at the "evil" of drugs.

We have created a situation in which the rules are so confused that the Ohio police thought they could rationalize a warrantless search on the grounds of an arrest that was illegal. Do we hold the police at fault for using circular logic? Or do we hold the courts at fault

for not clearly delineating what is right and what is wrong—what is allowable and what is clearly a violation of the Fourth Amendment prohibition on unreasonable search and seizure?

Generally, I'll go with law enforcement. Count me in for the ride. But even I finally get off the bus.

I was unhappy, as I said, with the Supreme Court's 1976 decision in *United States v. Martinez-Fuerte*, which upheld a checkpoint even if it was assumed that referrals for strip and other searches were made largely on the basis of apparent Mexican ancestry. The Court had to balance the minimal intrusion on Fourth Amendment rights against the public interest in preventing illegal immigration. I couldn't help thinking of John Rawls's theory of justice. According to Rawls, you'd want to order a society so that it would be one you would choose even if you didn't know what role you were going to play in it. It would be tough to justify a model of society that allowed that kind of checkpoint if you might wind up being hauled over because of your racial ancestry.

Other Court decisions are as, or more, troubling. *United States v. Ross*, 1982: The automobile exemption to the search warrant requirement is extended to closed containers within a car that is suspect. That's not entirely crazy; but note the rationale: "Nice distinctions in the case of a vehicle must give way to

the state's interest in the prompt and efficient completion of the case at hand." Translation: the constable stubbed his toe and we are going to look the other way because we want to hook the bad guy so much.

Texas v. Brown, 1983: You've got to include common-sense assumptions about distinctive closed containers, in this case a knotted green balloon containing narcotics. Of course, what it appeared to be was a knotted green balloon. You can almost hear the judges saying, "We know what's in there. Go get 'em."

Maryland v. Garrison, 1987: U.S. Supreme Court says evidence is admissible if officers enter the wrong apartment while acting in good faith.

Illinois v. Krull, 1987: Evidence is admissible if it is seized under a warrant issued pursuant to an unconstitutional statute. Justice O'Connor dissents, I think with considerable persuasive force, saying that "providing legislatures a grace period during which the police may freely perform unreasonable searches . . . creates a positive incentive to promulgate unconstitutional laws."

Illinois v. Rodriguez, 1990: U.S. Supreme Court allows evidence seized during a warrantless search of an apartment, finding that police officers acted reasonably in accepting the consent of a person who, it was later determined, had moved out of the apartment be-



At a Cato Forum on term limitation, Morton Rosenberg argues that states cannot limit terms of members of Congress. Cato senior fellow Roger Pilon moderates, and attorney Stephen Glazier waits to respond.

fore the search was conducted. That one is crazy. That person had absolutely no standing to consent to a search of the apartment. And the fact that the person had moved out 2 weeks instead of 10 years earlier should not make a legal difference in the case. If the police had found someone who used to live in the apartment and said, "Is it okay with you if we search this apartment?" they would have been laughed out of court. But because the person had recently lived there and the police thought his consent might be sufficient, the Court approved the search. In my view, they are over the line.

California v. Acevedo, May 30, 1991: Warrantless seizure of evidence found in a closed container within an automobile is okay where reasonable suspicion exists about the container itself, not the automobile. In other words, the police could not have opened the paper bag if the fellow had been walking rather than driving. Same closed paper bag in either case. Makes no sense.

Florida v. Bostick, June 20, 1991: Officers of the Broward County Sheriff's

Department routinely board buses at scheduled stops and ask passengers for permission to search all luggage: pocketbook, wallet, handbag, suitcase. If you don't want to consent to having your pocketbook dumped out onto the seat or your suitcase searched by the officers, it's no problem. You can get off the bus and walk the rest of the way. That holding applies not just to city buses. It applies to all buses, anywhere, even in the middle of the desert. It's no problem; you can simply walk. That is where I firmly and irrevocably get off the bus. Forty-one miles west of Ocala. And I'm still walking.

I want to leave one thought with you. I'm about as unlikely to be subjected to an unreasonable frisk, stop, or search and seizure as anybody you can find. I love law enforcement officers. I travel in their company every day of my professional life. It's just not likely that I'm going to be on the receiving end of unwarranted government behavior. And what that suggests to me is that if I'm nervous about these Supreme Court cases, so should all of you be. ■

CATO INSTITUTE CALENDAR

Money in Transition: From Plan to Market

Tenth Annual Monetary Conference

Willard Hotel • Washington • March 5-6, 1992

Speakers will include Malcolm S. Forbes, Jr., Nikolai Petrakov, Vaclav Klaus, Allan Meltzer, Antonio Martino, Alan Reynolds, Oleg Bogomolov, Wayne Angell, and Judy Shelton.

The New World Order and Its Alternatives:
America's Role in the 1990s

Capital Hilton Hotel • Washington • March 31, 1992

Speakers will include Charles William Maynes, Joseph S. Nye, Ben Wattenberg, Kenneth Waltz, Earl C. Ravenal, and Christopher Layne.

The Regulation of Medical Care

Annual Regulation Conference

J. W. Marriott Hotel • Washington • April 30-May 1, 1992

Speakers will include Rep. Bill Gradison, George R. Fisher, Jack Hadley, Thomas Horger, Deborah Haas-Wilson, Robert Moffit, John Holohan, Susan Feigenbaum, Steven Hyde, and John C. Goodman.

Liberating the Hemisphere: Free Trade and Beyond

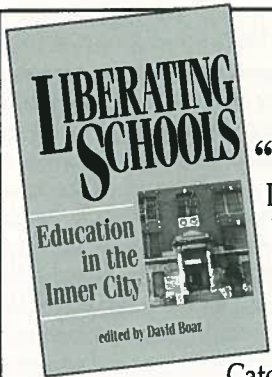
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Libertarianism (Cont. from p. 1)

Now everyone knows what we knew; the one big thing the libertarians knew and could explain better than anyone else—that the invisible hand of the market is a more reliable organizer of the economic life of nations than the visible hand of the state—is suddenly the newest universal. The collapse of the communist economies has at last put to rest one of the great unsettled questions of modern times, which absorbed an unreasonable share of the world's intellectual energy for nearly a century. Libertarians had it right from the very beginning.

The assimilation of this enlightenment into everyday affairs will be a long and uncertain process. It may take years, for example, for the people of the Russian republics to accept the idea that the acquisitive private vices they have been conditioned for three generations to repress must now be indulged in the public interest. But socialism is dead, its ponderous "how to" literature has become waste paper, and history has exonerated libertarian scholarship.

New Challenges for Libertarians

The irony is that while the libertarians waited for nearly a century for acceptance, the sun shone on them for only a moment. Their central proposition was promptly absorbed into the conventional wisdom and is no longer interesting. Now the unsettled questions are in new and less familiar territory. The dialogue is shifting to ground for which, regrettably, the libertarians are no better prepared than anyone else.

Libertarian thought is wonderfully sound as far as it goes, but there are two gaping holes in it that are now taking on a decisive importance. For one thing, there is no very distinct libertarian vision of community—of social as distinct from economic process—outside the state; the alluring libertarian contention that society would work better if the state could somehow be limited to keeping the peace and enforcing contracts has to be taken largely on faith. Nor have libertarians confronted the disabling hypocrisy of the capitalist rationale, which insists that while capitalists must have extensive freedom of action, their employees may have

much less. Their analysis of how an invisible hand arranges economic resources rationally without authoritarian direction stopped abruptly at the factory gate. Inside factories and offices, the heavy, visible hand of management continues to rule with only token opposition.

The repudiation of communist economics is shifting the intellectual action from a battle in which the libertarians held the high ground to one where they hold no ground at all. From the beginning and almost to the end, communism drew its legitimacy from its ends rather than its means, from the powerful echo of its original promises to pro-

"The Marxian prescription may be in disrepute, but Marx continues to control the social agenda from his grave in Highgate."

tect ordinary people from the hazards of life in a capitalist society. Large numbers of working people and their intellectual surrogates still feel in their bones that an unfettered free market is a jungle, that workers do not get their fair share of what they produce, that capitalism so degrades and disorients working people that they cannot make mature decisions about their own welfare, that it pollutes the streams and waters the whiskey, that it creates an acrid social atmosphere in which the smell of money works its way indelibly into the fabric of everything, that it leaves undone or poorly done all the things a good society needs most, and finally that capitalism is given by its nature to large arrhythmic spasms, and the burden of this abiding economic insecurity falls primarily on working people.

In fact, the essentials of this nightmare were most brutally realized in the Soviet Union where the members of a new ruling class lived like Western

rock stars on unearned income and the simplest human and material requirements of ordinary people were ignored entirely. Economic insecurity, far from being eliminated, was collectivized. And after a while the theory of worker control was small comfort to workers in rigidly regimented and politicized workplaces. But in spite of those disappointments, the belief in the propriety of the Marxian indictment of capitalism persists with a remarkable intensity, certainly in the East and to a considerable extent everywhere. The Marxian prescription, or at least its economic ingredient, may be in disrepute, but Marx continues to control the social agenda from his grave in Highgate.

In this context, the Soviet debacle is simply the victory of the reformers of the left over the revolutionaries of the left, settling once for all the historic tactical debate whether to tame capitalism or replace it. The supporting premise of the reformist view is that Marx's analysis of the perils of capitalism is more or less correct, but that the way to right the alleged wrongs is not to overthrow capitalism but to domesticate it—treating it like one of those factory-produced chickens, giving it just enough freedom of movement to stay a little healthy and just enough nourishment to get a little fat—and then use the wealth it produces to provide whatever working people need and are too poor or improvident to provide for themselves. This is the new consensus: democratic political institutions, a closely watched and guided market economy, and a welfare or service state with a broad charter to keep the society fair and fit for human habitation. This now-fashionable arrangement is to be found with only superficial variations throughout the industrialized world, in countries as culturally diverse as Japan, Sweden, England, and the United States.

This "system," to which the newly non-Communist nations are thoughtlessly gravitating—variously called social democracy, democratic socialism, or market socialism—is the only game in town, but it is everywhere, and particularly in the United States, showing signs of strain. Eastern European countries may only have jumped out of the fire and into the frying pan. They, along with the rest of the developed world's

democracies, are staring down the barrel of the same non sequitur: if it is true that the state is bound by its nature to bungle the business of making steel or shoes, what makes us think it is any better at the vastly more complex responsibilities of the modern full-service state: educating the children, providing pensions and health care, eliminating unemployment, protecting depositors from the imprudence of their bankers, and providing hundreds of other services, presumably necessary but beyond the reach of the market, not just for the few who have been left behind, but for practically everyone?

In fact, the incompetence of the state as social engineer is by now almost as well documented as its incompetence as economic manager. The 1930s and 40s produced a large, ardent literature that imagined the boundless possibilities of activist government. The 1960s, 70s, and 80s produced a literature of an entirely different sort—sadder, saner, sometimes hair-raising chronicles of the failures of the state's efforts to improve society. In the United States, the early work in this genre was done by a handful of libertarian and conservative scholars. In time, they were joined by many of their former "liberal" adversaries—those Irving Kristol said had been mugged by reality. They became the born-again conservatives, the "neo-conservatives." One by one, disillusioned liberals defected, wrote a penitential monograph about how this or that promising government program had failed in practice, until their ranks were so nearly emptied of objectivity and common sense that one of their number called for a new, "rational" liberalism, which joined in the fun. Now the literature documenting the failure of state action has become almost as immense, impenetrable, and depressing as government itself.

Thus, the American service state, our not very original version of social democracy, an undertaking now at least three times as large as the whole Soviet economy, is no longer sustained either by logic or by any record of practical success. It is becoming clear that we have confused the state's blustering eagerness to take responsibility with an innate capacity to exercise it. The American service state survives and

flourishes only because an invincible political majority is convinced that its failing programs must be continued because they are essential and because there are, or seem to be, no alternatives. The so-called Reagan revolution was bogus—a disguised tax revolt. It was not an effort to repeal the service state but to preserve it—and to substitute debt or inflation for taxation as a way of paying its politically irreducible costs. But the illusion that gave the Reagan program its ephemeral plausibility has already faded, and America's social democracy is in a bind from which there is no apparent escape. The status quo is impossible to defend and

"If the state is bound by its nature to bungle the business of making steel or shoes, what makes us think it is any better at the vastly more complex responsibilities of the modern full-service state?"

impossible to change. The American polity has reached a kind of dead end, and libertarian thought, in its present state of development, doesn't help.

Thanks in large part to libertarian scholarship, there is a well-understood alternative to the strictly economic half of the traditional socialist program—state operation of the nation's economic institutions—its farms, factories, banks, and power plants. In this sector, libertarians know what they are for. A highly developed literature explains precisely why a centrally planned economy can't work, but it also explains with a practiced clarity how free markets do work and why. There is a well-traveled pathway to change. If a nation decides to desocialize its mail service or its

rum distilleries, it can issue shares and sell them outright to the public, or it can decriminalize competition and stop subsidizing the state operation. Libertarians can demonstrate how competitive services would come into being overnight and why, in time, they would work better and cost less than the state system they had replaced. Given the political will, privatizing partial socialism in countries where free capital markets exist, as Mrs. Thatcher and others have demonstrated, is a comparatively straightforward business.

Privatizing Social Services

Privatizing the other half of a socialist program, the social services that remain when the last state enterprise has been privatized—the part that is practically indistinguishable from the democratic West's social service states—is a task of an altogether different order. If there are alternatives to the state's failing efforts to get rid of Skid Row, eliminate involuntary unemployment, eradicate illiteracy, provide reasonable pensions, treat the indigent sick, detoxify the environment, among a thousand other problems that beset and perplex an industrial society, there is only the dimmest awareness of them, and certainly no confidence that they would work. (That is one of the reasons Americans sound so confused when they talk to opinion pollsters, saying usually that government programs are failing miserably and ought to be expanded.)

Here, libertarians can respond only by stretching market theory beyond its natural limits. They understand economic process; increasingly they understand political process (libertarian James Buchanan won a Nobel prize in economics for his work in public choice theory); but their understanding of social process is scarcely developed at all. Thus, the service state is immune to libertarian thought in its present, unfinished condition. However, there is gathering evidence that there are half-forgotten, potentially powerful, largely dormant social forces in the society that might, in time, become a serious alternative to state social action. This dimension of society is practically begging to be rediscovered, explored, and understood. It has a glorious past, an ambiguous present, and possibly a con-

Libertarianism (Cont. from p. 11)

siderable future.

Before America's Great Depression, after a century and a half of remarkable growth, there was a formidable alternative to government action for almost every aspect of the public business from disease control to economic stabilization. Tocqueville had considered the habit of aggressive and imaginative voluntary action in the public interest—neither commercial on the one hand nor governmental on the other—the most distinctive and promising aspect of the developing American polity. When the crash came in 1929, this third dimension or "sector" of society (now increasingly called the "independent" sector) had become so large and complex as to be literally indescribable in any reasonable space. Nor had anyone catalogued its elements or assessed its total contribution to the general welfare. Even now, the organizations of the independent sector are waiting to be counted and classified.

America's overall institutional landscape consists of one federal government, 50 state governments, and, at last count, about 80,000 local governments of various shapes and sizes. There are more than 10 million commercial entities, ranging from bootblacks and pushcart peddlers to giant conglomerate corporations. And running through and among and around all those like glue are the institutions of the third, independent sector, several million of them altogether. The variety of their purposes is staggering. There are hundreds of universities, elementary and secondary schools, thousands of hospitals, museums, symphony orchestras, and libraries, hundreds of thousands of mutual aid groups like Alcoholics Anonymous, to mention only a few of its more visible entities. Its institutions range from the giant Teachers' Insurance and Annuity Association, now the world's largest nongovernmental pension provider with assets of more than \$80 billion, to a clearinghouse through which amputees can trade their useless left or right shoes or gloves. Any list of its activities of reasonable length is bound to be a distortion.

How we could mislay a sector of society of this size and scope is some-

thing of a mystery. Perhaps the decline of this dimension of American pluralism began when Woodrow Wilson, the schoolmaster president, set out to use his extraordinary wartime powers to jail all our most gallant, original, and entertaining misfits and "rationalize" American society. In any case, by 1946 the American tradition of independent action on the public business had been buried alive—an accidental casualty of Wilson, two wars that greatly improved the health of the state, a thoroughly demoralizing depression, and, finally, the politically captivating Keynesian contention that, in a presumably mature economy, government spending was

"There is no very distinct libertarian vision of community—of social as distinct from economic process—outside the state."

often its own justification. This gave government a decisive advantage in the continuing contention for social responsibility, and the independent sector stopped growing. Many of its forms have survived and since the 1960s a tentative renaissance has begun, but for half a century the third sector was in limbo, the victim of an unexamined supposition that in an industrial society, independent social action was technologically obsolete.

So while there can be no doubt about the existence of a third sector, there are everywhere understandable doubts about its fitness as a competitor for the vast responsibilities of the welfare state. Given the present state of social thought, it is as hard to believe in the utility and virility of independent social action as it was to believe in the rationality and moral legitimacy of free markets before *The Fable of the Bees* and *The Wealth of Nations*. We need now to understand voluntary social process as completely as we understand market process, and

libertarians could again show the way.

Central Planning in One Firm?

As the dust settles on the ruins of the socialist epoch, a second crippling deficiency of libertarian thought is becoming more visible and embarrassing. The economic methodology that the Russians have lately found unworkable still governs the internal affairs of firms in capitalist and socialist countries alike. An economy presumably works best if it is not administered from the top; a factory presumably works best if it is.

In Adam Smith's hypothetical pin factory, the work was divided and specialized—and hence much more productive. That perception (and a dozen other converging circumstances) became the basis for the industrial era. Another element drew less attention: the method used to coordinate the efforts of these specialized workers was borrowed from the army, the principal previous undertaking that had involved substantial numbers of specialized participants. The necessary coordination was accomplished by regimentation, some people giving orders and others taking them. This primitive method survives in the modern corporation along with its military vocabulary: officers, rank and file, line, staff, chain of command, and the like.

When freemen went to work in factories, their status was not unlike that of the iron-collared serfs who had preceded them. Their employment was a kind of voluntary indenture, tacitly renewed each day, in which the worker agreed to submit to supervision for a certain number of hours for an agreed-upon amount of pay. Workers were free in one sense but painfully unfree in another. Feudalism had only moved indoors. The movement to civilize this relationship began immediately and has been more or less continuous. Workplaces have been made safer, lighter, warmer, and more agreeable. Wages are higher, hours shorter, and an accumulation of law and custom has elaborated the rights of employees and put limits on the prerogatives of employers. But the system has never been altered elementally. Working people are far, far freer than slaves or indentured servants, but they are not as free as their bosses and not nearly as free as they might be.

The economic consequences of regimentation are enormous: productivity is undoubtedly much lower than it could be, and the need to translate work, which is boundless, into jobs, which are finite, is a primal cause of unemployment. But the most serious consequences are more urgently human ones. A nation of employees, subordinated to a hierarchy, however restrained and benign, is politicized in the sense that much of employees' effort must be spent pleasing the powers that be in ways that are entirely unrelated to the work itself. In a society that is forever boasting of its dedication to democratic ideals, employees are, however affluent they may have become, members of a subordinate, unmistakably lower, class.

The regimentation of work has created a political majority whose attitudes about themselves and their world are heavily conditioned by a lifelong habit of subordination—what Hayek has called an "employee mentality." How can people see the value of independence and self-propulsion when they work in a system in which they are dependent and subordinate? There is little in their daily experience that would cause them to conclude that a society is kept alive by a continuous process of adaptation, led by independent, enterprising people. They see society as something static—something to be administered. Employed people can scarcely be expected to revere qualities they have been carefully instructed to repress. Instead, they tend to become what the way they work requires: politicized, unimaginative, unenterprising, petty, security-obsessed, and passive. Thomas Jefferson, enchanted as he was by labor-saving machinery, still feared that industrialization would produce a breed of working people so altered by daily subordination that they would be unfit for self-government.

Here, the problem of the unworkable, unaffordable, and untouchable welfare state and the problem of workplace regimentation converge. In America's long march to its distinctive brand of social democracy, there came into being something Marx could not have anticipated: a working class with proletarian status but middle-class means. Now, the overwhelming majority of Americans, in their working-class capacity, consider themselves entitled

to an ever-expanding range of social services, which in their middle-class capacity they pay for in taxes they find increasingly unreasonable.

The search for ways to liberate working people from their proletarian status has a long history. Most of the many experiments in workplace reform, accepting the apparent necessity for politicized workplaces, have sought to give workers more political power, and the flaw in this approach sometimes reveals itself palpably when workers in worker-managed plants strike against themselves. But now there is movement toward more elemental reform that would depoliticize workplaces entirely,

"Libertarians' analysis of how an invisible hand arranges economic resources rationally without authoritarian direction stopped abruptly at the factory gate."

make each worker self-supervising, and base compensation on some credible estimate of the value each person adds to whatever product or service the firm produces, in effect bringing the principles of the free market into the plant. But without a legitimatizing rationale, something the libertarians are best equipped to provide, this is bound to be a confused and halting process.

A Theory of Community

Libertarians, to their enduring credit, believe passionately in the power of ideas. They learned from Hayek that socialism was always and everywhere an intellectual movement before it could become a mass movement—and that any successful anti-socialist effort would have to be built on an unshakable intellectual foundation. That has been the central article of faith that has sus-

tained the movement since it began to rebuild itself in the 1940s and 50s. Libertarians are, perhaps inevitably, something of a joke as political activists, but the communist collapse is evidence of the immense power of an intellectual movement which, just 40 years ago, would have fitted into a phone booth. Now history is beckoning from a somewhat different direction, one that many libertarians will find forbidding. The lack of a coherent, comprehensive vision of voluntary community has forced libertarians, unnecessarily, I think, into an individualist emphasis, a suspicious aversion to any kind of collective activity beyond the commercial, in spite of the fact that the libertarian movement is, itself, a voluntary collective with a strong sense of solidarity and remarkable power.

The chronic crisis of the world's social democracies is putting democratic political institutions under increasing stress. We may be in process of fulfilling the familiar prophecy, often made by some of political democracy's most passionate enthusiasts, that democratic societies are inherently unstable and self-destructive. It seems more than ever clear that the several forms of pluralism are interdependent—that the lack of economic pluralism imperils political pluralism and vice versa—and now our two-dimensional societies are showing unnerving signs of instability. It may be that a renaissance of the third, less familiar pluralism—the social pluralism manifested in the institutions of the independent sector—is essential to the survival of the other two; moreover, it may be that regimented working people will have great difficulty building and maintaining free societies and that history has suddenly redefined the task of libertarian scholarship.

I believe Mises himself would have welcomed enthusiastically the continuing enlargement of libertarian thought. Unique among economists, his knowledge of economics was so complete that he understood its limitations. In *Human Action* he said, with his customary clarity, that in the vast spectrum of human activities, economics treated only a slice, those which result in an exchange. Mises knew that economics is the beginning of the inquiry into the nature and metabolism of human action and certainly not the end of it. ■

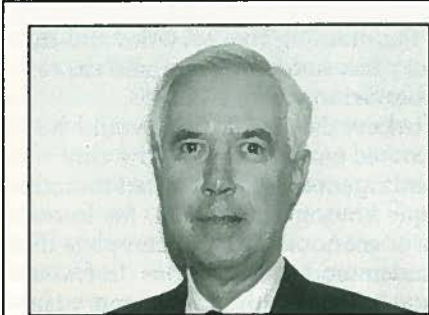
Sentencing Panel (Cont. from p. 3)

tencing Make Sense?" Arguing the affirmative, Professor Saltzburg said that punishing corporations, as well as individuals, is justified for various reasons, including the occasional inability to pinpoint who actually committed the crime. In rebuttal, George Mason University law professor Jeffrey S. Parker attacked the idea of corporate crime per se, pointing out that in the Western legal tradition crime requires a guilty mind, which corporations cannot have. He said that corporate crime is a collectivist idea that grew out of Ralph Nader's previous crusade for federal chartering of corporations.

The conference papers will be published in a book edited by Pilon and Lott.



John R. Lott, Jr., former chief economist of the U.S. Sentencing Commission, decries the commission's work as attorney David A. Lombardero, former chief counsel to the commission Nolan Clark, and *Washington Post* reporter David Vise listen.



Donald E. Ayers has joined the Cato Institute as vice president for development. He has more than 30 years experience in nonprofit development and has worked for the YMCA and most recently for the Marine Biological Laboratory in Woods Hole, Massachusetts.

Friedman, Novak, Buchi to Speak

Market Liberals from Western Hemisphere to Meet in Mexico City

Market liberals from throughout the Western Hemisphere will gather in Mexico City next May for a conference, sponsored by the Cato Institute, entitled "Liberating the Hemisphere: Free Trade and Beyond." The conference, scheduled for May 19-22 at the Camino Real Hotel, will be co-sponsored by the Centro de Investigaciones Sobre la Libre Empresa (CISLE).

Conference sessions will be devoted to trade issues, the environment, the depoliticization of money, privatization, political reform, the war on drugs, and foreign aid. Among the confirmed speakers are Nobel laureate Milton Friedman; Pedro Aspe, Mexican minister of finance; Hernan Buchi, former Chilean minister of finance; Michael Novak; Enrique Ghersi, a member of the Peruvian parliament; Alberto Benegas Lynch, Jr., of Argentina; Paul Craig



Enrique Ghersi



Milton Friedman

Roberts; Luis Pazos de la Torre, president of CISLE; and Norman Macrae, former deputy editor, *The Economist*.

The conference is being organized by Melanie Tammen, director of Cato's Project on Global Economic Liberty, and Roberto Salinas of CISLE in cooperation with the Instituto Cultural Ludwig von Mises of Mexico, headed by Carolina Romero de Bolivar.



Cato adjunct scholar Larisa Piyasheva has been put in charge of privatization in Moscow, after her repeated criticisms of the slow pace of reform by Mayor Gavriil Popov and his government. She hopes to privatize all city-owned properties within a year. Above, she speaks at Cato's Open Forum in Moscow in 1990 along with Popov and Cato president Edward H. Crane.

Call for Papers

The Cato Institute seeks papers on public policy issues for the *Cato Journal*, *Cato Policy Report*, and the Policy Analysis series. Send papers or proposals to Sheldon Richman, Cato Institute, 224 Second St. S.E., Washington, D.C. 20003.

THE WALL STREET JOURNAL

FRIDAY, NOVEMBER 15, 1991

Cato Institute Wins Plaudits in Capital For Its Anti-Interventionist Philosophy

By SCOTT WOOLLEY

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—Much of this city's political establishment fears the wave of voter anger rolling across the country, but one capital institution revels in it: the Cato Institute, one of the fastest-growing think tanks here.

Suddenly, Cato's dedication to attacking the way Washington does business is in vogue. James Pinkerton, a senior Bush administration domestic policy planner, says he reads "every one" of Cato's studies. "Cato is on the forefront of a number of policy ideas," he explains. On the other side of the ideological spectrum, American Civil Liberties Union President Nadine Strossen, whose organization is considering working with Cato on a privacy study, calls the institute an "articulate, effective spokesman" for anti-interventionist views.

Anger at the way the two main political parties run the country is a way of life at the Cato Institute, which is dedicated to libertarian ideals. Edward Crane, Cato's president and founder, abhors what he perceives as the tendency of Republicans and Democrats alike to expand governmental intervention, their lip service to economic and social liberties notwithstanding.

"There is no area of human activity that is outside the sphere of government encroachment from the political perspectives of the leaders of either party," says Mr. Crane. Cato's simple yet heady goal is to shrink that sphere.

For the past decade Cato has been positioning itself to play a role in Washington while capitalizing on anti-government feelings. When it moved to the capital from San Francisco in 1981, it simultaneously began loosening its own ties to the Libertarian Party. The previous year, Cato's Mr. Crane had managed the campaign of Ed Clark, the party's presidential candidate. Now Mr. Crane disavows the Libertarian Party, saying flatly: "They have some very exotic policy prescriptions that I simply don't endorse."

For example, he disagrees with their rejection of nuclear deterrence, their desire to return to the gold standard, and their "child rights" plank, which would allow children to drink but also would have them tried as adults for crimes. The split with the party has gone so far that Mr.

Crane now even dislikes being called libertarian, preferring the labels "classical liberalism" or "market liberalism."

Abandoning the Libertarian Party has been crucial to entering Washington's political mainstream, contends Rep. Tom Campbell, who says he has worked closely with Cato on several issues, such as the budget debate and attempts to limit the regulatory power of the Food and Drug Administration. "To go the third-party route in Washington is to lose power," says the California Republican.

Cato's stance sets it apart from the three biggest Washington think tanks, which are associated with one party or the other—the American Enterprise Institute and the Heritage Foundation with the Republicans, and the Brookings Institution with the Democrats. Because Cato's policies don't consistently follow either the Republican or Democratic platforms, the institute is "free to do a lot of independent thinking," says Rep. Timothy Penny (D., Minn.).

To be sure, Cato's anti-interventionism often places it in the conservative camp. But unlike, say, the Heritage Foundation, Cato doesn't limit its laissez-faire prescriptions to the marketplace. Cato seeks to remove government from people's personal lives as well. One of its most controversial proposals, for example, is its call for the legalization of drugs. Similarly, its positions on gay rights and pornography are more like those of elements of the Democratic left.

And while Cato may get praise from the White House, Mr. Crane isn't returning the favor. He calls President Bush's record "an utter disaster." Similarly, he remains proud of Cato's stand against the Persian Gulf War, even though it hurt the institute financially by offending some contributors.

That sort of contrariness continues to build a reputation of integrity that is more valuable than ever in today's atmosphere in Washington. "I opposed their leaving [San Francisco] on the grounds that moving to Washington is a sure recipe for getting corrupted," says Nobel Prize-winning economist Milton Friedman, a long-time Cato associate. "So far I've been wrong."

"To be governed..."

If that doesn't work, we'll try good service

As the result of an agreement . . . between top [American Postal Workers Union] officers and the Postal Service, window clerk identification badges will now carry only the first name of that individual. The change is the result of numerous complaints the union received from window clerks who were receiving harassing telephone calls at their homes as a result of some postal customer looking up their last name in the telephone directory.

The union is hopeful that the change to first name only ID badges will put an end to harassing telephone calls.

— *Washington Post*, Nov. 15, 1991

At last, a good idea from Gorb

Berlin prosecutors . . . want to try [former East German leader Erich Honecker] for the deaths of about 200 East Germans shot by border guards. . . .

[Soviet president Mikhail] Gorbachev told the German magazine *Stern* this week that Honecker's is a "humanitarian" case. "If we look at the history of the past decades and use the same measure being applied to Honecker, then we would probably have to send all statesmen and government heads to jail instead of into retirement," Gorbachev said.

— *Washington Post*, Nov. 23, 1991

Robbing hood

"Our approach is simple: We believe the middle class deserves a tax cut paid for by the rich," said House Majority Leader Richard A. Gephardt (D-Mo.). . . .

— *Washington Post*, Nov. 8, 1991

It'll be a cold day in hell when government employment freezes

D.C. Mayor Sharon Pratt Dixon's administration has hired 1,061 employees in the first nine months since ordering a hiring freeze throughout the District government.

— *Washington Post*, Nov. 8, 1991

We were afraid of that

The books of the federal agency that insures employee pensions across the country are in such disarray they cannot be audited, the agency doesn't know if it is collecting all the premiums it is due from employers, and the computer system the agency uses for recording payments was down for two years, according to a congressional report released yesterday.

So extensive is the disarray that the Pension Benefit Guaranty Corp. cannot tell exactly what its potential liabilities are. . . .

The PBGC insures certain types of pension funds in much the same way

the Federal Deposit Insurance Corp. insures bank deposits.

— *Washington Post*, Nov. 8, 1991

Putting kids first

Angered by budget cuts, teachers at several Montgomery County [Maryland] high schools are refusing to write college recommendations for seniors or are agreeing to do so only if the students or their parents write county officials to request more money for education.

— *Washington Post*, Nov. 7, 1991

Stop me before I legislate again

The Senate . . . is expected to act this week on legislation that effectively would force telemarketers to ask permission before they set their machines loose on the buying public. . . .

"In the fifth century, the scourge of civilization was Attila the Hun. Today, the scourge of civilization is computerized sales calls and fraudulent 900-number sales offerings," said Sen. Ernest Hollings (D-S.C.), who introduced the bill to ban the practice unless the called party consents.

Senders of "junk fax" advertisements get similar treatment in the legislation.

— *Washington Post*, Nov. 7, 1991

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