

## TR: No Friend of the Constitution

by Michael Chapman

**W**ith corporate corruption in the headlines and the president and Congress acting to “restore confidence” in markets, many conservatives, including President Bush, have adopted Theodore Roosevelt, the Republican “trust buster,” as a role model for the kind of president America needs today. In August, Bush held a press conference on the economy with Mount Rushmore—and Roosevelt’s colossal face—in the background. A three-volume biography of TR is selling well, and many in the conservative media constantly drop Roosevelt’s name. A reporter recently asked President Bush if he thought the business world today mirrored that of TR’s presidency (1901–09) and if Bush should “respond as aggressively as Roosevelt did.” TR is touted as a strong, decisive leader; a war hero; and a man who seemed to embody what America was all about and ought to be again.

Yet the facts show that President Theodore Roosevelt didn’t care much for the Constitution, limited government, private property, or people who were not of white European stock. Roosevelt was an imperialist and defender of the national interest. And he believed it was his job to define that interest. “I don’t know what the people think, I only know what they should think,” said Roosevelt. The “ability to fight well and breed well” and “subordinate the interests of the individual to the interests of the community,” said TR, was crucial to “true national greatness.” It seems odd, then, that conservatives view TR as a hero. But, given the neoimperialist bent of many of today’s conservatives, perhaps TR is the man for the right to emulate. Let’s look at his record.

*Michael Chapman is editorial director at the Cato Institute.*

**Cato adjunct scholar Vernon L. Smith, a pioneer in the field of experimental economics, discussed his work at a Cato Institute Roundtable Luncheon on Friday, October 4, just five days before he was awarded the 2002 Nobel Prize in economics. Smith, who spent 26 years at the University of Arizona before moving his Economic Science Laboratory to George Mason University in 2001, has written for Cato Journal, Regulation, and the Cato Policy Analysis series.**



Roosevelt served as assistant secretary of the Navy under President McKinley in 1897. In that job, TR agitated for war with Spain. He got it, first in Cuba. He formed a cavalry unit, the Rough Riders, which stormed up San Juan Hill in Cuba and defeated a group of poorly equipped Cubans. Then, when Congress was in recess in the summer of 1898, Roosevelt ordered the U.S. fleet to the Philippines. Fighting alongside nationalist guerrillas, to whom we had promised independence, U.S. forces suffered 4,000 dead and Filipino rebels 20,000 dead. The war also caused the death of some 200,000 noncombatant Filipinos, including women and children. As *Philadelphia Ledger* writer J. Franklin Bell reported: “Our men have been relentless; have killed to exterminate men, women, children, prisoners and captives . . . from lads of 10 and up, an idea prevailing that the Filipino, as such, was little better than a dog. . . . Our men have pumped salt water into men to ‘make them talk’ . . . [then]

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# Thinking Outside the Box



**T**wo years ago in this space, just prior to the 2000 elections, I wrote, “I can safely predict the percentage of incumbents seeking reelection who will win: 98 or 99.” The actual percentage was 98.6. I say that, not to flaunt my perspicacity, but to make a point about what I’ll call the political pathologies that grow out of such an uncompetitive electoral environment. When incumbency becomes an end in itself—much more important than ideology—good government and sound public policy are the victims. Instead of

the fresh breeze of an open debate over policy, we end up with the dank stillness of a faux debate.

With that happy thought in mind, I hereby offer some common-sense ideas to improve the American polity.

**Understand Corporate Malfeasance.** The herdlike instinct that led Congress to almost unanimously vote for the ill-conceived Sarbanes-Oxley bill threw hundreds of millions of dollars at the Securities and Exchange Commission and created an oversight board for the accounting profession. Corporate CEOs and CFOs face jail time if some smart trial lawyer convinces a lay jury that their financial statements were intentionally misleading. As if accounting were some kind of science. Actually, less oversight would improve the situation. The Financial Accounting Standards Board holds an SEC-granted monopoly on accounting standards in the United States. All public companies must comply with FASB standards. Problem is, because the FASB is a monopoly, there is no competition in accounting standards. Such competition would reward more transparency and conservative standards. As it is now, every company in the nation lobbies the FASB to tweak this rule or include that regulation. The result? No fewer than 803 pages of the FASB standards are devoted to the treatment of derivatives alone. Simplify the tax code and end the FASB monopoly and we will have gone a long way toward cleaning up corporate scandals.

**Get Our Troops Out of Saudi Arabia.** National Security Advisor Condoleezza Rice likes to say that U.S. foreign policy should reflect our values. It should. That’s why it is insane for us to have some 6,000 Air Force personnel stationed in Saudi Arabia, which is ruled by one of the world’s most despicable regimes. The barbaric treatment of women and the general thuggery of the “royal” family are bad enough. In addition, the House of Saud is the principal funder of the radical Islamist movement, including hundreds of schools around the world—some right here in the United States—that teach hatred for our way of life. The world looks at our cozy relationship with this miserable regime and thinks ill of us. If the troops are there to guarantee access

to cheap oil, then the feds need some economic lessons. What is any regime in Saudi Arabia going to do with its oil, drink it? They will sell it, and since it is a fungible commodity it doesn’t matter to whom it is sold. Eventually our gas-guzzling SUVs will be sated.

**Support Education Tax Credits.** In Ohio’s *Zelman* case the Supreme Court approved school voucher programs. More important, they approved school choice. Vouchers are a huge improvement over the failed monopoly public education system we have today. But they do represent a threat of increased government regulation of private schools that accept vouchers. Clint Bolick and others argue persuasively that this threat is overblown, and they may be right. But it seems clear to me that tax credit scholarship funds offer choice with much less risk of regulation. The credits have to be large and should include both individuals and corporations. The choice of giving money to a bloated state government or providing a decent education for kids is an easy one. The net result will also save the state money.

**Support Social Security Choice.** The Cato Institute caught some flak from friends and foes alike when we changed the name of our Project on Social Security Privatization to the Project on Social Security Choice. Were we selling out? Cato? No way. Of course we support Social Security privatization. Always have, always will. Republicans don’t want to use the word “privatization” because they’re not very good at defending the concept, to the extent they even understand it. We changed the name because private ownership and choice are the key elements of the proposal. It is those two elements that allowed Jose Piñera to convince Chileans in 1980 to opt for their incredibly successful privatization of social security.

We felt that the “choice” part of the proposal wasn’t getting enough attention.

That said, why in the world are Republicans running away from this issue? A Zogby International Poll commissioned by Cato this summer showed 68 percent support for the concept! Under the current system you have no ownership of the funds you earn and pay to the federal government. What you get is entirely up to 535 politicians. Under a privatization plan you would own the assets the money you earned purchased. How does one lose that debate?

So, those are my thinking-outside-the-box ideas for this issue of *Cato Policy Report*. Common-sense suggestions to make America a better place in which to live. Sadly, common sense doesn’t pack much punch on Capitol Hill.

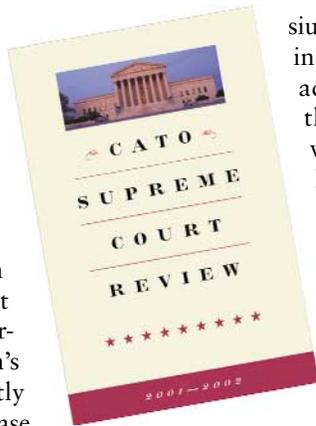
—Edward H. Crane

**“The Financial Accounting Standards Board holds an SEC-granted monopoly on accounting standards in the United States.”**

A new annual review of Supreme Court decisions

# Cato Launches *Cato Supreme Court Review*

In a better world, the Supreme Court would be boring. Although changing circumstances might occasionally raise a novel question—what counts as an “unreasonable search” on the Internet?—the Court’s decisions would be rendered largely predictable by a straightforward reading of the Constitution’s text. In the actual world, of course, even legal experts familiar with the elaborate layers of interpretive theory manufactured by the Court over the years may be unsure how those nine dice will fall in any given case. On September 17, the Cato Institute’s Center for Constitutional Studies held a symposium dedicated to narrowing the yawning chasm between the two worlds. The event celebrated both the anniversary of the Constitution’s signing and, only slightly less momentous, the release of the first issue of the annual *Cato Supreme Court Review*.



As editor in chief James Swanson writes in his introduction, the *Cato Supreme Court*

*Review* differs from the vast majority of other law journals in several ways. It appears relatively soon after the close of the Court’s term; is written for a general audience of educated readers, rather than in the arcane language of lawyers; and, perhaps most rare of all, analyzes legal decisions from a classically Madisonian perspective, which takes seriously the idea that government’s powers are meant to be clearly defined and few in number.

Several speakers at the symposium summarized pieces appearing in the journal. Cato’s Roger Pilon addressed a Takings Clause case, the subject of an article by University of Chicago law professor Richard Epstein, in which the Court rejected the idea that landowners near Lake Tahoe were due compensation after a series of development moratoria prevented them from building on their land for almost two decades. Pilon joined Epstein in lamenting the Court’s rejection of bright-line standards in favor of vague, ad hoc balancing tests and added his own analysis, grounded in natural law theory.



**James Swanson, editor in chief of the *Cato Supreme Court Review*, welcomes Judge Douglas Ginsburg, chief judge of the U.S. Court of Appeals for the D.C. Circuit, who delivered the first annual B. Kenneth Simon Lecture at Cato’s Constitution Day launch of the review.**

Other Cato scholars who discussed their articles in the *Cato Supreme Court Review* included Swanson, Robert Levy, and Timothy Lynch. Levy argued that the doctrine of states’ “sovereign immunity” from certain lawsuits has become utterly detached from the text of its constitutional source,

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Debates on terrorism insurance, Iraq, China, and more

# “Social Security 101” on Capitol Hill

◆ **July 23:** Milton Mueller, author of *Ruling the Root: Internet Governance and the Taming of Cyberspace*, had harsh words for the Internet Corporation on Assigned Names and Numbers at a Cato Book Forum, “Who Rules the Root? ICANN, Domain Names, and the Battle over Internet Governance.” Mueller characterized ICANN as an unaccountable de facto regulator controlled by narrow interests. Harold Feld of the Media Access Project called it a “house of cards,” saying that ICANN “recapitulates the FCC, and does it badly,” but Ira

go, which he said denied U.S. resources to the Castro regime.

◆ **July 30:** Cato scholars faced down representatives from the U.S. Department of Justice and the National Rifle Association in tag-team debate at a Cato Policy Forum, “Federalism under the Gun: Banning City Lawsuits, Federalizing Gun Crime.” Andrew Hruska attempted to defend the DOJ against the charge, leveled by Cato senior editor Gene Healy, that federal prosecution of gun crimes is an “insultingly unconstitutional” usurpation of state police powers. Robert A. Levy agreed with the NRA’s Todd Adkins that lawsuits seeking to hold gun makers liable for gun crimes are frivolous but argued that it is for state courts and legislatures, not Congress, to set the boundaries of tort liability.

◆ **July 31:** With Congress rushing to approve the proposed Office of Homeland Security, a Cato Policy Forum paused to ask, “Will a New Federal Bureaucracy Make Us More Secure?” Dave McIntyre of the ANSER Institute for Homeland Security and Michele Flournoy of the Center for Strategic and International Studies were both supportive of the OHS in something like its proposed form, but University of Maryland professor I.M. Destler questioned the wisdom of uprooting parts of existing agencies and bringing them under OHS authority. Cato’s Ivan Eland argued that Congress should “cut before pasting, rather than paste before cutting” and streamline the relevant departments independently before creating a new department.

◆ **August 26:** Cato’s series of Social Security University briefings on Capitol Hill began with a crash course in the program’s history, structure, and fiscal problems. At the inaugural session of Social Security University, “Social Security 101: The Program and the Problem,” broadcast live on C-SPAN, Cato scholars Andrew Biggs and Michael Tanner explained how the system is funded, the formula used to calculate benefits, the demographic trends that threaten to bring about Social Security’s collapse, and why the trust fund will provide no aid in meeting obligations to retirees. They then

sketched the case for private accounts, showing how reform would return the system to solvency while giving workers greater control over their retirement income.

◆ **August 27:** In the second installment in Cato’s Social Security University series, “Individual Accounts: Facts and Fantasy,” Andrew Biggs laid out the case for moving to a system of voluntary, privately owned retirement accounts; defended the recommendations of the President’s Commission to Strengthen Social Security, on whose staff he served; and rebutted the major objections to personal accounts. Biggs answered concerns about transition costs, the progressivity of reform plans, and the risks of investment, as well as misleading charges that reform would “cut benefits.”

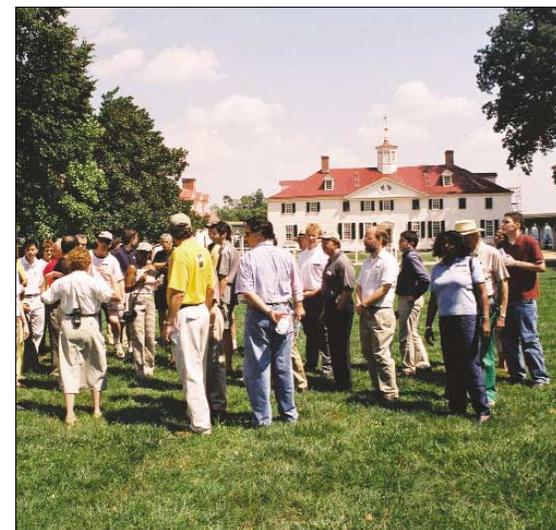
◆ **August 28:** Critics of plans to establish private accounts as part of Social Security are seldom eager to offer reform proposals of their own. In part three of Social Security University, “The Alternatives to Individual Accounts,” Michael Tanner and Andrew Biggs made the reason for that clear by examining the most prominent alternatives to individual accounts. Tanner and Biggs summarized the plans offered by Al Gore, Rep. Peter DeFazio (D-Oreg.), Brookings Institution scholars, Rep. Robert



**Economist Anne Gron of Northwestern University questioned the need for government terrorism insurance at a Cato Policy Forum on September 23.**

C. Magaziner, the Clinton administration’s Internet czar, and former ICANN head Michael M. Roberts argued that ICANN had succeeded in its primary purpose of preserving network stability.

◆ **July 25:** A member of Congress, an ambassador, and an expert on Cuba debated the question, “Will U.S. Trade with Cuba Promote Freedom or Subsidize Tyranny?” at a recent Cato Policy Forum. Rep. Jeff Flake (R-Ariz.) opposed the embargo, saying that it has allowed Castro to blame the United States for the failures of socialism. Philip Peters of the Lexington Institute conveyed the desire of Cuban citizens for both the jobs increased tourism would bring and the ability to more easily collaborate with pro-democracy activists. Amb. Dennis K. Hays of the Cuban American National Foundation provided the lone defense of the embar-

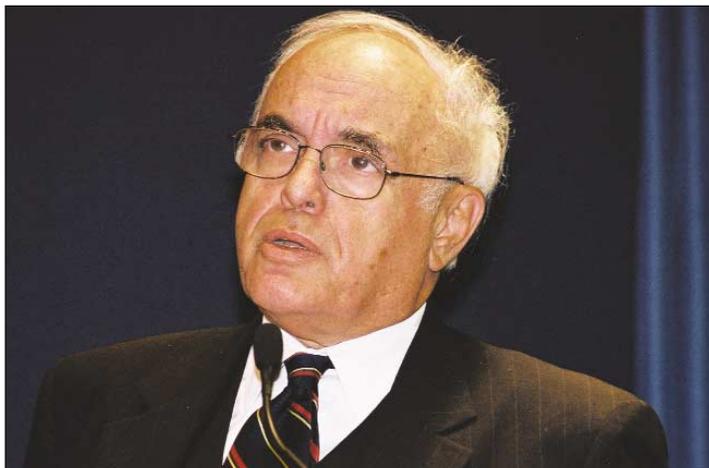


**Cato University participants took a special tour of George Washington’s home, Mount Vernon, on July 31.**

**P. J. O'Rourke, Cato's Mencken Research Fellow, speaks at a Cato Institute reception at the Chicago Mercantile Exchange on September 18.**



words, “don’t like elections. They like coronations.”



**At a Policy Forum on the 2002 elections, moderator Robert Novak of CNN noted that “politicians don’t like elections. They like coronations.”**

◆**September 9:** Foreign policy experts at a Cato Forum asked, “Is China’s Military Modernization a Threat to the United States?” Ross Munro of the Center for Security Studies said that internal Chinese military documents made clear that “long-term Chinese strategy views the United States as its adversary,” a view seconded by Bernard Cole of the National War College. George Washington University’s David Shambaugh summarized the rapid changes in China’s armed forces. Shambaugh and Cole had a less pessimistic estimate of the Chinese military threat than did Munro. Although Munro questions Chinese intentions, even he admits that militarily China is “far, far behind the United States.”

**Cato senior fellow Stephen Moore presents an “A” grade to Colorado Gov. Bill Owens at a National Press Club news conference to release Cato’s sixth biennial “Fiscal Policy Report Card on America’s Governors.” Georgia Gov. Roy Barnes (left) received a “B.”**



◆**September 10:** The first in a series of Cato Forums on young Americans and Social Security looked at “Young Workers’ Unique Stake in Social Security Reform.” Third Millennium’s Meredith Bagby and Matthew Moore of the National Center for Policy Analysis said that young workers, who stand to lose the most as Social Security becomes insolvent, should begin to worry about the system’s long-term fiscal problems. The Economic Policy Institute’s Sarah Harding, however, claimed that the Social Security crisis had been exaggerated, and Shaun O’Brien of the AFL-CIO worried that reforms would “threaten the integrity” of Social Security. Cato analyst Andrew Biggs said that such charges were the equivalent of a “shell game,” that critics were comparing the expected benefits under a system of private accounts with the unrealizable promises made by the current system.

Matsui (D-Calif.), the National Council of Women’s Organizations, and several other groups and pointed out that none of them fare well in comparison with personal accounts.

◆**August 29:** In the wake of recent turmoil in the market, Republicans in Congress have been distancing themselves from Social Security reform as frantically as investors dropping dot-com stocks. But pollster John Zogby told an audience of Capitol Hill staffers during “The Politics of Social Security Reform” that a survey of likely voters conducted at one of the stock market’s lowest points found that 68 percent of respondents

supported plans to allow workers to invest a portion of their payroll taxes.

◆**September 5:** CNN’s Robert Novak moderated a panel discussion on the midterm election, “Election 2002: What’s at Stake?” Expert observers Larry Sabato and Ron Faucheux ran the numbers and predicted that November would see no major power shifts in Congress. Cato’s John Samples and Patrick Basham reported that, while public sentiment continued to favor smaller government, incumbents had such enormous advantages that this would be unlikely to translate into policy change or competitive elections. “Politicians,” in Novak’s

◆**September 12:** A panel of experts delivered the second installment in Cato’s series on young Americans and Social Security at a briefing on Capitol Hill, “How Would the President’s Commission’s Plans Affect Younger Americans?” Detailed economic analysis was given by Charles P. Blahous, executive director of the President’s Commission to Strengthen Social Security; University of Illinois finance professor Jeffrey Brown; Heff

*Continued on page 6*

**Cato University participants talk with economist Walter Williams after his closing talk at the summer seminar.**



**EVENTS** *Continued from page 5*

Lemieux, an economist with the Progressive Policy Institute; and Dartmouth College economics professor Andrew Samwick. Kent Smetters, a professor of insurance and risk management at the Wharton School of Business, delivered an extended talk in which he argued that both advocates and opponents of reform were guilty of oversimplifying a complex issue.

◆ **September 13:** If the United States is not careful, warned Ted Galen Carpenter at a Cato Hill Briefing, the war on terror could transform this country into a new Roman Empire. At “From Homeland Defense to Nation Building: A Foreign Policy for a Constitutional Republic,” Carpenter stressed the importance of resorting to military action only when America’s vital interests are at stake. Cato senior fellow Doug Bandow observed that a long record of failure at nation building, including attempts in Haiti, Kosovo, Somalia, Lebanon, and Bosnia, was unlikely to be broken if the United States tried to occupy Iraq.

◆ **September 17:** This Constitution Day, the Cato Institute celebrated both the anniversary of the Constitution’s signing and the inaugural issue of the annual *Cato Supreme Court Review* with a symposium titled “The Supreme Court: Past and Prologue—A Look at the October 2001 and October 2002 Terms.” The first two panels discussed decisions from the 2001 term with implications for school choice, the First Amendment, regulatory takings, federalism, the drug war, and plea bargaining in criminal prosecutions. Speakers included Judge Stephen F. Williams; attorney C. Boyden Gray; ACLU legal director Arthur B. Spitzer; Dean Douglas Kmiec of Catholic University’s School of Law; and Cato scholars James L. Swanson, Roger Pilon, Robert A. Levy, and Timothy Lynch. A third panel moderated by Duke University law professor Walter Dellinger summarized cases to be heard in the coming term. The speakers were James Bopp Jr. of the James Madison Center for Free Speech, who will lead a challenge to campaign finance restrictions; Thomas Goldstein, who is slated to argue two cas-



**At a Cato Policy Forum Glenn Hubbard, chairman of President Bush’s Council of Economic Advisers, defended the need for government reinsurance to deal with the risk of terrorism.**

es before the Court this term; and attorney Erik S. Jaffe. Following a dinner reception, Judge Douglas H. Ginsburg delivered the first B. Kenneth Simon Memorial Lecture.

◆ **September 19:** A bill sponsored by Rep. Howard Berman (D-Calif.), which would allow copyright owners to hack peer-to-peer networks in order to prevent trading of their intellectual property, has provoked fierce debate among technology commentators. That debate continued at a Cato Forum, “Copy Fights: Can Politicians or Entrepreneurs Best Protect Intellectual Property?” Alec French, counsel for the Subcommittee on Courts, the Internet and Intellectual Property of the House Committee on the Judiciary, said the bill merely allowed the online equivalent of retrieving a stolen bicycle from a thief’s front yard, a view shared by Smith College economist James Miller and Troy Dow of the Motion Picture Association of America. John Mitchell of Public Knowledge, attorney Phil Corwin, and Ed Black of the Computer and Communications Industry Association, however, said that the power granted to copyright owners under Berman’s bill was unprecedented.

◆ **September 19:** At the third of Cato’s Forums on young Americans and Social

Security, “Savings, Investment, and Young Americans,” teenaged investment writer Chris Stallman of TeenAnalyst.com and American Express financial adviser Jonathan Harel stressed the importance of beginning to save for retirement at an early age. Jacqueline Mosso of Prudential Financial agreed and worried that young workers are not sufficiently concerned or informed about retirement planning. Demographics expert Neil Howe gave an overview of generational trends in the United States.

◆ **September 20:** At a Cato Hill Briefing, two Cato scholars asked, “Would Attacking Iraq Increase or Decrease U.S. Security?” and concluded that it would decrease U.S. security. Defense analyst Charles Peña stressed Iraq’s limited ability to harm U.S. interests, and Ivan Eland presented a David Letterman-style list of the top 10 reasons not to invade.

◆ **September 23:** George Mason University law professor Todd Zywicki and University of Maryland economist Lawrence Ausubel debated the merits of a proposal to make it more difficult to declare some kinds of bankruptcy at a Cato Forum, “Will Bankruptcy Reform Make the System More Equitable and Efficient?” Zywicki voiced approval for reforms, saying that debt was too easi-

ly discharged under current law, which makes credit tighter for even honest borrowers. Ausubel charged that the reform proposal was "basically written by lobbyists for Visa" and argued that it failed to address adequately the most common abuses.

◆ **September 23:** Since September 11, 2001, insurance companies have been wary of taking on risk associated with terrorist attacks. Insurance experts considered proposals to have the government pick up the slack at a Cato Forum, "Insuring against Terror: Is There a Role for Government Reinsurance?" Council of Economic Advisers chairman Glenn Hubbard was more sympathetic to the idea than was Northwestern University economist Anne Gron or University of South Carolina finance professor Scott Harrington, but all stressed that any government insurance should be explicitly temporary and tailored to interfere minimally with market solutions. Debra Ballen of the American Insurance Association, however, argued that federal action was needed in light of state regulations that hamper private insurers.



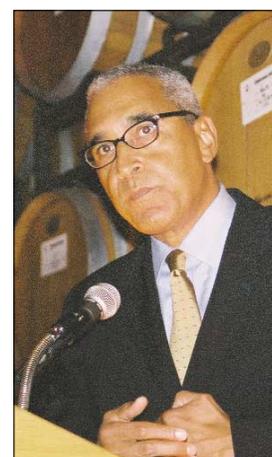
Cato vice president James A. Dorn speaks at the Asia-Pacific Democratic Cooperation Forum in Taipei in late August.

◆ **September 24:** A panel of experts examined the danger posed by terrorist hackers at the Cato Forum "Digital Pearl Harbor: How Real Is the Cybersecurity Threat, and Who's Responsible Anyway?" Microsoft's chief security strategist Scott Charney and Ira Parker of Genuity discussed potential threats, offering such disturbing scenarios as hackers shutting down airport com-

munications networks or disabling phone systems just before a physical attack. Security expert Warren Axelrod, Verisign's Ken Silva, and Donald A. Purdy of the President's Critical Infrastructure Protection Board emphasized that the private sector was insufficiently prepared to deal with cyberterrorism and would have to step up security efforts if it were to preempt potentially clumsy government regulation.

◆ **September 24:** The final installment in Cato's series of Forums on young Americans and Social Security looked at "The Politics of Social Security Reform." Lex Paulson of College Democrats of America said that confidence in markets was on the decline, but Cato's Andrew Biggs countered that a recent Zogby poll revealed no diminution in support for private accounts among the young. Hans Riemer of the Campaign for America's Future argued that, although the issue was salient to older voters, people in their 20s were unlikely to base their votes on it. All the more reason, replied Jennifer Olson, a legislative assistant to Rep. Jim Kolbe (R-Ariz.), to educate the young about the problems with Social Security. Bruce Tulgan of Rainmaker Thinking gave the keynote address, in which he said that, although workers in their late 20s and early 30s were largely distrustful of government's promises, their younger siblings appear to be more trusting and optimistic.

◆ **September 25:** Genetic technologies have the potential to revolutionize agriculture by increasing crop yields and reducing dependence on pesticides. In Europe, however, there is widespread concern that so-called Frankenfoods may harm human health or unbalance delicate ecosystems. At the Cato Forum, "Food Fight: The Loom-



Guest speakers at the annual Cato Club 200 retreat in Carmel were UCLA professor Gregory Stock, author of *Redesigning Humans: How Technology Will Redefine the Human Form and Character*; Shelby Steele of the Hoover Institution, author of *A Dream Deferred: The Second Betrayal of Black Freedom in America*; and J. Craig Venter, who cracked the human genome at Celera Genomics.

ing U.S.-EU Conflict over Plant Biotechnology and Trade," Cato adjunct scholar Ronald Bailey said that such fears were utterly without scientific foundation. Sarah Thorn, speaking for the Grocery Manufacturers of America, said European Union labeling requirements would be an undue burden on American agriculture. Alan Larson of the U.S. Department of State blasted the EU moratorium on importation of biotech crops as an "unlawful act" under international trade agreements. Despite the scientific consensus, Tony Van der haegen, who is with the Delegation of the European Commission to the United States, noted that 50 percent of Europeans believe that genetically modified organisms are dangerous.

◆ **September 30:** The enormous political power of teachers' unions came under scrutiny at the Cato Forum, "Schoolyard Bullies: How the NEA and AFT Maintain a Stranglehold on Teachers and Politics." Mark Levin of the Landmark Legal Foundation recounted his attempts, unsuccessful so far, to hold the NEA accountable for outright lies to the IRS about its political spending. Education Policy Institute chairman Myron Lieberman and Stefan Gleason of the National Right to Work Legal Defense Foundation argued that the unions should be stripped of legal privileges that squelch competition in the market for labor representation. ■

# On the Hill: Terrorism, Defense, and Iraq

**T**he Cato Institute has been holding a series of Capitol Hill Briefings for congressional staffers. Two recent briefings concerned current foreign policy issues. At “From Homeland Defense to Nation Building: A Foreign Policy for a Constitutional Republic,” senior fellow Doug Bandow and Ted Galen Carpenter, Cato’s vice president for defense and foreign policy studies, discussed foreign policy principles and their current application. Ivan Eland, director of defense policy studies at Cato, spoke at “Would Attacking Iraq Increase or Decrease U.S. Security?” Excerpts from their remarks follow.

**Ted Galen Carpenter:** It is imperative that we understand the proper nature of our war against the people who committed the September 11, 2001, atrocities. We need to keep our eye on the prize. The adversary is Osama bin Laden’s al-Qaeda network and its Taliban allies. That war is not even close to being finished, though we like to pretend that it is.

Al-Qaeda and the Taliban have been badly damaged: they have been deprived of their base in Afghanistan. But there are al-Qaeda cells in numerous countries, and there are significant concentrations of al-Qaeda and Taliban fighters in Pakistan. It is one of the bitterest ironies of this war against terrorism that we seem

to be willing to do almost anything—go to war against Iraq, send training missions to the Philippines and Georgia—but discomfort our noble ally in Pakistan, the military dictator of that country, General Musharraf, by going where the Taliban and al-Qaeda are now located. Such a military campaign needs to be the next stage.

We must not allow the war against the September 11 attackers to become an amorphous war against terrorism per se. There are lots of insurgent movements in the world, and most of them, from time to time, use terrorist tactics. But they have adversaries other than the United States. The Irish Republican Army may still be a problem for Great Britain. The Basque separatists

may be a problem for Spain. The Kashmiri insurgents certainly are a problem for India. The FARC rebels in Colombia are a problem for that country’s government. But those insurgents do not generally attack American targets. They are not necessarily our adversaries. If we declare a war on terrorism per se, we make other countries’ enemies our enemies, and I would argue we have enough enemies of our own. We don’t need to acquire others needlessly.

In addition, the war on terrorism should not become a pretext for such things as settling old scores against Saddam Hussein. A war against Iraq would be a dangerous distraction for the United States. If we go to war against Iraq, the happiest person in

ic instances. Strategic independence is a restrained unilateralism, in marked contrast to the kind of muscular, belligerent, imperial unilateralism advocated by some neoconservatives and others in the United States.

Strategic independence rejects the role of America as the world’s policeman, and it equally rejects the role of America as the world’s social worker. It would husband America’s great economic, political, and strategic advantages—and we have them beyond anything any other great power in history could ever imagine. We ought to exploit those advantages and not waste them frivolously.

I would also argue that strategic independence is the only foreign policy consistent with the values of a constitutional republic. That is a very important point. The Founders did not design America to be an empire, and America is not well suited institutionally to being an empire. If we try to play that role, we are going to transform this country domestically as well as internationally, and do so in most undesirable ways.

The reality is that mobilizing for war, always staying mobilized for war, and waging wars incessantly will have crucial domestic consequences. That kind of mobilization means that, inevitably, regardless of anyone’s

intentions, power flows from the private sector to government. Within the government sector, it flows from the state and local levels to the federal level. And at the federal level it flows from the judicial and legislative branches to the executive branch. That is not healthy for a pluralistic society.

We ought to make the distinction that Secretary of State John Quincy Adams made back in 1821 (his principles are just as applicable today as they were then). He emphasized that America did not go abroad in search of monsters to destroy, that it was the well-wisher to the freedom and independence of all, but it was the defender and vindicator only of its own.

Those words have been quoted on a



**Doug Bandow and Ted Galen Carpenter discuss U.S. foreign policy at a Capitol Hill Briefing on September 13.**

the world, assuming he is still alive, would be bin Laden, because we would take him out of the cross hairs and focus on Iraq and Saddam instead. And we would move one step closer to transforming this war from a war against the murderers of September 11 into a general struggle between the West and the Islamic world. That is exactly what bin Laden wants.

The United States needs a new foreign policy of strategic independence, with one basic principle: don’t get involved in other people’s fights unless America’s own vital interests are at stake. In the security realm, that generally means unilateralism rather than multilateralism, but it does not necessarily foreclose multilateralism in specif-

## “U.S. leadership is inevitable. Real leadership means using our attributes with discernment, carefully weighing costs and benefits.”

number of occasions, but Adams had something more to say. And it showed that his principles and the principles of the founding generation and the next generation were designed not just for a weak America but for a strong America as well. Adams warned that if we ever abandoned that distinction, America might become the “dictatress of the world”—it was potentially that strong—but it would no longer be the master of its own spirit.

That is an absolutely fundamental consideration when we adopt a foreign policy. We don’t want to transform America into the new Rome—and I mean the Roman Empire not the Roman Republic—and yet—I think we are in grave danger of doing exactly that.

**Doug Bandow:** U.S. leadership is inevitable. We have the largest, most productive economy on earth. We have a globally dominant culture. We have a political philosophy that is enormously attractive abroad. This country is going to be a superpower almost in spite of itself.

Real leadership means using all of those attributes with discernment, carefully weighing costs and benefits. It does not mean jumping into every conflict, every dispute, every source of instability and trying to “fix” it. It is particularly important to recognize that 280 million Americans have no monopoly on the knowledge and understanding necessary to try to resolve conflicts around the globe.

The danger of this kind of “fatal conceit,” which Friedrich Hayek talked about, is readily evident when it comes to domestic social engineering. It is even more problematic when we go international. Indeed, if you start looking around the world at America’s attempts at nation building, it is very hard to find successful examples. When we point to Bosnia or Haiti or Kosovo or Lebanon or Somalia, where are the great successes?

In Bosnia, we have an artificial state that two-thirds of the people would like to leave immediately, a state which exists only because we have imposed a high representative who makes decisions about what the flag will look like, who decides what the national anthem will be, who decides on the cur-

rency, who has the power to throw out elected officials that he doesn’t like, and who demands that the media run video clips of the American secretary of state. Well, that may be democracy, but it is more Boss Tweed democracy than anything I would care to see.

We managed to move Haiti from military dictatorship to presidential dictatorship. In Kosovo we saw a quarter of a million Serbs, Jews, Gypsies, and even non-ethnic Albanian Muslims ethnically cleansed after we were technically in charge. Lebanon was a wonderful success; 241 marines were blown up at the U.S. barracks. Somalia remains in chaos. Where are the successful examples of nation building?

About the only places where one can argue that nation building worked in any sense are Germany and Japan. But those countries had been totally defeated in war, and their political leaderships had been completely discredited. There were significant reservoirs of legal, cultural, and economic traditions there that could be called upon. Those ethnically homogeneous societies were in fact real countries that had had real governments, in contrast to most of the places around the globe where we are trying to build nations. Very few failed states have even one of those characteristics, let alone all of them. To point to Germany and Japan as examples of what America could do in Iraq or in Afghanistan points very far afield.

Today the argument is that we need to nation build to stop terrorism. That, of course, is the issue in Afghanistan. We look at Afghanistan and say, this shows why we have to nation build; look at what happened there! But Afghanistan actually shows the *limits* of nation building. There is, of course, the charge that the United States made a major mistake by “abandoning” Afghanistan after the Soviets were forced from that country. But it is not at all clear to me what Washington was supposed to



**Ivan Eland responds to a question at a Capitol Hill Briefing on September 20 as senior defense policy analyst Chuck Peña and director of government affairs Susan Chamberlin listen.**

do once the mujahideen had driven out the Soviets. Put in a major military force to impose a central government—rather like the Soviets had tried? That didn’t seem to work very well. Simply hand out more money to the same groups that we funded to actually drive out the Soviets? That would have put more money into the hands of radical Muslims who today are terrorists. What policy could we have conceivably followed at the end of that war to build Afghanistan? It’s very hard to imagine.

Indeed, Afghanistan’s problems result from far too much outside intervention: a coup d’état, Soviet intervention, Pakistani support for the Taliban, and America’s funneling of aid to the worst and the most radical elements there. The problem was not that we didn’t intervene enough. The problem was that the United States and other outside powers got involved and destroyed the domestic political process.

Terrorism can arise in two different circumstances. The first is a situation of chaos, where there is simply no central power—no power to stop terrorists from being active. The second is where you have government support for terrorists, as we had with the Taliban. But of course, these are very different circumstances. In the case of chaos, yes, terrorists can operate in that environ-

*Continued on page 10*

# “An invasion of Iraq could destabilize several countries—Turkey, Jordan, Egypt, Kuwait, and Saudi Arabia. I think you would see an Islamic backlash throughout the region.”

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

ment, but they are also uniquely vulnerable. Without state support, the best answer is military action against them. Take them out. Quite bluntly, kill them.

Where you have government support, the best response is to focus on the government with a policy of deterrence. The ruling elites in societies that support terrorists should understand that they will no longer be ruling elites. Certainly that's the lesson of Afghanistan: if you're the Taliban and you harbor terrorists, you will no longer rule the country. And that is a lesson we will apply to other nations.

Unfortunately, nation building as a solution may be far harder than trying to stop terrorism. Nor is nation building likely to be sufficient to stop terrorism. Consider

the fact that al-Qaeda is estimated to be active in 68 different countries in one form or another. Are we going to nation build every one of those? And how about the 42 other terrorists groups that are active in various countries? How many candidates for nation building do we want to take on?

I would far prefer to focus on stopping terrorism than on nation building. What we want, frankly, is victory and deterrence; we don't want nation building. If nation building is really necessary in a specific instance, let's do it. But that is not the goal; it's the means. The goal has to be to stop terrorism.

**Ivan Eland:** An invasion of Iraq could destabilize several countries—Turkey, Jordan, Egypt, Kuwait, and Saudi Arabia. The radical Islamic groups in those countries could put pressure on the governments because the United States would be invading another Islamic country. The analysts at Cato strongly supported the war in Afghanistan because we felt that the United States had been attacked and that we needed to take robust military action against al-Qaeda. And there was no backlash in Afghanistan because, even in the Islamic world, people believe that countries do have a legitimate right to self-defense. In the case of an attack on Iraq, which has no demonstrated link to September 11, 2001, many people would say that it is not self-defense, and I think you would see an Islamic backlash throughout the region.

The United States put a lot of pressure on Pakistan to round up Taliban and al-Qaeda members, and justifiably so. But the leader in Pakistan is hanging on by his fingernails. Being allied with the United States is not conducive to his survival there. If the United States attacks another Islamic country, I think he is going to face even more pressure. I think we should actually worry more about Pakistan than Iraq, because Pakistan is very unstable and *already* has nuclear weapons. And we could have an Islamic radical state with nuclear weapons if the United States destabilizes the Middle East and the Central Asian region through an invasion of Iraq.

A U.S. invasion of Iraq would not be a “preemptive attack.” The president is using

that term to sell the policy, but it would be a *preventive* attack. A preemptive attack is what the Israelis did against the Arabs in 1967: they detected that an Arab attack was imminent, so they attacked first to get the advantage. In this particular case, the United States would be launching a preventive attack, an attack to defeat a country before it becomes a threat. That policy is contrary to what the Founders envisioned. They envisioned a country that would engage in self-defense, not adventures around the world.

The U.S. military, if you read between the lines of newspaper stories, has never been enthusiastic about invading Iraq—first, because of the possible use of weapons of mass destruction against our troops and, second, because of the potential for high casualties in urban fighting. Urban fighting is very difficult, because ground forces have to take built-up areas block by block, house by house. One sniper can hold up whole units in urban areas. It is sort of like fighting in the mountains or in the jungle—the defense has a tremendous advantage.

In the urban areas, Saddam is already putting his command-and-control facilities and military units among civilians, near schools and hospitals. There is going to be a lot of pressure in the United States to hold down casualties of Iraqi civilians; that may be difficult to do with airpower alone. So I think we may have to go into urban areas on the ground, and we have to ask ourselves if we are willing to do that.

Now, we hear much about Iraq's support for terrorism. And, yes, Iraq does support groups that are on the U.S. terrorist list. But that list includes many groups that do not really focus their attacks on the United States. Iraq has sponsored terrorism against Iraqi opposition figures overseas and also against groups that operate in the Middle East. If we are talking about state sponsorship of terrorism, the number one culprit is Iran, followed by Syria. In fact, in a number of the Bush administration's indictments, Iraq doesn't even bubble up to be number two. For example, North Korea probably already has the fissionable material to build two nuclear weapons, and it has a much more erratic leader than Saddam.

## Cato Calendar

### Telecom and Broadband Policy After the Market Meltdown Sixth Annual Technology & Society Conference

Washington • Cato Institute  
November 14

Speakers include James Glassman,  
Robert Crandall, and Tom Hazlett.

### New York City Seminar

Waldorf-Astoria • November 15

Speakers include Robert Novak  
and John McWhorter.

### San Diego City Seminar

San Diego Marriott & Marina  
December 11

Speakers include Dinesh D'Souza  
and Michael Robertson.

### Los Angeles City Seminar

Westin Bonaventure • December 12

Speakers include Dinesh D'Souza  
and David Fleming.

### 15th Annual Benefactor Summit

Naples, Florida • LaPlaya Beach Club  
& Resort • February 26–March 2

Speakers include Gov. Gary Johnson  
and Walter Williams.

Book charges EPA practices are incompatible with rule of law

# Is EPA Enforcement Out of Control?

**F**ranz Kafka's *The Trial* recounts the surreal story of a man accused and judged by a shadowy tribunal, from which he never learns either the charge against him or the rules by which that strange court operates. Had Kafka first read the new Cato Institute book by economist and Competitive Enterprise Institute fellow James V. DeLong, he might instead have titled his masterpiece *The EPA*. In *Out of Bounds, Out of Control: Regulatory Enforcement at the EPA*, DeLong charges that the Environmental Protection Agency is an arbitrary and unaccountable rule-making body whose enforcement procedures are thoroughly incompatible with the rule of law.

The labyrinthine network of regulations and “clarifications” promulgated by the EPA—sometimes comprising thousands of pages for a single program—is so vast, vague, and complex that no firm can be sure that it is in full compliance at any given time, writes DeLong. When the agency's attention is drawn to a violation, whether for scientific, political, or personal reasons, there is almost no way of knowing in advance

how intensely the investigation will be pursued or how severely the firm will be penalized. The same violation may be punished in any number of ways, ranging from verbal warnings to criminal indictments, at the discretion of EPA bureaucrats.

DeLong's review of significant court cases involving the agency also reveals that intent is irrelevant to EPA enforcement, so companies guilty of accidental procedural violations are no less liable than those deliberately damaging the environment. He even cites a case in which two regional offices of the EPA interpreted the same regulation differently, leaving a firm open to penalty when it trusted the assurances of the less restrictive office that it was exempt. In another instance, the agency attempted to stretch

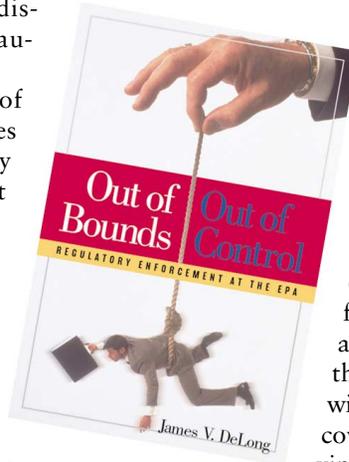
its authority under a pollution control statute to empower itself to regulate the use of wetlands.

Although DeLong sees no easy remedy, he advocates a return to the “nondelegation doctrine,” which would require

Congress to take responsibility for approving new requirements and restrictions developed by administrative agencies. He also endorses devolution of regulatory power to states, which often have more innovative and effective approaches to environmental protection and have frequently clashed with a hyperactive EPA determined to arrogate that power. He predicts that this will happen only when industry, now cowed by fears of bad publicity and vindictive retaliation of regulators, stands up for the rule of law and fights

back more vigorously.

*Out of Bounds, Out of Control* is available (\$16.95 cloth/\$8.95 paper) from Cato Institute Books at 1-800-767-1241 or on the Cato website, [www.cato.org](http://www.cato.org). ■



Iraq is most certainly developing weapons of mass destruction. But according to the Department of Defense, there are many threatening countries—I'm not talking about Britain, France, and the like—that already have weapons of mass destruction programs. There are already 12 nations with nuclear programs, 13 with biological weapons, 16 with chemical weapons, and 28 with ballistic missiles. So the question then becomes, whom will the United States attack after Iraq? Are we going to go after Iran?

In the very worst case, what if Saddam gets nuclear weapons? He was deterred from using weapons of mass destruction in the Gulf War by the United States and Israel—both nuclear-armed powers—and has been deterred ever since from using them against either nation. He has also been deterred from giving weapons of mass destruction to Palestinian and anti-Iranian terrorist groups. Those are the terrorist groups that he supports. He has not giv-

en them such weapons, even though Israel is his archenemy. So we look at the track record and we see that he has been deterred until now from using weapons of mass destruction against the United States or giving them to terrorists.

There are several reasons Saddam might not want to give al-Qaeda weapons of mass destruction. The first is that al-Qaeda does not like corrupt secular regimes in the Middle East, and that is a description of Saddam's regime. He has realized also that the Islamic fundamentalists in Afghanistan turned against the United States after the United States had supported them for years. So the al-Qaeda people are very pragmatic, and he probably realizes that they could turn on him if he gives them such weapons.

He also doesn't have very much ideological affinity with al-Qaeda. He has not given weapons of mass destruction to terrorists in the past, and he has had them for many years; so I'm not sure what

has changed.

The administration is saying that there are al-Qaeda agents in Iraq, but they are operating in the northern part of the country, where the Kurds are in control. Of course the Kurds are not behind al-Qaeda either; I think al-Qaeda is just taking advantage of the fact that Saddam doesn't control that area.

The burden of proof should be on those who want war. The United States has deterred and contained both the Soviet Union and China, which are much more powerful countries. The United States did not preempt their successful attempts to get nuclear weapons. Mao, when he got nuclear weapons in the 1960s, looked pretty radical. And he was pretty radical. But we chose to live with that. We chose to deter and contain China. That policy worked for 40 years against a superpower. So, even if Saddam, a dictator in charge of a small, poor nation, should get a nuclear weapon—the absolute worst case—I think he can be deterred. ■

Two new Biggs papers on Social Security

# Owens and Bush Top Fiscal Policy Ratings

In alternate years, the Cato Institute assesses the fiscal performance of America's state governors using 17 objective measures. The sixth such assessment, "Fiscal Policy Report Card on America's Governors: 2002" (Policy Analysis no. 454), by Stephen Moore and Stephen Slivinski, gives a grade of A for spending discipline and tax cuts to Bill Owens (R-Colo.) and Jeb Bush (R-Fla.); Roy Barnes (D-Ga.) takes third place with a high B. Failing grades were assigned to Gray Davis (D-Calif.), Don Sundquist (R-Tenn.), Bob Taft (R-Ohio), and John Kitzhaber (D-Oreg.)

## ◆ Benefits of Mining Regulation Mostly Fool's Gold

The Mine Safety and Health Administration is often cited as proof that government regulatory bodies can be effective and beneficial. But in "Saving Lives or Wasting Resources? The Federal Mine Safety and Health Act" (Policy Analysis no. 453), C. Gregory Ruffennach argues that MSHA's reputation is based on a misleading interpretation of the relevant data. Ruffennach finds that when fatality rates are measured against the annual quantity of ore or coal mined, no significant change in historical trends is associated with changes in the law. Since regulation is both ineffective and expensive, he recommends that government let the tradeoffs individual miners make between wages and risk levels provide mine operators with the appropriate incentive for investment in safety.

## ◆ Being ID

Voiceprints, retina scanners, face recognition cameras, and other technologies to facilitate personal identification are largely innocuous in private



Clyde Wayne Crews Jr.

hands but may threaten freedom if they are used to aid government in compiling databases on citizens. So writes Clyde Wayne Crews Jr. in a new Cato paper, "Human Bar Code: Monitoring Biometric Technologies in a Free Society" (Policy Analysis no. 452). Crews suggests that public and private databases be kept strictly

separate to prevent both the centralization in state hands of privately gathered data and the exploitation by private entities of mandatory government identifiers, as has gradually occurred with Social Security numbers.

## ◆ An Era of Irrelevant Elections

The sudden—and counterintuitive—rise in public confidence in government that fol-



John Samples



Patrick Basham

lowed the September 2001 terrorist attacks has all but faded, according to Cato scholars John Samples and Patrick Basham. In "Election 2002 and the Problems of American Democracy" (Policy Analysis no. 451), they report that a 10-year trend toward public preference for smaller government, except for defense, continues unabated. Dire warnings to the contrary, voter turnout, measured as a percentage of eligible voters, remains relatively stable. Nevertheless, the authors suggest, the midterm elections will be minimally competitive as a result of a welter of incumbent advantages and an ever more brazen and cynical set of redistricting agreements designed to preserve the status quo in Congress. Ultimately, they say, the elections will turn, not on any major policy debate, but on the ability of the parties to mobilize their preexisting bases of support.

## ◆ Yes, They Have More Money

F. Scott Fitzgerald once wrote that the very rich "are different from you and me," to which his friend Ernest Hemingway responded, "Yes, they have more money." That is the basic message of a new Cato study, "Fat Cats and Thin Kittens: Are People Who Make Large Campaign Contributions Different?" (Cato Briefing Paper no. 76) by John McAdams and John C. Green. Although people who contribute large amounts to political campaigns are, unsurprisingly, wealthier on average than people who give

smaller amounts, contributors are otherwise surprisingly similar. Contrary to conventional wisdom, donors of large amounts are not overwhelmingly Republican, nor are they especially opposed to liberal policies. Regulatory attempts to limit large donations, the authors conclude, are unlikely to significantly affect politics.

## ◆ Yes, Virginia, There Is a Sales Tax, and It's High Enough Already

In a new paper, Cato's Chris Edwards and Peter Ferrara of the Virginia Club for Growth offer "10 Reasons to Oppose Virginia Sales Tax Increases" (Cato Briefing Paper no. 75). Though tax hikes of from a half percent to a full percent are being pitched as necessary to meet Virginia's transportation needs, the authors observe that state spending has been growing steadily for several years. Virginians should not stifle economic growth with a tax increase; instead, the state legislature should rearrange its budget priorities.

## ◆ How Risky Is Your Scheme?

Despite the best efforts of opponents of Social Security reform, a plummeting stock market has done little to dampen public support for personal accounts. And it should not, explains Social Security analyst Andrew Biggs in "Personal Accounts in a Down Market: How Recent Stock Market Declines Affect the Social Security Reform Debate" (Cato Briefing Paper no. 74). As Biggs observes, the doomsday scenarios advanced by supporters of the status quo ignore the fact that workers could, and almost certainly would, make a wide variety of investments, with stocks only a small part. Workers with less taste for risk, or nearing retirement, would shift to safer investments, such as bonds or Treasury bills. Biggs emphasizes that, although stock markets may fluctuate wildly from day to day, they have historically gained steadily over the long term.

## ◆ McCain-Feingold in Miniature

Central to the debate over campaign finance restrictions has been the question of whether they would promote or hinder electoral competition. Fortunately, there is no need to speculate: state regulations provide an opportunity to test empirically the com-

# “The average person today lives longer and is less hungry, healthier, more educated, and more likely to have children in a schoolroom than in the workplace.”

peting claims. A case study by economist Michael J. New, “Campaign Finance Regulation: Lessons from Washington State” (Cato Briefing Paper no. 73), found unambiguous results. Washington State’s campaign finance laws reduced the amount of electoral spending, while simultaneously entrenching incumbents, whose nonmonetary advantages are magnified when challengers cannot neutralize them with spending. In both the state house and senate, more seats were uncontested in both the primary and general elections after the passage of regulations, and more incumbents proved able to hold their seats.

## ◆ Time for a Lesson in Competition

If monopolies are characteristically inefficient, asks Myron Lieberman in “Liberating Teachers: Toward Market Competition in Teacher Representation” (Policy Analysis no. 450), why are we so willing to tolerate government support of the monopoly privileges enjoyed by the National Education Association and the American Federation of Teachers? For no good reason at all, answers Lieberman, who finds many powerful reasons to reform collective bargaining laws to enable competition among teachers’ unions. Competition, he argues, would have the usual effect of driving down prices (union dues) and would allow teachers who disagree with the NEA’s political positions to be more effectively represented. Lieberman writes that reform would also be a boon to advocates of school choice, which both unions vigorously oppose.

## ◆ Green Arguments Unsustainable and Underdeveloped

World leaders gathered in Johannesburg at summer’s end for a conference on “sustainable development,” but precisely what were they conferring about? In “Sustainable Development: A Dubious Solution in Search of a Problem” (Policy Analysis no. 449), Cato’s director of natural resource studies Jerry Taylor points out that there are more than 70 definitions of the term. If our concern is with human welfare, he notes, it is unclear why future generations must have access to no fewer raw, unprocessed natural resources than we now enjoy. “How can we be expected to know what the needs

of people in 2100 might be?” Taylor asks. On the other hand, if “sustainable development” means only that the well-being of our descendants should not be sacrificed



Jerry Taylor

for the sake of current consumption, there is little need for the heavy-handed governmental solutions advanced by advocates of sustainability.

Taylor cites a wealth of evidence to show that by almost any imaginable indicator—including air and water pollution, biodiversity, human health, and climate change trends—technological progress and economic development, far from requiring legal restraint, typically increase sustainability.

## ◆ Welfare for Politicians Unnecessary and Immoral

If the pernicious influence of money corrupts politics, wonder many people who supported McCain-Feingold’s regulation of campaign financing, why not try to displace private funding of campaigns altogether? Because, says Cato scholar John Samples, state funding of campaigns will be “either unnecessary or immoral.” That is, taxing a citizen to subsidize a candidate she already supports is redundant, and a subsidy to a candidate the taxpayer opposes is immoral because “individuals should not be forced to support ideas that contravene their deepest commitments.” In “Government Financing of Campaigns: Public Choice and Public Values” (Policy Analysis no. 448), Samples reviews a variety of arguments for government funding of campaigns and finds them wanting. Academic studies have found little evidence of the sort of quid pro quo that opponents of corruption invoke, and public financing typically comes tied to speech-squelching spending limits, which inflate the nonmonetary advantages of incumbents by making it more difficult for challengers to gain as much media exposure as their opponents.

## ◆ How Nike (Accidentally) Saved the World

Globalization has benefited the rich by enabling them to exploit the developing world. So, at any rate, goes the familiar

refrain of its opponents. But a recent Cato study by Indur M. Goklany, “The Globalization of Human Well-Being” (Policy Analysis no. 447), finds that just the reverse is true: poor countries that open themselves to globalization are made significantly better off by it. Goklany examined five indicators of human welfare: food availability, infant mortality, child labor, life expectancy, and the United Nations Development Program’s human development index. His encouraging findings are that, as a result of “a combination of economic growth and technological change, compared with the situation half a century ago, the average person today lives longer and is less hungry, healthier, more educated, and more likely to have children in a schoolroom than in the workplace.”

## ◆ Enron’s Harmless Death Star

To the long and growing list of Enron’s sins, many observers wish to add a role in exacerbating California’s energy crisis of 2000–01 for profit. However, a new study by Cato scholars Jerry Taylor and Peter VanDoren asks, “Did Enron Pillage California?” (Cato Briefing Paper no. 72) and finds that Enron’s energy trading strategies, despite ominous names like “Death Star” and “Get Shorty,” did not have that effect. Rather, the crisis was a product of severe weather, high fuel costs, and ill-considered price controls. Although some of the strategies may have been illegal, others helped to efficiently allocate electricity by exploiting arbitrage opportunities, and almost all were made possible by ungainly political constraints on California’s energy markets.

## ◆ Three Roads to Reform



Andrew Biggs

As a staff member of the President’s Commission to Strengthen Social Security, Andrew Biggs, now assistant director of Cato’s Project on Social Security Choice, helped to develop a trio of proposals for Social Security reform that have come under heavy attack by defenders of the status quo. But as Biggs notes in “Perspectives

*Continued on page 17*

# “President Theodore Roosevelt didn’t care much for the Constitution, limited government, private property, or people who were not of white European stock.”

**CONSTITUTION** *Continued from page 1*

stood them on a bridge and shot them down one by one, to drop into the water below and float down as an example to those who found their bullet-riddled corpses.”

Needless to say, America didn’t give the nationalists independence. McKinley justified U.S. occupation by saying that it was our duty to Christianize the Filipinos, who were in fact mostly Catholic.

In 1900, McKinley chose Roosevelt as his running mate and they won the election. McKinley was assassinated in 1901 and TR became president. He immediately embarked on various campaigns of New Imperialism and expanded the executive branch. “I did not usurp power,” said Roosevelt, “but I did greatly broaden the use of executive power.” Roosevelt’s New Imperialism was a breed of expansionism that viewed the world as split between civilized (developed) and uncivilized (undeveloped) nations. “Of course, our whole national history has been one of expansion,” said TR. “That the barbarians recede or are conquered, with the attendant fact that peace follows their retrogression or conquest, is due solely to the power of the mighty civilized races which have not lost the fighting instinct, and which by their expansion are gradually bringing peace into the red wastes where the barbarian peoples of the world hold sway.” In *The Winning of the West*, TR defended Manifest Destiny in racial, Darwinian terms. It was “part of the order of nature” that white Europeans should destroy Mexicans, the “natural prey” of superior Anglo-Saxons.

It was America’s duty, according to Roosevelt, to bring the backward nations into the fold of democracy and Protestantism, by force if necessary. “If a nation shows that it knows how to act with reasonable efficiency and decency in social and political matters . . . it need fear no interference from the United States,” he said in his 1904 annual message to Congress.

Chronic wrongdoing, or an impotence which results in a general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some

civilized nation, and in the Western Hemisphere the adherence of the United States to the Monroe Doctrine may force the United States, however reluctantly, in flagrant cases of such wrongdoing or impotence, to the exercise of an international police power . . . in regard to Cuba, Venezuela, and Panama, . . . and to secure the open door in China, we have acted in our own interest as well as in the interest of humanity at large.

Manifest Destiny on an international scale. Under TR’s New Imperialism, the U.S. empire extended to the Philippines, Cuba, Haiti, the Dominican Republic, and Puerto Rico.

## Executive Power

In a 1912 campaign speech, TR trashed the idea of limited government, saying: “This is a bit of outworn academic doctrine. . . . It can be applied with profit, if anywhere at all, only in a primitive community such as the United States at the end of the 18th century.”

It’s no surprise then that David Brooks, senior editor of the *Weekly Standard*, described TR as “a fervent Hamiltonian.” Alexander Hamilton supported a centralized state and a large federal government. TR despised Hamilton’s philosophical opposite, Thomas Jefferson, a defender of limited government and individual rights (H. L. Mencken compared TR with Kaiser Wilhelm of Germany). Today, Sen. John McCain (R-Ariz.) labels himself a “Roosevelt Republican” and praises TR as “really the first campaign-finance reformer” because he restricted corporate contributions to political campaigns in 1907. McCain also praises TR’s belief in the “necessity of using our military strength to protect democracy and freedom” around the globe, an “international police power.”

As president, Roosevelt tried to get Colombia to sign a treaty on the construction of the Panama Canal (Panama was then a province of Colombia). The Colombian government said no, and a group of Panamanians, with U.S. help, declared themselves a republic. TR sent gunboats to protect the new “nation,” and shortly there-

after construction of the canal began. Later boasting of his victory, TR said: “I took Panama without consulting the Cabinet. . . . A council of war never fights, and in a crisis the duty of a leader is to lead.” In discussing troubles in Cuba with future president William Howard Taft, Roosevelt said: “I should not dream of asking the permission of Congress. . . . It is for the enormous interest of this government to strengthen and give independence to the Executive in dealing with foreign powers.”

Roosevelt was sometimes less than candid about his bullying view of executive power. For instance, during the Republican convention of 1904, which renominated TR for president, a report came in that a chieftain named Raisuli in Morocco had seized Ion Perdicaris, supposedly a U.S. citizen. TR rushed American warships to Tangiers and told the Sultan, “Perdicaris alive or Raisuli dead.” The conventioners praised TR for his decisive action and his patriotism. However, TR did not tell the convention-goers that the State Department had earlier informed him that Perdicaris was a citizen of Greece and that arrangements had already been made to free him. TR hoodwinked the conventioners and the public—and spent taxpayers’ money—for political gain.

In 1907, TR sent a U.S. naval force—the Great White Fleet—on a global tour, largely to show off America’s military power, at an enormous cost to taxpayers.

## The Regulatory State

Roosevelt’s program of greater centralization of power in Washington and in the executive branch took off in 1903 with the creation of the Department of Commerce and Labor, which contained a Bureau of Corporations to investigate corporate behavior. “I have always believed that it would also be necessary to give the National Government complete power over the organization and capitalization of all business concerns engaged in inter-State commerce,” said TR. The Expedition Act also came in 1903. It gave the attorney general the authority to place antitrust suits at the front of court dockets.

In a 1911 editorial on antitrust law, TR borrowed from a “statesman . . . of the

## “The *New York World* described TR’s plans as ‘the most amazing program of centralization that any president of the United States has ever recommended.’”

highest courage,” Sen. Cushman R. Davis, to explain his views on capitalism:

When Senator Davis spoke, few men of great power had the sympathy and the vision necessary to perceive the menace contained in the growth of corporations. . . . He realized keenly . . . that we must abandon definitely the laissez-faire theory of political economy, and fearlessly champion a system of increased Governmental control paying no heed to the cries of the worthy people who denounce this as Socialistic. He saw that, in order to meet the inevitable increase in the power of corporations produced by modern industrial conditions, it would be necessary to increase in like fashion the activity of the sovereign power which alone could control such corporations. As has been aptly said, the only way to meet a billion-dollar corporation is by invoking the protection of a hundred-billion dollar government; in other words, of the National Government, for no State Government is strong enough both to do justice to corporations and to exact justice from them.

Following his 1905 State of the Union address, the *New York World* described TR’s plans as “the most amazing program of centralization that any president of the United States has ever recommended.” A reporter remarked that TR’s plans showed “a marked tendency toward the centralization of power in the United States and a corresponding decrease in the old-time sovereignty of the states, or of the individual.”

In 1906 came the Pure Food and Drug Act and the Meat Inspection Act. TR pushed both laws largely in response to muckraking journalists, especially the socialist Upton Sinclair, author of *The Jungle*, a novel. Despite Sinclair’s propaganda, a government report confirmed that the novel’s claims about working and sanitary conditions in the Chicago stockyards were unfounded. Roosevelt in private said of Sinclair: “I have utter contempt for him. He is hysterical,



At a reception on Constitution Day, Cato’s Tom G. Palmer makes a point to law professors Todd Zywicki and David Bernstein of George Mason University and Marcus Cole of Stanford University.

unbalanced, and untruthful.” Nonetheless, the muckrakers had done their job and the meatpackers wanted to limit competition. So, TR signed the Meat Inspection Act, which cost taxpayers \$3 million to implement. Economist Lawrence Reed reports that Sinclair, the socialist, despised the new law because he saw it for what it was, “a boon for the big meat packers.” The Pure Food and Drug Act produced the Food and Drug Administration, which controls which drugs consumers may purchase in the market and, to some degree, at what price.

Roosevelt also pushed the Hepburn Act of 1906, which put price controls on rail rates. The result was a disaster—falling profits, poor service, and eventually the end of private management of the railroads.

In 1908 came the National Conservation Commission and the Aldrich-Vreeland Act, the forerunner of the Federal Reserve and central banking, that authorized a National Monetary Commission. TR also pushed for graduated income and inheritance taxes and a “living wage.”

During his presidency, TR acted aggressively against private corporations and, in fact, contributed to financial panic. Before 1905, for instance, only 22 antitrust cases had been filed under the Sherman Antitrust Act. Between 1905 and 1909, that number shot up to 39 cases, and in 1910–19, the number of cases was 134. As economist George Bittlingmayer has documented, TR’s use of the bully pulpit and his attorney general’s attacks on business contributed to the panic of 1903. In addition, the crusade

against Standard Oil and other companies led to the panic of 1907, “which was marked by a 50 percent decline in stock prices and a one-third decline in output over the 12 months ending December 1907,” according to Bittlingmayer. As a result, “Roosevelt began pulling his antitrust punches in late 1907.”

The Hepburn Act, the panic of 1907, and related antitrust measures set the foundation for the 1935 National Recovery Administration, a corporatist program started by TR’s relative, Franklin Delano Roosevelt, but declared unconstitutional by the Supreme Court.

### Preventing “Race Suicide”

In addition to his Hamiltonian impulses and New Imperialism, Theodore Roosevelt, like many of the “elite” of his time, supported eugenics. TR praised America’s war against Native Americans, saying: “I don’t go so far as to think that the only good Indians are dead Indians, but I believe nine out of ten are, and I shouldn’t like to inquire too closely into the case of the tenth. The most vicious cowboy has more moral principle than the average Indian.” The Mexicans living in Texas deserved to be routed because they were inferior, said TR. “It was out of the question that the Texans should long continue under Mexican rule. . . . It was out of the question to expect them to submit to the mastery of the weaker race, which they were supplanting. Whatever might be the pretexts alleged for revolt,

*Continued on page 16*

## “TR’s broadening of executive power upset the constitutional checks and balances of our republic.”

### CONSTITUTION *Continued from page 15*

the real reasons were to be found in the deeply marked difference of race, and in the absolute unfitness of the Mexicans to govern themselves, to say nothing of governing others.”

TR publicly deplored what he called the “unrestricted breeding” of nonwhites, people he termed “utterly shiftless” and “worthless.” He considered blacks to be the white man’s “burden.” (In his memoirs, TR censored the fact that hundreds of black soldiers in the Negro 9th and 10th Cavalries had helped capture San Juan Hill in Cuba.) TR often called on Americans to be “good breeders” to prevent “race suicide.”

Some of TR’s other racial Darwinist comments include:

- “A perfectly stupid race can never rise to a very high plane; the Negro, for instance, has been kept down as much by lack of intellectual development as by anything else.”

- “All reflecting men of both races are united in feeling that race purity must be maintained.”
- “The [African] porters are strong, patient, good-humored savages, with something childlike about them that makes one really fond of them. Of course, like all savages and most children, they have their limitations.”
- “The presence of the Negro is the real problem; slavery is merely the worst possible method of solving the problem.”
- “Nothing but sheer evil has come from the victories of Turk and Tartar. This is true generally of the victories of barbarians of low racial characteristics over gentler, more moral, and more refined peoples.”

TR was also anti-immigration, except for white Protestant Europeans. In criticizing entrepreneurs who were bringing in Chinese to work in the western United States, TR said, “It seems incredible that

any man of even moderate intelligence should not see that no greater calamity could now befall the United States than to have the Pacific slope fill up with a Mongolian population.” It was the duty of the white race and democracy, “with the clear instinct of race selfishness,” to keep out the “dangerous alien” Chinese, he said.

“Roosevelt probably did more than any other individual to bring the views of academic race theorists to ordinary Americans,” says historian Diane Paul in *Controlling Human Heredity: 1865 to the Present*. TR, for instance, often stressed the need to “keep out races which do not assimilate with our own”—his words—and repeatedly called for curbs on immigration.

Roosevelt praised *The Passing of the Great Race* by eugenicist Madison Grant. The book called for “elimination of those who are weak or unfit,” the “undesirables who crowd our jails, hospitals, and insane asylums,” and “weaklings” and “worthless race types.” Roosevelt said that it was “a capital book: in purpose, in vision, in grasp of the facts that our people must need to realize. . . . It is the work of an American scholar and gentleman, and all Americans should be grateful to you for writing it.” State-enforced sterilization of retarded people in the United States began in 1907 when TR was president. He did not oppose the programs and did nothing to stop such sterilization. (For comparison, compulsory sterilization in Nazi Germany did not start until 1935.)

### A Model Conservative?

Theodore Roosevelt, whom some conservatives would make a patron saint, spread over the United States a federal regulatory blanket that has often smothered businesses and stifled entrepreneurship. TR’s broadening of executive power upset the constitutional checks and balances of our republic. His imperialism set a precedent for U.S. meddling abroad and entangling alliances—a policy unfortunately praised by today’s neoconservatives. Mark Twain, who knew Theodore Roosevelt, may have exaggerated when he described him as “clearly insane.” But there’s no doubt that TR was a poor friend of the Constitution, capitalism, and peace. ■

## Meet Walter Williams and Gary Johnson in Naples

**Cato’s 15th Annual Benefactor Summit, February 26–March 2 at the beautiful LaPlaya Beach Club and Resort in Naples, Florida, will feature Gov. Gary Johnson, Walter Williams, and all your favorite Cato scholars and writers. Isn’t it time you became a Cato Benefactor and joined us for this great event? For information contact Lesley Albanese at [lalbanes@cato.org](mailto:lalbanes@cato.org) or (202) 789-5223.**



Walter Williams



Gary Johnson



Cato's efforts to reform Social Security continued through the summer and fall: The Capitol Hill program, "Social Security 101," featuring Michael Tanner and Andrew Biggs, was broadcast live by C-SPAN on August 26. At a

series of Forums on "Social Security and Young Americans," speakers included Chris Stallman of TeenAnalyst.com; Neil Howe, coauthor of *Millennials Rising: The Next Great Generation*; and Meredith Bagby of Third Millennium.

## STUDIES *Continued from page 13*

on the President's Commission to Strengthen Social Security" (Social Security Paper no. 27), many of the commission's strongest critics endorsed the commission's arguments before it became clear that those arguments could be used to support personal retirement accounts. Biggs surveys the commission's three proposals, each of which would allow workers to divert some portion of their payroll taxes to personally owned investment accounts. After assessing the virtues and drawbacks of each proposal, Biggs concludes that, although none is perfect, reform critics have an obligation either to propose viable alternatives or to admit that they favor a course of inaction, which would permit the collapse of the Social Security system. "The correct question," Biggs writes, "isn't whether we can afford to reform Social Security but whether we can afford not to."

### ◆FDR Stalls Confirmation Hearings

Despite a large number of vacancies on U.S. appellate and district courts, George W. Bush's nominees to fill those spots have been blocked by Congress at an astonishing and historically unprecedented rate. The legislature's traditional deference to presidential appointments and the primacy of jurisprudential competence over ideological considerations in confirmation hearings have all but vanished. That is no accident, writes Cato's vice president for legal affairs

Roger Pilon in "How Constitutional Corruption Has Led to Ideological Litmus Tests for Judicial Nominees" (Policy Analysis no. 446); it is the inevitable effect of Supreme Court decisions since the Progressive Era, which have eroded the doctrine of enumerated powers. When judges commonly invent novel rights or let popular opinion guide decisions, says Pilon, the courts become, not interpretive, but policymaking forums and the selection of members is naturally politicized.

### ◆Attacks on "Frankenfoods" Mask Protectionism

Agricultural biotechnology, explains Cato adjunct scholar Ronald Bailey in "The Looming Trade War over Plant Biotechnology" (Trade Policy Analysis no. 18), has the potential to reduce the need for chemical pesticides, make farmers less vulnerable to drought, and increase both the yield and the nutritional value of crops. But anti-biotech activists have succeeded in frightening many Europeans away from so-called Frankenfoods, despite a dearth of credible scientific evidence that biotechnology is dangerous. Bailey says that European Union leaders, eager to circumvent World Trade Organization rules proscribing protectionism in agricultural markets, will attempt to sneak trade barriers through WTO provisions allowing nations to enact health regulations based on internationally recognized standards. American trade negotiators, writes Bailey, must act

swiftly to defeat an unscientific Biosafety Protocol, which would legitimize such barriers, and to prevent a protectionist hijacking of next summer's meeting of the Codex Alimentarius Commission, which will consider principles to govern biotechnology.

### ◆Fighting Drugs, Embracing Despots

The U.S. government frequently invokes the rhetoric of human rights to justify its actions on the international stage. But according to Ted Galen Carpenter, Cato's vice president for defense and foreign policy studies, "The United States has repeatedly made a 'drug war exception' in its foreign policy toward repugnant and repressive regimes." In a new Cato study, "Unsavory Bedfellows: Washington's International Partners in the War on Drugs" (Foreign Policy Briefing no. 71), Carpenter examines several cases of American cooperation with despots, among them Panamanian strongman Manuel Noriega, Peru's Alberto Fujimori, Cuban dictator Fidel Castro, the military junta controlling Burma, and even Afghanistan's former Taliban rulers. Ironically, Carpenter writes, "In case after case, Washington's ostensible partners in the anti-drug crusade have themselves been extensively involved in drug trafficking." Carpenter warns against too hastily embracing Colombia's Alvaro Uribe, who was widely supported by right-wing paramilitary groups and one of whose close associates has been accused of complicity in drug trafficking. ■

Essays on terrorism, Russia, China, Balkans

# Carpenter Calls for “Strategic Independence”

Over the course of almost two decades as a foreign policy scholar at the Cato Institute, Ted Galen Carpenter has been a consistent and prolific advocate of what he calls “strategic independence” in foreign affairs. Rejecting the extremes of isolationism and “promiscuous global interventionism,” Carpenter has steadfastly advocated “a vigorous defense of America’s vital interests,” while insisting no less emphatically that only when vital interests are implicated should the United States act militarily. In a new Cato Institute book, *Peace and Freedom: Foreign Policy for a Constitutional Republic*, Carpenter brings together a cross section of his writings spanning 17 years along with new material tying together his central themes and outlining the changes wrought in American foreign policy by the events of September 11, 2001. What emerges is a cohesive, comprehensive, and principled approach to every major question of foreign policy faced by the United States in recent memory.

On the central question of how best to deal with terrorism, Carpenter’s 1997 analysis of the first World Trade Center bombing now appears all too prescient. Partly as a result of American support for despotic regimes in the Middle East, he warned that “the potential for thousands, rather than dozens or hundreds, of casualties in any single incident is rising.” Had his tripartite prescription of disengaging from unnecessary foreign commitments, refo-

cusings intelligence agencies on the terrorist threat, and declaring war against state sponsors of terrorism been followed five years ago, that prediction might not have been so terribly confirmed.

A glance at the earlier works reproduced here reveals an astonishing record of accuracy not only with respect to terrorism but in almost every arena of foreign policy. Carpenter saw as early as 1992 that, until Russia established the rule of law and a stable market system, aid to the newborn democracy would be futile. A decade later, billions of dollars in loans have been squandered, and billions more have vanished without a trace. Well before the first bombs were dropped, he saw that well-intentioned humanitarian intervention in the Balkans would, tragically, only exacerbate human rights abuses and mire the United States in an interminable and counterproductive nation-building project. And while most observers of international affairs expected NATO to wither away like Marx’s ideal communist state after the Cold War’s end, Carpenter anticipated that powerful constituencies would keep the organization

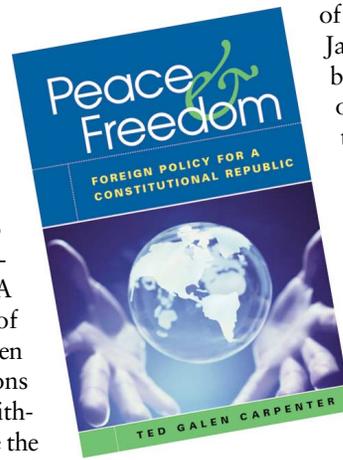
together, flailing about in search of a mission.

If this series of grim visions realized is dispiriting, it at least indicates that Carpenter may be a solid guide to avoiding repetitions of past mistakes. In the Pacific Basin, Carpenter observes that we continue to take responsibility for the defense of nations, such as South Korea and Japan, which are more than capable of maintaining adequate forces on their own. By ending the military dependence of those nations on the United States, he says, we would encourage the emergence of regional powers capable of containing China’s expansionist ambitions. Carpenter posits that our own strategy should be to continue open trade with China in the hopes that, as it has in so many other Asian countries, liberalization of the

economy will eventually be mirrored by liberalization in the political sphere. Rather than abandon or rush to defend Taiwan, he suggests that we step up sales of advanced weapons to the young democracy, thus allowing it to deter China without risking American lives. Indeed, Carpenter’s general advice to U.S. policymakers might be summarized as this: Let go! Abandon attempts to preserve the hegemonic status the United States had during the Cold War era, and do what you can to encourage democratic great powers to arise in the world’s trouble spots.

Even people primarily concerned with domestic policy will find much of interest in *Peace and Freedom*. Carpenter details the ways in which the international war on drugs has devastated poor farmers in developing countries and squandered goodwill toward the United States abroad. Perhaps even more important, Carpenter reminds us that an overactive foreign policy is incompatible with domestic freedom. We cannot expect an open society to flourish within our borders as we transform the rest of the world into a garrison.

*Peace and Freedom* can be purchased (\$19.95 cloth/\$12.95 paper) from Cato Institute Books at 1-800-767-1241 or from the Cato website, [www.cato.org](http://www.cato.org). ■



Several hundred traders and Cato Sponsors gathered at the Chicago Mercantile Exchange after the market closed on September 18 to hear P. J. O’Rourke, Cato’s Mencken Research Fellow, discuss his book, *The CEO of the Sofa*, just published in paperback.

*Those from Russia and Moldova already understand*

# Interns Learn about Liberty at Cato

Interns are the secret motor of the policy world. Supporting the visible output of Washington's think tanks—the policy conferences, scholarly papers, and op-ed columns—are unseen battalions of sharp college students who surrender four months to work for causes that inspire them and, in the process, learn the ropes of the idea industry.

The Cato Institute has been a leader in this process; it has taken on interns year-round since 1978, when Tom G. Palmer, now a senior fellow at Cato, became one of three interns. For many interns, a semester at Cato is only the beginning of a long career devoted to the classical liberal vision. In addition to Palmer, Institute for Justice senior litigator Scott Bullock spent a summer at Cato, as did *Wall Street Journal* columnist John Fund; Cato education policy analyst Marie Gryphon; ABC producer Kristina Kendall, who works on John Stossel's reports; and Aaron Lukas, now speech writer for the U.S. Trade Representative. Bullock, who served as Roger Pilon's first intern in 1989, said the experience "whetted my appetite to engage in direct combat with government officials who do not respect the Constitution." Some of Cato's most recent interns have even

launched a website called Protocol ([www.protocolmagazine.com](http://www.protocolmagazine.com)).

One of the many benefits of globalization has been its effect on the intern pool, which in recent years has become increasingly international. Palmer, who leads weekly seminars for interns, has observed that students who have experienced the failure of leviathan states up close are often the most passionate advocates of limited government. Spring intern Gene Ostrovsky's family escaped the prison society of the USSR when he was 10. Though struck by the sharp contrast between his former home and the United States, Ostrovsky was "troubled to see certain aspects of socialism being attempted here for which we hated the Soviet Union" and resolved to do what he could to fight that trend. Many of Cato's summer interns are placed via the Charles G. Koch Summer Fellow Program, which this year referred three students who were raised under communism. Svetlana Meyerzon, whose family left Moldova after the fall of the Soviet Union, said her experience with injustice and anti-Semitism there made her acutely appreciative of the freedoms found in "the open society that became my home." The "stifling atmosphere of Soviet Kazakhstan" made Daniya Tamendarova wary



Summer interns Peter Jaworski, originally from Poland, Daniya Tamendarova from Kazakhstan, and Svetlana Meyerzon from Moldova.

of those who propose that liberty be curtailed in the interests of "preserving order." Peter Jaworski's family fled communist Poland for Germany when he was only six and continued to Canada three years later. He says that he applied for a Cato internship because he associates the Institute with the ideal of freedom that distinguishes his adopted home from the country of his birth. "My grandparents still remember when a book called *Solidarnosc z Wolnoscia* [*Solidarity with Liberty*] was smuggled into Poland by Cato," said Jaworski. "Now, I see Canadian newspapers cite Cato. Where else can I get that sort of inspiration?" ■

## SUPREME COURT *Continued from page 3*

the Eleventh Amendment. The expansion of sovereign immunity sacrifices individual rights to "states' rights," a concept Levy said has no place in a proper theory of federalism, which should center instead on the idea of "dual sovereignty."

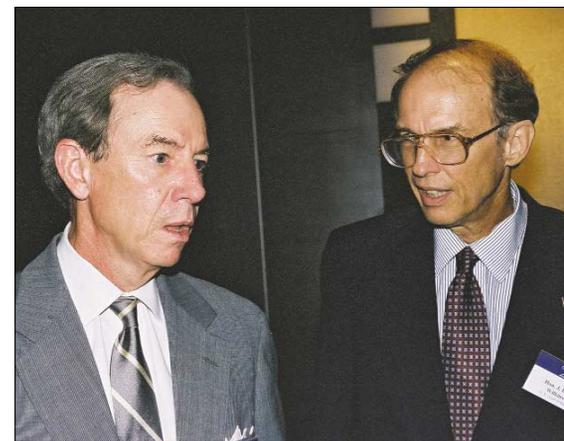
Swanson offered a piece of qualified good news: the Court had struck down restrictions on the political speech of candidates for judgeships, but by a mere one vote margin. Since political speech has traditionally been held to be at the core of the sphere protected by the First Amendment, said Swanson, it should be worrisome that the margin was not far wider.

Following a dinner reception, Judge Douglas H. Ginsburg of the U.S. Court of Appeals for the District of Columbia

delivered the first B. Kenneth Simon Lecture in Constitutional Thought. Judge Ginsburg spoke on such historically neglected constitutional provisions as the Contract Clause and the Second Amendment, which he called a "Constitution in exile."

The *Cato Supreme Court Review* also features pieces on the state of anonymous speech rights, school choice, criminal procedure, "virtual" child pornography, and the war on drugs. The authors include George Washington University law professor Jonathan Turley, attorneys Robert Corn-Revere and Stephen P. Hallbrook, and Institute for Justice vice president Clint Bolick.

*Cato Supreme Court Review* can be purchased (\$15.00 paper) online at [www.cato.org](http://www.cato.org) or from Cato Institute Books at 1-800-767-1241. ■



Judge A. Raymond Randolph of the U.S. Court of Appeals for the D.C. Circuit talks with J. Harvie Wilkinson, chief judge of the Fourth Circuit, at Cato's Constitution Day launch of the *Cato Supreme Court Review*.

**◆ Learning from history**

[Maryland Republican gubernatorial candidate Bob] Ehrlich struggled to shift the focus away from his record in Congress, where he has served four terms, as [Democratic nominee Kathleen Kennedy] Townsend rarely passed up an opportunity to slam him for his votes on education, health care, affirmative action and other issues.

She also expressed disdain for his comments on how he and Steele are reaching out to black voters, and she highlighted his votes in favor of basing affirmative action programs on economic circumstance rather than race or ethnicity.

“He opposes affirmative action based on race,” she said. “Well, let me tell you, slavery was based on race. Lynching was based on race. Discrimination is based on race. Jim Crow was based on race. And affirmative action should be based on race.”

—*Washington Post*, Sept. 27, 2002

**◆ Such as the 10 who were monitoring the New Orleans brothel for 13 months**

The report portrays a dramatic concern [about al-Qaeda] at senior levels, and in particular at the CIA, that did not, in all cases, reach frontline field personnel.

In a Dec. 4, 1998, memo to his deputies, for example, CIA Director George J. Tenet

issued guidance “declaring, in effect, war” with bin Laden.

“We must now enter a new phase in our effort against bin Laden,” Tenet wrote. “We are at war. . . . I want no resources or people spared in this effort, either inside the CIA or the [intelligence] Community.”

But the panel’s staff director, Eleanor Hill, said yesterday that Tenet’s fervor did not “reach the level in the field that is critical so [FBI agents] know what their priorities are.” Some FBI agents interviewed, in fact, “were not focused on al Qaeda,” she said.

—*Washington Post*, Sept. 19, 2002

**◆ Which Bush is that?**

Bush’s belief in the virtues of unfettered, free-market capitalism is as strong as [AFL-CIO president John] Sweeney’s support of interventionist policies.

—*Washington Post*, Sept. 2, 2002

**◆ Those pesky desires to make independent decisions**

Congress has all but abandoned legislative proposals to ensure that employee retirement funds are not concentrated in their employers’ stock, after hearing from businesses that vigorously oppose such restrictions. . . .

“There are some realities that we have to deal with in terms of people’s personal desires to make independent deci-

sions,” [Sen. Edward M.] Kennedy said.

—*Washington Post*, Sept. 7, 2002

**◆ How dare you engage in commerce without my authorization?**

Passersby regarded the contraption—possibly the future of the corner store—from a safe distance, staring through the glass at rows of milk jugs, snack food and toiletries waiting to be dispensed, with no clerks or cashiers needed. The thing resembles part ATM, part candy machine on steroids, and carries the label Tik Tok Easy Shop. . . .

Ward 1 D.C. Council member Jim Graham pulled up to “the Box” in his Saab just after noon yesterday. Graham expressed displeasure with the aesthetics of the Tik Tok Easy Shop—but was mostly surprised it was there at all. “It seems like it was dropped on us from outer space,” he said. “As the council member of this ward, I received no proper notification.”

—*Washington Post*, Aug. 30, 2002

**◆ As opposed to, say, ours**

The designation “civil service” has always been something of a misnomer in Russia. Since the formation of a centralized state about 800 years ago, bureaucrats have mainly served the country’s leaders, not its people. And they have been anything but civil.

—*Washington Post*, July 15, 2002

**CATO POLICY REPORT**

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