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LETTERS

Lincoln's Log

It was flattering indeed that Steven Hayward judged *Lincoln on Democracy*, the volume Gov. Mario M. Cuomo edited with the help of 49 Lincoln scholars in 1990, worthy of attention in the ongoing debate over the true meaning of the Lincoln legacy ("The Children of Abraham," May). But Mr. Hayward was unfair to suggest that the book was an attempt by a Democrat to seize the mantle of Lincoln from the Republicans.

In fact, the governor's "Lincoln on Democracy Project" was initiated not by the Democratic governor but at the request of Polish teachers who visited him in 1989 and asked him to recommend books on American democracy for their rapidly democratizing country. When he suggested Lincoln, they replied sadly that his writings had been long banned there. The governor promised to help produce a new collection, and we are proud to report that 1,500 copies of the Polish translation, *Lincoln O. Demokracji*, arrived at the Education Ministry earlier this year.

The ministry plans to print 30,000 more copies. Even more heartening have been the unsolicited letters from Polish educators. The headmaster of the Liceum Ogolinkszalcace wrote: "I think this book will help us in the knowing of democracy and will become one of the very important books in our library."

And its creation was a wholly nonpartisan effort. Its eight contributing scholars and 41 consulting scholars came from the broadest range of historical thought and included one of the great writers cited in your article, Don E. Fehrenbacher.

As for the governor's supposed "moral indignation" over the idea of accumulating wealth, it is clear that Mr. Hayward knows little about his views on opportunity—even those that spring directly from Lincoln. In his 1989 speech at Get-

tysburg, which Mr. Hayward mentioned but did not quote, Gov. Cuomo made quite clear that he shares Lincoln's "vision for a country where every citizen would be guaranteed a fair opportunity. In Lincoln's earlier words," he added, this means providing "an ever widening path," where "the weights should be lifted from the shoulders of all," where all "should have an equal chance." That, he said, was Lincoln's view of "the mission of democracy." And it is the governor's view as well.

It is exciting that Lincoln's words continue to provoke debate and discussion, but disheartening whenever clichéd preconceptions muddy the waters. Mario Cuomo no more favors "redistribution of the wealth" than Lincoln favored dictatorship, although both suggestions unfortunately found their way into Mr. Hayward's otherwise engaging article.

One area where Mr. Hayward and Gov. Cuomo appear to differ on purely philosophical grounds is the question of how actively Lincoln would be prepared to fight for "small-d" democracy in a 20th-century context. Mr. Hayward seems to think that the aspiration for equality and the concept of "limited government" were compatible to Lincoln, and possible for us. The governor maintains that neither is the case. As Lincoln himself put it, in another passage Gov. Cuomo repeated at Gettysburg in 1989, the question is not whether we can all "imagine better" but "can we all do better." Lincoln thought we could, and so does Mario Cuomo.

Harold Holzer
Co-editor

The Lincoln On Democracy Project
New York, NY

THE DECLARATION OF independence asserts "that whenever any form of Government becomes destructive...it is the Right of the People to alter or to abolish it." That's *whenever*, not "unless a major-

LETTERS

ity of their great-grandfathers voted for it." Lincoln's war can only be seen as repudiating the Declaration.

Hayward brings up "the crucial distinction that the Baltic states never consented to join the Soviet Union in the first place." This is a distinction? States are not people. The people living in South Carolina on December 20, 1860, were not the people who voted to join the Union on May 23, 1788.

The power to form the Union implies the right to dissolve it. When the experience of three generations convinced Southerners that the Union was not a good idea after all, why should their judgment be overruled by that of their dead ancestors who had no experience with the Union? If the people of South Carolina are not competent to judge whether the Union is "destructive of these Ends," who is? Congress?

Hayward asks, "What would defenders of secession say if, today, even a supermajority of states wanted to secede from California...?" As a California secessionist, I would naturally say hurrah. The question is emotional, not rational. There is no difference between the two events (secession by California from the United States and secession by the United States from California). I'd be disappointed if my boss fired me, but I will not buy from him the right to do so if the price is my right to quit.

Anton Sherwood
San Francisco, CA

IF WE EVER EVEN hope to understand the predicaments facing statesmen of the Lincoln-Douglas generation, we may as well acknowledge that only two of the many contending positions in the slavery/free-soil controversy of that era made any sense or possessed any logical coherence at all.

On one hand, if one assumes that a human being can be property, can be bought, sold, and owned, then the positions of all the most ardent Southern fire-eaters follow with perfect consistency. If a slave is as much property as is a horse, then any interference in the possession of that property is an arbitrary deprivation of property rights. This includes a limitation

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Secretary Baker's Peace Mission

Are he and the President putting pressure in the right places?

In the wake of the Gulf War, which many now believe we ended too early, Saddam Hussein and his army have inflicted the most horrible genocidal slaughter on the defenseless Kurds. But the President and Secretary Baker initially paid only cursory attention to this disaster, even though it is partly of our own doing. They are mostly fixated on the so-called "Israel-Palestinian conflict" and they are bringing renewed pressure on Israel to yield "land for peace".

What are the facts?

■ The Secretary may be handicapped by the fact that, until his recent visits, he had no real knowledge, no "feel" for the country and its unique problems. That is the more regrettable since Israel is certainly the closest (and perhaps only reliable) ally the United States has in the entire region. If he had deeper knowledge, he would realize that in the absence of any reliable and enduring peace with the Arab countries, Israel could not give up any of its strategic heartland, the so-called "West Bank". From the heights of the Judean hills, which he would have Israel yield to the Arabs, one can literally overlook Zion Square in Jerusalem, Ben Gurion Airport, and most of Israel's population centers, industrial plant, and military installations. One shivers at the thought of what would have happened to Israel if Saddam Hussein, instead of having launched his relatively innocuous Scud missiles from 450 miles away, could have positioned his armor, his planes and his missiles in the "West Bank" or on those Judean mountain ridges.

■ There are those who claim that, in these days of airplanes and missiles, territorial depth is of no military significance and that Israel should therefore not hesitate to relinquish the "West Bank" and Gaza in order to attain peace. But that is fallacious reasoning. Israel, according to the assessment of every knowledgeable military person, would be naked and indefensible if it were to yield those territories. If Israel did not control those territories it would, in case of surprise attack, be cut in half at its

narrow waist before it had time to mobilize. Why the President and Secretary Baker continue to press this suicidal course on its most reliable ally in the area is a mystery. Is it because they don't really understand the murderous intentions of the Arabs toward Israel? The goal of the Arabs is not the establishment of a "Palestinian State" on the "West Bank". No, the real goal of the Arabs, embedded in the Charter of the PLO and never repudiated, is the total annihilation of the state of Israel. The presence of the "infidel Jews" in their midst is an unacceptable affront to the Arabs. The Palestinian state is a sideshow. Its purpose is to serve as a launching pad for the last "jihad" — finally to chase the Jews into the sea "where they belong".

■ And there are those who say that Israel doesn't really need any strategic depth. All that is needed would be guarantees by the United Nations and a mutual security treaty, which the United States would probably grant if Israel were to yield to pressure and would give up the "West Bank". The United States is undoubtedly the best friend and the greatest benefactor that Israel has. But Israel simply can't afford to entrust its security to a third party. Even with the best of intentions, the United States is far away. It took our country several months, and under ideal conditions, to build up a force to fight and defeat Saddam Hussein. If Israel were attacked — not just by Iraq, but by probably five or six other Arab countries, no help could possibly arrive in time if the enemy were poised, not beyond the Jordan, but on the outskirts of Jerusalem and within a few miles of Tel Aviv.

Our country has saved both Kuwait and Saudi Arabia from total destruction and from becoming provinces of Iraq. It is therefore disappointing that the President and the Secretary of State decided to lean, not on the Arabs but on Israel in order to bring about peace in the Middle East. One could have hoped for some gratitude at least from those two countries. Secretary Baker, as a first step in his peace mission, could have asked the Arabs to terminate their state of belligerency against Israel, to end their commercial boycott against Israel that has been in effect for over 40 years (long before Israel came into the administration of the disputed territories), and to renounce the slanderous equation that "Zionism is racism". But there is no leaning on the Arabs who, just barely having escaped their annihilation, are now as insolent and as arrogant as before. By leaning on Israel and by the constant repetition of the shopworn mantra of "land for peace", the President and the Secretary of State are endangering the only democracy in that wide area of the world and are instead giving comfort to the tyrannical Arab regimes, who are no friends of ours. The pressure is being put in the wrong place and it is applied in the wrong direction.

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of the right to take one's horse to the western territories, or on one's right to take the horse northward and still to own the horse on one's return, or any federal or "free-horse state" interference in efforts to recover a runaway stallion.

Any of these incursions upon property rights of an equine sort would be instances of tyranny, and enough such instances would justify a Lockean revolution on the model of that of 1776. Likewise, if and only if a slave is owned in the same way as is a horse, all the analogous acts both of Congress and of free-state legislatures were tyrannical and justified revolution.

The other consistent possibility begins with the proposition that "all men are created equal" in the very simple sense that no one man can own another. If no such ownership is legitimate, then the federal government ought to do nothing consistent with the pretense that it is. If there is no property in human beings, then the Fugitive Slave Act is an abomination. Further, the federal government ought to seek to undermine the "peculiar institution" that rests upon the pretense of such ownership. It ought to undermine that institution without any sort of compensation for the (purported) masters—because no one should be compensated for the loss of that which they had themselves never possessed!

If slavery is but the pretense of ownership, and if a government supports that pretense, then again Lockean theory supports revolution. The pertinent revolutionaries, on this theory, are Nat Turner and John Brown, not John Calhoun and Jefferson Davis.

Somebody was entitled to rebel, then, under either possible analysis of the situation. Consequently, both Abraham Lincoln and Stephen Douglas, at the time of their famous 1858 debates, held to logically untenable conclusions, awkwardly in between the two stools I have described.

Douglas maintained that slaves were property if and only if a state or territorial majority said so. I think it safe to say that he would have been shocked to hear anyone enunciate the same doctrine with respect to horses or white laborers. Lincoln argued, against Douglas, that slaves were

property only where, by tradition, they long had been so, and that they could not be property farther north or farther west. Yet since the Fugitive Slave Law allowed for the pursuit of slaves across such lines, and Lincoln in his campaign for the Senate supported that law, one must note that he did not even adhere to his inconsistent position with consistency.

In their famous debates, Lincoln and Douglas each tried to prove that the position of the other man was nonsensical. Each succeeded. This is why the debates proved to be such good theater, and so memorable.

*Christopher C. Faille
Enfield, CT*

Mr. Hayward replies: As Mr. Holzer's letter is self-refuting in its final paragraph, it scarcely requires comment, except to reiterate the obvious fact that Gov. Cuomo has consistently favored higher taxes on upper incomes to pay for various frothy government social programs.

Mr. Sherwood employs the old trick of using ellipses to distort the meaning of the Declaration of Independence. The full sentence he cites is quite important: "That whenever any Form of Government becomes destructive of these ends [i.e., securing the unalienable or natural rights of individuals referred to in the immediately preceding section of the Declaration], it is the Right of the People to alter or abolish it...." The question of breaking the fundamental compact of union cannot be disconnected from the substantive question of the just ends of the present or prospective government. The Southern constitutions failed this test.

I welcome Mr. Faille's thoughtful letter, with which I largely agree. The logical weaknesses of both sides was preordained by the fateful constitutional compromise of 1787, which recognized chattel slavery within a regime of liberty. This was bound to lead to theoretical problems. The inconsistency Mr. Faille points out arises from the essential *moderation* of both Lincoln and Douglas; their desire to find a moderate solution required that they sometimes look the other way on the margins of their arguments. I think this can be regarded as

responsible statesmanship, although the criticism is accurate. Unlike Mr. Faille, I do not consider Lincoln as inconsistent as Douglas. Lincoln's support of the Fugitive Slave Law, for instance, arose from his view that the Constitution should be upheld because constitutional principle would help generate the solution to the slavery problem over time.

Hill Street Bruise

While I am appalled and outraged over the police brutality incident in Los Angeles, I am even more appalled and outraged that Rick Henderson has engaged in character assassination and slander of Llewellyn H. Rockwell, president of the Ludwig von Mises Institute ("L.A., Lawless," May).

I read Mr. Rockwell's article. I could not find any endorsement of police brutality. He simply explained that our criminal justice system has favored criminals at the expense of crime victims. The legislatures and the courts have sold out to criminals at the expense of private citizens and law enforcement. No wonder that police brutality is the last resort law-enforcement officers have to fight increasing cases of crime. That is the point which Mr. Rockwell tried to get across.

Yet Mr. Henderson quoted Mr. Rockwell out of context to make it sound as if he endorsed police brutality; he did not. Frankly, I think Mr. Henderson owes Mr. Rockwell an apology.

*R. Craig Culver
Houston, TX*

NOT EVERY LIBERTARIAN takes the Al Sharpton-ACLU line on Rodney King. A career criminal juiced on marijuana and 40 ounces of malt liquor; speeding for five miles through the red lights and stop signs of a residential neighborhood; wildly punching the cops who finally blocked his car; making crude sexual advances to policewomen; refusing to be handcuffed; dancing and laughing maniacally; and fresh from suspected participation in yet another armed robbery, King did indeed get a two-minute what-for.

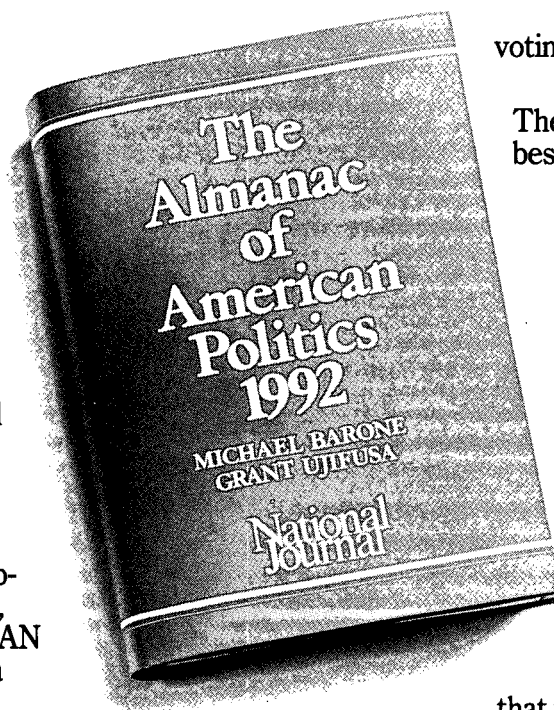
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neighborhood surrounded by high-crime slums. She could walk to the corner store at night and live to tell about it because baseball-bat justice was administered to any criminal caught in the area. As a result, there was virtually no crime.

You would condemn this, and Bernie Goetz too, but I remember that he made the subways safer for months.

But all this is low-tech. Why not, in light of your paean to cryonics, persuade King to freeze his head? We could tell him he's coming back as Robocrook.

*Llewellyn H. Rockwell, Jr.
President
Ludwig von Mises Institute
Auburn, AL*

Mr. Henderson replies: Mr. Culver can't find where Llewellyn Rockwell defends police brutality. I quote the Rockwell column: "As recently as the 1950s—when street crime was not rampant in America—the police always operated on this principle: No matter the vagaries of the court system, a mugger or rapist knew he faced a trouncing—proportionate to the offense and the offender—in the back of the paddy wagon, and maybe even a repeat performance at the station house. As a result, criminals were terrified of the cops, and our streets were safe." But the "mugger or rapist" Mr. Rockwell wants roughed up hasn't been convicted—or even arraigned; he's merely a suspect.

Is this out of context? Read Mr. Rockwell's response above and decide for yourself.

In the Rodney King case, the police had no way of knowing how intoxicated Mr. King was at the time of the beating. And the Highway Patrol's on-site report affirmed that while Mr. King acted erratically, he was hardly threatening.

But these are merely debating points for Mr. Rockwell. My editorial asked, What amount of force should two dozen policemen use to apprehend one unarmed suspect? And even if Mr. King is guilty of a crime, who metes out justice: the LAPD, or a jury? Mr. Rockwell may prefer state-imposed order (as in Saudi Arabia or Beijing) to individual liberty and the rule of law; but he shouldn't call himself a libertarian if he does.

A Few More Rounds

Jacob Sullum ("Gun-Shy Judges," May) missed a good opportunity to discuss the pivotal issue in gun control: How do you define *arms*? When the Second Amendment was passed, arms consisted of single-shot muskets. Does "original intent" justify machine guns and semi-automatics? Or do we define arms as being any gunpowder and projectile weapon, thus including most heavy artillery and cannons? You scholarly types at REASON should discuss this; the NRA certainly won't.

*Daniel J. Ryan
Economics Department
Temple University
Philadelphia, PA*

ALTHOUGH I DISAGREE WITH Jacob Sullum that the Second Amendment is the black sheep of the amendments (I happen to feel that description better fits the Ninth Amendment), I very much enjoyed his article.

As Mr. Sullum pointed out, the current rhetoric tends to obscure the fact that the first clash in the Revolutionary War, which took place at Concord on April 19, 1775, came about because the British heard that the Colonials were in possession of *cannon*. The Americans fought back to preserve their right to bear arms.

We can only hope that ultimately the current push for gun control will meet the same fate as the British.

*Greg Raven
Los Angeles, CA*

JACOB SULLUM CORRECTLY identifies the ACLU's unprincipled policy on gun control and Ira Glasser's waffling on the issue. More to the point is the way in which the ACLU justifies its official policy on the subject: It says that the Second Amendment does not guarantee the right of individuals to own a gun by citing "the setting" in which the amendment was proposed and adopted.

How convenient. Leaving aside the fact that, as Sullum pointed out, another school of thought cites British common

law as "the setting" upon which arguments in favor of individual gun ownership can be made, there is the interesting anomaly in the ACLU's approach to constitutional law. Why does the ACLU feel it legitimate to invoke "the setting" in which the Second Amendment was written when it is all too willing to dismiss "the setting" in which the First Amendment was written?

Perhaps more inexplicable is the ACLU's characterization of gun control not as a civil-liberties issue but as a matter of social policy. Yet comparable worth, which has nothing to do with constitutional rights and everything to do with social policy, is nonetheless defended by the ACLU as a civil liberty. Apparently the ACLU's capacity for redefining the Bill of Rights is limitless.

*William A. Donohue
Chair, Dept. of Sociology
LaRoche College
Pittsburgh, PA*

Housing Project

I applaud Sister Connie Driscoll's program ("House of Hope," May). It's a classic example of what happens when you treat the root cause of a problem as opposed to treating the symptoms.

*Ronnie Palmer
Alexandria, LA*

BRYAN MILLER'S STORY about Sister Connie Driscoll left out some important information: Is she accepting donations and at what address?

*John Taylor
Cowlesville, NY*

Donations may be sent to: St. Martin de Porres House of Hope, 6454 South Woodlawn Avenue, Chicago, IL 60637.—Eds.

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Getting in Tune

The dirtiest air in the nation may soon get cleaner. California hopes to sponsor the country's first demonstration project using University of Denver biochemist Donald Stedman's mobile, on-road pollution-testing machine. (See "Going Mobile," Aug./Sept. 1990.)

Stedman's testing device sends an infrared beam at passing cars and accurately measures individual vehicles' emissions. In tests of more than 250,000 cars, he has found that fewer than 10 percent of all cars cause more than 50 percent of auto pollution. And properly maintained cars, regardless of age or pollution-control equipment, don't cause significant amounts of smog.

The Los Angeles County district attorney's office—which has its own pollution-enforcement division—wants the state to set up a mobile-testing program featuring the infrared device. But the Environmental Protection Agency may stand in the way.

An amendment to the 1990 Clean Air Act requires state environmental authorities to include on-road pollution tests as part of standard inspection and maintenance programs. Rep. Joe Barton (R-Tex.), the amendment's author, wanted Stedman's technology to identify the cars with the worst emissions—and force the drivers of those cars to repair them. Unfortunately, the EPA's interpretation of the amendment could prevent states from using mobile tests to get "clean air credits."

Under the agency's draft enforcement guidelines, environmental officials can test cars in motion only at designated sites. Or they can pull drivers over and give cars stationary tailpipe tests. Mobile, on-road sensing is out.

As Dan McInnis, environmental policy analyst at the Competitive Enterprise Institute notes, these watered-down

tests would merely duplicate current inspection and maintenance programs. And drivers of dirty cars could simply avoid designated testing sites. It's as if the EPA intentionally wanted to render mobile sensing useless.

But Los Angeles District Attorney Ira Reiner has asked the EPA to let the state set up a remote testing program and still get clean-air credits. Last year, the state's Air Resources Board conducted a mobile-testing study and found nearly half the worst polluting cars had illegally altered emissions-control equipment. Reiner believes mobile testing is the only way to identify tampered cars. Officials can then force the owners to fix their cars.

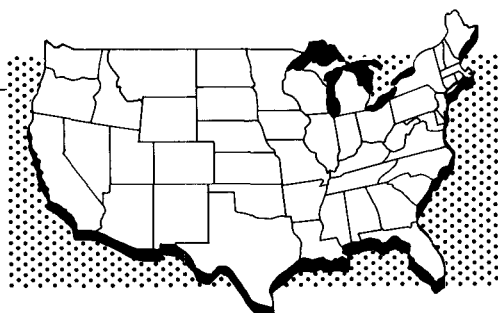
In a letter to the EPA's air-pollution enforcement office, Barton praised the Reiner proposal as exactly the type of program he had in mind when writing the amendment. He urged immediate clean-air credits for California—and any other area using mobile, on-road testing. As of late May, the EPA hadn't ruled on Reiner's and Barton's requests.

Barton believes random, on-road tests could eventually replace traditional inspection and maintenance programs. "Annual [car] inspections," he says, "are about as effective in reaching gross polluters as an annual breathalyzer test would be in locating drunk drivers."

—Rick Henderson

Workers' States

The 1980s were a time of shrinking government, right? Wrong! At least not at the state level. Between 1980 and 1989, the population of the United States grew by 9 percent. But the number of persons on state payrolls skyrocketed by 19 percent. Leading the way was Florida, with an increase of 43 percent. (Florida's population grew by only 29 percent.) But the most dramatic gap between population change and the growth in the number of public employees was in Iowa. While the state's population fell by 5 percent, its state payroll jumped 29 percent.



Growth in State Employees Compared to Population Growth

	State Growth of Employees	Population Growth	Difference
Iowa	29 percent	-5 percent	34 points
New York	30 percent	2 percent	28 points
Kentucky	28 percent	2 percent	26 points
Wyoming	33 percent	7 percent	26 points
Connecticut	30 percent	5 percent	25 points
Kansas	29 percent	5 percent	24 points
Indiana	24 percent	1 percent	23 points
New Jersey	29 percent	6 percent	23 points
Ohio	22 percent	0 percent	22 points
Maine	28 percent	7 percent	21 points

Source: The Wall Street Journal

Money Myth

The disparity between public-school spending in posh suburbs and public-school spending in poor inner cities is a potent symbol of economic inequality. The contrast between schools in Watts and Beverly Hills, North Philadelphia and Lower Merion, is vivid testimony to the difference that property values (and taxes) can make.

But a recent study of Ohio's public schools contradicts the impression created by such comparisons. Analyzing achievement-test scores and per-pupil spending in more than 600 school districts, a policy analyst at the Urban Policy Research Institute found that, when socioeconomic factors were taken into account, students in districts that spent more performed worse, not better.

"The implication," study author Marjorie Davies notes laconically, "is that Ohio school districts are not effectively using existing dollars to boost student achievement."

Davies found that the most important factor affecting student performance was socioeconomic status, as measured by family income and welfare rates. More-affluent students tended to do better on achievement tests. But when she controlled for income and welfare rates, she found compelling evidence that more funding is not the way to improve public education: Higher spending was actually associated with *lower* test scores.

Per-pupil spending ranged from \$2,807 to \$11,106, with a median of \$3,590. But even the lowest figure was high by private-sector standards. "Neighborhood parochial elementary schools in Cincinnati thrive on far less money," Davies notes.

Davies suggests that inefficiency in public schools is largely due to spending on heavy administrative costs, desegregation plans, and nonacademic programs such as social clubs and athletics. To curtail waste, Davies recommends school choice. Without competition, she stresses, money doesn't matter.

—Jacob Sullum

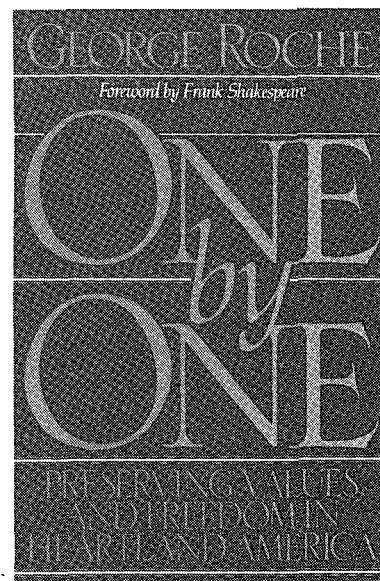
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Liberating Schools, Empowering Families

— A comprehensive case for school choice —

Education can break the cycle of poverty, but today's inner-city schools have become a major element of the poverty trap. In Cato's new book *Liberating Schools: Education in the Inner City*, 11 scholars and educators examine inner-city education and propose educational choice as a way to give all families access to quality schools—an idea drawing attention from the White House to the Milwaukee ghetto. Contributors include **John Chubb** and **Terry Moe**, **Pete du Pont**, **John E. Coons**, **Sy Fliegel**, **Bonita Brodt**, **Joan Davis Ratteray**, and **Robert S. Peterkin**. 220 pp./cloth \$25.95/paper \$13.95

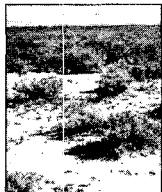
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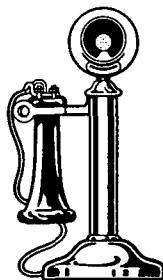


Splash Guard. Some common sense returns to wetlands regulation. (See "The Swamp Thing," Apr.) Under a new federal definition, wetlands must pass three tests. The soil must be peat or other mucky stuff. The land has to be flooded for at least 14 straight days during the growing season. And over half the vegetation must be wetland plants. The rules could be stricter, but give a tentative thumbs up to property owners.

Good Drugs. In a Harvard survey, 48 percent of U.S. cancer specialists say they'd prescribe marijuana to relieve their patients' nausea from chemotherapy; another 30 percent would consider it. Forty-four percent said they've already recommended pot to patients. And a three-judge panel of the U.S. Court of Appeals in Washington ordered the Drug Enforcement Agency to reconsider marijuana's medicinal value. If cancer patients can get morphine, why not pot?

Smog Futures. Southern California's South Coast Air Quality Management District designs the country's first market for clean air. In lieu of other regulations, the AQMD will set caps on how much pollution each business can emit. Companies can then cut smog any way they choose, or buy extra "shares" from lower-polluting firms. Pat Nemeth, the AQMD's person in charge, says share trading could start within two years.

Touch Someone. Coming soon: local telephone competition. The Federal Communications Commission may force the local monopolies to give alternate carriers access to their switching facilities. Chairman Alfred Sikes cites "an FCC commitment to reducing barriers to competition." Thanks, Mr. Chairman—now what about cable TV?



Liabilities



Running on Empty. To prevent leaks from fuel tanks, new EPA regulations force every gas station to carry at least \$1 million in insurance. The premiums alone exceed the money many small stations generate from gas sales. The agency predicts *half* the gas stations in the country will close by October. And in some rural states, 70 percent will close, forcing residents to drive 50 miles or more to fill up.

48 Hours. Reversing centuries of common-law tradition, the Supreme Court rules that the police can jail suspects and hold them without a warrant for up to 48 hours—longer on weekends and holidays. Dissenting Justice Antonin Scalia says 24 hours is plenty of time to hold someone uncharged. And, Scalia notes, the Constitution isn't suspended after 5 p.m. and on weekends.

Walled Up. A California judge says murals are protected by an artists'-rights law. (See "Postmodern Art Laws," May 1990.) A muralist who got \$4,000 to paint a Shell station wall wants \$125,000 in damages because the station was sold and leveled. UCLA law professor Stephen Urice says graffiti may be protected next. Seriously.

Yew Cad! The drug some call the most promising new chemotherapy in a decade gets stalled by the greens. Taxol has reduced tumors in both breast-cancer and ovarian-cancer patients. But it comes from the Pacific yew tree—home to spotted owls. Viros want to keep yew trees uncut. A spokesman for the company developing the drug told *The Wall Street Journal*, "There are people prepared to let women die to save trees."

—Rick Henderson

Heated Debate

Climatologists have produced evidence that the earth's climate regulates itself, keeping temperatures from rising above a certain level. This calls into doubt the most-dire predictions of global warming.

"I cannot see how the planet can have a runaway greenhouse effect," says Veerabhadran Ramanathan, a climatologist at the Scripps Institution of Oceanography at La Jolla, California. Ramanathan and his colleague William Collins studied the behavior of the ocean-atmospheric system over the Pacific during the 1987 El Niño. In this periodic event, naturally occurring changes in ocean currents cause the sea surface to warm by several degrees. The results of their study were published in the British journal *Nature*.

Ramanathan and Collins found that as the sea surface grew warmer, water vapor increased substantially in the air. In turn, huge clouds formed. As the clouds climbed to freezing altitudes, they turned into gigantic "anvils" reflecting sunlight away from the earth. Eventually, the cloud cover became so thick, so widespread, and so highly reflective that it shut out the sunlight over the ocean.

With the sunlight shut out, the cooling began, and the clouds dissipated. Then the process started over. Critics of computer models of the greenhouse effect have long argued that such a process would occur, but this is the first proof that it does occur.

Ramanathan says that the ceiling beyond which the ocean warms no further appears to be 90 degrees Fahrenheit on a monthly average. That's well below the 93 degrees predicted by some computer models of the greenhouse effect.

William A. Nierenberg, director emeritus of the Scripps Institution, contends that cloud formation may be only one of a number of feedback mechanisms that will limit global warming. "In fact," he told the *New York Times*, "the average global temperature change could be almost zero."

—Charles Oliver

We're in This Together

A New York state appellate court has ruled that manufacturers of similar products may bear industry-wide liability for one another's products. The court said that a plaintiff must be allowed to prove that companies not directly responsible for a particular accident helped create the safety hazard by, for example, fighting government regulations. If such a role is proven, any company that manufactured a product similar to the one involved in the accident could be compelled to pay damages.

The case involves a wrongful-death suit brought by the widow of a man killed by a multipiece tire rim that exploded when he was inflating a tire. The woman sued Goodyear, Firestone, Budd, and Kelsey-Hayes, all of which make multipiece tire rims. Goodyear and Budd asked the court to dismiss charges against them

because the evidence conclusively showed that their products weren't involved in the accident.

While the court agreed that Budd and Goodyear weren't the manufacturers, it ruled that the plaintiff might introduce evidence that they were part of "an express agreement or tacit understanding" to keep knowledge of the product's defects from the public or to fight government regulation.

Joseph Farrell, Budd's lawyer, told *The Wall Street Journal* that the decision, if upheld by higher courts, "opens a terrible Pandora's box." John P. Mayesh, a New York liability lawyer unconnected with the case, contends that the decision "means Ford could be liable for an Toyota accident. It creates liability out of mere membership in an industry."

—Charles Oliver

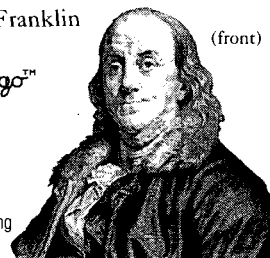
"They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."

Benjamin Franklin
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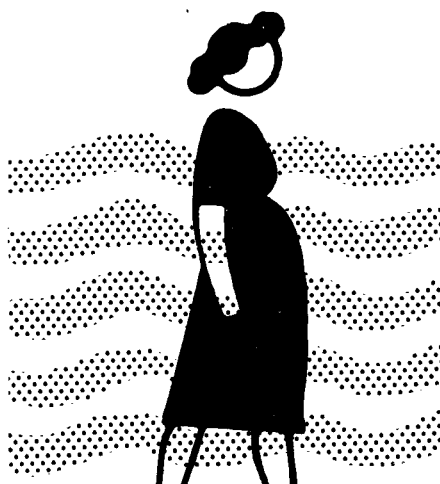
Video display terminals do not appear to cause miscarriages in pregnant women working near them. A seven-year study by the National Institute for Occupational Safety and Health found that 14.8 percent of pregnant women who worked at VDTs reported miscarriages. However, 15.9 percent of pregnant women in identical professions with similar lifestyles who did not work at VDTs also reported miscarriages. Both figures fall within the population-wide 11 percent to 20 percent miscarriage rate.

"I think the study is reassuring for women who are concerned about working with VDTs and the subsequent risk of miscarriages," report author Teresa M. Schnorr told the *Los Angeles Times*.

For about a decade, environmentalists have claimed that low-level electromagnetic radiation causes miscarriages, cancer, and a host of other health problems. They considered the cathode-ray tubes in VDTs, which generate the visuals on display screens, an important source of electromagnetic exposure for many women.

The NIOSH study was based on women's own reports of their miscarriages. As a result, it did not gauge the possible effect on miscarriages that occur in the first weeks of pregnancy before women learn that they are pregnant. But the study does support the findings of earlier, less-comprehensive studies that found no link between electromagnetic radiation and miscarriages.

—Charles Oliver



Up from Libertarianism

by D. G. Lesvic

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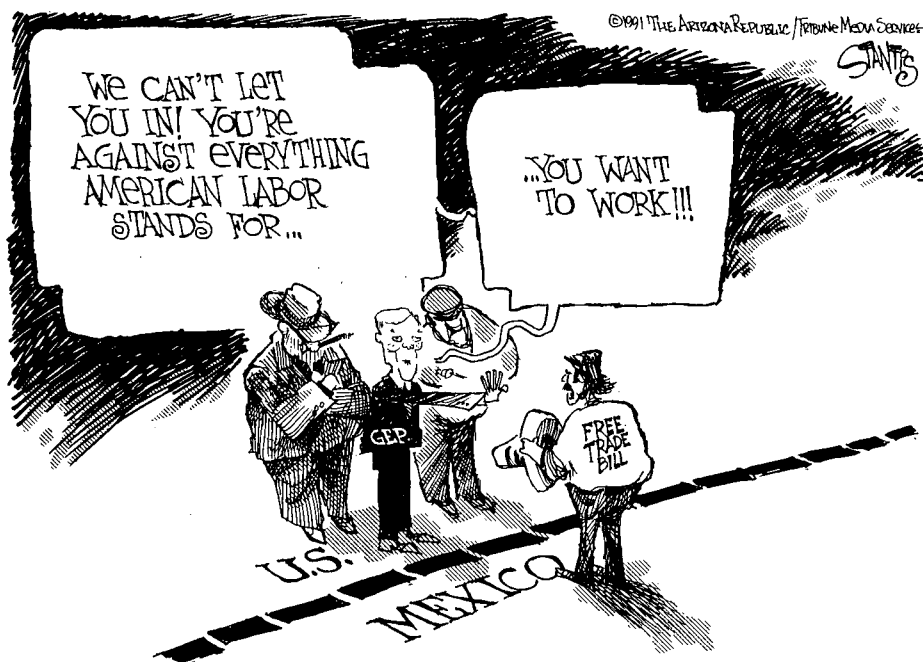
In Cherokee County, Georgia, officials must decide what to do with Snowball, a goat who butted his master to death. Roasting him with butter and garlic should send a message to other goats.

The conscience of rock and roll, Sting, told *Rolling Stone*, "We have too many people—we *have* to use birth control." The Stinger should know: He has five children.

A 10-year-old girl in Nicholasville, Kentucky, was hospitalized after a DARE (Drug Awareness Resistance Education) program at her school. Bruiser, a dope-detecting mutt, attacked the girl without provocation. She required 49 stitches to close the bite wounds. Listen closely. This is your face. This is a police dog. This is your face after being torn off by a police dog. Any questions?

Everyone agrees that New York City urgently needs more public toilets, but a firm that wants to provide them has learned that city officials aren't terribly concerned with the city's needs. A French company has offered to provide five public-toilet kiosks for free as a market test. But the mayor's Office for People with Disabilities insists that all the units be large enough for wheelchairs. There are two problems. First, the large units would be attractive sleeping quarters for the homeless, rendering them useless for the general public. Second, the city Arts Commission won't approve the larger kiosks because they are so big and unattractive. So New York gets no public toilets. And people wonder why the city is such a sewer.

Also in New York, the fancy restaurant Windows on the World has been found guilty of sexual discrimination. The crime: The eatery requires men, but not women, to check their raincoats.



And in Los Angeles, the trendy nightclub Vertigo is in court on discrimination charges. Undercover investigators from the Alcohol Beverage Control Board found that the club turns away people with a "lack of fashion sense." So the ABC has demanded that Vertigo admit on a first-come, first-served basis or lose its liquor license. Says ABC attorney David Wainstein, "Everyone should have equal access." I have a dream: that nightclubbers will be judged not by the color of their clothes but by their place in line.

Something to ponder: Trials in Florida are televised. In 1980, Roger Mudd asked Ted Kennedy why he wanted to be president, and the senator said, "Duhh." Ted's potential encounter with Sunshine State prosecutors should be the most entertaining thing on TV since Madonna's last video.

A survey reveals that 84 percent of French people cannot spell the name of their president, François Mitter-

rand. Another poll shows that 50 percent of the French want to bring back the guillotine. They'll write the president to tell him how they feel, as soon as they figure out how to address the envelope.

It seemed simple enough. Ohio legislators had approved an official state beverage (tomato juice), rock song ("Hang on Sloopy"), mammal (the white-tailed deer), and fossil (the trilobite) without much of a fuss. But when they took up a bill to make the square dance the official state dance, things got hot. Polka advocates claimed their dance deserved the honor. Both sides geared up campaigns, and staffers say they have gotten more mail on the bill than on any other. With no disrespect to either dance, the frug deserves some consideration.

The California bar has approved rules restricting sex between attorneys and their clients. They wisely decided that a lawyer should only screw his client financially.

—Charles Oliver

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