# Forced Payment

**Clinton's Social Security reform would rob teachers, ministers, and cops.**

By Richard Miniter

President Bill Clinton's recently announced plan to "save" Social Security contains a little-noticed provision that will wreck the retirement plans of millions of public school teachers, ministers, and rabbis.

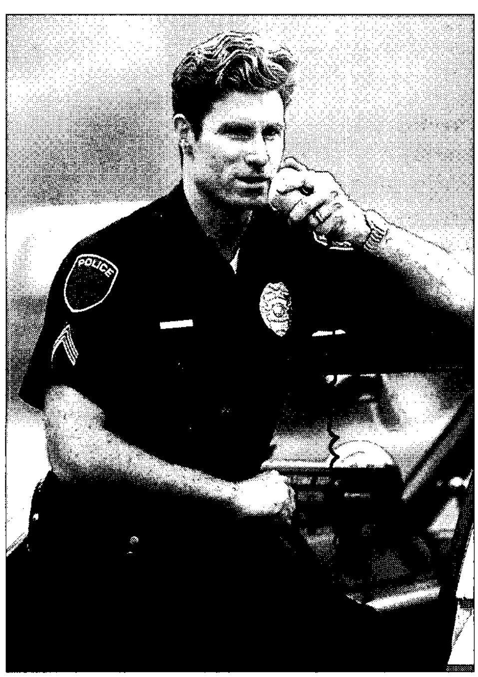
"It's our worst nightmare," Bob Shreve, a retired Ohio school teacher, told the Associated Press. Shreve is one of more than 5 million state and local government employees now exempt from Social Security. Another 100,000 clergy are also exempt. Unlike more than 90 percent of American workers, they pay no FICA taxes. Instead, they pay into private retirement accounts that are generally superior to Social Security.

But Clinton is about to change Shreve's life. The president has teamed up with Sen. John Breaux (D-La.), the ranking member on the Senate's Special Committee on Aging, to force all exempt employees into Social Security.

This is the closest Washington will come to grappling with Social Security reform in the next two years. The Social Security reform debate may rage on in policy think tanks, but Congress wants to avoid any contentious debates until after the 2000 elections. Clinton cannot consider genuine reform; he is too beholden to the labor unions and liberal interest groups that supported him during his scandals. But a Social Security shortfall looms, and the president wants to be seen as doing something even as he pushes the problem onto the next administration.

The usual political fixes no longer work. Old standby remedies, last employed during the 1983 crisis, involved raising the retirement age, cutting benefits, and boosting taxes. But the American Association of Retired People, one of Washington's most powerful lobbying groups, opposes any increase in the retirement age or reduction in benefits, even for the handful of millionaire retirees. Raising Social Security taxes is also a nonstarter. The majority of Americans, including nearly all of those who earn less than $40,000 a year, pay more in Social Security taxes than in federal income taxes—they won't want to pay more. The president also knows that the GOP-led Congress would oppose a tax hike. The president's other Social Security brainstorm, a plan to allow the government to invest in stocks, has been blocked by vocal opposition from Federal Reserve Chairman Alan Greenspan.

From the White House's perspective, only one option remains: Tax those who are currently exempt. That's why the White House has endorsed corralling into the system the relatively small number of people whose retirements are secure outside it. Though it could impoverish teachers and clergymen—and "save" Social Security for only another two years—this approach lets the president claim that he is "reforming" Social Security.




**Call for Backup: Pensions for cops will be lynched by Clinton's plans.**

When David Vienna, a lobbyist for the exempt workers and retirees, confronted White House officials about the plan in January 1999, they offered two justifications. First, they contended, it is a matter of simple fairness that coverage should be universal. Second, Vienna says, they told him, "We need the money." Both of these arguments are flawed.

The fairness and universal coverage argument turns on a typically Clintonian definition of the words *fair* and *universal*. Low earners pay less into the system than they receive in retirement checks, a fact trumpeted on the government's Social Security Web page. This is where "fairness" comes in: It is only *fair* that everyone receive a certain guaranteed minimum payment for their declining years. And here's where the "universal coverage" plays a role: For the low-earner subsidy to continue, many middle-class earners, who, on average, get back less than they pay into the system, need to be forcibly kept in it. Thus "fairness" and "universal coverage" are shorthand for a New Deal–style redistribution of wealth.

The element of "fairness" in this argument is certainly open to question. But the logic seems especially hard-hearted when used to defend Clinton's Social Security plan.

Roping the exempt workers into Social Security seems unfair because they are only a few steps ahead of the low-earners that the president says he wants to protect. They are solidly middle-class Americans who, ironically, vote predominantly for Democrats. Forty percent of the 5 million exempt public employees are school teachers, according to the National Conference of State Legislatures. The rest are local- and state-government employees in 14 states, some older federal workers, police officers, sheriff's deputies, and firefighters, as well as ministers and rabbis, says Tom Lucier, a spokesman for the Coalition to Preserve Retirement Security. Californians will be among the hardest hit: The employees of more than 280 cities and 1,000 school districts in that state are now exempt from Social Security, according to a recent study by the state pension system.

The president is trying to move such people from what is now a safe and generous retirement system to one set to go bankrupt in a few decades. Why send the lifeboats back to the Titanic? The average wage earner can expect Social Security to replace only about 42.4 percent of his pre-retirement income, according to the House Ways and Means Committee's *1994 Green Book: Overview of Entitlement Programs.* Though the plans vary widely, most exempt employees will receive about two-thirds of their pre-retirement income in pension checks—a much better deal than Social Security. In some cases, the gap between the return offered by Social Security and exempt pension plans is even wider.

Why do the exempt plans provide so much more? First, the pension money is actually invested in the safe end of the stock market, which grows at an average of 6 percent to 8 percent a year, instead of being spent by the government in exchange for the promise of a check in the future. (The idea that the stock market is risky for long-term investors is false; over any 15-year period in American history—including from the crash of 1929 to the war year of 1944—the stock market has always produced positive returns, according to Ibbotson Associates, a Chicago-based investment consulting firm.)

Second, pension fund managers are directly accountable for the success of their investments and issue quarterly reports. If exempt workers find the investments too risky, or even too safe, they can switch funds—a choice obviously not offered by the federal government. Another advantage for the exempt plans: The plans tend to provide more generous disability and survivors' benefits. Small wonder that a 1997 study by the nonprofit group Third Millennium, titled *Freed from FICA*, concluded that exempt employees are better off outside of the Social Security system.

Clinton's plan to make currently exempt employees pay FICA taxes will seriously weaken the financial health of the exempt plans. Forcing new state employees to join Social Security will mean large reductions in the benefits already promised to current and future exempt retirees, according to a study conducted for the State Teachers' Retirement System of Ohio. Buckeye State employees pay 9.3 percent of their salaries into the state retirement plan. The state contributes another 14 percent, for a total contribution of 23.3 percent of the employee's salary. These contributions pay for a broader range of retirement benefits than does Social Security, including retirement income, disability benefits, survivors' benefits, and an old-age health care fund. If the Clinton-Breaux plan is adopted, more than half of those contributions—12.4 percent of each employee's income—will be diverted from pension plans to Social Security payroll taxes. One of the most popular features of the Ohio plan, retiree health insurance provided to all recipients regardless of age, could be bankrupted, forcing retirees to rely on Medicare alone. "The money has got to come from somewhere, and a lot of municipalities are already taxed to the limit," said Bob Scully, who heads the 220,000-member National Association of Police Organizations. "If this passes, it is going to affect benefits."

It is easy to see why Scully is upset. Some 75 percent of the country's police, firefighters, and other public safety employees are currently exempt from Social Security. Their plans are tailored to meet the special needs of their stressful and often dangerous professions, providing early retirement benefits and more generous death and disability benefits. By contrast, Social Security will pay disability compensation only when an individual is completely incapable of working at any job—and, even then, the benefits are miserly by comparison. An injured Ohio firefighter who works part-time at a desk would receive 60 percent of his former salary under his exempt plan—but nothing from Social Security. If he dies, his wife and children can expect to receive a lump sum equal to at least one year of his salary. By contrast, Social Security would provide a single, one-time $255 payment—not even enough to pay for a no-frills funeral. It doesn't sound very fair at all.

**Even on its own terms, the plan doesn't seem like a good deal. Why increase Social Security's liability by 5 million new beneficiaries for such a relatively small gain?**

What about the claim that the federal government needs the money to shore up Social Security? The Clinton-Breaux plan raises $11.3 billion over five years, according to the Congressional Budget Office. That is almost enough to buy two more years of solvency; putting off the day of reckoning from 2030 to 2032, by one estimate. Even on its own terms, this doesn't seem like a good deal. Why increase Social Security's liability by 5 million new beneficiaries for such a relatively small gain? And it is fair to ask, What do they need the money for? After all, the current budget surplus is entirely the result of a Social Security tax surplus. In the short run, the system has more money than it needs to pay current beneficiaries. But the president wants to spend the surplus—and the funds raised by taxing exempt employees—on an array of new proposals.

There are other flaws to the Clinton-Breaux plan. Some state constitutions mandate that all promised state benefit obligations be honored, regardless of the financial burden imposed upon the state; in such cases, new taxes will have to be levied to honor these obligations. The Clinton-Breaux plan is both a back-door tax increase and the kind of "unfunded mandate" the GOP once swore to oppose.

The Clinton-Breaux plan also violates the original promise of the Social Security system and does so in a way that should make us suspicious of any government claims about the system's future. When the Roosevelt administration dreamed up Social Security in 1935, the stated goal was to guarantee that industrial workers would have secure pensions. With the Great Depression threatening the life of so many enterprises, it seemed like a good idea to provide these workers with an independent, guaranteed retirement plan. Public employees were specifically excluded because Congress recognized that they were already safe from the swing of private sector fortunes.

Then President Roosevelt made a promise that revealed his administration's redistributionist aims. FDR allowed workers who retired after 1936—no matter how little they paid in—to collect full benefits immediately. That meant that the system had to expand to cover the costs of these unfunded liabilities. Small-business owners, farmers, doctors, and others who traditionally funded their own retirements were gradually forced into the system. Today, more than 148 million workers pay into a system that was just supposed to protect the working poor from poverty in old age.

After most private sector workers were absorbed, the federal government targeted other government workers—even though their retirements were secure. In 1954 Congress amended the Social Security Act to let states and municipalities voluntarily cover their public employees under Social Security. Some opted in, others stayed outside the system. This voluntary agreement was revoked in 1983, when Congress made it illegal for states and municipalities to continue to set up alternative retirement plans for their employees; only pension plans pre-dating the 1983 amendments were allowed to enroll new employees.

At the same time, all new federal employees were forced into Social Security. (Congress maintained that the 1983 amendments would ensure Social Security's solvency for at least another 75 years; a mere 16 years later, Social Security is again facing bankruptcy.) In 1990, the Social Security Act was amended again to force any public employee not already enrolled in an exempt plan into the system. Clinton proposes to close this last loophole, forcing the last handful of exempt workers into the Social Security system.

Soon there will be more people receiving Social Security checks than there are paying into the system. By the time the baby boom generation retires, the imbalance between payers and payees will probably be too great to sustain. That's why a Third Millennium poll shows that Americans aged 18 to 25 believe they are more likely to see a flying saucer than a dime from Social Security.

There is a better way: Let those whose retirements are already assured stay outside the system. Clinton and Congress should find a real fix for Social Security, one that doesn't ruin the retirements of teachers, clergy, and police officers.

*Richard Miniter (rminiter@aol.com) is a Washington, D.C., writer whose work appears in* The Wall Street Journal, Reader's Digest, The Atlantic Monthly, *and other publications. He is a visiting fellow at the Lexington Institute, an Arlington, Virginia-based free market think tank.*

# The Day They Came to Sue the Book

**The courts take out a contract on free speech.**

By David Kopel

Is a publisher legally responsible for the crimes perpetrated by one of its readers? In America, the answer now is "yes."

After serving several years in Michigan's Jackson State Prison for violent felonies, James Perry was released and soon went into business for himself—soliciting clients who wanted someone killed.

Later, Perry ordered two books from Paladin Press, *How to Make Disposable Silencers* and *Hit Man: A Technical Manual for Independent Contractors.*

Perry eventually met up with Lawrence Horn, who took out a contract on his ex-wife, Mildred Horn, and their quadriplegic son, Trevor. Trevor had won $1.7 million in a medical malpractice lawsuit, and Lawrence wanted the money for himself.

On March 3, 1993, Perry murdered Mildred, Trevor, and Trevor's nurse, Janice Saunder.

Perry had done a poor job of covering his tracks, and when investigators searched his home they found a Paladin Press catalog. Contacted by the police, Paladin could have invoked the First Amendment. That's what Kramerbooks and Barnes & Noble did in 1998, when Kenneth Starr subpoenaed them to discover whether Monica Lewinsky had bought the novel *Vox.* But Paladin did not even ask for the formality of a subpoena. It immediately turned Perry's purchase order over to the police.

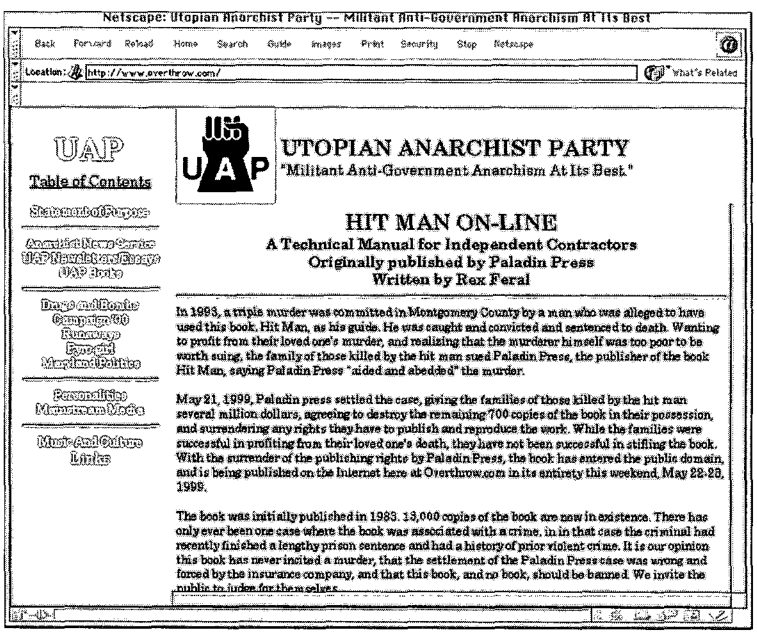
Lawrence Horn was sentenced to life in prison; Perry was sentenced to death. Then Mildred's relatives hired attorney Howard Siegel for a civil case. Siegel had won the huge malpractice award for Trevor that had prompted the murders. He was more famous, however, for a 1985 case, *Kelley v. R.G. Industries,* in which he convinced the Maryland Court of Appeals to hold manufacturers of small, inexpensive handguns "strictly liable" for injuries resulting from their criminal misuse. (The decision was later voided by the Maryland legislature.)

The actual killer, James Perry, wasn't much of a lawsuit target; his check for *Hit Man* had bounced. Thus was born the case of *Rice v. Paladin.* Calling Paladin Press "despicable," Siegel announced that his suit was aimed at destroying the publisher.

What made Paladin so odious? The Boulder-based press has long published practical books for anti-establishmentarians, teaching such skills as how to build a rural home without connecting to the electricity grid, how to survive disasters, how to pass drug tests, and how to defend yourself. A lot of its books make an overt appeal to do-it-yourselfers but sell mostly to Walter Mittys. For instance, the new Paladin title *Contingency Cannibalism: Superhardcore Survivalism's Dirty Little Secret* would not have much economic viability if it sold only to cannibals. Rather, its market includes people interested in reading about an unusual topic, people interested in speculating about unlikely circumstances, and the like.

Similarly, Paladin has sold over 20,000 copies of *Hit Man: A Technical Manual for Independent Contractors.* The book's pseudonymous author, "Rex Feral" (King of the Beasts), is not, as the book pretends, an actual hit man. She is a divorced mother of two who needed money to pay her property taxes. When she submitted a fictional manuscript about a hit man to Paladin, the press asked her to change the style to a "how to."

Yet the book's commercial success was not with persons who actually wanted to *do* a contract murder. Other than James Perry, the only customer known to have used *Hit Man* in a crime was a killer who followed some of the book's suggestions about how to dispose of a dead body. The other 20,000 buyers were apparently people interested in reading a "true crime" book, or getting tips for writing such a book. Perhaps some hyper-vigilant readers wanted to know how contract killers operate, so as to take precautions against them. Some, no doubt, were simply attracted by the book's notoriety: The title's sales rate doubled in the years following the lawsuit. And there were certainly some




**Web Hits: Ironically, the suit against Paladin Press has made *Hit Man* available to more people than ever before.**