

BRICKBATS

♦ Some teenage boys apparently consider it the height of style to wear their pants so low that their underwear shows. Those young men should avoid Opelousas, Louisiana. It seems some adults there were outraged, and whenever people get outraged, someone inevitably says, "There oughta be a law." The police department said there was. They've started handing out citations for indecent exposure to boys with low-fitting pants.

♦ In Montgomery, Alabama, Cassandra Agee would have the kids on the school bus she drove read and analyze passages from the Bible. When Joseph Brown, a freshman at Robert E. Lee High School, protested, Agee told him to find another way to school if he didn't want to participate. Brown's mother complained, and the school board took swift action. They assigned Agee to another route.

♦ Smashed storefronts. Swastikas on the sidewalk. No, it isn't Nazi Germany. It's Berkeley, California, one of the most liberal cities in the United States. And that explains why Andy Ross' store has been vandalized and why he has been receiving postcards calling him a "cancerous Jew." Ross has been a leader among store owners who've been trying to get the city to stop homeless people from loitering outside their shops. Ross and city officials agree that his efforts have led to the harassment he's been suffering.

—Charles Oliver

Scott Stantis



"THAT WOULD DEPEND ON HOW YOU DEFINE 'DEFILE'."

tempts to characterize legal, regulated businesses as nuisances have failed in court.

The New Orleans suit also pursues a novel strategy. It argues that a lack of safety features—such as a mechanism that would ensure only specific users can fire a gun—means that gun manufacturers and vendors should be liable for mayhem involving their products.

"This lawsuit is a turning point in our efforts to force the gun industry to make a safer, childproof, 'personalized' product," a spokesman for the Center to Prevent Handgun Violence, which is serving as New Orleans' co-counsel, told the press. New Orleans is suing over 20 gun makers, trade associations, and dealers.

Such arguments have not prevailed in private actions. In November, for example, a California jury dismissed *Dix v. Beretta*, in which the plaintiff argued that a 14-year-old boy would not have been

shot and killed had the pistol been equipped so that only an "authorized" user could have fired it.

But legal precedents may prove irrelevant, particularly in the New Orleans case, cautions Jon Vernick, associate director of the Center for Gun Policy and Research at the Johns Hopkins School of

Public Health. He notes that while gun manufacturers typically win strict liability cases, suits like *Dix v.*

Beretta and the

New Orleans filing make a subtly different argument about design defects: These suits say that the weapons could—and should—have been made safer than they are. While one California jury found that argument less than persuasive, it's impossible to predict the fate of the New Orleans case, Vernick says.

The gun industry says it's armed and ready for long legal battles. That's partly

because it has no other option, says Bob Ricker of the American Sports Shooting Council, a gun industry trade organization and a defendant in the New Orleans suit. Unlike the tobacco companies, explains Ricker, gun makers lack the deep pockets to finance a settlement that might satisfy the dozens of city governments that could come after them.

Desperate Measures

By Ryan H. Sager

Desperate times call for desperate measures. Last fall, New York State Attorney General Dennis Vacco was desperate as election day approached and he found himself in a neck-and-neck race with Democratic challenger Eliot Spitzer. The desperate measure he took: seizing the computer servers of two Internet service providers as part of a high-profile, international child-pornography bust called Operation Ripcord.



Wild Idea

By Michael W. Lynch

In a 1989 *Los Angeles Times* book review, National Park Service ecologist David M. Graber forcefully articulated the anti-humanism that informs much of the environmentalist movement. "Human happiness and certainly human fecundity, are not as important as a wild and healthy planet," wrote Graber. "We have become a plague upon ourselves and upon the Earth....Until such time as *Homo sapiens* should decide to rejoin nature, some of us can only hope for the right virus to come along."

Last fall, the United Nations released a report on world population growth that suggests Graber's dream virus may have come along in the form of AIDS. (See "Population Bomb," page 17.) Washington Editor Michael W. Lynch talked with Graber in December via telephone to find out what he thought about the U.N. data.



Q: Is AIDS the "right virus" for you?

A: I have no idea where AIDS is going to take us. The point I was making [in the review] was that, from the standpoint of just about every other living thing on the planet, human beings are a plague. That's still an accurate and safe assumption. Anything that reduces human populations or reduces their growth is a benefit to just about everything else on the planet. Whether that's desirable for human beings is a completely different issue.

Q: So from the point of view of the planet, AIDS is good?

A: It's a very complex issue because [AIDS] also fouls up the economies of countries. That, in turn, can have other kinds of ecological consequences. Broken economies can lead people to consume primary resources at a faster rate if distribution breaks down. It isn't just how many people you have on the planet. It's how many resources they use. For example, because we use far more resources, Americans are much more expensive to the planet than people in the Third World. Somebody dying in central Africa reduces the impact on Earth much less than somebody dying in the United States. It's not a simple question. I know you would like a simple answer, but I'm not going to give you one.

Q: So if AIDS were having the sort of effect in the First World that it's having in the Third, that would be a good thing?

A: It would be a good thing for other organisms. It certainly wouldn't be a good thing for people who were dying or their families. Ecology is a game where some win and some lose. Death is by far the crudest and cruelest solution to a problem of crowding.

Q: Why put humans on the same level as other organisms?

A: If we were to ask other organisms, they would say, "I've got a lousy deal here; those human beings are my plague." Human beings are unraveling the very stuff of nature with every passing day. From a *human* viewpoint, and given how we're heading, we need to ask: Do we want to live on a planet that looks like New Jersey or England, with no wild animals, no rainforests, no wildness?

The action targeted "Pedo University," an online news-group of pornographers that trades electronic images of adolescents engaged in sex acts. Last October, law enforcement agents in 12 states and four countries arrested a total of 13 suspects for possession and transmission of child pornography.

Vacco's prey, however, was not suspected child pornographers. It was Syracuse's Dreamscape and Buffalo's BuffNET, two ISPs whose only crime may have been operating in areas where the attorney general needed votes. While it is illegal to distribute or possess child pornography, no state or federal law requires ISPs to moderate newsgroups. Although hundreds of New York-based ISPs carried the newsgroups on which members of Pedo University traded files, Dreamscape and BuffNET were the only two to have their servers seized, raising charges of politically motivated prosecution and investigatory overreach.

Noting that none of the individuals arrested in Operation Ripcord had accounts with Dreamscape or BuffNET and that no charges have been filed against either provider, BuffNET Vice President Mike Hassett asks, "Isn't it intriguing that [Vacco] chose only two ISPs, both in upstate New York? Is it coin-

cidence that Vacco won his last election relying on upstate New York votes? Why weren't the other 1,000-plus ISPs in New York state a target of his investigation?"

Vacco's action also has troubling implications for

all ISPs, says BuffNET's attorney, Steven Fox, who has likened seizing equipment that merely provided subscribers with access to Internet newsgroups to "seizing envelopes to combat mail fraud." Vacco's office refused comment on the matter.

While neither ISP faces criminal charges, both have incurred costs for legal fees, equipment replacement, service interruptions, and massive bad publicity. Vacco, too, has problems: He lost a tight race ultimately decided by absentee ballots.

