

policy

REVIEW

Summer 1995

Number 73

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Minimum-Wage Millionaires
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Dick Armey
Zaps the
Sales Tax

J.D. Foster
Tweaks the
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Ignore the Left Jabs.

AMERICAN NEWSPAPER

The Washington Times

November 14 - 20, 1994 NATIONAL WEEKLY EDITION \$2.25

Special 1994 Election Issue

REPUBLICANS BY A KNOCKOUT

Clinton, Democratic policies rejected beyond Beltway

New Whitewater hearings likely

By Jerry Seper
WASHINGTON, D.C.

Having wrested control of Congress from the Democrats, Republicans are expected next year to renew their call for congressional hearings into Clinton's White Water — an effort that was thwarted this year.

But the new inquiry could reach beyond the Senate and House hearing committees, which held limited hearings last week, to include the appointment of a select committee to investigate President Clinton's ties to a failed Arkansas state and real estate partnership.

"We've not yet heard anyone specifically suggest the appointment of a select committee, but look at the size, the scope that has become whatever, and think about the benefit of 're-education' and one key GOP official.

"There are legitimate questions regarding Clinton's conduct in several areas — Agriculture, Energy, Commerce, the

see HEARINGS, page 7



The morning after:
President Clinton discusses his party's devastating losses at a news conference Nov. 9 at the White House.

Voters realign the government

By Leonard Lamborn
WASHINGTON, D.C.

Angry voters punished President Clinton, but they sent the liberal message at the polls: sweeping Democrats from power in Congress and forcing the government in a sharp conservative direction.

Every poll of the past several months showed that voters were fed up with the state everything the government was doing, from higher taxes to more spending, and how they turned that anger on the Democrats with a vengeance.

In a politically realigning election of historic proportions, voters sent a strong message of support for the Republicans' tax reduction and budget-cutting platform.

And the president who was elected two years ago on a platform of change was rebuffed for practicing the same old brand of liberal Democratic politics that he preached on the campaign trail.

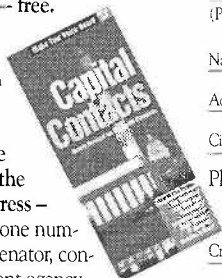
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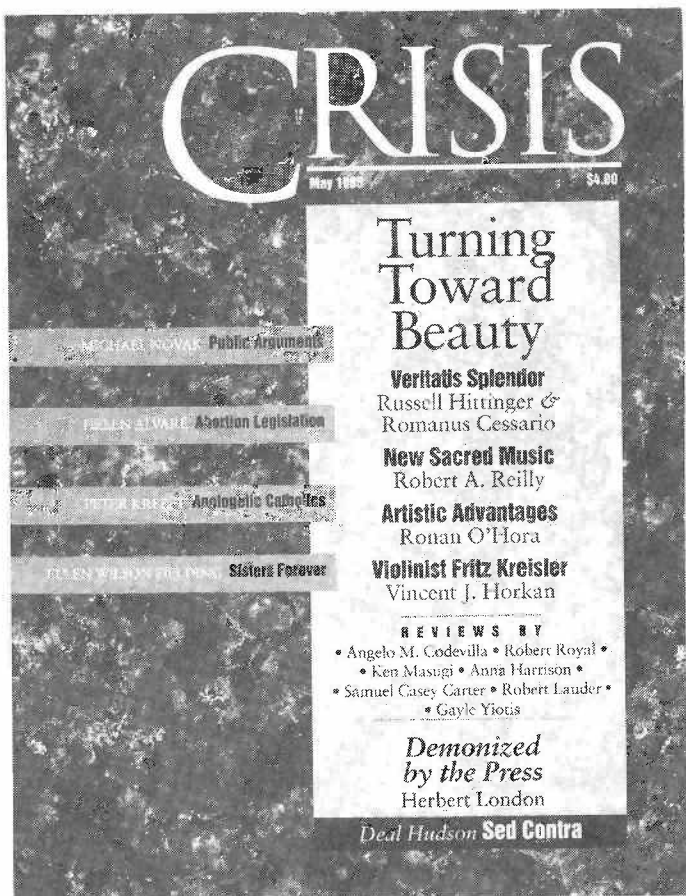
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PR1

NIXON'S GHOST

Racial Quotas—May They Rest in Peace

ADAM MEYERSON

A generation has passed since the Nixon administration established racial quotas in hiring, promotion, college admissions, and government contracting. Affirmative-action policies, both public and private, have opened many economic and educational opportunities for African Americans, and have played an important role in one of the most encouraging developments of recent decades: the emergence of a large and growing black middle class. But supporters of government-mandated racial preferences have always been uncomfortable about policies that judge Americans by the color of their skin, not the content of their character—the opposite of Martin Luther King Jr.'s dream. Even if racial preferences have been justified on a temporary basis, they surely cannot be justified for more than a generation.

Citizens and politicians are beginning to roll quotas back. Senators Bob Dole and Phil Gramm both have promised that, if elected president, they would repeal President Nixon's executive order requiring all government contractors to submit detailed "goals and timetables" for the hiring and promotion of minorities and women. Governor Pete Wilson has abolished some racial hiring quotas established by California law. Even President Clinton is reviewing the issue.

Perhaps the most dramatic movement is the California Civil Rights Initiative, which will be on the ballot next year and enjoys overwhelming support in public-opinion polls. The brainchild of two scholars, Glynn Custred and Thomas Wood, the initiative is based on the color-blind language of the Civil Rights Act of 1964: "Neither the State of California nor any of its political subdivisions or agents shall use race, sex, color, ethnicity or national origin as a criterion for either discriminating against, or granting preferential treatment to, any individual or group in the operation of the State's system of public employment, public education or public contracting."

GAINING GROUND

There are six reasons why the repeal of government-mandated racial quotas is gaining the support of the American people:

- Racial preferences are discriminatory. It is just as wrong for the government to discriminate in favor of blacks and other minorities as it is to discriminate against them.

Preferring one race to another is a violation of the Declaration of Independence, which holds that all men are created equal; of the 14th Amendment, which guarantees all citizens the equal protection of the laws; and of the Civil Rights Act of 1964, which explicitly forbids government-mandated reverse discrimination. This discrimination has real victims, such as the Asians denied admission to the University of California in spite of spectacular records, and would-be policemen and firemen who lose jobs to applicants who are substantially less qualified.

- Racial preferences violate the principles of American citizenship. Americans come from all races, all religions, all nationalities. What unites us as a nation is not a common origin, but a common commitment to our political institutions: the rights to life, liberty, and the pursuit of happiness; the Constitution; a self-governing republic. Martin Luther King Jr. brought Americans together—by speaking of what Americans have in common, by showing how the civil-rights movement fit into the American political tradition. Racial preferences do the opposite; they balkanize our country by emphasizing our differences.

- Racial preferences foster dependency on government. Ronald Reagan used to say that "the success of welfare should be judged by how many of its recipients become independent of welfare." So, too, the success of affirmative action should be judged by how many businesses become independent of set-asides, by how many individuals become independent of quotas in promotion and hiring. Unfortunately, all too many businesses have become part of a permanent affirmative-action industry.

- Racial preferences restrict freedom. Much of the creativity of a market economy comes from the freedom that individuals and businesses have to discover and use information. Bureaucratic, highly regulated affirmative-action policies endanger this creativity by denying businesses the freedom to hire and fire whomever they wish, and, in the case of employment tests that are forbidden because they have a disparate impact on races, by interfering with the free flow of information.

- Racial preferences fail to address the central challenge facing black America today: integrating poor black males into the American mainstream. The number of black men

ADAM MEYERSON *is the editor of Policy Review.*

in college has fallen behind even as affirmative-action preferences in college admissions have intensified: There are now only 540,000 African-American men in college, compared with 830,000 black women. The explosion of violent crime by young black men wasn't supposed to happen with affirmative action. Something drastically different must be done instead of racial preferences, or a generation of black men will be destroyed.

- Most perniciously, racial preferences lower standards and expectations. When African Americans and Hispanics are held to a lower standard than members of other groups, the implicit message is patronizing, even racist. The signal sent by different treatment is that African Americans and Hispanics cannot compete on their own, unless they are given a special handicap. To make matters worse, the very idea of standards is devalued in the culture of affirmative action, where a test is considered discriminatory if blacks and Hispanics don't score well.

It is no accident that the two institutions in which blacks have advanced the most rapidly in America, the military and athletics, are meritocracies with clear performance standards. Colin Powell did not become the chairman of the Joint Chiefs of Staff and one of the outstanding generals in American history by receiving special treatment in his performance reviews. The military, it is frequently said, is the only institution in America in which blacks regularly give orders to whites. This is because blacks in the armed forces have been given standards to aspire to, and the opportunity to achieve them.

By contrast, public schools in America set tragically low academic expectations for poor children, especially for blacks and Hispanics. The culture of affirmative action reinforces these low expectations, with a defeatist message that minorities can't make the grade, and that standards don't even really matter. The sad fact is that on average blacks and Hispanics do score poorly on standardized academic tests. But that isn't an indictment of the tests; it's an indictment of the school system and surrounding culture that discourage kids from achieving.

The literature of education is filled with stories of rapid academic advances by blacks and Hispanics in the face of higher expectations. Over the objections of fellow teachers and guidance counselors who said "these kids can't learn," Jaime Escalante turned Garfield High School, located in a working-class Mexican-American neighborhood of East Los Angeles, into one of the country's top advanced-placement calculus schools. Black and Hispanic freshmen in Georgia Tech's engineering program outperform whites, thanks to a rigorous orientation program based on immersion in math and chemistry.

In New York City, the number of black ninth-graders passing the New York State Regents' science exam doubled from 6,000 in 1994 to nearly 13,000 in 1995, while the number of Hispanics passing the test tripled from 3,000 to over 10,000. The difference? In 1995, at the insistence of New York City School Chancellor Ramon Cortines, black and Hispanic students were expected to take Regents-level science courses and succeed in them. Prior to that, they were expected to fail.

Expectations make all the difference for modest levels of achievement as well. During the early 1980s, Florida


established a functional literacy test as a criterion of high-school graduation. Florida schools now give diplomas only to students who pass a test measuring whether they can fill out basic job application forms, do basic kinds of comparison shopping, balance check books, and otherwise participate in a modern society. At first, 80 to 90 percent of black 12th-graders failed. The test was challenged in court by the Legal Services Corp. on the grounds that it was discriminatory. But Florida gives students five chances to sit for the exam, and 90 percent of black 12th-graders now get passing scores. Those graduates are much better off for being forced to achieve a minimum level of competency.

THE BEST AFFIRMATIVE ACTION

The best affirmative action offers opportunities to outsiders without lowering standards and expectations. This means holding the members of all races to the same high standard and, if necessary, giving people the extra training they need to make the grade. It means not reserving particular jobs for blacks. It means making a genuine effort to find African Americans—and other Americans of all races—who might be overlooked but who have the capacity to excel. This is frequently a judgment call, for the capacity to excel is determined by leadership ability, strength of character, intellectual creativity, and other attributes that can't be easily measured by standardized tests. Precisely because it is a judgment call, it does not lend itself to bureaucratic oversight in the form of quotas, goals, or timetables.

The nomination of Clarence Thomas as associate justice of the Supreme Court is a wonderful example of this judgment. President Bush and his advisers sensed that Thomas, though he did not yet have much judicial experience, had the constitutional understanding, the moral courage, and the intellect to become a distinguished judge—and also to become a national hero among conservative blacks in the way that Justice Thurgood Marshall was a national hero among liberals. As a result of Thomas's race, President Bush may have looked at his qualities more closely than he otherwise would have at that stage in the judge's career. But it was Thomas's qualities, not his race, that led to the nomination. There was no lowering of standards. On the contrary, the Thomas nomination is now seen, at least by conservatives, as Bush's most significant enduring domestic-policy achievement.

Americans of all races can take pride in the growing leadership of African Americans in political, economic, and cultural life. It is one of the great success stories of American history, rivaling the stories of the pioneers, of immigrants, of inventors and entrepreneurs. It is a quintessential American story of determined people overcoming hardship to make the most of our blessings of liberty.

Government-imposed racial preferences played an important part in this story, by smashing through the institutional barriers to black advancement that were the legacy of centuries of discrimination. But reverse discrimination was always a questionable remedy to earlier prejudice. By failing now to offer opportunity to poor black males, racial preferences have outlived whatever usefulness they may have had. It is time for them to go. 

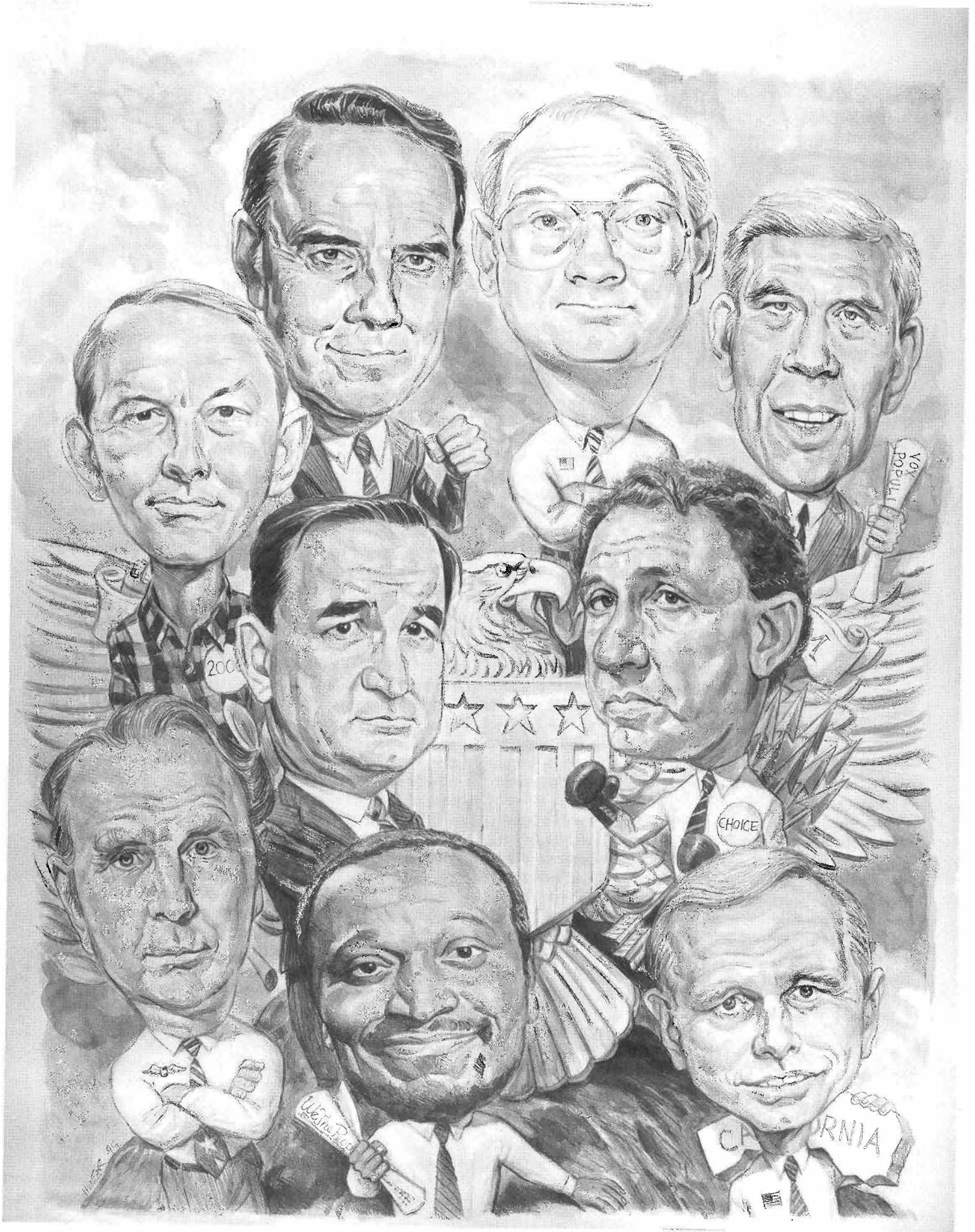


Illustration by Alexander Hunter

MY GUY

Why My Presidential Candidate Is Mr. Right

DANIEL CASSE *on Lamar Alexander*

PAUL GOTTFRIED *on Patrick Buchanan*
WILLIAM E. DANNEMEYER *on Bob Dornan*
MARY PARKER LEWIS *on Alan Keyes*
ROGER J. STONE JR. *on Arlen Specter*

DAVID KUO *on Bob Dole*
LEWIS E. LEHRMAN *on Phil Gramm*
MITCHELL E. DANIELS JR. *on Richard Lugar*
MARTIN ANDERSON *on Pete Wilson*

As this issue went to press, nine political leaders had thrown their hats in the ring as candidates for the Republican nomination to challenge Bill Clinton in 1996. Policy Review asked a conservative supporter of each one to explain why he backed his chosen candidate.

DANIEL CASSE ON LAMAR ALEXANDER

Lamar Alexander is an unorthodox, populist, and persuasive Republican leader. That is why I gladly moved from Washington to Nashville to work on his presidential campaign, and why I believe he will be the party's nominee in 1996.

Our legislative branch's leadership of national government is a temporary (albeit fascinating) phenomenon. But we need our next president to set the agenda, not take his cues from Congress. Conservatives should be looking for a candidate who can present a bold design for government along with the ability to execute it.

Lamar Alexander has the imagination, energy, and executive background to do both. The major themes of his campaign—growth, freedom, and personal responsibility—are indisputably conservative. But what distinguishes him is his unorthodox approach to politics, his populist style of governance, and his skills of persuasion.

Unorthodox. In 1978, Alexander was elected governor of Tennessee, only the third Republican to win that office this century. Nothing that followed was typical, either. He began his crusade to improve Tennessee's pitiful public-school system by introducing merit pay and master teachers, relatively radical notions that weakened the teacher unions. The National Education Association fought him vigorously. He ignored warnings that it was hopeless, fought back, and won.

Alexander broke new ground on other issues. At a time when most governors were using state airplanes to fly to Washington, Alexander closed Tennessee's D.C. office altogether. He chided other governors for behaving like senators. As early as 1981, he advised President Reagan to

end the federal role in education. Four years later, he called two relatively unknown congressmen named Newt Gingrich and Trent Lott and invited them to join a small group of GOP governors to plot a united strategy for second stage of the Reagan Revolution.

He showed the same verve when he arrived at the Department of Education in 1991. By then, the intellectual excitement of the Bill Bennett years had passed, and the Bush administration's school-choice agenda amounted to little more than photo-ops with local education activists. Alexander understood that school choice—despised by country-club Republicans and misunderstood by most suburbanites—was at risk of becoming a political loser. His "America 2000" program was a true grass-roots initiative that breathed life into education reform. Conventional wisdom dubbed it a quirky agenda that offered little federal legislation. But it tapped into a decentralization movement that remains the only path to school choice. His 1992 school-choice bill was a true voucher program for public, private, and parochial schools, but the Democrats in Congress made sure it never came to a vote.

Populist. Alexander's well-publicized assault on Congress—"cut their pay and send them home"—is no mere slogan. It reveals his deep sympathy with the populism that has justifiably become the bedrock of conservative politics. An unapologetic champion of term limits, he sincerely believes that a citizen legislature would transform the character of the federal government. With none of Ross Perot's demagoguery, Alexander offers a mature, but no less revolutionary, brand of popular discontent with government in Washington.

While some Republicans still waver on the wisdom of block grants, Alexander is advancing the idea both philosophically and practically. He suggests ending the federal role in education, welfare, and job training altogether. He applauded the Supreme Court decision striking down the 1990 Gun-Free Schools Zone Act, an attempt to federalize local responsibility that every GOP senator supported. "We

know what to do” is the central tenet of his populist conservative political theory, which holds that Americans should be given the freedom to make decisions about their own lives. Although every Republican will offer bromides about “states’ rights” or “new federalism” during the coming months, Alexander’s own policy prescriptions suggest a fully conceived populist vision.



Persuasive. If conservatives are to remake government, we must do more than merely express support for conservative ideas. We must also win over others not fully in our camp. It didn’t take much leadership to point out that the Clinton health-care plan was a socialistic fantasy. The political challenge was to convince half the nation—

including many Democrats—that the Clinton plan was bad medicine.

The job of president is almost entirely about setting a principled agenda and then persuading the country of its wisdom. Alexander’s public career has prepared him to do just that. As governor, he led a Democratic legislature toward *his* goals. When 38 governors competed to get GM’s Saturn division to build its plant in their states, Tennessee won, in part because Alexander convinced the company’s executives that a right-to-work state with school choice, merit pay, and no income tax was the best environment for business. No tax breaks were involved.

As the chairman of the National Governors Association, he transformed its agenda by convincing fellow members—including Bill Clinton, John Sununu, Dick Thornburgh, and Michael Dukakis—that they should end their obsession with Washington issues and focus on state matters instead.

A president who is at once unorthodox, populist, and persuasive will quickly establish a very different type of presidency. But that is exactly what conservatives and libertarians should be looking for next year. The danger we face is that, with an irreparably damaged president in the White House, Republicans will try to coast to victory in 1996 on a poll-driven platform of GOP boilerplate. Alexander will offer none of that blandness. He governed Tennessee in the 1980s in much the same way that Wisconsin’s Tommy Thompson and Michigan’s John Engler govern in the 1990s. True, his view of the role of the federal government may be at odds with much of established Washington. But it is a view understood and applauded around the country.

DANIEL CASSE is the director of policy for Alexander for President. He was previously the policy director at the Project for the Republican Future.

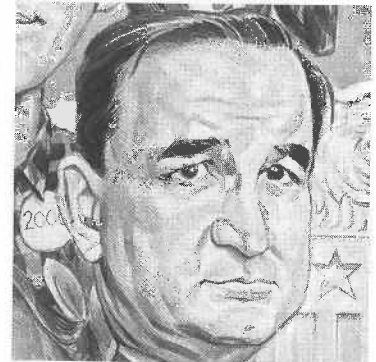
PAUL GOTTFRIED ON PATRICK BUCHANAN

The announcement by Pat Buchanan of his candidacy for the Republican presidential nomination has done

more to change the Republican race than has the entry of any other candidate. More than any other contender, Buchanan represents the populist right and has fought all of its enemies. He has tangled with the liberal media; the gay, feminist, and civil-rights lobbies; and the corporate economic interests allied with big government. He has also dished out, in his provocative speeches and blistering columns, fully as much as he has taken. There is a certain bulldog tenacity about him that even his bitterest opponents acknowledge. When Buchanan believes he has been unfairly attacked, he stands his ground, and he shows as much civility or incivility to his critics as they display toward him. In 1992, I thought that he should have done more to defuse accusations of being anti-Jewish, a charge that plagued him particularly after he had linked support for the Gulf War to the activities of Israel’s “amen corner.” But Buchanan would not apologize for what he—and others, including commentators Michael Kinsley and Rabbi Jacob Neusner—took to be a false charge. As he told his Jewish advisers, he would not dignify a “libel” charge by responding to it.

No, I do not always agree with Buchanan’s positions, but they are honestly stated and consistently held. Unlike senators Gramm and Dole, he has not waffled on affirmative action or aid to illegal aliens, which Buchanan has always opposed. And like Alan Keyes, but unlike most of the other Republican candidates, he is genuinely opposed to abortion.

Equally important to me are the populist themes that resonate in his campaigns. In the *Wall Street Journal* in 1993, Irving Kristol predicted the inevitable success of a national leader carrying out Buchanan’s ideas. Buchanan’s passionate concerns—violent crime, immigration controls, the disintegration of morals, and the disappearing jobs of American workers—are now, according to Kristol, widely shared. New York cabdrivers, even those from the Third World, express most of these concerns with equal vehemence. Kristol is no friend of Buchanan or his candidacy, but he does recognize the timeliness of his populist themes—and the foolishness of those who would resist them.



Buchanan belongs to a movement that is also sweeping Europe. In Italy, Austria, and Germany, there is a surging populist protest against capricious public administration. There is also a growing demand that government bring itself into line with the beliefs and traditions of those it is intended to serve. Democracy, populists maintain, is not an exercise in sensitivity training or the formulation of administrative policy. It is the practice of self-government by self-identified communities, whether regional or national.

When the popular will seeks to affirm traditional morality or limit the political community, but is disre-

garded or overruled judicially, then both democracy and citizenship are devalued. This is now a regular occurrence in the U.S. The populist call for both political accountability and true self-government has joined a conservative goal: the defense of family and traditional communities endangered by a therapeutic managerial state.

Buchanan personifies the populist revolt against this. Unlike neoconservatives and gentrified Republicans, he concedes nothing, rhetorically or programmatically. He calls for seismic change: devolution of power to states and open confrontation with moral and cultural revolutionaries posing as value-free judges or public servants. As president, he would not merely dicker with liberal administrators. He would find ways to dispatch them and, wherever possible, dismantle their agencies.

Buchanan's spiritedness and unwavering conviction persuade me that he would make a difference as president. Unlike Ronald Reagan, he would not leave the Washington power structure as he found it. He would make strenuous efforts to restore the dual federalism established by our founders.

Buchanan knows that genuine democracy must come from below. It cannot be mandated from Washington or, in imperialist fashion, imposed abroad. In our own country, democracy is an ideal to be recaptured, not a blueprint to be forced on other nations.

I doubt that Buchanan would be a rigidly isolationist president. His stern warnings against foreign entanglements have a constructive aim. He rightly fears that our own society is deteriorating in many ways. Especially now that our communist enemy is gone, it may be best to work on domestic problems instead of shouldering the burdens of other peoples.

Nor should we encourage unskilled workers from less developed lands to immigrate, take advantage of our social services, and displace those most at risk in our own work force. America, as Buchanan sees it, should hope neither to remake nor to absorb the rest of humanity. In contrast to the nationalism expressed by Ben Wattenberg, one of his frequent debating partners, Buchanan's nationalism has no global imperative and is respectful of cultural differences. Because of his feisty and principled character and his democratic counterrevolutionary vision, I shall cast my own vote in the Republican presidential primary for this *modest* nationalist.

PAUL GOTTFRIED, *a historian of conservatism, teaches politics at Elizabethtown College, in Pennsylvania. He is an adviser to the Buchanan campaign.*

DAVID KUO ON BOB DOLE

The elections of November 1994 did more than usher in the first conservative Congress in two generations. They also signaled the public affirmation of a conservative agenda. In so doing, they forced conservatives to change both their congressional and their presidential perspectives. Suddenly, long-held conservative hopes became new-found conservative realities. The balanced budget is fashionable—the only real question now is whether it will be accomplished through the budget process or through an amendment to the Constitution. Federalism is

renewed and devolution is the new buzzword. Illegitimacy is bad and the family needs to be strengthened. As conservatives consider whom among the presidential candidates to support in 1996, the question is, "Who is best suited to take us to the next stage of our conservative realignment?" The clear answer: Bob Dole.

The next stage of the realignment is not for communication and symbolism, but for the detailed work of devolving federal power, strengthening families, and reasserting American interests abroad. It is a stage for implementing an agenda already defined.

Although some things may have caused conservatives some angst, the simple fact remains: On every serious issue on our agenda, Bob Dole is not only on board, he is the leader.

This is not a recent phenomenon. The man now calling for the abolition of the departments of Commerce, Housing and Urban Development, Education, and Energy is the same man who voted against creating both Education and HUD. The man now speaking out against our nation's social pathologies has a pro-life voting record of nearly 100 percent. The man now advocating a U.S. foreign policy based on American interests has been one of the leading voices in foreign policy for years. And the man who has pledged to balance the budget has made tough choices, year after year, on spending cuts.

Today, Bob Dole is arguably the most respected statesman in the country. He has proven himself an excellent strategist who remains cool under fire, a coalition-builder, and a political achiever. He has demonstrated both the courage and the decisiveness that will be required to implement our agenda.

Too often, conservatives have belittled and diminished legislative experience as a liability—suggesting that a man who legislates cannot be trusted with the ideological mantle. But as Ronald Reagan, George Bush, and even Bill Clinton have learned, accomplishing—legislating—is difficult business. Any agenda, however aggressive, however bold, however visionary is merely an agenda unless it is implemented. But Majority Leader Dole is not only a legislator, he is a master at getting things done. And President Dole would be able to translate his experience and ability into the tough work of reversing 30 years of growth in the welfare state.



Many contend that the president's most important role is commander-in-chief of our armed forces, and they may be right. Though Cold War pressures have receded, our recent dalliances in Somalia, Bosnia, and North Korea testify to the continuing need for serious and responsive leadership. Bob Dole, who has emerged as the leading Republican voice in foreign policy, would bring to the presidency a developed view of world affairs. His view combines two things: an expansive interpretation of

America's role in the world and a personal and pragmatic understanding of the dangers of global involvement.

For someone who has worked for both the National Right-to-Life Committee and Empower America, all of these things are important. But the real source of my attraction to Dole lies elsewhere. The true reason I believe Bob Dole should be president of the United States stems from his character.

The presidency helps define the character of the country. People look to the president for leadership, inspiration, and guidance. The president should be someone to whom parents can point and tell their children, "Be like him." In Bob Dole, parents could point to someone who served his country in war, overcame physical infirmities thought to be insurmountable, and dedicated his life to serving the American people—all good and noble things.

In the 1980s, following a decade of turmoil and the "malaise" presidency, America needed a particular kind of conservatism—an inspiring conservatism of sweeping visions, a conservatism that could hasten the downfall of communism abroad and the restoration of confidence at home. In President Reagan, it had an unparalleled leader. But America now needs something very different. It needs a conservatism that is still visionary, but one whose greatest virtue is belief in community and responsibility. In Bob Dole it has its rightful leader. His presidency would not only bury the aberration that is the Clinton presidency, but would also consolidate the conservative revolution. He has also proven himself to be a man who keeps his word.

DAVID KUO *has written speeches for the Dole presidential campaign and for Ralph Reed, Jr. of the Christian Coalition.*

WILLIAM E. DANNEMEYER ON BOB DORNAN

True leadership emanates from men who say the right thing at the right time to the people who need to hear it most. This is how I think of Bob Dornan. In my mind's eye I return to 1990, on a typically hot and humid July morning in Washington, D.C., where a not-so-typical debate began to boil on the floor of the House.

At issue was the expulsion of Representative Barney Frank, who had brought shame upon our institution for misjudgments involving a male friend and prostitute over an 18-month period. As the sponsor of the resolution to expel Frank, I can tell you that the experience was one of the most intensely sobering dramas with which I was ever involved in my 14 years of service in the House. It was not a time for the timid. Only four members spoke in favor of the expulsion. Bob Dornan was one of them.

Bob began his comments, "I have not been this nervous in this well in over a 14-year span in this House." And then he did something that has become trademark Dornan, something only courageous men can do under fire.

Knowing that he stood virtually alone, knowing that ridicule and contempt would be heaped upon him by Frank's defenders and a vicious liberal media, Bob turned

and looked Barney Frank square in the eyes, not once turning his attention elsewhere, and said what had to be said to the man who needed to hear it most: "I don't care about the details. The devil is in the details. That is for you lawyers.... I will vote for expelling you because you did not have the honor or decency to resign."

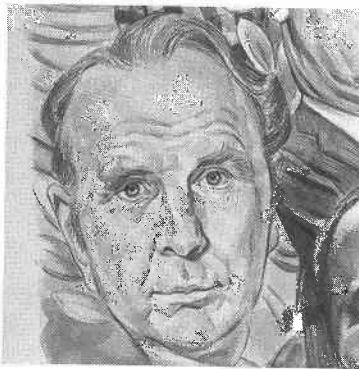
Bob Dole, as inspirational as his life has been, would never have shown such leadership. Phil Gramm would have become invisible. Dick Lugar would have prayed that the moment would quickly pass. And Arlen Specter would have defended Frank. Under those circumstances, not one of these Republican candidates, who all serve in elective office, would have done what needed to be done or have said what needed to be said. This is a major reason why I support Bob Dornan for president.

Bob's conservatism is real. It is passionate. And it is based on a deep and abiding faith in God. I was glad, although not surprised, to hear Bob inject themes of liberty and virtue into the presidential debate. Unlike the congressional colleagues who have become his presidential competitors, Bob actually understands the historical, moral, and philosophical basis of these themes. He knows, and has stated, that we cannot be a free people unless we are a virtuous people. He did not need million-dollar handlers to tell him that. Nor did he need the incessant prodding of pro-family special interests to motivate his comments. He knows the relationship of liberty to virtue because he is a self-motivated student of truth.

History is one of Bob's closest friends. His life-long relationship with history has honed his bubbling idealism into a practical and balanced conservative philosophy. As a staunch proponent of lower taxes and lower federal spending, Bob knows the bounds of governmental authority, not only because he has worn this mantle of authority over the last 18 years in Congress but also because he has studiously examined history. From ancient Rome to modern America, Bob Dornan knows what makes nations rise and fall. The presidential rivals who serve with him in Congress haven't got a clue.

Bob Dornan is not the only good conservative in this race for the presidency. Pat Buchanan and Alan Keyes are also running—and I count each as my friend. Even so, when I have to choose, it is Bob Dornan I will support. Few other qualities in a presidential candidate could offset a lack of elected public service. Bob has been elected to Congress nine times, in Democratic districts. These experiences have built character that cannot be found anywhere else in politics.

Moreover, Bob's record of service both in and on behalf of the military is a nearly essential requirement of the role of commander-in-chief. I know Bob feels it is an absolute requirement. Through a variety of circumstances, he has witnessed firsthand how America has influenced the world for good and has developed the deepest appreciation for U.S. sovereignty. Bob Dornan would not rush us off to war, nor would he abandon genuine freedom fighters anywhere in the world. In determining this delicate balance, I know he would excel—always erring on the cau-



tious side in preserving American lives and sovereignty.

Bob Dornan belies the public persona crafted and manipulated by an adversarial media elite. His passion for life, his love of country, his deep commitment to his wife Sallie and their children and grandchildren, and his uncanny identification with all types of people sometimes make him an easy target for mean-spirited and shallow adversaries. Yet he has remained eternally optimistic about life and about the future of America specifically. Great men deserve even greater opportunities to show their mettle. This is why I unhesitatingly support Bob Dornan for president of the United States of America.



WILLIAM E. DANNEMEYER is a former congressman from California.

LEWIS E. LEHRMAN ON PHIL GRAMM

Who is the authentic heir of the Reagan Revolution, the iron man who can fulfill its promise? Who among us is the leader with the compelling vision, the experience, and the perseverance to lead us out of our time of troubles? I say I know such a man.

Born a son of the South, a grandson of Yankee immigrants, raised in Georgia, and grown to manhood in Texas, he has risen to leadership by virtue of his own remarkable energy and intelligence—just as he rose to the rank of legislative statesman as the senior senator from Texas. Phil Gramm is the man.

Born poor, self-made, and unencumbered by the cultural baggage of country-club Republicans, Phil Gramm's life has demonstrated the promise of the American dream: that every American, no matter how humble his beginnings, has the right and the opportunity to rise by indefatigable effort and indisputable merit as high as he might go. Phil Gramm will rise to the highest office in the land because he will, conventional wisdom notwithstanding, roll up the primaries in 1996. And he will win the general election going away.

This is how Phil Gramm will win! He will win with the most compelling campaign of conservative ideas. He knows what he believes and loves what he knows. He will win by recruiting legions of true conservative activists to embrace his definition of the American dream. He will win by the sheer force of his superior talent and leadership, which explains why he has built more organization, raised more money, and won over the vast majority of conservative activists who know where he stands.

Every true conservative who aspires to the highest office should uphold a clear program of reform designed to restore our limited constitutional government. Yet we know, from the failures and disappointments of the past, that a program by itself is not sufficient. Neither will it be sufficient in 1996 to choose careerism or time-serving political credentials.

The conservatives now assembled for victory have learned from hard experience that the man who leads us will only be sufficient unto the task if he has, in addition

to the gift of intellect and a well-laid plan, something more. That something is true grit, unimpeachable character, and the irrefragable tenacity to carry his plan for a rebirth of the American dream to total triumph. We the people want a president of the United States whose impeccable conservative ideas and matchless record are joined with a driving will to win. We want a winner, a big winner, a man with a strategy for victory.

In the domain of political economy, Phil Gramm is the best-trained, best-equipped presidential candidate in American history. A free-market professor of economics long before it was trendy, a co-author of the Reagan economic program, he is the very apostle of low tax rates, a balanced budget, stable money, and a deregulated economy. Phil Gramm is without peer in his grasp of how to create full employment, long-term interest rates of 4 percent, and a tax code based on a flat rate.

In the domain of defense policy, Phil Gramm has prepared himself for the post-communist world. He has declared that he is "ready for a world where the lion will lie down with the lamb, and if such a world comes about, I want the United States of America to be that lion." No other policy is acceptable to Phil Gramm, whose presidential inaugural oath, registered in heaven, will require him to "preserve, protect, and defend the Constitution of the United States of America."

Believing as I do that economics and foreign policy are contingent, but cultural and social principles are central, what assurance does one have that President Gramm will encourage and foster the indispensable moral reformation of the public square? Speaking in May before Liberty University and The Heritage Foundation, Phil Gramm said: "Faith and family produced the values and virtues that helped make America the world's greatest and most powerful nation long before we had any of the trappings of greatness and power." Quoting Alexis de Tocqueville, Gramm said, "Not until I went into the churches of America, and heard her pulpits flame with righteousness did I understand the secret of her genius and power. America is great because she is good, and if America ever ceased to be good, America will cease to be great.' I believe that Alexis de Tocqueville was right 160 years ago, and I believe he is right today."

In more specific terms, Gramm has argued that "the social-security net that we erected has become a hammock. Government programs...have changed the way we behave, corrupted our values, and diminished our virtue. As we look more and more towards Caesar to take care of us, we have turned more and more away from family and faith. In rendering unto Caesar, we have stopped rendering unto God."

And thus we are brought to consider the soul of the Republican Party as we debate its presidential nomination. During the greatest crisis of American history, the Republican Party of the United States was founded on the everlasting covenant of "free soil, free men, and free labor." And with the victory of our party and of President

Lincoln came vindication of the inalienable right to liberty and the end of slavery in America. More than a century later, the Republican Party of Ronald Reagan came to stand for many things, but there was one unique covenant in the platforms of 1980 and 1984. Let us call it the one needful thing. And what is that thing? Senator Gramm described “the day when all unborn children are welcomed into life and loved when they get here.” A Republican Party—indeed, a Republican president—without a commitment to the inalienable right to life, without unequivocal opposition to abortion, is as unthinkable as a Republican Party without Lincoln, the inalienable right to liberty, and unequivocal opposition to slavery.

We conservatives know that, after this imminent contest for the presidency, our philosophical agenda entails no less than the comprehensive reformation of our political institutions. But to pursue a goal without the right man and the right means to attain it is to court political disaster. Republicans are blessed with several authentic candidates. But I believe that Phil Gramm is the only leader with the intellect, the force of will, and the preparation for greatness who can marshal our forces for an overwhelming and irreversible victory over our foes.

LEWIS E. LEHRMAN, *the chairman of Lehrman, Bell, Mueller, Cannon, Inc., an economic and financial forecasting firm, raises money for the Gramm campaign. In 1982, he was the GOP and Conservative Party candidate for governor of New York.*

MARY PARKER LEWIS ON ALAN KEYES

For the millions of Americans who are brokenhearted over the decay of moral standards, the disintegration of families and neighborhoods, and the slaughter of innocents in the womb, Alan Keyes is the most powerful spokesman on the scene today. More than any other candidate, Alan Keyes offers a healing message of hope and renewal, based on the immortal principles of our great Declaration of Independence, and delivered without apology to the better angels of our nature.

The former president of Citizens Against Government Waste, Alan Keyes offers credentials second to none as a champion of Americans fed up with overtaxation, overspending, and overregulation. For example, when many



Republican leaders were assuring us that Dick Darman’s 1990 budget deal was a winner for George Bush and the GOP, Alan warned that the agreement would prove disastrous for taxpayers, the economy, and the party. Events proved him right.

Today the GOP endorses the policies of tax reduction, spending restraint, and local empowerment that Alan has championed for years. That is well and good. But as Alan eloquently reminds Republican audiences, economics is not at the heart of what ails America.

Serious though they are, our economic problems are largely derivative, the consequences of having abandoned the moral and constitutional principles of the American founding. The transfer state is bankrupting America, but the transfer state comes into its own only when hordes of people see nothing wrong with living off the toil of others. In any event, moral vices produce the social problems for which government programs are inevitably proffered as solutions.

That’s why Alan’s front-and-center emphasis on moral issues is the only genuinely practical approach. Consider these words from his February 19 address to the New Hampshire Republican State Committee: “Why is it that we spend so much money on welfare and illegitimacy? Why is it that we spend so much money on crime and violence in our streets? Why is it even that we spend so much money dealing with the problems of irresponsible behavior that contribute to the decline of the health of this nation? I think you all know in your hearts what the real answer is. We don’t have money problems, we have moral problems. And it’s time we stood up and faced that truth.” We will never succeed in relimiting the federal government until we restore the family to its rightful place as the first and best “welfare provider” and strengthen the marriage-based, two-parent family as the fundamental moral unit of society.

Of all the policies eroding the moral foundations of family life and American freedom, the policy of abortion on demand poses the greatest danger. There are, of course, many decent people on both sides of the abortion controversy. Nonetheless, the pro-abortion position is anti-family. As an institution, the family both depends upon and nurtures an ethic of duty and self-sacrifice. But the pro-abortion position fosters an ethic of self-indulgence. It says, in effect, that the convenience or pleasure of the adult is the supreme law.

Worse, the pro-abortion position implicitly justifies political despotism. The Declaration of Independence proclaims the right to life to be a gift from God and, therefore, inalienable. The pro-abortion argument assumes either that government (not God) is the source of rights, or that we have the right to decide whose humanity shall be recognized and whose shall not. Obviously, the doctrine that there are no natural rights (hence no natural wrongs) advances the ambitions of those whose chief interest lies in the expansion of government power. But liberty is also subverted when we claim the authority to decide who among us is human, and who is not. Alan put it this way in an April 8 speech to Delaware Republicans:

“Don’t you realize that opens the door to every form of tyranny? Because all I have to do if I want to snuff out your life or trample on your rights is decide that you’re not human. And of course you’ll look at me and say, ‘But you can’t do that.’ And I’ll say, ‘Well, the last time the American people decided they were going to draw the line, my folks ended up on the wrong side of it.’ And I don’t think it was because we had the poor judgment to draw the line in the wrong place. I think it was because we claimed a right we do not have. We do not have the right to draw that line. God drew it, and all we have the right to do is respect His will.”

Slavery and abortion on demand are both what Alan calls "Declaration issues"—moral wrongs that must be addressed because they contradict the basic premise of a self-governing polity. I believe Alan sees so deeply into the nature of the abortion controversy because he has thought long and hard about slavery and the black experience in America.

Keyes's book, *Masters of the Dream: The Strength and Betrayal of Black America*, is not just an antidote to decades of left-wing revisionism. It is a meditation on the universal significance of the black experience—the moral and civic lessons to be learned therefrom. Slavery did not make blacks slavish, nor did material deprivation turn them into passive victims. Rather, slavery whetted their natural thirst for freedom, much as it did to the Hebrews of old. Deprivation taught them to recognize the true, non-material basis of human dignity. To survive in the face of adversity, blacks had to become diligent, dependable, hopeful. They learned to honor hard work, self-discipline, family, and the riches of the spirit. Such qualities of moral and spiritual strength are the key to restoring the true American dream—the dream of freedom.

Beginning in the 1960s, black America was betrayed by the same forces that are destroying the dream for all Americans: the perverse incentives of the transfer state, and the debilitating doctrines of sexual permissiveness and moral relativism. Alan Keyes's candidacy is a candidacy like no other. Drawing on the moral lessons of black history, the imperishable truths of the Declaration, and the arts of statesmanship, Alan Keyes will elevate the 1996 presidential contest to a plane not seen in America since the Lincoln-Douglas debates.

MARY PARKER LEWIS is the general manager of the Alan Keyes for President campaign.

MITCHELL E. DANIELS JR. ON RICHARD LUGAR

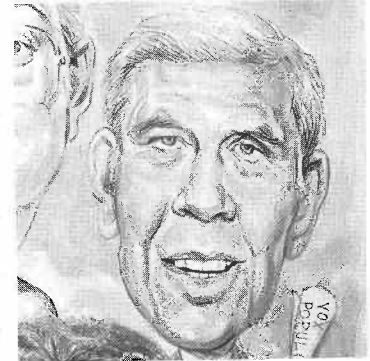
As they search for the best national leader in 1996, conservatives should look beyond words, votes, and even public actions. The true measure of authenticity must encompass not only what a man has shown to the camera, but also what he has shown to his family, his neighbors, and his Maker. For Dick Lugar, conservatism is not merely a school of thought, it is a way of life, and it is in that context that he emerges as the right man to lead America back to strength and virtue.

By every conventional yardstick, Dick Lugar has been a rock of conservative principle and consistency. As the mayor of Indianapolis, he cut taxes five times in eight years, and battled tirelessly against federal intrusion into state and local autonomy. As a senator, he has amassed a voting record in the most conservative fifth of each Congress in which he has served; statistically, he was Ronald Reagan's number-one supporter for the eight years of the 40th presidency.

Lugar's campaign for the presidency is animated by these same bedrock beliefs. His determination to shrink government and reduce spending is confirmed by his ongoing, often lonely battle to cut agricultural subsidies and free American farmers to plant for the market, not the government. Like Churchill, he believes that "The

responsibility of Ministers for the public safety is absolute and requires no mandate. It is in fact the prime object for which governments come into existence." He knows, and is unafraid to state, that the safety of our country cannot be left to chance, but will demand American activism on nuclear proliferation, ballistic-missile defense, and terrorism.

Dick Lugar rejects the current establishment's constrained vision of a U.S. economy growing at only 2 or 3 percent per year. His clarion call to abolish all taxation of enterprise is the single most radical and promising idea on the 1996 agenda. Alone among the candidates'



reform proposals, it would uproot today's entire anti-growth, anti-savings regime of income, capital-gains, and estate taxation, and turn loose a 1980s-like explosion of investment, exports, jobs, and higher incomes.

But for all its macroeconomic appeal, the true significance of the Lugar tax plan lies in its underlying values. Leapfrogging the flat tax and its imitators, Lugar would abolish at a stroke the most dehumanizing aspects of modern statism: the invasions of privacy, the abuses of power, the insidious invisibility of withholding, and the unspoken assumption that income belongs to the state rather than the individual. Through their consumption decisions, individuals would have full control of the rate of their taxation. In a real sense, Dick Lugar's tax plan is the ultimate expression of conservative philosophy.

Anyone can write a platform. Many have compiled positive records of words, votes, and public deeds. It is the rarest of public men who can also lead a life in complete congruence with the principles he espouses.

Dick Lugar has lived the virtues of self-discipline, duty, devotion to country, and religious faith that we all admire but practice imperfectly. He was first in his class in high school, first in his class at college; he has been a Methodist lay minister, and an Eagle Scout. Like Bill Clinton, Dick Lugar visited the American Embassy in London while he was a Rhodes Scholar; unlike Clinton, Lugar went there to enlist in the U.S. Navy.

Lugar served his country with distinction, including a stint as intelligence briefer to Admiral Arleigh Burke, the chief of naval operations. Returning to his home town, he saved a struggling family manufacturing business, carried on the family farming operations, and with Charlene, his wife (and co-president of their college's student body), built his own little platoon of four sons. As a school-board member, he fought for racial integration and against forced busing. That brought him to the public's attention, and eventually to an elective career. But throughout his public life, he has remained closely involved in both his businesses. Dick Lugar has always been a citizen legislator.

When President Lugar calls Americans to reassert the moral superiority of hard work, personal responsibility, intact families, and respect for life, his conviction will not

be drawn merely from congressional testimony of the latest policy analysis. His leadership of a cultural recovery in our country will be grounded in a life of commitment to virtues early learned and deep embedded.

The conservative revolution is yet to be won. Building upon the congressional breakthrough of 1994 will require the election of a Republican president, and not just any Republican will do. Total triumph will only be won by a president who can attract and hold the respect and affection of millions of citizens.

Dick Lugar's brand of inclusive, reasoned, friendly conservatism has allowed him to build larger coalitions and shatter electoral records throughout his career. Just as he is the candidate most certain to disarm President Clinton in a general election, he is the man best equipped to win the enduring trust of the larger majorities whose support will consummate the conservative crusade.

MITCHELL E. DANIELS JR. is the president—North American Pharmaceutical Operations, Eli Lilly and Company. He was chief of staff to Lugar from 1975 through 1984, and served as Assistant to President Reagan for Political and Intergovernmental Affairs in 1985-87.

ROGER J. STONE JR. ON ARLEN SPECTER

Arlen Specter is a Jew, he comes from a big city, he has a record of commitment to racial equality (without quotas), he's pro-choice, and he believes strongly in tolerance and the First Amendment doctrine of church-state separation. For social-issue conservatives who take their marching orders from Pat Robertson and Ralph Reed, who believe in Pat Buchanan's "holy war" for the soul of America, some or all of these factors probably make Specter's candidacy anathema. Frankly, this article is not addressed to them.

The conservatives to whom this article is addressed are conservatives like myself—the kind of conservatives I met in 1964 as a member of Young Americans for Freedom, fighting the good fight for Barry Goldwater; the conservatives I led as National Chairman of Young Republicans, and worked with beginning in 1976, and then in 1980 and 1984, to give America eight magnificent years of a Ronald Reagan presidency; and the supply-side conservatives I worked with in Jack Kemp's 1988 presidential campaign in an effort to continue that tradition.

This article is addressed to conservatives who, like Barry Goldwater, believe that government ought to get off our backs, keep out of our pocketbooks, and stay out of our bedrooms. This article is addressed to conservatives who, like Ronald Reagan, believe in a strong America: strong enough militarily to secure our interests and keep the peace around the world, strong enough domestically to win the war against drugs and violent crime on our streets. This article is addressed to conservatives who, like Jack Kemp, believe in an American future of unlimited economic opportunity and unprecedented growth fueled by low taxes, free trade, and free markets.



To those libertarian conservatives, who I believe are the true core of American conservatism, I say Arlen Specter is *your* candidate. In Arlen Specter, you will find a senator with a strong record of conservatism that goes back to his first days in the senate. In the Specter '96 campaign, you will find a program thoroughly grounded in conservative ideals and ideas, and a candidate committed to fiscal and economic conservatism who has the best chance of beating Bill Clinton in a general election.

First, the Specter record. Arlen Specter came to the Senate in 1981 with an outstanding background in law enforcement as Philadelphia's district attorney, where he fought successfully to end plea bargaining and win stiff sentences for violent criminals. In the Senate, he immediately made tough anticrime policies a legislative priority, and authored the 1984 Armed Career Criminal bill, the first federal law to use "three strikes" to get long-term jail terms for repeat offenders. A strong believer in the deterrent force of the death penalty, Arlen Specter has for 15 years been the driving force in Congress to put teeth back into state death-penalty laws by eliminating ridiculous judicial delays in carrying out death sentences.

Throughout the Reagan presidency, Arlen Specter was a solid supporter of the revitalization of the American military, including the Strategic Defense Initiative. He firmly opposed any effort to relax the Cuban embargo. He has been at the forefront of the fight to combat terrorism at home and abroad, and was a leading Senate voice in support of the Gulf War resolution. Recently, he has been a vocal Senate force in opposition to the Clinton administration's appeasement of North Korea and its pointless risk of U.S. lives in Haiti.

Specter's fiscal record in the Senate is solidly conservative: long-time support for both a balanced budget amendment and the line-item veto (including sponsoring his own legislation during his second term); support for the Reagan era tax cuts; and, early this year, his own flat-tax bill—the Senate's only such legislation.

For the same reasons that Specter has opposed government interference into Americans' private lives, he has always opposed gun-control and supported the rights of law-abiding citizens to own firearms. He believes that swift, certain, and severe punishment of criminals, not confiscation of guns from the public, is the effective way to fight violent crime.

The defining themes of the Specter '96 campaign are squarely conservative. As Arlen Specter said in announcing his candidacy last March:

"With the election of a Republican Congress in 1994 and a Republican president in 1996, we have a unique opportunity to move America toward unprecedented prosperity and unlimited opportunity....

"We do so by implementing our core Republican values: smaller government; less spending; lower taxes; civil rights and liberties; strong national defense; and effective crime control.... I stand before you today as a man willing to work with every ounce of my energy and every fiber of

my determination to renew once again the dreams of freedom and opportunity that for 200 years have made this nation the envy of and the example for the world.”

In his announcement speech, Specter made just two specific pledges on domestic policy, and both reflect the fundamentally conservative orientation of his governing philosophy: to balance the budget by 2002 (and to write the first check to *reduce* the national debt in January, 2003); and to deliver a flat-tax bill to the Congress at his own inauguration.

The flat-tax concept—a single 20 percent tax rate on all business and personal income, elimination of all loopholes and deductions except for a portion of home-mortgage interest and small charitable contributions, *and no taxation on interest, dividends, and capital gains*—has become the economic centerpiece of the Specter campaign. As welcome as specific tax cuts might be, they are mere Band-Aids for a tax system that is long on bureaucrats, rules, and regulations and short on incentives for economic growth. The future of conservative fiscal policy lies with the flat tax—House Majority Leader Dick Armey said the next president would be elected on a flat-tax platform—and Arlen Specter is the *only* Republican candidate to commit foursquare to such a system.

Conservatives need to be realists. We need to recognize that Bill Clinton is not as vulnerable as he once seemed or as we might like. The 1996 Republican nominee will face in Bill Clinton an energetic campaigner, a president determined to use the considerable powers of incumbency in support of his reelection, and a man zealously supported by interest groups determined to retain their last link to political power. As conservatives, we need a Republican nominee who can defeat Bill Clinton in a general election—and that means Arlen Specter.

Since 1980, Arlen Specter has won three tough Senate races (and two tough primaries) in a bellwether state where Democrats have always far outnumbered Republicans. In 1992, despite the fury of radical feminists over his defense of Clarence Thomas, Specter carried Pennsylvania by three points while George Bush was losing the state to Clinton by a million votes. Arlen Specter has a reputation as an indefatigable campaigner—a reputation I can tell you is well deserved. He has the intellect, tenacity, and toughness to take on Bill Clinton in a presidential debate—and to win going away.

In Arlen Specter, conservatives have the chance to support a candidate committed to a balanced budget and a flat tax at home, and to the restoration of American strength, resolve, and credibility abroad; a candidate who has the knowledge and experience to lead a national war on crime and drugs; and a candidate who can win the White House on these issues. Conservatives who see themselves as heir to the libertarian legacy of Barry Goldwater, the Reagan tradition of American strength abroad and limited government at home, and the Kemp commitment to broad-based growth and prosperity belong in his camp.

ROGER J. STONE JR., a long-time Washington political consultant, is general chairman of the Specter '96 campaign. Stone served as a political advisor to presidents Nixon, Reagan, and Bush.

MARTIN ANDERSON ON PETE WILSON

Today the commonsense conservative philosophy that so many have fought for, for so long, holds sway in the Supreme Court, in the U.S. Senate, and in the House of Representatives. There is only one piece missing in the conservative political jigsaw puzzle—the White House. When that piece is in place, a picture of real political revolution will emerge, a revolution that could roll on well into the next century.

That is why the stakes next year are so high.

There have been three successful conservative Republican presidents elected in our lifetimes—Dwight D. Eisenhower, Richard Nixon, and Ronald Reagan. I've worked to help elect and then serve with two of them, and I believe there are certain requirements that a person must have to win the Republican nomination and then the presidency.

Here's the short list:

- They must have rock-solid conservative views on national security and economic policy, and they must be in accord on a

wide range of social issues important to the conservative base of the Republican party.

- They must be political warhorses, with a powerful political base—preferably California (54 electoral votes), New York (33 votes), or Texas (32 votes)—and skilled campaigners. Executive experience in government is a big plus.

- They must have high intelligence, great stamina, and a record free of scandal. Running for president against any incumbent Democrat, in the teeth of a hostile, liberal press, is a mind-numbing, exhausting gauntlet.

The Republican candidates running for president in 1996 are a distinguished group; any one of them would be a dramatic improvement over President Clinton. By the fall of 1995, it is likely that the race will narrow to three men: Senator Dole, Senator Gramm, and Governor Wilson. They are all good men, but I believe that one of them—Pete Wilson—best meets the criteria for getting nominated, getting elected, and governing successfully.

Peace and National Security. Pete Wilson has a strong, consistent record of conservative positions on national defense and foreign policy. Known as a national defense hawk in the U.S. Senate, he was a leading supporter of President Reagan's Strategic Defense Initiative (SDI) and one of the few who called for early deployment. An expert on strategic nuclear policy and arms control he was a critic of the SALT II treaty and backed President Reagan's INF treaty.

As governor, he has been an outspoken critic of President Clinton for squandering U.S. prestige and influence around the world and cutting national defense spending to dangerously low levels.

In the 1950s, he was a platoon leader in the U.S.



Marines. On national-defense matters, they don't come any tougher than former U.S. Marine officers. On national security, Pete Wilson is as tough a defender of U.S. interests as any Republican running.

Prosperity and Economic Policy. As a U.S. Senator, he consistently supported both a constitutional amendment to balance the federal budget, and line-item veto authority for the president. As a candidate for the Senate, he strongly opposed the 1982 tax increase; and as senator, he voted against President Bush's 1990 tax increase.

When he became the governor of California in 1991, he inherited the worst economic mess in the state's history. The deficit facing him was one third of the state's general fund request, comparable to a \$500 billion deficit in today's federal budget, but with one big difference—the California constitution mandates a balanced budget. Unlike Washington, where you can take seven years to achieve fiscal responsibility, he only had one year and a legislature controlled by Democrats. Although some taxes were raised, the lion's share of that deficit was eliminated by tough spending control.

In fact, during the four years of his first term he held spending flat in current dollars. If you account for inflation, real spending went down—not from some bogus baseline projection, but from actual 1991 spending levels. If the federal government had exercised comparable toughness, the federal budget would be in balance today.

California also went through a few other trials—drastic defense-industry cutbacks, the collapse of real-estate values, fires, floods, mudslides, riots, and earthquakes. But Pete Wilson's tough spending control, unmatched in any other state, laid the foundation for a strong economic recovery that confounded the experts—a recovery strong enough to generate sufficient new tax revenues to pay off temporary debts, to fund spending increases for education and law enforcement, and to propose a 15 percent across-the-board tax cut for all individuals and businesses. If the Democratic-controlled legislature refuses to pass the tax cut, Pete Wilson has vowed to hold a statewide ballot referendum and let the voters decide. When passed, the new tax rates will be *below* what they were when he took office.

Pete Wilson is the only Republican candidate proposing a true supply-side tax cut—not increased deductions or exemptions, but an across-the-board reduction in tax rates.

Speaking to the Republican Midwest Leadership Conference on May 19, 1995, he spelled out the Reagan supply-side formula for economic prosperity: "If we both cut taxes and cut spending...there is every reason for not just optimism but for justified confidence in America's dynamic growth."

Justice and Social Issues. Here his record is overwhelmingly on the side of conservative values, a clear sense of what is right and wrong, and of achieving justice. Pete Wilson, the governor of our largest state, took the lead not only in reforming welfare, but also in actually cutting the amount of benefits paid. He was the first political leader to sound the alarm on the injustice of paying billions of taxpayers' dollars for the welfare, medical care,

and education expenses of illegal aliens. He led the battle for "three strikes and you're out" for career criminals, locking them up for life after their third felony conviction.

A supporter of term limits for politicians and the kind of federalism the Founding Fathers intended for the United States, he has led the fight against the heavy hand of federal mandates, declaring that California is "not a colony of the federal government."

He has fought for regulatory and legal reform, proposed a state constitutional amendment to limit regulatory excesses, and issued an executive order suspending the environmental regulations that contributed to the recent flood damage. He has consistently vetoed legislation that would extend special rights to gays, while opposing measures that would discriminate against them. Pete Wilson, an expert pistol shot when he served in the Marine Corps, has always supported the fundamental Second Amendment rights of Americans to keep and bear arms, subject only to some commonsense restrictions that support law enforcement. On affirmative action, he has called for commonsense justice—a color-blind society in which people would be treated equally regardless of race or gender.

On the social issue that most troubles the Republican party today—abortion—Pete Wilson holds strong, consistent views. While fully aware of the deeply held beliefs of those who oppose all abortion and the reasoning behind those beliefs, he has also carefully considered the rights and responsibilities of the individuals involved, and the dangers of allowing an already too powerful federal government to intrude itself into the most intimate, difficult decision a woman can make. He strongly believes we should encourage the kind of responsibility that would make abortion unnecessary, that the question of abortion is best left to the family and church, and that we should try to remove this issue from the political arena to the extent possible.

Is this conservative? Well, it is the position shared by a substantial majority of the Republican Party. Considering the terrible moral dilemmas involved, it is a commonsense conservative view.

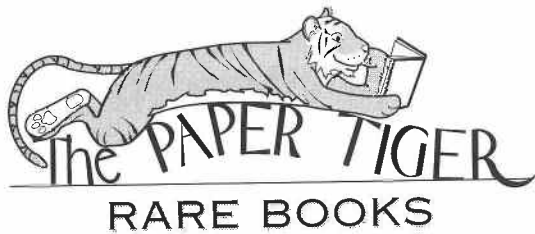
Electability. Most of my conservative friends are primarily interested in ideas and principles, but for those who are also concerned with mundane things like winning elections and taking power, I have a final thought.

If Pete Wilson wins the Republican nomination in 1996, he will win the 54 electoral votes of California in the general election. No Democratic nominee can be elected president without winning California.

Therefore, the nomination of Pete Wilson is as close to a guarantee as you can get that Republicans will—for the first time in 44 years—control both houses of the Congress and the White House.

If that happens, well then, as Ronald Reagan once said: "You ain't seen nothin' yet."

MARTIN ANDERSON is a senior fellow of the Hoover Institution at Stanford University. He has worked in seven presidential campaigns and served as economic and domestic adviser to presidents Nixon and Reagan.



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4. Hazlitt, Henry. *The Great Idea*. Appelton-Century-Crofts, 1951. 1st Printing. The original title, later to be published by Arlington House as *Time Will Run Back*. A novel about the re-discovery of capitalism in a futuristic Communistic WonWorld. A scarce - but very timely book. Some edge chipping to the dust jacket. Overall a better than very good copy.
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11. *St. Nicholas Magazine*. Original bound volume of all issues from Nov 1887 - Apr. 1888, 480 pp. One of the leading American Victorian children's/young adult's magazines. this issue includes contributions by John Greenleaf Whittier, Louisa May Alcott, Francis Hodgson Burnett and Palmer Cox.
12. Wiggin, Kate Douglas. *Rebecca of Sunnybrook Farm*. Houghton, Mifflin & Co, 1903. The rare true 1st printing, 1st issue, with publisher's imprint on spine 1/16th" high and the sentence on p. 327 reading, "bricks, glowing in the sun of that October noon." A better than very good copy of (arguably) the author's best, and certainly most famous, book.

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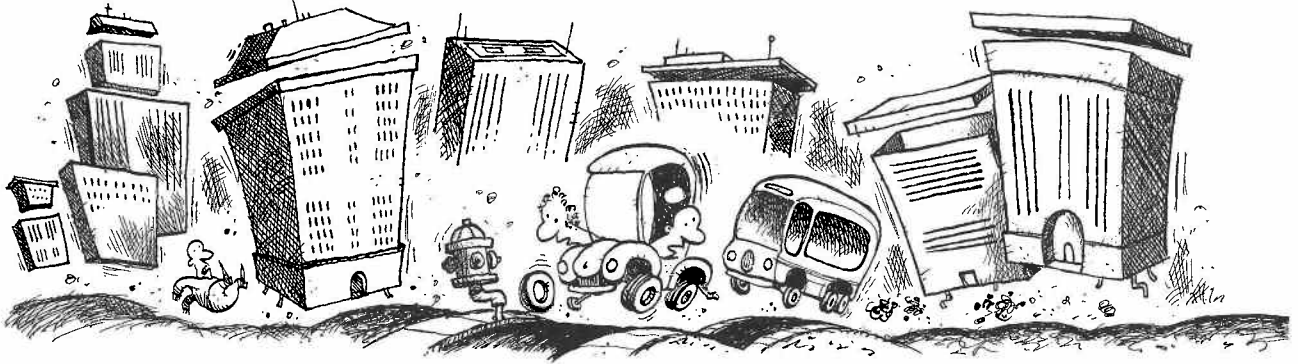
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100 DAYS THAT SHOOK THE WORLD?

The Historical Significance of the Contract With America



JOHN J. PITNEY JR., WILLIAM A. RUSHER, BURTON W. FOLSOM JR., JEFF JACOBY, ALONZO L. HAMBY, MONA CHAREN, DEROY MURDOCK, SALLY C. PIPES, MIKE SIEGEL

Big Government was consolidated in America in the First Hundred Days of the presidency of Franklin Delano Roosevelt. By promising that the House would enact the Contract With America in the First Hundred Days of the 104th Congress, Speaker Newt Gingrich deliberately invited the history books to compare the work of the House Republican leadership with the New Deal of FDR.

Policy Review asked nine students of American politics to assess the historic significance of Gingrich's First Hundred Days, and the principal achievements and errors of the House Republican leadership during this "rendezvous with destiny."

JOHN J. PITNEY JR.

At first glance, it seems that the House GOP's First Hundred Days compare badly with FDR's. Although all the items in the Contract With America reached the House floor, only two of them (congressional compliance and unfunded mandates) became law before the hundredth day. By contrast, FDR signed bushels of bills during the Hundred Days of 1933. His emergency banking measure went through introduction, passage, and signature on the very first day of the congressional session—and in less than eight hours.

It is unfair, however, to judge today's House Republicans by the Roosevelt standard. Crisis is the great lubricant of the legislative process, and the economic calamities of FDR's early days briefly suspended Capitol Hill's normal friction. And odd as it may sound, many aspects of public life actually moved faster in 1933 than in 1995. Take justice, for instance. Shortly before FDR took office, a man named Giuseppe Zangara fired five shots at the president-elect, missing him but killing one person and wounding four others. Zangara was tried, convicted, and executed within 33 days. In the 1990s, jury selection

alone can take longer than that, and capital offenders can stay out of the electric chair for years by filing endless *habeas corpus* petitions.

Government has become tangled in its own red tape—which is precisely why the Republicans put so much emphasis on procedural reform. They started with the House itself, recognizing that the institution would work more efficiently with fewer committees and smaller staffs. The best symbol of their commitment to renewing Congress came with the congressional-compliance bill, which cleared both chambers faster than any peacetime domestic legislation since Roosevelt's banking bill in 1933. In other ways, the Republicans strove to make government leaner and less cumbersome. Proposals such as block grants would eliminate layers of bureaucracy and miles of red tape. And the GOP crime bill would restore rationality to the appeals process in capital cases, thereby ensuring swift justice for the Zangaras of the future.

House Republicans are pushing the federal government to match the pace of 62 years ago. Ironically, that is high praise.

JOHN J. PITNEY JR., an associate professor of government at Claremont McKenna College, is the co-author of *Congress' Permanent Minority? Republicans in the U.S. House*.

WILLIAM A. RUSHER

The First Hundred Days of the new House Republican leaders will deserve that well-worn adjective "historic" even if relatively few of the measures listed in their Contract With America ever become law in a form they would recognize. For the central achievement of the First Hundred Days was to change the whole terrain and direc-

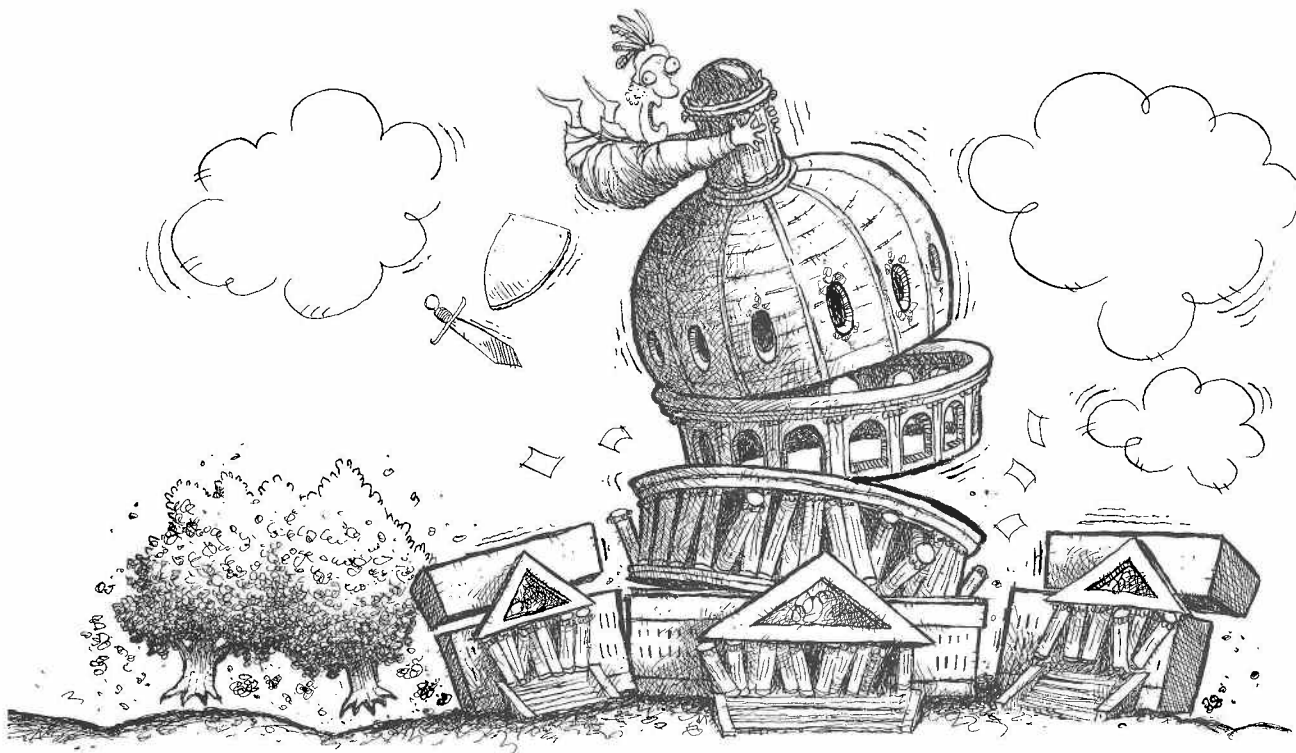


Illustration by David Clarke

tion of American politics.

Last year, the most that could be conceived, let alone hoped for, in the field of tax reform was a modest reduction in the rate of income taxation. Today—whether or not major changes occur in the first session of the 104th Congress—the serious talk among congressional leaders is about imposing a flat tax, or even tearing up the tax code by the roots and replacing the income tax with a broad-based tax on consumption.

Similarly, “welfare reform” in 1994 meant, at best, doing a little nipping and tucking on Aid to Families with Dependent Children. Today, the entire burden of administering most of the nation’s huge welfare programs is on its way back to the 50 individual states, along with block grants to finance it.

And so it went, in one field after another, from unfunded mandates to the line-item veto; this new House of Representatives has dared to think and act in ways that have simply transformed the paradigms of American politics. It remains true that “politics is the art of the possible,” but a huge number of new possibilities has opened up.

Whether the First Hundred Days of this House will ultimately deserve comparison to the First Hundred Days of Franklin Roosevelt’s presidency depends upon how successful the Republicans are in setting their initiatives in concrete, as the New Dealers managed to set theirs. At this writing, and probably for several years to come, it is simply too early to tell. Much depends on how the voters react in November 1996, when they will, with their votes, make their first and perhaps most important comment on the Republican performance. Almost as crucial, however, will be the way in which future Republican presidents and Congresses follow up on the achievements of the 104th.

Any major mistakes? Yes, one: The failure to anticipate and prepare for the Democrats’ counterattack, based on the tired old charge that Republicans want to starve

America’s children and stuff the money into the pockets of the rich. Don’t be fooled by the sheer implausibility of such an accusation—a big enough lie will be believed, by a small but often crucial percentage of the voters, if it isn’t nailed promptly and repeatedly by spokesmen whom the media cannot ignore. (Note how disastrously the Bush administration let the liberals rewrite the whole history of the 1980s.) We may yet pay dearly for the Republican party’s sloth in this regard.

WILLIAM A. RUSHER, *formerly the publisher of National Review, is a nationally syndicated columnist and a distinguished fellow of the Claremont Institute.*

BURTON W. FOLSOM JR.

The House Republican Leadership did most of what it said it would do in the Contract With America. The result was a remarkable legislative flurry that largely fulfilled the campaign promises that so many Republicans made during the 1994 elections.

How do we compare this Republican onslaught in 1995 with FDR’s First Hundred Days in 1933? Both were years of high legislative intensity; both years are likely to be described later as landmarks in 20th-century political history. And, in both years, the discussion of ideas dominated the media.

The differences between the two events are more interesting, and in some cases more subtle. Obviously, the Republicans were critical of Big Government and skeptical of the idea that man can improve his condition through central planning. The Republicans had zeal, but no faith in the perfectibility of man. By contrast, FDR’s New Deal promoted the idea that government could solve economic problems—that individual liberty had to be sacrificed and power centralized in Washington to attack the Great Depression. FDR’s spirits were high because he believed man to be capable of pulling the levers and turn-

ing the wheels to effectively control America's destiny.

Another difference is often overlooked. The Republican Contract was a conscious, thoughtful, and usually coherent plan that went from campaign document to legislative writ. The New Deal was improvisational and contradictory right from the start. During the 1932 campaign, for example, FDR denounced Hoover for his "reckless spending" and budget deficits. The New Deal to come was never outlined. But in Roosevelt's First Hundred Days, he reversed himself. In just three months, he pushed and signed bills that authorized government to spend almost as much as Hoover did in his entire presidency. FDR wanted a government program for each constituency: AAA for farmers, FERA for the unemployed, TVA for the South, CCC for the young, and so on.

His First Hundred Days were crucial because they shattered the notion that government worked best when it was limited. Government became a Mecca for interest groups that wanted to secure benefits from Washington, so much so that FDR, after his First Hundred Days, could not control the claimants. Cities flooded Congress with requests for road-building money; veterans won cash bonuses for past service; the silver lobby wangled from Washington more subsidy money than even the farmers could manage. American politics had crossed a threshold.

The Republican Contract is a response to the rise of this welfare state and to the twofold protest that the New Deal/Great Society programs mostly haven't worked, and taxes to pay for them are too high. These two points are addressed in part by the Balanced Budget Amendment. If it had included Congressman Dick Armey's flat-tax proposal—instead of seeking to manipulate the current system of tax deductions—the Contract could have challenged the New Deal more effectively. Special-interest politics, as Roosevelt learned, needs to extract money from some groups in order to support others. A progressive income tax is indispensable to a growing welfare state. In office, FDR soon hiked the top marginal tax rate to 79 percent; later he pushed it to 90 percent. A flat tax, by contrast, forces supporters of new government programs (and old ones, for that matter) to admit they will tax all to benefit a few. That admission alone might lead many to rethink the strong role of government in American society.

BURTON W. FOLSOM JR. is the Senior Fellow in Economic Education at the Mackinac Center for Public Policy in Midland, Michigan.

JEFF JACOBY

Of course it wasn't the same as *those* Hundred Days. In March 1933, when FDR got Congress to enact a slew of government-aggrandizing laws—thus triggering the New

Deal that vastly expanded Washington's control—17 million citizens had lost their jobs, 5,000 banks had collapsed, and the nation was mired in the most frightening depression in its history. Amid mass desperation, a Democratic president with a fresh mandate was able to get a Democratic Congress to more or less pass anything he wanted.

The national mood in January 1995, by contrast, was nowhere near as frantic. When Speaker Gingrich and the House Republicans uncorked their political revolution, they benefited from none of the panic-driven momentum that the Depression had lent Franklin Roosevelt and the Democrats 62 years earlier. Instead, they faced an enemy in the White House, a largely hostile press corps, a \$1.6 trillion federal establishment more likely to munch ground glass than relinquish power without a death-struggle, and a Senate led by Bob Dole.

So, no, in terms of legislation completed, Gingrich's First Hundred Days don't compare

with FDR's. But measured against other yardsticks, the House Republicans' quick-march through the Contract With America was even more significant.

The customary formula of federal politics is: The president proposes, Congress disposes. So thoroughly did Gingrich and his army upend *that* piece of conventional wisdom that by the end of a hundred days, Bill Clinton was reduced to insisting that he still mattered. "The president," he sniffled in a mid-April press conference, "is relevant here."

The Republicans upended another piece of conventional wisdom: that platforms—i.e., *ideas*—don't win or lose elections. The life cycles of modern party platforms are familiar. Party members meet. They brawl over a couple of planks. They vote for a platform everyone can live with. Then they print a few copies nobody will ever read or care about.

In 1994, GOP House candidates followed a completely different path. They gathered to sign a brief "contract" whose details weren't yet drafted, but whose main promise—drastically reduced federal power—was crystal-clear. The pundits promptly consigned it to oblivion. Tens of millions of copies appeared in print. And an intense ideological campaign was then waged between the party that wrote the Contract and the party that reviled it.

Never in modern U.S. politics has a party platform—a party's statement of principles—mattered more. Two years ago, they lost a White House they had virtually owned because their incumbent didn't grasp the power of "the vision thing"; in November, Republicans conquered a Congress thought to be permanently closed to them precisely because they did.

Or did they?

Right after the GOP won its astonishing victory,

THE CONTRACT'S GREATEST LEGACY MAY BE REVERSING THE RISING TIDE OF ANTAGONISM TOWARD WASHINGTON.

Gingrich articulated his Prime Directive: "Cooperate, yes. Compromise, no." Right after *that*, the compromising began.

The provision for a three-fifths supermajority to approve tax increases was dropped from the Balanced Budget Amendment. The national-security bill was stripped of missile defense. The unfunded-mandates bill repealed precisely zero unfunded federal mandates. The GOP's crime bill wound up with the same price tag as the supposedly "pork-filled" Democratic version of last year. The bloated food-stamp program was exempted from welfare reform. Term limits were croaked.

The Clinton tax increases that Republicans had unanimously opposed in 1993 were left virtually intact. Republicans talked of "zeroing out" government subsidies for the arts and public broadcasting—until Garth Brooks came by to lobby, and the talk dried up. The House passed a legal-reform bill that federalized great swaths of tort law. Plans to eliminate entire Cabinet departments were limited to a few feisty freshmen with no clout and conservative think tanks with no vote. And to mark the completion of the First Hundred Days, Gingrich declared in a television address that his party was certainly *not* proposing to actually shrink the federal budget.

In its First Hundred Days, the new GOP House majority ignited the conservative revolution it had been elected to achieve. Without question, it has changed the terms of debate on the Hill. But before their sprint through the Contract was done, the Republicans were once again showing the symptoms that had always doomed them in the past: weak knees and thin skin.

JEFF JACOBY is a nationally syndicated columnist for the Boston Globe.

ALONZO L. HAMBY

Speaker Gingrich and his lieutenants fulfilled to the letter the Contract with America pledge that ten important issues would be taken to a vote in the House. Observers must be impressed, moreover, by the GOP's passage of nine of these, and by the party's ability to round up four-fifths of its members for the failed term-limits constitutional amendment. The new House leadership has established a remarkable working model of a disciplined, responsible party motivated by deeply-felt principles—on one side of Capitol Hill.

And when one looks for long-term significance, there's the rub. As of this writing, the Balanced Budget Amendment has already failed in the Senate, which is widely expected to reject or drastically modify other Contract items. In addition, President Clinton may muster the courage, conviction, or pragmatic judgment to wield a veto or two. What comes out of the Senate and White House legislative sausage-grinders will likely strike Contract devotees as inferior bratwurst rather than fine tenderloin. No, this will not be as significant as FDR's First Hundred Days.

What major mistakes did the Republicans make? Clearly they still need to work on what George Bush might have called "the message thing." Admittedly, it is no easy task to get a conservative perspective past the filter of a predominantly liberal-leaning national media, but it can

be done. The leadership was blindsided on the school-lunch issue, although the Democratic tactics were predictable. Thanks to Henry Hyde's impassioned defense of political careerism, network television played the term-limits debate as primarily an argument among Republicans rather than one between Republicans and Democrats. In the absence of a Jack Kemp able to explain in appealing terms the importance of preferences for capital gains and savings, the Democrats appear to have achieved an advantage on the tax-equity issue. Finally, the Speaker, for all his intramural leadership skills, oscillates wildly between flashes of brilliance and egregious gaffes. As a result, he enjoys less public esteem than he deserves.

At the end of the hundred days, the Republicans remain locked in a continuing struggle with the Democrats for the soul of an angry, alienated "populistic" segment of the electorate—similar to the swing constituency once called "Middle America" and these days attracted to Ross Perot. The GOP can prevail when it convincingly depicts the Democrats as the party of the special interests (affirmative-action beneficiaries, welfare bureaucrats, etc.), but the issue can be used by the Democrats when they depict the Republicans as advocates of tax breaks for "the rich" or abusers of mothers and children. The argument remains unsettled; the Republicans need to do a much better job of articulating their side of it.

Corrosively cynical, this populistic electorate seems to see only business as usual in Washington and is unlikely to give the Republicans much credit for an imperfectly fulfilled Contract. It also still appears prone to believe the budget can be balanced simply by eliminating waste, fraud, and abuse while leaving entitlements and pork untouched. It remains uncertain whether this group, or America at large, is prepared for the consequences of a smaller federal establishment: greater local and individual self-reliance.

One last thought: If conservatives want to be successful, they had better stop depicting themselves as involved in a sweeping effort to uproot the New Deal. Speaker Gingrich (perhaps consciously drawing on the example of Ronald Reagan) was right on target in professing admiration for Franklin D. Roosevelt and at least some of his accomplishments. The Republicans were elected to reverse the lingering excesses of Lyndon Johnson's Great Society, not to take us back to the world of Calvin Coolidge and Herbert Hoover.

ALONZO L. HAMBY is a professor of history at Ohio University. His latest book, *Man of the People: A Life of Harry S. Truman*, is forthcoming from Oxford University Press in the fall.

MONA CHAREN

There are advantages as well as disadvantages to speed. The First Hundred Days of the Republican majority were like a laser show—full of color and sound, but so fast and furious that it was difficult for voters to single out the constituent parts.

The Contract gave shape to the first months of Republican dominance on Capitol Hill, which might otherwise have been characterized by fits and starts. Though designed primarily as a vote-getter, the Contract also served extremely well to enforce party discipline.

Everyone understood the promise, everyone was committed to the schedule, and factiousness among Republicans was kept to a minimum.

That was the advantage of speed. The disadvantage is that the individual terms of the Contract, many of which deserved a greater hearing, more explanation, and more time before the public, were given short shrift. Few Americans really understand the benefits of tort reform, welfare reform, or regulatory reform.

In a bravura performance over the First Hundred Days, the Republicans made only two errors. The first was the excessive attention to the question of whether or not to punish Senator Mark Hatfield for his vote on the Balanced Budget Amendment. In so doing, Republicans themselves (without help from the media) made Hatfield and, accordingly, internecine Republican quarrels, the story of the BBA's failure. In fact, the story ought to have been the six Democrats who *switched their votes* and defeated a bill they had supported only months before. Hatfield is a liberal Republican. He voted his conscience. Punishment would have been futile. Besides, his breed is dying out. He does not represent the future of the GOP. Effort spent trying to "fix" him would be better directed elsewhere.

The other error was the failure to anticipate the reaction among liberals (especially in the press) to changes in the school-lunch program. Of course the liberals were dishonest, unscrupulous, and brazen in their depiction of the terms of debate ("starving children" indeed!), but it is the job of conservatives in America to prepare for that pitch and knock it out of the park. Ronald Reagan knew that Jimmy Carter was going to portray him as a mad bomber in the 1980 presidential debates, and he was ready with a riposte: "There you go again." But Republicans were caught flat-footed when Democrats accused them of trying to take food from the mouths of babes.

Still, only two mistakes in three months is an enviable record. I wish I could match it.

MONA CHAREN is a nationally syndicated columnist.

DEROY MURDOCK

While the fulfillment of the House Republicans' Contract With America in just 92 days is largely worth rejoicing, this momentous occasion also illustrates how Americans have "defined democracy down" through the years. The House's single-minded passage of the Contract's provisions (with the unfortunate and sloppily-handled exception of term limits) was an exhilarating interval in recent political history. Still, the balloons and streamers flew over the U.S. Capitol after the Contract's completion precisely because the House GOP accomplished what Americans should normally expect of their representatives: They engaged them with ideas. They

pledged to vote on them, then did so, as promised.

Although this sort of innovation and accountability should be routine, they instead are refreshing departures from the recent national campaigns that have inflamed public cynicism. George Bush's abandoned "Read my lips: no new taxes" pledge and Bill Clinton's phantom "middle-class tax cut" illustrate this problem. The Contract's greatest legacy may be that it reversed the rising tide of antagonism that had severely eroded Washington's goodwill with the American public. Now that House Republicans have actually kept their word on the Contract, Congress today enjoys its highest approval rating in years.

Assuming the Senate and President Clinton cooperate, the enactment of most Contract items, per se, will not influence American politics as profoundly as did FDR in his First Hundred Days. However, the paradigm shift that has accompanied the Contract likely will parallel the new thinking that FDR inspired 62 years ago. The Contract and the GOP's takeover of Congress have led Washington to discuss seriously the abolition of the income tax, the closing of at least four Cabinet departments, and a balanced budget by 2002. House Democratic Leader Dick Gephardt has now embraced tax simplification, while Bill Clinton has placed federal affirmative-

action policies under a microscope. These realities would have been mere hallucinations just nine months ago. By committing themselves to a coherent "vision thing," today's GOP has moved the entire plate of acceptable discourse tectonically to the right.

Speaker Newt Gingrich and his allies, however, stumbled badly on the so-called "school-lunch" issue. Democrats stereotypically pummel GOP budget cuts and block grants with dusty rhetoric about "starving babies" and "at-risk infants." Republicans should have anticipated these attacks after seeing them haunt Ronald Reagan and George Bush for 12 years. Opening with a salvo against corporate welfare—such as having Archer-Daniels-Midland tycoon Dwayne Andreas explain to a subcommittee why his multi-billion-dollar agroempire deserves federal subsidies—would have blunted Democratic charges about GOP "greed" and "meanness." So would have energetic reminders that vibrant economic growth especially lifts the poor and unemployed.

The Contract also failed to address the coming entitlements meltdown. While Speaker Gingrich insists it is "off the table," Social Security, as well as Medicare, Medicaid, veterans benefits and other give-away programs, jeopardize America's future financial well-being. While a promise to vote on affluence-testing or privatization of these programs would have made the Contract far more controversial, it also would have shown the GOP exhibiting genuine courage. Now, without a mandate to do so, the Republican-led 104th Congress must show even greater bravery by confronting entitlements (try balancing the budget without doing so). Or, it simply can stand

THE NEW HOUSE HAS DARED TO THINK AND ACT IN WAYS THAT HAVE TRANSFORMED AMERICAN POLITICS.

back and watch Social Security and Medicare eat us alive.

DEROY MURDOCK is the president of Loud & Clear Communications, a marketing and media consultancy in New York City. He is also an adjunct fellow with the Atlas Economic Research Foundation, in Fairfax, Virginia.

SALLY C. PIPES

Speaker of the House Newt Gingrich and the new Republican House leadership deserve thanks and congratulations for the successful completion of the Contract With America. What a revolutionary (or more correctly, counterrevolutionary) series of events has taken place! With the Contract, a promise to the American people was made; in a little less than the promised hundred days, the promise was kept. Of what other Congress in this century can that be said?

Certainly some needed changes were made to vexing and intolerable House rules; for the first time, national laws passed by Congress will apply to the House as well as ordinary Americans. Having to live by the rules made for the rest of us cannot but raise the consciousness of the rulemakers and dissuade them from their excesses.

Certainly some important legislation was passed by the House in those historic hundred days. Congress agreed to stop imposing mandates on state and local jurisdictions without paying the bill; such progress was nearly undreamt of in our philosophy just a few months before the Contract was unveiled. Is this important? Indeed it is. Is it enough? Perhaps not. Our liberties have already been eroding for decades; what's worse, the cost of the erosion has been passed down the line. Far better for Congress to forswear dreaming up silly rules to begin with; agreeing to pay their cost only solves half the problem. But let us not quibble with progress in the right direction. The looming struggle to actually cut federal spending by billions of dollars may preclude any more erosions.

Congratulations are also deserved for passing a tax cut and for stepping forth on welfare reform. Has the American public forgotten the promises made by then-Governor Bill Clinton when he campaigned for president? A middle-class tax cut? The end of welfare as we know it? The new House leadership promised both, and they, not Clinton, kept the promise.

But a word of caution on the welfare-reform proposals: Just as limited congratulations are due for eliminating unfunded mandates, limited caution is due for proposing to send money to the states in the form of block grants with no strings attached. This will create, as someone has noted, "funded unmandates."

For those of us in California, this is an interesting exercise in neofederalism—a tasty bit of proper philosophy, or revolutionary devolution, if you will. The warning is this: The California legislature, perhaps more than any other state legislature, has suffered from Congress-envy for at least the last three decades. If California legislators suddenly find billions of dollars dropped in their allegedly bare general-fund cupboard, what mischief might they do? Conservatives and libertarians alike want major programs such as welfare brought closer to us, closer to our scrutiny, closer to our effective control. Will we get what

we want, or will we get a more fearsome monster than the current federal system? In this case, sense may have been sacrificed for speed; again, the federal government would do far better to reduce taxes, forswearing the revenue, than collecting and then returning the money in skewed proportions.

All in all, hearty congratulations to the House Republican leadership! Promises made, promises kept—who could ask for more? At least, who could ask for more in the First Hundred Days? May the next five hundred days go as well! Legislators keeping promises—it might catch on.

SALLY C. PIPES is the president of the Pacific Research Institute for Public Policy in San Francisco.

MIKE SIEGEL

The Contract With America committed the House Republicans to raising and voting on each of the Contract items. This was accomplished and should be considered a major shift from politics as usual.

One major frustration that Americans have expressed in recent years is that they vote for change but get only lip service from political leaders. The significance in the Contract With America is that a group of politicians did what they said they would. The Contract raises the level of political debate to one of performance and effectiveness, rather than distortion, political expediency, and misrepresentation by political officials, candidates, and parties.

The greatness of these hundred days is that they changed the political process. The substantive change is yet to be determined. It is still too early to tell whether the policies passed by the House in the First Hundred Days will become law, and if so, what effect they will ultimately have on American life and culture.

Even now, however, we can see a shifting of attitude among the American people. Inherent in the policy and legislative changes proposed in the Republicans' First Hundred Days are the notions of individual responsibility and accountability for one's actions. Government appears to be seen as a catalyst and facilitator for change, but not the ultimate determinant of the individual lives of our citizens.

Major mistakes during the First Hundred Days include the failure to support term limits as forcefully as other elements of the Contract. The leadership vacillated and approached this issue tentatively. They should have committed firmly to this issue, which was approved in all of the 22 states where it was considered by the voters.

The leadership allowed the debate to deteriorate into "them vs. us" on issues such as the school-lunch program and the group-home concept for unwed teenage mothers without stable homes of their own. The leadership allowed these ideas and "those conservative Republicans" supporting them to be portrayed as insensitive or callous. They should instead have placed the true nature of these issues at the center of the debate.

MIKE SIEGEL, the former president of the National Association of Radio Talk Show Hosts, hosts a talk-radio show on KVI Radio in Seattle, Washington.

EVEN MONEY

A Friendly Critique of the Flat Tax

J.D. FOSTER

The flat tax is the vanguard of tax reform, and for good reason. It is sound economically and easy to explain. It corrects some long-standing problems with the current tax system: complexity, high costs of administration and compliance, a depressing effect on the economy, and the unfairness of double taxation of income from capital. Its strengths have gained the flat tax many ardent fans and have brought it from an obscure oddity debated by economists to the forefront of the tax-policy debate.

Flat-tax advocates are nearly evangelistic in their drive to replace the current tax system, often as an integral part of their broader agenda to reshape government. They are also often unwilling to acknowledge that, despite its strengths, the flat tax also has some weaknesses and some serious obstacles to overcome before it can go from tax concept to tax code.

WHAT IS A FLAT TAX?

Any tax with a single tax rate could be considered a flat tax. A flat tax on labor and business income has been popularized by professors Robert E. Hall and Alvin Rabushka of the Hoover Institution. A flat tax on labor and business income is also embodied in legislative proposals advanced by Congressman Dick Armey, the majority leader in the House of Representatives, and Senator Arlen Specter, a presidential contender. These flat-tax proposals do not tax income from saving; they are therefore a form of consumption tax.

One of the great advantages of a flat tax is its neutrality. It taxes all forms of income only once and does so at a single rate. It taxes individuals' labor income at a single rate after allowing for personal exemptions, and it taxes business's net cash flow at the same rate that applies to individuals. The flat tax thus gives no relative advantage to any means of earning income. It favors neither capital nor labor, neither physical nor intellectual capital, neither manufacturing nor real estate. By contrast, under current law, the federal government uses the tax code to micro-manage the economy, distorting the allocation of resources such as capital and labor, and thereby diminishing both the level of economic activity and the standard of living.

The flat tax is also vastly simpler than the current system and thus virtually transparent to taxpayers—that is,

taxpayers need not become lawyers or CPAs to understand the intent and application of the tax system. Such transparency is important for individuals and businesses making economic decisions, for taxpayers' confidence in the fairness of the system, and for assuring taxpayers that the tax code will not become a tool of deliberate or accidental oppression by government. Much of the distrust bred by the federal tax system derives from a suspicion that it conceals traps to snare the unwary taxpayer and torture him with tax penalties, interest charges, tax liens, and possibly jail. The flat tax aims to be so simple and transparent that taxpayers could shelve their fear of the tax man.

Individuals under a flat tax. Taxable income under a flat tax includes all wages and salary, and excludes all capital income such as dividends, interest, rental income, and capital gains. In addition, all nonwage forms of labor compensation are also excluded, such as employer-provided health insurance and subsidized parking. The tax on individuals, therefore, is essentially a payroll tax collected at the employee level. Most flat-tax proposals also allow the taxpayer to take personal exemptions and an additional exemption for each child in the household, effectively creating a zero tax rate for low-income filers. Under the Armey version of the flat tax, for example, a single filer is allowed a \$13,100 exemption (\$26,200 for married, filing jointly), and the plan allows for a \$5,300 exemption per dependent. Having calculated taxable income net of the personal and child exemptions, a flat tax imposes a single tax rate on any remaining taxable income.

The most striking feature of a flat tax is that it eliminates the special deductions, phase-outs, and credits in the federal income tax, ensuring that most individuals could calculate their tax liability easily—hence the claims by flat-tax advocates that a tax return could be filed on a postcard. (In his plan, Specter retains the two most popular individual deductions, the home-mortgage interest and charitable deductions.)

Simplicity for the individual is indeed one of the flat tax's best selling points. It is a point that is often oversold, however. Under the flat tax, there are two tax rates—zero

J.D. FOSTER is the executive director and chief economist of the Tax Foundation, in Washington, D.C.



Illustration by Charlene Rendiero

and approximately 20 percent. No doubt a reduction in the number of tax rates would make tax planning easier, but for most individuals the number of rates is irrelevant to their actual tax filing.

The simplification of the calculation of taxable income may also be oversold. For the approximately 80 million tax filers who take the standard deduction, the difference in tax computation between the flat tax and current law is that taxpayers today must add their interest, dividends, and capital gains to the tax base. They do not suffer the complexities of tax deductions because they opt for the standard deduction. For the approximately 32 million itemizers, the flat tax offers a clearly simpler system. But taxpayers who itemize do so voluntarily. They itemize because it lowers their tax liability. Thus, for itemizing taxpayers, the flat tax represents a loss of a preferred option in the way they file their taxes. Flat-tax advocates assume that most itemizing taxpayers would happily give up their credits and deductions in exchange for a simpler tax system.

Businesses under a flat tax.

The taxation of businesses under a flat tax makes even greater strides towards simplicity and neutrality. All businesses are treated the same; no distinction is made between partnerships, sole proprietorships, corporations, and any other business form. There is a single tax rate. And businesses are taxed on their net cash flow, not on their net income as under current law, thereby eliminating all the complications of attempting to match the timing of income and expenses.

Under a flat tax, a business calculates its net cash flow for the year by totalling its receipts from all sources and

subtracting all payments made to its employees and all payments made to other businesses for such things as plant and equipment and inventory. Businesses would deduct from income the full cost of their investments at the time of purchase, instead of stretching out these expenses according to complicated depreciation schedules. Employee fringe benefits would not be deductible. Nor would interest payments. The business then calculates its tax liability by applying a single tax rate to its net cash flow.

More than just a tax system. In the current political environment, the flat tax is far more than an alternative tax system. The flat tax is also a strong political and philosophical statement about the role of tax policy in society, as seen most clearly in the strong preference of flat-tax advocates for a single tax rate for all taxpayers.

For decades, the prevailing doctrine of "tax fairness" has dictated a highly progressive income-tax system. This means that, as a family's income rises, so do its average and marginal tax rates. Under current law, progressivity is achieved through a combination of deductions, exclusions, phase-outs, and rising tax rates imposed on a comprehensive measure of income. For example, in 1994 a married couple with \$50,000 in Adjusted Gross Income (AGI) and two children, taking the standard deduction, would pay 10.1 percent in federal income tax, whereas the

same family with \$100,000 in AGI would pay tax at an 18.5 percent rate.

Under a flat 20 percent tax rate, a family would be subject to a 20 percent rate however high its labor income

**THE FLAT TAX
HAS SOME SERIOUS
HURDLES TO OVERCOME
BEFORE IT CAN GO
FROM TAX CONCEPT
TO TAX CODE.**

above a certain threshold. Having exempted lower-income taxpayers from the tax, many flat-tax advocates believe that proportionality, not progressivity, reflects the prevailing sense of fairness in America: Taxpayers should pay more tax as their incomes rise, but the amount of tax should not increase more than proportionally.

Flat-tax proposals actually include two tax rates—zero (by virtue of the personal exemptions) and about 20 percent. Some critics worry that the inclusion of a zero tax rate in the flat tax will maintain a large constituency for expanded government. The dangers are apparent in any general system of taxation that allows any but the poorest of the poor to escape paying at least some tax when they have taxable income. Taxes reflect a price we pay for government. Whenever someone escapes paying tax to finance government services, the direct cost of those services is zero and the amount of services demanded is high. Even a minimal tax of a few dollars a month would remind taxpayers that government services are not free.

Many advocates of the flat tax are using the tax reform debate as a means of reshaping the political debate. By directly challenging the doctrine of tax progressivity in the federal tax system, they seek to change not only established ideas about desired tax burdens, but also the very notion of using the state as an instrument of incomes policy. Nor does the challenge stop there.

Armed has included as part of his proposal the elimination of income-tax withholding. To many, withholding is simply a convenience whereby their employers subtract a certain amount from their paychecks each pay period based on an estimate of the total tax due for the year. To Armed and others, however, tax withholding disguises the true magnitude of the taxpayer's federal individual income-tax liability. By clouding the amount paid, they argue, taxpayers object less to the tax burden and to the amount of government spending that tax receipts make possible. By replacing the withholding mechanism with a monthly payment directly from the taxpayer to the Treasury, Armed believes he will bring powerful new forces to bear on the size of the tax burden and the size of government.

ECONOMIC BENEFITS

Tax reform is a long and difficult process. Even the adoption of an ideal tax system creates transition costs for taxpayers, economic dislocation, and uncertainty. What benefits would justify these costs?

Saving, investment, and economic growth. The net national savings rate in the U.S. has averaged 2.7 percent per year in the 1990s, less than one third the rate of the 1950s and 1960s. The savings rate is a prime determinant of the growth of incomes and wealth, so a low savings rate obviously does not bode well for future growth in standards of living. Certainly one contributing factor to the low savings rate is the high tax rate on saving and investment, due in part to the double taxation of income from capital. The flat tax would tax income from capital only once—in the form of a tax on business income. Dividends, capital gains, interest payments, and other forms of capital income received by individuals would not be taxed, because they had already been taxed before.

The flat tax would thereby reduce the tax burden on saving, which means, everything else held constant, that a flat tax would increase the rate of private saving.

The flat tax may also reduce the tax burden on investment by eliminating the double taxation of corporate income and allowing businesses to deduct in full the cost of their plant and equipment purchases. However, the flat tax also appears to increase the overall tax burden of businesses (more on this later) so the net effect on investment incentives may be muted.

The purpose of encouraging saving and investment is, of course, to promote faster non-inflationary economic growth, boost real wages, and raise the nation's standard of living. At a recent conference sponsored by the Hoover Institution, Dale W. Jorgenson of Harvard presented a paper, "The Economic Impact of Fundamental Tax Reform," showing that the adoption of a consumption tax such as the flat tax would increase the discounted value of Americans' future income by about \$1.3 trillion.

Such increases certainly justify considering a change in tax systems. Projecting increases in economic activity is risky business, however, since the projections always depend on the underlying assumptions. At the same conference, Laurence J. Kotlikoff of Boston University presented results based on a different type of economic model indicating that a switch to a consumption tax would eventually increase real wages by 7 percent and GDP per capita by 8 percent. These two studies are impressive and, because they are based on different types of models, credibly imply that the economy would perform significantly better under a flat tax or another consumption tax than it would under the current income tax.

It is important to recognize that accelerated economic growth also means accelerated tax collections for federal, state, and local governments. While congressional and Treasury Department analysts persist in ignoring these additional revenues, policymakers should understand that additional economic growth will mean additional tax revenue. Using Jorgenson's estimates of economic growth, in present-value terms a flat tax could eventually raise well over \$200 billion in additional federal revenues and \$150 billion in additional state and local revenues.

Compliance and administrative-cost savings. According to an analysis by the Tax Foundation, the annual compliance costs associated with the federal personal and corporate income taxes are roughly \$200 billion. These costs result from recordkeeping, tax filing, litigation and appeals, and so forth. In addition, the federal government spends almost \$14 billion administering the system, for a total annual cost of well over \$800 per person.

Most compliance costs are borne by the business sector, and most of these costs can be attributed to those areas of the tax code dealing with the timing of income and expense, and with the taxation of foreign-source income. The flat tax is a tax on cash flow, and so at a stroke it eliminates the issue of timing. It also exempts from U.S. tax the foreign-source income of U.S. citizens, so it eliminates this compliance cost as well. And, at the individual level, most compliance costs arise in relation to capital income, which would no longer be taxed, so these costs, too, disappear. While every tax system imposes some administra-

tive and compliance costs, there is good reason to believe the flat tax eventually would dramatically reduce this burden on the taxpayer and on the economy.

Thoughts of lower interest rates. Proponents of the flat tax (and of many other tax reform proposals) often suggest that lower (nominal, after-tax) interest rates would ensue. If a flat tax raises saving levels as promised, the amount of capital available for domestic and foreign investment would increase and, if everything else were held constant, this could reduce interest rates under certain circumstances. Everything else is not held equal, however.

The flat tax may also improve investment opportunities by reducing the marginal tax burden on capital income. Recall that the double taxation of corporate income would cease and that businesses could, for example, expense their capital purchases. Thus, the domestic demand for new investment in plant and equipment may also increase. At this point, we cannot say whether saving would increase more or less rapidly than investment.

However, as the modern mantra runs, we live in a global economy, and no markets are more completely integrated than the capital markets. This means that, to the extent domestic saving exceeds the demands of the economy for capital, the excess saving finds its way overseas in

search of more profitable investments. And, when domestic saving is insufficient to meet domestic investment demands, we import capital from abroad. Thus, whether domestic saving increases more rapidly than investment following a flat tax, or vice versa, no significant effect on after-tax interest rates should be anticipated on this score.

Pre-tax interest rates are nevertheless sure to decline following a flat tax. Interest rates reflect many factors, including expected inflation, a real, after-tax required rate of return, a degree of uncertainty and, possibly, a degree of credit-market tightness. Interest rates also reflect the taxes the interest income recipient must pay, which explains, for example, why there is a significant difference in the interest rates paid to taxable and tax-exempt bond holders. Under a flat tax, interest income is tax-exempt, so pre-tax interest rates would fall to about what are currently the rates paid on tax-exempt bonds.

On the flip side, interest expense is not deductible under a flat tax, so there would be no net reduction in after-tax interest costs to borrowers and hence little or no stimulation of growth from lower interest rates.

PROBLEM #1: A MIDDLE-CLASS TAX BURDEN

At the tax rates currently discussed, the flat tax appears to impose a higher share of the total federal tax burden

Taking on the Mortgage-Interest Deduction

If the flat tax is to gain the support of the public, its advocates will have to confront defenders of existing deductions head on. The most important deduction for most itemizing individuals is the mortgage-interest deduction. Many observers defend this deduction as encouraging home ownership; some argue that it is necessary for tax neutrality. Under the Armey flat tax, the deduction disappears.

Many groups believe they would be injured by the elimination of the mortgage-interest deduction. They argue, for example, that the loss of the deduction would raise the cost of home ownership, reduce the value of existing homes, and generally cripple the home building industry. In combination, the realtors, the home-builders, the mortgage lenders, and the construction-workers unions make a very powerful lobby, particularly when millions of homeowners are added to the mix.

The concerns of the mortgage-interest deduction lobby are generally misplaced. As noted above in the discussion on interest rates, the tax a saver must pay on interest income is recovered by demanding a higher interest rate. Since a flat tax does not tax individual interest income, pre-tax market interest rates will fall significantly, just as tax-exempt bonds now pay interest more than 2 percentage points below the rate paid to taxable bonds. Mortgage lenders, seeing their cost of funds fall, will be driven by competition to pass these savings along to mortgage borrowers in the form of lower mortgage rates.

In after-tax terms, the elimination of the home-mortgage deduction will neither raise nor lower the interest

cost of home-mortgage borrowing. Therefore, that reform should have no effect on the demand for homes or on property values.

The benefit of lower mortgage rates does not extend to current mortgage holders unless they refinance their mortgages. Thus a legitimate problem is the treatment of mortgages underwritten prior to the enactment of a flat tax. Most of these borrowers assumed they would be able to deduct mortgage interest paid, thereby producing a lower after-tax interest rate and a lower tax burden. Since an estimated 27.4 million taxpayers will claim this deduction in 1995 to the tune of about \$238 billion, a potentially huge bloc of voters stand ready to join the ranks of flat-tax opponents. While many or most may be able to refinance, refinancing may be impractical for many current mortgage holders if, for example, they expect to sell the property in the following year or two.

A fair (and politically sensible) solution to the old mortgages problem might be to allow homeowners to deduct the interest on mortgages taken before the flat tax is enacted. While fairness demands grandfathering pre-existing mortgages, the consequence would be a slightly more complicated tax system and a short and medium-term erosion of the tax base, which would have to be offset with initially higher tax rates.

A loss in the battle over the mortgage interest deduction would not derail the essential effort to develop a flatter, simpler, more saver-friendly tax system. It would, however, require a much higher tax rate initially, and it would make it harder to repeal other popular deductions, like that for charitable contributions.

on middle-class taxpayers and appears to raise their taxes in dollar terms as well. Each of these represents an enormous political problem for flat-tax advocates.

A progressive rate structure means that upper-income taxpayers pay a higher proportion of their labor income in taxes than do all other taxpayers. A revenue-neutral flat tax would shift some of the tax burden on labor income from upper-income taxpayers onto the middle class. This shift of tax burden to the middle class is exacerbated by the exclusion of capital income from the tax base, which on a per-capita basis is a larger fraction of a typical upper-income individual's taxable income than that of a middle-income individual. Finally, large personal exemptions would remove millions of lower-income individuals from the tax rolls. Consequently, the middle class would be forced to bear a greater share yet of the total tax burden.

Flat-tax advocates take the fairness issue head on by advocating only one (or two) tax rates. Where the flat tax really attempts to redefine tax fairness, however, is in the exclusion of capital income from the tax base. Justice and tax neutrality are both served by excluding capital income since the capital has already been subject to tax at least once, if not many times over. Nevertheless, a clear problem of perceptions must be admitted.

Consider two families. The Joneses have a combined salary of \$50,000 in wages and salary. Under the Armeij plan with a 20 percent tax rate, this family of four would owe \$3,700 in tax. Now consider the Smiths, who in retirement consume every dollar of their \$1 million in dividend income. Under the flat tax, the Smiths owe no tax at all because capital income is excluded from the tax base. This is appropriate, because their dividend income was taxed at least once before the Smith family received it. But the perception would persist that a wealthy family is paying no tax.

When capital income, which would not be subject to personal income tax, is considered along with wage

income, average tax rates for higher-income groups are lower than for middle-income groups under the individual side of the flat tax (see chart below). And so this may be the Achilles' heel of a flat tax: Are the majority of the American people willing to define tax fairness entirely in terms of labor income? Can tax fairness be defined in such a way that individuals who consume significant amounts of capital income would be allowed to pay little or no tax? If so, then the flat tax has overcome its biggest hurdle. If not, then a flat tax solely on labor income probably cannot succeed.

Flat-tax advocates can overcome this hurdle through careful analysis. As we shall soon see, a flat tax will shift the incidence of taxation sharply from individuals to business. While individuals will pay no tax on their own capital income, the businesses from which they earn capital income will pay higher taxes. The crucial point is this: The burden of business taxes is ultimately borne not by the entities that pay them but, one way or another, by workers (in the form of lower compensation) or by business owners (in the form of lower profits), who tend to belong to the higher-income group.

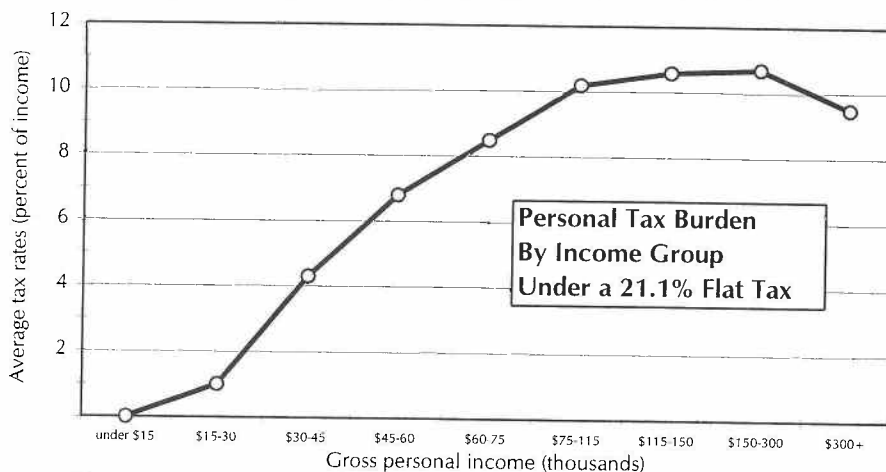
The chart on page 29 shows the average tax paid at different income levels under a flat tax when business taxes are imputed to individuals. Following procedures adopted by the Congressional Budget Office, the Tax Foundation assumes that half of the business tax is ultimately paid by business owners and half is paid through reduced labor compensation. The imputation of the business tax shows a disproportionate share of the business-tax burden falling on upper-income taxpayers.

The chart shows the distribution of the tax burden when we account for both the individual and business taxes under current law, under the Armeij proposal with a 20 percent rate (which Armeij argues reduces revenues by \$40 billion annually relative to current law), and under a revenue-neutral version of the Armeij proposal which the

Tax Foundation calculates would require a 21.1 percent rate. (The lower rate claimed by Armeij probably arises because his plan, by design, loses revenue relative to current law.) As the chart shows, when income is measured comprehensively and both labor and business income are taxed, the flat tax imposes a remarkably proportional tax burden (once individuals earn enough to pay tax).

Analysis of the likely distribution of the tax burden also reveals some disturbing news for flat-tax advocates, however: At the proposed rates, the flat tax would impose a tax increase on middle-income taxpayers. This obviously creates an enormous political problem for flat-tax proponents. Many middle-income voters may object to a significant tax increase

Less progressive. One potential criticism of the flat tax is that high-income groups appear to pay a lower percentage of their personal income in taxes than middle-income groups. This occurs because higher-income groups receive a greater share of their earnings from capital income, which is exempt under the flat tax.



Source: The Tax Foundation.

in exchange for a simpler tax system and the promise of a stronger economy. One solution is, of course, to cut spending to reduce the tax rate below 17 percent. This is Arme y's solution. As noted below, however, this is far easier said than done.

PROBLEM #2: THE BUSINESS END

Successful tax reform must always originate in the barber shops and bingo parlors outside the Washington Beltway. Without sustained popular support, the enormous effort of fundamental reform will fall short. A new tax principle, having gained the necessary popular support, must then gain the support, or at least the acquiescence, of the bulk of the business community. Tax reform that fails employers will fail their employees as well.

The simplicity of the flat tax would eventually benefit the business sector by reducing both compliance costs and the uncertainty that a complex tax code imposes on business decisions. On the other hand, the business sector, at least under the Arme y flat tax, appears to bear a much higher share of the total federal tax burden. Currently, the business sector bears about 31 percent of the burden. Under the Arme y flat tax, according to Tax Foundation analysis, the business sector would bear about 50 percent of the burden, an increase of about two thirds. In other words, under the Arme y plan about 19 percent of the total tax collection is shifted from individuals to businesses. The higher burden on businesses is due to such things as the loss of the deductions for state and local taxes and for employee fringe benefits. (Some of this burden would eventually be shifted back to individuals, as companies convert fringe benefits into labor income on which individuals would have to pay taxes.)

It is, of course, true that businesses only collect taxes; individuals ultimately bear the tax burden. Nevertheless, business leaders are very aware of their average tax rate and the after-tax earnings they report to their owners. The business community in the aggregate suffered a hefty tax increase as part of the 1986 Tax Reform Act, though much smaller than that apparent in the Arme y flat tax. Many of today's CEOs and chief financial officers were tax directors and tax vice-presidents in 1986, and they remember how a laudatory tax principle eventually boomeranged to their firms' detriment. Business owners are likely to resist any tax proposal that would raise their effective tax rates, even if it promised to accelerate economic growth.

At the very least, successful tax reform should probably avoid increasing the net tax burden on America's businesses. Even so, such reform would still create lists of winners, losers, and uncertain. Traditionally, the uncertain oppose tax reform while project-

ed losers fight harder against their losses than winners will fight for their gains, so even a revenue-neutral tax reform between individuals and businesses is likely to create important opposition to a flat tax.

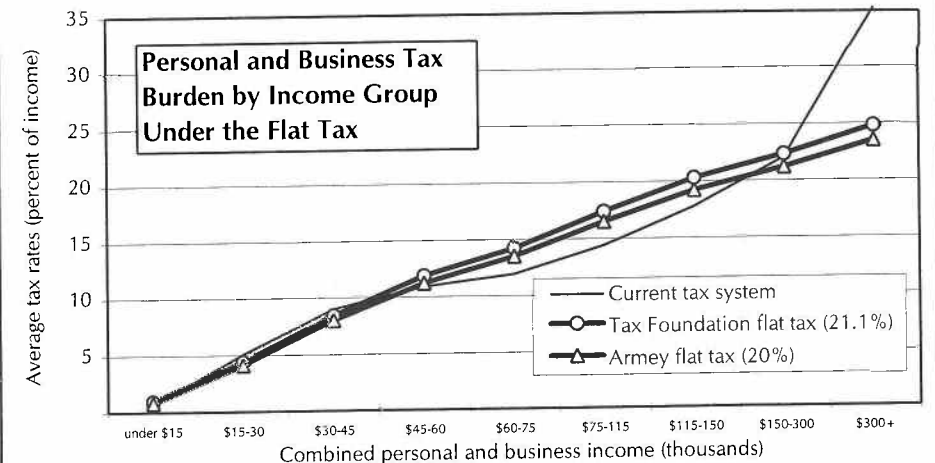
OTHER OBSTACLES

Aside from the basic tax-burden questions, there is a long list of obstacles for the flat tax to overcome:

Charitable contributions. Under the current income tax, itemizing taxpayers can deduct amounts contributed to charitable organizations (churches, certain civic groups, educational institutions, research organizations, etc.) in calculating their taxable income. The charitable deduction is defended by politically powerful organizations from Harvard University and the Boy Scouts to the Catholic Church and the American Association of Retired Persons. For itemizers, contributions to these groups under current law are made in pre-tax dollars. Under a flat tax, the tax incentive to make a contribution is eliminated, so all such contributions must be made in after-tax dollars. Some decline in charitable giving should be expected for virtually all charities, at least initially, following the enactment of the tax. Over the long run, of course, the higher incomes and capital accumulation produced by a flat tax will lead to increases in giving that will offset the initial decline. Even so, charitable groups, recognizing the immediate threat to their funding, will surely lobby to keep the charitable deduction in the tax base.

Tax receipts under the Arme y plan. Flat-tax advocates also often strongly favor a smaller federal government, and the arguments in favor of one occasionally intermingle with arguments in favor of the other. However, a flat tax implies little or nothing about the desired level of government spending or taxation. It is a revenue system capable of raising a wide range of tax revenue levels depending on the tax rate chosen. Without question, a flat tax would be easier to enact and implement if the federal gov-

More proportional. When income is defined comprehensively to include business income, taxes on higher-income groups remain remarkably proportional. That's because the flat tax appears to shift some of the overall tax burden to businesses, whose taxes are borne disproportionately by (higher-income) business owners.



Source: The Tax Foundation.

ernment needed less revenue. General tax cuts would help avoid the contest of winners and losers that typically impede tax reforms. Also, all tax reforms impose adjustment costs on the economy as resources are re-allocated and re-priced. These costs would be easier to bear in the context of reduced overall tax burdens.

The initial tax rate under the Arme y flat tax is set at 20 percent, which Arme y argues would reduce federal collections by about \$40 billion annually; the tax rate drops two years later to 17 percent. The Arme y plan argues forcefully for funding these cuts with spending cuts. Over the traditional five-year budget window, setting the flat rate at 20 percent means cutting spending by about \$250 billion. To put it in perspective, the budget passed by the House Budget Committee in May to eliminate the deficit called for spending cuts of \$459 billion over five years.

The spending cuts needed to fund the Arme y flat tax would be in addition to those in the Fiscal Year 1996 Budget Resolution. For advocates of a dramatically smaller government, a call for additional spending cuts to fund flat-tax reform is more of an opportunity than a problem. But, given the difficulties of achieving the cuts in the budget resolution, it is fair to question whether additional cuts of this size are possible. At this stage, the possible responses of the flat-tax advocates would seem to be either that the revenue scoring must include revenue gains from projected accelerated economic growth or that the extra spending cuts are possible and desirable.

The flat tax and the health care debate. Under a flat tax, the employer would no longer be allowed to deduct the cost of employee health-insurance coverage. This arrangement eliminates a serious distortion in the current system—the tax advantage of employer-provided health insurance. Denying employers the ability to deduct the cost of health insurance will discourage them from continuing to provide insurance as a benefit. Instead, they are likely to raise wage and salary income, and families would have to buy their own insurance. Eventually, such a family-based system should work as well for health insurance as it does for any other form of insurance.

At the outset, the flat tax could expose individuals to much higher insurance premiums if they no longer receive the benefit of group rates. This is a serious transition issue for the flat tax for which no good solution seems available. One could, for example, require employers to continue to offer insurance for a specified period following tax reform. Another solution would be to require insurers to continue coverage indefinitely for previously covered employees, and set insurance premiums at the levels applicable to the employee's previous group.

Double taxation and state and local taxes. Alongside tax neutrality, avoiding double taxation between tax jurisdictions is a fundamental goal of good tax policy. Double taxation occurs when an individual pays tax to one entity and must pay tax to another jurisdiction on the tax paid to the first. For example, when a taxpayer pays \$100 in state tax and the federal government includes that \$100 in the taxpayer's income for federal income-tax purposes, then the individual is effectively paying tax on taxes received by the state. This is unfair to the taxpayer.

With the exception of sales taxes, state and local taxes

are currently deductible for itemizers at the individual level and for all corporate taxpayers, thereby avoiding double taxation. This deduction is typically eliminated under a flat tax, thereby assuring double taxation and bringing new pressures on state and local government finances. A flat tax would disproportionately raise the costs of living and doing business in high-tax states and localities. Recognizing the threat, state and local government officials would strenuously oppose this change in policy. On the other hand, many advocates of smaller government would applaud the additional fiscal pressures on government under a flat tax, even at the price of a measure of unfairness.


Transition issues. They say the Devil is in the details, and that is certainly true of tax reform. But the Devil is in his Heaven when dealing with transition issues. A complicated economy subject to a complex tax system produces extraordinary business and contractual arrangements. A simpler tax system may eliminate the need for some of these complications going forward, but the old arrangements would still be in force and must be addressed. The limited space available here precludes a discussion of these issues, but they would include the depreciation of previously purchased plant and equipment, the taxation of deferred foreign-source income, the use of accumulated Alternative Minimum Tax Credits, etc.

A GREATER POSSIBILITY AWAITS

Tax reform, and the flat tax in particular, is intended to replace a very poor tax system with a simpler tax promising better economic performance. Once such a system has been designed, the level of collections demanded of it is a matter of choosing the tax rate.

The federal government, however, collects a wide variety of other taxes, including sales taxes on gasoline and other items, payroll taxes, and user fees which should also be considered for replacement. For example, federal sales taxes are highly distortionary, require separate and costly collection mechanisms, and are generally thought to be regressive.

Once a new tax base has been established, strong arguments should be required in favor of keeping any of the other existing components of the federal tax system. Failing such arguments, we should give serious consideration to replacing these other, inferior tax systems, making up the revenue with a higher flat tax rate. A flat-tax rate of between 38 and 40 percent would likely raise enough revenue to allow the elimination of the payroll tax and all other federal taxes.

The nation faces many serious economic problems, including Social Security and Medicare systems racing towards bankruptcy, a costly private health-care system, and high regulatory burdens. So tax reform has some steep competition for national attention. It is all the more impressive, therefore, that the flat tax's advocates have succeeded in moving tax reform to the forefront so quickly. Replacing the current tax system with something significantly better, whether a flat tax or an alternative, will not solve all our economic ills. But the more rapid economic growth it promises may make finding the other solutions a little easier. 

CAVEAT EMPTOR

The Case Against the National Sales Tax

DICK ARMEY

One of the most refreshing feelings in the new Washington is the growing sense that our current tax system is not long for this world.

Only days after the November election, Congressman Bill Archer, the chairman of the House tax-writing committee, boldly declared his desire to “tear out the income tax by its roots.” House Speaker Newt Gingrich and Senate Majority Leader Bob Dole have since formed a commission to consider entirely new alternatives. Presidential candidates Phil Gramm, Richard Lugar, and Arlen Specter want to scrap the system. A half dozen congressional panels are holding hearings on the subject. Even Congressman Richard Gephardt, the House Democratic leader, has floated a major rewrite (albeit without details).

The question is no longer *whether* America will get rid of its burdensome tax system; the question is, what new system should we replace it with? It is a question that will likely dominate our politics through the next election.

THE CONTENDERS

There are three main contenders: One is a plan advanced by Senators Sam Nunn and Pete Domenici. They were among the earliest to call attention to the most economically lunatic feature of the current tax code—the highly destructive double taxation of savings—and develop a way to fix it. Called the “USA Tax,” their proposal, while fairly complicated, defers taxation on income that is saved, while taxing income that is used for consumption. It is a sincere and innovative effort to encourage the savings necessary for continued economic growth.

The second contender, which I strongly favor, is the flat tax. Designed to make the tax system as neutral and simple as possible, the flat tax would sweep away all loopholes, deductions, and exemptions, and replace them with a single generous personal allowance. All other income would be taxed at one low rate of 17 percent. As the plan’s

authors, economists Robert E. Hall and Alvin Rabushka, have pointed out, a flat tax would allow Americans to figure their taxes on a form the size of a postcard. The use of the tax code by would-be social engineers would end. Like the USA Tax, the flat tax would also end the double taxation of saving.

While support for the flat tax is soaring—almost 60 percent of Americans appear to favor a version of it, if polls are to be believed—the Nunn-Domenici plan may have been overtaken by events. Conceived at a time when it appeared to many that the redistributionist Democratic Party would control Congress indefinitely, the plan contains sharply progressive tax rates that would kick in at surprisingly low income levels. It addresses the disincentive to save quite well, but it may make the other problems in the code, high rates and complexity, even worse than the current system. With the new politics in Washington and across the country, superior alternatives are now clearly within political reach.

Then there’s choice number three: the national sales tax. This is a sweeping plan to wipe away the current system and replace it with an unprecedented federal tax on retail purchases. Although it’s not as widely discussed as the flat tax, it has substantial support among many far-thinking conservatives, including Archer and Lugar. Indeed, there are few conservative hearts that could not be at least a little warmed by its central promise to end the income tax altogether.

This last choice demands serious examination at the moment. Although well-intentioned, the sales-tax option has several serious flaws.

Before getting into that, though, we must remember that supporters of all these plans are allies in a fight to end America’s single greatest impediment to achieving its possibilities: the IRS code,

**IF WE TRY TO
EXCHANGE AN
INCOME TAX
FOR A SALES TAX,
WE COULD EASILY
END UP WITH BOTH.**

DICK ARMEY, a former economics professor, represents the 26th congressional district of Texas.

circa 1995.

Any American tax system should meet three basic criteria. It should be fair, simple, and pro-growth. The current system fails miserably on all three counts.

Is it simple? Not by a long shot. In 1990, American workers and businesses spent 5.4 billion hours preparing their taxes for the government. That's more time than it takes to build every car, truck, and van manufactured in the United States each year. After seven decades of amendments, revisions, exemptions, loopholes, and extensions, the code has become an incoherent mess. The IRS now sends out eight billion pages of forms and instructions each year. Laid end to end, they would stretch 28 times around the circumference of the earth.

Is it fair? Hardly. The tax system is as much an exercise in social engineering as it is a way of raising government revenue efficiently. Through its exemptions and loopholes, the government tries to guide the economic decisions of free Americans in the misguided belief that the government knows best. Among other things, the code tells us that it is better to invest in a municipal sewer system than the next Microsoft, that buying rather than renting a home is a better choice for everyone everywhere, that purchasing air compressors is better than buying computer software. Government has neither the competence nor the right to make those decisions for us. The pretense that "government knows best" is an insult to our citizens.

Is it pro-growth? As written, the tax code actually punishes savings and investment, by placing double or even triple tax burdens on capital. This lowers wages, destroys jobs, and depresses the living standards of all Americans. At the same time, it burdens American workers with punishingly high tax rates and overall tax burdens. With state and local taxes and other federal taxes, Americans now pay more in taxes than they spend on food, clothing, and shelter combined.

All who have worked to end this system, no matter what plan they currently favor, should be welcomed as members of the tax-reform movement.

Now for a closer look at option number three. What follows is my assessment of the major arguments advanced in favor of the national sales tax:

A sales tax is not an income tax. The case for a sales tax begins with one highly appealing applause line. It will allow us, supporters argue, to eliminate the income tax altogether, possibly even repealing the 16th Amendment, which authorized it and made Big Government possible in the first place.

Even if that goal were politically feasible—and I don't think it is—the exchange would come at a high price. We would give up the income tax for a more intrusive and pervasive tax system.

The reason is simple. If the government sets out to col-

lect a new tax at the cash register, it will soon have no choice but to extend that tax beyond the retailer to every level of production, as it desperately tries to stop inevitable and massive tax evasion. Any sales tax will become a complex, pervasive, multi-rate, value-added tax. We will soon be living under a VAT—possibly the most insidious tax scheme ever devised.

Sales-tax backers often oppose a VAT. But that's what they'll get. To generate sufficient revenue by taxing goods only at the retail level, the government would need to impose a sales tax of at least 20 percent, which means that consumers would suddenly find that everything they buy appears to be 20 percent more expensive. *But people will not pay such a high tax.* They will either find ways to label their consumer goods tax-exempt wholesale items, they will purchase goods in a cash black market, or they will evade it some other way. A sales tax, in other words, will be immediately undermined by a silent tax

revolt, and the government—following the pattern of European countries—will respond by imposing a VAT.

A VAT is assessed at each stage of production and is much easier to collect and enforce for a host of reasons. You can hear the bureaucratic lament in a 1993 report by the Organization for Economic Cooperation and Development, which noted: "Governments have gone on record as saying that an RST [retail sales tax] of more than 10 percent to 12 percent is too fragile to tax evasion possibilities, and it is probably not entirely accidental that in OECD counties, VAT rates are nearly always above 12 percent and that, except in Canada and Iceland, RST rates have *always* been well below 12 percent."

These unhappy governments were speaking from sad experience. In 1967, 21 developed countries had retail, wholesale, manufacturer, or multi-stage sales taxes. Today, 20 out of 21 of these sales taxes have become value-added taxes. Every developed country except Australia that has had a sales tax now has a VAT. (Even Canada and Iceland, mentioned as exceptions when the OECD report was written, have since replaced their retail-tax-only systems with VATs.)

Whether or not the sales tax evolves into a VAT, the government would become intimately involved in almost every economic transaction between consenting adults. The simplest exchange, from a vegetable farmer selling his produce to the corner grocer selling a loaf of bread, would be under the shadow of a government tax collector taking his cut. In fact, every businessperson in America would become a tax collector for the government.

"But businesses already collect taxes for the government," sales-tax supporters counter. There's a big difference. Today, businesses collect a relatively small share of the income tax, since three quarters of the income in the economy is labor income, paid by individuals. But under a sales tax, there is no direct tax on individuals, so busi-

**ANY SALES TAX
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PERVASIVE,
MULTI-RATE
VALUE-ADDED TAX.**

nesses will be responsible for collecting several times what they collect today. That means IRS scrutiny of American businesses could be expected to rise proportionately. Since the 10-12 million businesses in America have fewer rights under law than individuals, we can expect IRS abuses to rise exponentially as well.

It would be an administrative mess. A national sales tax may well exempt many basic necessities from tax—beginning with food and clothing. This would lead to bitter disputes over the difference between food and candy, between real clothes and costume accessories. Congress and the courts would likely find themselves debating the nutritional value of Twinkies, the body coverage of sportswear, and much else, just as state governments do today, but on a larger scale.

Worse, the federal sales tax and the dozens of different state sales taxes—aside from having different tax rates—would likely exempt different items. That means a small businessperson would need to look up the correct state sales-tax rate, apply the federal rate, subtract the state tax rate from items exempted only by the state, or subtract only the federal rate from items federal-only exempted. Then he would need to do separate calculations for each of the states in which he does business. (And he would need to catch any mistakes before the tax enforcer appears.)

The likely consequence would be a slowdown in business activity—and a loss of jobs and drop in wages for millions of American workers.

We could eliminate the IRS. Ignoring or dismissing this inevitable tendency for a sales tax to become an all-pervasive VAT—with a huge accompanying bureaucracy—some sales-tax advocates nevertheless argue that the sales tax would allow us to eliminate the IRS altogether.

The argument is presented with an interesting federalist twist. The states, they say, could collect the new federal sales tax through their existing sales-tax systems. The federal government, then, could do without its own revenue collection agency. We could bring about the ultimate devolution of federal authority.

One immediate problem, however, is that five states do not have a sales tax and would not take kindly to enforcing one for Washington. Even those that do would consider the costs of collecting a huge federal sales tax (the main source of federal revenue) an unbearable federal mandate.

The enforcement costs for current sales taxes, currently about 5 percent, are manageable. However, if you add a 20 percent federal sales tax on top of that, the compliance problems grow exponentially. It makes little sense for a state government to pay the enforcement costs for a 25 percent tax when it only gets one fifth of the revenue. Many states would simply eliminate their sales taxes.

But the point is purely academic. For reasons dating

back to the unhappy years of the Articles of Confederation, the federal government will never rely on state governments for its prime source of revenue. It will not happen.

In truth, a sales tax would not eliminate any federal agency. It will actually allow a huge increase in the size of the federal government by allowing politicians to raise taxes with relative impunity. Why? Because sales taxes are hidden from the taxpayers, concealed in the price of the goods they buy.

Try this experiment. Stand outside a grocery store and ask shoppers as they leave how much they just paid in sales tax. You'll find that virtually no one knows. Can you guess how much you paid in sales tax last month, or last year? The problem is, if people don't appreciate how much they pay in taxes, it is a lot easier for politicians to raise them.

Individuals would no longer need to file tax forms with the government. Since people would pay their taxes whenever they purchase an item, some sales-tax advocates argue, the government will never need to know a taxpayer's name. There would be no filing of any tax papers at all by an individual.

That's not quite right. Under almost any sales-tax plan, individuals would still file with the government—but for entirely different reasons than they do today.

It's almost certain that one way or another, any federal sales tax would need to exempt certain basic necessities in order to make it progressive. One way to do this, as I've mentioned above, would be to order retailers not to charge tax on food and clothing and whatever else the government selects.

But exempting a handful of items isn't enough. Absent a generous rebate, most Americans would face a stiff tax increase under a sales tax. That's why most sales-tax proposals provide for a rebate. The truth is, the overwhelming majority of Americans would still need to file with the IRS to claim their rebate (or else face a substantial tax increase).

Some have suggested the IRS could simply send out checks to every American by Social Security number, obviating the need for taxpayers to file with the IRS. This is a fantasy. It wouldn't be long before there were more Social Security numbers than citizens. Whether or not Americans file directly with the IRS, the potential for fraud is staggering. Even under the current Earned Income Tax Credit program, fraud levels are as high as 30 to

40 percent. How much fraud would there be if the federal government were cutting thousand-dollar checks to every American?

Of even greater concern is the political dynamic that would develop once we couple a hidden sales tax with a highly visible tax rebate. Americans would be quietly nickel-and-dimed to death by a sales tax they may hardly notice, but every year a very noticeable and generous check would arrive from Washington like manna from heaven. Government, and even the tax bureaucracy,

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might become highly popular after all. And in my judgment, if there could be anything worse than people hating the IRS, it would be for people to love the IRS.

A sales tax will tax the underground economy. The notion here is that a sales tax will more effectively tax illicit trade in both legal and illegal goods and services than any income tax. If true, this would bring in tens of billions of dollars in revenue to the government as we collect revenue from people who are currently outside the system.

The neighborhood drug dealer almost always serves as the illustration. Since the drug dealer declines to file a 1040 form, the argument runs, maybe we could at least recoup some of his income through a sales tax. The government may have no record that he exists, but when he uses his blood money to buy a sports car, the government will collect tax from him.

That sounds compelling at first, but if we think it through, it doesn't hold together. Look at it this way: Both systems will equally fail to tax the drug trade for the simple reason that the drug dealer will not play along in either one. If there's an income tax in place, he won't report his income. If there's a sales tax in place, he won't collect tax from his customers. Either way, the government loses exactly the same amount of money.

**IN MY VIEW,
REPEALING THE 16TH
AMENDMENT AND ENDING
THE INCOME TAX IS,
POLITICALLY, NOT
IN THE CARDS.**

Consider the following example. Suppose there is a drug dealer who makes \$50,000 in sales to his customers every year and then turns around and spends it. Under an income tax system, we wish to tax the income of the dealer and his customers, while under a sales tax we wish to tax all of their purchases.

Under the income tax, we tax the income of the drug consumers (assuming they are law-abiding citizens besides their drug use), but we can't tax the income of the drug dealer. Thus we lose \$50,000 from the tax base. Under the sales tax, we tax the purchases of the drug dealer, but we don't tax the purchases of the drug consumers. Loss to the tax base: \$50,000.

It has to be the case that neither system taxes the value of the drug trade because the amount people spend on drugs must equal the income of the drug dealer. And since the drug dealer will not report sales or income tax, neither system will capture the value of the drug trade.

The same would hold true for the underground economy in legal goods and services as well—which, of course, is much larger. The proverbial plumber who doesn't

report his house-call income today would not report it for sales-tax purposes either. At best, it will be a wash.

Actually, economic reasoning aside, the whole "underground economy" argument for a sales tax is flawed. It's obvious that if we try to impose a national sales tax of 20 percent or more on the public, the underground economy will explode. The "contraband" involved, though, will not be just crack cocaine, but virtually any sort of consumer good. That's exactly what happened in Canada when the government imposed its goods-and-services tax. The tax raised much less than projected. Coincidentally, the Canadian Treasury soon noticed a dramatic increase in the amount of real currency flowing through the economy. Why were Canadians suddenly using so much cash? Guess.

A sales tax will reduce the trade deficit. Supporters say that a sales tax will increase U.S. competitiveness by taxing imports and not taxing exports. As tax-policy people put it, a sales tax is "border adjustable." Since exports aren't sold in the U.S., they would escape a domestic sales tax; since foreign imports are sold here, they will get hit. This way, American firms receive a significant tax advantage over foreign firms, and that will favorably alter our trade balance.

There are very few economists who hold this view, however. An immutable law of economics holds that trade surpluses and deficits are linked to the amount a nation lends or borrows. When savings are low, the trade deficit must be high, but if we substituted a tax on imports for some other tax, it will not affect the amount Americans save. That means the trade deficit not only *will* stay the same, it *must* stay the same, as a basic principle of economics.

Economists might explain it this way (simplifying, of course): If there is more investment occurring in our economy than can be financed by our savings, then foreign investors must be accounting for the difference. In effect, they are taking the money we pay them for their cars and VCRs and using it to buy our stocks and bonds, thus supplying the investment capital that we don't supply ourselves. This difference is the "trade deficit."

The only way to change the trade deficit, then, is to change our savings rate. If we increase our savings relative to our domestic investment, we will have less need for foreign cash. The trade deficit will then drop, as we spend relatively less money buying foreign goods and relatively more investing at home.

But anything we do to tax incoming foreign goods—including slapping them with a sales tax—will have no effect on the amount of money Americans are putting into domestic stocks and bonds or even their own bank accounts. There is simply no relationship between them.

What will happen instead is this: Our exports will increase at first because of the new tax advantage. But since our savings will remain the same, the dollar will be artificially strengthened. This will make our exports more expensive, and the original balance of trade will be gradually restored—along with the original trade deficit. The policy will be self-defeating.

Even if a border adjustment were to work as its proponents claim, it would still be a bad idea. It would make the goods Americans buy—whether produced here in

America or abroad—more expensive, while foreigners could purchase American-made goods more cheaply. It's hard to see how Americans benefit from paying higher prices than foreigners do to purchase American products.

Adam Smith makes a relevant point in *The Wealth of Nations*. Smith reminds us, "Consumption is the sole end and purpose of all production; and the interest of the producer ought to be attended to, only so far as it may be necessary for promoting that of the consumer."

In a border-adjustable system, however, to borrow from Smith again, "the interest of the consumer is almost constantly sacrificed to that of the producer; and it seems to consider production, and not consumption, as the ultimate end and object of all industry and commerce."

A TRAGIC IRONY


All of the above assumes, of course, that we really could replace the income-tax system with a national sales tax. But could we? The roots of the income tax go back to the 16th Amendment, passed in 1916 to authorize the government to levy a tax on individual incomes. In my view, repealing the amendment and ending the income tax for good is, politically, not in the cards. Conservatives in Congress have tried for years to pass a balanced-budget amendment without success. I believe we will eventually succeed, but in the midst of that grueling fight, I believe the notion of getting 290 members of the House, 67 members of the Senate, and three quarters of the states to

repeal the 16th Amendment is a dream.

And that is perhaps the best argument against the sales tax. If we try to exchange an income tax for a sales tax, we could easily end up with both. It would be a tragic irony if conservatives who favor a smaller government unwittingly provide the liberals with a comprehensive new taxing authority without eliminating the old one.

THE FLAT-TAX OPTION

We must not lose sight of the commendable motives behind the sales tax. Its supporters want a tax code that does not interfere with economic decisionmaking, minimizes the paperwork burdens on the taxpayers, limits the size of the federal government, avoids excessive taxes on savings and investment, and is straightforward and fair.

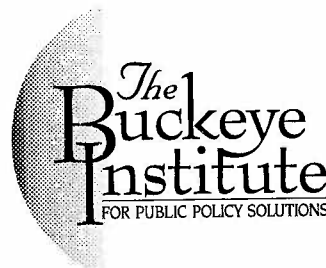
For all the above reasons, however, the sales tax is not likely to achieve those goals. The flat tax, however, will do so. By placing a single tax rate on all income, it will not distort economic decisions. Citizens will be free to spend and invest their money as they see fit without taking tax considerations into account. The paperwork burden, for most taxpayers, will be reduced to filling out a postcard-sized tax return. Americans will get an honest bill and know how much their government costs them. Savings and investment income will be taxed, but only once. The punitive double taxation of savings in the current code will be gone. The flat tax meets the tax-reform criteria—it is simple, fair, and pro-growth. 



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MINIMUM-WAGE MILLIONAIRES

The Capitalist Way to Save Social Security

SAM BEARD

Suppose you are 20 years old and earning \$10,000 a year. You and your employer are paying \$1,240 a year in Social Security taxes. That's 12.4 percent of your hard-earned income, for benefits that you will never see.

Suppose instead you could invest that same \$1,240, as well as an additional \$2.50 a week. By the time you are 65, thanks to the magic of compound interest, you would be a millionaire. You would be assured a comfortable retirement.

This isn't a game-show fantasy. This isn't a lottery jackpot. It is a realistic goal. But unlocking this economic opportunity means revolutionizing Social Security. Every American who earns \$10,000 a year or more can become a millionaire over the course of one working lifetime—45 years. By the year 2000, there will be over 100 million Americans who fall in this category.

In a recent survey, Americans between the ages of 18 and 34 reported they are more likely to see a UFO (46 percent) than their Social Security benefits (28 percent). They're right. The Social Security trust fund starts running out of money, under current projections, in the year 2013. If you're 20 today, that's when you turn 38. By the year 2030, when you turn 55, the fund will be short \$200 billion a year and be unable to meet one quarter of its obligations. By the year 2042, when you turn 67 and reach your so-called normal retirement age, the fund will have an accumulated debt of \$4.7 trillion. I'm not making this up. This isn't science fiction. These numbers come from the 1994 report of the trustees of the Social Security system.

You could get all your benefits, of course, if there were an enormous tax increase for your children and grandchildren. According to the Social Security trustees, honoring existing promises for Social Security and Medicare benefits will require a rise in payroll taxes from the current level of 15.3 percent to 25.7 percent in 2030. But that simply isn't going to happen. Americans are already over-taxed. Do you think they'll put up with 25 percent payroll

taxes, and federal income taxes, plus state and local taxes on top of that?

Some politicians will tell you not to worry: Social Security is building up a big trust fund that will take care of all those promises. By the end of this year, the trust fund will have \$475 billion in assets—*on paper*. By 2020, there will be \$3 trillion on paper. The trouble is, when the program needs the money, the money will already have been spent on everything the federal government spends money on. To redeem its IOUs to the trust fund, the federal government will have to borrow money or raise taxes—by over \$36,000 per family—just as if the trust fund had no assets at all.

So you and your employer are now paying one eighth of your income to pay for the Social Security benefits of current retirees, and to build up an illusory trust fund. Meanwhile, your own retirement is in jeopardy.

No wonder younger Americans fear they are on a treadmill. No wonder there is so much trepidation about the future of the country. No wonder we have a savings crisis: our savings are being spent. No wonder most Americans now say their children will enjoy less opportunity than they do.

It doesn't have to be this way. Social Security can be saved without raising taxes, and without lowering the benefits or cost-of-

living adjustments of existing retirees. Social Security can be saved in a way that will open up opportunity for younger people—so that their standard of living will be better than that of their parents and grandparents. If we use the principles of democratic capitalism to reform Social Security, the 20-year-old making the minimum wage can become a millionaire by the time he or she retires.

SAM BEARD is the founder and chairman of the National Development Council and a former staff associate to Senator Robert Kennedy. He is the author of *100 Million Millionaires*, to be published this fall by the Institute for Contemporary Studies, and is a fellow of the Discovery Institute in Seattle.

Most Americans are on a treadmill because they have but one source of income: wages. The way to get ahead is to earn income from capital. Money makes money. With capital, you can retire in comfort and bequeath a nest egg to your children.

Here is the beauty of capitalism. Any American currently earning \$12,580 or more pays \$30 a week, or \$1,560 a year, into Social Security. Imagine that, beginning at age 20, you invest that \$30 a week at market rates. When you retire, you'll be a millionaire. Whoever earns at least the minimum wage can become a millionaire in 45 years.

The secret is compound interest. Let's assume a long-term return on your investments of 8 percent a year. (This is a prudent assumption; the annual return on the Standard & Poor's 500 over the past 70 years, including the Great Depression, is actually 10.19 percent.) If you can save \$30 a week (\$1,560 a year), after 10 years the value of your portfolio is \$29,000. After 20 years, it is \$110,000. After 30 years, it is \$318,000. Forty years—\$822,000. And 45 years—the normal working lifetime—\$1.3 million. After 50 years, if you work until age 70, the value of your portfolio crescendoes to an estimated \$2 million.

You wouldn't exactly be a millionaire in today's dollars. If we adjust for inflation of about 4 percent a year, your portfolio of \$1.3 million after 45 years would be closer to \$230,000. That's still a larger nest egg than most working Americans even dream of. With that amount of capital, you could purchase an annuity at age 65 that would give you \$18,256 a year (in today's dollars) during your retirement years.

The way to save Social Security is to make the magic of compound interest work for its beneficiaries. I've been developing a proposal that will save Social Security—and enable 100 million Americans to become millionaires. The plan keeps Social Security as a mandatory, redistributive savings program, but it converts the program from the current pay-as-you-go system to a funded system, in which individuals own retirement portfolios at Social Security and choose private investment managers. Individuals would be allowed to set aside portions of their Social Security payments, together with additional voluntary contributions, in their own personal accounts. They could use their accounts for retirement income and pass on the capital tax free to their children. The plan has four basic elements:

Pay existing obligations to all current retirees. Social Security benefits would be paid to all existing retirees, as promised, without changes, and without reductions.

Divide Social Security into two tiers. If you are working now, you and your employer would continue to pay existing Social Security taxes of 12.4 percent on the first \$61,200 of your income. Some of that would go to pay the benefits of existing recipients. Some of your payments would go into your own personal account. Payroll taxes would not rise from their current level. They would be cut by 2 percentage points around the year 2040.

The benefits of current retirees would be paid out of the first tier—current payroll taxes. When they retire, current workers would draw benefits from two Social Security sources: income from future payroll taxes and income from their personal retirement accounts.

Create personal investment and retirement accounts for the second tier of Social Security. Every worker who earns at least \$4,000 would have his own IRA-like account with Social Security. (Unlike an IRA, you could use your account only for retirement, and could not withdraw from it earlier.) The first \$500 that you and your employer pay into Social Security every year would be automatically deposited in your personal retirement account. You could increase the deposit in your personal retirement account by up to \$3,000 per year by making voluntary contributions that would be matched by Social Security taxes you are already paying. The size of the match would vary according to income.

Here's an example: If you earn \$10,000 a year and you contribute \$1,240 per year, the first \$500 of this money would be paid into your personal account. If you add a savings match of \$130, the Social Security program will deposit an additional \$610 of tax money you are already paying into the fund into your personal retirement account, for a total of \$1,240 per year. In 45 years, your portfolio will be \$1,026,524 and you're a millionaire.

If you are making \$50,000, you might wish to put the maximum of \$3,000 per year into your personal account at Social Security; \$1,500 of the \$3,000 comes from taxes you are already paying, and \$1,500 comes from additional funds you save from your income, that is, from a personal-savings match. In 45 years, your portfolio would be \$2.5 million.

This money would be in your name, you would own it,



Illustration by Zoya Eydelman

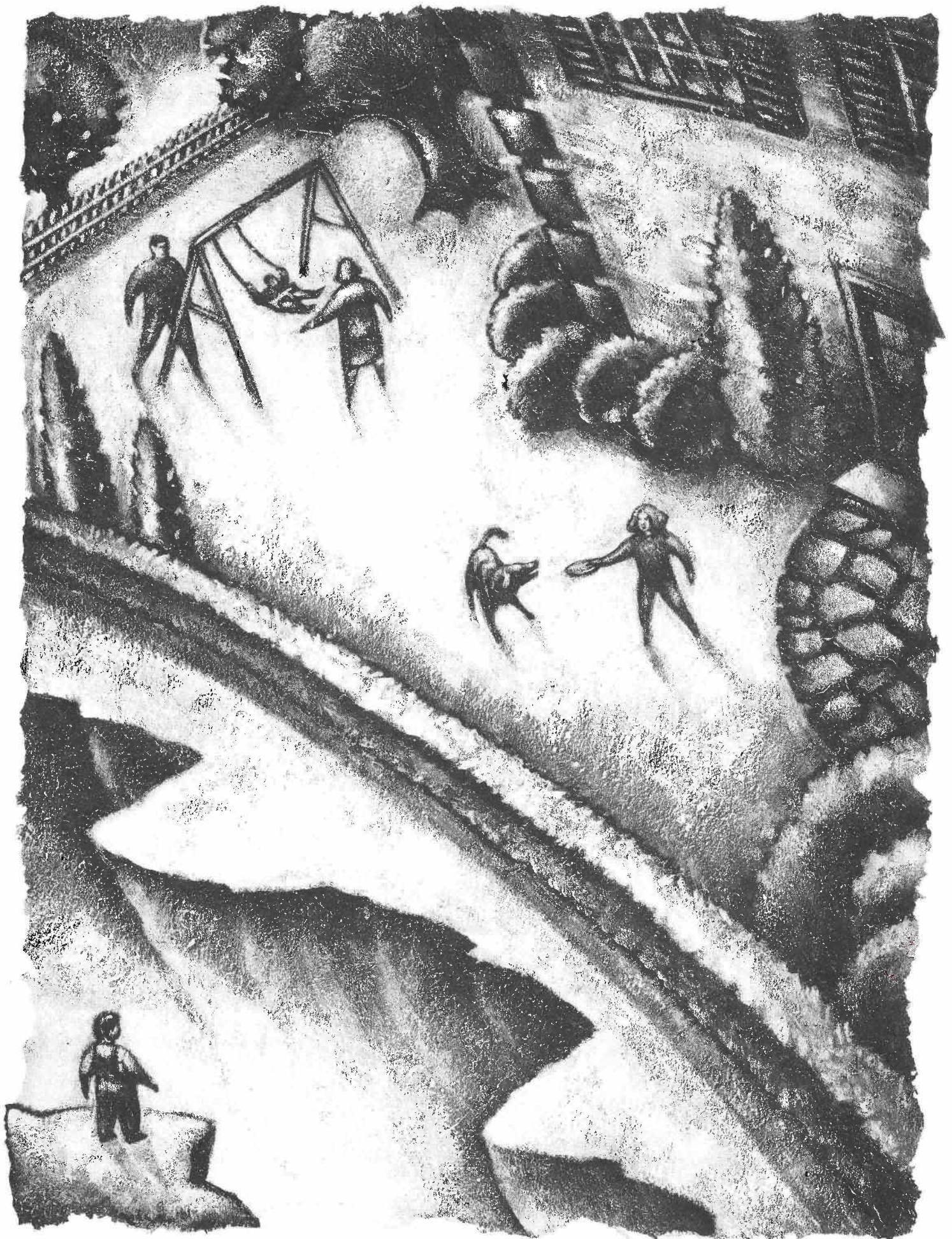


Illustration by Robert Johansen

“WHAT I NEED IS A MOM”

The Welfare State Denies Homes to Thousands of Foster Children

CONNA CRAIG

John, 10, is one of America's children who waits. He waits for a home, and he has been waiting nearly all of his life. When John was a toddler, his drug-addicted mom lost her parental rights, and claimed not to know who the father was. John has been legally free to be adopted since he was three, but instead has lived in state-run foster homes and group homes. While his childhood slips away, John's social workers debate his best interests and the programs they hope will address them. But this skinny kid who loves baseball knows better: "I'm all wrapped up in programs," he says. "What I need is a mom."

Across the country, there are 50,000 foster children like John, who no longer live with their mother or father and have been declared by courts as free to be adopted, but who languish for months or years in state-run, state-funded substitute care. On any given day, nearly 400,000 other children—none of them eligible for adoption—can be found in government foster homes, group homes, and shelters. Many of them are kept there by absentee parents clinging to the legal rights to their children.

Foster care and adoption in America have sunk to a state of near-catastrophe.

According to the American Public Welfare Association, the population of children in substitute care is growing 33 times faster than the U.S. child population in general. During each of the past 10 years, more children have entered the system than exited. Every year, 15,000 children "graduate" from foster care by turning 18 with no permanent family; 40 percent of all foster children leaving the system end up on welfare, according to the American Civil Liberties Union.

What was for most of America's history an entirely private endeavor has become a massive, inefficient government system. State agencies consistently fail to recruit enough families for the children eligible for adoption every year; potential parents often are turned down because of racial considerations, or turned off by protracted and unnecessary waiting periods; cumbersome state regulations extend to private adoption agencies and can even prohibit private attorneys from handling adoptions. The result is that tens of thousands of children are now free to be adopted but have nowhere to go.

This is the dirty little secret of the welfare state: Every child is adoptable, and there are waiting lists of families

ready to take in even the most emotionally troubled and physically handicapped children. Government adoption policies are utterly failing in their most basic purpose—to quickly place children who are free to be adopted into permanent homes.

The problem lies not with the children. What keeps kids like John bound to state care are the tentacles of a bureaucratic leviathan: a public funding scheme that rewards and extends poor-quality foster care; an anti-adoption bias that creates numerous legal and regulatory barriers; and a culture of victimization that places the whims of irresponsible parents above the well-being of their children.

I can identify with these kids. I was a foster child in a family that cared for 110 children. That family—my family—adopted me in the early 1970s. Years later, as a student at Harvard, I happened upon a book of statistics on children in state care. I was stunned to learn that decades of research, policymaking, and government funding had only intensified the system's failures. I was one of the lucky ones, but luck will not stem the tide of parentless children. By the year 2000, well over a million children will enter foster care, and tens of thousands of kids will become eligible for adoption. Unless the government apparatus of foster care and adoption is dismantled, these children could spend their childhoods wishing for what most people take for granted: stability, a family that will last longer than a few months, a last name.

SUBSIDIZING FAILURE

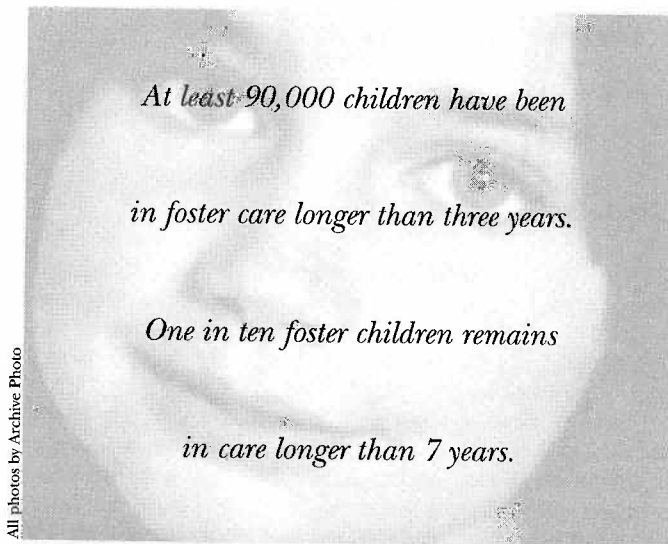
For years the rallying cry of many children's activists has been: "More money!" The National Commission on Family Foster Care, convened by the Child Welfare League of America, says that "family foster care and other child welfare services have never been given the resources necessary" to meet federal standards, and calls for a "fully funded array of child and family welfare services." When it comes to child welfare, rare is the research article that does not call for more money and further research.

America already is spending \$10 billion a year on foster

CONNA CRAIG is president of the Institute for Children, a private, non-profit group based in Cambridge, Massachusetts, dedicated to reshaping foster care and adoption.

care and adoption services through public agencies. Federal dollars now account for nearly a third of all foster care funding, with most of the rest coming from state coffers. California alone spends at least \$635 million a year on substitute care; the District of Columbia spent \$53 million last year on a system that was so poorly run it recently was taken over by a federal court.

According to the ACLU, a year in foster care costs



All photos by Archive Photo

about \$17,500 per child, including per-child payments to foster families and administrative costs of child welfare agencies. That does not include counseling and treatment programs for biological parents or foster parent recruitment and training. The *San Francisco Chronicle* reports that per-child costs for foster home or group home care have increased more than fourfold in the past decade.

The problem with foster care is not the level of government spending, it is the structure of that spending. The funding system gives child-welfare bureaucracies incentives to keep even free-to-be-adopted kids in state care. State-social-service agencies are neither rewarded for helping children find adoptive homes nor penalized for failing to do so in a reasonable amount of time. There is no financial incentive to recruit adoptive families. And as more children enter the system, so does the tax money to support them in substitute care.

By contrast, private adoption agencies are paid to find suitable families quickly, even if it means going out of state. The public social-service bureaucracy, nearly overwhelmed by other urban problems, has little to gain by devoting extra resources to adoption. Private adoption agencies are free to focus on finding homes for kids and are financially motivated to do so. Private adoption agencies are paid according to the number of successful placements; public agencies, in a sense, are paid for the number of children they prevent from being adopted.

There is a similar reward for foster parents to keep kids in state care. By law, adoption subsidies cannot exceed foster care payments, and in practice they are almost always lower. According to the National Foster Parent Association, foster families in 1993 received anywhere from \$200 to \$530 a month for each child under age 10, plus additional money from states and counties. The sub-

sidies are tax free, and foster parents receive more money as the children under their care get older. So the longer the system fails to find permanent homes for kids, the more money flows to those fostering.

In some states, payments to foster parents caring for four kids equal the after-tax income of a \$35,000-a-year job. The money is tax free. It doesn't take much imagination to see that paying people to parent can lead to mischief. Parents are not held accountable for how they spend their federal and state allocations; for too many foster parents, the children in their homes are reduced to mere income streams. If foster parents don't wish to adopt the children under their care, what incentive do they have to alert other parents hoping to adopt?

Let me be very clear: There are many dedicated and compassionate people in the foster care system, serving as case workers, counselors, and foster parents. My own experience in foster care was a positive one. But I have seen and heard of too many that were heartbreaking failures.

SPECIAL-NEEDS STIGMA

I have heard perhaps a thousand times that the children who wait cannot be adopted because they have "special needs." Of course they do—they need parents. They require love and nurturing that endures. But the "special needs" referred to by advocates come with federal dollars attached. In 1980, Congress started offering states matching funds to assist the adoption of children with special needs, which included children of various ages, ethnic backgrounds, and those with severe mental and physical handicaps who may require expensive care. The subsidy was to become available only after a state determined that it could not reasonably expect to place a child without it.

As with so many other federal subsidies, states quickly expanded their slice of the government pie by broadening the criteria for receiving money. Today, nearly two-thirds of all foster children qualify. In some states, special-needs children include kids who have a sibling; are black, biracial, Hispanic, or Native American; are "older," as defined by the state; or have been in foster care longer than 18 months.

Two leading adoption organizations report that there are no national figures available that break down the type of need, or indicate the number of children who have physical or emotional handicaps that would require extra expenses by their new parents. This leaves the door wide open to all sorts of graft and fiscal abuse.

But there are other unintended and unconscionable consequences of this masquerade. One is that the needs of very vulnerable children are downplayed. The plight of a teen-age girl in a wheelchair who requires constant attention is trivialized when she is included in the same group as children whose "needs" are that they are eight years old. Another result—one I see often—is that local social-services departments discourage families from adopting by telling them, "Oh, these kids aren't for you. We only have *special-needs* children." This emphasis on kids with the most challenging emotional and physical handicaps unwittingly contributes to the false notion that foster children are "unadoptable." Ironically, the Adoption Assistance and Child Welfare Act of 1980 that established

special-needs matching funds warned that children must not be “routinely classified as ‘hard-to-place.’” Government funding has had just that effect, and it is helping to delay the placement of children ready for adoption.

I am convinced that the entire incentive structure for foster care and public agency adoption helps perpetuate the system’s failure. It is a failure rooted in the notion that government funding is the panacea for family disintegration. The National Commission on Family Foster Care claims the foster care crisis is “the logical result of two decades of national neglect in providing funding and services for children, youths, and their families.” On the contrary, as long as these children come with tax money attached—with little in the way of accountability—those invested in perpetuating the system will do little to reform it. As one foster child put it: “Everywhere I go, somebody gets money to keep me from having a mom and dad.”

ANTI-ADOPTION BIAS

Government funding schemes and inefficiencies that prevent adoption exist within a larger framework: a steadily growing bias against adoption. Despite all the sociological evidence of the benefits of adoption, the conviction that a child does best in a permanent, loving, and stable home is all but missing from the ethos of state-run substitute care. How can this be?

In both the popular and elite media, a deep suspicion of adoption is all too evident. Marvin Olasky, a professor at the University of Texas at Austin, has noted that a *New York Times* series on adoption included such headlines as “The Ties that Traumatize” and “Adoption is Getting Some Harder Looks.” And what do *Playboy*, *Mirabella*, and *Good Housekeeping* have in common? As Olasky says, each has joined the offensive with an article that warns readers against the “distasteful ... bartering of lives” that supposedly is adoption.

Television writers would have us believe that adoption has no happy endings. TV portrays adoption as shady, risky, and shameful. Over the last year, a dozen programs featured adoption in their plots, and in every case the adoption agency was depicted as callously profit-driven. The adopting families were white, middle-class couples who kept secrets from the authorities or from each other. Birth mothers were unfairly portrayed as selfish or disturbed. The programs paid little attention to the well-being of the children.

Groups such as Concerned United Birthparents (CUB) help give legal expression to this bias. CUB was behind the “Baby Jessica” case that led to the removal of a two-year-old from her adoptive family. Groups like CUB claim that adoption is a feminist issue, that only the outmoded ideal of a two-parent family makes the notion of adoption palatable. As Olasky notes, Joss Sawyer’s book *Death by Adoption* calls adoption “a violent act, a political act of aggression toward a woman.”

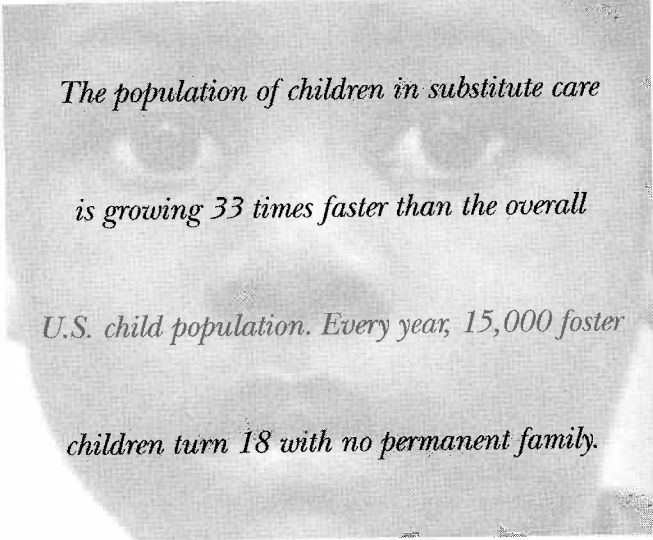
Perhaps more significant, however, is the battle against transracial adoption that has been waged by the National Association of Black Social Workers (NABSW) for more than two decades. Its 1972 position paper reads: “Black children belong physically, psychologically, and culturally in Black families in order that they receive the total sense

of themselves.” Otherwise, the group claims, black children “will not have the background and knowledge which is necessary to survive in a racist society.” Our institute has received letters from adoptive families in many states who have been barred from adopting transracially. According to the North American Council on Adoptable Children, state adoption laws may allow for race-matching, but “their preferencing policy isn’t written down.”

When it comes to transracial adoptions, there is no longer much doubt that current policies are bringing the greatest harm to the very community they were intended to help: African Americans. Just consider the numbers: Though black families adopt at very high rates, black children represent nearly half of foster kids waiting to be adopted. Fifteen percent of all children in America are black; but 40 percent of the children in foster care are black. State delays in finding homes for black children, as case workers search for “culturally consistent” placements, can keep kids languishing in state care for years.

“These policies are seriously harmful to black children, requiring that black kids who could get good homes be left in foster care,” Harvard law professor Elizabeth Bartholet told the *New York Times*. “There is not an iota of evidence in all the empirical studies that transracial adoption does any harm at all....There is plenty of evidence that delay in adoption does do harm.”

Such policies reveal a profound misunderstanding of the nature and effects of adoption. To insist that successful adoption means placing a child in a family of his racial or ethnic heritage is to overlook what every adopted child understands intuitively: Adoption is not easy. No matter how much a child’s family looks like him, it does not alter the fact that someone gave him up. Having the same skin



The population of children in substitute care

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U.S. child population. Every year, 15,000 foster

children turn 18 with no permanent family.

color as the people in his household doesn’t automatically erase that. Only love does. As someone who grew up in a multi-ethnic family, I find it incomprehensible when people tell me that I cannot love my siblings the way I could if our skin color matched.

THE FALLOUT

Attitudes against adoption, whether racially motivated or not, share at least two flaws. First, they ignore all the best

initial surge in reported injuries—workers were being told, after all, to report even minor problems more often—workers’ comp claims fell as did the severity of reported injuries. From 1992 to 1993, workers’ comp costs at OshKosh B’Gosh fell by a third, more than paying for the company’s safety innovations.

In the search for workplace safety, even industries considered to be “dangerous” have made great strides. Consider the mining industry, which has posted the most dramatic decline in injury rates during the past 20 years.

In 1976, mining had the third-highest rate of total injury cases and the highest rate of any industry for injuries with lost workdays. By 1992, its rate of all injuries and of injuries involving lost workdays had dropped below the rates not only for all the other goods-producing industries but also for parts of the service sector. The efforts of enterprises like Kerr McGee Coal Corp.’s Jacob’s Ranch Mine in Gillette, Wyoming, have contributed to this impressive record. The mine’s incentive

program for zero accidents is a quarterly award of \$100 in gift certificates from local merchants. For every accident, each of the mine’s 400 workers loses \$10 from their awards. “Everyone gets penalized so there’s a real incentive to wear safety glasses and do the right things,” says safety supervisor Lenny Altenburg. The company spends \$205,000 a year on the gift certificates, but the investment is paying off: The firm had no lost-time accidents at all from 1991 to 1994. Other mining firms have introduced new technologies, begun safety training programs, and used similar financial-incentive systems to minimize accidents. Compare the mining industry’s typical death toll today (97 in 1992, for example) to the 3,500 annual deaths typical in the first part of the century, and you have some idea of the progress that’s been made.

Rail safety is another area where the incentives of the private-sector marketplace dwarf those of the public sector. The E.H. Harriman Memorial Awards, given for railroad safety since 1913, helped to illustrate this point in 1994, as privately owned railroads took prizes and publicly owned or publicly subsidized railroads posted mediocre or poor safety records. Among the largest railroads in the country, Norfolk Southern took first place while Amtrak, the federally subsidized national passenger rail system, came in last. Similarly, among nine medium-sized railroads, the three publicly owned lines ranked 5th, 7th, and 9th. Guilford Transportation Industries Inc., which operates lines in New England, won its category (small railroads) despite allegations of safety problems over the past few years by labor unions and federal regulators (whose ranks are dominated by union veterans). Colin Pease, executive vice president at Guilford, explains that while many publicly owned or subsidized railroads rely on “feel-good programs” to promote safety, private lines must operate safely or go out of business. Insurance costs,


replacement costs, and disruption of freight deliveries all skyrocket when lines are unsafe. “There is a major economic impact to whether your workers perform their jobs the right way or not,” he says. “But the motive breaks down in the public sector.” Pease believes that when workers are working safely, they’re working productively—and naturally, in a competitive enterprise like transportation, productivity gains are the only way to stay ahead of competing rail or trucking firms. Guilford supervisors provide daily safety instruction and perform “test and observation” procedures 24 hours a day, seven days a week.

The efforts of these and many other American companies to reduce accidents and injuries are ongoing and massive. But conscious decisions by corporate managers and workers to address safety aren’t the only cause of safety gains. Larger trends in the economy, reflecting innovation and productivity gains linked to goals other than safety, have also contributed to lower rates of accidental deaths and safer workplaces. For example, it now takes fewer employees to manufacture

goods in America—and that means fewer chances for injuries and accidental deaths. Also, the quality of medical care provided both at the workplace itself and in hospitals and urgent-care centers has steadily improved, reducing the severity of injuries and the risk of death from accidents. Furthermore, a great deal of recent job growth has occurred among the smallest businesses in the country, which also have tended to post the best safety records (large businesses post the second-best safety records, while medium-sized firms have traditionally reported the most accidents).

While interpreting safety data and identifying causes and effects of particular trends can sometimes be challenging, the overall message about corporate responsibility in this area shouldn’t be obscured. Driven by the pressures of the market to lower costs, keep skilled workers, minimize legal and insurance costs, and avoid bad publicity, American businesses have toiled endlessly to make their workplaces safer.

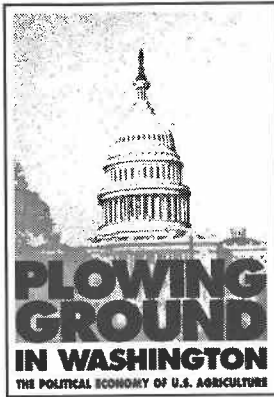
To a large extent, they’ve done so. In a real sense, the tremendous reduction in accidental deaths accomplished in the past 60 years represents an advance in the quality of life of workers and consumers no less significant than pay raises or price reductions. Horrible accidents such as the Hamlet chicken-plant fire are human tragedies, but in the context of corporate decisionmaking in a market economy they are also *economic* disasters. That’s why responsible firms today are investing so much time and money trying to avoid them.

OSHA, whether upsized or downsized, reengineered or left alone, has little value to add to the worker safety picture. But its costs, measured in lower productivity and wages as well as higher prices and taxes, are significant. This is one more area where Congress needs to rethink the need for federal government involvement. 

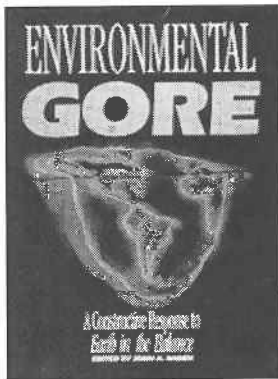
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SAFETY INC.

Private Cops Are There When You Need Them

TUCKER CARLSON

Every day, hundreds of travelers and visitors to New York City arrive at 42nd Street, across from Grand Central Station, after a disorienting bus trip from Kennedy or LaGuardia airports. Most of the passengers stepping out onto the sidewalk have a single goal: to find a taxicab. Meanwhile, beside each idling bus awaits another group, equally intent on their own mission: to steal from the disembarking travelers.

These are Grand Central's "bag hustlers," the muggers, swindlers, and con men drawn to the area by the steady stream of bus passengers, as well as by the half-million or so commuters who pass through Grand Central each day. To these men, a confused tourist is like a limping gazelle: slow, defenseless, and tasty.

Early one afternoon, a middle-aged visitor from Austria arrives at 42nd Street. Bags in hand, he scans the street for a cab. Before his eyes can even adjust to the light, he is approached by a bag hustler. The hustler, a stocky man in his late 30s, is confident, aggressive, and talks quickly. He offers to carry the man's bags and find a cab. His \$20 fee, he explains, will cover the cost of the ride to the man's hotel. The man assents, unaware that the hustler has no intention of paying for the cab with the \$20. Instead, he plans to take the money—and perhaps the man's entire wallet—and run into the crowd.

As the two walk together to the curb, a third man appears, dressed in what looks like a policeman's uniform. "Excuse me," he says to the tourist, pointing to the hustler, "do you know this man?" The tourist, looking confused, shrugs. "Then why is he carrying your bags? He's a thief." Soon, other tourists are looking on, and the policeman repeats his charge to the crowd. "This man is a thief," he says in a loud voice, "stay away from him." The hustler drops the bags, and the cop escorts the now thoroughly confused but grateful tourist to a legitimate taxi stand down the block. In less than a minute, and with little fuss, the policeman has saved the tourist from one of New York's oldest scams.

Except the man in uniform is not a policeman. He is a private security guard, hired by local property owners, and possessing no legal powers beyond those of an ordinary citizen. He is a member of a security detail employed by an organization called the Grand Central Partnership. In less than 10 years, this man and several dozen of his col-

leagues have helped transform the area around the train station from a chaotic maze of threatening streets into one of the safest sections of Manhattan. They have done it without wholesale arrests—and without the use of public money.

Traditionally, security guards have been employed almost exclusively by businesses: either companies whose assets are so valuable that they require extra protection, such as banks and jewelry stores, or those whose size or physical structure renders police patrols ineffective against crime, like hospitals and railroads. But the role of private security is expanding. Increasingly, civilian guards are providing protection in places where only sworn police officers have walked beats: in public parks, central cities, and residential neighborhoods. And increasingly, the salaries of these guards are being paid not by businesses to protect goods, but by citizens hoping to protect their families and neighborhoods.

The history of private security may be nearly as old as crime itself. The earliest security guards may have been the temple priests in the ziggurat at Ur, enlisted by wary Sumerian moneychangers in the third millennium B.C. to protect their lucrative banking operations. In the United States, where businesses have always assumed a large degree of responsibility for protecting themselves, private security guards predate police departments by more than 200 years. Allan Pinkerton, a Scottish immigrant and barrelmaker-turned-detective, started the country's first guard-for-hire service in 1860. His first job: dispatching uniformed civilians to protect meat-packing plants in Chicago. Pinkerton's company, which by the 1990s had revenues of more than \$600 million, now shares the market with about 57,000 other private security firms in the United States.

Private security is among the fastest-growing industries in the country. During the 1980s, security companies expanded at twice the rate of public law enforcement, and received 70 percent more funds. There are now two security guards employed in the United States for every federal, state, and local police officer. Civilian guards protect

TUCKER CARLSON is a Bradley Fellow at The Heritage Foundation. This article is adapted from a chapter of his forthcoming book on community crime control.

Photo courtesy of the Grand Central Partnership

everything from nuclear-power plants to theme parks to government buildings, and their role in public life is growing larger.

Private security companies can never take the place of police officers, and most do not want to. Security guards lack the moral authority that only government can give law enforcement. They also are hobbled by law. Civilian guards have only limited powers of arrest. In most states, citizens may make arrests only when a crime is committed in their presence; suspicion that a crime has taken place is not enough. And in some states, citizens may only make arrests for felonies, and then must immediately turn the suspect over to a police officer. Even those guards who do see felonies in progress are advised to arrest with caution. Unlike police officers, civilians who accidentally take innocent suspects into custody are liable for false arrest.

For these reasons, security guards cannot routinely respond to violent crime. They cannot interrogate suspects or solve murders or negotiate the release of hostages. But they can augment police efforts, helping to maintain order in places where police forces are absent or spread thinly. And they can encourage citizens to follow community standards in a way police officers often cannot.

Security guards can perform these tasks more cheaply than most police departments. Unlike police officers, guards spend nearly all of their time on the job. Since they seldom make arrests, they have little paperwork, and rarely have to testify in court. They are free to walk their beats, and—of great importance to employers—they accrue little overtime.

Perhaps most important, security guards are flexible. Because they are not required to respond to calls for emergency service, they can go wherever they are needed to deter crime—and stay there. A business owner who fears robberies cannot force a police officer to stand outside the door of his business. But hired security guards can do just that. Private security gives citizens more control over their own safety. Used intelligently, security guards can be as efficient as any police department at keeping public order.

LAW AND DISORDER

By the mid-1980s, the streets of midtown Manhattan seemed to be sliding into chaos. Aggressive beggars clogged filthy sidewalks. Crimes of all kinds were on the rise. Local business owners became increasingly frustrated with the city's apparent inability to clean up the area. Some companies left Manhattan for good. A cluster of



midtown property owners decided to stay, and to restore their neighborhood without the help of City Hall.

In 1985, a group of planners led by real-estate developer Peter Malkin formed a "business-improvement district," a primitive form of quasi-government charged with keeping streets safe and clean. The group carved out a 50-square-block area surrounding Grand Central Station and on the cusp of Times Square. They called it the Grand Central Partnership. The owners of the 220 commercial properties within the district got to vote on the plan, and a majority agreed to join. Soon after, the New York City Council approved the plan. Although the area was not physically vast—about 80 acres of streets—it was in the center of one of the densest commercial districts in the country. Once its boundaries were set, the Grand Central Partnership contained more than 6,000 businesses, comprising a total of some 51 million

square feet of commercial space, about the same as in all of downtown Los Angeles.

To raise money for improvements, the property owners began taxing themselves, first at the rate of a little more than 11 cents per square foot of space, later at about 12.5 cents. For small businesses, the levy worked out to a couple of hundred dollars in extra taxes per year. For large properties, such as the PanAm building, the tax could add up to \$300,000 annually. Collecting the revenue was easy. A state law passed in 1981 allowed the city of New York to gather the money along with municipal property taxes each year. The city then sent the money back to the partnership. The city threatened property owners who refused to pay with foreclosure.

By 1994, the Grand Central Partnership was raising \$6.3 million a year in property taxes. Most of the money went to visible projects. The partnership hired more than 30 street sweepers and trash collectors to pick up after the thousands of litterers who walk through midtown each day. It purchased new garbage cans, street lights and flower boxes, and built new sidewalks and gleaming granite curbs.

To help foreign tourists find their way, the partnership hired multilingual guides and placed them outside of the train station. To make catching a cab easier, it built two taxi stands and stationed a guard in each to direct traffic. To make the neighborhood more inviting to pedestrians, the partnership spent \$3 million to install 136 high-power halogen floodlights, which illuminate the Grand Central terminal at night. When more money was needed for capital improvements, the group issued \$35 million in bonds,

the interest on which was paid for by the property tax.

VACATING THE VAGRANTS

Completed in 1913, Grand Central Station was crumbling by the 1980s, and had become a magnet for every kind of social affliction. City police seemed unable or unwilling to restore order. In 1987, the *New York Times* described the area outside the train station as “chaotic and forbidding, often filthy and sometimes dangerous.” Much of the chaos and filth, as well as much of the danger, could be traced to the nearly 500 vagrants living in the building.

Since it had no jurisdiction within the train station, the partnership could not make the vagrants leave the terminal. Instead, it decided to lure them away. For years, hundreds of homeless men and women had gathered on Vanderbilt Avenue outside Grand Central to receive food handed out by volunteers. Starting in 1989, the partnership opened a “drop-in center” for the homeless in an old Catholic boys’ school a couple of blocks away. Soon, the center was serving meals to hundreds of the same people who had once queued up outside Grand Central.

Inside the old school, the homeless could sit down to eat. And unlike the street in front of the station, the drop-in center was safe, protected by a metal detector and security guards. As additional enticements, the center offered hot showers and job-training classes. Employees of the partnership began to help vagrants living in the train station find more permanent housing, relocating scores of

working overlapping shifts from 6 a.m. to 11 p.m., seven days a week.

Gerard Panza is a retired detective who runs the day-to-day operations of the partnership’s security force. From his office in a building next to the train station, he plots the movement of crime through the district. On one wall hangs a map of midtown, with colored push pins marking the locations of recent crimes. Though the map is riddled with holes, few pins remain, testament to the success of the partnership’s strategy for fighting crime.

At times security guards have tackled serious, violent crime. Guards have disarmed a gunman and also foiled an armed robbery. But as Panza explains, the partnership’s most important task is keeping the streets orderly. Security guards, he says, have set out to shove even the pettiest of criminals out of the partnership’s domain. No public violation of law or exhibition of disorder is too small to merit the attention of security guards. As a result, Panza says, the incidence of crime of all kinds has fallen.

The New York City Police Department agrees. According to the department’s statisticians, within two years after the guards arrived, reports of crime within the Grand Central Partnership had dropped by 20 percent. The decline was even more precipitous in the area immediately surrounding the rail terminal. On the western part of Vanderbilt Avenue outside Grand Central Station, a street long famous for muggers and drug dealers, reported crimes dropped 83 percent (from 2,140 in 1988 to 367 in 1990). After three years, reports of crime in the district had dropped 36 percent, an achievement the city’s assistant chief of police called “phenomenal.” By the spring of 1994, more than five years after security patrol started, reported crime in the Grand Central Partnership had decreased by nearly 53 percent.

A FEW GOOD MEN

The group’s directors understood that the guards they hired would do much to shape the partnership’s public image. It was a challenging task, because the public perception of private security has never been good. A 1971 Rand report described the “average security guard” as an “underscreened, undertrained, undersupervised, and underpaid” ne’er-do-well with “little education beyond the ninth grade.” To this unflattering portrait, the Rand scholars might have added “uncontrollably aggressive” and “psychologically unstable.” It is

widely believed in the private-security industry that the mentally unbalanced are drawn to guard work. A number of recent, highly publicized incidents in which current and former security guards have committed crimes or gone unaccountably berserk have only seemed to confirm the stereotype.

In order to screen out maladjusted candidates, the Grand Central Partnership advertises the jobs in relatively upscale publications like the *New York Times* and takes referrals from the John Jay College of Criminal Justice in Manhattan. Although no federal laws regulate the hiring



Photo courtesy of the Grand Central Partnership

On the beat: Grand Central guards send illegal vendors packing...

them to shelter at YMCAs and even in city housing. Before long, Grand Central was nearly free of vagrants.

THE SHOCK TROOPS

As the partnership’s social-service arm enjoyed success with the area’s homeless population, its security division worked to assemble a guard force. By the winter of 1988, the security force was ready. Using \$1.4 million of its annual revenues, the partnership put 18 uniformed security guards on the street around Grand Central each day,

practices of private security companies, most states require guards to be at least 18 years old, and to be reasonably upstanding, sober citizens with no recent felony charges. In addition to these requirements, the partnership hires only applicants with a high-school diploma, and gives preference to those with military service. Each recruit is required to take a psychological exam and a drug test. Once they meet these standards, rookie guards are trained for seven days, mostly in the specifics of New York law.

There are no explicit physical requirements for the job, but Richard P. Dillon, who runs the security operation for the partnership, says he likes to hire guards who are “as smart and as big and fast as we can get.” In at least one category, it is clear he has succeeded. The partnership’s guards—most of whom are men—tend to be physically imposing. Some are huge. The guards do not carry weapons, so physical size can be an important source of authority during an altercation.

Successful applicants are paid well by industry standards. Salaries start at \$10 an hour, rising to about \$13 with seniority and good service. Benefits include health and life insurance, and two weeks’ paid vacation. Once on the force, discipline is strict. Absenteeism and lateness are not tolerated, nor is sloppy dress, smoking in public, or even minor violations of the organization’s many rules. Guards must use good manners, including courtesy titles, in their dealings with the public. Their uniforms, which bear a distinct and intentional resemblance to those of the city’s police department, are crisp and clean. Under them, guards wear bullet-proof vests.



Photo courtesy of the Grand Central Partnership

...and assist the public, like this waylaid bicycle messenger.

TIGHT SUPERVISION

Though they have succeeded in forming a largely professional force, the partnership’s directors are under no illusions about the quality of person drawn to guard work, or about what could happen if the guards were managed poorly. Direct and quick communication between guards and supervisors is crucial to ensuring that guards are effective and stay within the bounds of the law. Guards are linked to their supervisors at all times by radios routed through the partnership’s dispatching center on 34th Street. As they walk their rounds, guards talk frequently with their overseers, checking in over the radio and seeking approval for any consequential decisions.

The partnership’s supervisors are well-equipped to offer guidance. Each is a retired New York City police officer, with a minimum of 20 years on the force. The head of the group’s security force, Richard Dillon, was a cop for 32 years before retiring in 1988 as assistant chief of the department. Most other supervisors retired as detectives or inspectors.

Veteran supervisors are the partnership’s insurance policy against mishaps. In addition to their superior equipment—each carries a concealed pistol and a radio with a direct line to the police department—supervisors bring a solid knowledge of the penal code. While guards,

many of whom aspire to be police officers, are apt to swagger and overstep their authority, supervisors remain cool. William O’Connor, a retired detective who keeps watch over seven guards, says he struggles every day to keep his men within their legal bounds. “They’re loaded with enthusiasm, and they would want to do more than private citizens can do.” But, as O’Connor reminds his guards repeatedly, they are nothing more than civilians in uniforms.

The distinction is vital. Nothing could destroy Grand Central Partnership’s security force more quickly than a guard who assumes police powers and abuses citizens. It has happened before. In the late-1980s, members of the

Nation of Islam began providing security to public-housing projects in several cities, including Washington, New York, and Los Angeles. With grants from the Department of Housing and Urban Development, the sect’s security firm sent guards into projects to clear out drug dealers. For a time, the group restored a measure of order to the projects. In the process, however, the security guards intimidated not only the drug dealers but residents as well. In a number of housing complexes, police had to intervene to keep the guards under control. In one case, the group lost its contract with a housing project in Los Angeles after being charged with negligence.

In order to avoid similar mistakes, the partnership drills its guards on the limitations on the use of force. Physical force may be used, the guards learn again and again, only as a final resort, in self-defense, or to protect the life of another person. The partnership’s security handbook, which explains the limits of civilian authority, is referred to as “the Bible”; guards take refresher courses on it every Thursday afternoon. To further protect themselves from liability suits, guards are required to call their supervisors the moment a problem arises. If the guards make an arrest or become involved in an altercation with a citizen, supervisors routinely interview bystanders as potential witnesses. In the event of a lawsuit, the state-

ments they take may be used to protect the guard. So far, the precaution has not been necessary. The partnership's security force has been sued only once, by a bystander who was injured by a guard chasing a suspect.

The supervisors' broad experience allows them to fill another role as well, that of ambassadors to the city's police. A working partnership between the two groups is vital to the success of the security force, but relations did not come easily. Like most police officers, New York cops are naturally suspicious of security guards, or "square badges," as they are unaffectionately known. In the eyes of police, guards seem to occupy a confusing gray area between public official and private citizen that many cops find disconcerting.

To the surprise of no one, the partnership's guards received a chilly welcome from police when they first arrived in midtown. Due partly to the presence of retired cops in its ranks, however, the guards ultimately developed an amiable relationship with local cops. The two groups now share a substation across from the train terminal, and meet monthly to discuss crime trends.

A COP'S BEST FRIEND

Over the years, police have adopted a laissez-faire view of minor lawbreakers around Grand Central, including baggage hustlers, aggressive panhandlers, and small-time marijuana salesmen. "The police are involved with other matters," explains Panza, who spent more than 30 years on the force. "They cannot concentrate on the quality-of-life crimes when they have major crimes. They must first reduce homicides, robberies, assaults."

For police officers, the priorities make good sense.

When a cop makes an arrest for disorderly conduct, for instance, he is likely to spend the rest of his shift at the station house filling out forms.

In the meantime, his post out on the streets may remain unfilled, creating opportunities for additional, perhaps more serious crimes to be committed. "That's where we come in," says Panza. "We are the eyes and the ears of the police department. They appreciate our work because we try to solve some problems ourselves, without police intervention."

Guards often go to great lengths to avoid summoning police unnecessarily to the scene of a disturbance. When a knot of marijuana dealers proved especially hard to dislodge, for instance, security guards simply took photographs of the sellers and handed them over to police. Most of the dealers quickly found new retail locations. As in the vast majority of cases handled by the partnership's guards, police never became directly involved.

Of the 6,916 incidents to which the partnership's guards responded in 1994, only 624 required police assistance, and 122 resulted in arrests. That year, guards came across 31 people smoking marijuana in public. In each case, the guards told the smokers to move along, and in each case the smokers did. In cases of narcotics dealing, police were called just 6 percent of the time; in bag-hustling cases, 2 percent; in illegal panhandling cases, 1 percent; and disorderly conduct cases, 9 percent.

In January 1993, security guards told 141 unlicensed peddlers to leave the area. One hundred and thirty-five obeyed the guards without incident. Police were called to handle only six of those cases; only two peddlers were belligerent enough to get arrested.

Crimebusting in Murder Central

Commercial enterprises are not the only entities that rely on private security for protection. Starrett City, an apartment complex located in the East New York section of Brooklyn, is home to about 20,000 people. Sixty percent of them are white, 40 percent black; 90 percent receive government rent subsidies. The complex is located in the center of the city's 75th police precinct, which consistently records one of the highest murder rates in New York.

Starrett City first employed private security guards in 1974, while the complex was being built. The Grenadier Realty company, which oversees the development, hired the guards to prevent nocturnal thieves from stealing building materials. After the complex was finished, the guards stayed on to protect the residents. By the late 1980s, Starrett City employed about 60 security staff, including nearly 40



Photo courtesy of Grenadier Realty Corp.

Starrett City guards on the beat

armed guards on regular patrol and six in a canine squad.

Grenadier Realty pays the guards an average of \$31,000 a year, a good salary for the profession, but only about 70 percent of a New York cop's salary. And the cops' authority exceeds that of most security guards. Each guard is a "special officer," certified by the city's police department, and licensed to carry a weapon. Though their salaries are paid entirely with private funds, the guards have nearly all the powers of regular police officers, including the authority to make arrests based on probable cause and to book suspects. They cannot, however, make arrests outside of Starrett City.

For the guards here, the work holds little glamour. Most guards spend their days patrolling the complex's apartment buildings, parking lots, shopping center, and

(continued next page)

Most of the time, guards convince violators to comply by explaining which laws they have broken, then politely asking them to leave the area. Most accede. Some do not.

Three-card monte dealers, in particular, have a reputation for ferocity, and only the largest security guards are sent to ask them to vacate the sidewalk. When they are challenged, however, it isn't physical strength most security guards are likely to rely upon, but the power to arrest.

Like all citizens, guards can make arrests when they see crimes committed, hold suspects until the police arrive, and act as complainants in the case against the arrestee. The difference between security guards and most civilians, however, is that guards will, when pushed, actually make an arrest. Most lawbreakers in the area know the guards aren't bluffing.

The threat of even a citizen's arrest is apt to get a wrongdoer's attention. As security chief Richard Dillon puts it, "Criminals, even in New York, where they know they're not going to stay in jail very long, still don't want to be arrested." And, according to Dillon, security guards will make a genuine effort to arrest some criminals. "Our guys chase them five or ten blocks."

When the victims of crime are tourists, security guards make an additional effort to see that the perpetrators are locked up. Visitors from out of town make appealing marks partly because criminals know that even if they are caught, their victims will most likely never return to testify against them in court. The charges will be dropped. To encourage tourists to testify, the partnership authorizes its guards to offer to pay victims' airfare back to New York for the court date. The guards believe this policy makes criminals more inclined to plea-bargain.

school, and keeping an eye on strangers. They receive more than 10,000 service calls each year, most for minor problems. Since Starrett's guard force does not have a crime lab or a homicide squad, city police must be summoned after serious crimes occur.

Such crimes seldom occur. According to James McNicholas, director of Starrett's security services, "When there is a robbery, it's still an event." A decade after it hired the guards, Starrett City crime rates in every major category were significantly lower than the national average. In New York City in 1985, there were about 84 felonies reported for every 1,000 residents. In Starrett City, there were just seven felonies reported per 1,000 residents. Compared to the surrounding area, Starrett City looked like an island of safety. By the mid-1980s, Starrett City was reporting an eighth of the rapes, a sixth the number of aggravated assaults, and a tenth of the car thefts reported in the 75th Precinct overall. The difference in burglaries was even more dramatic: In 1985, a house in the surrounding 75th Precinct was 38 times more likely to be broken into than one in Starrett City.

Twenty years after hiring security guards, Starrett City remained as safe as any affluent suburban neighborhood. In 1994, the community of 20,000 people reported only 24 car thefts, 12 burglaries, and six aggravated assaults. There were no reported rapes. That same year, the complex reported 67 robberies, as opposed to 2,548

DETERRING PETTY THIEVES

The partnership's guards look strikingly like New York City cops. The resemblance is deliberate. Says Panza, "We want people to think from a distance that it may be a police officer. That is a deterrent. By the time they ascertain that the guy is not a police officer, maybe the opportunity to commit the crime has disappeared." When they are not putting the hustle on bag hustlers, the guards spend their days doing what New York's police department no longer has much time to do: walking a beat and deterring thieves with their uniformed presence.

Coconuts, a music store next to the train station, has lost large amounts of merchandise to theft. Professional shoplifters carry double-walled "booster bags" lined with aluminum to neutralize the store's electronic security system, and they routinely load up with free compact discs and cassette tapes. Store employees, knowing police would be slow to respond, could do little. But the security guards, says Edwin Ortiz, the store's manager, have helped cut down on the thievery. "I call them and they come running and hold the shoplifter till the police come."

Joel Oks, owner of Portabella, a men's clothing store on Vanderbilt Avenue, also had a problem with shoplifters. Now, he says, the thieves have moved on to other areas, along with the drug dealers who used to stand outside his store. The criminals, he claims, have been frightened away by the security guards. "Wouldn't you be scared of this guy?" asks Oks, pointing to Jimmy Mena, a guard the size of a rhinoceros. "We don't have security problems any more. I give them all the credit."

Oks may give the guards credit, but he has no idea how much he gives them in taxes. Like every store owner I sur-

reported in the neighborhood just outside its boundaries. A Starrett security supervisor describes the complex as "an oasis in a vast wilderness." There is no fence or physical barrier separating Starrett City from the rest of the 75th district—just the private guards.

Not only is Starrett City safer than the rest of Brooklyn, its residents *feel* safer. When surveyed by researchers from Pennsylvania State University, almost 89 percent of Starrett residents said they felt "somewhat" or "very" safe living at the complex, whereas only 40 percent felt similarly secure outside of its boundaries. For many people, the safety of the complex has made Starrett City a desirable place to live. The turnover rate among residents is about 2 percent a year, and there is a long waiting list.

Most residents attribute Starrett's safety to its guards. Nearly 90 percent of the residents surveyed believed the complex would not be safe without its private security guards; over half said they would leave the area if the guards left. Most of the residents of Starrett City—about 78 percent—said that, if assaulted, they would call the complex's guards for help before calling police.

Not that there are many police to call. Although Starrett City accounts for about 16 percent of population of the 75th district, it receives only part-time coverage from two city cops. The success of its security guards has made heavier coverage unnecessary.

veyed, Oks did not know what he pays each year to the Grand Central Partnership. And like the rest of the owners, he does not seem to care. Whatever the amount, he says, the protection he receives is "well worth it."

Alan Maleh, owner of Goldrush Fine Jewelry at the corner of 42nd Street and Madison Avenue, agrees. "I haven't seen a uniformed policeman around here in years." The guards, by contrast, "are there all the time. If we give a call, they come running over." Before the security guards, he says, "there were no cops." Muggers "would snatch a purse right in front of the store and they would be laughing, not even running away, walking away. They can't do that now. So they go somewhere else." Without guards, he says, "it's like a jungle out there."

Store owners take comfort in the fact they can reach guards at any time on their portable radios and expect an immediate response. Toni Klein, who owns Cohen's Fashion Optical on 42nd Street, says she does not wait for a crime to occur before calling for help. The moment menacing-looking people enter her store, she requests a guard, who invariably arrives in moments. Like many citizens, Klein might feel foolish calling the police to deter crimes before they are committed. But the money she pays to the partnership—even though she is unsure of its amount—makes her feel entitled to preventive police protection.

FRESH FLOWERS IN THE MEN'S ROOM

Perhaps no location in midtown Manhattan has benefited more dramatically from the presence of security guards than Bryant Park, a nine-acre patch of grass behind the city's public-research library and adjacent to Times Square. Situated in the center of the city and ringed by office buildings, Bryant Park is a natural place for couples to stroll and office workers to eat lunch. For years, however, few dared enter the area. Until the late-1980s, the park was a dangerous and notorious place: Drug-dealing was rampant, people lived on park benches, and there were murders.

Bryant Park's fortunes began to change when two security guards were assigned to the area. The guards started enforcing some simple rules: no panhandling in the park, no drinking, no drugs, no sleeping on the benches, no feeding the pigeons, and no wading in the fountain. For those who didn't get the message, a sign was hung listing the prohibitions in bold letters. Within a short time, many of the park's seedier tenants left for more hospitable terrain. Soon, law-abiding citizens took the place of vagrants, and the atmosphere began to change.

Bryant Park now hosts concerts during the summer, and free movies on the lawn every Monday night. There is virtually no serious crime. "We're getting so many good folks here doing so many good things," says William O'Connor, who supervises guards in the park. "You're an oddball when you're sitting out there being drunk or disorderly."

Nothing illustrates the revival of Bryant Park more powerfully, however, than the condition of its men's room. By their nature, bathrooms are among the most vulnerable of public spaces. In New York, they are often stark symbols of urban decay. Frequently scarred by graffiti, and filled

with drug dealers, amorous homosexuals, and vagrants bathing in the sinks, public men's rooms are places most savvy New Yorkers avoid at all costs.

Bryant Park's men's room, however, is different. Its full-time attendant keeps the room tidy and stands guard. As a result of his vigilance, the men's room is as spotless as the lavatory in an upscale restaurant. Next to the sink is a bouquet of fresh flowers, fragrant evidence of the power of private security to enforce order in public spaces.


More communities are certain to follow the example of the Grand Central Partnership. They may have to. Just as rising medical costs have forced hospitals to give more responsibility to nurses, cities may find that sworn police officers—whom they must train, pay relatively well, and sustain on pensions—are too expensive for fighting and deterring certain types of low-level crimes. To maintain basic civic order, rent-a-cops may be a better deal.

Many communities already think so. In 1993, residents of Georgetown, an affluent and historic neighborhood on the western edge of Washington, D.C., hired a security guard from the Wells Fargo Company. Crimes, particularly thefts from cars, had been increasing in the area for years. About 100 neighbors chipped in approximately \$160 a year—about 44 cents a day per household—to hire a uniformed guard to patrol their six-block area. From 6 p.m. to 2 a.m., five nights a week, the guard passes each house in the area at least once every hour.

After a year of employing the guard, residents found their streets transformed. Fresh graffiti stopped appearing on buildings. Burglaries within the six-block area decreased by 55 percent, robberies by 50 percent. The security guard also stopped at least two serious crimes. In one instance, he frightened off two men attempting to kidnap a local couple.

The decrease in crime was so dramatic that other parts of Georgetown soon began hiring guards. Within a year and a half, 90 percent of the neighborhood was covered by security guards.

In the mid-1980s, East Hills, New York, a village of 6,700 on Long Island, hired about 30 uniformed security guards to take the place of sworn police officers. The unarmed guards cruise the streets of East Hills 24 hours a day, reporting crimes to county police, and generally acting as guardians of order. Although the service costs residents an extra \$360,000 a year in property taxes, it has remained popular. Local politicians credit the program with reducing the town's burglary rate.

Citizens concerned about disorder in their neighborhoods may find that security guards are the most cost-effective way to make their streets safer. "We don't do homicides, we don't do rapes," says O'Connor of the Grand Central Partnership. "But we do other quality-of-life things. Police are not going to come for an illegal peddler when they're up to their necks in gun runs. That's the reason we're here: We do the work the police have trouble getting to because they're so busy." If the results of these private security firms are any indication, this sort of policing can help restore community life—keeping everyone less busy worrying about crime and more busy building families and neighborhoods. 

BAIL, HUMBUG!

Why Criminals Would Rather Be in Philadelphia

SARAH B. VANDENBRAAK

Francis A. Biunno, a Philadelphia trial judge, had just sentenced a murderer to death. He then turned to the courtroom, called on those present to sit down, and asked the public to reflect on the breakdown of our democratic system that had led to the killing.

The murder in question was of a 21-year-old rookie police officer, Daniel Boyle, who stopped a stolen car in North Philadelphia. The driver of the stolen car, Edward Bracey, fired numerous shots through the windshield of the patrol car, hitting the young officer in the head. A police radio tape chillingly captured the fatal shots and the fallen officer's final words. A few days later Danny's father, veteran Philadelphia police detective Patrick Boyle, buried his only son.

This tragedy didn't have to happen. Philadelphia police, Judge Biunno said, had previously arrested Bracey for car theft. Twice Bracey had been released without bail or supervision under terms of an order issued by a federal court. Twice Bracey had failed to show up for trial—in fact, he was a fugitive from justice when he killed Officer Boyle. This killing wouldn't have taken place, Biunno suggested, if the federal court hadn't required the defendant's release.

Criticism of a federal court on the part of a local trial judge is highly unusual. But Biunno's statement reflected the anger and frustration that officials in Philadelphia harbor toward a federal order that has wreaked havoc on their city's criminal-justice system. The court order to which Biunno referred places a cap on the number of inmates in Philadelphia prisons, and it sharply restricts the ability of judges to imprison defendants prior to trial.

Last year, the city's judges were forced to release defendants in 15,000 cases. Thanks to the court order, the city now has 50,000 fugitives from justice—defendants who have been charged with a crime but do not even bother to show up for trial. Philadelphia police arrest the same criminals over and over again, only to see them immedi-

ately released. In the nine years since the order was approved by Judge Norma Shapiro of the U.S. District Court, defendants released under federal court order have gone on to commit tens of thousands of crimes—including thousands of violent crimes such as murder, rape, and robbery.

The federal court's order is technically called a "consent decree," because it was agreed to by a previous mayor of Philadelphia. But it no longer enjoys the consent of the governed. Philadelphia's elected leaders, including its present mayor, its district attorney, and most of its city council, are deeply opposed to the consent decree but powerless to overturn it. Philadelphia may be the home of the Liberty Bell, but the federal consent decree is making a mockery of the principles expressed in the Declaration of Independence and the Constitution.

The Philadelphia prisons, which house defendants before trial and sentenced prisoners, have been the subject of various class-action lawsuits since 1972. Past conditions in the prisons have been unacceptable. Over the years, many experts have observed inadequate medical care that has led to the death of inmates, unsanitary food preparation, vermin infestation, and poor plumbing, ventilation, and heating.

In 1986, these conditions prompted inmates at an old, decrepit facility called Holmesburg Prison to file a lawsuit against then-mayor W. Wilson Goode. The mayor decided to settle the case rather than go to trial. The resulting federal consent decree, agreed to by Goode's lawyers, did nothing to address medical care or other conditions in the city's prisons. Rather, it sought to limit the number of prisoners, and, more important, forbade pretrial detention for defendants accused of broad categories of crime. The architects of the plan apparently presumed that

**THANKS TO
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SARAH B. VANDENBRAAK *is the chief of civil litigation for the Philadelphia District Attorney's Office.*

reducing the number of prisoners would improve the prison environment for the remaining inmates.

Instead of individualized bail review, with Philadelphia judges considering a criminal defendant's dangerousness to others or his risk of flight, the consent decree requires a "charge-based" system of prison admissions. Suspects charged with so-called "non-violent" crimes, including stalking, car jacking, robbery with a baseball bat, burglary, drug dealing, vehicular homicide, manslaughter, terroristic threats, and gun charges, are not subject to pretrial detention.

In determining pretrial detention, Philadelphia judges can no longer consider a defendant's prior record, his history of failing to appear in court, his mental-health history, his ties to the community, or his drug or alcohol dependency. These factors become completely irrelevant. A major drug dealer carrying a loaded Uzi and a plane ticket out of the country cannot be detained before trial in Philadelphia.

As a result of this system, Philadelphia has become an especially attractive location for drug dealing. Narcotics agents assigned to the international airport routinely apprehend (and are forced to release) drug couriers, who have been assured that carrying over \$100,000 of marijuana to Philadelphia is risk free. One newly arrested drug dealer, knowing that he would be released in a matter of hours, cheerfully gave his pretrial bail interviewer a phone number where he could be reached—in Cali, Colombia.

Another drug dealer, Walter Lewis, unwittingly schooled undercover narcotics officers on the benefits of dealing drugs in Philadelphia. Lewis had been awaiting trial in Philadelphia for drug dealing but had already been released because of the federal consent decree. Undercover narcotics agents from neighboring Montgomery County arranged a narcotics deal on City Line Avenue, the street dividing Montgomery County from Philadelphia. When Lewis arrived, he tried to convince the undercover officers to move the drug deal to the Philadelphia side of the street. He carefully explained that

they could all be sent to jail if they stayed in Montgomery County. After the officers refused to move, Lewis mistakenly let greed guide him. He completed the deal, the officers immediately arrested him, and he went straight to jail, where he remained until trial. If the deal had

A MAJOR DRUG DEALER WITH A LOADED UZI AND A PLANE TICKET CANNOT BE DETAINED BEFORE TRIAL IN PHILADELPHIA.

occurred in Philadelphia, he would have been released in a matter of hours.

The consent decree has crippled Philadelphia's already struggling criminal-justice system. Once criminals knew that they could not be detained prior to trial no matter how many times they failed to appear for court, Philadelphia began recording unprecedented fugitive rates. A study conducted by John Goldkamp and Kay Harris, nationally recognized experts on the bail process, found, for example, that 76 percent of all Philadelphia drug dealers become fugitives within 90 days of their arrest. Nationally, only 26 percent of drug dealers become fugitives within one year of their arrest. By comparison, only 3 percent of Philadelphia defendants charged with aggravated assault—a crime not subject to the release provisions of the federal consent decree—fail to appear for court.

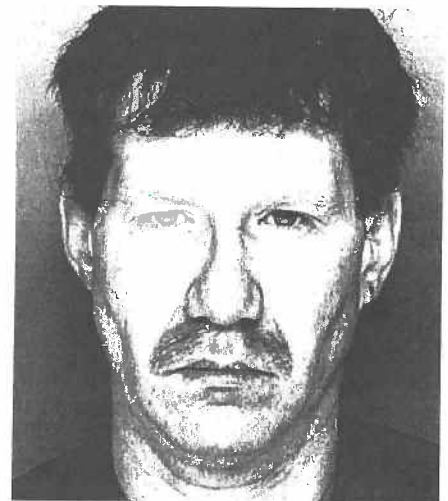
The skyrocketing fugitive rate has produced a system with more defendants in fugitive status than awaiting trial.

A federal court order severely limits Philadelphia judges' power to detain defendants prior to trial. The result is a revolving-door approach to criminal justice: Defendants are arrested and charged with a crime, but do not bother to show up for trial. Defendants such as Charles Pembroke (shown here in five police photos) may be arrested and rearrested numerous times before seeing a jail cell or a trial courtroom.

Philadelphia now has 50,000 fugitives from justice, many of whom go on to commit violent acts of crime: assaults, armed robberies, rapes, murders. In determining pretrial detention, judges are not allowed to consider a defendant's prior record, his history of failing to appear in court, or drug dependency.



Arrested January 10 for retail theft.
RELEASED IMMEDIATELY.



Arrested January 26 for retail theft.
RELEASED IMMEDIATELY.

In the first six months of 1994, over 11,000 new bench warrants (the arrest document issued when a criminal defendant does not appear for a court hearing) were issued for defendants released under the federal consent decrees, representing 74 percent of all the bench warrants issued during this period. Under the consent decree, the number of fugitives in Philadelphia has nearly tripled from 18,000 to almost 50,000, equivalent to a year's worth of criminal prosecutions. And no wonder: Under the consent decree, state courts are powerless to compel a defendant's appearance in court.

Unfortunately for Philadelphians, the defendants released because of the consent decree do not lay low—they just keep on committing new crimes. In an 18-month period (1993 and the first six months of 1994), Philadelphia police rearrested 9,732 defendants released because of the consent decree. These defendants were charged with 79 murders, 959 robberies, 2,215 drug dealing crimes, 701 burglaries, 2,748 thefts, 90 rapes, 14 kidnapping charges, 1,113 assaults, 264 gun-law violations, and 127 drunk-driving incidents.

These crimes cannot all be attributed to the federal consent decree; some defendants would have been released under normal Pennsylvania procedures. But apparently half or more of these crimes could have been prevented. Goldkamp and Harris found that pretrial detainees released under the consent decree committed crimes at more than twice the rate of defendants released under state-court bail programs. Within 90 days of release, 18 percent of federally released defendants were rearrested for new crimes, compared with an 8 percent rearrest figure for comparable state bail programs.

Retailers complain of a sharp increase in shoplifting and robberies by criminals immune from incarceration. In April, Charles Pembroke was released for the fifth time in 1995 because of the Philadelphia prison cap. In the last six months, Philadelphia police have arrested Pembroke three times for retail theft, once for robbing a pharmacy with a starter pistol while threatening to kill the victims, and once for drug dealing. Pembroke has failed to appear

for court seven times and, as of this writing, is a fugitive on three of his cases. Philadelphia's criminal-justice system just keeps seeing the same defendants over and over again, but can't do anything until they commit a crime so serious that the consent decree finally permits the prison to admit them.

The consent decree also weakens the effectiveness of programs for criminal defendants who never would have been detained prior to trial. State judges are no longer allowed to sanction those criminal defendants who violate conditions of bail, fail to appear for trial, or commit new crimes. State-court bail programs have atrophied into virtual non-existence. Conditional-release programs providing drug treatment, aimed at lifting new offenders out of

**PHILADELPHIA'S
ELECTED LEADERS
ARE NOW POWERLESS
TO SET THEIR OWN
CRIMINAL JUSTICE
PRIORITIES.**

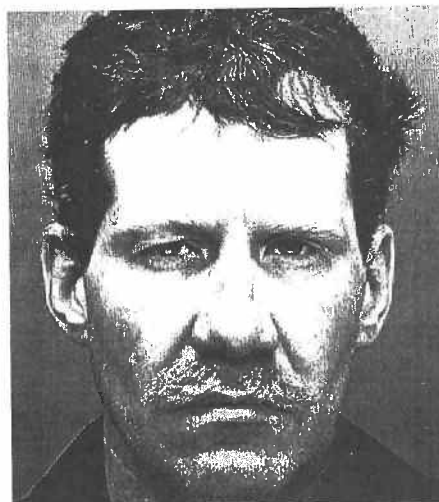
their recently acquired lives of drugs and crime, are forced to wait for offenders to become serious criminals with a long-term addiction.

The case of Frederick Hightower vividly demonstrates the absurdity of the consent decree. Hightower was a trained helicopter mechanic from a solid family who became addicted to crack at age 29. He quickly turned to burglaries.

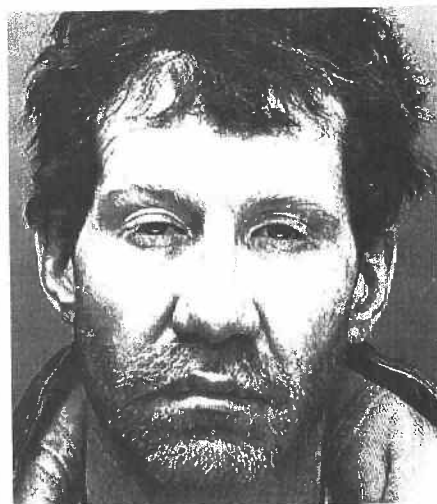
Given Hightower's age, lack of prior criminal-justice contacts, and long-term ties to the community, the local



Arrested March 2 on drug charges. **RELEASED IMMEDIATELY.**



Arrested March 12 for robbery. **RELEASED IMMEDIATELY.**



Arrested April 9 for retail theft and bench warrants. **RELEASED APRIL 24.**

Photos courtesy of the Philadelphia Police Department

court system (had it remained in charge of the pretrial detention process) probably would have released him without bail for his first two burglaries. But by the time he was arrested for his third burglary, the local judge would have suspected a drug problem, sent him to jail, and permitted his conditional release (again without posting bail) a few days later into an in-patient drug treatment program. If this had worked (admittedly an optimistic outlook) and he had remained in treatment, he would have been a prime candidate for a sentence of probation with the condition of continued drug treatment.


But the federal consent decree wouldn't allow the local criminal-justice system to operate. Without the threat of pretrial incarceration, Hightower wouldn't enter a drug treatment program. Philadelphia wasn't permitted to keep Hightower in jail until he was finally arrested for his 10th burglary. Hightower now was no longer a candidate for probation. Instead he received a 10-year maximum sentence, and must serve a minimum of two and a half years before he is eligible for parole.

The cost of this folly: numerous crime victims with substantial financial losses (and he surely wasn't caught every time); prison bed space occupied longer (a few years, at a cost of approximately \$25,000 a year, instead of a few days); increased court costs (each one of his new cases involved police witnesses, prosecutors, defense lawyers, and court personnel), less chance of drug rehabilitation (the treatment came later in his addiction); and loss of tax revenues (Hightower was a skilled, employed taxpayer).

The Philadelphia Federal Courthouse overlooks

Independence Hall, the cradle of American liberty and the Constitution. How ironic, then, that the federal court's consent decree tramples on the right of Philadelphians to a democratic political system.

Mayor Ed Rendell and District Attorney Lynne Abraham, both elected Democrats, won office pledging to do what they could to overturn the prison-cap and prisoner-release provisions of the consent decree. Philadelphia's top leaders, including most of the city council, are united in their view that the federal court's rules on pretrial release of defendants are a serious threat to public safety, effectively decriminalizing property crime in Philadelphia and harming the financial viability of the city. But the federal court has rejected all challenges to the consent decree, and shows no indications of ceding oversight over the issue. Philadelphia's elected leaders are powerless to change agreements made by a prior administration, and so powerless to set their own criminal-justice priorities.

Our democratic system presumes that policies made by today's elected leaders, whether by legislation, regulation, or policy statements, can be altered by their successors in office. Through periodic elections, the public can throw out arrogant public officials who try to insulate their governmental vision from change or from the will of the electorate. Philadelphians do not consent to the consent decree that is destroying their criminal justice system. It's time that Philadelphia's elected leaders be allowed to do the job for which they were elected. Isn't that what America's independence was all about? 

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LITIGATION TARIFF

The Federalist Case for National Tort Reform

SPENCER ABRAHAM

Friends of federalism are right to celebrate the recent Supreme Court decision striking down the federal law banning guns on school grounds. While we certainly must work to keep guns out of our schools, this is a state and local concern, one which almost all states already have addressed through their own legislation.

In *United States v. Lopez*, the court ruled that Congress had relied on an indefensibly broad interpretation of the Constitution's interstate-commerce clause in claiming that possession of a firearm in a school zone could interfere with interstate trade. Chief Justice William Rehnquist wrote that the Gun-Free School Zones Act "is a criminal statute that by its terms has nothing to do with 'commerce' or any sort of economic enterprise, however broadly one might define those terms."

Though correct in claiming that Congress had—for nearly 60 years—used the commerce clause to justify the gradual encroachment of federal power over our lives, conservatives err when they pretend there are no serious threats to interstate commerce legitimately subject to congressional regulation. On the contrary, there is a growing and ravaging menace to interstate commerce that forces good products off the market, stifles innovation, hurts our ability to compete in the world marketplace, and is unjust both to consumers and manufacturers. It is embodied in the uncontrolled liability rulings and legal expenses that characterize the civil-justice system of most states in the nation. Despite conservative fears of legal reform at the national level, true federalists should embrace limited federal tort reform to rescue a court system that is helping to undermine the economic base of numerous businesses and industries.

FIRST PRINCIPLES

We must, however, limit intervention from Washington according to the principles of federalism and with an understanding that the potential risks of national inter-

vention always are high.

When our Founding Fathers met in Philadelphia in 1787 they were faced with two major problems: The Continental Congress was having trouble raising money to conduct a national defense; and the states were engaging in the economically and socially destructive practice of taxing goods coming from all other states. The Framers solved the first problem by giving Congress the power to impose certain taxes. They solved the second by establishing national jurisdiction over interstate commerce, with the aim of promoting what Federalist 11 calls "a free circulation of the commodities of every part" of the union.

Today we face threats to interstate commerce analogous to those faced by the Founders. Interstate commerce is restrained and even stifled by state-based liability rulings and legal transaction costs as destructive as the taxes about which the Founders were so concerned. The clearest example is in product liability, in which rulings and their costs create not a series of competitive state markets, but rather a restrictive, illogical, and inefficient national market. Moreover, we effectively already have a single unitary tort system in the law of products liability.

Unfortunately, our unitary system comprises not a coherent, consistent body of laws, but the most commercially restrictive features of the tort laws of individual states.

It is not difficult to see how this has come about: The law of the state in which the alleged harm occurs generally decides tort cases. Yet our market for products is national, so every company must be prepared to be sued in any state in which its product might be used. If a car built and sold in Michigan by a Michigan corporation is in an accident on a California freeway, California's tort law will determine whether the car maker is liable. If the

**WE NEED
UNIFORM STANDARDS
ENCOURAGING
SAFE CONDUCT
AND DISCOURAGING
FRIVOLOUS LAWSUITS.**

SPENCER ABRAHAM, a Republican, is the junior U.S. Senator from Michigan. He is the co-founder of the Federalist Society for Law and Public Policy Studies.

California legislature decides that side air bags are a necessary safety feature, it could impose strict liability on the manufacturer of any car made anywhere in the United States without one.

NO EXPERIMENTING HERE

Michigan cannot prevent this with tort reform. As a result, insurance companies already set their product-liability rates nationally, because under the current system all companies must abide by the law of the state with the strictest rules.

Under these circumstances, how can states serve as "laboratories of democracy" in the area of product liability? No state will know or have any real incentive to find out whether its product-liability "experiment" has succeeded or failed. Why? Because liability costs—in the form of higher prices for goods and services—are spread nationwide. Meanwhile, the benefits of the state's product-liability system flow primarily to its residents, who constitute the vast majority of potential plaintiffs. A state that elects a less costly set of product-liability rules will see the benefits of that system shared by in- and out-of-staters alike, while its residents will continue to pay almost as much for products because of more costly out-of-state tort systems. Congress does not face the same obstacles in enacting product-liability legislation. It, and it alone, can develop a set of national rules designed to maximize the common good whose costs and benefits will be shared by all citizens.

But, while Congress is uniquely qualified to undertake this task, that does not mean that it will in fact perform it well. Legislative efforts might be hijacked by one or another faction, leading to either excessive or insufficient liability being imposed. Indeed, virtually all political scientists and theorists agree that the Framers systematically underestimated the risks of national factions, largely because modern communication has profoundly changed politics.

Nevertheless, product-liability reform presents fewer risks in this area than do most issues. The reason is that the status quo is bad enough that congressional intervention probably will make it better, and is quite unlikely to make it worse. We need federal action because the system is not just broken, it is falling apart.

PERSONAL AND SOCIAL COSTS

One obvious problem with our system: It keeps even real victims, who have been injured and need financial help, from collecting their fair share of damage awards. Tillinghast Research reports that 57 cents of every dollar spent on civil suits in this country go to pay lawyers and other legal costs like the public expenses of the court system.

Consumers also suffer. The huge costs of our legal sys-

tem create a "liability tax" of 2.5 percent on the average product, built into the selling price by manufacturers. The figure is much higher for other products, such as step-ladders (30 percent) and vaccines (95 percent) that tend to attract lawsuits.

In addition to making things more expensive, liability taxes make necessary goods scarce or even unavailable. Lawyer and engineer Peter Huber reports that between 1965 and 1985, the number of U.S. vaccine manufacturers shrank by more than half; by 1986, we relied on a single supplier for vaccines against polio, rubella, measles, mumps, and rabies. Our own Senate Commerce Committee reported that two of the three companies making the Diphtheria-tetanus-pertussis, or DPT, vaccine stopped production because of liability costs: They could

not afford all the suits arising from the now clearly discredited theory that the vaccine might in very rare instances cause brain damage.

The results of such policies can be devastating, particularly to the sick and helpless. There are some 5,000 diseases that affect small numbers of Americans. Many of these diseases, including leprosy, are extremely serious. But a number of them have gone untreated, because pharmaceutical com-

panies cannot afford the risk. A West German chemical company, for example, at one time supplied Americans with botulinum. A paralytic poison, the drug controls a rare but incapacitating disease that affects the control of eye muscles. The company cut off American supplies to avoid being held liable should people misuse its product.

Dozens of examples like this one prompted the federal government in 1983 to enact the Orphan Drug Act. This act provides special incentives and waivers to companies researching and manufacturing drugs for rare diseases. One of its purposes is to overcome the disincentives to produce needed products that have been built into our legal system, and it has done some good in this area. But orphan drugs are only the most visible signs of a deeper problem. Research and development are undercut when companies are afraid to enter the market for fear of massive, unfounded lawsuits. The result is a lack of innovation and improvement as well as a lack of competition among companies—that is, a loss of the best means by which to keep quality up and prices down.

The system also hurts our economic competitiveness. A 1994 Business Roundtable survey of 20 major U.S. corporations reveals that they receive 55 percent of their revenue from inside our country, but incur 88 percent of their total legal costs here. Clearly such discrepancies in legal costs put our companies at a disadvantage in the world market. So do our yearly litigation-related costs of \$300 billion, or 4.5 percent of our gross domestic product.

Given the nature of the American economy, then, our product-liability system can best be reformed at the

THE HUGE COSTS OF OUR LIABILITY SYSTEM CREATE A "TAX" OF 2.5 PERCENT BUILT INTO THE PRICE OF THE AVERAGE PRODUCT.

national level. We need uniform standards encouraging safe conduct and discouraging frivolous lawsuits aimed only at garnering unjust rewards. In particular, we must limit punitive damage claims and bar joint liability. At the same time, we need a provision holding each defendant accountable for that portion of the damage for which he or she actually was responsible.

STATE REFORMS

Product-liability reform will not address all of our problems, however. The National Federation of Independent Business reports that product-liability reform will help only 35 percent of small businesses. The other 65 percent are not involved in these cases and so will not benefit—and even may suffer worse harm by being brought into lawsuits under joint and several liability rules.

Product manufacturers and sellers do not shoulder all of the burden of unjust tort claims and awards. According to *Inside Litigation*, there were 50 cases in the United States in 1994 in which jury verdicts exceeded \$17.5 million. Of these, only seven were product-liability cases. The remaining 43 involved disputes concerning employment, securities, lenders, accountants, environmental claims, insurers, business torts, state and local governments, volunteer firefighters, medical claims, and personal injuries not involving products.

What, then, should we do about these other suits? How should we protect volunteers, lenders, and others from our flawed legal system?

We could devise a national standard for all civil litigation. In this way we could ensure uniformity in standards of conduct and thus much more uniform results. But national standards are neither necessary nor proper, in my view, outside the field of product liability. This is because other types of civil cases do not produce the same disproportionate consequences across states as do product-liability suits. Suits against hospitals are mostly by local patients, suits against volunteer firefighters are mostly by local litigants. Most of the rules for such litigation should properly be determined by the states.

Even so, there are some implications for interstate commerce—and therefore grounds for some federal involvement. Some of these lawsuits do involve cross-state litigants, and a dynamic similar to that in product-liability law has led to a systematic bias in favor of plaintiffs that is harmful to interstate commerce. States are unable to protect in-state defendants from unreasonable suits by out-of-state plaintiffs, because the plaintiff in an interstate suit

can choose which state to litigate in, and therefore which state's laws apply. By contrast, states can easily establish rules that benefit in-state plaintiffs—and they frequently do so. Thus the same pattern the Founders feared—which state taxes are used against out-of-state goods and interfere with economic productivity—is at work.

ENDING WINDFALL PROFITS

Rather than taking over underlying liability laws, we should use federal power judiciously—and humbly—in order to make modest changes in the structure or legal machinery by which decisions and judgment awards are made. We should replace state law with federal rules, however, only when we are dealing with clear cases—bearing in mind the risks, as well as the benefits, of federal action.

Here is my prescription. First, national lawmakers should extend to all civil cases the replacement of joint liability with proportionate liability for non-economic damages. Under the current system, partially responsible parties must pay for more than their fair share of the damages because other defendants have become judgment-proof. For example, in *Walt Disney World Co. v. Wood*, a woman was injured when her fiancé struck the go-cart she was driving at Disney World. The jury found her 14 percent at fault, her fiancé 85 percent at fault and Disney only 1 percent at fault. But, under the doctrine of joint liability, Disney was required to pay 86 percent of the plaintiff's claimed damages.

Second, the existing structure of punitive damages is rife with abuse. The courts have rightly regarded punitive damages as the equivalent of a state-imposed fine. Huge

punitive damage awards can put a company or individual into bankruptcy. Such awards are meant to be rare and aimed only at particularly egregious conduct. They also are supposed to be awarded only in addition to economic and non-economic damages.

Yet Yale Professor George Priest reports that punitive damage claims have become "almost routine." According to Professor Priest, lawyers increasingly use punitive

damage claims to bully even innocent defendants into settling cases for higher amounts. Our high and unpredictable punitive damage claims thus encourage litigation because in too many cases they produce "windfall profits"—huge unearned rewards.

A federal cap on punitive damages at some reasonable level would take nothing essential away from the plaintiff. It would, however, protect defendants and society from unfair and financially disastrous awards. These awards

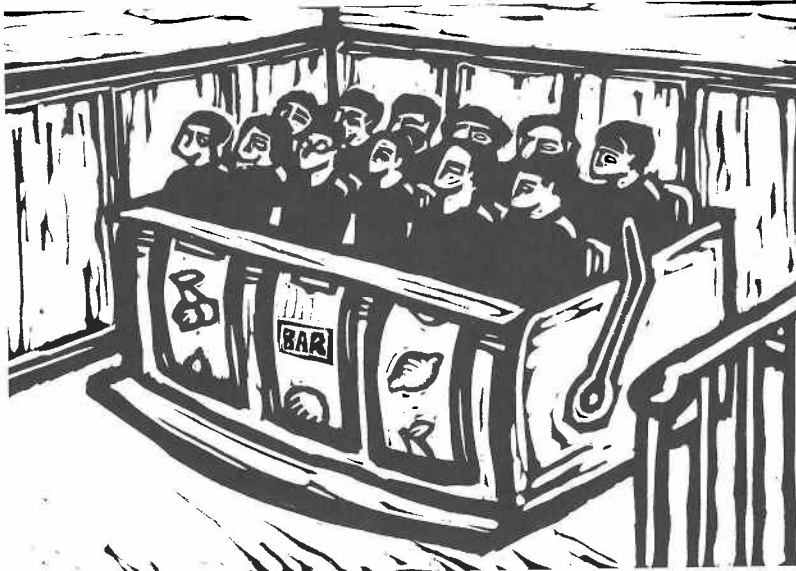


Illustration by Zoya Evdelman

hurt all of us by raising prices for goods and services, sometimes so high as to make them effectively unavailable. They hurt, even bankrupt, small businesses in particular, and so cost jobs.

REDISCOVERING DISCOVERY COSTS

Finally, we must do something about the enormous transaction costs incurred under the present system, which nobody can defend. Eighty percent of the cost of the average lawsuit is incurred during discovery. Sifting through documents, taking depositions and so on—all of these practices consume massive amounts of time and money. And discovery costs relate as much to issues of courtroom tactics as to actual questions of fault and damage. The process is so costly because attorneys seek to “discover” absolutely everything about their opponents that might possibly be useful in the battleground of the courtroom.

One way to attack this problem would be to change the incentives in the system to encourage parties to settle their disputes early. By encouraging settlement before discovery is complete, we will save everyone a great deal of time, money, and aggravation.

How can we do this without infringing on anyone’s right to full compensation? No one wants to deny any Americans the right to their day in court if they feel they are not being fully compensated for their damages. But just as surely, none of us wants to continue with the wasteful, unfair status quo.

We should reward defendants for making full and fair offers early on, without declaring that the plaintiff must accept just any offer. We should increase and speed up recoveries for meritorious claimants. At the same time, we should reduce both the incentives of defendants to drag out these disputes through whatever means available and the costs of those recoveries to defendants.

The method would be simple: Provide protection to defendants who quickly promise to pay the plaintiff’s full economic damages, plus, perhaps, an additional amount set by a state schedule based on the severity of the injury. This helps plaintiffs by restoring in full their economic losses without months or years of legal struggle. It helps defendants by protecting them against unlimited non-economic damages claims if they make a fair offer early on.

Faced with such a system, defendants will offer fair compensation more quickly, and plaintiffs will be less likely to turn down a fair offer. Both sides would benefit from early settlements by avoiding long, expensive, and perhaps unsuccessful litigation. Thus lawyers and litigants no longer would hold out for more money and higher fees unless they clearly are warranted. And defendants and their insurance companies would no longer drag out litigation in hopes of making plaintiffs give up their suits and go away.

All of these reforms will increase the fairness and efficiency of our legal system. Moreover, all are amply justified under federalist principles by the peculiar incentives


in our present system—incentives that encourage states to develop laws benefiting in-state plaintiffs at the expense of the public interest.

A FEDERALIST ESCAPE CLAUSE

We still should take care to protect and nurture federalism, however. In the case of my early-offer recommendation, for example, I would allow a state to opt out of the federal reform—in whole or in part—for disputes entirely between citizens of that state. This would encourage those states that feel strongly about the issue to retain their own legal machinery, but only if they can justify to their own people that the machinery is sound and only if its costs and benefits are allocated to their own citizens.

Some may not be convinced that other reforms (including barring of joint liability and punitive-damage caps) are justified by federalist principles. These people should consider going along with the reforms, but attaching a state opt-out provision. If a large number of states opts out of a particular reform under these circumstances, it would serve as a strong signal to Congress and the people that the national “reform” may in fact have been the product of national faction, rather than a necessary preemption of an illegitimate burden imposed by the states on interstate commerce.

An escape mechanism of this sort could also be useful in other areas beyond legal reform, where there are legitimate differences of opinion on whether federal intervention is needed or desirable. In particular, Congress should consider allowing this opt-out provision whenever it exercises its commerce power to remove burdens on interstate commerce caused by a systemic bias that state competition cannot correct (see Easterbrook, “Madison, the State, and Public Choice,” University of Chicago Law School Record [Spring 1995]. Professor Akhil Amar also suggested an inquiry along these lines in a conversation with a member of my staff.) If widely used by the states to evade provisions of federal law, the provision also would help us identify areas in which Congress was wrong to intervene, because the burden imposed on interstate commerce was in fact a legitimate state interest.

This leads us back to *Lopez*. I have no doubt that civil-justice reforms crafted along the lines I have discussed would pass muster with the Supreme Court. The link between the legislation and interstate commerce would be quite clear. In addition, an opt-out feature of the sort I have described would eliminate cases in which there is no real connection between interstate commerce and the practice in question. Finally, an escape provision for close cases—where there is some reason to believe that competition among the states’ legal regimes is not functioning properly, but the evidence is not overwhelming—would allow the system to send a useful signal to the Court. It would show that the underlying law was intended as a legitimate exercise of Congress’s power to alleviate perverse burdens on interstate commerce, and not as a grab for power in the interests of some national faction. 

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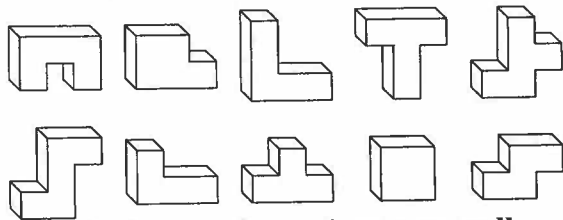
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HAPPY MEALS

When Lunch Subsidies Are Chopped, Kids Eat Better

STEPHEN GLASS

Every morning for seven years, Linda Desrosiers packed her lunch before heading to work as a high-school cook. "I wouldn't touch the food they had us make," she says. "People looked at it and smelled it, but no one ate it."

School janitors in Woonsocket, Rhode Island, an impoverished textile-mill town, confirm Desrosiers's stories of platefuls of grayish green beans and "beef surprise" winding up in the dumpster. One janitor said he changed the high school's industrial-sized garbage bags at least twice in each of the three lunch periods.

In recent months, liberals led by President Clinton have argued that the federal school lunch program "ain't broke" and shouldn't be fixed. They argue, persuasively, that kids who are hungry won't learn. But they also make the false assumption that students actually eat the meals that the government subsidizes. Rhode Island is proving that students' nutrition levels can improve dramatically when subsidies for school meals are slashed.

This academic year, the state of Rhode Island radically reformed its school-lunch program by dumping a quarter-century of centrally planned purchasing, hiring, and cooking. The state cut its \$11-million school-lunch appropriation to less than \$200,000 and fired all but 11 of the 780 workers who administered, cooked, and served the lunches. Now, private food-service contractors like Marriott and ARA Corp. plan the menus and feed the students. The school districts still get reimbursement from Washington, but the federal money is sent directly to the local districts on a per-meal basis. As a result, combined federal and state subsidies have fallen from more than \$23 million in 1993-94 to \$12 million—a 48 percent cut.

The result: Kids are eating better. In the past seven months, student participation in school-lunch programs has soared, nutrition levels have risen to among the best in the nation, and poor school districts like Woonsocket are generating a profit.

Brandon Powers, a sixth-grader at Woonsocket Elementary School, says the only downside of the privatized system is that it has put an end to daily "school-slop sculpture contests." "Now the food is pretty good," he says, "so people prefer to eat it rather than build with it." Even Desrosiers, now a cook for Marriott, eats it every day.

Students at North Smithfield High School now eat their hamburgers instead of conducting experiments on

the effects of mustard, catsup, and relish on burger flight. And students at a magnet high school in Providence no longer request extra gravy with their mashed potatoes just to provide greater contrast for finger-painting with their food.

School officials back up students' claims that they are eating more. Since a private contractor took over Woonsocket High School's lunch program, janitors haul away 75 percent less garbage from the school cafeteria. Irene Scripsack, the business manager for the North Smithfield school district, says her janitors only collect 5 percent as much garbage as they used to. Scripsack won't say how often she ate the state's food, but admits it was "quite rare."

"The state-run program suffered from what I call 'orange-ravioli syndrome,'" says John Caparco, the principal of Woonsocket High School. "Just providing food students should eat does not mean they'll eat it. They were simply out to lunch when it came to making the food appealing." Caparco admits even he didn't eat the old food. "Now I get it all the time."

Ellen McKenna, a junior dietetics major at the University of Rhode Island, demonstrated that plate waste was cut dramatically at schools that used private contractors. For instance, she found that most of the hot-food trays were "completely cleared of food" before they were emptied in the trash at Marriott's Potter-Burns Elementary School cafeteria in Pawtucket, where 32 percent of the students are eligible for free or reduced-price meals. Likewise, at ARA's Central Falls Elementary School, where 89 percent of the students qualify for free or reduced-price meals, students ate almost all of their carrots, breads, burritos, and sandwiches.

At the state-run cafeteria at Lonsdale Elementary School in Lincoln, a wealthier community where the state-administered program had not yet been phased out, students were "picking at their food," rather than eating it. On the majority of the trays, most or all of the rice, bread, and fruit had been left uneaten. McKenna reports that students had difficulty identifying the food, and tended to push it around the tray rather than eat it. For instance, one student said he couldn't identify his ham-salad sand-

STEPHEN GLASS is the assistant editor of Policy Review.

wich. McKenna described it as a “pink mush on a roll.”

After privatization, not only are students eating more of the meals on their trays, but more of the kids are buying meals. In Woonsocket, for instance, where more than 77 percent of the students qualify for free or reduced-price meals, participation has soared under Marriott’s direction. During the 1991-92 school year, this “severe-need” district served 2,652 lunches a day. Now it averages 3,486 lunches daily—a 31 percent increase. Similarly, under the state-run system, Woonsocket only served 288 breakfasts daily; now it serves 597—a 107 percent increase.

Woonsocket is the rule, not the exception. In Providence, where more than 70 percent of the students receive free or reduced-price meals, participation has increased 22 percent since a private vendor took over the cafeterias. And wealthy school districts, like North Smithfield, have recorded 25 percent more students eating school lunches since the state system folded.

Between bites of a chicken-patty sandwich, Pauline Goin says she and her friends rarely bought lunch when the state ran the cafeteria, because the food was always a mystery—in both appearance and taste. “The other stuff was, you know, welfare food, and it tasted like it,” the sixth-grader says bluntly. “This stuff is regular food—you know, for humans.”

Greater participation seems to improve discipline during the once-raucous lunch period. Woonsocket’s Caparco says that the time his office spends handling discipline problems has been cut by about 20 percent. “If the kids are eating, it’s harder to be fighting,” Caparco notes.

HAVE IT YOUR WAY

Ruth Eshelman, a nutrition professor at the University of Rhode Island, says that options are essential to students’ satisfaction. “If I have a choice, I am much more likely to eat what I choose,” Eshelman said. “If I have to eat carrots, they will be terrible, but if I pick carrots over green beans, the carrots might be wonderful.”

The state-run school lunch program offered no choice. Each week, newspapers across the state printed the upcoming menu with a total of five listings—the entire state had one option each school day. Private vendors, on the other hand, offer about 20 alternatives daily. Woonsocket High School students, for instance, can now choose from five meats, several cheeses, and two kinds of bread in the deli line. They can also pick from a list of three or four hot sandwiches, two salads, and a pasta dish. In addition, the menu offers pizza and burritos. Even if the student tires of these regular items, several specials are offered each day. Students also choose from a selection of fresh fruit and vegetables at every meal. And parents are sent a monthly menu describing each day’s choices and their nutritional value.

Private vendors also increase participation by using name brands: Pizza is supplied by a local Domino’s franchise, and burritos are cooked according to a Taco Bell recipe. The name-brand packaging and advertising raise the likelihood that students will actually like the meal.

Private vendors recognize that student involvement is vital to customer satisfaction. In Woonsocket and Providence, groups of students and parents meet month-

State-run lunch program
Nutrition Facts
Serving Size 1 Tray

	Daily Value
Total Fat	29.9 g
Saturated Fat	12.53 g
Cholesterol	75 mg
Sodium	1064 mg
Protein	29 g
	% of R.D.A.
Vitamin A**	34 %
Calcium**	37 %
Iron**	37 %
Thiamin**	38 %
Riboflavin**	56 %
Vitamin C**	30 %

** Federal government requires that school lunches provide at least 33 percent of the Recommended Dietary Allowance of these essential nutrients.

Privately-run lunch program
Nutrition Facts
Serving Size 1 Tray

	Daily Value
Total Fat	16.1 g
Saturated Fat	6.12 g
Cholesterol	45 mg
Sodium	600 mg
Protein	110 g
	% of R.D.A.
Vitamin A**	308 %
Calcium**	187 %
Iron**	101 %
Thiamin**	107 %
Riboflavin**	155 %
Vitamin C**	242 %

** Federal government requires that school lunches provide at least 33 percent of the Recommended Dietary Allowance of these essential nutrients.

After Rhode Island privatized its school-lunch program, nutrition improved in every category. Sources: Rhode Island Department of Health, Marriott, *Nutribase Nutrition Facts Desk Reference*, and National Research Council’s Food and Nutrition Board.

Daniel Goodrich/Newsday

ly with Marriott's food-service directors. Dina Dutremble, Woonsocket's business manager, says the state never responded to local concerns; private contractors, on the other hand, conduct weekly taste-tests.

Sandra Caron, a senior at Woonsocket High School who is a vegetarian, says that these meetings have allowed her to buy her lunch at school for the first time. After explaining to the food-service director that she and several other students would be willing to buy lunch if vegetarian entrées were more readily available, the company promised to look into it. "I suspected they would do what had always happened. Nothing ever happens," Caron says. "But within two weeks, there was a vegetarian item on the menu every day."

Ellen Haas, a USDA official who supervises the school lunch program from Washington, doesn't trust the private sector. She insists that devolution to local districts, like Rhode Island's privatization initiative, will lead to "short-term malnutrition and a lifetime of serious and costly health problems." Her fears were echoed by House Minority Leader Dick Gephardt, who equated devolution to "a dagger pointed at the hearts of our children." But a

implausibly that the students were eating everything on their trays. Although liberals can speak of the value of mandating nutrition levels, Rhode Island demonstrates that these mandates are not even enforced, and it is impossible to ensure the students will even eat the food.

The private vendors, however, combat both these flaws by providing more nutritious meals that the students actually want to eat. According to the Department of Health's nutritional audit, Marriott's menus exceed the state's program by at least three-fold in each of the RDA's seven nutrient categories. In fact, the private-sector program provides students with more than double the RDA of vitamin C, protein, and vitamin A—600 percent of the federal minimum for school lunches.

In addition to the RDA nutrients, the private vendors' meal plans have less fat, cholesterol, and sodium and more fiber than Rhode Island's state-run program. Over a 10-week period, the average Marriott lunch contained 33 percent less fat, 40 percent less cholesterol, and 40 percent less sodium than the state's lunches. Marriott's average lunch contained only half the saturated fat and twice the fiber of a government lunch.

Desrosiers and other cafeteria workers don't find these numbers surprising. In the private kitchens, fruits and vegetables rarely come from the can, since the two leading companies, ARA and Marriott, can use their buying power to get price breaks on more nutritious fresh and fresh-frozen produce. In North Smithfield, the independent school-lunch program has promised parents that it will never deep-fry a single item it sells; it even uses low-fat mozzarella cheese on its pizza. This district's hamburger meat contains about 15 percent fat, while the state-run program never used beef with less than 30 percent fat.

Most remarkable, however, is that private vendors don't just provide healthier meals that students will eat, they do it at a profit. Like discount book chains, Marriott and ARA make money selling a high-quality product cheaply by counting on high volume. The per-meal federal reimbursement formula gives the contractors an incentive to provide nutritious meals that kids will like, because the more meals they induce kids to buy, the greater their margins beyond fixed costs. So far, the strategy has paid off.

The secret to making it all work is the plan's clever payment system. The complicated arrangement provides the private contractor with an incentive to feed more students and allows the school district to keep most of the profits. School districts pay the contractor an annual fee to run the program. This fee pays for everything from capital improvements to salaries and food. The school district then keeps all the money the students pay. In addition, the district keeps all of the per-meal subsidies Washington sends it. If these revenues fall short of the district's payment to the private contractor, the contractor assumes the loss. This way, the district can't lose money and the contractor has an incentive to keep costs down while serving more meals. If the district turns a profit, the contractor gets a small cut.

Dutremble, the business manager for the Woonsocket School District, says that the school lunches were a daily

Great Careers Launched by
The School Lunch Program...



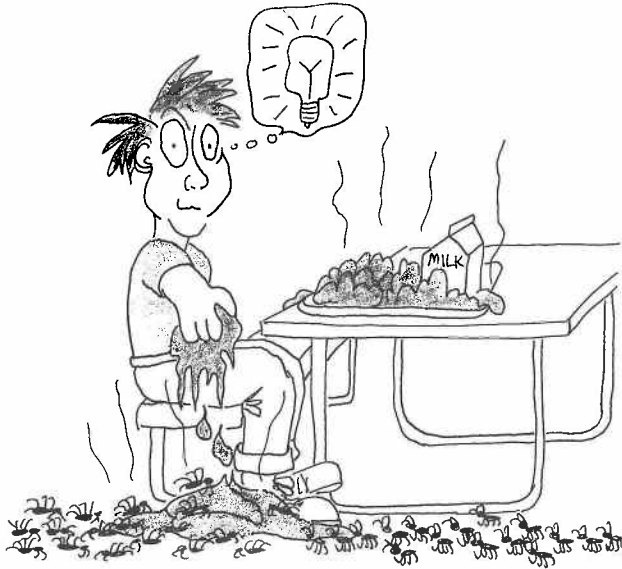
Susie Smith: Slop-Sculpture Artist

careful review of nutritional data demonstrates that Rhode Island's new, private programs outperform its state-run lunches. Haas's office did not return several phone calls.

Current USDA regulations require that school lunches provide at least a third of the Recommended Dietary Allowance (RDA) of seven nutrients—ranging from vitamins A and C to iron and thiamin. Rhode Island's state-run school-lunch program, however, did not meet these minimums. Bethany Algier, a nutritionist with Rhode Island's Department of Health, notes that a 1991 nutritional audit of the school-lunch program found that the state's program fell short in vitamin C and iron and did not meet the target for calories. Plus, this audit assumed

Sam Walker 6/95

Illustrations by Sam Walker



Billy Brown: Exterminator

headache under the state-run program. While the state provided all of the workers, menus, and food, her district had to pay for high-priced food-service equipment out of its local operating budget. These costs were often so high that some school districts could not afford “sneeze guards” in their serving lines.

Under Marriott’s direction, the program is self-sufficient and has already turned a \$42,000 profit this year, most of which the district keeps. In Woonsocket, the money is being used to purchase a new \$30,000 dishwasher and a truck to deliver meals more efficiently to the elementary schools. Providence’s program will profit by more than \$100,000 this year, and North Smithfield was \$5,000 in the black as of January 1.

In addition, fears that poor or small school districts would be ignored by private vendors are unfounded. In fact, poorer school districts—such as Woonsocket and Providence—are considered more desirable contracts for private vendors. These students are less likely to bring a lunch than their more affluent peers and therefore participation rates rise more dramatically when the food improves. Small school districts in Rhode Island joined together to negotiate joint competitive contracts. Lastly, the state limits the threat of corruption by putting the program out for bid frequently. Rhode Island prohibits school-lunch contracts of more than a year, and limits the number of renewals.

Rhode Island’s experiment with privatized school lunches is the brainchild of a state legislator, Paul Crowley. A restaurant owner, Crowley was appalled to discover wages in state-run cafeterias were more than \$4 per hour higher than at private restaurants, while nutrition levels were substandard.

For years, Crowley’s efforts to privatize the program were blocked by state-employee unions. Two years ago, however, Crowley found that the Providence school board

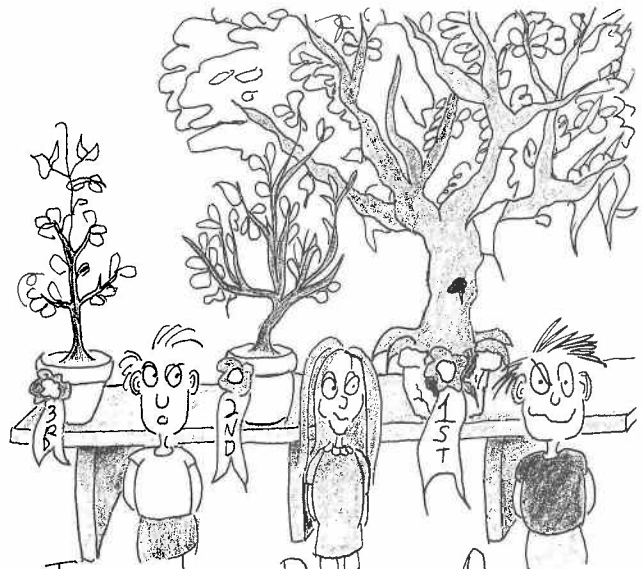
had conducted a study showing that a private vendor would save the district more than \$600,000 a year. School officials there said they abandoned plans to privatize their program under union pressure. Crowley said the unions even sent busloads of lunch workers to their meetings. After public hearings, Crowley amended the state’s Fiscal Year 1995 budget to phase out the school-lunch program this school year. Under the new system, local school districts—rather than the state—are reimbursed directly from the federal government. As in all states, students pay some, all, or none of the lunch cost depending on their parent’s income; Washington coughs up the rest.

“We should be in the business of teaching, not feeding,” Crowley says. “If other people make a better mousetrap, it makes more sense to buy theirs than build your own.”

Although school-district officials universally praise the private-sector lunch program, some are concerned about the GOP’s block-grant proposal. Providence officials, for instance, expect the district-wide student body to increase by at least 800 kids next year, and fear that the block grant will not cover extra meals. But Crowley claims the program will still thrive under the block grant proposal. As a district’s population increases, more students will buy meals. Since private contractors get paid on a per-meal basis, a larger student body would compensate for a reduction in per-student dollars.

Rhode Island is evidence that converting federal funds to block grants can only improve the nation’s school-lunch program. Given full responsibility for the programs, Crowley predicts more states will turn to innovative private alternatives that cost less and maintain higher standards.

In fact, Crowley believes if school lunches had been devolved years ago, Rhode Island would have privatized sooner. “We have found that local districts are best off when they handle this on their own,” Crowley said. “Block-granting can only help us continue on this path.”



Jimmy Jones Discovers Amazing New Fertilizer...

CUTTING CLASS

The PTA Plays Hooky from Educational Reform

CHARLENE K. HAAR

Since the publication of "A Nation at Risk" in 1983, Americans have become increasingly alarmed about the dismal results and soaring costs of their public schools. No group of citizens has a closer view of these problems or a more immediate stake in addressing them than the parents of the country's 48 million schoolchildren. Here and there, parents have won minor battles to influence curricula or oust mediocre school-board members. But as individuals, parents are no match for the forces that favor the status quo.

Parents' most promising forum to agitate for reform and hold their local educators accountable for failure already exists: the venerated National Congress of Parents and Teachers, commonly known as the PTA. Unfortunately, parents cannot count on either their local PTA or its national leadership to advance parental interests—or even air diverse viewpoints. As it operates today, the PTA is useless to parents who want to play a meaningful role in educational reform.

The mission of the PTA has always been to "work on behalf of the best interests of all children on issues that affect their health, education, and welfare" and "to encourage parent involvement." With almost seven million members, the PTA offers great potential for promoting parental involvement in the educational welfare of children. But in the 1990s, that mission requires of the PTA something it has been unwilling to do: demand accountability for performance and spending at every level of the educational system.

LOCAL CONTROL

Decades ago, parents had significant influence over their neighborhood schools. Over the years, however, school districts consolidated, teachers and administrators came to see themselves as credentialed professionals, and state laws standardized educational practices and curricula. Today, many parents are less likely to get involved in their children's educational environment. Nevertheless, the impetus for reform will have to come from parents active at the grass roots.

The PTA ought to be helping such parents overcome the considerable barriers to holding local educators accountable. For instance, it should be of great concern to parents that student grades tend to be as high in low-

achieving as in high-achieving schools, but the PTA deliberately avoids such educational issues.

In the annual battles over allocating financial resources, the PTA should play a major role in deciphering complicated budgets for the benefit of interested parents. Instead, PTAs rally with teachers unions for tax increases, seldom questioning the effect on parents or the educational outcomes for students.

Parents also deserve greater consideration of their interests in the contract negotiations that determine pay and working conditions for teachers. For instance, teachers in Montgomery County, Maryland, refused to write recommendations for their college-bound students because such "extra" duties weren't in their contract. In some areas, a parent who wishes to lodge a complaint about a teacher must navigate a bureaucratic process established by contract. Parents may have to submit a written account of the grievance in order to secure a meeting with the teacher, who has the right to bring along a union representative. Some parents find such time-consuming and intimidating conditions a clear subordination of parental interests to teacher rights.

It is indisputable that teachers are already well represented in negotiations. Therefore, an effective local PTA that works on behalf of parental interests should insist on more than the current minimal accord paid to parental concerns. Working through the PTA, parents could ensure that their schools:

- Demand pro-parent scrutiny of teacher contracts;
- Justify their annual budgets;
- Air alternative views to the pro-union positions on privatization, teacher tenure, tuition-tax credits, school choice, and teacher standards;
- Establish expeditious complaint procedures so that parents could challenge decisions and actions of teachers or administrators;
- Make certain that student grades provide parents with adequate information about the educational progress of their children, or lack of it.

Nowadays, local matters are greatly affected by policy at

CHARLENE K. HAAR is the president of the Education Policy Institute and research associate, Social Philosophy and Policy Center, Bowling Green State University, Bowling Green, Ohio.

higher levels. State governments now have a hand in everything from funding to curricular standards. President Clinton's Goals 2000 legislation, enacted last year and under review by the new Republican-controlled Congress, may bring down the heavy hand of the federal government, too (see sidebar, page 88). Similarly, PTA members who wish to be active at the local level must take account of PTA policies set by the state and national hierarchies and imposed on individual chapters.

At the least, the PTA has the power to keep parents informed of academic issues, from educational policies set at the national and state levels to the curriculum and employment practices of their local schools. At its best, the PTA could help frame the national debate over educational reform, lobby for some of the reforms that debate has already produced, and work to change the restrictive collective-bargaining statutes that tend to shield teacher unions and teachers from accountability and limit parental involvement.

WHY THE PTA IS WEAK

PTA's ineffectiveness can be attributed to six inter-related areas:

Misdirected resources. At the local level, the PTA has become a fundraising auxiliary for school districts, while its child-advocacy efforts have focused on social, non-educational issues.

Stifled debate. Many PTA officials stifle open discussion of controversial issues and discourage parents from questioning the PTA's official positions.

Ignorance. Most PTA members have no idea of the policies advocated in their name by the PTA hierarchy at the national and state levels.

Careerism. The PTA's national officers are elected by a restrictive process that requires a national PTA presidential candidate to make a commitment of nearly 10 years to rise "through the chairs." Consequently, many PTA national leaders serve long after their own children have left school.

Transient membership. Parental interest is often high at the elementary-school level, tapers off in middle school, and all but disappears in high school. As a result, PTA officers and professional staff have inordinate influence.

Teachers-union influence. National PTA policies, which often are automatically adopted as state and local PTA policies, reflect the dominant influence of the teachers unions, especially the National Education Association (NEA).

Of these factors, by far the most important is the last. Parents and teachers in the PTA both claim to share the same goal: promoting the educational welfare of children. But the PTA's governance structure, in which unionized teachers play a major role, is fatally flawed. Fundamentally, parents and their children are the consumers of

education; teachers are part of the producer complex. Elevating the interests of the producers above the interests of the consumers is a formula for irrelevance. In the last 12 months, I have attended two national PTA meetings and five state conventions, and I cannot recall a single instance in which any policy contrary to the interests of teachers unions was given a proper hearing.

Ever since the 1960s, the NEA and the American Federation of Teachers (AFT) have lobbied vigorously for state legislation requiring school boards to bargain collectively with teachers unions over the terms and conditions of employment. Teachers have the statutory right to bargain collectively in 34 states and the District of Columbia. Many school districts outside of those states engage in *de facto* collective bargaining with the teachers unions. By its refusal to challenge the teachers unions in collective bargaining, the PTA has eliminated itself as an independent advocate for parents. The PTA claims to "seek to participate in the decisionmaking process establishing school policy." But whenever school boards sacrifice parental interests to union interests as often happens in these negotiations, the PTA cannot and will not object.

Such impotence has been apparent at least since the PTA's 1968 position statement on "teacher negotiations, sanctions, and strikes." The PTA resolution, reaffirmed in 1987, identifies the "dilemmas" that teacher militancy and union negotiations impose on PTA members:

"1. If the PTA provides volunteers to man the classrooms, during a work stoppage, in the interest of protecting the immediate safety and welfare of children, it is branded as a strike breaker.

"2. If the PTA does not take sides in issue[s] being negotiated, it is accused of not being interested.

"3. If it supports the positions of the board of education, which is the representative of the public in negotiations, *the teacher members of the PTA have threatened to withdraw membership and boycott the local PTA activities.*" (Italics added.)

Collective bargaining is used in most school districts to resolve such issues as teacher compensation for extra curricular activities, class size, parental grievance procedures, and the frequency and scheduling of parent/teacher conferences. In effect, the PTA does not take sides on issues subject to bargaining, regardless of their impact on students, parents, or the public. That position constitutes a major victory for unions and a setback for parents.

How are PTA members supposed to respond to this dilemma? The 1968 resolution urges them to be alert to symptoms of teacher dissatisfaction (abnormal turnover, complaints, and "teacher-supported legislation defeated by state legislature") before a strike and to promote the public airing of issues. At no point does the PTA suggest that teacher dissatisfaction may be unwarranted. The PTA's statement acknowledges that the teachers' threat to withdraw membership and

AS IT OPERATES TODAY, THE PTA IS USELESS TO PARENTS WHO WANT TO PLAY A MEANINGFUL ROLE IN EDUCATIONAL REFORM.

boycott the organization greatly concerns the scores of PTA's professional staff members at the state and national organizations.

This surrender may have the cost the organization anyway. The PTA does not keep track of the ratio of teachers to parents among its membership. But we do know that membership peaked in 1966, when more than 12 million teachers, administrators, and parents were members of the National PTA.

The organization then lost more than six million members from 1966 to 1982, years when collective bargaining by teachers unions increased to unprecedented levels. With the withdrawal of parent activists who refused to accept the PTA's subservience to union interests, the PTA has evolved into an NEA front on non-educational as well as educational issues.

To be sure, the PTA sponsors many worthwhile programs and activities. Few of them, however, relate to education. The PTA doesn't merely waste its potential for constructive action; it may even hinder reform. In recent years, the teachers' unions' formidable influence over the PTA has been seen in the following issues:

Opposition to school choice. In addition to its refusal to challenge union positions in collective bargaining and teacher strikes, the PTA opposes vouchers and tuition-tax credits that would empower parents to choose private schools. Thus the PTA has capitulated to the NEA/AFT insistence on maintaining the public-school monopoly at all costs.

Delegates to the 1994 state convention of the California Congress of Parents, Teachers, and Students (the California PTA) broke into thunderous applause when a speaker congratulated them on defeating the school-choice ballot initiative known as Proposition 174. "You were the voice of the California children!" she shouted. More than one million California PTA volunteers defeat-

ed Proposition 174, she said, and "all the California Teachers Association did was put up the money."

In fact, the PTA provided a large bloc of foot soldiers in the campaign against Proposition 174. At one workshop, a PTA official reminded delegates that "we will pull the PTA Charter if any unit goes beyond the PTA agenda—as we would have with any PTA that supported vouchers."

No matter how modest a voucher plan might be, the PTA can be expected to oppose it. In 1994, New Jersey Governor Christine Todd Whitman was expected to introduce a pilot program for school vouchers in the ailing Jersey City school system. Nevertheless, state and national PTA officials called the plan a "threat" to public education. As a result, New Jersey PTA delegates voted to "[t]ake an active role in opposing" private-school vouchers. Not surprisingly, the PTA and the New Jersey affiliate of the NEA joined a coalition to defeat this and all other voucher proposals.

Opposition to privatization. State PTAs structure their conventions to reinforce the national organization's opposition to privatization of school services. At Maryland's state PTA convention last year, the state vice president for legislative activity expressed hostility for privatization. Several delegates stomped out of a standing-room-only session on the topic when the state chairwoman refused to permit a balanced discussion of audience views on this issue. She instead rebutted criticism of PTA's opposition to contracting out school services. The reason for PTA opposition? Allegedly, some unionized employees could lose their jobs.

Focus on non-educational issues. PTA programs are designed to diminish dissatisfaction with poor school performance. Instead of conducting hearings to address the causes of academic deficiencies, PTAs sponsor events presenting students' work in the most favorable light. Much time and effort goes into women's auxiliary or support

PTA Fails to Scrutinize Goals 2000

Parents would be better served if they recovered some measure of local control over schools. Yet the national PTA supports federal legislation that would have the opposite effect. The Goals 2000: Educate America Act has been touted by the U.S. Department of Education as a plan for improving primary and secondary education. A close examination, however, reveals that this federal legislation seeks unprecedented control over education.

Most parents have no idea of the implications of this federal legislation, which spells out what K-12 students "must know and be able to do" and how students should be tested. If it were to provide accurate information to parents, PTA materials would point out that the adoption of the Goals 2000 "voluntary" standards is tied to the receipt of federal money appropriated in the Elementary and Secondary Education Act. Here's what the PTA isn't telling its members:

- Despite evidence that parents, voters, and taxpayers want traditional, fact-based academic curricula, Goals 2000 promotes a discredited educational philosophy

that measures attitudes, self-esteem, and diversity acceptance—"portfolios of personal growth"—rather than assessing academic progress by rigorous standards.

- The onerous "opportunity-to-learn" provisions essentially require states to prove that each of their school districts is providing every student with the human and financial resources to ensure that all students have equal opportunities to learn. Why isn't the PTA enlightening parents that this is a backdoor strategy by Congress to impose equalized school funding on the states? These unfunded federal mandates-by-bribery would drive up costs dramatically, and advance the fallacy promoted by the teachers unions that spending levels determine the quality of a good education.

Instead, the national PTA praises Goals 2000 as a "voluntary program" to support high academic standards and "the beginning of a new era of parent/family involvement." The law mandates that the states' "improvement-plan" panels include parents along with

(continued next page)

services: trip chaperoning, bake sales, and other fundraising activities. Clearly, good PTA parents are supposed to be passive supporters, not active critics, of schools and teachers.

Last summer, PTA delegates from 53 states and territories met in Las Vegas for the 98th annual national convention. Convention delegates received two days of workshops to learn how to produce materials that generate positive public reaction to PTA, respond to extremist groups challenging health/sex education curricula, implement the PTA's HIV/AIDS awareness programs, and rebut right-wing groups favoring school choice.

Delegates considered resolutions on violence in video games, inhalant abuse, the quality of indoor air in portable classrooms, and the sale, resale, and destruction of confiscated firearms. These are typical of the non-educational, social issues on which PTAs focus their time and money.

THE PTA STIFLES DIALOGUE

In its 1983 position statement in support of public education (revised and reaffirmed in 1991), the national PTA pledged to ensure that "adequate, objective, and language-appropriate information be available to parents so that they can make informed decisions." Unfortunately, the PTA is ignoring this directive.

Given the way PTAs are governed, it is virtually impossible for parent members to develop parent-friendly policies that may conflict with the interests of teachers unions. Parents ought to have a forum for advocating the adoption of reforms like school-choice programs and the privatization of school services, ensuring that teachers are available for frequent conferences with parents, challenging teacher tenure, and assessing the value of report cards, grades, and standardized tests for measuring student performance. Unfortunately, many PTA parents are

teachers, teachers union representatives, community leaders, and others. But the PTA is successfully nominating its own officers to serve on the panels; as a result, non-PTA parents are often excluded from the process.

Parents who are concerned about federal control following behind Goals 2000 funds are finding the courage to speak out. Unfortunately, rank-and-file parents are often unaware of the extensive national and state PTA lobbying efforts. That's because the national PTA's system of communicating its policies and activities to members is inadequate. The leaders of local PTAs are supposed to disseminate such information as they receive, but the haphazard arrangement renders communication gaps inevitable. The unfortunate result is that many committed parents are losing their confidence in the organization.

Lyn Wuethrich and her husband are the parents of three teenagers in Warren Township, Indiana. She is an outspoken critic of the national and state PTA legislative agenda, which she charges "comes from the top down and clearly reflects a liberal-left social agenda, funded with taxpayer dollars."

As their children have progressed through school,

finding it increasingly difficult to articulate their needs and lodge their complaints within the PTA.

Taking such action within the PTA would require parents to challenge teachers and teachers unions at meetings where both are present. Many parents fear teacher retaliation if they aggressively advocate parental over teacher interests. PTA parents also feel intimidated by the overwhelming pro-union bias in PTA publications and programs, as seen in the selection of convention issues and speakers.

When one speaker after another proclaims the dangers of school choice, for example, it is difficult for rank-and-file members to challenge the PTA's position on the issue. PTA convention programs and publications ought to include balanced discussion of the issues.

Indeed, open discussion of parental concerns is virtually absent at state and national PTA meetings. In practice, parents who seek accurate, unbiased information on educational issues are expected to fall in line with PTA positions.

"The PTA severely limits the opportunity for dialogue and dissent," says Jo Cooper, an Oklahoma parent and 19-year PTA veteran. In 1994, the state legislative chairman of the Oklahoma PTA warned her not to publicly oppose national PTA positions. Cooper's offense? In a public meeting in her suburban Oklahoma City school district, she opposed the national PTA's enthusiastic support of the Goals 2000 legislation and HR 6, the reauthorization of the Elementary and Secondary Education Act. Cooper believes both pieces of federal legislation will undermine local control.

In 1992, Kathy Moran, a PTA official in Villa Park, California, received a letter from the state organization demanding that PTA leaders "do everything possible" to block the gathering of signatures for the 1992 state ballot initiative on school choice. When she tried to organize a

Wuethrich has spent nine years as a PTA officer. However, only as a local PTA president has Wuethrich begun receiving frequent mailings in which PTA leaders are urged to lobby members of Congress and state legislators. "When you really study PTA legislative positions, you will find there is a huge contradiction between what they're pushing nationally and what they're saying locally," she says. "In fact, if PTA really cared about kids, they would stop pushing a federal curriculum tied to federal funds," a provision of Goals 2000.

"For all of PTA's claims to the contrary, members don't have any input in the legislative agenda. A like-minded committee, obviously more sympathetic to teacher unions than parents, decides for us," Wuethrich says. "Parents would be much better served if the PTA provided unbiased information on all sides of educational issues. Parents would then be more able to make informed decisions."

Frustrated by the "red tape, demands, and restrictions of the PTA," Wuethrich will give up her presidency at the end of her term. She intends to urge her 387 members to disaffiliate and become a locally-oriented parent-teacher organization (PTO).

debate on the merits of choice, she was told that PTA chapters must present only the anti-choice perspective.

WHAT'S A PARENT TO DO?

Is it any wonder that a backlash is developing? Small groups of concerned and sometimes angry parents are challenging the status quo—including the PTA's deference to the teachers unions. Among their options:

Withhold support. Withholding dues to the state and national organizations can be an effective way to protest. At its recent board meeting, the Indiana State PTA lamented that it had to amend its annual budget after losing 3,000 members and their dues.

Reform from within. Parents who believe the PTA can be reformed from within should form a "parental-control" caucus. Parents committed to pro-parent policies could bring about basic changes in the PTA. With a functioning caucus, they might find the strength to make their voices heard at state and national conventions. They could push to reform cumbersome procedures and restrictive election requirements in order to elect national PTA officers committed to pro-parent positions.

Of course, for such internal reform to succeed, more parents now dissatisfied with PTA operations would have to become involved. Like-minded parents need to serve as officers of local chapters and as delegates to state and national conventions.

Assert leadership locally. In Greenwich, Connecticut, local PTA president Kay Wall questioned the state's implementation of a misnamed "outcome-based education" program in June 1992. Without the support of the PTA, she organized a protest group, the Committee to Save Our Schools (SOS), which contributed to the collapse of Connecticut's plan.

Within her local PTA chapter, Wall has organized and chairs an Academic Challenge and Excellence Committee (ACE) that focuses on restoring high academic standards for all children. "They don't really want parents involved in the way I want to be involved," Wall says, "which is knowing the details of the curriculum, knowing what is being tested, and questioning the new standards." Wall is also encouraging members to challenge the PTA's official support of Goals 2000.

Revise PTA membership policy. As long as unionized teachers employed under collective bargaining are members of the PTA, it may be futile for parents to criticize educational policy. The NEA's own experience is instructive here. Before the enactment of collective-bargaining laws, the NEA included administrators at the local, state, and national levels. As a result, local NEA chapters were usually unable to promote teachers' interests, and actions of school administrators were seldom criticized.

Encourage competition. If parents feel that their PTA cannot represent their interests, they should form alter-

native organizations. Some active parents are requesting disaffiliation from the national PTA. Janice Thompson, a parent in North Carolina who calls herself a "keeper of the home," ardently opposes the PTA's social agenda and its close association with teachers unions. Thompson emphasizes the need for parental involvement in academic issues, and feels that PTA affiliation is a hindrance, not a help, to parents who wish to raise academic standards.


To build her case for reverting back to a local parent-teacher organization (PTO), she called the North Carolina State PTA office in Raleigh and asked, "What is the last thing the PTA accomplished in the classroom?" Says Thompson, "They didn't even have an answer." Last March, parents at her elementary school voted to revert to a PTO. "At the local level," Thompson says, "we know the issues, and here we can work with parents and the school for the benefit of the students."

The PTO is organized locally, with no allegiance to state or national associations. Local parents, teachers, and administrators direct the activities, which are not unlike those of the PTA. Governance is usually through simple bylaws, determined by all parents who attend the meetings. It's true, as PTA literature points out, that a PTO does not emphasize lobbying efforts—but such efforts might contradict local standards and parental positions. Members of PTOs

have found they can work through the local education maze more easily without the national-policy prohibitions and teachers union allegiances of the PTA.

Activist PTO parents direct their energy toward improving their own schools and their own children's educational opportunities. While many appreciate a PTO's autonomy, some recognize its lack of organizational training and support.

New opportunities for involvement. Current educational reforms are introducing new ways for parents to become involved in schools. For instance, charter and magnet schools within public-school systems often include provisions for parental involvement similar to requirements at private and parochial schools. School-management companies and for-profit businesses that offer services to public schools often stress active parental involvement. Parents should encourage this trend by insisting that school districts and schools retain the utmost flexibility in contracting for services.

At a time when special-interest groups are increasingly viewed in a negative light, the PTA is already well placed to act as a respected advocate for the educational interests of children and parents. As the struggle intensifies, the teachers unions will do their utmost to preserve the PTA as their subservient ally. The good news is that parents concerned about education want to do more than attend monthly PTA meetings. They are forming groups and creating procedures that will empower them as consumers of government services. 

IT IS VIRTUALLY IMPOSSIBLE FOR THE PTA TO DEVELOP POLICIES THAT MAY CONFLICT WITH THE TEACHERS UNIONS' INTERESTS.

“WE SHALL NEVER SURRENDER”

Statesmen Weigh in on the Meaning of WWII

WINSTON CHURCHILL, FRANKLIN D. ROOSEVELT, HARRY S TRUMAN, DOUGLAS MACARTHUR, RONALD REAGAN, GEORGE BUSH

WINSTON CHURCHILL

I have nothing to offer but blood, toil, tears, and sweat. We have before us an ordeal of the most grievous kind. We have before us many, many months of struggle and suffering.

You ask, what is our policy? I say it is to wage war by land, sea, and air. War with all our might and with all the strength God has given us, and to wage war against a monstrous tyranny never surpassed in the dark and lamentable catalogue of human crime. That is our policy.

You ask, what is our aim? I can answer in one word. It is victory. Victory at all costs—victory in spite of all terrors—victory, however long and hard the road may be, for without victory there is no survival.

*—First address to the House of Commons as Prime Minister
May 13, 1940*

I have, myself, full confidence that if all do their duty, if nothing is neglected, and if the best arrangements are made, as they are being made, we shall prove ourselves once again able to defend our island home, to ride out the storm of war, and to outlive the menace of tyranny, if necessary for years, if necessary alone. At any rate, that is what we are going to try to do. That is the resolve of His Majesty's Government—every man of them. That is the will of Parliament and the nation. The British Empire and the French Republic, linked together in their cause and in their need, will defend to the death their native soil, aiding each other like good comrades to the utmost of their strength. Even though large tracts of Europe and many old and famous States have fallen or may fall into the grip of the Gestapo and all the odious apparatus of Nazi rule, we shall not flag or fail. We shall go on to the end, we shall fight in France, we shall fight on the seas and oceans, we shall fight with growing confidence and growing strength in the air, we shall defend our island, whatever the cost may be, we shall fight on the beaches, we shall fight on the landing grounds, we shall fight in the fields and in the streets, we shall fight in the hills; we shall never surrender, and even if, which I do not for a moment believe, this

island or a large part of it were subjugated and starving, then our Empire beyond the seas, armed and guarded by the British Fleet, would carry on the struggle, until in God's good time, the new world, with all its power and might, steps forth to the rescue and the liberation of the old.

*—Address to the House of Commons
June 4, 1940*

FRANKLIN D. ROOSEVELT

Yesterday, December 7, 1941—a date which will live in infamy—the United States of America was suddenly and deliberately attacked by naval and air forces of the empire of Japan....

... As commander in chief of the army and navy I have directed that all measures be taken for our defense, that always will our whole nation remember the character of the onslaught against us.

No matter how long it may take us to overcome this premeditated invasion, the American people, in their righteous might, will win through to absolute victory.

I believe that I interpret the will of the Congress and of the people when I assert that we will not only defend ourselves to the uttermost but will make it very certain that this form of treachery shall never again endanger us.

Hostilities exist. There is no blinking at the fact that our people, our territory, and our interests are in grave danger.

With confidence in our armed forces, with the unbounding determination of our people, we will gain the inevitable triumph. So help us God.

*—Radio address to the nation
December 8, 1941*

HARRY S TRUMAN

I have just returned from Berlin, the city from the which the Germans intended to rule the world. It is a ghost city. The buildings are in ruins, its economy and its people are in ruins....

You ask what is our aim? Victory at all costs—victory in spite of all terrors—victory, however long and hard the road may be, for without victory there is no survival.

War has indeed come home to Germany and to the German people. It has come home in all the frightfulness with which the German leaders started and waged it.

The German people are beginning to atone for the crimes of the gangsters whom they placed in power and whom they wholeheartedly approved and obediently followed.

We also saw some of the terrific destruction which the war had brought to the occupied countries of Western Europe and to England.

How glad I am to be home again! And how grateful to Almighty God that this land of ours has been spared!

We must do all we can to spare her from the ravages of any future breach of the peace. That is why, though the United States wants no territory or profit or selfish advantage out of this war, we are going to maintain the military bases necessary for the complete protection of our interests and of world peace....

Our victory in Europe was more than a victory of arms. It was a victory of one way of life over another. It was a victory of an ideal founded on the rights of the common man, on the dignity of the human being, on the conception of the State as the servant—and not the master—of its people.

A free people showed that it was able to defeat professional soldiers whose only moral arms were obedience and the worship of force.

We tell ourselves that we have emerged from this war the most powerful nation in the world—the most powerful nation, perhaps, in all history. That is true, but not in the sense some of us believe it to be true.

The war has shown us that we have tremendous resources to make all the materials for war. It has shown us that we have skillful workers and managers and able generals, and a brave people capable of bearing arms.

All these things we knew before.



The new thing—the thing which we had not known—the thing we have learned now and should never forget, is this: that a society of self-governing men is more power-

ful, more enduring, more creative than any other kind of society, however disciplined, however centralized.

We know now that the basic proposition of the worth and dignity of man is not a sentimental aspiration or a vain hope or a piece of rhetoric. It is the strongest, most creative force now present in this world.

Now let us use that force and all our resources and all our skill in the great cause of a just and lasting peace! ...

—Radio address to the nation
August 9, 1945

DOUGLAS MACARTHUR

My fellow countrymen, today the guns are silent. A great tragedy has ended. A great victory has been won. The skies no longer rain death—the seas bear only commerce—men everywhere walk upright in the sunlight. The entire world is quietly at peace. The holy mission has been completed, and in reporting this to you, the people, I speak for the thousands of silent lips, forever stilled among the jungles and the beaches and in the deep waters of the Pacific which marked the way. I speak for the unnamed brave millions homeward bound to take up the challenge of that future which they did so much to salvage from the brink of disaster.

As I look back on the long tortuous trail from those grim days of Bataan and Corregidor, when an entire world lived in fear, when democracy was on the defensive everywhere, when modern civilization trembled in the balance, I thank a merciful God that He has given us the faith, the courage, and power from which to mold victory.

We have known the bitterness of defeat and the exultation of triumph, and from both we have learned there can be no turning back. We must go forward to preserve in peace what we won in war....

We stand in Tokyo today reminiscent of our countryman, Commodore Perry, 92 years ago. His purpose was to bring to Japan an era of enlightenment and progress by lifting the veil of isolation to the friendship, trade, and

No matter how long it may take us to overcome this premeditated invasion, the American people, in their righteous might, will win through to absolute victory.



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*Our victory in Europe was more than a victory of arms...
It was a victory of an ideal founded on the rights of the
common man, on the dignity of the human being....*

commerce of the world. But, alas, the knowledge thereby gained of Western science was forged into an instrument of oppression and human enslavement. Freedom of expression, freedom of action, even freedom of thought were denied through suppression of liberal education, through appeal to superstition, and through the application of force.

We are committed by the Potsdam Declaration of Principles to see that the Japanese people are liberated from this condition of slavery. It is my purpose to implement this commitment just as rapidly as the armed forces are demobilized and other essential steps taken to neutralize the war potential. The energy of the Japanese race, if properly directed, will enable expansion vertically rather than horizontally. If the talents of the race are turned into constructive channels, the country can lift itself from its present deplorable state into a position of dignity.

To the Pacific Basin has come the vista of a new emancipated world. Today, freedom is on the offensive, democracy is on the march. Today, in Asia as well as in Europe, unshackled peoples are tasting the full sweetness of liberty, the relief from fear.

In the Philippines, America has evolved a model for this new free world of Asia. In the Philippines, America has demonstrated that peoples of the East and peoples of the West may walk side by side in mutual respect and with mutual benefit. The history of our sovereignty there has now the full confidence of the East.

And so, my fellow countrymen, today I report to you that your sons and daughters have served you well and faithfully with the calm, deliberate, determined fighting spirit of the American soldier and sailor based upon a tradition of historical trait, as against the fanaticism of any enemy supported only by mythological fiction, their spiritual strength and power has brought us through to victory. They are homeward bound—take care of them.

—Aboard the USS Missouri
at the Japan surrender ceremony in Tokyo Bay,
September 2, 1945

RONALD REAGAN

We're here to mark that day in history when the Allied armies joined in battle to reclaim this continent to liberty. For four long years, much of Europe had been under a terrible shadow. Free nations had fallen, Jews cried out in the camps, millions cried out for liberation. Europe was enslaved, and the world prayed for its rescue. Here in Normandy the rescue began. Here the Allies stood and fought against tyranny in a giant undertaking unparalleled in human history....

These are the boys of Pointe de Hoc. These are the men who took the cliffs. These are the champions who helped free a continent. These are the heroes who helped end a war....

Forty summers have passed since the battle that you fought here. You were young the day you took these cliffs; some of you were hardly more than boys, with the deepest joys of life before you. Yet, you risked everything here. Why? Why did you do it? What impelled you to put aside the instinct for self-preservation and risk your lives to take these cliffs? What inspired all the men of the armies that met here? We look at you, and somehow we know the answer. It was faith and belief; it was loyalty and love.

The men of Normandy had faith that what they were doing was right, faith that they fought for all humanity, faith that a just God would grant them mercy on this beachhead or on the next. It was the deep knowledge—and pray God we have not lost it—that there is a profound, moral difference between the use of force for liberation and the use of force for conquest. You were here to liberate, not to conquer, and so you and those others did not doubt your cause. And you were right not to doubt.

You all knew that some things are worth dying for. One's country is worth dying for, and democracy is worth dying for, because it's the most deeply honorable form of government ever devised by man. All of you were willing to fight tyranny, and you knew the people of your countries were behind you.

The Americans who fought here that morning knew word of invasion was spreading



*Today, freedom is on the offensive, democracy is on the
march.... In Asia as well as Europe, unshackled peoples
are tasting the full sweetness of liberty, the relief from fear.*

[W]e helped our enemies give birth to democracies... We made our enemies our friends, and we healed their wounds. And in the process, we lifted ourselves up.



through the darkness back home. They fought—or felt in their hearts, though they couldn't know in fact, that in Georgia they were filling the churches at 4 a.m., in Kansas they were kneeling on their porches and praying, and in Philadelphia they were ringing the Liberty Bell.

Something else helped the men of D-Day: their rock-hard belief that Providence would have a great hand in the events that would unfold here; that God was an ally in this great cause. And, so, the night before this invasion, when Colonel Wolverton asked his parachute troops to kneel with him in prayer he told them: Do not bow your heads, but look up so you can see God and ask His blessing in what we're about to do. Also that night, General Matthew Ridgeway on his cot, listening in the darkness for the promise God made to Joshua: "I will not fail thee nor forsake thee."...

We in America have learned bitter lessons from two World Wars: It is better to be here ready to protect the peace, than to take blind shelter across the sea, rushing to respond only after freedom is lost. We've learned that isolationism never was and never will be an acceptable response to tyrannical governments with an expansionist intent. But we try always to be prepared for peace; prepared to deter aggression; prepared to negotiate the reduction of arms; and, yes, prepared to reach out again in the spirit of reconciliation. In truth, there is no reconciliation we would welcome more than a reconciliation with the Soviet Union, so, together, we can lessen the risks of war, now and forever....

—Omaha Beach, 40th Anniversary of the D-Day invasion
June 6, 1984

GEORGE BUSH

...[N]ow we stand triumphant, for the third time in this century, this time in the wake of the cold war. As in 1919 and 1945, we face no enemy menacing our security....



The values we hold dear as a nation—equality of opportunity, freedom of religion and speech and assembly, free and vig-

orous elections—are now revered by many nations. Our greatest victory in World War II took place not on the field of battle, but in the nations we once counted as foes. The ideals of democracy and liberty have triumphed in a world once threatened with conquest by tyranny and despotism.

Today we celebrate the world's evolution toward freedom, we commemorate democracy's fallen heroes, the defenders of freedom as well as victims of dictatorship who never saw the light of liberty. Earlier this year, when former adversaries joined us in the stand against aggression in the Persian Gulf, we affirmed the values cherished by the heroes of the Harbor.

The friends I lost, that all of us lost, upheld a great and noble cause. Because of their sacrifice, the world now lives in greater freedom and peace than ever before. It is right that all of us are here today. And it is right that we go on from here....

I have no rancor in my heart towards Germany or Japan, none at all. And I hope, in spite of the loss, that you have none in yours. This is no time for recrimination. World War II is over. It is history. We won. We crushed totalitarianism. And when that was done, we helped our enemies give birth to democracies. We reached out, both in Europe and in Asia. We made our enemies our friends, and we healed their wounds. And in the process, we lifted ourselves up.

The lessons of the war itself will live on, and well they should: Preparedness; strength; decency and honor; courage; sacrifice; the willingness to fight, even die, for one's country—America, the land of the free and the brave.

No, just speaking for one guy, I have no rancor in my heart. I can still see the faces of fallen comrades, and I'll bet you can see the faces of your fallen comrades too, or family members. But don't you think they're saying, "Fifty years have passed; our country is the undisputed leader of the free world, and we are at peace."? Don't you think each one is saying, "I did not die in vain."?

May God bless each of you who sacrificed and served....

—Honolulu, 50th Anniversary of Pearl Harbor attack
December 7, 1991

One's country is worth dying for, and democracy is worth dying for, because it's the most deeply honorable form of government ever devised by man.

LETTERS

Cocaine Confusion, Unconstitutional Congress, Teacher Pensions

CLINTON'S CALLOUSNESS

Dear Sir:

Charles Molony Condon's article, "Clinton's Cocaine Babies" (Spring 1995), detailing the Clinton administration's callousness toward cocaine babies is certainly tragic, and should provoke outrage, but surely nobody should be surprised at the stance taken by the president.

The logic of the administration's position flows of necessity from its position on abortion. If Clinton officials were to acknowledge that the unborn are entitled to protection from cocaine abuse by their mothers, such an admission would contradict their abortion argument. It would mean that the unborn have rights that must be balanced against the mother's alleged privacy rights. If this is the case, how can they escape the logic that those unborn rights must also be balanced against the "rights" of the mother to abort?

Since cocaine abuse affects the fetus from the moment of conception, the rights of the fetus to protection must also arise at the moment of conception.

Since only human beings have constitutional rights, the inescapable conclusion is that the fetus is a human being from the moment of conception.

In fact, all government programs designed to enhance health—such as prenatal care—run into this logical inconsistency. Is not a cocaine-free fetal-growth environment at least as important as sufficient food and nutrients, which prenatal care is supposed to insure?

Kim Weissman
Longmeadow, Mass.

ILLEGITIMATE STATE

Dear Sir:

Stephen Moore's article on "The Unconstitutional Congress" (Spring 1995) marks an essential step toward reducing the size of the federal gov-

ernment. I would argue that the electoral revolution of 1994 won't establish Republican realignment until the GOP majority confronts Moore's question: Are federal, social and other programs, on which the government is spending too much, constitutionally justified?

To answer that question, Republicans must grapple with a deeper issue: the consensus that supports our present constitutional arrangement, i.e. the legitimacy of the administrative/welfare state begun by the New Deal and nurtured in the Great Society. The question, "Is it constitutional?," cannot be answered without reflecting on our flawed conception of the ends of government.

Both political parties have long been hypnotized by the mantra that government exists to "serve people's needs." Those who framed our republican, liberal democratic Constitution, designed it not to "serve needs"—most forms of government can do that—but to secure the natural rights of mankind.

That was the test which British monarchic, or aristocratic, rule had systematically failed and which, according to the Declaration of Independence, justified the Revolution of 1776.

I do not have high hopes that, in their effort to cut back the administrative/welfare state, the conservative Republicans in Congress will turn to the Framers' criterion of good government.

They will not do so because, like most liberals, they, too, believe that the Declaration's philosophy of natural rights is merely subjective and thus irrelevant to the Constitution, which they interpret as a free-floating system of positivist rules and neutral procedures untethered to principles of human nature and the law and rights deriving from nature and God. Constitutional nihilism will cripple efforts to limit government.

Moore's call for a return to the Constitution will succeed when the Constitution is again related to the laws of nature that provide its rationale. Without an interpretation of the Constitution rooted in reason and natural law to guide our jurisprudence, the complaint that "I don't like big government" is answered decisively by yesterday's, or tomorrow's, majority: "But *we* do!"

Dennis Teti
Alexandria, Va.

NO AUTHORITY

Dear Sir:

I am ecstatic about the article by Stephen Moore ("The Unconstitutional Congress," Spring 1995), who has identified perhaps the core question for the 104th Congress: "Where is the authority under the Constitution for Congress to spend money on federal social-welfare programs?"

This question, of course, was answered by President Grover Cleveland: "I can find no warrant for such an appropriation in the Constitution." I am confident that few Americans even know President Franklin Pierce, let alone his declaration of 1854: "I cannot find any authority for public charity."

For me, the choice between liberal government welfare or conservative private charity is the proper basis to reform the current government social-welfare system.

In plain language, the government has no Constitutional authority to do something that the document does not authorize, period.

Raymond N. Haynes
State Senator, 36th District
Riverside, Calif.

POTENT PENSION PLAN

Dear Sir:

Stephen Glass's article, "A Pension Deficit Disorder," (Spring 1995) must have provoked smiles among state pension-fund managers.

Glass makes teachers unions the architects of state pension plans, and he advocates that states change their laws and replace current defined-benefit systems with defined-contribution plans—a perfect way to relieve many states of the fiduciary responsibility to vouchsafe the results of their management of billions of dollars in pension funds on behalf of their employees.

Glass is either woefully ignorant of the history of state pension systems, or simply disingenuous.

First, public-school teachers' pensions are determined by governors and state legislatures; they are not bargained. Secondly, states have historically had no interest in seeing pension money carted off by employees who move out of state. Thirdly, the American Federation of Teachers (AFT) and the National Education Association (NEA) have long supported changes in portability, vesting, governance, and funding requirements for pension systems.

And we agree that these changes should bring teacher-pension programs into alignment with the standards that the Employee Retirement Income Security Act (ERISA) requires of the private sector.

Glass is surely aware, however, that public employees were deliberately excluded from that act and remain so because of vehement opposition from state and local governments.

To make pensions truly portable, states will have to offer reciprocity to teachers from other states. In Rhode Island, for example, AFT and NEA affiliates helped persuade the legislature to adopt pension portability.

We do encourage other states to take the same step. One way to encourage change would be to expand ERISA to cover teachers and add portability to the law's funding and vesting standards.

Glass zealously promotes defined-contribution plans as a better design for assuring portability, but he fails to point out that defined-benefit plans can also be made portable, if states wish to do that. Pension-plan administrators could determine the value of a proportional benefit for any teacher who left a retirement system before becoming eligible for full benefits. They could make this pro-

portional benefit available to any departing teacher. The American Federation of Teachers and the National Education Association support such flexibility.

Glass suggests that teachers unions are responsible for lengthy vesting periods in current pension plans. Why most people who manage or work in public schools agree on the importance of encouraging a stable workforce is not worth arguing here. What is worth noting is that governors and legislatures, who control state pension programs, routinely oppose quick vesting and portability.

The years teachers remain unvested represent the paper assets of teacher and state-employee funds that can be used to balance state budgets. Moreover, it is always easier for the governor or legislature to ignore pension-funding guidelines or to lower state contributions when these actions cannot be appealed—as there would be if public pensions were regulated like private-sector pensions are.

In July 1994, for example, Governor Christine Todd Whitman of New Jersey received legislative approval to make changes to the state-employee and teacher retirement funds. The new legislation dropped the 1994 state contribution for the public employees' system by an estimated \$193 million—from \$200 million to \$7 million. At the same time, contributions to the teachers' fund decreased from \$565 million to \$55 million. Between 1994 and 1998, New Jersey could withhold an estimated \$5 billion in employer contributions to its retirement plans with no legal repercussions.

None of these savings will be used to improve teacher pensions. They will assuredly deepen the current underfunding in these programs and jeopardize the long-term stability of many of them.

The true consequences of underfunding are being shifted to the future, where teachers and taxpayers may be pitted against each other to determine who will pay for today's unwise finagling with money earmarked for pensions. Anyone who believes teacher organizations encourage or benefit from actions of this type, as Glass asserts, is immune

to the facts.

Amid these circumstances, it does not seem likely to us that many states would view defined-contribution system as fiscally appealing. Our primary interest is to protect the financial security of teachers in retirement. Since pensions constitute about 50 percent of a typical teacher's retirement income, we believe that it is only prudent to diversify risk of investment loss as much as possible. Defined-benefit plans permit exactly the broad diversification of investments that ensures maximum stability of returns. In fact, the long history of these plans in the public sector has been a success story for millions of people of modest means, providing them a reliable source of retirement income.

Defined-benefit plans also enable pension boards to consider disability pension and cost-of-living allowances, which permit disabled and retired teachers to maintain a decent standard of living. Defined contribution plans cannot provide a disability benefit or a cost-of-living adjustment because they are not designed to share risks.

Glass's editorial completely misses the mark. He could make a more meaningful contribution to public understanding if he examined how the states have used their employees' retirement-fund pools to date.

The issues of portability, vesting, governance, and control in state pension systems deserve proper public debate, as does the relative value of defined-contribution plans. We would welcome such a debate.

Keith Geiger

President

National Education Association

Washington, D.C.

Albert Shanker

President

American Federation of Teachers

Washington, D.C.

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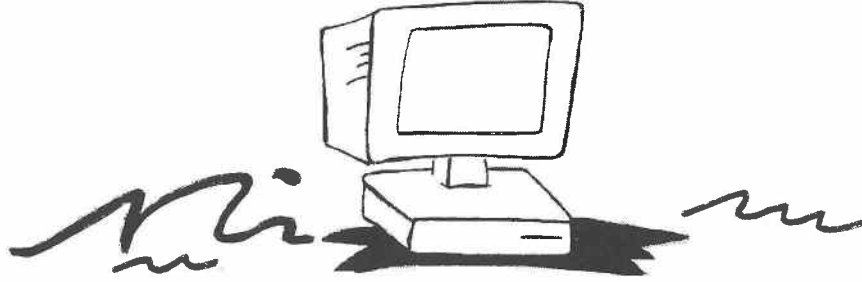
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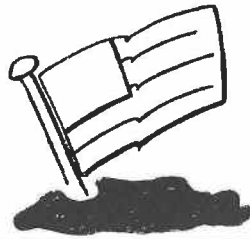
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policy

REVIEW

Even though large tracts of Europe and many old and famous States have fallen or may fall into the grip of the Gestapo and all the odious apparatus of Nazi rule, we shall not flag or fail. We shall go on to the end, we shall fight in France, we shall fight on the seas and oceans, we shall fight with growing confidence and growing strength in the air, we shall defend our island, whatever the cost may be...

Winston Churchill

“We Shall Never Surrender”:

Statesmen weigh in on the meaning of WWII
