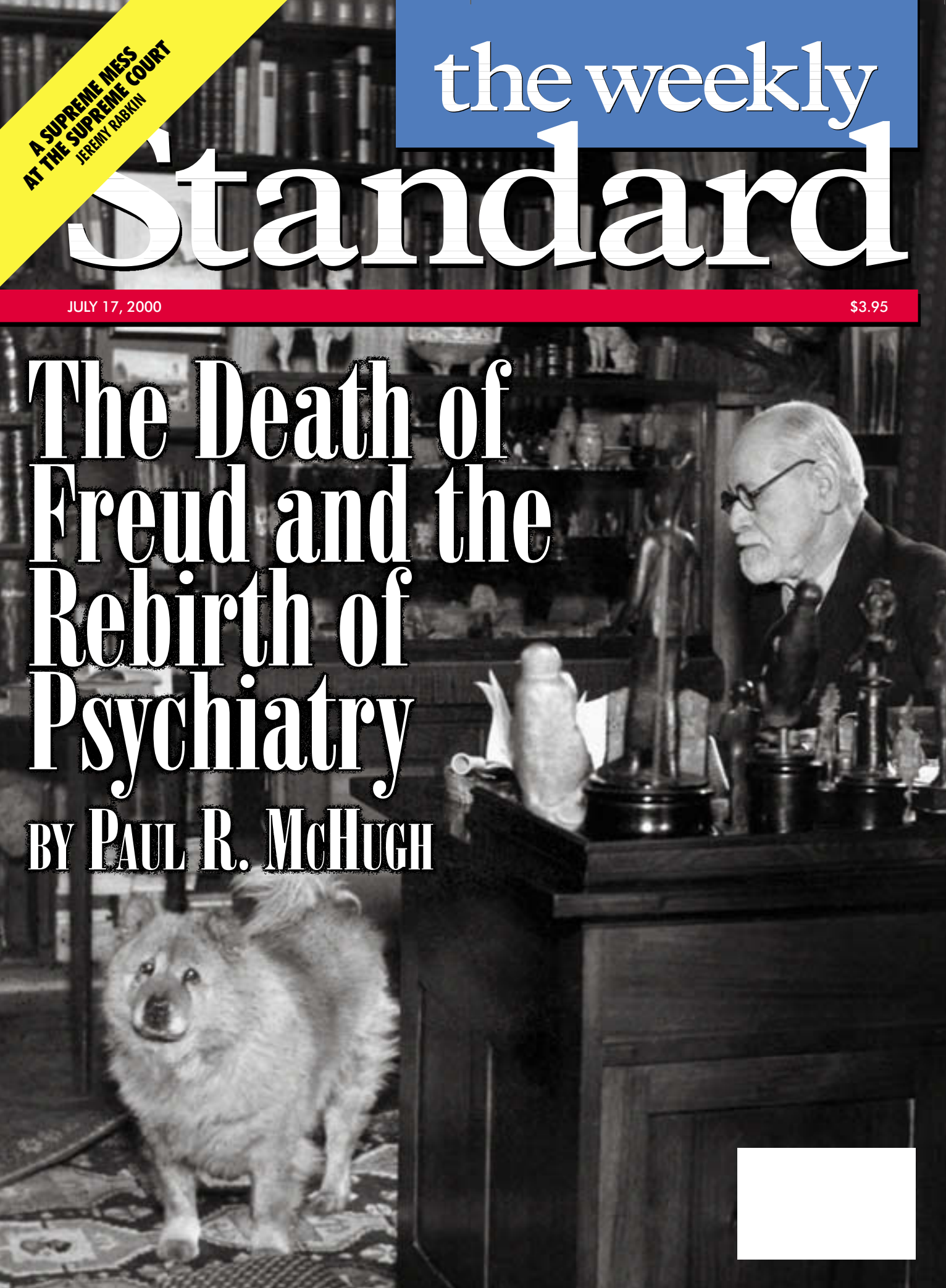
the weekly Standard

JULY 17, 2000 $3.95

A SUPREME MESS AT THE SUPREME COURT
JEREMY RABKIN

The Death of Freud and the Rebirth of Psychiatry

BY PAUL R. MCHUGH



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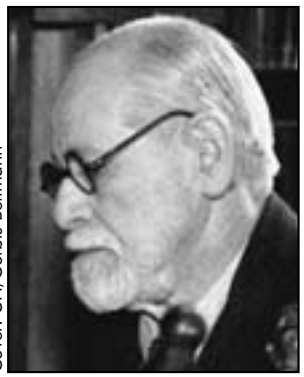

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BPA INTERNATIONAL

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Newt's Book Bag

While the rest of the Washington press corps focuses obsessively on his upcoming wedding, Newt Gingrich took time out not long ago to compile a reading list for summer interns at conservative think tanks. As speaker of the House, of course, Gingrich became notorious for compiling reading lists—urging his colleagues to wade into the Federalist Papers (imagine John Kasich reading Publius!) or the works of C. Vann Woodward. This most recent reading list shows that Gingrich's eclecticism remains intact.

Alas, the Federalist and Flexner's biography of Washington (George, not Grover) are gone from the list the former speaker put together for the young interns. Instead we find a number of the business-babble books he always had a weakness for—for instance, Antony Jay's *Management and Machiavelli: Discovering a New Science of Management in the Timeless Principles of Statecraft*—and a new interest in pop science, from Frans De Waal's *Chimpanzee Politics*, to Edward T. Hall's *The Silent Language*, which the publisher says studies "many aspects of non-verbal communication and considers the concepts of space and time as tools for the transmission of messages."

Gingrich's new interest in "non-verbal communication" is a welcome antidote to his passion for the verbal kind that got him in so much trouble. The list also shows an unexpected taste for left-wing pop fiction, as in *Lincoln*, by Gore Vidal, and *The Unvanquished*, by the proudly unrepentant American Communist Howard Fast. These interns are going to have a busy summer. ♦

Al Gore, Slumlord (cont.)

It's hard to say exactly what prompted Al Gore's tenant, Tracy Mayberry, to pack her belongings and vacate the dilapidated sinkhole that "slumlord" Gore promised to fix after she went public with her grievances in June. Mayberry revealed that her house, which sits a mere 150 yards away from the Gores' in Carthage, Tennessee, had constipated sinks and toilets, armies of arachnids, peeling plaster, and holes in the floor that Gore's property managers failed to fix despite some 30 requests. (Instead, they served her an eviction notice, which Gore reversed after the story broke.)

Her decision might have been influenced by the steady stream of drive-by bird-flipping Gore supporters, or the discovery that her dog had been poisoned, or her cat's slit throat. In any event, as THE SCRAPBOOK went to press on July 7, Mayberry was packing two Ryder trucks, paid for by the Republican party of Tennessee, and relocating to Lima, Ohio.

The Mayberrys had told THE WEEKLY STANDARD's Matt Labash and others that they would sleep in their truck if Gore did not deliver on the promised repairs. Each threat seemed to cause a flurry of activity by hapless Gore underlings. As the *New York Post* reported, Mayberry found a repairman asleep on her kitchen floor (which had to be re-laid after the first repair job was botched). Gore was also caught erroneously suggesting the Mayberrys had already moved.

Though Gore spokesman Doug Hattaway has made available a list of 11 fixes either completed or imminent, Mayberry calls at least half of those "lies." While Gore's men have installed new gutters, added fill lines for the septic, sprayed for insects, and attempted to fix the toilets, Mayberry said the spiders are back en masse, the holes where the plaster was peeling were merely painted instead of repaired, the cracked ceilings weren't patched, her electrical outlets still shoot sparks, and her lightbulbs constantly blow. Her toilet, which the list, dated "July 6," slyly indicates was to "be replaced on June 27," still leaks water out of its base every time it's flushed, and hadn't been replaced as of July 7. Meanwhile, Mayberry says she can't get her calls returned by Gore's White House office, the campaign, or even her appointed contact, Gore family friend Steve Armistead, who Hattaway says has "been in constant touch."

While Gore's ex-tenant at one time was talking reconciliation, she now says of Gore, "He's a hypocrite. He's a liar." Though she's been called a "Republican bitch" by unhappy locals, Mayberry says she always votes Democratic—or at least used to. Now, she says, "I'm voting for George W. Bush." ♦

Scrapbook

Businessmen for Proliferation

During congressional debates about China trade legislation, it always used to be that doubters' complaints—about China's horrific human rights record, for example—were soothingly dismissed as side issues. We're only doing trade right now, the Chinophiles insisted. Wanna do something about our "disagreement" with China on some other subject? We'll be happy to take that up separately.

Only, no surprise, it turns out they really won't be happy to do that at all. Earlier this month came reports that U.S. intelligence agencies believe China has continued to assist Pakistan in the development of a long-range—and potentially nuclear—missile capability. So Senate majority leader Trent Lott attempted to secure his chamber's unanimous consent for a vote this week on a valuable piece of legislation sponsored by Republican Fred Thompson of Tennessee and Democrat Bob Torricelli of New Jersey.

The China Nonproliferation Act would set up an annual review of China's proliferation activities—and a system for penalizing companies that aid such proliferation. The bill has nothing to do with trade. Indeed, Lott and Thompson wanted a separate vote on the bill precisely because they didn't want concerns about China's military exports to threaten a Senate vote on normalizing trade with Beijing.

No matter. Beijing won't like this legislation. So the U.S.-China business lobby has lined up to kill it—and their leading front man on Capitol Hill, Senator Max Baucus of Montana, has kept it off the Senate floor. Baucus formally objected to a vote on the Thompson-Torricelli bill June 30. So it isn't "just about trade." China owns the business lobby. And the business lobby owns Congress. And U.S. foreign policy is distorted across the board. ♦

Who's in Charge?

Good news for school-choice supporters. Ted Forstmann, founder of the Children's Scholarship Fund, is launching the Campaign for America's Children, a $20 million national ad campaign focusing attention on "the need to put parents in charge of their children's education," meaning a boost to competition among schools and a blow to the teachers' unions. The nonpartisan coalition, chaired by William Bennett and Joseph Califano, will emphasize the freedom of choice all parents deserve when it comes to schools. Campaign executive director Dan Schnur says the ads will stress, "Who should be in charge of a child's education?" To date, the Children's Scholarship Fund has provided more than 40,000 scholarships for underprivileged children across the country. ♦

Help Wanted

The Weekly Standard has an immediate opening for a staff accountant/bookkeeper. Please send or fax résumé to: Business Manager, The Weekly Standard, 1150 17th Street, NW, Suite 505, Washington, DC 20036. Fax: (202) 293-4901. ♦

Casual

California Dreaming

All the leaves were brown and the sky was gray, the day we left Washington for California. Well, actually, it was July, so all the leaves were a sodden, wilting green, and the sky was that sullen, half-hazed blue you get in a smogged-over city with 90 percent humidity during the summer. But I was ready for a week of vacation with my wife and daughter in Northern California.

I felt dirty, somehow, with a winter grime that the endless spring rains in Washington hadn't managed to rinse away. I was smoking packs and packs of cigarettes a day, with the green pallor of February still tingeing my face. The bags under my eyes, heavier than the luggage we checked at the airport, made me look like an aging jazz musician just back from six years on the road. I needed a haircut. I needed a shave. I needed a tonic. I needed a tan. I had reached that point only easterners know: where you are certain California actually is a garden of Eden, where you wish they all really could be California girls, where you catch yourself at work, staring out the window at the steaming city, California dreaming.

So off we flew. We visited family in Santa Clara. We stayed overnight with a poet in his impossibly beautiful house overlooking the vineyards of Sonoma County. We ate lunch with a literary critic-turned-theologian in Palo Alto and talked about French philosophers. We sat with a pair of writers in a bar across from the City Lights Bookstore and watched San Francisco's mayor, Willie Brown, flirt with two young women who were breaking the law by smoking cigarettes in a public place.

The days were warm, and the nights were cool. We went down to see the ocean, and we drove up to taste the wine. And after a week I wanted only to get back East, away from that gorgeous landscape and home to a world I could understand.

There are places in this country that really do give you a sense of God—a sense that, though the terrain and weather are harsh, behind them stands a great benevolence that will reward those who work hard to till the soil and raise the herds.

Darren Gygi

But Northern California isn't like that. It is instead a landscape filled with many gods: a whole pagan pantheon, some of whom want to cosset you with beautiful vistas and perfect weather, and some of whom want to smash you with earthquakes and the sea. You never get the feeling in the East, even on the bleakest seaboards of Maine, that the water actually hates the land. Off Carmel and Big Sur, Santa Cruz and Half Moon Bay, Point Reyes and Mendocino, the ocean wants the coast to cease to be.

Great waves looked over others coming in, Robert Frost wrote of his own visit to the Pacific, *And thought of doing something to the shore / That water never did to land before*. You can understand why visions of the apocalypse are what leapt first to Frost's New Hampshire mind. To see that coastline is to grasp why the poet Robinson Jeffers sat grimly above it in the 1930s, dreaming of incest, mad stallions, and the rotting away of the republic: *Be in nothing so moderate as in love of man*, he left as his advice. *I'd sooner, except the penalties, kill a man than a hawk*.

Even the beneficent California gods of scenery and climate are not good to live with too long. There's something in the air that wants to produce the most unspoiled of children and the most spoiled of adults. The fruit from the trees goes bad too soon to eat.

It's not that Californians are any more selfish than everyone else. It's rather that the landscape itself makes them wish other people weren't there to wreck the view. To drive around San Francisco Bay is to see the miles of strip malls crowding along El Camino Real, the dot-coms sprawling their corporate headquarters up and down Highway 101, the parking lots fanning out from Stanford, the fancy new tract houses soaring up in Sausalito. And all these signs of human dynamism and life begin, oddly, to seem a sacrilege. Like Portland and Seattle, Northern California constantly tempts you to imagine that other humans shouldn't be here, to think that you should be the last person allowed to enter this paradise.

On the plane flight home I read the newspapers for the first time in a week to catch up on the latest stupidities from Congress and outrages from the Supreme Court. Back in the office, there would be phone calls waiting from disgruntled writers, letters from authors hurt by the reviews of their books, messages from young graduates pushing to break into magazine writing. Ambition, politics, jealousy, rage: all the clean, honest, human emotions in a hot, sticky world of other people. I couldn't wait to get home.

J. Bottum

Correspondence

Green Mountain Blues

I would like to commend Geoffrey Norman for offering one of the more accurate depictions of Vermont politics ("The New Vermont: Give It to Canada!" June 26). Indeed, my home state is being revamped by "every hippie outcast" with the notion that Vermont is a quaint place to move in, change drastically, and then move out before Mud Season. It is disturbing to watch your home become a pet project and witness outsiders adjust for convenience the very things that make it home: small schools, dirt roads, old policy, and deep-rooted tradition.

My hometown has a population of roughly 1,000, no traffic lights, no post office (and if this letter gets published, it will be one of the few things to recognize the place in the 237 years since its charter). It is one of the last great strongholds of one of the last great rural states. However, as in most towns and the state itself, the majority of representative voices are decidedly urban and decidedly liberal. Frankly, we could do better if we sent a trio of circus clowns from Montpelier to Washington, D.C.—or haven't we done that already? The recent to-do with same sex marriages is the biggest liberal slap-in-the-face that Vermont has endured. Our conservative New England traditions are being pillaged, real people's lives becoming a political cartoon, all for something that any red-blooded Vermonter couldn't give two cow flops about.

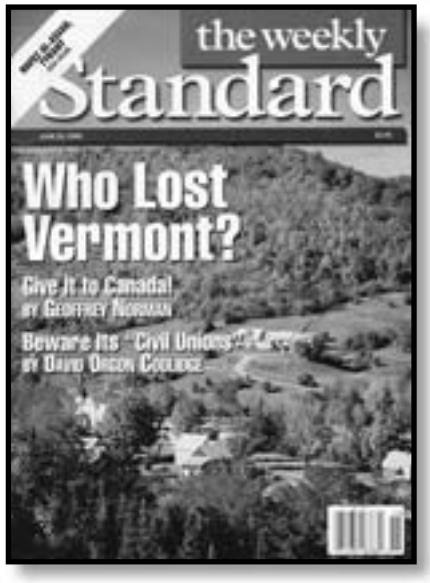
Vermont is getting a bum rap and I would be remiss as a native not to defend America's first republic. Our hands are tied in a slow, pride-swallowing, and hostile takeover, the novelty of which is starting to wear thin. This flatlander virus has gained a stronghold in Vermont politics because the citizenry is easy prey; mostly silent, ethical, and moral, good-hearted, and not easily ruffled. This is not to say that we do not care about local affairs, but that we have lost control of them.

Some things are not meant to be adjusted, and in the style of the Country Mouse and City Mouse tale, a thought: If a rural Vermonter moved to New York and stormed city hall demanding that Central Park become unposted hunting territory, how long would it be before he was laughed out of town?

Mary K. La Riviere
Bolton, VT

As an 18-year-old Vermont native and student at the University of Vermont, I applaud The Weekly Standard for printing Geoffrey Norman's "The New Vermont: Give It to Canada!" and David Orgon Coolidge's "The Civil Truth about Civil Unions" (June 26).

It troubles me greatly that the governor and many of our legislators refused to listen to their constituents and instead followed their own extreme left-wing



agendas. The state allowed extremely well-organized and well-funded gay activist groups to come in and steamroll their agenda over an unprepared and unorganized opposition. In talking to my own friends, I know most are opposed to the new trail our state is blazing, and as Doctor Dean and the legislators who forced the civil union and other liberal laws on the population will find out, conservatives and many religious Democrats will remember in November.

Peter J. Morrison
Barre, VT

I understand that The Standard tries to push the envelope and entertain us from a conservative point of view, but the article on "The New Vermont" was a little much.

Among a number of exaggerations was the statement that none of the members of the Vermont Supreme Court could get elected dog catcher. For the record, the chief justice, Jeffrey Amestoy, is a former six-term Republican attorney general who is also the former president of the National Association of Attorneys General.

Howard Dean M.D.
Governor, State of Vermont
Montpelier, VT

David Orgon Coolidge's account of civil unions in Vermont lacked any understanding of the positive impact that this momentous legislation will have on millions of Americans. Many consider the existence of homosexuals an abomination. Abominable or not, we fight in America's wars, work, pay taxes, attend church, and obey the law. Now we are simply demanding a fundamental right granted to all other Americans. In the spirit of Ethan Allen and his Green Mountain Boys' quest for freedom, Vermont has sanctioned civil unions for the last of America's disenfranchised—her gays and lesbians.

Bravo Vermont! You were the first. Over time all 49 other states will ratify your wisdom, tolerance, and goodness.

Clement R. Knorr
Salem, OR

There are factual errors in David Orgon Coolidge's story about Vermont and the civil unions issue. He wrote: "The uniformly liberal press repeated these arguments endlessly. . . . Editorial writers for the *Burlington Free Press* attacked the Roman Catholic Church and caricatured civil union opponents as bigots."

I challenge Mr. Coolidge to provide any evidence to support these statements. In reality, *Burlington Free Press* editorials repeatedly and consistently urged the court not to grant homosexual couples equal marital status. Our editorials said the court should not redefine an institution that existed before Vermont or any of its laws.

Meanwhile, we have not at any time

attacked the Catholic Church. Our editorial board has several Catholic members. We did chide all religious denominations for testing the limits of their nonprofit, tax-free status by lobbying on the bill. But our only editorial reference to Catholics occurred just after the court's December 23 ruling, in which we welcomed and praised Bishop Kenneth Angell's reactions.

Finally, no *Free Press* editorial on this subject at any time has used the word bigot. Indeed we have criticized people who were too quick to use this word. Rather, we have repeatedly called for Vermonters to respect the differences in each others' deeply held beliefs.

Whether any of this warrants the characterization of "uniformly liberal" I leave to you to decide.

This has been an enormously difficult issue for Vermont. The unintended liberality of Article 7 of our Constitution has created several schisms (among them the Act 60 education finance bill mentioned in Geoffrey Norman's article and the civil unions decision). Article 7 also leaves Vermont vulnerable to future efforts by outside interest groups to inflict their agenda on this beautiful, heretofore independent place.

This struggle is not aided in any way by inflammatory conclusions drawn from factually wrong information.

Stephen Kiernan
Editorial Page Editor
Burlington Free Press
Burlington, VT

David Orgon Coolidge responds: I thank Steve Kiernan for taking the time to read my Standard article carefully. I do want to commend him and his colleagues for one particularly eloquent editorial entitled, "No to same-sex marriage," that ran on November 21, 1999. Since the Supreme Court's decision, however, if there was any opposition to civil unions at the *Free Press*, it was a tightly guarded secret. The day after the Senate debate on the marriage amendments, readers were treated to this blatant headline: "Senate backs civil unions; Lawmakers preserve Constitution." Yet the argument by supporters of the amendments was precisely that overruling the *Baker* decision would in fact preserve the Constitution. Add to this a long string of biased columns by Chris Graff, never matched by other views, stir in a pro-civil unions column by William Raspberry (the only flatlander column I could find on the subject), and it's hard to come to any other conclusion. If Steve had something more to say, he had ample time to say it.

But I'll happily acknowledge that the *Rutland Herald* is worse. Just consider this gem from the *Herald*'s June 30 editorial, "A Historic Weekend": "Certainly, some will always find reasons to focus hatred on gays and lesbians, but when society legitimizes committed same-sex relationships, it pushes bigotry to the margin." Compared with that, almost any Vermont paper looks less "liberal."

Not Quite Hardball

I want to thank Tim Graham of the Media Research Center for having been kind enough to write to your publication to explain the way *washingtonpost.com*'s discussions (we don't call them "chats" over here) are conducted (Scrapbook, June 26). We do indeed give guests the option of answering or not answering any or all questions in any order of the guest's choosing. I or anyone here on the Live Online staff would have been happy to tell any reporter from The Weekly Standard just that had anyone bothered to call and ask, which no one at your publication did.

Incidentally, one last correction: The same Scrapbook entry said that Greg Craig was online to discuss "Craig's legal service to Fidel Castro." That's 100 percent incorrect. Mr. Craig was invited on to talk about his representation of Juan Miguel González and the future of the González family.

Clara A. Frenk
Producer, Live Online
washingtonpost.com
Arlington, VA

It's Like Clockwork

The Gore campaign's hiring of Mark Fabiani, as detailed in "Absolutely Fabiani" by Matthew Rees, could not have been more timely (June 19). I just wish my investments in the "risky" stock market paid off as quickly as Gore's investment in personnel. In the article, Rees says, "one [of Fabiani's tricks of the trade] is to release embarrassing documents on Friday evenings going into holiday weekends so the material gets out when fewer people are attending to the news." And what happened Friday, June 23? The vice president released the transcript of his sworn statement regarding fund-raising irregularities, which could be quite embarrassing to his campaign. The Weekly Standard and Matthew Rees deserve praise.

Brian Gibson
Chicago, IL

Mentally Challenged

Regarding your report that Stockport College has banned certain politically incorrect words (Scrapbook, June 26), it should be noted that "history" has nothing to do with a "man's story," but comes directly from the (feminine) Greek noun "historia," meaning "research."

Also, it is ironic that the college has proscribed words that are "offensive to some with mental health problems," because if they applied the same logic to "mental," which is derived from the feminine Latin word for "mind," as they did to "history," the administrators should find themselves guilty of insulting the insane. Luckily for them, they are obviously too ignorant to realize their error.

Jason Boatright
St. Andrews, Scotland

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"A Democratic Vote by Nine Lawyers"

On June 28, the Supreme Court resolved two important abortion cases.

In Hill *v.* Colorado*, the Court upheld a state statute banning protest or counseling directed at any person standing less than eight feet from the speaker and within one hundred feet of a health care facility. In the process, while pretending not to, the Court upended decades of its own First Amendment jurisprudence. Laws effecting content-based suppression of peaceful speech, even when they were narrowly drafted, had previously been presumptively unconstitutional. After* Hill*, however, the federal and state governments will be allowed to promulgate broad, "prophylactic" gag orders against anyone on a public sidewalk who might dare subject "unwilling" audiences to "offensive messages." In any other context, a speech-rights-crushing Supreme Court edict like* Hill *would seem unthinkable. But in modern America, apparently, abortion on demand now trumps the Bill of Rights.*

Stenberg *v.* Carhart*, the day's second abortion decision, made a similarly tortured hash of both legal precedent and political principle, to say nothing of basic morality. Here, by a 5-4 vote, the Supreme Court invalidated Nebraska's prohibition against partial-birth abortion, a species of sadism masquerading as medicine. Two lengthy, meticulous, and impassioned dissents—by Justices Clarence Thomas and Anthony Kennedy—made plain how fantastically dishonest was the "reasoning" by which the* Carhart *majority applied constitutional protection to such butchery.*

But it was left to Justice Antonin Scalia, in his separate Carhart *dissent, to remind us how perfectly both June 28 decisions reflect the deeper, noxious logic of the Supreme Court's abortion rulings as a whole—to remind us, that is, how* Roe *v.* Wade *and* Planned Parenthood *v.* Casey *make additional atrocities like* Hill *and* Carhart *inevitable. The Constitution will not be returned to health until* Roe *and* Casey *are overturned.*

Justice Scalia's eloquent dissent follows, slightly abridged.

I am optimistic enough to believe that, one day, *Stenberg* v. *Carhart* will be assigned its rightful place in the history of this Court's jurisprudence beside *Korematsu* and *Dred Scott*. The method of killing a human child—one cannot even accurately say an entirely unborn human child—proscribed by this statute is so horrible that the most clinical description of it evokes a shudder of revulsion. And the Court must know (as most state legislatures banning this procedure have concluded) that demanding a "health exception"—which requires the abortionist to assure himself that, in his expert medical judgment, this method is, in the case at hand, marginally safer than others (how can one prove the contrary beyond a reasonable doubt?)—is to give live-birth abortion free rein. The notion that the Constitution of the United States, designed, among other things, "to establish Justice, insure domestic Tranquility, . . . and secure the Blessings of Liberty to ourselves and our Posterity," prohibits the States from simply banning this visibly brutal means of eliminating our half-born posterity is quite simply absurd.

[Justices Thomas and Kennedy] have, appropriately enough, set out to establish that today's result does not follow from this Court's most recent pronouncement on the matter of abortion, *Planned Parenthood* v. *Casey* (1992). It would be unfortunate, however, if those who disagree with the result were induced to regard it as merely a regrettable misapplication of *Casey*. It is not that, but is *Casey*'s logical and entirely predictable consequence. To be sure, the Court's construction of this statute so as to make it include procedures other than live-birth abortion involves not only a disregard of fair meaning, but an abandonment of the principle that even ambiguous statutes should be interpreted in such fashion

as to render them valid rather than void. *Casey* does not permit *that* jurisprudential novelty—which must be chalked up to the Court's inclination to bend the rules when any effort to limit abortion, or even to speak in opposition to abortion, is at issue.

But the Court gives a second and independent reason for invalidating this humane (not to say anti-barbarian) law: That it fails to allow an exception for the situation in which the abortionist believes that this live-birth method of destroying the child might be safer for the woman. (As pointed out by Justice Thomas, and elaborated upon by Justice Kennedy, there is no good reason to believe this is ever the case, but—who knows?—it sometime *might* be.)

I have joined Justice Thomas's dissent because I agree that today's decision is an "unprecedented expansio[n]" of our prior cases, "is not mandated" by *Casey*'s "undue burden" test, and can even be called (though this pushes me to the limit of my belief) "obviously irreconcilable with *Casey*'s explication of what its undue-burden standard requires." But I never put much stock in *Casey*'s explication of the inexplicable. In the last analysis, my judgment that *Casey* does not support today's tragic result can be traced to the fact that what I consider to be an "undue burden" is different from what the majority considers to be an "undue burden"—a conclusion that cannot be demonstrated true or false by factual inquiry or legal reasoning. It is a value judgment, dependent upon how much one respects (or believes society ought to respect) the life of a partially delivered fetus, and how much one respects (or believes society ought to respect) the freedom of the woman who gave it life to kill it. Evidently, the five Justices in today's majority value the former less, or the latter more, (or both), than the four of us in dissent. Case closed. There is no cause for anyone who believes in *Casey* to feel betrayed by this outcome. It has been arrived at by precisely the process *Casey* promised—a democratic vote by nine lawyers, not on the question whether the text of the Constitution has anything to say about this subject (it obviously does not); nor even on the question (also appropriate for lawyers) whether the legal traditions of the American people would have sustained such a limitation upon abortion (they obviously would); but upon the pure policy question whether this limitation upon abortion is "undue"—i.e., goes too far.

In my dissent in *Casey*, I wrote that the "undue burden" test made law by the joint opinion created a standard that was "as doubtful in application as it is unprincipled in origin," "hopelessly unworkable in practice," [and] "ultimately standardless." Today's decision is the proof. As long as we are debating this issue of necessity for a health-of-the-mother exception on the basis of *Casey*, it is really quite impossible for us dissenters to contend that the majority is *wrong* on the law—any more than it could be said that one is *wrong in law* to support or oppose the death penalty, or to support or oppose mandatory minimum sentences. The most that we can honestly say is that we disagree with the majority on their policy-judgment-couched-as-law. And those who believe that a 5-to-4 vote on a policy matter by unelected lawyers should not overcome the judgment of 30 state legislatures have a problem, not with the *application* of *Casey*, but with its existence. *Casey* must be overruled.

Today's decision, that the Constitution of the United States prevents the prohibition of a horrible mode of abortion, will be greeted by a firestorm of criticism—as well it should.

While I am in an I-told-you-so mood, I must recall my bemusement, in *Casey*, at the joint opinion's expressed belief that *Roe* v. *Wade* had "call[ed] the contending sides of a national controversy to end their national division by accepting a common mandate rooted in the Constitution," and that the decision in *Casey* would ratify that happy truce. It seemed to me, quite to the contrary, that "*Roe* fanned into life an issue that has inflamed our national politics in general, and has obscured with its smoke the selection of Justices to this Court in particular, ever since"; and that, "by keeping us in the abortion-umpiring business, it is the perpetuation of that disruption, rather than of any *Pax Roeana*, that the Court's new majority decrees." Today's decision, that the Constitution of the United States prevents the prohibition of a horrible mode of abortion, will be greeted by a firestorm of criticism—as well it should. I cannot understand why those who *acknowledge* that, in the opening words of Justice O'Connor's concurrence, "[t]he issue of abortion is one of the most contentious and controversial in contemporary American society," persist in the belief that this Court, armed with neither constitutional text nor accepted tradition, can resolve that contention and controversy rather than be consumed by it. If only for the sake of its own preservation, the Court should return this matter to the people—where the Constitution, by its silence on the subject, left it—and let them decide, State by State, whether this practice should be allowed. *Casey* must be overruled.

—Antonin Scalia, for the Editors

The Reemerging Reagan Majority

The Bush coalition is starting to look awfully familiar. Will it hold? **BY FRED BARNES**

MEN ARE overwhelmingly for George W. Bush for president, especially married men. Married voters in general favor Bush, particularly baby boomer men with kids. He's running even among women, a relatively weak constituency for Republicans in recent years. The elderly, once reliably Democratic, are increasingly for Bush. And the so-called young old (age 65 to 70) are disproportionately pro-Bush. He's winning Catholics. He's doing well among Hispanics. He's locked up most of the South, leading even in President Clinton's home state of Arkansas and not far behind in Al Gore's Tennessee. He's strong in the Plains and Rocky Mountain states. He's ahead in the state of Washington and moving up in California.

There's a recognizable pattern to Bush's current lead over Gore. It's the center-right coalition that President Reagan put together in the 1980s. President Clinton shattered it in 1992 and 1996. But GOP pollster Whit Ayres says "the old Reagan coalition is the underlying dynamic" of the 2000 presidential race. "It is being reconstructed. The kind of people who were attracted to Reagan's hopeful and optimistic style are being attracted to George Bush." Vin Weber, the former Republican congressman, says what is emerging is either "a natural Republican majority" or the next best thing, "a natural Republican plurality."

Republicans shouldn't get too excited yet. Polls today are only a snapshot of a potential majority for Bush. And even *that* doesn't appear in every poll. *Newsweek*'s survey in late June put Bush a percentage point behind Gore. Whatever advantage Bush has could fade if the Gore campaign picks up. Gore, says Weber, might be able to "end run that Republican majority" by attacking Bush as too inexperienced to be president. Bush's support among seniors, Hispanics, women, and other groups may erode as traditional Democrats return to the fold. And there's a fact to remember: In three of the last five presidential races, the candidate who won in November was trailing at this stage (Reagan in 1980, Bush Sr. in 1988, Clinton in 1992).

Yet the pattern of the electorate that's gradually emerged since Bush and Gore cinched their parties' nominations in March is both intriguing and familiar. For one thing, a presidential candidate is pulling his less popular party up. Reagan did this in 1980 and 1984. Now Bush runs well ahead of a generic Republican presidential candidate or congressional candidate in polls. "Bush is carrying the Republicans right now," says pollster John Zogby, who's dubious a GOP majority is emerging. "If Bush flags or fails in any way, it threatens the Republican vote." Republican candidates for the House must be ready for that, says Jim Wilkinson of the National Republican Congressional Committee. For now, Wilkinson says, "Bush without a doubt is creating a climate for us to do well. We believe he will have coattails."

Bush's strength among men is truly Reaganesque. He led Gore by 23 percentage points among men in the bipartisan Battleground Poll in mid-June and 16 points in the *Los Angeles Times* survey in May. Contrary to conventional wisdom, the gender gap—the disparity between how men and women vote—that first cropped up with Reagan in 1980 was not caused by women drifting away from the GOP. "It's mostly about men, and how guys disproportionately have dumped the Democrats and turned their affections to the Republican party," according to Richard Morin, director of polling for the *Washington Post*. Fred Steeper, Bush's pollster, insists the bigger the gender gap, the better for Republicans. "It means the men are there in full force." At the moment, Steeper says, Bush "is close to maxing out on men." He's also running even with Gore among women, well above average for a Republican candidate.

Zogby, whose national poll gives Bush a 47 percent to 39 percent lead, has pinpointed a particular male voter who's surprisingly pro-Bush. This is the baby boom father, age 35 to 54. Zogby says such men are "the first group of men who've nurtured their kids." They're the sensitive types who are political independents, and they comprise 6 or 7 percent of the electorate. "It's a group that should be with Gore," the pollster says. Instead, he trails Bush by 17 points. Why is Bush doing so well? "He's bridged the gap on the softer issues like education," Zogby says.

Another feature of the Reagan coalition was the "family gap," the tendency of married voters to be more conservative and to vote Republican. In the Battleground Poll, Bush led Gore 53 percent to 38 percent among marrieds. The *Los Angeles Times* puts his lead at 26 points among married men and 14 points among married females. Mary Leonard of the *Boston Globe* wrote recently that Gore "has fallen into a yawning 'marriage gap' that is mostly about morality, somewhat about his masculinity, minimally about issues, and, if not reversed, could doom him on Election Day." The flip side is that Gore is ahead of Bush 53 percent to 38 percent among singles. But single voters make

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up only 20 percent of the electorate.

Morality is aiding Bush among senior citizens. He topped Gore 57 percent to 36 percent among voters age 65 and over in the Battleground Poll and 47 percent to 41 percent in the latest CNN poll. This is shocking since the elderly used to tilt Democratic. (The *Los Angeles Times* poll has Gore narrowly leading among seniors.) However, when Democrats made a massive effort to capture the House in 1996 and 1998, they were thwarted by seniors, a majority of whom voted for GOP congressional candidates. Gore may win back some elderly by stressing Social Security and Medicare. But Democratic pollster Alan Secrest says seniors have become less susceptible to shrill attacks on Republicans on these issues. "They're more discerning," he says. They've also been disproportionately turned off by Clinton's moral lapses and scandals. This "makes it difficult for some groups [such as the elderly] to default their way back to Gore," Secrest says.

By definition, Bush needs Reagan Democrats if he's going to revive the Reagan coalition. Many of them are white Catholics in the industrial belt from New Jersey to Illinois—precisely the group that Bush's compassionate conservatism is supposed to attract. So far, so good for Bush. In the Battleground Poll, he's ahead 54 percent to 36 percent among Reagan Democrats and 53 percent to 42 percent among Catholics.

The question now is whether Bush can hold his coalition together as Reagan did. He has a couple of things working against him. Reagan started out with California, the state with the most electoral votes, and Bush isn't likely to win there. And Reagan had Jimmy Carter's poor economic record and inability to stop Soviet expansionism as fruitful issues. Now, Gore can brag about the Clinton administration's economic performance, and the Cold War is over. Still, Bush has Reagan's geniality and optimism and a softer version of Reagan's conservatism. That may be enough. ♦

Fox Populi

Thanks to NAFTA and Zedillo, Mexico finally holds a democratic election. **BY ELLIOTT ABRAMS**

THE FALL OF THE Institutional Revolutionary Party in Mexico's July 2 elections is a Latin equivalent to the end of the Soviet empire—or even more. As one campaign adviser to the victorious Vicente Fox put it, "This is our first constitutional transition of power since the Aztecs." The PRI ruled for 71 years, almost tying the Bolsheviks in longevity, and was a model of corruption and intermittent repression. It was as well the purest repository of the negative nationalism that has long burdened Latin America: a nationalism that mobilizes people to blame the United States for everything wrong with their country rather than to solve problems. No institution contributed more than the PRI to keeping Mexico from the political and economic modernization it has now begun.

Much of the credit for the wholesome turn in Mexico's politics goes to reformers within the PRI, above all outgoing president Ernesto Zedillo. An accidental president who became the PRI candidate when Luis Donaldo Colosio was assassinated six years ago, Zedillo was sworn into office in December 1994. He has been what his corrupt predecessor Carlos Salinas was supposed to be: an honest and effective reformer. Aided by the economic reforms begun under Salinas's predecessor, Miguel de la Madrid, in the 1980s and speeded up under Salinas, Zedillo has delivered additional economic change and a free election. If this brought about his party's defeat, it has certainly cemented Zedillo's place in Mexican history.

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Zedillo delivered, and so did NAFTA—spectacularly. The great sucking sound once predicted by the free trade area's leading critic Ross Perot turns out to be the sucking in of breath, as startled observers see a Mexico that has changed enormously since NAFTA went into effect in 1994. Mexico's sharp turn toward democracy and its first free presidential election would be unimaginable without the new and tighter relationship with the United States, and the confidence in Mexico's economic future, that NAFTA brought. Trade with the United States, Mexico's largest trading partner by far, has nearly doubled under NAFTA, and Mexico has surpassed Japan as our second largest export market after Canada.

Who is Mexico's next president? Vicente Fox is a 58-year-old rancher, businessman, and former Coca-Cola executive who was elected governor of the state of Guanajuato in central Mexico in 1995 (after his 1991 victory was stolen from him by PRI fraud). He is a conservative—a devout Catholic and an equally devout free marketeer. His National Action Party (PAN), only 20 years ago a small protest party of northern Mexican businessmen, managed to harness the desire of many middle-class and poor Mexicans to break free of the poverty and corruption that have dogged Mexico for decades under the PRI. Many had visited or lived in the United States and had come to wonder why democracy and opportunity could not cross the Rio Grande. Others had watched the Asian tigers race past Mexico in wealth, and searched for a formula that would make Mexico rich—or at least cut into its poverty. Such voters protested against the PRI machine as much as, or far more than, they voted for Fox, but Fox and

his desire to modernize Mexico is what they got. He has a spectacular opportunity to drive Mexico along this new track during his six-year term, and the current strength of the American economy makes his timing good. Every American should wish him well—and it should be a top priority of the next administration to do absolutely everything possible to help him succeed.

Mexico's free elections are a rare piece of recent good news from Latin America. While Argentina, Brazil, and Chile—what in textbooks used to be called the ABC countries—seem settled into democratic politics and free market economics, the Andean countries are in disarray. The trend toward democracy of the 1970s and 1980s has now been reversed, and it seems clear that our failure to expand NAFTA into a broader Latin free trade area has helped reduce our influence in the region. A military coup ejected the president of Ecuador earlier this year, a coup-plotting general now rules as a populist in Venezuela, Fujimori in Peru has crushed the opposition and a free press to win himself an unconstitutional third term in power, and Colombia's government seems powerless in the face of guerrillas and narcotics traffickers. The war on drugs is not being won, and it continues to threaten stability and democracy not only in the Andes but throughout the Caribbean as well, where tiny police and military forces are outclassed by the sophisticated equipment in the hands of traffickers passing through the region on the way to their market in this country.

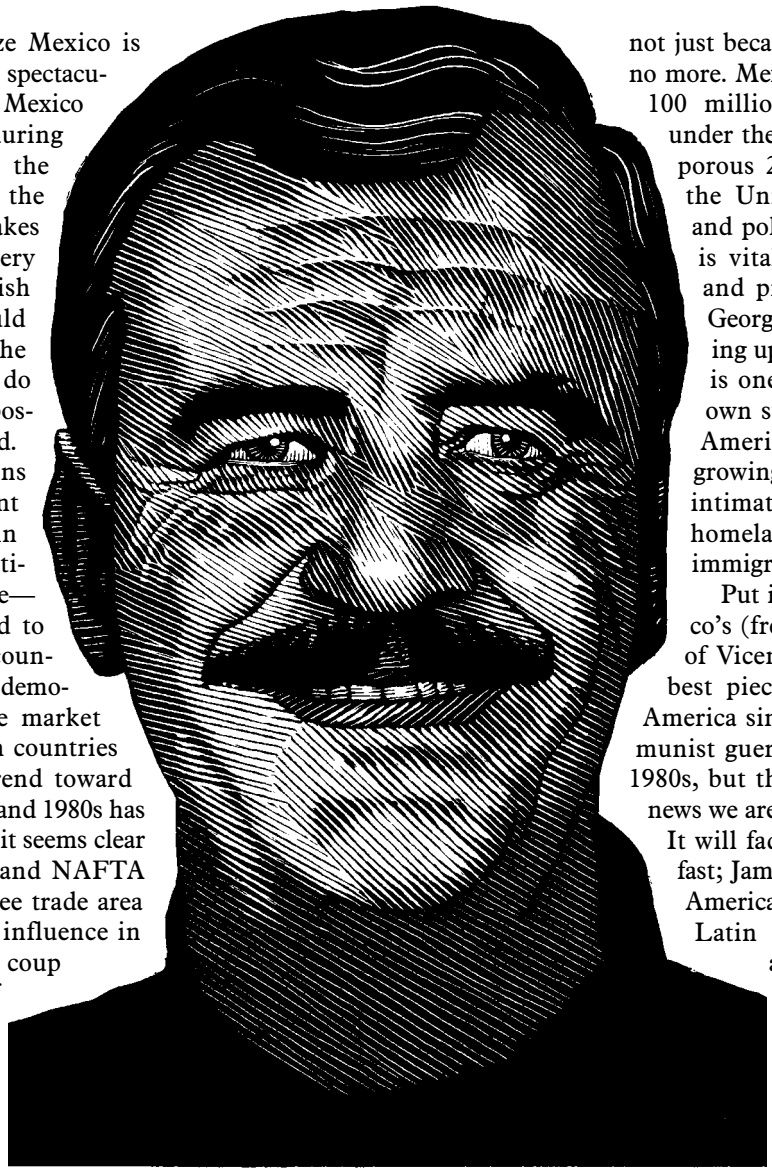

Illustration by Patrick Arrasmith

In this context, an increasingly corrupt, poor, or unstable Mexico would be an enormous threat to the United States. When he was secretary of state in the 1980s, George Shultz used to say that by the year 2000, Mexico would be a more important country for the United States than the Soviet Union. He was right, and not just because the Soviet Union is no more. Mexico has a population of 100 million (one-third of them under the age of 14) just across a porous 2,000 mile border with the United States; a peaceful and politically healthy Mexico is vital for our own security and prosperity. Moreover, as George W. Bush learned growing up in Texas (and indeed it is one of the reasons for his own success there), Mexican-Americans are a large and growing population with more intimate ties to their ancestral homeland than any other immigrant group has ever had.

Put it all together and Mexico's (free and honest) election of Vicente Fox is not only the best piece of news from Latin America since the demise of Communist guerrilla groups in the late 1980s, but the best piece of foreign news we are going to have this year. It will fade from the front pages fast; James Reston once said that Americans will do anything for Latin America except read about it, and in fact nothing except a massive earthquake—such as struck Mexico City 15 years ago—has preoccupied us for more than a day or two. But the defeat of the PRI and the election of Vicente Fox is another earthquake, and this one has shaken Mexico far more than the tremors of 1985. ♦

How Not to Get Rid of Dictators

No tyrant will be willing to give up power if he ends up on trial. **BY MARC A. THIESSEN**

Warsaw

WHILE U.N. delegates were meeting in New York recently to finalize details of the proposed International Criminal Court, which they claim will forever end impunity for war criminals, the news leaked that the Clinton administration was considering a deal to give indicted war criminal Slobodan Milosevic safety in exile in exchange for his peacefully relinquishing power. It was a fitting irony.

Just last year, the United States had flatly rejected an exile-for-democracy deal for Milosevic urged by Serb opposition leaders. Figures such as Milan Panic had complained that Milosevic's indictment left him "a cornered animal," removing any incentive for him to step down. But U.S. defense secretary William Cohen declared cavalierly: "He is an indicted war criminal. If there is anywhere where he seeks sanctuary, perhaps I would recommend The Hague." Now the administration is singing a different tune.

The sudden turnaround on Milosevic exposes a little-discussed deficiency in the march toward "global justice." In practice, the International Criminal Court will end the peaceful transitions to democracy that marked the last two decades.

This democratic revolution was celebrated at the "Community of Democracies" summit here on June 25-26. The dirty little secret, however, is that most of those peaceful transitions to democracy involved some sort of amnesty, power-sharing, or safety-in-exile for the dictator who handed power to the democrats.

A look at the roster of the Warsaw summit tells the story. Almost none of the democracies that emerged from the collapse of the Soviet Union have prosecuted their former leaders. Neither have Argentina, Chile, Nicaragua, the Philippines. In South Africa, Nelson Mandela shared power for years with the last apartheid leader, president F.W. de Klerk.

Taiwan was not welcome at the Warsaw summit, but it, too, has just conducted a peaceful transfer of power, the first from a Chinese ruling party to its democratic opposition in 4,000 years, and it has done so without prosecuting officials of Chiang Kai-shek's regime for their abuses during decades of martial law. Spain may have sought the extradition of General Pinochet, but it never prosecuted its own Franco-era leaders for their abuses against the Spanish people. All of these countries chose some form of impunity for their former oppressors, and all are now stable members of the community of democracies. There is a pattern here.

At the World Forum on Democracy, a conference of non-governmental organizations held here in parallel with the summit, former Solidarity leader Adam Michnik challenged participants to consider what signal the detention in London of General Pinochet sent to a tyrant like Fidel Castro. The lesson, Michnik said, was that so long as Castro stays on the path of dictatorship, kings, presidents, and prime ministers will flock to Havana to shake his hand; but as soon as he embarks on the path of democracy, those same kings, presidents, and prime ministers will have him arrested. What is his incentive to relinquish power? There are, Michnik told a stunned audience, two paths from dictatorship: the path of Pinochet and the path of Ceaucescu—and, he declared, "I choose Pinochet."

Hearing such words from a man like Michnik, who suffered years in prison at the hands of Poland's Communist dictators, was disquieting for the Western human rights activists in the audience who have been leading the charge for an International Criminal Court. But the fact remains: The ability to give dictators a face-saving way out is an essential component of democratic change. Most societies, offered the choice between looking backward for revenge and looking forward to democratic reconstruction, have chosen the latter.

This does not necessarily mean ignoring the past. The Central and East European democracies have pursued varying levels of "lustration," exposing those who collaborated with the secret police and barring them from public office. South Africa empaneled a Truth and Reconciliation Commission that gave amnesty in exchange for confessions of apartheid-era crimes. And some nations may eventually decide their democracies are stable enough to handle prosecutions of former dictators; Poland waited 10 years before bringing charges against Wojciech Jaruzelski. The point is, every new democracy deals with its past in its own way.

But an International Criminal Court would take away that choice. An independent prosecutor, answerable to no state or institution, would have the power to indict a nation's former leaders and overrule its national reconciliation process. Even without an International Criminal Court, the precedent of "universal jurisdiction" set by the Pinochet case gives any government, anywhere, any time, the authority to try dictators. Henceforth, if new democracies choose not to prosecute their former tyrants, rogue Spanish judges will do it for them.

For some, the idea of dictators' living in comfortable exile is a night-

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mare. For others, it is a distant dream. Ask Wei Jingsheng, another World Forum delegate and a veteran of two decades in Chinese Communist prisons, whether he would prosecute Li Peng and Jiang Zemin for the massacres at Tiananmen Square and other crimes against humanity. He will tell you that he would gladly trade them safety in exile for a democratic China.

He may never have the chance. If the ICC comes into being, the option of exile could soon be eliminated. Without a credible guarantee that they will remain unmolested abroad, dictators may well decide that they are better off in their presidential palaces, with their security apparatus to protect them. If the people rise up, the obvious course will be to fire on the crowds rather than flee.

Indeed, with an indictment hanging over his head, Milosevic would already have little incentive to take an exile-for-democracy deal, were one offered. As a NATO-country official told the *New York Times*, under present circumstances "it would be hard for [Milosevic] to trust assurances from anyone, inside or outside the country." His indictment only prolongs his dictatorship and the suffering of the Serbian people—he is already in the process of rigging the constitution to secure another term in office—and makes a bloody, Ceaucescu-style end to his regime more likely.

In rejecting amnesty for Milosevic last week, Carla del Ponte, the Yugoslav war crimes prosecutor, declared, "There will not be stability in the Balkans if Milosevic is not brought to justice in The Hague." Milan Panic says the opposite is true: "Peace and stability require the departure of Milosevic," he wrote recently in the *Washington Post*. "To attain this, something must be offered in return. . . . To those who say this would be a defeat for justice, I would argue that establishing the conditions for peace and stability in the Balkans serves a greater justice."

Panic is right. Do we really want to live in a world without the option of impunity, as the advocates of the ICC urge? Should Yasser Arafat, the PLO terrorist turned Palestinian Authority president, be tried for the acts of terror he committed, regardless of the effect on the Middle East peace process? Should Russian president Vladimir Putin, under whose leadership Russia is today committing war crimes and crimes against humanity in Chechnya, be arrested next time he visits the West?

Thus far, U.S. opponents of the International Criminal Court have focused their criticism on the danger of politicized prosecutions of Americans and the threat the ICC poses to U.S. sovereignty. But the truth is even more damning. The ICC is a case of global do-goodism gone wrong. It will hurt, rather than help, the cause of freedom. This is a case where the opponents of "global justice" are on the side of democracy—and the human rights campaigners are unwittingly in league with tyrants. ♦

Michael Ramirez

Al Gore's Eco-Nomics

Why pay now if you can pay later?

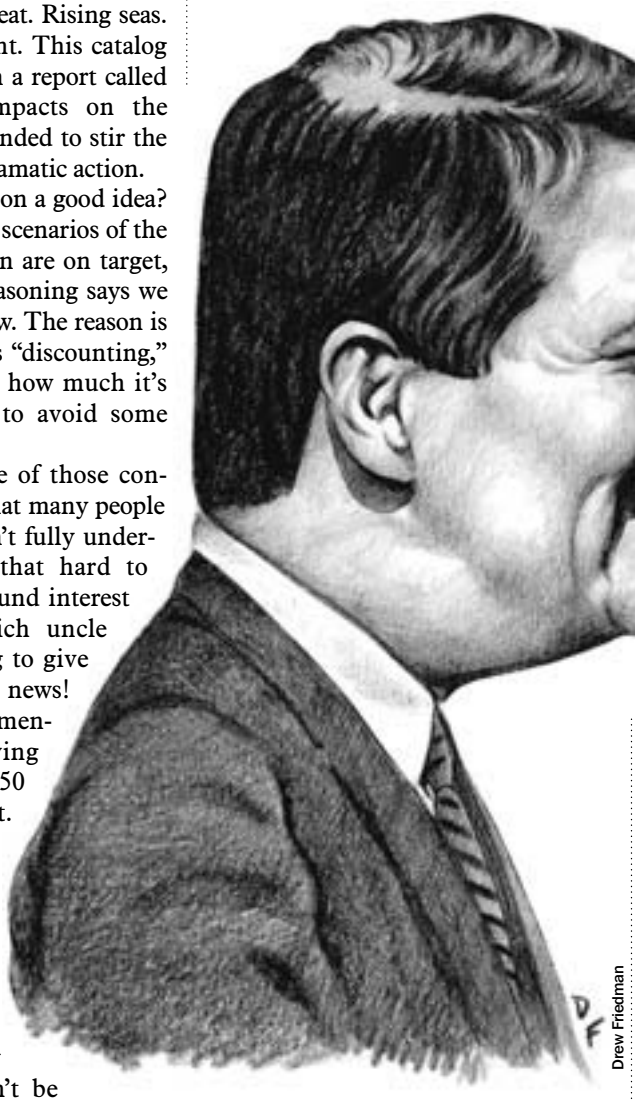
BY IRA CARNAHAN

IN *Earth in the Balance*, Al Gore warns that we are approaching "ecological catastrophe." In a report issued in June, the Clinton administration tells us what it will look like. Blistering heat. Rising seas. Endless rains. Drought. This catalog of horrors, outlined in a report called "Climate Change Impacts on the United States," is intended to stir the American public to dramatic action.

But is dramatic action a good idea? Even if the worst-case scenarios of the Clinton administration are on target, standard economic reasoning says we should do little for now. The reason is the practice known as "discounting," which helps us know how much it's worth paying today to avoid some harm in the future.

Discounting is one of those concepts like write-offs that many people have heard of yet don't fully understand. But it's not that hard to grasp; it's just compound interest in reverse. Say a rich uncle announces he's going to give you $1 million. Great news! But then your uncle mentions he won't be giving you the money for 50 years. Not so great. $1 million in 2050 isn't worth nearly as much as $1 million today. In fact, with an interest rate of 10 percent, it's worth just $8,519. Why so little? Because money received in 2050 can't be invested for the next 50 years, while money received today can. So you must "discount" the money received in 2050 to know what it's worth today.

What's this have to do with global warming? Say the costs of global warming, as in the above example, were going to be $1 million 50 years from now. It would only make sense to pay $8,519 today (at 10 percent interest) to avoid them. Many environmental activists, though, want to spend huge sums today to slow the pace of global warming. But any real benefits from that spending, experts agree, won't show up for decades or even centuries to come. And using any reasonable discount rate, those benefits aren't worth much today.



Drew Friedman

If we use, say, the White House Office of Management and Budget's standard discount rate of 7 percent, we should spend just $1,152 today to avoid $1 million of damages 100 years from now. If the damages won't occur for 200 years—a plausible timeframe for the most serious global warming horror stories—we should spend just $1.33 now.

That's unacceptable to the critics of discounting, who fall into two groups. One is made up of environmental activists, who are inclined to reject any weighing of costs and benefits and often don't really understand what discounting is. To many environmentalists, Al Gore included, discounting is a sham. "The accepted formulas of conventional economic analysis contain shortsighted and arguably illogical assumptions about what is valuable in the future as opposed to the present," Gore writes in *Earth in the Balance*.

We need "a new global economics," he declares. "We must also change our current use of discount rates, the device by which we systematically undervalue the future consequences of our decisions." For guidance, Gore observes, "we have much to learn from the Iroquois nation," whose tribal leaders look seven generations into the future. Indeed, Gore believes that by discounting we "discriminate against future generations."

This is silly. Consider a middle class family who want to send their daughter to Harvard. Should they sell their house the day she's born and put $200,000 into a lock-box marked, say, "Karenna's Tuition"? Of course not. If they're prudent, they will start saving

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a little bit each year, after checking interest rates and figuring out how much their savings will compound over 18 years.

The other group that's critical of discounting consists of certain economists who are unhappy with the policy answers (don't spend much on far-off-in-the-future environmental problems) that discounting provides. In *The Economics of Global Warming*, for example, William Cline opens his discussion of discounting with this "logical syllogism":

> • Very-long-term environmental effects are important.
> • With discount rates in the range of 5 percent to 10 percent, often used in public investment project analysis, very-long-term effects are not important.
> • Therefore, discount rates in the range of 5 percent to 10 percent are inappropriate for analysis of very-long-term environmental effects, despite their frequent use in other public policy contexts.

With that established, Cline sets about to find an alternative. He concludes that conventional discount rates are much too high, and that we ought to be using a rate of about 2 percent. Slashing the discount rate in this way makes a huge difference, as Cline is well aware. "At 10 percent, the present discounted value of one dollar 200 years in the future is one-half of one millionth of one cent," he writes. "In contrast, discounting at 1 percent, a dollar to be received 200 years in the future is worth 14 cents today." Suddenly, investing in global warming projects makes sense.

Another, unusually creative effort to avoid the logic of discounting has been devised by economists Raymond Kopp and Paul Portney of Resources for the Future, a Washington, D.C. think tank. They propose to ignore the uncongenial results of standard discounting and instead hold a "mock referendum." This, they say, is "consistent with political decisions that must be made if climate mitigation (or other long-term environmental protection) measures are to be taken."

Kopp and Portney argue that a problem like global warming "may tax traditional [cost-benefit analysis] beyond its limits. It requires us to make estimates of changes in physical effects (such as lives saved, ecosystems preserved, miles of shoreline protected) so far away in time as to be essentially meaningless." This is just another way of saying that it's hard to plan for the distant future. But of course, the people who vote in a mock referendum would have to do just that. The hope, apparently, is that they could be persuaded to come up with alarmist conclusions.

In the end, the best approach to global warming is the simplest: standard cost-benefit analysis using standard discount rates. While this won't support the kind of dramatic action that environmental activists would like, it will lead to smarter policy. And as the scientific evidence continues to mount, the smartest policy looks to be less and less dramatic. Over the past five years, scientists' models of what global warming will bring have grown much more encouraging. Rises in temperatures are likely to be much smaller than originally thought. And the temperature rises we do see are now expected to be a mixed blessing—bringing some losses, but also some gains. "It is now only a possibility—and not even a likely one—that warming will cause significant net damage in the coming century," writes Robert Mendelsohn, a professor at Yale University's School of Forestry and Environmental Studies. "Global warming may, in fact, turn out to be a lot like Y2K. We were very anxious before it happened. However, with a reasonable amount of planning and action, everything turned out all right in the end."

We should, in short, listen to what the discount rates tell us. Future generations will be able to deal with their environmental problems as we deal with ours. And they will thank us for not squandering their prosperity. ♦

Sic Transit Light Rail

Al Gore's anti-auto boondoggle.

BY WENDELL COX

RECENTLY, Vice President Gore announced a 10-year $25 billion mass transit proposal intended to reduce traffic congestion and air pollution. A principal initiative would be to build additional miles of subways and light rail lines. In announcing the program, Gore said, "You should . . . have the choice . . . to park your car at a light rail station and be moved swiftly into a newly thriving downtown." Unfortunately, things are not so simple.

The vice president does have it right on one count. Transit is about downtown. But downtowns are no longer the dominant locus of commercial activity, and are becoming less so with every passing year. For decades the overwhelming majority of new jobs have been created *outside* downtown. Now, less than 10 percent of employment in the nation's metropolitan areas is downtown. Even in the New York City area, the number is below 20 percent. That means that for at least 90 percent of commuters, there is no transit choice.

Rail transit plays a significant role only in the nation's largest downtown areas. More than one-third of commuters ride transit to work in nine downtowns, such as New York, Chicago, and San Francisco. But in other downtowns the numbers drop off. And outside downtowns, in the suburban "edge cities" like Tysons Corner in Washington, Perimeter Center in Atlanta, and Schaumburg in Chicago, transit's market share is insignificant, often 2 percent or less.

This is because employment densities are far too low to support the amount of transit service that would be necessary to attract non-downtown commuters out of their cars. Simply put, outside of downtowns not enough jobs or residences are within walking distance of transit stops. And traveling between transit stops that are within walking distance usually takes much longer than commuting by automobile, because of slow operating speeds and the necessity of transferring from one bus or train to another. People who commute by transit to jobs outside downtowns tend to have no other choice, because they do not have automobiles available for their trips. This is a characteristic shared by 70 percent of transit riders, according to federal data.

The unfortunate but indisputable fact is that transit has virtually no impact on traffic congestion except for work trips beginning or ending in the very largest downtown areas. The Gore program seems oblivious to this.

The view that transit is the solution to traffic congestion is not without superficial appeal. Tourists, especially policy wonks, travel to places where rail transit makes a big difference—New York City, the Loop in Chicago, downtown San Francisco, central London, central Paris, Hong Kong. But what they all too often fail to realize is that little of metropolitan America looks like these places—not even the suburbs of New York, Chicago, or San Francisco, which have lower population densities than the suburbs of Los Angeles.

Further, the recent experience in rail development in the United States gives no comfort to the "transit solves traffic congestion" hypothesis. More than $10 billion has been spent in Washington, D.C., to build nearly 100 miles of subway. Yet, Washington's traffic congestion is the nation's worst behind Los Angeles, where $8 billion has been spent to build more than 450 miles of rail. After $3 billion of spending on rail in Atlanta, only 10 percent of commuters can reach their jobs within 40 minutes using transit. In contrast, average work trip travel time by car for all Atlanta commuters is approximately 30 minutes. Making transit competitive with the car just in Atlanta would require at least double the vice president's 10-year $25 billion budget, *every year.*

Then there is the matter of light rail—the "spruced up" 19th-century streetcar (trolley) technology by which Gore suggests commuters will be "moved swiftly." There is nothing swift about light rail. Despite high levels of traffic congestion, automobile commutes normally take one-half the time of commutes by light rail.

The fact is that transit, rail or bus, is not a reasonable choice for at least 90 percent of people commuting to work in the nation's metropolitan areas. It is not a choice for an even larger percentage of non-work trips. Transit is incapable of competing with the convenience and especially the travel time of the automobile. That is why transit's urban market share is under 2 percent, and why every year, the *increase* in urban automobile usage alone exceeds *total* transit usage (measured in person miles).

There is no point in throwing additional billions at rail systems to expand choices for a tiny few. As with virtually all of the rail systems built in the last quarter century, traffic congestion will continue to worsen in the rail corridors. Worse, the emphasis on this boutique rail strategy will consume financial, technical, and administrative resources that would more appropriately be used on streets and highways—to solve the transportation problems of all. ♦

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Privacy That Kills

AIDS babies won't be saved if activists get their way. **BY WESLEY J. SMITH**

ON THE FACE OF IT, representative Tom Coburn and New York assemblywoman Nettie Mayersohn are mirror opposites: He's a staunch Republican, she's a fiery Democrat; he's pro-life, she's pro-choice; he's socially conservative, she's a booster of gay rights; he's a fundamentalist Christian, she's Jewish; he's Oklahoma, she's pure Queens. But across this yawning political and cultural divide, the two have embraced as allies to promote their common passion—saving newborn babies from AIDS.

A committed feminist who received the New York State National Organization for Women Legislator of the Year Award in 1989, Mayersohn saw praise from the liberal establishment turn to vituperation when she introduced legislation in 1994 requiring HIV testing of all New York newborns and disclosure of the results to mothers of babies who tested positive for the HIV antibody.

It's not as if newborns weren't already being tested. They were—for statistical purposes and to track the course of the epidemic, which revealed that about 1,800 New York State babies were born HIV-positive every year. Between 70 percent and 80 percent of these babies were not actually infected but only tested positive for the antibody. Assuming proper medical treatment and no further exposure to the HIV virus—say, by nursing at their mothers' breasts—most of these babies would not become ill. The other 20 percent to 30 percent actually had AIDS, but quick treatment could extend both the quality and duration of their lives. Unfortunately, strict confidentiality rules enacted at the behest of AIDS activists who fetishize "privacy" meant that mothers could not be informed about their babies' HIV status unless they asked.

Logic, compassion, and a decent regard for the value of these infants' lives (not to mention the lives of the mothers) would seem to dictate public health policies along the lines that Mayersohn proposed. Infected infants should be identified as soon as possible. At that point, they can be treated either to prevent HIV infection or ward off the onset of AIDS. Perhaps more important, once mothers are advised of their infants' HIV status, they can avoid exposing their children to their own body fluids. Unfortunately, logic and true compassion have little to do with much of AIDS public policy.

The fight over Mayersohn's "Baby AIDS" bill was a real donnybrook. Movement feminists, gay activists, ACLU types, some physicians, and legislative colleagues unleashed a near-hysterical hue and cry. Mayersohn became a pariah, turned on angrily by former political allies and friends. "After I introduced the legislation, all hell broke loose," Mayersohn recalls. "On World AIDS Day, I had about 50 activists at my apartment building demonstrating at midnight, going on the intercom demanding to meet. The group's name was Fed Up Queers and they thought that kind of intimidation would be effective in deterring me from doing what I thought was right. They were wrong."

Even more astounding to Mayersohn was the illogic of her opponents' arguments and their skewed priorities: "I was visited by the Gay Men's Health Crisis and they asked me to withdraw the legislation. I said to them, 'Your community has been so devastated by the disease; so many young lives have been lost. Why wouldn't you support this?' And they said, 'Privacy is our main concern.'"

"Then I met with the feminists. I asked them to support my bill. I said, 'This is a woman's bill.' Their response knocked my socks off. They said, 'Well, Nettie, think of the potential for domestic violence the bill will be generating if a guy finds out [his partner's] infected. This is a domestic violence issue.'"

"I said, 'The real violence is getting infected!' If I am in a bad marriage or abusive relationship, I can do something about it. I can get myself out. I can repair a broken jaw. But if someone infects me with HIV, that will mean the end of my life. So, the feminists turned on me. They cared more about politics than fighting disease. I don't understand that kind of mentality." Diane Welsh, president of NOW-NYC, typified the response of movement feminists. She denounced Mayersohn's bill as part of "the erosion of a woman's fundamental right to control over her body" and of "a general backlash against women's rights."

Media feminists joined the fray. "What about the mothers?" demanded Anna Quindlen, then a political columnist for the *New York Times*. Rather than support mandatory testing and disclosure, Quindlen proposed, ironically, that pregnant women undergo "mandatory counseling" to induce them to be voluntarily tested. Meanwhile, Richard Gottfried, chairman of the New York Assembly's health committee and an ally of feminists and the AIDS lobby, whined, "If these babies could talk, they'd beg us to protect them by working carefully with their mothers, not by disregarding them."

The local chapter of NARAL—the National Abortion and Reproductive Rights Action League—had a similar case of the vapors, claiming that testing might "force many

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women and children out of the health care system entirely." Most appalling, New York NARAL's president called it a "great cause for alarm" that "the interests of newborns were willingly deemed more important than those of women."

Mayersohn fought back. "The real bias," she wrote to the *Village Voice*, "is the failure to even consider that the real discrimination faced by infected individuals is the discrimination against newborns who test positive for the virus at birth. Unlike children suffering from other diseases for which the state routinely tests at birth, such as syphilis, sickle cell, and hepatitis, children born with the HIV antibody are routinely denied an opportunity to receive treatment because of our strict adherence to a warped definition of confidentiality that says we cannot tell a mother that she is infected and that her child is at risk."

Slowly, though, the tide turned away from political correctness and toward protecting the lives of newborns exposed to HIV. After a three-year struggle, Mayersohn's legislation passed in June 1996. New York became the first state to require that all newborn infants be tested for HIV and to disclose the results of the testing to the mothers.

Today, the law is working well and saving lives. According to the New York Department of Health, prior to the "Baby AIDS" law about 59 percent of infants with HIV went home from the hospital unidentified to their mothers as having tested positive. By the time of a study published on November 3, 1997, a magnificent 98.8 percent of HIV-exposed infants were being identified and receiving follow-up care.

Mayersohn is thrilled. "With the law, women are coming in," she told me. "They are getting tested; their babies are getting tested. They are not giving birth in the street. They are not jumping off the roof if they are told their babies are HIV-positive. All of these so-called experts and witnesses with alphabet soup after their names who opposed the bill were wrong."

With New York clearly demonstrating that mandatory testing of newborns saves lives without endangering women, the argument should have been settled. But opponents are so steeped in ideology that facts don't matter. So, now it is Coburn's turn to be skewered and roasted over the open flame of vituperation for trying to protect the nation's babies as Mayersohn did New York's.

For five years, Coburn and New York Democrat Gary Ackerman have attempted to pass a New York-style Baby AIDS bill through Congress. They succeeded in 1996, only to have the bill die an ignoble death in a House-Senate conference committee. Frustrated by their inability to break through the AIDS lobby roadblock, they are back this year with a watered down version, the Women's and Children's HIV Protection Act.

The bill does not require testing. It would merely stiffen the backbones of lawmakers in the 48 states that do not have some form of mandatory testing and identification of infants who test positive for HIV by making those states that fail to pass such laws ineligible for certain AIDS-related federal funding. If Mayersohn could be cloned, the legislation might not be necessary. But given that most legislators are loath to subject themselves to the howling abuse of the AIDS lobby and its allies, a federal courage pill is just what the doctor ordered.

The bill, which would be an amendment to the reauthorization of the Ryan White CARE Act, faces such hysterical opposition that activists threaten to doom Ryan White funding itself rather than permit a federal Baby AIDS bill to become law. Talk about misplaced priorities: These activists would rather see babies die a horrible death in early childhood from AIDS and their states lose desperately needed federal funding than permit the enactment of a public health measure that defies their ideological agenda. "Their belief," says a Coburn aide, "is that if we mandate testing of any segment of society, including infants, we are starting down the path to mandatory testing for everyone."

Mayersohn, a strong supporter of the Coburn/Ackerman legislation, is appalled that AIDS activists seem to have learned nothing from her work: "It is infuriating that AIDS activists are able to thwart national legislation that would promote the kinds of policies that are doing so much good in New York."

Mayersohn is right. The United States is uniquely capable of grappling with the AIDS catastrophe both at home and abroad. But how can we presume to lead the world if we permit ideologues who are blinded by paranoia to thwart the implementation of medical protocols that would do so much to save or improve the lives of AIDS' youngest victims? ♦

A Supreme Mess at the Supreme Court

Clintonism has infected the judiciary, too—principles are out, partisanship and attacking your adversaries are in.

By Jeremy Rabkin

With a jumble of controversial rulings at the end of June, the Supreme Court offered its last pronouncements of the Clinton era. By the time the Court hands down any major new rulings, a new president will be in office. Perhaps the timing encouraged the justices to let themselves go. Taken together, the Court's various rulings display about as much respect for the dignity and authority of the law as—well, as the Clinton White House has shown in the past few years.

Even the most elemental consistency seemed beyond the Court's reach. Extending its concern for "expressive activity," the Court found the Boy Scouts were entitled to exclude homosexual scoutmasters because this exclusion was somehow an exercise of free speech, even if the Scouts said nothing about it in public and the homosexual scoutmaster agreed to say nothing about sex while serving his troop (*Dale* v. *Boy Scouts of America*). But in another ruling handed down the same day, the Court found that free speech does not guarantee pro-life demonstrators the right to distribute literature outside an abortion clinic (*Hill* v. *Colorado*)—a break with precedent that points in exactly the opposite direction.

In another controversial ruling, the Court insisted that *students* could not be allowed to organize a ceremony at a football game, since past experience suggested the students *might* choose to include some form of prayer at the ceremony (*Santa Fe Independent School District* v. *Doe*). But the Court found it entirely acceptable for public school officials themselves to distribute computers and other equipment to avowedly religious private schools (*Mitchell* v. *Helms*). Whatever.

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True, it was not the Court as a whole or even the same majority that voted for these contradictory results. In every case that sharply divided the Court, the result was determined by the shifting vote of Justice O'Connor. The Court was essentially at the mercy of O'Connor's mood. It is a waste of time for legal scholars to seek an underlying logic in the resulting pattern. For satisfactory explanations, we must await the findings of psychobiographers, after they gain access to the justice's personal papers.

But O'Connor's wrestling with her inner voices is only part of the story. Justice O'Connor exercises so much sway because the Court is so divided. This Court has great difficulty reaching stable consensus on the big issues, and the rival blocs are content to piece together the narrowest majorities—when they can—from one issue to the next.

This sort of brokering must be demoralizing. And some justices seem to have reached the limits of their patience with it. In *Dickerson* v. *United States*, Chief Justice Rehnquist did speak for a seven-person majority in holding that police must continue to read suspects their *Miranda* rights because that Warren era requirement is now too established to be questioned. Justice Scalia's dissent noted that at least three justices in this majority had themselves questioned *Miranda* in the past decade, so the Court was striking down a federal statute (allowing exceptions to the *Miranda* rule) without an actual majority of justices' believing that the Constitution required this result. Scalia pointedly did not use the customary closing line, "I respectfully dissent." His opinion drips with too much contempt to include the word "respect." Instead, Scalia closed his dissent by insisting that in all future cases he will treat the federal statute as still in force and the Court's ruling—endorsed by seven justices—as of no effect.

Only Justice Thomas joined this particular declaration of unalterable defiance. But the Court's liberal bloc

(Stevens, Souter, Ginsburg, and Breyer) has its own version of non-conformity. In rejecting the Court's two major rulings on states' rights earlier this year, they proclaimed that they regard all the precedents underlying these rulings as illegitimate and not binding upon them, even though these precedents now go back almost a decade. Scalia's stance may be more principled, but one way or another, a majority of the Court is now on record defying the decisional authority of the Court itself.

The feuding blocs on the Court don't even bother to conceal their underlying political differences and don't let mere legal argument get in the way of their political biases. In *Dale*, Justice Stevens's dissent rattles through some serious claims about the majority's handling of precedent and then devotes itself to belaboring the general evil of bigotry against homosexuals. "Like the equally atavistic opinions about certain racial groups," he concludes, these attitudes "have been nourished by sectarian doctrine." Even then, he isn't quite done. He can't resist dredging up a 1978 opinion by Chief Justice Rehnquist of no real relevance to this case. But Rehnquist authored the majority ruling in *Dale* and also wrote an angry dissent in the *Santa Fe District* prayer case, protesting that the majority opinion (by Stevens) "bristles with hostility to all things religious in public life." So in closing his dissent in *Dale*, Stevens wanted the record to show that Rehnquist, the defender of religion, had once compared gay activists challenging a university ban on their organization to a group of measles sufferers challenging a health quarantine. Get it?

Sandra Day O'Connor

Illustration by Ismael Roldan

The three other members of the liberal bloc in *Dale* thought it necessary to offer a separate dissenting opinion. They wanted to clarify that when, in the future, groups claim the right to exclude unsuitable members, "our estimate of the progressive character of the group's position will be irrelevant to the First Amendment analysis." This sort of disclaimer is tantamount to a confession. The judges don't bother to preface it with "needless to say," and it assuredly wasn't needless: They all signed their names to the belligerent affirmation of "progressive" pieties in the Stevens opinion anyway.

In *Stenberg* v. *Carhart*, the partial-birth abortion case, Justice Ginsburg wrote separately (in an opinion joined by Stevens) to emphasize "amidst all the emotional uproar" that Nebraska's law "does not save any fetus from destruction," because the law permits alternative procedures to terminate late-term pregnancies. Since the Court's past rulings require states to leave some alternative when the life of the mother is at stake, the argument makes no sense: Ginsburg would have been the first to protest if Nebraska had closed off the less grisly alternatives. Ginsburg's point here is simply a jibe at the supporters of the ban. This is a Court where such jibes come readily to the justices. They are not appeals to the reason of future justices. They are assurances to current political constituencies that the individual justice is reliable—and that justices on the other side of the case are not.

The abortion rulings do epitomize the Court's problem. Justice Kennedy's dissent lamented the majority ruling in *Carhart* as a betrayal of the Court's 1992 ruling in *Planned Parenthood* v. *Casey*. That case was supposed to achieve a grand settlement in the abortion debate: The plurality opinion of Kennedy, Souter, and O'Connor, insisting that the country must put aside its two decades of dispute on *Roe* v. *Wade*, reaffirmed the right to abortion while still allowing some regulations reflecting state concern for pre-natal life. This year, however, Souter and O'Connor fell back into line and endorsed the most extreme positions of abortion rights activists: Nothing must stand in the way of abortion—not even, as in *Hill* v. *Colorado*, the constitutional guarantee of free speech.

But, after all, the *Casey* ruling was in 1992. Back then, we heard a lot about "New Democrats," who would tran-

scend stale debates by combining activist government with sensible centrist concerns, showing themselves tough on crime, tough on welfare, tough on racist ranters like Sister Souljah. That seems a long time ago. By 1998, we were down to the most rancorous appeals to core Democratic constituencies to save the country from the "Clinton-haters" and "the Christian Right." And they worked—as much as they needed to work. The country demanded that we just "move on."

One can't help feeling that the current Supreme Court has read the lesson—or at least, that it lives in the same world. Core constituencies must be served. How it looks doesn't much matter because the country isn't looking for consistent principles.

And probably it isn't. We went through two days of media post-mortems after the Court's rulings on these cases came down. Liberals complained about some and conservatives complained about others and we now move on—very quickly. Vice President Gore made a ritual appeal to abortion enthusiasts, warning that a Bush victory could lead to an anti-abortion majority on the Supreme Court. Governor Bush made his perfunctory complaint against *Carhart* and eagerly shifted his attention to unrelated issues. No one wanted to talk about the Court's performance on any plane higher than the immediate partisan box score. We pretend the Court is doing its job—just like President Clinton, whose behavior, everyone agreed during the impeachment debate, had "disgraced his office" . . . but needn't prevent him from holding that office.

Can the Court really sustain this level of barely suppressed conflict, of endless shifting and maneuvering, of embarrassing contradictions? Maybe a future Court, bolstered with several Bush appointees, will do better. But the constituencies to which the Court now appeals will still have champions in the Senate, and a President Bush may wish to avoid bruising confirmation battles, as his father did. So a new Bush administration may appoint another Clarence Thomas—or another David Souter. Meanwhile, the current justices have laid the groundwork for decrying different rulings in the future as nothing more than the political biases of a new majority. It may take a long time for the Court—as well as the presidency—to recover from the Clinton era. ♦

All the News, After the Fact

The Times, *the* Journal, *and the* Post *saved all their bad news about China until the House had already cast its trade vote.*

By Alan Tonelson

Because this is a story about the national media, none of the standards reporters use to judge other institutions can be applied. The following must be stipulated: There are no hidden personal agendas. There are no hidden corporate agendas. There are no conflicts of interest. There are no conspiracies. There is not even much coordinated activity. There are simply hard-working publishers, editors, and reporters determined to push the news out as soon as it is reliable, and as space and time constraints permit.

How, then, to account for the peculiar way in which the nation's Big Three newspapers—the *New York Times*, the *Wall Street Journal*, and the *Washington Post*—reported on many China-related issues in the weeks surrounding the House of Representatives' vote last May on U.S.-China trade?

A few days after the House voted to grant China permanent normal trade relations, the *Journal*, the *Post*, and to a lesser extent the *Times* each featured stories containing plenty of bad and previously unreported or neglected news about China, about U.S. policies toward the People's Republic, and about the multinational companies leading the multi-million dollar lobbying campaign for normal trade. Three of these articles, moreover, were being researched well before the China vote.

Not surprisingly, most who noticed this pattern were, like the author, strong opponents of unconditionally normalizing trade with China. But even some of the presumably neutral journalists involved noticed how much negative China news came out right after the House vote that could have done something about it. And those reporters and editors willing and able to discuss the issue tended to provide the kinds of answers they themselves would never consider adequate from other newsmakers.

For example, the day after the House vote, the *Wall Street Journal* ran a front page lead article revealing that much of the corporate lobbying for the China trade bill was based on misleading claims. Individually and collectively, multinational companies had bombarded Congress, the media, and the public with the message that normal trade with China would benefit not just Big Business, but the entire U.S. economy—including the workers who would be hired in greater numbers and paid higher wages to meet new Chinese demand for American-made goods and services.

Yet *Journal* correspondents Helene Cooper and Ian Johnson reported that, although "business lobbyists emphasized the beneficial effect the agreement would have on U.S. exports to China" and "played down its likely effect on investment, leery of sounding supportive of labor-union arguments that the deal would prompt companies to move U.S. production to China, . . . many businessmen concede that investment in China is the prize." In other words, these companies had decided to serve China's markets (and in many cases, America's markets) from factories located in China, and many U.S. workers were right to fear the consequences.

On May 27, the *Post* published a business section article echoing the *Journal* piece. International trade reporter John Burgess presented his own evidence showing that, as the headline stated, "For Many, China Trade Bill Isn't About Exports; U.S. Firms Eager To Offer Services, Open Subsidiaries." Noteworthy in Burgess's article was an admission from a spokesperson for the Business Roundtable that "it's hard" to convey to the public or congressional staffers in short ads or brief meetings the point that trade is not only about "a

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product being sold to another consumer outside the U.S." Yet Burgess's piece made clear this problem didn't stop corporate lobby groups from pushing exactly this point in their ads.

The day before, the *Post* featured bad non-economic China news in a front-page lead. According to Pentagon correspondent Thomas E. Ricks, the Defense Department was making a major shift in our military strategy. U.S. force structures and deployments would be focused less on Europe and more on Asia—largely because of growing concerns about China's power and even unfriendly intentions. In other words, even as President Clinton was insisting on treating China as a normal country commercially, his security advisers had decided China was anything but a normal country politically and militarily.

Nothing so dramatic appeared in the *New York Times*. But the day after the China vote, White House correspondent David E. Sanger published a news analysis contending "the economic benefits" of the China deal "were undoubtedly oversold," and "history suggests that as soon as China's tariffs come down, new bureaucratic barriers will magically appear."

The *Journal* and *Post* articles, at least, could clearly have been published before the House vote. Yet few of the reporters and editors involved even acknowledged anything out of the ordinary about their China news decisions.

The *Wall Street Journal* would not permit staff members involved in the Cooper-Johnson story to be interviewed. But Richard J. Tofel, the paper's vice president for corporate communications, insisted the piece simply "wasn't finished being written" until the day the House voted. He bristled when asked whether the *Journal* had deliberately held the story until after lawmakers could act on its implications, and contended that—especially in its coverage of Chinese human rights activists—"no paper has been tougher on China."

Yet Cooper received much of the raw material for the investment article two weeks before the China vote. I know this because I spoke with her on the subject on May 10 and dropped off at her office a brand new study detailing how many multinational companies were planning to ramp up production in China and how few were planning to ramp up exports from the United States. When asked whether the reporters could have been directed to finish the article in time for publication before the China vote, Tofel replied, "I don't know and I won't ask. I don't want to be commenting on our internal editorial processes."

Two sources at the *Journal*'s Washington bureau, however, have confirmed that Cooper's story was ready to be published early the week of May 22, before the House vote. Tofel responded to this claim by saying, "I don't know who you've been talking with out on the street corner."

In contrast, *Post* reporters and editors felt free to discuss the articles in question. Burgess received my China investment report even before Cooper. He "thought of doing it [as a story] about a week before the vote," but "there were a lot of different stories in the pipeline." Eventually, he decided to "do it as a summing up." Burgess said that before the vote, "we did say investment was key" to many companies' support for the China trade bill. But a search of the *Post*'s China articles for the critical month before the vote—when most congressmen actually began to focus on the issue—turned up nothing on this topic.

It is one thing to present a point in a news story as the opinion of one side or another in a policy dispute. It is something else entirely to present this point as a significant trend identified or confirmed by a reporter.

Michael Abramowitz, who helped oversee the *Post*'s coverage of Congress's consideration of the China trade issue, conceded, "in an ideal world," Burgess's article "would have run before the vote." Abramowitz added, however, that the *Post* had thoroughly covered both sides of the China debate before the vote, and "anyone who read the *Post* would have gotten that argument" from the China critics, who were repeatedly quoted. Yet it is one thing to present a point in a news story as the opinion of one side or another in a policy dispute. It is something else entirely to present this point as a significant trend identified or confirmed by a reporter, as in Burgess's article.

Ricks, a Pulitzer Prize-winning correspondent while at the *Journal*, initially tried to laugh off the charge that China stories were deliberately delayed, calling it "goofy." Ricks did acknowledge that his article about the defense strategy shift involved "several weeks' worth of work," that "I could have done it" before the China vote, and editors "had put heat on me" to finish the

piece—though "no one said it needed to run before the vote." In Ricks's view, "It's in the nature of journalism. Before the vote, you write about the vote—afterwards, about the implications."

Jackson Diehl, the *Post*'s assistant managing editor for national news, supervised Ricks's work on the strategy article, which he said originated in a March trip to East Asia Ricks had made with defense secretary William Cohen. Diehl maintained the *Post* "did not deliberately not publish" the article before the China vote; nor did the paper attempt to "speed up" its completion to permit pre-vote publication. Arguing that the article's main thrust was America's emerging Asia strategy, not China specifically, Diehl said "we did not connect it in our minds" with the House vote. When reminded that, shortly before the vote, Clinton had begun emphasizing the national security reasons for granting China permanent normal trade status, Diehl replied, "I didn't see [the Ricks article] as something that could influence the vote, but I was interested in it as a follow-up."

According to Thom Shanker, foreign editor at the *New York Times* Washington bureau, David Sanger's post-vote revelations about hyping the China deal and about China's determination to maintain trade protection represented no sudden change in China reporting priorities. Instead, Sanger was simply drawing his own conclusions, as permitted in an article clearly labeled as analysis, not reporting. Shanker called "interesting" the contention that these points had not appeared recently in previous *Times* coverage, but added that he "would be surprised if you polled members [of Congress] and found that their votes would have been changed" by reading Sanger's conclusions beforehand.

There is one possible conflict of interest: Karen Elliot House, who heads the international division of the *Journal*'s parent, Dow Jones & Co., is a member of the board of the U.S.-China Business Council. This organization, comprising more than 250 American and foreign business interests, was among the leaders of the China lobbying effort. Dow Jones's membership on the council is understandable. It is a corporation with corporate interests, and it is entitled to represent those interests before the government and the court of public opinion. On the other hand, service on the board that oversees the council's lobbying and other operations appears to entail a different order of involvement—and should be disclosed regularly. Disney, GE, Microsoft, and Time Warner are other council members with major media holdings, but Microsoft is the only other in this group currently represented on the board.

But according to the rules, because this story is about the national media, and the usual standards don't apply, the *Journal* must be given the benefit of the doubt. There is no serious choice but to accept the emphatic denial by Tofel, the Dow Jones official, of any impropriety, or even the appearance of a conflict. For publishers' commercial interests do not influence news coverage. And the *Journal*'s news product is widely admired and relied on.

Before the vote, the papers published nothing casting aspersions on China, on U.S. policy toward China, or on the corporate China lobby. Before the vote, downbeat assessments of China's economy were never portrayed as conventional wisdom.

The other explanations of unusual China coverage patterns by the *Journal*'s two peers apparently deserve the same credence. "This or that point was indeed mentioned" (even when it can't be found). "You didn't look at enough of our coverage." "There wasn't enough space or enough time to include these points." The occasional, "We hadn't thought about that."

Still, for anyone less concerned with obeying the rules about covering the media and more concerned with understanding how news and information influence American politics, it's harder to dismiss these observations: Before the vote, the Big Three published nothing remotely resembling a scoop casting aspersions on China, on U.S. policy toward China, or on the corporate China lobby. Before the vote, downbeat assessments of China's economy and U.S. business and labor prospects were never portrayed as indisputable realities or as conventional wisdom.

This record, and the accompanying explanations, add up to a strange picture of how these crown jewels of the national media view their role in American politics and policy. What comes through especially is the stated belief of the nation's leading newspapers that they have little or no influence on policy decisions or on Washington's working agenda, and that delivering important news before major votes is not an especially high priority. It almost makes you wonder why they're involved in journalism in the first place. ♦

The Death of Freud and the Rebirth of Psychiatry

By Paul R. McHugh

Archivo Iconográfico, S.A. / CORBIS

Hieronymus Bosch, Extraction of the Stone of Madness, *c. 1490*

The condition of psychiatry today can be compared to that of Russia after the fall of communism. Like Russia after Marxism, psychiatry after Freudianism has lost its once dominant doctrine. Like that vast nation attempting to operate under a rudimentary capitalism, psychiatry now labors under the sway of a classificatory system, *The Diagnostic and Statistic Manual of Mental Disorders* (DSM-IV), so crude as to foster inept educational programs and clumsy clinical practices. Just as Russia searches for a structure to replace communism, so psychiatry, with Freudianism in ruins, struggles to find a coherent concept of the mental disorders and the best way to treat them.

Surveying this confusing scene, the anthropologist T.M. Luhrmann has produced *Of Two Minds: The Growing Disorder in American Psychiatry*, a bleak assessment of contemporary psychiatric education. Casting her eye on the "enculturation" of young psychiatrists into their profession, she argues that the recent discoveries in biomedicine, which the public may think are great advances, have in fact plucked the "soul" from psychiatry, leaving it a cold business that dispenses magical pills rather than addressing patients in all their tragic particularity.

Of Two Minds
The Growing Disorder in American Psychiatry
by T.M. Luhrmann
Knopf, 352 pp., $26.95

Much of Luhrmann's criticism is dead-on target, and it is useful to have it said in this public way. Unfortunately, she concludes that the answer is a return to Freudian psychoanalysis. It is as though, after visiting Russia, an anthropologist decided the country had made an enormous mistake in abandoning Marxism. Luhrmann misleads for two reasons: She slights the history of psychiatry, aspects of which explain both its problems and its promise; and, more important, she neglects fundamental issues of method, particularly those of assessing, differentiating, and understanding patients, from which therapeutics emerge. Thus, Luhrmann fails to see that the present, with all its shortcomings, is actually auspicious, a stage in the development of psychiatry where, even amid the rubble, it is possible to discern the foundations of progress.

I began my own career in psychiatry in the 1950s, in the middle of what historian Edward Shorter called "the hiatus," the generation-long period, roughly from 1935 to 1975, when Freudianism was the unchallenged doc-

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trine of American psychiatry. During the hiatus, psychiatry ceased to grow as a science-based, evidence-driven discipline.

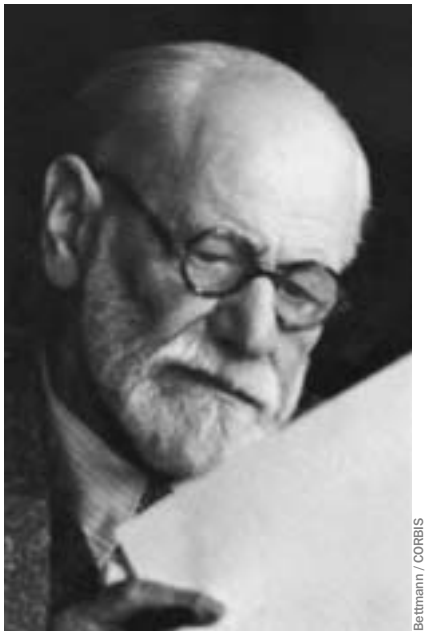
As medical students, my classmates and I were taught that psychoanalysis had revealed that mental disorders differed only in degree rather than in kind. Mental disorders were invariably the consequences of mishandled early-life conflicts of a sexual nature—universal experiences varying in severity. We were taught that particular symptoms identified the character of those conflicts; no other evidence was needed because the "symptoms tell the tale." Compulsiveness and perfectionism denoted overforceful toilet training in infancy, anxiety was the product of the childhood discovery of anatomical differences between boys and girls, and paranoid suspicions gave evidence of repressed homosexual conflict.

We were also taught that these early conflicts and pathogenic events were masked by repression but alive in the "dynamic" unconscious, shaping our mental life. Because sexual conflicts in infancy were universal, no real distinction existed between us students and the patients. We were taught that if our society altered its methods of child rearing and attitudes toward sex, mental disorder would diminish and all would be well. A brave new world seemed to be dawning.

At the same time, we students noted that the psychiatric wards differed radically from other medical wards, like neurology, cardiology, and surgery. The most obvious difference was that on the psychiatric wards not only the patients but most of the staff were in therapy. Again, this practice was prompted by the theory that psychiatrists and patients differed only in degree of disorder. Young psychiatrists were told to think of themselves as "little messes" caring for "bigger messes." Their supervisors encouraged this idea.

With most doctors, nurses, social workers, and even office personnel in therapy, the libidinal mini-dramas of everyone's encounters with his or her therapist became a topic of gossip within psychiatric centers. Certain psychoanalysts (particularly those who claimed close descent from Freud and retained the accents of old Vienna) dominated these centers and frequently used the political power that came from knowing many secrets to advance their favorites and banish their foes.

The psychiatrists-in-training, preoccupied by their own therapy, gravitated toward the patients who were most like themselves, withdrawing attention from the seriously mentally ill (patients with schizophrenia and manic-depression). Young and articulate patients, often female and worried over romantic



Bettmann / CORBIS

adversities, were sought out, especially if they (or their parents) were wealthy enough to support the standard psychoanalytic treatment, a years-long course of fifty-minute therapy sessions as frequent as five times a week. A corrupting self-absorption pervaded psychiatric departments.

The seriously mentally ill—the counterparts of the seriously physically ill, who were the mainstays of training programs in the other medical specialties—were considered "too regressed" for educational purposes, too damaged by experience in their childhood to be promptly helped by psychotherapy. They were transferred to the state hospitals, though authorities in the universities promised that their time for treatment would come after the less-seriously disturbed had resolved their troubles. It never did.

Scientific research was neglected. Why do research when we already knew, on the basis of Freud's writings, just what constituted the causes of mental problems? Research—if you can dignify such work by that term—took the form of composing ingenious metaphors linking conjectured sexual conflicts to the symptoms seen in patients.

The classic Freudian example proposed that paranoid delusions—especially the persecutory, jealous, or amorous ones—were all distorted expressions of homosexual conflict derived from "arrests" in childhood sexual development. Thus a man's latent, unconscious, and unacceptable idea "I love him," once transformed by unconscious mechanisms, manifested itself as one of three delusional beliefs: the persecutory ("He hates me"), the jealous ("My wife loves him"), or the amorous ("Another woman loves me").

By the 1950s, leading American psychoanalysts were competing to see who could derive the flashiest connections from superficial resemblances between mental symptoms and events in patients' lives. The interpretation of genital symbols became a way of finding sexual meaning in mental disorders. None of this could be called research, and none of it advanced the care and treatment of patients or the elucidation of mental illnesses.

A telling and ultimately fatal flaw within the psychoanalytic movement was its fissiparous character—present almost from the start, when Adler and Jung split from Freud to produce their own schools of thought. In America, the Freudian school was initially successful in dominating the strategically crucial centers of the university clinics and teaching hospitals in the East and the salons of Los Angeles and Hollywood in the West (where Freudian ideas influenced the motion picture industry).

Dissension between orthodox and reform sects of American Freudianism soon erupted, as subgroups of psychoanalysts hived off into separate psychoana-

lytic training institutes in every large city, with much ill will and repudiation all round. Each center devolved its own organization, initiation rights, rules of membership, and official doctrine about the "keys to meaning." Each presented itself as providing a different kind of analyst—and postulants faced the problem of choosing among them. This fractionalizing demonstrated the cultic character of psychoanalysis; it was more Greco-Roman than modern, in its call for commitments to different conceptions of reality rather than to the single medico-scientific method guided by observation, reason, and experiment.

This sectarianism not only added heat to psychoanalytic convictions, but made criticism of Freudian ideas more difficult. Psychoanalytic propositions became moving targets, and challenges from psychiatrists outside the establishment were evaded or rejected as ignorant of the present state of the art.

I can testify to the frustration felt by those questioning psychoanalytic concepts such as repression, the dynamic unconscious, dream interpretation, and the rest of it. We were dismissed as being either in bad faith ("Freud bashing") or simple-minded and insensitive, given the "advancing" character of theory and the subtle, "concerned" thought of psychoanalysts. I learned firsthand the validity of philosopher Ernest Gellner's comment about psychoanalysis: "Evasion is not brought in to save the theory: It is the theory."

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Above, electroshock therapy in 1942. Opposite, Freud at his desk in 1930.

During the 1960s, events conspired to bring the dominance of psychoanalysis in America to an end. The most dramatic of these was deinstitutionalization of the seriously mentally ill. This radical venture rested on two related justifications. The chief one came from the discovery (mostly by chance) in the 1950s and 1960s of medicines that acted against the symptoms of schizophrenia and manic-depression, relieving the hallucinations and delusions that had kept patients sequestered in mental hospitals. It was only logical that the mentally ill—who, remember, in theory were just like the rest of us only more seriously disturbed—shouldn't be locked up in distant hospitals if medications could make them less threatening and dangerous. They deserved what the less-ill had long been allowed: freedom to look after themselves, while receiving psychotherapy in centers for ambulatory patients.

Vast deinstitutionalization of the mentally ill was launched in the late 1960s. Patients who had lived for years in outlying, dilapidated state psychiatric hospitals were released to urban and academic psychiatric centers for treatment. The psychiatrists there, previously honored for their therapeutic skills, found that they could not manage these new arrivals. They did not understand the medications that had been used in the state hospitals, and the Freudian-based psychotherapies, so time-consuming, were ineffective. The patients spilled out into the city streets, and the deficiencies of psychiatric know-how became obvious to anyone with open eyes.

The psychopharmacological advances on which these hospital discharges depended also made it possible to differentiate patients. How could anyone claim that mental illness is all one, à la Freudianism, when only patients with manic excitement responded to lithium salts? And if antidepressant and anti-schizophrenic medications worked only for certain patients, then one must conclude that the patients differed in their brains. As distinctions like these became critical for treatment, psychiatrists began to look back to the decades around the turn of the century when the distinctions between conditions such as manic-depression and schizophrenia had first been identified.

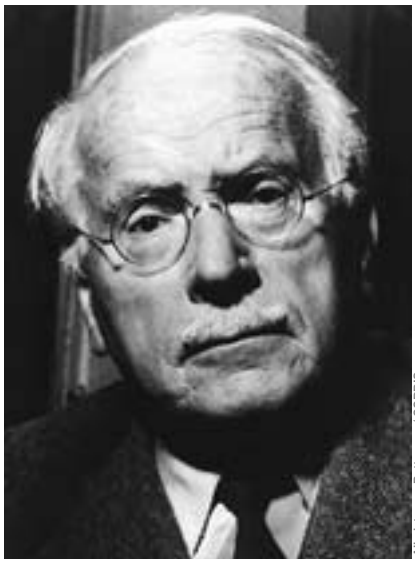
Psychiatry began to stumble toward the path of empirical science that general medicine had followed since the mid-nineteenth century. Progress began to appear, especially in the diagnosis and treatment of the seriously ill. Psychotherapy itself came under study, and several investigative psychiatrists began to challenge the claim that cure came from treating the Freudian "pathogenic" events of childhood—the Oedipal complex, castration anxiety, penis envy, and the like.

Dr. Jerome Frank at Johns Hopkins, a pioneer in psychotherapy research, investigated hundreds of patients and concluded that healing depended upon general rather than specific factors: the patient's receiving an acceptable and persuasive explanation for his distress from a therapist who could evoke some emotional arousal during the treatment and who carried some culturally licensed authority as a healer. These characteristics were common to many psychotherapies, not restricted to psychoanalytic ones.

More important, Frank proved that patients in psychotherapy did not resemble one another in the cause of their distress. No common theme of childhood sexual conflict or developmental arrest, no particular psychic complex, characterized them. Rather, these patients were alike in their symptoms and in the habitual ways they approached difficulties: They were all "demoralized," overmastered by some problem usually related to their present life. Frank noted that successful symptom-relieving psychotherapy worked by providing patients with ways to achieve mastery of their situations; it did not depend primarily on insight into early life conflicts. He demonstrated these facts about psychotherapy with standard scientific methods, among them placebo controls, comparative outcome studies, and numerate evidence.

Jerome Frank's work was an enormous challenge to both the theories and the practices of psychoanalysis. In the 1970s, Dr. Aaron T. Beck of the University of Pennsylvania furthered this advance in psychiatry by developing and teaching an effective psychotherapy that attempted to correct the self-defeating attitudes and assumptions that provoke demoralization. Calling his program "Cognitive Behavioral Therapy," he demonstrated in therapeutic trials that patients so treated recovered more frequently from depression and anxiety than did patients treated less systematically. Evidence-based psychotherapy at last became a reality.

Like Frank, Beck showed that no single attitude and no common early childhood trauma afflicted his patients. They all needed and responded to a treatment that uncovered how they were demoralized by their habitual attitudes and presumptions. These could be directly challenged and rescripted as the patient came to see the role they played in his distress and as the psychotherapist proposed and reinforced more constructive ways of thinking and responding to the circumstances life had set before the patient. Since Beck's work, other therapists have demonstrated ways of encouraging patients to recognize how their attitudes and assumptions are self-defeating and can be changed.



All pictures: Bettmann / CORBIS.

Alfred Adler in 1927 and C.G. Jung in 1955

The preeminence of Freudian psychoanalysis was essentially over by the end of the 1970s. Freudianism did not end with a bang, as did Marxism. It just petered out, as fewer and fewer of the best students came to believe that they should devote time to it—though a nostalgia for psychoanalysis persists in some circles to this day.

T.M. Luhrmann's *Of Two Minds* turns out to be just such a nostalgic glance back. Begun as an empirical work, it is the product of her four-year study of American psychiatric education. Luhrmann—a professor at the University of California-San Diego and author of previous works on ritual magic and colonial society—visited a number of centers where psychiatrists are trained. She observed the care being delivered by resident psychiatrists and the teaching methods employed to guide them. She put in long hours talking with teachers, residents, medical students, and patients.

In many of the centers she visited, Luhrmann found confusion and misdirection. Sometimes she found students deeply distressed over conflicts among their teachers and over the restrictions placed on services by insurers. She reveals how, in some training centers, the teaching of thoughtless diagnostic formulas and reflexive prescriptions for medication is dehumanizing the contacts between patients and psychiatrists. Depression? Bring out the Prozac. Attention Deficit Disorder? Toss down the Ritalin. The very advances in biomedicine that have immensely facilitated the treatment of mental illness have damaged the psychiatric profession. Young psychiatrists lack both the time and interest to bring their patients "the commitment we feel toward full-fledged human beings."

But a problem arises. Early in her book, Luhrmann notes that, in preparation for her immersion in the field of psychiatry, she herself entered into psychoanalytic psychotherapy. She did so because psychoanalysts told her that, if she were a patient with them, her understanding of the educational and treatment services she would be witnessing would be deepened. Unfortu-

nately, her own psychoanalysis has left her a partisan, a captive of one of the vested interests whose influence on the course and content of psychiatric education she intended to study.

Because of this bias, Luhrmann found only in the outpatient services, where psychotherapy is dispensed, what she deemed a proper concern for individual patients. The title of her book, *Of Two Minds*, is intended to emphasize that students of psychiatry feel themselves citizens of two worlds: one of brain material and medications, the other of human feeling and the "soul-craft" of dynamic psychotherapy; one of white-coated scientists who expound on brain systems and medications and treat patients like objects, the other of thoughtful, tweed-coated psychotherapists explaining the tortured lives of people who, but for the grace of God, are you and I. Ominously weighing in on the side of the white coats are the administrators of managed care, who, Luhrmann says, see the soul-craft of psychotherapy as unnecessary.

Luhrmann champions psychoanalytic teaching as fundamental to the training of young psychiatrists. In this, she is simply mistaken. We can no more return to the old orthodoxy than Russia can revive the Soviet Union. Luhrmann fails to appreciate that psychiatry is well free of the dominance of a conjectural theory that cheated many patients out of helpful treatment and caused a great many talented students to waste years of their lives on fruitless study.

It may be that Luhrmann expects some compromise to emerge, in which a portion of the old Freudian creed is reassumed. Reasonable though this sounds, no middle ground is possible. The psychoanalyst and the science-based psychiatrist are not to be thought of as simply having different ways of interpreting an agreed upon set of clinical observations—interpretations that could be negotiated between them. The hard fact is that the two take opposing positions over what *exists*—what counts as real in mental life—and how one should study it. Repudiation of the other, not conciliation, is the aim of each, as both parties will gladly explain.

I disagree with Luhrmann, too, about the role of managed care. Like many of the psychiatrists she talked with in her travels, she views it as menacing the future of psychiatric practice and education. But managed care, while an annoying burden, is one, I'm afraid, that psychiatrists brought on themselves. Back when psychological treatments ran solely on Freudian concepts, patients were often kept in treatment until their money ran out.

Little or no effort was made to test the efficacy of psychoanalytic programs. For all that the business ethic of managed care now threatens benefits to patients, this threat will subside when outcome studies demonstrate what evidence-based psychiatry can do. Psychiatrists must show how their diagnostic formulations and therapeutic plans lead to recoveries. Only then will they become powerful advocates for their patients and see their opinions taken seriously by health systems.

Benjamin Rush's tranquillizing chair.

Where T.M. Luhrmann sees growing disorder in psychiatry, I see growing pains. These will be resolved through study of the methods that psychiatry uses, which Luhrmann neglects. Psychiatrists must learn how to think about different psychiatric patients. They must employ different methods of reasoning for different patients—methods that, though distinct in their application, are not in conflict.

The German psychiatrist and philosopher Karl Jaspers spoke to the fundamental issue of method with great penetration and lucidity in his magisterial book *General Psychopathology*, published in 1913. (Although brought out in English by the University of Chicago in 1963, this work has been largely unnoticed in the United States. It was reissued by Johns Hopkins University Press in 1997.) Jaspers laid out the methods that psychiatrists need to employ to evaluate and make sense of the different mental disorders. He provided the rules, standards, and means for making useful, replicable observations of psychiatric patients. He delineated the different mental states and symptoms psychiatrists would find when they studied their patients systematically. And then he described the two distinct methods of reasoning available to psychiatrists to explain their patients' signs and symptoms.

Jaspers noted that psychiatrists, in seeking to explain mental illnesses, drew both from medical science, where the processes of nature that damage health are discerned, and from history, where fateful events and personal choices disrupt mental serenity. Specifically, he taught that some mental disorders derive from brain diseases, whereas others derive from conflict between a person's hopes and what life deals out to him. He defined the strengths and limitations of each of these methods of reasoning: scientific reasoning from empir-

ical evidence, and historical reasoning enriched by empathetic insight. He demonstrated how both are indispensable to the psychiatrist, who must not confuse one with the other.

By distinguishing the explanation offered by science from the compassionate understanding offered by history, Jaspers identified the epistemological and therapeutic divide into which Luhrmann stumbles. Jaspers proposed that psychiatrists receive an education in theory and practice that demonstrates both methods in action—an education best provided by teachers who apply them in research. He wrote brilliantly about psychotherapy and also anticipated the advances in brain science and pharmacology we are witnessing today.

Jaspers saw not Luhrmann's two minds but a single psychiatry encompassing two explanatory methods. These methods are not difficult for a single mind to grasp, if they are exemplified in teaching and research. They are readily integrated in practice—both for seriously ill patients who have major brain diseases and for demoralized patients facing conflicts in their personal lives.

But woe, Jaspers said, to those who do not understand the distinctions between these methods of reasoning and try to make one method dominate psychiatry. They will interrupt progress and alienate their students. Jaspers went unheeded in America, even as he warned against the tragically wasteful hiatus produced by Freudian dominance, which has left psychiatry today in its conceptually primitive state.

But I am optimistic. As psychiatry becomes more coherent—pushed in part by managed care and instructed in part by a reassessment of its methods of thought—psychiatrists can present themselves to the public just as physicians and surgeons do, and no longer as practitioners of a mystery cult, condescendingly proposing crude, sexualized ideas about human nature. Psychiatrists can then emerge as members of a medical specialty who, like all other doctors, are committed to healing—rather than indoctrinating—their patients. ♦

Patriotism at the Multiplex

All movies are not created equal.

BY KEN MASUGI

In the 1984 movie *Red Dawn*, a group of high school students defend American soil against a Communist invasion. Courageous and innovative, the kids wage a desperate fight against Cuban and Russian professionals—but they are inspired by no knowledge of what they are fighting for, and therefore by no idealism. These young Americans are merely defending their turf and avenging the loss of friends and families. They are merely doing what the Russians or any other peoples did when faced with invasions over the centuries.

The deficiency comes through most clearly in the epilogue, when we read the mutilated version of the Gettysburg Address commemorating "Partisan Rock" following the imaginary war's successful conclusion. Perhaps director John Milius was suggesting that America was invaded precisely because it had forgotten its identity, that its greatness came from its ideals—not from even the most dedicated love of the soil.

There's another movie with this theme, called *The Patriot*, currently playing in theaters. But *The Patriot* is more than just another story of the rejection of an alien force committing atrocities on American soil.

Directed by Roland Emmerich (who also made *Independence Day*) and telling a historical romance about the Revolutionary War, the film does offer vengeance and love of family as motives for rebellion—but they are transcended by the theme of founding a nation.

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At the beginning of the film, the character Benjamin Martin (played by Mel Gibson) expresses a Tocquevillean individualism—living only for the small circle around himself and his family—born of his horrific experiences in the French and Indian Wars. But attempting to live apart from others proves to be what causes the destruction of his family.

Loosely based on the real-life adventures of the "Swamp Fox," Francis Marion, *The Patriot* is at bottom a story of all the wars Americans have ever fought. It is thus both a movie rejecting war and a movie justifying war. The Civil War, World War II, and the Vietnam War are all conflated into a film about the revolutionary and founding era. The historical anachronisms are glaring—but so is the historical truth that every war is ugly and every war gives birth to new worlds.

If *The Patriot* has its share of movie clichés—relieved by riveting battle scenes and extraordinary twists of fortune—they are spent largely in refuting far more serious clichés held by fashionable academics: that the Declaration of Independence had no effect on freeing the slaves, for instance, and that the American Revolution was less than a glorious cause.

Martin evolves to a mature American by applying his reason and refining his passions. The political wisdom offered in the film lies less in its picture of friendship between whites and blacks, and more in Martin's observation that even democracy offers occasions for abuse: It is as bad to be governed by a republic's three thousand

tyrants a mile away as by the British monarchy's single tyrant three thousand miles away.

What *The Patriot* offers is a chance to feel Martin's outrage. Guns in the hands of his young boys are not a sign of Columbine terrorism, but a rational response to deep feeling. And in the end reason and passion are rewarded by God's grace. The cause of the new nation is forged in the churches, and Martin learns Job's lessons at the dawn of a new birth of freedom.

It is unfortunate that this movie set in South Carolina appeared too late to have an effect on that state's irrational Confederate flag dispute. Too much of the South today, white and black, thinks of itself as still living in the era of the Civil War. Blacks claim the right to be pitied because they are descendants of slaves, while whites feel a pride in having fought for a noble, albeit losing cause. They think like antebellum Carolinians or Virginians or Georgians. They don't think like Americans. By contrast, *The Patriot*'s blacks, slave and free, are human—they suffer and thrive as humans, as Americans.

The screenplay for *The Patriot* was written by Robert Rodat, who also wrote *Saving Private Ryan*—and as *Saving Private Ryan* relied on Abraham Lincoln's understanding of America to explain and justify World War II, so *The Patriot* relies on Lincoln's understanding to explain and justify the creation of the American republic. Martin learns how to treat his family as part of a new political order, just as Private Ryan acquired a higher understanding of his family and how his soul must be judged by his duty to his greater family.

The Patriot does not possess the grace of the best movie on the American Revolution, John Ford's 1939 *Drums Along the Mohawk*. Neither does it surpass 1989's *Glory* in showing how blacks belong in America, nor will it have the cult status of the 1949 *Sands of Iwo Jima*. But it is an exploration of that quality of soul Aristotle thought makes men most human and political: spiritedness. It's a quality we need to think about and cultivate, and *The Patriot* is a magnificent attempt to do so. ♦

Andy Morales celebrates his homerun, May 3, 1999. AP / Wide World Photos.

Castro at the Bat

Cuban baseball strikes out.

BY CHARLES LANE

It's been a tough year for the Baltimore Orioles. The club is sinking into the bottom half of its division, and its owner, Peter Angelos, leads the league in moral error. In May, the Orioles' vice president of baseball operations, Syd Thrift, told a reporter from the *Washington Times* that the Orioles would be the first big league franchise to swear off signing ballplayers who escape from Fidel Castro's Cuba. Given the "good will between the two countries" that had been generated by two exhibition games last year between the Cuban national team and the Orioles, Angelos felt "it best not to do anything that could be interpreted by Cuba as being disrespectful or . . . encouraging players" to defect, Thrift explained.

Angelos retreated under fire from this position, saying he only intends to discourage defections. Even so, the message is clear: No matter how good the Cuban players might be, for Peter Angelos, deference to the easily bruised feelings of the Castro regime takes precedence over the Orioles' own desperate need for fresh talent—not to mention the individual freedom of Cuban athletes. Some three dozen Cuban baseball players have fled the island in the last ten years (along with about seventy athletes from other sports), and American teams have extended them the same opportunity for fame, fortune, and professional fulfillment that their counterparts from the Dominican Republic, Mexico, Panama, and Venezuela enjoy. But the Orioles practically say "No Cubans need apply."

Pitching Around Fidel
A Journey into the Heart of Cuban Sports
by S.L. Price
Ecco Press, 279 pp., $24

Peter Angelos needs to read S.L. Price's *Pitching Around Fidel: A Journey into the Heart of Cuban Sports*. The most original and engaging piece of reportage on Cuba in recent years, *Pitching Around Fidel* documents the human costs of Cuba's state-run system of "amateur" sports. The billboards in Havana may say that "Sport is the right of the people," but in fact athletes have no more rights than anyone else in Cuba. The Communist party hack who currently runs Cuba's National Sports Institute tells Price that if an athlete "doesn't have an attitude where we—

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the people who created him—can have confidence in him, then he will never have the right to represent Cuba in an international event." Yes, top-flight athletes enjoy perks like private cars and decent housing. But they are constantly monitored for the slightest sign of deviation from the party line. Anyone who doesn't pass ideological muster risks being sidelined permanently.

The most famous such case, of course, is Orlando "El Duque" Hernandez, the pitching ace who was kicked off the national team and sent to work in a psychiatric hospital because his half-brother, Livan Hernandez, left to pitch for the Florida Marlins in 1995. El Duque subsequently escaped the island and led the New York Yankees to victory in the 1999 World Series. There are others, though, less famous than El Duque but no less talented, still stuck in limbo down on the island.

Take Lazaro Valle. Price paints a marvelous portrait of this right-handed flamethrower, a pitcher arguably more dominant than El Duque. At the age of thirty-five, he is semi-washed up in Cuba, spending his days smoking, drinking, and bumming a few bucks from foreigners. He never left Cuba because he didn't want to break up his family. At the same time, he refused to join the Communist party, as many other top athletes did. When his best friend, pitcher Rene Arocha, defected in 1991, Valle was subjected to police interrogation and banned from traveling with the national team overseas for two years. (Arocha had been banned from the national team in 1982 because his local Committee for the Defense of the Revolution, Castro's ubiquitous snoops, fingered him as disloyal.)

Valle "suffered and cried over the situation, the whole time," his wife explains. He was finally allowed to play with the national team in America, where he wandered around like a free man—even partying with old friends in Hialeah, the working-class Cuban section of South Florida—before going back to Cuba. That really made Castro's state security suspicious. Upon arrival in Havana, he was hauled in for more questioning. Nowadays, he's at odds with the Cuban baseball authorities, unwanted even as a coach. "I feel like an alien," he tells Price. "Nobody calls me. Nobody talks to me. My opinion doesn't count. I feel like an alien in my own country."

Another ruined career is that of Pedro Jova, a former manager of the national team who was banned for life from Cuban baseball in 1997 for supposedly talking to a defector on the phone. His son, a prospect, then jumped on a raft to the United States. Jova's ban has now been lifted—but he's left coaching twelve-year-olds and doing some scouting.

Hector Vinent at El Morro, 1998.

Hector Vinent, twenty-five, one of the best light-welterweight boxers in the world, has been banned from Cuba's national team since the 1996 Atlanta Olympics where two of his friends defected. In Atlanta, the state security agents who accompany all Cuban athletic delegations abroad hounded Vinent. (By the way, why does the United States issue visas to these enforcers?) The surveillance has never let up back home. "They don't know I'm going to run, but they think it. That's my 'conduct' problem," he tells Price.

And so on. We learn from Price's *Pitching Around Fidel* that Castro raised hard currency during the 1990s by "renting" certain talented ballplayers to professional teams in Japan and Latin America; the Cuban state kept 80 percent of their earnings. The program was ended after three years because of jealousy and infighting among top Cuban players desperate for access to even this paltry opportunity.

Perhaps equally devastating, though, are Price's portrayals of the Cuban athletes who have not run afoul of the system—the ones still officially regarded as heroes of the Revolution. His account illustrates the principle that, in Cuba, as in all Communist states, the privileged maintain their status at the cost of some freedom and dignity.

Teofilo Stevenson, the masterful heavyweight fighter who dominated the Olympics in the 1970s and 1980s, is now a vaguely pathetic figure, pawing women, drinking heavily, and clearing his remarks to Price with a handler from the official sports institute. In the case of Ana Fidelia Quirot, the phenomenal women's middle-distance runner, gratitude to Fidel is understandable. He personally oversaw her rescue by Cuban doctors after a household accident left her seriously burned. Still, can that explain or justify her love for Big Brother? "I'd rather have the CDR [the Committee for the Defense of the Revolution] watching me so that my children grow up healthy mentally and physically, so I can sleep well," she tells Price. "You can have a lot of money [in the United States], but you can be blackmailed. Life is healthy here. I'd rather have a CDR watching me all day long than live in a society like that."

S.L. Price started his journey through the Cuban sports world disillusioned by the commercialization of American sports and believing that poor, amateurs-only Cuba might represent an alternative—that it might really be "one of the last places where athletes play for little more than the love of the game." Price, a senior writer at *Sports Illustrated*, is not an ideologue but a politically ambivalent sports purist, and Cuba was to have been his purist's paradise.

But his initially hopeful view of Cuban amateurism collapsed under the

AP / Wide World Photos.

Orlando "El Duque" Hernandez pitching for the Yankees, July 1, 2000.

weight of the facts. Given a choice between a sports system ruled by politics and a system ruled by the almighty dollar, Price surprises himself by leaning in favor of the latter—largely because he has come to understand that most Cuban athletes would, too. Who are we to tell Cuban ballplayers and boxers that they, alone among all athletes in this globalized economy, must surrender their right to live and play where they want, for as much money as they want?

El Duque "was speaking of money again, of course, but the more I considered it the less it bothered me; because what El Duque's actions and words described were a man's right to make his own decision, free agency in its purest form, and who can argue with that?" Price writes. "I tried in vain to distinguish between a Cuban pitcher taking the defector's leap from Havana to New York and an American taking the free-agent jump from say Chicago to Atlanta."

"For me," he observes near the book's conclusion,

> the game is over. Castro's country is a place best seen as a tourist, for from the distance of a decent hotel room it is easy to succumb to its charms. Go for the old cars or girls or rum, or a Cold War thrill, or a night at Kid Chocolate on a balmy winter evening, and you can convince yourself that any number of illusions are real. You can enjoy the passionate fans and the frenetic play, admire the skill, revel in the Cuban athlete's palpable joy, and allow yourself the luxury of wondering if this is the way sports were meant to be. But I'm no good for that any more. I've talked to too many men and women not to understand that the regime will, at the slightest sign of independence, grind even its greatest lives into powder. I left Cuba in December knowing too much and, worse, knowing that there are plenty who love a romanticized version of Cuba too dearly to listen.

As it happens, Peter Angelos's "baseball diplomacy" with Fidel—strongly supported by Angelos' friends in the Clinton White House—was basically a bust. At the first game in Havana, tickets were distributed "by invitation only," i.e., to members of the Communist party, the army, government, and their families. So much for people-to-people contact. The second game, in Baltimore, was spoiled by gripes from Oriole players about being forced to give up a much-needed day off, and by an ugly incident in which a Cuban umpire tackled and punched a protester who ran onto the field with a sign calling for freedom in Cuba.

There was one highlight in the dreary, rain-soaked second game (which the Orioles lost, 12 to 6). It came when Cuba's young third baseman, Andy Morales, clouted a three-run home run. As he rounded the bases, Morales threw out his arms and lifted his eyes joyfully to the sky in a gesture of bliss so pure that, for a moment, it was almost possible to believe again in the authenticity of Cuban amateurism. When was the last time you saw an American big leaguer look so grateful to be on the field?

Yet we now know that, at that very moment, Morales was actively contemplating defection. While in Baltimore, he made contact with sports agent Gus Dominguez, but ultimately decided to return to his wife and children in Cuba. Nevertheless, the Cuban authorities' retaliation was swift. Despite his heroic performance against the Orioles, despite his .370 batting average in Cuba's own national league, and despite the fact that Cuba is attempting to put together another gold medal team for the 2000 Olympics, Andy Morales was kicked off the national team.

Ruined as a ballplayer in Cuba, his youth ebbing, Morales finally clambered aboard a smuggler's boat and, together with fellow player Carlos Borrego, tried to make it to the United States illegally. He was twenty-five miles from Florida when the boat, loaded with thirty-three escapees, ran out of gas. The U.S. Coast Guard intercepted the vessel and, as is customary under a 1995 accord between Castro and the Clinton administration, sent the Cubans home. Back in Cuba, the official media disparaged his talents. Morales was summoned to meet the head of Cuba's National Sports Institute, who informed the media that the slugger had "repented" and expressed a desire to quit baseball in favor of some other job at the Institute. And with that Orwellian flourish, Andy Morales's career in Cuban baseball would appear to be over. He can do other things, but not the one thing he loves.

Still, Morales did set a record of sorts. He is the first prominent defecting athlete to have been denied political asylum by the United States. In the wake of the Elián González case, it appears that the Clinton administration is redoubling its efforts to avoid appearing to give Cubans any special treatment in immigration matters. Morales did get an asylum interview on board the Coast Guard ship, but his request for a chance at the big time in America was denied. U.S. officials decided that he did not have "a well-founded fear of persecution" in his home country. ♦

Harry Potter and the Public School • Book 5

Chapter 1

Harry Potter's life was never the same after the Supreme Court struck down the voucher program that enabled him to attend Hogwarts. He was now back at his dysfunctional home, living under the stairs and attending Angela Davis Junior High School. He slept in now, and often stumbled in to school late for Mr. Dudley's first period Creative Imagining and Values Exploration class.

But the first day of November was the start of Gryffindor Awareness Month. The whole school would be reading poems by great Gryffindor feminists of the past, enjoying Gryffindor ritual dances, and even learning how to weave traditional Gryffindor baskets. Harry didn't mind missing Transfiguration Class for the weekly all-school ethnicity celebration assembly. Besides, the local school board had ruled that muggles had to be mainstreamed into the wizard curriculum. Since then all practical transfiguration exercises had been eliminated so the muggles wouldn't feel inferior.

But just at the start of the assembly, Hermione, probably wearing an Invisibility Cloak, had mischievously posted a list of the Ten Dark Charms on the wall of the Assembly Hall.

"Look! Look! A non-secular document in the school! A violation of the separation of church and state! The Constitution is in peril!" Malfoy screamed. Malfoy was the local monitor for the American Civil Liberties Union.

Malfoy rushed off to get Lord Voldemort, the vice principal. Harry knew this was a crisis. If Voldemort saw the Ten Dark Charms listed on the wall, the wizards would have to go deeper underground. When Harry had first come to Angela Davis Junior High, the wizards had been allowed to practice their magic in the Chamber of Secrets during recess. But after various lawsuits, this had been restricted. First they could practice magic in student led groups so long as both Dark Arts and Light Arts magic were practiced ecumenically. Then that was reduced to a moment of silent contemplation of the mystical arts before Quidditch games. Now even that was in peril.

Harry leapt into action. Using his Time-Turner, he set time back 90 minutes, when Malfoy would be off at Recycling Class with Ms. Dreeper and he could confront Hermione on the playing field during her gym class, Non-Competitive Sitting.

"Hermione, I know what you're going to do," Harry gasped when he caught up with her. "You must stop. You'll get us all in trouble. Have you ever heard of the National Education Association? They are a dark and sinister force, of far greater power than anything we ever faced at Hogwarts." Hermione at first pretended not to know what Harry was talking about,