

Trouble With DeLay • Tyranny and Posse Comitatus • Terrorists in Mid-America

The

New American

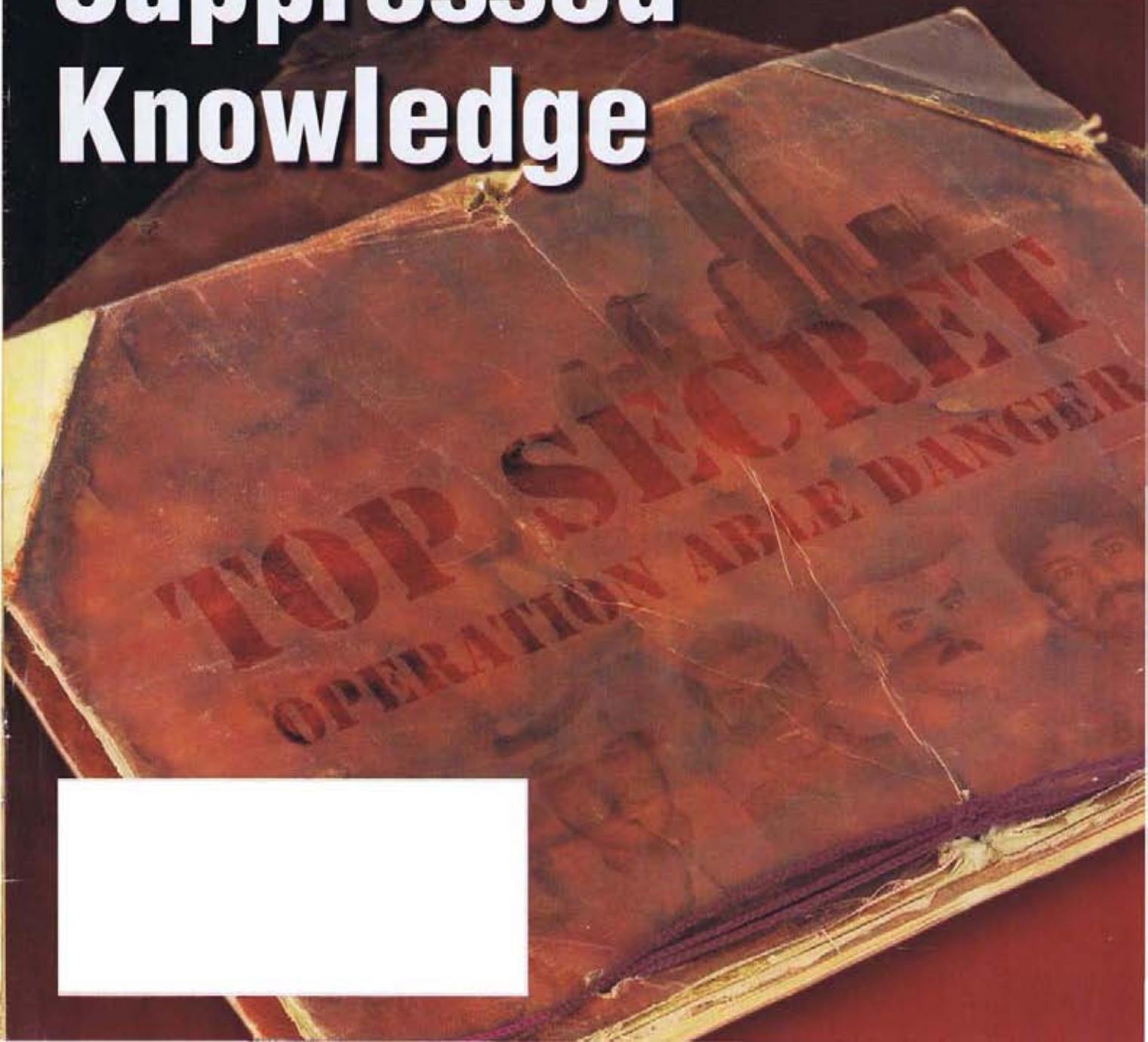
www.thenewamerican.com

October 31, 2005

THAT FREEDOM SHALL NOT PERISH

\$2.95

Suppressed Knowledge



COVER STORY

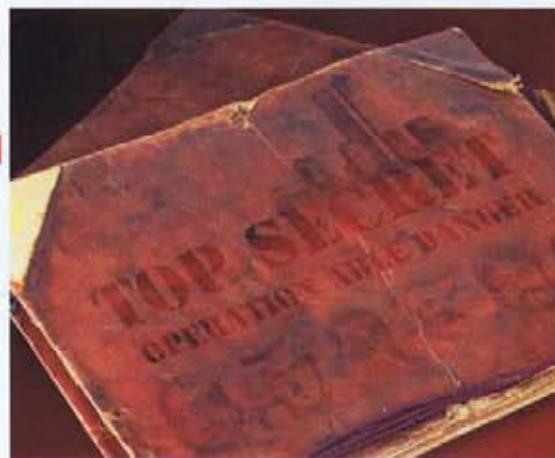
TERRORISM

12 "Able Danger" & 9/11 Foreknowledge

by William F. Jasper — The coverup concerning the secret Able Danger operation provides evidence that the "war on terror" is a farce.

19 Terrorists in Mid-America

by William F. Jasper — The suicide bombing outside the University of Oklahoma football stadium may have been the work of a terrorist cell.



Design by Joseph W. Kelly

FEATURES

CONGRESS

21 Trouble With DeLay

by William Norman Grigg — While the indictment of Rep. Tom DeLay may be a partisan "witch hunt," he has a lot to answer for.

SUPREME COURT

25 Empowering the Executive Branch

by Thomas R. Eddlem — Supreme Court nominee Harriet E. Miers is a staunch supporter of the Bush agenda of executive branch empowerment.

IMMIGRATION

27 Not Giving Up on Immigration Control

by Kurt Williamsen — When it comes to immigration reforms and tight immigration controls, many say it can't be done. But they are wrong.

CONSTITUTION CORNER

30 A Bold Remedy to a Grave Threat

by George Detweiler — Congress needs to clarify the meaning of the 14th Amendment's language to stop the children of illegal immigrants from gaining automatic citizenship.

CULTURE WAR

34 Good Luck Finding the Truth Here

by Thomas R. Eddlem — George Clooney's new movie *Good Night and Good Luck* continues the smear campaign against Senator Joseph McCarthy.

HISTORY — STRUGGLE FOR FREEDOM

36 Tyranny and Posse Comitatus

by William Norman Grigg — The Posse Comitatus Act brought down the curtain on a shameful era of military dictatorship in the United States.

THE LAST WORD

44 Immigration Has Its Costs

by Kurt Williamsen



Library of Congress

DEPARTMENTS

5 Letters to the Editor

6 Insider Report

- Bush's First Veto?
- Reconstruction and *Reconquista*
- Illegal Immigrants as Neo-conservative Cannon Fodder
- Drug Cartels and Regional Integration
- Guns: Lifesaver, or Public Health Menace?

11 QuickQuotes

- ACLU Lawyer Attacks Teaching of "Intelligent Design"
- Governors Tell Bush Disaster Response Is Not the Job of the Military

33 The Goodness of America

- Heroic Girl Saves Family
- Pro Wrestler Supports Wounded Troops

41 Exercising the Right

- Breaking Up a Break-in
- Tired of Robberies

42 Correction, Please!

- Price Controls: Making a Bad Situation Worse

Publisher*Thomas G. Gow***Publisher Emeritus***John F. McManus***Editor***Gary Benoit***Copy Editor***Kurt Williamsen***Senior Editors***William Norman Grigg**William F. Jasper***Contributing Editors***Steven J. DuBord**John F. McManus**Paul N. Smith***Editorial Assistant***Ann Shibley***Contributors***Dennis J. Behreandt**Christopher S. Bentley**Steve Bonta, Ph.D.**Thomas R. Eddiem**Jodie Gilmore**William P. Hoar**Warren Mass**Joe Wolverton II, J.D.***Art Director***Joseph W. Kelly***Graphic Artist***Cathy L. Spoehr***Desktop Publishing Specialist***Steven J. DuBord***Marketing***Larry Greenley***Web Manager***Brian Witt***Advertising/Circulation***Julie DuFrane***Research***Brian T. Farmer**Mary Benoit*

The New American

Printed in the U.S.A. • ISSN 0885-6540
P.O. Box 8040 • Appleton, WI 54912
920-749-3784 • 920-749-3785 (fax)
www.thenewamerican.com

Rates are \$39 per year (Hawaii and Canada, add \$9; foreign, add \$27) or \$22 for six months (Hawaii and Canada, add \$4.50; foreign, add \$13.50). Copyright ©2005 by American Opinion Publishing, Inc. Periodicals postage paid at Appleton, WI and additional mailing offices. Postmaster: Send any address changes to THE NEW AMERICAN, P.O. Box 8040, Appleton, WI 54912.

THE NEW AMERICAN is published biweekly by American Opinion Publishing Inc., a wholly owned subsidiary of The John Birch Society. For more information about The John Birch Society, see www.jbs.org.

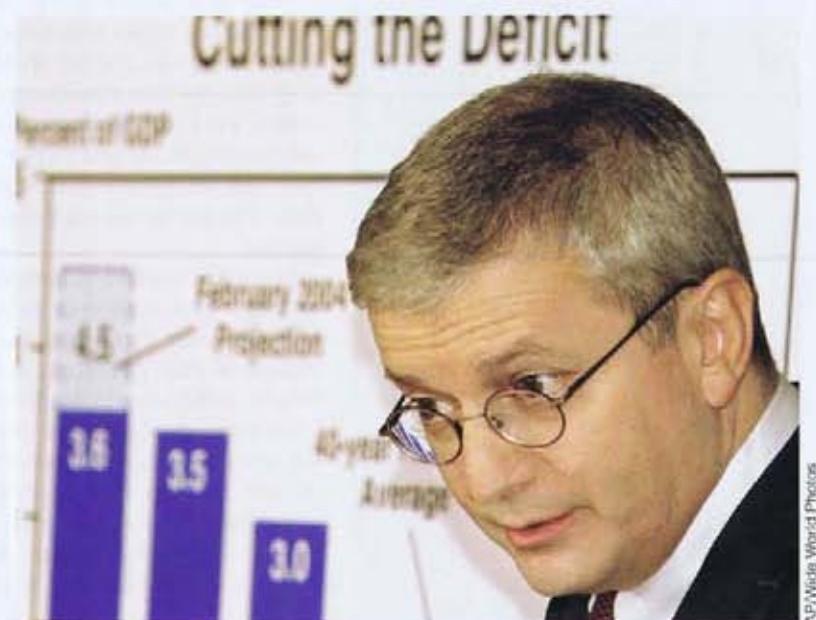
Bush's First Veto?

President Bush has been notoriously averse to wielding his veto pen, but the \$440.2 billion defense bill pending in the Senate may be the first measure to receive that presidential inscription. The bill "provides \$7 billion less than President George W. Bush requested early this year and is nearly \$1 billion below current levels," pointed out a September 30 Reuters report. The White House insists that those cuts would "either result in deterioration of our force readiness" or trigger supplemental spending requests later in the fiscal year.

The potential deal-breaker for the White House, however, is an amendment approved by the Senate on October 5 banning the use of "cruel, inhuman, or degrading" interrogation techniques against detainees. The Bush administration has repeatedly claimed that the president has the authority to detain, as an "unlawful combatant," any individual for any length of time he deems appropriate; that those acting on behalf of the president can properly subject detainees to methods of interrogation that amount to torture; and that none of these decisions or actions are subject to judicial or legislative review.

Last August, three Republican senators — John McCain of Arizona, Lindsey Graham from South Carolina, and Virginia's John Warner — proposed an amendment to the military appropriations bill that would have prohibited certain interrogation techniques and created an oversight commission to investigate claims of detainee abuse. The amendment was tabled under pressure from the White House.

It is entirely possible that George W. Bush's first veto will be cast not to rein in profligate spending, or beat back legislation that is unconstitutional on its face, but rather to defend his administration's quasi-totalitarian view of presidential power.



Guns, butter & red ink: Office of Management and Budget Director Joshua Bolten offers details of the proposed 2006 budget, which would increase military and security spending while reducing the growth rate of domestic expenditures.

Dutch Set to Expand Euthanasia to Include Infanticide

"The Dutch government intends to expand its current euthanasia policy, setting guidelines for when doctors may end the lives of terminally ill newborns with the parents' consent," the Associated Press reported on September 29. Dutch Health Ministry spokeswoman Annette Dijkstra told AP that "a letter outlining the new directives will be submitted to parliament for discussion by mid-October, but the new policy will not require a vote or change of law."

AP noted that "under the protocol, euthanasia would be permissible when a child is terminally ill with no prospect of recovery and suffering great pain, when two sets of doctors agree the situation is hopeless and when parents give their consent." Not only would this policy cheapen the value of innocent, helpless human life, it "is especially significant because it will provide the model for how the country treats other cases in which patients are unable to say whether they want to live or die, such as those involving the mentally retarded or elderly people who have become demented."

The only model this government-sanctioned infanticide provides is one that wins further acceptance for placing the authority over life and death in the hands of the state. The Dutch government "will establish a vetting commission — modeled on com-

missions currently in place for adult euthanasia — to determine whether conditions have been met in each case and to refer the case to public prosecutors if they do not."

Trusting the state to be responsible for overseeing the euthanasia of infants is a gravely misplaced confidence. As AP points out, the killing of infants is already taking place without any prosecution by the Dutch government. "Government-sponsored studies in the 1990s and repeated in 2001 estimated there are 15 to 20 such infant killings in any year. Just 22 cases were reported to the Justice Ministry between 1997 and 2004 — most involving infants with severe damage to the brain and spine from spina bifida — and the ministry decided against prosecuting any of them."

These studies lend credence to the comments made to AP by American ethicist and pediatrician Dr. Chris Feudtner of the Children's Hospital of Philadelphia: "I categorically do not endorse ending people's lives with the argument that it's alleviating their suffering." He pointed out that "too often the impulse is to resort to extreme measures because we're not being effective enough in the management of pain." Dr. Feudtner said that active euthanasia is "prone to abuse," and that "if you allow it to occur, it will occur in cases where it is not ethical, period."

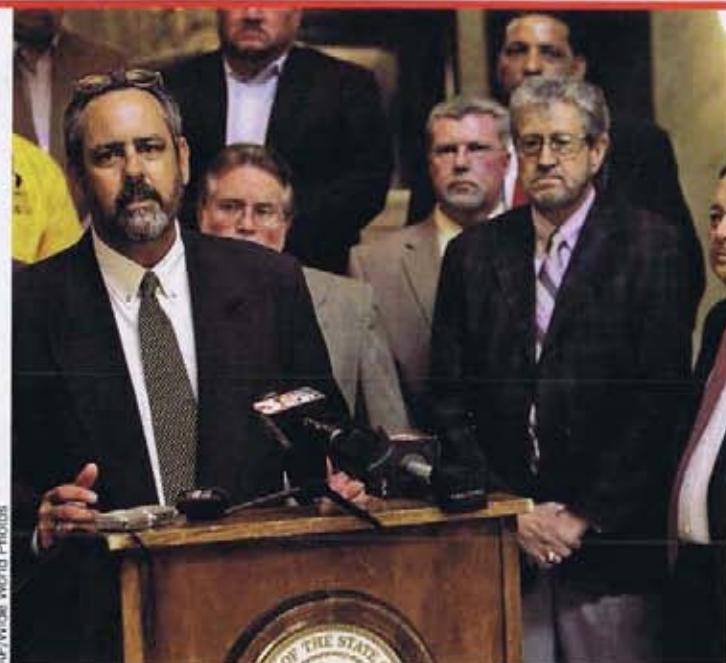
Reconstruction and Reconquista

Immediately following Hurricane Katrina, President Bush issued an executive order suspending the 1931 Davis-Bacon Act as it applies to reconstruction efforts in the Gulf Coast region. This permits federal contractors in Alabama, Florida, Louisiana, and Mississippi to pay below the prevailing wage.

Of course, the federal government has no constitutional authority to define wages, which is why Davis-Bacon should be repealed, rather than "suspended," by executive action. However, the president's order, coupled with the immediate infusion of tens of billions of dollars in reconstruction aid, creates a huge distortion in the labor market that will exacerbate our nation's problems with illegal immigration, as low-wage labor from Mexico and Latin America is drawn into the Gulf Coast.

In an October 1 *Los Angeles Times* column, Gregory Rodriguez of the New America Foundation exulted that "African-Americans and impoverished white Cajuns will not be first in line to rebuild the Katrina-ravaged Gulf Coast and New Orleans. Latino immigrants, many of them undocumented [read: illegal], will. And when they're done, they're going to stay, making New Orleans look like Los Angeles. It's the federal government that will have made the transformation possible, further exposing the hollowness of the immigration debate." In addition to supporting the suspension of Davis-Bacon provisions, Rodriguez also supports the Department of Homeland Security's decision to suspend, temporarily, the practice of "sanctioning employers who hire workers who cannot document their citizenship. The idea is to benefit Americans who may have lost everything in the hurricane, but the main effect will be to let contractors hire illegal immigrants."

In late September, Rodriguez continues, "the White House said it will push its plan to allow illegal immigrants already in the



Union leaders hold a press conference to protest President Bush's suspension of the requirement for federal contractors to pay the prevailing wage. The suspension will allow the feds to hire low-wage labor — most of it from Mexico and Central America — in reconstructing the Gulf Coast.

United States to become legal guest workers. Good. Hurricane Katrina exposed the nation's black-white divide. Post-Katrina reconstruction will soon spotlight the hypocrisy of refusing to grant legal status to those who will rebuild the Gulf Coast and New Orleans." Or, put another way, it will offer a new pretext to the Bush administration and its allies as they pursue the abolition of our borders and U.S. amalgamation with Mexico.

Illegal Immigrants as Neo-conservative Cannon Fodder

In a syndicated column published last February, *Wall Street Journal* editorial page editor Max Boot, a Senior Fellow at the Council on Foreign Relations, urged the creation of a mercenary army called the "Freedom Legion" in order to offset diminishing recruitment numbers and pursue the neo-conservative vision of a "global democratic revolution." Boot wrote that "there is a pretty big pool of manpower that's not being tapped: everyone on the planet who is not a U.S. citizen or permanent resident."

"The military would do well today to open its ranks not only to legal immigrants but also to illegal ones and, as important, to untold numbers of young men and women who are not here now but would like to come," he continued. "No doubt many would be willing to serve for some set period in return for one of the world's most precious commodities — U.S. citizenship. Open up recruiting stations from Budapest to Bangkok, Cape Town to Cairo, Montreal to Mexico City."

This proposal (which Boot reiterated in a second column on the subject in June) is what can be expected from someone who regards U.S. citizenship as a commodity, rather than a singular blessing and a solemn responsibility. A court martial that began

on October 5 at Parris Island, South Carolina, suggests that at least some people have been carrying out a plan similar to Boot's, albeit without official sanction.

Gunnery Sergeant Hubert A. Lucas is one of four people accused by the Naval Criminal Investigative Service (NCIS) of "selling and delivering counterfeit documents to illegal aliens in order for them to join the service," reported the *Village Voice*, citing official investigative reports. The NCIS "found 23 recruits who may have fraudulently entered the Marine Corps" as part of a scheme that was carried out between 2001 and 2004. The illegal alien recruits were supplied with bogus green cards and stolen or forged Social Security numbers.

The *Voice* reports that there are roughly 37,500 foreign nationals from over 200 countries currently serving in the U.S. armed forces. Legal residents are permitted to enlist, and the law provides for expedited naturalization of those who serve in the military. Individuals in the U.S. illegally cannot serve in the military. However, the second combat casualty of the ongoing Iraq war was Marine Lance Corporal Jose Gutierrez, a 28-year-old Mexican citizen who entered the U.S. illegally.

Drug Cartels and Regional Integration

Turf battles between Mexico's drug cartels have claimed more than 1,000 lives during the past year. The Gulf Cartel and the Sinaloa Cartel are battling for control over the Mexican city of Nuevo Laredo, located across the border from the Texas town of Laredo. U.S. Interstate 35, which runs from the Rio Grande to Lake Superior, begins in Laredo. The cartel that wins control in Nuevo Laredo will thus be positioned to exploit I-35, as well as the projected "Trans-Texas Corridor," a 12-lane, 4,000-mile long traffic artery that would accelerate the economic integration of the U.S., Mexico, and Canada.

In the effort to retain its foothold in Nuevo Laredo, the Gulf Cartel has retained the services of "Los Zetas," a paramilitary group of hired assassins with special forces training. "The Zetas ... feature 31 ex-soldiers once part of an elite division of the Mexican army — the Special Air Mobile Force Group," observed the October 22, 2003 *Brownsville Herald*.

According to Mexican Defense Minister Ricardo Clemente Vega, the Zetas have also recruited at least a handful of Guatemalan commandos referred to as the "Kaibiles" — a name borrowed from an ancient Mayan prince. "There are groups of soldiers, Kaibiles, in Guatemala ... who appear to want to work with the Zetas," Vega explained in testimony before the Mexican Senate on September 27.

Javier Ibarrola, a military affairs columnist for Mexico's *Milenio* newspaper, told the *Dallas Morning News* that "there are indications

the Kaibiles are already working in northern Mexico." The Zetas were trained as counternarcotics agents before being "flipped" by the drug lords whom they had targeted. The Kaibiles are a different story, according to Ibarrola: "Their preparation is different. Their intentions are different: simply to kill."

The possible merger of Mexican and Guatemalan drug gangs underscores the severe threat to homeland security posed by the Bush administration's ongoing effort to merge the U.S. with Mexico inside a common "security perimeter."



These casualties of the drug war were found buried near Nuevo Laredo, Mexico. Hundreds have died as rival drug cartels fight for the smuggling routes running through that border city.

AP/Wide World Photos

Guns: Lifesaver, or Public Health Menace?

A September 5 article in the *Washington Times* entitled "How Many Do Guns Defend?" said: "Criminologist and researcher Gary Kleck, using his own commissioned phone surveys and number extrapolation, estimates 2.5 million Americans use guns for defense each year. He further found 1 in 6 of those who used guns defensively believed someone would have died if they had not resorted to their firearms.... Mr. Kleck points out that if only a tenth of the people were right about saving a life, the number saved annually by guns would still be at least 40,000." This stands in comparison with 12,548 people dying in 2003 "through non-suicide gun violence, including homicides, accidents and cases of undetermined intent."

Yet, several physicians groups repeatedly refer to guns as a *public health menace* and link guns as a causative factor in violence. They back up their assertions with "facts" from gun control groups — "facts" that misrepresent the truth or are outright lies. For instance, they often refer to a statistic promoted by the Brady Center to Prevent Gun Violence that claims that "the risk of homicide is three times greater in households with guns." Of course, they don't mention that the study this statistic came from

has been discredited for not following scientific procedures, or that the author of the study, Arthur Kellerman, has admitted the study was flawed.

According to a 2004 article by medical lawyer Madeleine Pelner Cosman, the physicians groups enlist the aid of doctors in promoting the banning of guns. Cosman adds, "The American Academy of Family Physicians and the Academy of Pediatrics counsel their doctors to question their patients about guns they keep in the home, where, and how, and to record the answers on the patient's medical record. Physicians are encouraged to counsel patients to get rid of the guns."

According to Cosman, since 2003 that information has been made available for government inspection because of a medical law called HIPAA, the Health Portability and Accountability Act (first passed in 1996). She reports: "All medical records must be available for government Electronic Data Interchange."

If your doctor asks about your guns, a polite response indicating that you're only interested in speaking about medically related issues should suffice to circumvent this threat to your right to gun ownership. ■

Mississippi Legislator Explains Why He Broke the Chamber's Dress Code

"The fact is, I don't own a suit and I don't own a coat and I don't own a tie and I don't own a home. I am no different than 90 percent of my constituents and my neighbors."

Republican state representative Jim Simpson, Jr. told colleagues during a House session that he lost virtually everything when Hurricane Katrina leveled his home in Long Beach, Mississippi.

ACLU Lawyer Attacks Teaching of "Intelligent Design"

"This clever repackaging of creationism does not merit consideration. [It is] a 21st century version of creationism."

Telling a U.S. District judge that the Dover, Pennsylvania, school board should be stopped from requiring high school biology teachers to read to students a four-paragraph challenge to Darwinism, Pennsylvania ACLU legal director Witold Walczak insisted that intelligent design is not science.



AP/Wide World Photos

Mr. Bush's War Against Iraq Has Always Been Dishonest

"His argument that we must persevere because Iraq has become 'a central front in the war on terrorism' sounds like the man who kills his parents and then throws himself on the mercy of the court for being an orphan."

Cato Institute senior fellow Doug Bandow also labeled as "Kabuki theater" the year-long debate leading up to the invasion because he believes that the war had long been planned by Bush administration officials.



Basketball Star Skirts Bureaucracy to Help Hurricane Victims

"There was a lot of red tape, and I ain't got time for that. I found out that if you're going to do something good, just go ahead and do it. FEMA didn't approve, but we did it for the people."

Future NBA hall-of-famer Karl Malone brought his Arkansas-based logging company crew and 18 pieces of equipment to Pascagoula, Mississippi, where they spent two weeks doing no-charge work, hauling away Hurricane Katrina debris left on private property.

CFR Leader Perfectly Willing to See Sovereignty Disappear

"Sovereignty — the notion that governments are free to do what they want within their own territory — ... will fall victim to the powerful and accelerating flow of people, ideas, greenhouse gases, goods, dollars, drugs, viruses, e-mails, and weapons within and across borders."

Richard N. Haass, named president of the Council on Foreign Relations two years ago, supports the CFR goal of more than eight decades to submerge our nation and all nations into a world government.

Business Groups Urge Changes in Patriot Act

"Confidential files — records about customers or our employees, as well as our trade secrets and other proprietary information — can too easily be obtained and disseminated under investigative powers expanded by the Patriot Act."

Among the signers of a letter to Congress seeking amendments to the Patriot Act were the U.S. Chamber of Commerce, the National Association of Manufacturers, and the National Association of Realtors.

Governors Tell Bush Disaster Response Is Not the Job of the Military

"People in Washington, D.C., can yap all they want but they're not going to undermine the constitution of the state of Montana."

After President Bush suggested that the Pentagon should take the lead in dealing with natural disasters, Montana's Democrat Governor Brian Schweitzer was only one of 20 state leaders who emphatically disagreed. ■

— COMPILED BY JOHN F. MCMANUS



AP/Wide World Photos

"Able Danger" & 9/11 Foreknowledge

The ongoing coverup concerning the secret Able Danger operation provides further evidence that the "war on terror" is a farce.

by William F. Jasper

There was nothing in outward appearance to draw attention to the four-bedroom apartment at 54 Marienstrasse. Nonetheless, the attention of the intelligence services of Germany, the U.S., Israel, and other Middle Eastern and European countries had been drawn to the nondescript flat in Hamburg, Germany, as early as 1998. That was when Mohammed Atta signed the lease and he and Ramzi bin al Shibh moved in. Soon thereafter, it was identified by intelligence agencies as a target of interest. It became known as the hub of al-Qaeda's "Hamburg Cell."

Over the next two and a half years, dozens of al-Qaeda operatives, including Khalid Sheik Mohammed, the reputed

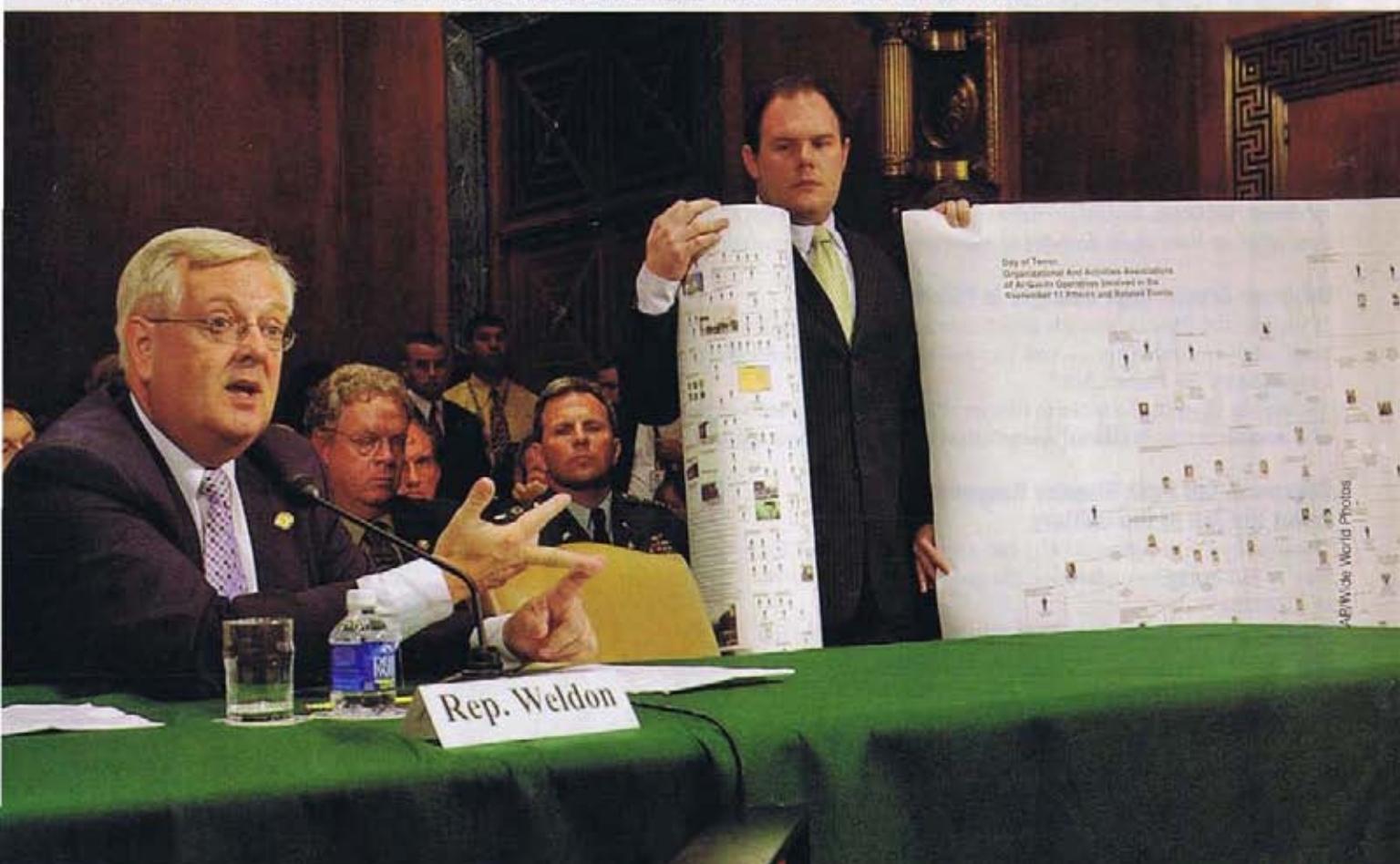
9/11 "mastermind," passed through the 54 Marienstrasse apartment. Twenty-nine al-Qaeda recruits from the Middle East or Northern Africa listed it as their registered address. Mohammed Atta would later be labeled, after the fact, as the "ringleader" of the 9/11 terrorists who hijacked four jetliners to use as missiles against targets in New York City and Washington, D.C. Atta is believed to have been the suicide pilot who flew American Airlines Flight 11 into the north tower of the World Trade Center. His Hamburg roommate, Ramzi bin al Shihb, captured in Pakistan in 2002, has been described by U.S. officials as the al-Qaeda "coordinator and paymaster" for 9/11. In the months leading up to the terrorist attacks of September 11, 2001, Osama bin Laden and his al-Qaeda terror

network were under intense scrutiny by intelligence services worldwide.

Cover Story Wearing Thin

Over the past several years, as more and more evidence has come out, it has grown more and more difficult for U.S. government officials to sustain the cover story that they had no way of anticipating the attacks. As it turns out, U.S. intelligence agencies and their foreign counterparts were almost tripping over each other as they shadowed the al-Qaeda network across the face of the planet. The FBI and CIA were tracking al-Qaeda operatives and their activities in the U.S. and overseas. The National Security Agency (NSA) was intercepting and recording the telephone calls of many al-Qaeda operatives, including Osama

Rep. Curt Weldon (R-Pa.) testifies on "Able Danger" before the Senate Judiciary Committee on September 21. The chart, a mock-up of one assembled by Able Danger prior to the 9/11 attacks, identifies five al-Qaeda cells and dozens of al-Qaeda terrorists.



bin Laden himself. More recently, it has come to light that a super-secret Pentagon operation, known as "Able Danger," was also tracking and monitoring al-Qaeda. Using advanced computer "data mining" capabilities, the Able Danger team reportedly identified Mohammed Atta, Marwan al-Shehhi, Khalid al-Midhar, and Nawaf al-Hazmi as members of an al-Qaeda cell code-named "Brooklyn" because of its connections to New York City.

According to Rep. Curt Weldon (R-Pa.), in September 2000 the Able Danger team initiated at least three separate efforts to get its information on the hijackers to the FBI "so they could bring that cell in and take out the terrorists." That was one year *before* 9/11. Army Lieutenant Colonel Anthony Schaffer, one of the principal members of Able Danger, has stated in interviews given this past August that Able Danger had identified five al-Qaeda cells, including two of the three cells that ultimately would be used to pull off the 9/11 terror attacks. Lt. Col. Schaffer set up one Able Danger/FBI meeting in the fall of 2000. It was canceled — as were all other efforts to inform the FBI — per orders from higher-ups in the Department of Defense.

Was the intelligence developed by Able Danger of sufficient quality, specificity, and credibility that it could have and should have been used to prevent the attacks on New York and Washington, D.C., that claimed almost 3,000 lives? We don't know the answer to that question since the executive branch has been blocking efforts by Congress and the public to gain access to information about Able Danger. This much we do know: first, the Clinton administration in 2000 and then the Bush administration in 2001 failed to heed the Able Danger warnings on al-Qaeda. Moreover, Clinton administration officials ordered the main Able Danger files destroyed in 2000; Bush administration officials ordered Lt. Col. Schaffer's duplicate Able Danger files destroyed in 2004. Both the Clinton administration and the Bush administration have attempted to cover up the existence of Able Danger and its findings. The official, bipartisan 9/11 Commission also covered up the existence of this operation and its findings. In recent months, members of the Able Danger team who have spoken out have been subjected to official harassment and intimidation.

Considerable effort is being expended by Donald Rumsfeld's minions in the Defense Department to keep all information about this operation under wraps.

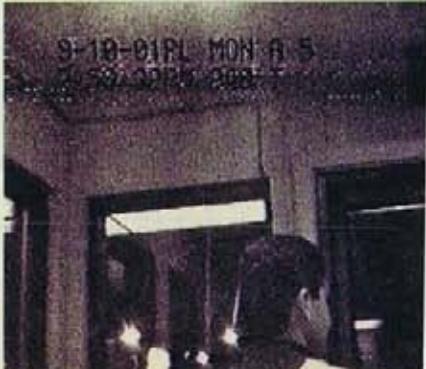
The first major exposure of Able Danger came on June 27 of this year, when Rep. Curt Weldon, who is vice chairman of the Armed Services Committee and the Homeland Security Committee, delivered a 45-minute speech on the House floor outlining the nature of the operation and the data it had developed on al-Qaeda prior to 9/11. Since then, Operation Able Danger has been the subject of growing controversy and intense international interest. Congressional hearings on Able

It has grown difficult for U.S. government officials to sustain the cover story that they had no way of anticipating the 9/11 attacks. As it turns out, U.S. intelligence agencies and their foreign counterparts were almost tripping over each other as they shadowed the al-Qaeda network.

Danger were scheduled, postponed, and rescheduled. Finally, on September 21, the U.S. Senate Judiciary Committee held a long-awaited hearing on Able Danger. It was a letdown; the Pentagon blocked the star witnesses from testifying. Able Danger team members James D. Smith and Lt.

Mohammed Atta, the alleged ringleader of the 9/11 hijackers, was a leader of the al-Qaeda "Hamburg Cell" under surveillance by German intelligence, the CIA, and FBI since 1998. The photos below were taken by an ATM camera in Portland, Maine, the night before the 9/11 attacks.

Fast Green ATM 9/10/01



AP/Wide World Photos

U.S. decision makers have allowed co-conspirators with the 9/11 terrorists to remain free. Instead of being penalized for their failures (or worse) in regard to 9/11, they have received *promotions!* The agents who tried to warn and protect the country have been muzzled.



Marwan al-Shehhi



Khalid al-Midhar



Nawaf al-Hamzi

FBI photos

Terrorists "R" Us get free ride en route to 9/11: Hijacker Marwan al-Shehhi met in Oklahoma with Moussaoui, Atta, and Menepta; Khalid al-Midhar and Nawaf al-Hamzi lived with FBI informant Abdusattar Shaikh in San Diego.

Col. Schaffer sat mute in the audience, prevented from testifying by the Bush/Rumsfeld Defense Department. Judiciary Committee Chairman Arlen Specter (R-Pa.) and other committee members, both Republicans and Democrats, angrily accused the Defense Department of obstructing the Senate's investigation.

Stung by the congressional criticism and the unfavorable public and media reaction to its stonewalling and obstruction, the Pentagon suddenly became cooperative — or so it seemed. On September 23, Senator Specter announced that new Able Danger hearings had been rescheduled for October 5 and that now the Pentagon would allow the witnesses to testify. However, Mark Zaid, the attorney for Schaffer and Smith, said the Defense Department had told him that his clients *would not* be allowed to testify. Mr. Zaid turned out to be correct. The October 5 hearings were canceled. When THE NEW AMERICAN contacted Mr. Zaid on October 5, he expressed the hope that there would still be hearings before the end of the year, but he had no idea when they might be.

Unfettered hearings in which Able Danger members are allowed to testify freely might provide useful information about al-Qaeda as well as about who was responsible — in both the Clinton and Bush administrations — for failing to heed the warnings of the Able Danger staff. However, there are some false assumptions underlying the arguments of Rep. Weldon and other advocates of Able Danger. Chief among these is the assumption that if only the FBI and the CIA had been given Able Danger's data on the al-Qaeda cells, they would have "taken out" the terrorists — either overseas or in the U.S. — prior to 9/11.

This line of argument dovetails with the standard conclusion of virtually every other official "in-

vestigation," to wit, 9/11 was an "intelligence failure" that demonstrated "lack of coordination and cooperation" among U.S. agencies. And the solution to this problem, we have been told, is to reward incompetence by giving the agencies involved still larger budgets and more manpower, and to combine them all together in a new gargantuan super-bureaucracy, the Department of Homeland Security.

However, as we noted above and will detail further below, the failure to "take out" the al-Qaeda cells before the deadly 9/11 attacks was not due to a lack of information. Whatever useful data Able Danger might have been able to offer concerning Mohammed Atta and his associates would have been superfluous. The FBI and CIA had been tracking the al-Qaeda 9/11 conspirators very closely *for years* — both in the U.S. and overseas, using both technical means and human intelligence. Dedicated FBI and CIA field operatives had warned their superiors repeatedly and had urged them to authorize the arrest of the terrorists. Those sensible pleas by agents in the field were rejected repeatedly by decision makers at the top levels of the federal government. Even worse, as we will show, co-conspirators with the 9/11 terrorists have been allowed to remain free and roaming at large in the United States. Many U.S. decision makers, instead of being penalized for their failures (or worse) in regard to 9/11, have received *promotions!* The agents who tried to warn and protect the country have been muzzled.

Disturbing Pattern

The continuity of coverup and conspiracy from the Clinton administration to the Bush administration to suppress Able Danger follows a disturbing pattern that is demonstrated in these cases directly related to 9/11:

- **Hamburg Cell.** Mohammed Atta, Ramzi bin al Shibh, and their roommates in Hamburg came under surveillance by German intelligence and the CIA in 1998 because of their association with al-Qaeda operatives in Hamburg who had been linked to the 1998 U.S. embassy bombings in Kenya and Tanzania. Those operatives included Mamoun Darkazanli, Mohammad Haidar Zammar, Said Bahaji, and Mounir al-Motassadek. The CIA station chief in Hamburg, Tom Volz, who posed as a U.S.

embassy employee, actually tried to recruit Darkazanli as an informant in late 1999 and 2000. CIA agent David Edger shadowed the Hamburg Cell for several years, before returning to the U.S. in 2001 to take a professorship of political science at Oklahoma University at Norman, coincidentally, just a few blocks from an apartment where an al-Qaeda cell operated that included 9/11 terrorists Mohammed Atta, Marwan al-Shehhi, and Zacarias Moussaoui.

• **San Diego Cell.** Even the 9/11 Commission Report, which whitewashed federal government failures, acknowledged that the failure to identify hijackers Nawaf al-Hazmi and Khalid al-Midhar when they entered the U.S. was one of the biggest "lost opportunities." The CIA had tracked both men to the "secret" al-Qaeda planning meeting for 9/11 in Malaysia, where they and other participants were photographed and videotaped by the CIA and Malaysian intelligence. The FBI claims that the CIA didn't inform them about the two men, so they had no way of knowing about them.

That won't wash. Available evidence shows the FBI had multiple tails on the duo in San Diego, where Hazmi and Midhar lived with former San Diego State professor Abdussattar Shaikh, an acknowledged longtime undercover asset of the FBI! What's more, the two terrorists had regular contacts with several other area jihadists who had long been under FBI surveillance, including Omar al-Bayoumi, an agent of the Saudi government whom federal authorities acknowledge as a primary financial conduit for Hazmi and Midhar. Hazmi worked (illegally) at a San Diego convenience store/gas station owned by Osama Mustafa, a militant who had been under FBI surveillance since 1994 because of his violent threats and his membership in the PLO and PFLP terrorist groups.

These and a host of other red flags had caused FBI Agent Stephen Butler to press his superiors to take action against Hazmi and Midhar, but they refused. "He saw a pattern, a trail, and he told his supervisors, but it ended there," said one congressional investigator of Butler's predicament. FBI officials have blocked Butler from testifying before any of the 9/11 investigations.

• **Phoenix Cell.** FBI informant Aukai Collins, who monitored Middle East terrorist suspects for the FBI for four years in Phoenix, claims to have told the FBI about



Disabled witnesses: Able Danger team members James Smith (left) and Lt. Col. Anthony Schaffer listen during a Senate Judiciary Committee hearing on Able Danger on September 21. Both men were ordered by the Pentagon not to testify. An al-Qaeda organizational chart stands next to them.

9/11 hijacker Hani Hanjour while Hanjour was in flight training in Phoenix. Collins said the FBI knew Hanjour lived in Phoenix, knew his exact address, his phone number, and even what car he drove. "They knew everything about the guy," Collins claims. In July 2001, Phoenix FBI agent Ken Williams sent an electronic memo to FBI headquarters in Washington outlining his investigation into area flight schools that led him to believe al-Qaeda may be using U.S. flight schools to train terrorists as pilots. He recommended that the FBI should conduct an investigation of flight schools nationally to see if this was happening. His memo was never acted on.

• **Brooklyn Cell.** The official 9/11 Commission Report has this to say about Ali Mohamed and his terrorist cell: "As early as December 1993, a team of al Qaeda operatives had begun casing targets in Nairobi for future attacks. It was led by Ali Mohamed, a former Egyptian army offi-

cer who had moved to the United States in the mid-1980s, enlisted in the U.S. Army, and became an instructor at Fort Bragg. He had provided guidance and training to extremists at the Farouq mosque in Brooklyn, including some who were subsequently convicted in the February 1993 attack on the World Trade Center." Known as "Al Qaeda's California connection," Mohamed worked for the FBI's Sacramento office, while training terrorists and escorting top al-Qaeda leader Ayman al-Zawahiri on a fundraising tour of the Golden State in 1995.

Mohamed pleaded guilty to terrorism charges in 2000 and was held in U.S. custody. Incredibly, he has been released and is now again on the streets. He can hardly be anything except a government *agent provocateur*.

• **Minnesota.** Zacarias Moussaoui, the so-called "20th hijacker," would have gotten away scot-free if FBI officials in Wash-

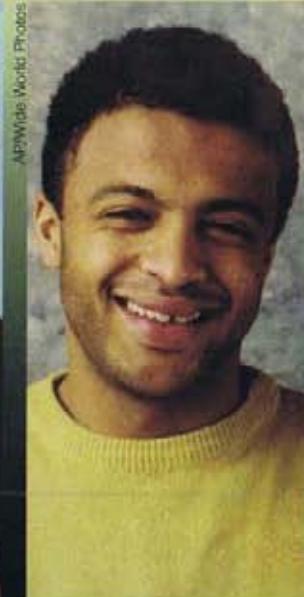
AP/Wide World Photos



Sheik Omar Abdel-Rahman



Ali Mohamed



Zacarias Moussaoui



Melvin Lattimore

Protected assets: (From left to right) Sheik Omar Abdel-Rahman, convicted ringleader of the 1993 World Trade Center (WTC) bombing, was given a U.S. visas by the CIA; convicted terrorist Ali Mohamed worked for FBI and U.S. Special Forces, trained the 1993 WTC bombers, and helped plan the 1998 al-Qaeda U.S. embassy bombings; federal officials repeatedly tried to release Zacarias Moussaoui before 9/11 and have dragged out his trial for four years; Melvin Lattimore/Menepta, a key figure in several terrorist attacks, recently was released from prison — again.

ington had had their way. Thanks to FBI field agents like Coleen Rowley, who tenaciously dug in their heels on the issue, he was not released and was still in custody when the 9/11 attacks occurred.

• **Norman Cell.** In addition to Mohammed Atta, Marwan al-Shehhi, and Zacarias Moussaoui, the al-Qaeda cell that operated out of Norman, Oklahoma, included convicted felon Melvin Lattimore, a convert to militant Islam who now goes by the name Majahid Abdulquaadir Menepta.

Mr. Lattimore/Menepta's credit card was used to help finance the 1993 World Trade Center bombing masterminded by Ramzi Yousef. He was identified by an FBI informant as a top suspect in the 1995 Oklahoma City bombing and was identified by witnesses interviewed by this magazine as being in the company of Timothy McVeigh in Oklahoma City. Menepta's roommate Hussain al-Attas drove Moussaoui to Minnesota. According to FBI documents, 9/11 hijacker Salem al-Hazmi was also seen at Menepta's apartment, and when FBI agents visited the apartment three weeks before 9/11, they saw several men fleeing through the back door of the apartment. The airline ticket for 9/11 hijacker Ziad Jarrah (United Airlines Flight 93) was purchased from an Oklahoma University computer terminal just a few

blocks from Menepta's apartment.

Like Ali Mohamed, Mr. Lattimore/Menepta is almost certainly a federal *agent provocateur*. As we have reported in a previous article ("Al-Qaeda's OKC-9/11 Ties," July 26, 2004), it is almost impossible rationally to explain his record in any other way. When Menepta was picked up and prosecuted, it was for only a minor weapons violation. He was sentenced to a few months in prison and is now back on the streets. Thus, a man who has been tied to the three most important terrorist attacks in U.S. history — 1993 WTC, 1995 OKC, and 9/11 — has been purposely set loose.

The current coverup of the terrorist bombing in Norman, Oklahoma, outside the stadium during the Oklahoma University-Kansas State football game on October 1 is yet another wake-up call. The 85,000 fans inside the stadium — and a national television audience — were the intended targets. Fortunately, the suicide bomber was unable to get inside the stadium and took only his own life. However, federal authorities have rushed to cover up all evidence that the bombing was a terrorist effort involving foreign nationals.

The official story is that the bomber was a mentally unstable student, Joel Henry Hinrichs III, with no ties to Islamic

jihadists. However, news organizations and confidential sources in Oklahoma have challenged that account, producing contradictory evidence showing that Hinrichs was indeed involved with a ring of Pakistanis who were Islamic fanatics. (See article on page 19.)

Time for Truth, Not Partisan Politics

Predictably, Republicans and Democrats are both trying to use the Able Danger revelations for partisan purposes, to portray the opposition as weak and irresponsible on terrorism and national security. But like the Oklahoma football bombing and a number of other incidents, the ongoing Able Danger stonewalling demonstrates a continuity of pernicious policy that transcends party lines.

According to Rep. Weldon, two weeks after 9/11 he was provided with data from Able Danger that included "an extensive analysis chart of Al Qaeda, which I immediately took to the White House and personally delivered to then-Deputy National Security Advisor Stephen Hadley. Mr. Hadley was extremely interested in the chart and said that he would take it to the President."

During his testimony before the Senate Judiciary Committee on September 21, Rep. Weldon said: "And I can tell you this

— I talked to Mr. Hadley three months ago when I briefed him on another issue, and I said, remember that chart that I gave you? And he said, yes, I remember it." However, Mr. Hadley, who has since been promoted to national security adviser, has been mum on the issue of that meeting.

One of the peripheral issues that has become a main bone of contention in the whole matter is whether or not the chart provided to Hadley actually included a photo of Mohammed Atta. According to Lt. Col. Schaffer and other Able Danger team members, the chart (roughly four-and-a-half feet by five feet) included a photo of Atta and showed his linkage to the 1993 World Trade Center bombing and the blind sheik Omar Abdul-Rahman, who was convicted and sent to prison on bombing conspiracy charges.

The Pentagon's story on the chart evolved through several stages. Initially, Defense Department officials claimed that there was no evidence that a chart ever

existed. Then the chart's existence was acknowledged, but it was alleged that the data on it was non-specific. Then it was asserted that the chart had not included a photo of Atta. But on September 2, Rep. Weldon announced that on the previous day he had been to a Pentagon briefing in which officials "confirmed that five credible witnesses did see the 9/11 ringleader, Mohammad Atta, in data produced by Able Danger prior to the 9/11 attacks."

That "official" line could change again, of course, if an investigation proceeds. But Lt. Col. Schaffer and other Able Danger members are being pressured to drop the matter.

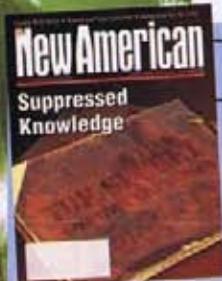
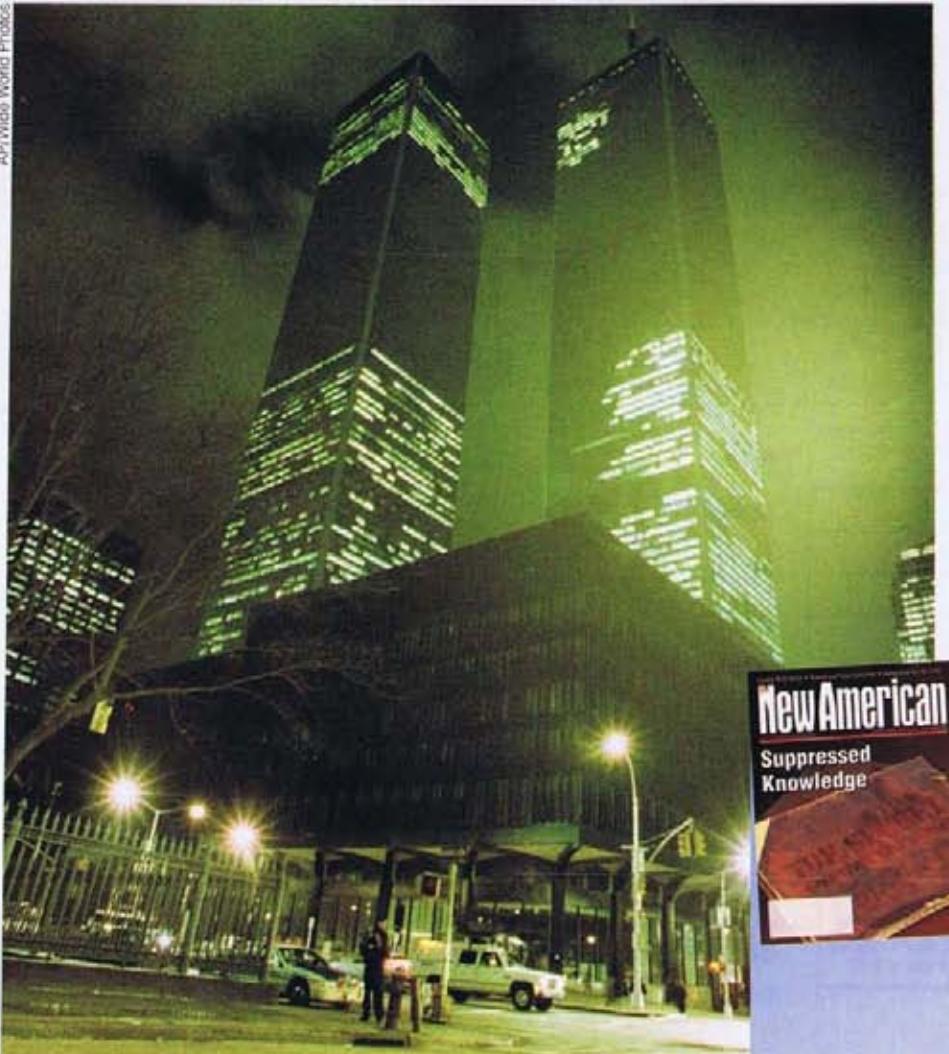
Likely as a penalty for not keeping silent, Schaffer's security clearance has been revoked. In October 2003, while

There is a pattern of conscious, purposeful action aimed at thwarting those who are tasked with defending America in the "war on terror." It is a pattern of action that is being carried out by policymakers at the highest levels of our government, and it is time to ask why.

stationed in Afghanistan, Schaffer briefed Philip Zelikow, the executive director of the 9/11 Commission, and other Commission staff members on Able Danger. According to Schaffer, Zelikow stated that this was very important information, gave Schaffer his card, and told him to get back in touch when he returned to Washington, D.C. However, Schaffer says that when he called Zelikow's office in January 2004 to set up an appointment, he was given the brush off. When he called again, he was told Dr. Zelikow had all the information he needed on Able Danger and there was no need for a meeting. Shortly thereafter he was hit out of the blue with charges that he had run up unauthorized telephone charges, to the tune of \$67. According to Schaffer, the Pentagon spent "in our estimation \$400,000 to investigate all these issues simply to drum up this information." That fits a pattern of retaliation against other government whistleblowers who have been faced with similar charges.

Many additional examples could be cited to amplify this pattern. It is a pattern that reflects not incompetence or "lack of coordination" but something much worse. It is a pattern of conscious, purposeful action aimed at thwarting those who are tasked with defending America in the "war on terror." It is a pattern that is being carried out by policymakers at the highest levels of our government, and it is time to ask why. ■

AP/Wide World Photos



EXTRA COPIES AVAILABLE

◆ Additional copies of this issue of THE NEW AMERICAN are available at quantity-discount prices. To order, visit www.thenewamerican.com/marketplace/ or see the card between pages 38-39.

Terrorists in Mid-America

The October 1 suicide bombing outside the University of Oklahoma football stadium may have been the work of a terrorist cell, not simply the act of a disturbed student.

by William F. Jasper

Many of the 85,000 football fans at the Oklahoma University-Kansas State game on Saturday, October 1 thought they were hearing thunder. Others thought fireworks or a game cannon had been set off. But some in the packed Oklahoma Memorial Stadium were anxiously thinking "BOMB!" The loud explosive noise that erupted during the game's second quarter "was heard as far as five miles away," according to a report in *The Oklahoma Daily*, the university's student newspaper.

It was indeed a bomb that had caused the explosive sound, but many in the stadium did not know that until after the game. By then, news stories were already reporting some of the grisly facts. Some 30 yards from the entrance to the stadium was the lower half of a man's body; the upper half had been completely blown away in an apparent suicide bombing.

The following day, the remains of the body were identified as those of 21-year-old OU engineering student Joel Henry Hinrichs III. University officials and spokesmen for federal law enforcement agencies reacted quickly to assure the public that the bombing was simply the act of a mentally disturbed student, with no evidence of any connection to terrorism.

"We know that he has had what I would call emotional difficulties in the past," said University President David Boren in an October 2 press statement. "There is certainly no evidence at this point which points to any other kind of motivation other than his personal problems." In a joint statement, U.S. Attorney John Richter, FBI Oklahoma Bureau Chief Salvador Hernandez, and OU Police Chief Elizabeth Woolen said, "At this point, we have no information that

AP/Wide World Photos



Thousands of fans the intended target? Football fans walk past police perimeter tape after an apparent suicide bomber blew himself up outside the packed stadium at the University of Oklahoma on October 1.

suggests that there is any additional threat posed by others related to this incident."

Another Coverup

But some local media and independent sources in the Norman, Oklahoma, area where the incident took place, contacted by THE NEW AMERICAN, have challenged that official line, pointing to ample evidence indicating that Hinrichs was involved in a terrorist plot — and that the above-named officials are involved in a massive coverup.

KWTV Channel 9, the Oklahoma City affiliate of CBS, has reported a number of stories that conflict sharply with the official line that there is "no evidence" pointing to a connection between Hinrichs and terrorism:

- Police found Islamic jihad literature, as well as 1,000 pounds of explosives, in Hinrichs' apartment.
- Hinrichs shared his apartment with Fazal M. Cheema, a Pakistani; and a

search of the apartment turned up a one-way airline ticket for Cheema to Algeria. The FBI questioned Cheema and released him. Now they don't know where he is.

• Hinrichs dropped out of school in 2003 and did not re-enroll at OU until the spring of 2005. The FBI has not accounted for his whereabouts during this interim.

• Hinrichs, who sported a Muslim-style beard, had been attending the nearby mosque and was associated with a group of Muslim Pakistani students.

In addition to the above, a number of other disturbing facts that defy mere coincidence point toward a terrorist connection in the Hinrichs bombing:

• The Norman Police Department has confirmed that on September 28, three days before the explosion, Hinrichs had attempted to purchase 1,000 pounds of ammonium nitrate fertilizer from Ellison's Feed Store in Norman. Mr. Ellison, who refused to sell him the fertilizer, has confirmed the story in several interviews. Am-

monium nitrate, which has been a common ingredient of bombs used by al-Qaeda and other Middle Eastern terrorist groups, was also the main ingredient of the 1995 Oklahoma City truck bomb.

- According to unconfirmed reports, Hinrichs had made more than one attempt to enter the stadium, but was turned away when he refused to allow security personnel to search his backpack.

- The Parkview Apartments where Hinrichs resided are located less than a block away from the mosque attended by 9/11 conspirator Zacarias Moussaoui, Melvin Lattimore/Menepta, and other members of al-Qaeda's Norman Cell.

- The OU football bombing took place during the first week of the Islamic holy month of Ramadan, which is in keeping with the al-Qaeda plan for a great October Ramadan offensive that first came to light in a May 30, 2005 letter from al-Qaeda leader Abu Musab al-Zarqawi to Osama bin Laden.

The Boren-Tenet Connection

As former chairman of the Senate Intelligence Committee, Oklahoma University President David Boren has been in the thick of a stinky intelligence morass concerning terrorism since long before the 9/11 attacks. Boren was the main sponsor of George Tenet to be named director of the CIA, and it was Boren who urged President Bush to keep Tenet as director in his new administration. Tenet, who was not qualified to head the powerful spy agency, had served as Boren's staff director on the Senate Intelligence Committee.

Boren resigned his Senate seat in 1994 just a step ahead of a major sex scandal that could have killed his political career. W. Scott Thompson, a homosexual activist professor at Tufts University (and fellow student with Boren at Oxford University) had "outed" Boren as a longtime homosexual. Boren took a political appointment as president of OU where for the past decade he has reigned.

While Boren has reigned at OU, al-Qaeda's Norman Cell and a radical fundamentalist mosque have operated under his nose (and his protection). Zacarias Moussaoui, Marwan al-Shehhi, Mohammed Atta, Melvin Lattimore/Menepta, and Ziad Jarrah can be considered some of his honorary OU alumni.



Spinmeister and coverup artist: Oklahoma University President David Boren responds to questions about the October 1 bombing that occurred near the university's crowded stadium.

Hussain al-Attas and Mohammad Yasseen Haider are some of his *official* OU alumni. Al-Attas was a recruit of Zacarias Moussaoui and Lattimore/Menepta. Al-Attas also is the man who drove Moussaoui from Oklahoma to the Minnesota flight school where Moussaoui intended to receive the pilot training that would enable him to participate in the 9/11 hijackings.

Haider is an especially interesting case, since in 2002 Boren personally intervened to side with him against an American student, Chance Shipman, whom, according to multiple witnesses, Haider was harassing. Among other things, Haider, president of the Pakistan Student Association and allegedly a homosexual, was reportedly making obscene gestures and blowing kisses at Shipman. Boren caused a scandal when he violated the rights of Shipman and another student, Gary Frizell, expelling them in deference to Haider. Boren then provided Haider with a job at the Parkview Apartments where OU bomber Joel Hinrichs would later live and store

his explosives. Unfortunately for Boren, his protégé, Haider, virtually flamed out in public, first coming under charges of indecent exposure and stalking, then admitting to engaging in a criminal e-mail anthrax threat and lying to the FBI. Even more significant is Haider's arrest by the FBI, along with Moussaoui's associates Hussain al-Attas and Mukkaram Ali, shortly after 9/11.

Then there is Boren's more famous protégé, George Tenet. Tenet and his predecessors at the CIA had been pouring tens of millions of dollars into the ISI, the Pakistani intelligence service, for years. General Mahmoud Ahmad, the head of the ISI, was forced to resign on October 6, 2001 when it became known that he, our "prized asset" in the war on terror, was intimately involved with the 9/11 hijackers, having wired \$100,000 (via Ahmad Umar Sheikh) to 9/11 "ring-leader" Mohammed Atta. Tenet managed to hang on nearly three more years, resigning in 2004, amid steadily mounting criticism over his 9/11 "failures." ■

Trouble With DeLay

While the indictment of Rep. Tom DeLay may be a partisan "witch hunt," the former House Majority Leader has a lot to answer for.

by William Norman Grigg

Behind every great fortune is a crime," wrote French novelist Honore de Balzac in words that could have been penned by Karl Marx. That invidious assessment is in need of a crucial clarification: every political fortune is built on crime — generally in the form of what Frederic Bastiat called "official plunder." When viewed in that light, Balzac's cynical maxim may apply to the ongoing travails of Representative Tom DeLay (R-Texas), the former House majority leader.

Within a week, Rep. DeLay was indicted by two separate grand juries in Texas. The first indictment accused DeLay of conspiring to funnel illegal campaign contributions to Republican candidates for the Texas state legislature; the second charged the congressman with conspiracy to commit money-laundering. The congressman is accused of redirecting \$190,000 in corporate campaign donations through an arm of the Republican National Committee to 2002 Republican state election campaigns in Texas. This would constitute a violation of state law, which does not permit campaign donations from corporate interests.

According to the indictment, a group called Texans for a Republican Majority (TRMPAC) raised money directly from corporate contributors and then donated the corresponding amount to a branch of the Republican National Committee, which then disbursed the \$190,000 to state legislative candidates.

Predictably, Congressman DeLay reacted to the first indictment by accusing Travis County District Attorney Ronnie Earle, who is building the case, of being a "rogue prosecutor" conducting a "partisan witch hunt." He also insists that the funds were transferred from Washington to Texas without his approval. During an August meeting with Earle, DeLay admitted — although not under oath — that he was aware that the money raised by TRMPAC was being routed to state candidates

AP/Wide World Photos



House Majority Leader Tom DeLay was forced to step down following his indictment by a Texas grand jury investigating alleged violations of state campaign finance laws. Rep. DeLay was instrumental in building a formidable GOP lobbying and fundraising apparatus.

by way of the Republican National Committee; however, he insists that he was advised that the process was legal.

Forced by Republican Party rules to surrender his leadership position, Rep. DeLay has been ordered to appear in an Austin, Texas, courtroom on October 24. Understandably, supporters of the Democratic Party — and their allies in the media — relish the prospect of DeLay's humiliation. However, Dick DeGuerin, DeLay's defense attorney, warned that "anyone expecting to see DeLay handcuffed and paraded before cameras in a so-called 'perp walk' will be disappointed," reported the *Houston Chronicle*.

Private vs. Political Perpetrators

It may seem excessive to heap such public disgrace on an individual accused of what

could be construed as a technical violation of an obscure bookkeeping regulation. But it should be remembered that Congressman DeLay himself has endorsed the ritual humiliation of corporate leaders accused of financial misdeeds.

"We need to strip corrupt corporate kingpins of their ill-gotten gains," blustered DeLay in a June 2002 press conference. "We're going to shackle them and take them to jail. We're taking the mansion. We're draining the accounts. And we're coming after the yacht." The congressman's comments were made in reaction to disclosures of accounting fraud by the corporate leadership of such firms as Enron and WorldCom — and the widespread perception that the Republican Party displayed an improper sympathy to corrupt corporate interests.

It may seem excessive to heap such public disgrace on an individual accused of a technical violation of an obscure regulation. But it should be remembered that Congressman DeLay himself has endorsed the humiliation of corporate leaders accused of financial misdeeds.

DeLay and other GOP congressional leaders, for purposes of partisan political advantage, decided to act "on the premise that 'business is theft,'" recalls former Treasury Department official Paul Craig Roberts, by enacting — with DeLay's enthusiastic support — the Sarbanes-Oxley Act of 2002. That measure effectively "tarred all corporate executives with the misbehavior of a few," Roberts continued, by permitting the federal government to micromanage and second-guess all corporate financial operations — in essence, turning bookkeeping errors or inaccurate but honest financial projections into prosecutable felonies.

"Today's message from Congress to

this question: what are these unspecified "other white-collar crimes"? Most likely, those "crimes" would consist of any corporate decisions or practices that attract the interest of federal prosecutors who possess ambition and inventiveness similar to that displayed by Ronnie Earle of Texas.

"One of Sarbanes-Oxley's most onerous provisions makes every member of a company's board of directors, as well as the company's chief executive officer, criminally liable if they fail to catch accounting errors," observes Representative Ron Paul (R-Texas). The mandates prescribed by Sarbanes-Oxley "have caused directorship, accounting, audit, and legal fees to double," he continues. "In addition,

CEOs and corporate boardrooms is clear," proclaimed House Speaker Dennis Hastert (R-Ill.) following the measure's passage. "If you steal, cheat or commit some other white-collar crime, you'll face the same consequences as law-breaking street thugs by spending time behind bars." (Emphasis added.) Stealing and cheating were already illegal, of course — which begs

the cost of directors' liability insurance has almost doubled since Sarbanes-Oxley became law. Not surprisingly, the impact of these new costs hit small businesses especially hard — the traditional engine of job creation in America."

Rep. Paul, who has sponsored legislation to repeal the most egregious elements of Sarbanes-Oxley, points out that "every state in the nation has fraud laws on the books, and the market responded to Enron rumors well before Congress held any hearings on the matter. Once again, Congress has presumed to understand what it does not, and regulate what it has no authority to regulate."

Protection Racket

The purpose of Sarbanes-Oxley and similar measures is not to protect businessmen, investors, or consumers, but to create a regulatory system that operates much like a protection racket. The behavior of Congressman Michael Oxley (R-Ohio), a cosponsor of that "reform" legislation, offers a splendid illustration of that protection racket in action.

Writing in the June 23 *New York Review of Books*, Elizabeth Drew described how Oxley, chairman of the House Financial Services Committee, "put pressure on the Investment Company Institute, a consortium of mutual fund companies, to fire its top lobbyist, a Democrat, and hire a Republican to replace her." A total of six sources, both Republican and Democrat, recounted to the *Washington Post* "that members of Oxley's staff told the institute that a pending congressional investigation of mutual fund companies 'might ease up if the mutual fund trade group complies with their wishes,'" recalled Drew. "It apparently didn't matter to them that House ethics rules prohibit congressmen or their staffs 'from bestowing benefits on the basis of the recipient's status as a supporter or contributor, or partisan affiliation.' A Republican now holds the top job at the Investment Company Institute."

Every enhancement of the federal government's regulatory power leaves private interests more vulnerable to that type of political blackmail. This helps explain the primacy of "K Street," the infamous Washington, D.C., Avenue where lobbyists for business and trade groups maintain their offices.



Partisan prosecutor? Tom DeLay's Republican defenders depict Travis County District Attorney Ronnie Earle as akin to Inspector Javert from *Les Misérables* — a fanatic bent on persecuting a flawed but innocent man.

Following the Republican conquest of the House of Representatives in 1994, Congressman DeLay and a few associates inaugurated the "K Street Project," which Elizabeth Drew describes as "an effort to place more Republicans and get rid of Democrats" in the ranks of prominent lobbying groups. Explains Republican activist (and co-architect, with DeLay, of the "K Street Project") Grover Norquist: "We don't want nonideological people on K Street, we want conservative activist Republicans on K Street.... There should be as many Democrats working on K Street representing corporate America as there are Republicans working in organized labor — and that number is close to zero."

Rep. DeLay has admitted as much, as well. *Newsweek's* Jonathan Alter describes a 1995 conversation with Rep. DeLay (at the time the House majority whip) in which he discussed "a rumor about him that I figured could not possibly be true. The rumor was that after the GOP took control of the House that year, DeLay had begun keeping a little black book with the names of Washington lobbyists who wanted to come see him. If the lobbyists were not Republicans and contributors to his power base, they didn't get into 'the people's House.' DeLay not only confirmed the story, he showed me the book. His time was limited, DeLay explained with a genial smile. Why should he open his door to people who were not on the team?"

One problem with the perspective described by Norquist and DeLay is that true conservatives don't want power to accumulate in Washington. But more importantly, DeLay, like all other members of Congress, swore an oath to "support and defend the Constitution of the United States," rather than the interests of their respective political "teams."

More than any other Republican leader, Tom DeLay has worked to centralize power in Washington and keep it in Republican hands. While he has paid rhetorical tribute to conservative concerns — reduction in the size and expense of government, de-

fense of national sovereignty, protecting the sanctity of life — his actions attest to his true priorities, which are to exalt the Republican Party over all else.

Arguably the best illustration of those priorities was offered on September 13 by DeLay himself when he made the astonishing claim that during their 11 years in power the Republicans had "trimmed the fat" out of the federal budget. That claim came just weeks after the GOP-led House, acting in concert with the Bush White House, passed a grotesquely obese federal highway bill larded with hundreds of millions of dollars in bribes to pay off congressmen who had voted in favor of the so-called Central American Free Trade Agreement (CAFTA). From DeLay's perspective, taxpayer-subsidized bribes aren't "fat," since they are compatible with the prime directive: advance the interests of the Republican leadership at all costs.

Philosophical Corruption

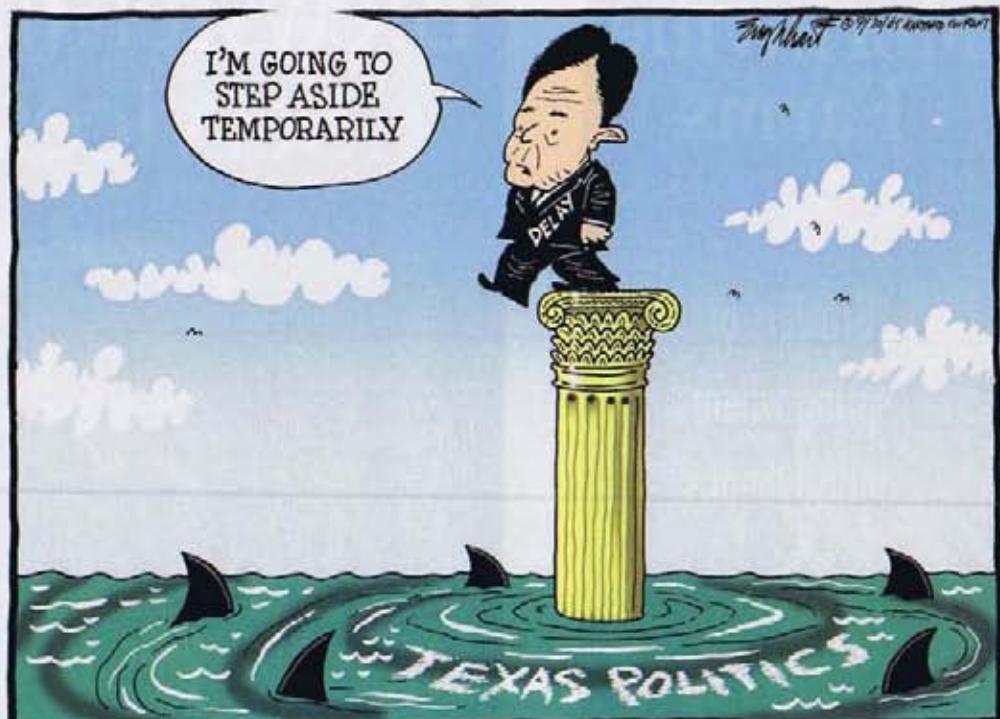
Little tangible damage to anyone was done as a result of DeLay's alleged violations of Texas campaign laws. The same cannot be said, however, of the system of official plunder he has served so faithfully.

"Tom needs to be taken to task for his votes on CAFTA and unconstitutional spending bills, not for supposed viola-

tions of obscure campaign finance laws," a veteran of Texas Republican politics who has known the congressman for decades commented to THE NEW AMERICAN anonymously. "I've known Tom since before he entered the Texas legislature nearly 30 years ago. We were actually in business together for a while. I have no doubts about his personal integrity. His problems have more to do with philosophy than with matters of ethics."

"On a few occasions, I've been with Tom in a hotel bar following Republican Party events, and when I've offered to buy him a glass of wine, he's refused," continues the Texas GOP activist. "He's explained to me that he can't even discuss the matter because of campaign finance laws. So I'm inclined to believe him when he says that he never intended to violate either state or federal campaign laws. I do think, however, that where he may have been naïve, or exercised poor judgment, is in the choice of some of the people he's associated with. He's not dishonorable, but people of that sort are kind of thick on the ground in Washington."

Where political power accumulates, corruption will thrive, despite any supposedly noble intentions of those who exercise that power. And this is true irrespective of which political "team" happens to be in control. ■



Empowering the Executive Branch

An issue that must not be overlooked regarding Supreme Court nominee Harriet E. Miers is her staunch support for the Bush agenda of executive branch empowerment.



AP/Wide World Photos

Conservative choice? Harriet Miers, President Bush's pick to replace Sandra Day O'Connor on the Supreme Court, is largely an enigma because she hasn't previously been a judge. But her stance on granting Bush broad executive power is clear — she's for it.

by Thomas R. Edlem

The talking heads on television keep yammering on and on about the same questions regarding President Bush's nomination of Harriet E. Miers for the U.S. Supreme Court: Is Miers a conservative or liberal? A constitutionalist or activist? Will she vote to overturn *Roe v. Wade*?

Given Miers' lack of judicial history, questions about her nomination turn to political matters. Miers contributed to Al Gore's presidential campaign in 1988 at the then-legal maximum of \$1,000 and gave the same amount to the election campaign of Texas Democrat Lloyd Bentsen. She said she supported "equal rights" for homosexuals, but opposed repeal of the Texas state sodomy law. She is known as a Republican "moderate," but goes to a fundamentalist church. She opposed

the American Bar Association's policy endorsing legalized abortion, but hasn't stated whether or not she believes *Roe v. Wade* is "settled law."

James Dobson of Focus on the Family, after a telephone conversation with White House political operative Karl Rove, endorsed the Miers nomination, adding, "You will have to trust me on this one." But Cathie Adams of the Texas Eagle Forum is more skeptical. "Dobson made the wrong decision on stem-cell research. That shows that he is not any more knowing than the rest of us," she told THE NEW AMERICAN. "I think [constitutionalists are] being asked to sign a blank check.... 'Just trust me' is not what a true friend would say."

Who — and what — is a constitutionalist to believe?

All of those are important questions and lines of inquiry for the U.S. Senate as it begins hearings on the Miers nomination.

Because of Miers' lack of a judicial record, some of the questions will not be definitively answerable unless and until she actually ascends to the court and begins writing decisions.

But have the pundits missed a key point about the Republican nominee to the Supreme Court? Have they ignored the drift away from strict constructionism when it relates to the so-called "war on terrorism"? A few leftist pundits have taken notice of this aspect of Miers' nomination.

The October 5 *Boston Globe* reported: "As President Bush's counsel, Harriet E. Miers continued the expansive interpretation of presidential powers favored by her predecessor, Alberto Gonzales, who backed Bush's authority to hold terrorist suspects without trial, as well as the White House's right to withhold more administration documents from public disclosure than in the past. Miers has also been outspoken in her support of reauthorizing the Patriot Act, which gave the executive branch new powers of surveillance over US citizens."

Bill Goodman of the leftist Center for Constitutional Rights fretted to the *Boston Globe*: "The fact that the president is now seeding the Supreme Court with people who have been handmaidens in his efforts to increase the power of the executive without any check or oversight whatsoever is very disturbing." Goodman's organization sued the federal government to bring due process to prisoners who had been tortured at Guantanamo Bay. He may have a point, especially with Harriet Miers. The *Globe* reported that Miers was "part of the administration's legal team when it developed both the Patriot Act and the detention policy for suspected terrorists." Though Miers' precise role in forming those policies is not known to the public, she has

been a public supporter of reauthorizing the Patriot Act.

Miers' nomination and how she will view executive branch powers has taken on added importance since the U.S. Senate adopted an amendment on October 5 that would prohibit torture by the executive branch and establish standards for the treatment of "enemy combatants" captured by the armed forces of the United States. The president has claimed in court documents the executive power to apprehend American citizens in the United States and hold them indefinitely without either giving them trial, charging them with a crime, or affording them access to legal counsel so long as he designates these citizens as "enemy combatants."

It is not just left-wingers and their media allies who are talking about the possibility of Miers being used to push the agenda of executive branch empowerment. Bush himself hinted that this was one of the primary factors in selecting Miers as a nominee: "What matters to me is her judicial philosophy. What does she believe the proper role of the judiciary is relative

to the legislative *and executive branch?*" (Emphasis added.) *The Hill*, the newspaper of Washington, D.C.'s Capitol Hill, noted in its October 4 issue that Republican strategists are actually using Miers' expansive views of executive power as a *selling point* for the conservative faithful: "[Republican strategist Ken] Mehlman yesterday unveiled a politically powerful argument linking Bush's nomination to the war on terrorism. He said that as a former White House Counsel Miers would know the importance of not letting the courts or the legislative branch 'micromanage' the war on terrorism." Mehlman also weighed in with the "trust Bush" line of argument: "The person who knows her is President Bush, and there's never been a president who's known a judicial nominee as well as the president knows Harriet Miers."

Bush and Miers are certainly close politically and personally. "You are the best governor ever — deserving of great respect," Miers wrote to George W. Bush days after his 51st birthday in July 1997. According to David Frum of *National Review Online*, "In the White House that

hero worshipped the president, Miers was distinguished by the intensity of her zeal: She once told me that the president was the most brilliant man she had ever met." Throughout her dealings with Bush, Miers has been a key backer of Bush administration policy initiatives and clearly has a commitment to validate Bush's leadership on a personal level.

As constitutionalists hope and pray that the next Supreme Court nominee votes to overturn the unconstitutional *Roe v. Wade* decision that has led to the slaughter of millions of unborn children, they should not forget that although abortion is arguably the most important single issue before the Supreme Court, it is not the only important issue before the court.

"I look upon this as an opportunity and I hope it is not squandered," Cathie Adams told THE NEW AMERICAN of the Supreme Court nomination. By nominating Miers, Bush seems to have squandered an opportunity to make a truly conservative shift in the court's makeup — and thereby squandered the freedoms of all Americans who still cling to the Constitution. ■

Not Giving Up on Immigration Control

When it comes to immigration reforms and tight immigration controls, many say it can't be done. But they are wrong.

by Kurt Williamsen

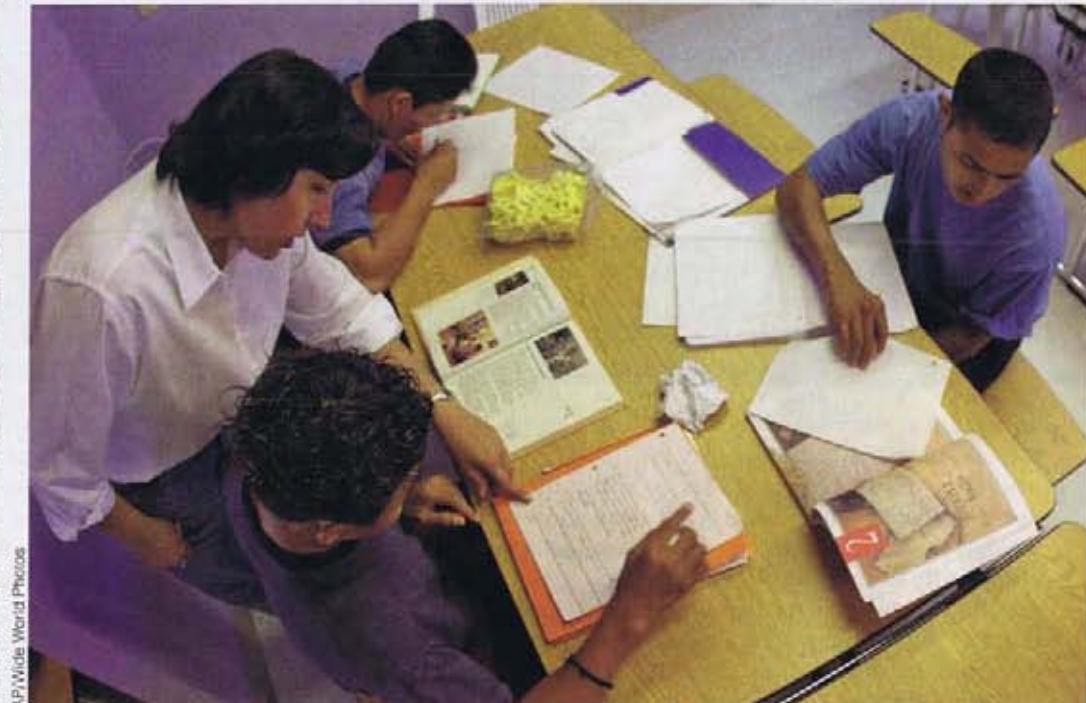
The assertion that we can't curtail exploding illegal immigration is based on the false notions that our government is already doing the best it can to control the problem, that our borders are too long to be effectively controlled, and that finding and evicting the illegals would demand too much of an investment in terms of time and money to be worthwhile. But these assumptions are flawed, and the government can solve the immigration mess as soon as it decides to do so.

Yes, our borders are long, but we can secure them without putting a guard on every square foot of territory. Barriers such as walls and fences, and technology that alerts border patrollers to the presence of illegals, can radically reduce the need for manpower. Moreover, we don't have to catch and expel every illegal attempting to sneak into the United States in order to solve the problem. We can also reduce the flow by getting rid of the incentive to come here, including limiting the ability of illegals to obtain employment.

However, instead of honestly trying to solve the problem, Democrats cater to illegals to get the Hispanic vote, and Republicans cater to them to get businessmen's votes — Hispanics provide cheap labor. Despite the cries from many politicians that the border is virtually uncontrollable, the deployment of a multifaceted approach on immigration that sought to hinder the freedom of illegals near the border and in the interior of our country could surely remedy this problem.

Implementing Change

The first step that would need to be taken is to implement changes at the border so that



Disability pays: The children of illegal immigrants are likely to be labeled with behavioral "disabilities" and get government money or aid. Here the children of illegals are taught at the Southwest Key Program, a private company that has contracted with the federal government to care for the children of illegals.

crossing into our country is much more difficult. The Minuteman Project showed that this could be done effectively if some manpower is added to the border. By hiring more border patrol officers and building barriers at highly used crossing points, we could effectively contain and stop border crossings if the number of would-be crossers is held to moderate levels.

To reduce the number of illegals trying to cross our southern border from the present rate of one to three million a year to a more manageable size, we need to make their lives in the interior of the country as untenable as possible. To begin with, illegals need to be cut off from all types of welfare programs. When illegals have a child in this country, their children are immediately eligible for Medicaid. Because the bulk of incoming immigrants are poor, they qualify. Also, according to Madeleine Pelner Cosman, a medical lawyer, illegal

immigrant children "have inordinately high incidences of disabling mental disease" that include behavioral "disabilities" such as Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder." Because of their "disabilities," they get Social Security Disability Income.

As part of making life as an illegal alien untenable, cities deemed "sanctuary cities" for illegals — like Chicago, Denver, and Los Angeles — which do not report illegal immigrants to the federal government, must be required to detain illegals for deportation. Pressure brought to bear on state legislators could bring about this result. To enlist the aid of local law enforcement personnel in deporting illegals, statewide standards need to be set for what does and does not constitute racial profiling (to prevent the ACLU from suing cities for doing their duty), and the Bureau of Immigration and Customs Enforcement needs to do its job.

The need to regulate and limit immigration is common sense. Besides the negative economic consequences of mass immigration, we know that various terrorist and criminal groups actively seek to attack our citizens.

A report by the Center for Immigration Studies, entitled "Officers Need Backup," lists numerous instances when immigration officials either refuse to pick up illegals from local law enforcement or turn them free after they pick them up. In fact, illegals end up in our legal system constantly, only to be released. When European, Asian, and African illegals are caught at the southern border, unless they are suspected terrorists, they are immediately released because Mexico will not take them — they are not Mexican nationals — and Customs considers it too costly to fly them home. When Hispanics get caught in our country, they are usually given a "notice to appear" at a future court date, and they are let free. Over 88 percent don't show up for hearings. In cities near the border the no-show rate is often over 98 percent.

To make immigration controls work, we must lock up the illegals (in tent cities, if necessary) until it is time to deport them, and we must end or greatly simplify the appealing of deportations by illegals, by which illegals clog the federal holding facilities and bring deportations to a virtual standstill. Only the federal government can make the Bureau of Immigration do its job, and so congressional representatives need to hear that we know about this.

Also, many more immigration officers need to be hired to patrol the interior of our country to arrest businessmen who hire illegals and do not report the workers for tax purposes, breaking tax laws. To stop employers from hiring illegals who have managed to obtain forged identification documents, thereby giving employers who hire

them the veneer of legality, and to catch illegal aliens, immigration officers should investigate every company that turns in an invalid Social Security number on tax forms because most illegals who have forged immigration documents are using fake Social Security numbers.

Fouled Federal Policy

As an added method to foil the free movement of illegals through our society, the federal government and state governments must stop accepting foreign I.D. cards for important transactions: buying a house, taking out loans, enrolling children in school, and getting a driver's license. There is no reason to accept them. If a foreigner is here legally, he has proper identification such as a passport or a green card.

The identification most often used by illegals from Mexico is the *matricula consular* card. These cards are so widely abused that illegals already in our country go to consulate offices and are basically handed a card. They are a completely insecure form of identification, and Congressman Tom Tancredo (R-Colo.) has testified that illegals have been caught with as

many as four of these cards, all with their pictures on them but issued under different names. Almost unbelievably, under President Bush, the Treasury Department told banks to accept the cards as legal identification.

Without the enticement of employment opportunities to draw them or the ability to live here with impunity, illegal immigrants will be discouraged from coming to America. Likewise, the knowledge that they will be swiftly deported if they ever come in contact with a government official (think police) would also discourage many.

To further add to the effectiveness of our immigration policy, the citizenship lure must be used to our advantage, instead of our disadvantage. In the United States, if an illegal immigrant bears a child, that child is considered to be a citizen and immediately qualifies for welfare benefits — Medicaid and stipends under Supplemental Security Income and Disability Income. These babies are called "anchor babies" because the government seldom sends their families out of the country. Between 300,000 and 350,000 are born each year.

Congress can remedy this problem by clarifying the principle of the 14th Amendment (which is used as the justi-



The Mexican government issues illegal immigrants the insecure *matricula consular* card as a type of pseudo-ID so that the illegals can complete legal transactions in the United States. Other Latin American countries are now creating their own cards.

fication behind giving citizenship to illegals) to, in essence, make the 14th Amendment "mean what it means." According to George Detweiler, a lawyer specializing in constitutional issues, the 14th Amendment was never intended to "extend citizenship to someone born in America to parents who are here illegally." (See article on page 30.)

Congress can make the clarification about citizenship and then forbid the federal courts to hear cases dealing with similar legislation to stop the courts from becoming "activist" and reinterpreting the meaning of the 14th Amendment to suit its whims. As part of the carrot and stick approach to immigration, Congress should pass a law that says that no person who is caught in the United States illegally will ever be granted U.S. citizenship.

Visa Reform

Finally, we should eliminate several types of immigration visas — not create new types of visas, as many congressmen are proposing, whereby illegals can easily hop from one type of visa to another and essen-

tially make their stay permanent by taking advantage of government bureaucracy.

A type of visa that should be eliminated entirely is the Diversity Visa. This type of visa allows 50,000 people annually to immigrate to the United States from countries where we do not usually get many immigrants. Its purpose is strictly to enhance immigrant variety as to geographic regions, and it requires almost no real educational requirements. This is a foolish feel-good policy. Visas that the United States gives out should be based upon the idea that the immigrant will provide a real tangible economic benefit in a field where there truly is a shortage of qualified American workers.

One type of proposed visa that needs to be avoided, which has the support of the White House, is the "W" visa, short for World Visa, which would supposedly match willing workers from around the world with willing employers throughout the country. This is basically a visa that provides for unlimited immigration of low-wage workers so that employers can drive down wages in job markets.

Going hand in hand with limiting visas, immigration officials need to immediately follow up on people who have overstayed their visas to evict them. Before the present mass influx of illegal immigrants from our southern border, more illegals got into our country by overstaying their visas than by crossing our borders.

The fact that we need to regulate and limit immigration is common sense. Besides the present and future negative economic consequences of mass immigration, we have suffered the devastation of September 11, 2001 and know that various terrorist and criminal groups actively seek to attack our citizens.

Amnesty plans, like the one President Bush is pushing, leave our citizens extremely vulnerable by encouraging mass illegal immigration to such an extent that our border patrol cannot stop the human rush. Plus, the increased numbers of foreign-born residents provide myriad potential safe-havens for terrorists and criminals, making them hard to catch. These approaches to immigration are not in the best interests of the citizens of this nation. ■

A Bold Remedy to a Grave Threat

Because the 14th Amendment's original intent has been ignored and the amendment has been used to grant citizenship to the children of illegal immigrants, Congress needs to clarify the meaning of the amendment's language.

by George Detweiler

Drafters of constitutional texts, be they members of the constitutional convention in 1787 or members of Congress who craft a constitutional amendment, cannot always foresee all of the nuances of governmental mismanagement and malfeasance that may follow their creations. Examples abound, especially with the 14th Amendment. It was ratified in 1868 as a post-Civil War remedy, to secure rights and protections for American citizens freed by the 13th Amendment from the scourge of slavery.

The purpose of the 13th and 14th Amendments was limited to securing these rights. Nothing appears from the events surrounding their drafting and ratification to suggest any general intent to extend citizenship to someone born in America to parents who are here illegally. Nevertheless, that is exactly what has happened at the hands of an over-zealous Supreme Court, which has promoted its own skewed social agenda over a period of decades. Consequently, in defiance of common sense and original intent, any of the between 10 and 20 million illegal immigrants in this country can have a baby who is then deemed an American citizen. These babies are called "anchor babies" because the babies' family members are not liable to be deported based on the premise that deporting family members would impose an undue hardship on the infant-citizens. Many are taking advantage of this

legal loophole, and in the process, are doing much to run up our national debt. The Center for Immigration Studies says that just between the years 1997 and 2001 "immigration ... increased the number of uninsured children in the United States by 700,000." The children born in these years alone cost the U.S. about \$4 billion a year in Medicaid payments. And those payments are only the tip of the social welfare iceberg. This situation needs to stop.

Ignoring the Intent

The 14th Amendment provides, in part:

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof,



Breaking the law to get legal status: Jose Aguilar and his wife, Maria, are in the United States illegally, yet their children, who were born here, are considered American citizens. Once illegal immigrants have children here, they are seldom forced to leave.



are citizens of the United States and of the State wherein they reside.

* * *

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

In the recent past, judicial decisions have ignored the intent of the 14th Amendment and have subverted Section 1 of it to give citizenship to the children of illegal immigrants, encouraging mass violation of our borders and leading to subsequent huge outlays of money not only for welfare but for healthcare and tax subsidies. Also, policies of both Democrat and Republican administrations have not only ignored enforcement of immigration laws, they have actually encouraged their violation. NAFTA and CAFTA treaties, regional "free trade" agreements, have been drafted to further undermine our borders and to promote free entry into the United States by illegal aliens without any regulation or tracking. President Bush has repeatedly nurtured the promise of more amnesty, and eventual citizenship, for those who flaunt our laws and enter illegally.

In the face of these abuses of power, Rep. Nathan Deal (R-Ga.) and 45 cosponsors have introduced bill H.R. 698, entitled the "Citizenship Reform Act of 2005." It declares: "It is the purpose of this Act to deny automatic citizenship at birth to children born in the United States to parents who are not citizens or permanent resident aliens." The bill undertakes to define "subject to the jurisdiction of the United States" as that term was first used in the 14th Amendment. And clearly a bill that clarifies the meaning of the 14th Amendment is justified under the law.

First, Section 5 of the 14th Amendment specifically authorized Congress to enforce the provisions of the amendment using "appropriate legislation." Second, the Supreme Court has ruled that the 14th Amendment's broad-sounding language, which seems to make any newborn who is subject to the jurisdiction of U.S. laws a citizen, was actually limited in scope. "The phrase 'subject to its jurisdiction' was intended to exclude from its operation children of ministers, consuls and citizens or subjects of foreign states born within the United States," stated the Court in the *Slaughter House Cases* (1873). The Court's declaration was not essential to resolution of the case before it, and the statement is characterized in the law as *obiter dicta*, and therefore not of a binding nature on later decisions to the same degree as a holding squarely affecting the merits of the case at bar; nevertheless, it did create a cloud on the meaning of Section 1 of the 14th Amendment, as to whether children born here to illegal aliens are "subject to the jurisdiction" of the United States and therefore entitled to citizenship status. Third, later decisions of the Court lost sight of the intent behind the 14th Amendment, treated the clause differently from the *Slaughter House Cases*, and gave the amendment its now broad interpretation. The later holdings are characterized in a publication which states well-settled principles of law in an encyclopedic fashion. Volume 3A

Unless Congress shows the courage to address the issue of the illegal alien influx and the automatic citizenship of their children who are born here, the social problem caused by uncontrolled invasion from abroad will continue to erode the social fabric of America.

of *American Jurisprudence Second*, under the topic "Aliens and Citizens," Section 1413, states:

The Fourteenth Amendment provides that all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the state wherein they reside.

This language is sensible and gives the words their ordinary and everyday meaning, but the historic purpose of the 14th Amendment is ignored — extending citizenship to former slaves — as is the amendment's intended limited scope. The language in the earlier *Slaughter House Cases* is a narrower construction of the amendment, but it limits its applicability to the recovery from slavery. Neither produces a realistic meaning of the amendment. Moreover, the ruling in the *Slaughter House Cases* does not adequately limit which children will be granted citizenship. The *Slaughter House Cases* point out that citizenship is not automatically granted to children born in the United States — such as children of foreign dignitaries or ambassadors. But unlike children of ambassadors, consuls, or other foreign dignitaries, the children of illegal aliens are subject to prosecution for criminal behavior; they are liable on their contracts; and they are liable for their torts. In short, they are subject to the jurisdiction of the United States, which could, technically speaking, be used as justification to make them citizens. Hence, there is a need for H.R. 698 to define "subject to the jurisdiction" in such a way as to exclude mere birth in this country to parents who are illegal aliens as a qualification for citizenship.

Congress Has the Power

It is noteworthy that the Supreme Court affirmed the power of Congress to define terms used in the 14th Amendment in the case of *Rogers v. Bellei* (1971):

The place of birth governs citizenship, *except as modified by statute*.

... the first sentence of the Fourteenth Amendment was declaratory of existing law, so far as the qualifications of being born in the United States, being naturalized in the



CONSTITUTION CORNER

United States, and being subject to its jurisdiction are concerned. [Emphasis added.]

H.R. 698 extends citizenship to children born in the United States of alien parents only if born in wedlock when either parent is a citizen or permanent resident alien who maintains a residence here, or to children born out of wedlock if the mother is a citizen or permanent resident alien who maintains a residence here. It also declares that it applies only to children born after the effective date of the act.

Could and should Congress make it apply retroactively to include all children ever born to illegal aliens? There is a danger to be weighed in a retroactive application of the redefinition of "subject to the jurisdiction": an overzealous, leftist federal judiciary could be inclined to find the provision in violation of some mystical "penumbral constitutional right."

Curiously, the law preserves citizenship for children born to resident aliens, those immigrants legally in the country but who are not yet citizens, though logically their children should have the same status as their parents. H.R. 698 also does nothing to rid our country of the illegal immigrants who are already here. A policy of deporting of all who enter this country illegally would do a great deal to discourage future illegal entry into America.

Unless Congress shows the courage to address the issue of the illegal alien influx and the automatic citizenship of their children who are born here, the social problem caused by uncontrolled invasion from abroad will continue to erode the social fabric of America. The Bush administration shows hostility to such a remedy, as do the socialists in both major political parties. The remedy must be demanded by the American people so ardently that politicians will find it to their disadvantage to ignore the cry for help. ■

Readers are encouraged to ask their congressional representative to support H.R. 698. Go to www.the-newamerican.com/congress/contact.htm for congressional contact information.

Good Luck Finding the Truth Here

George Clooney's new movie *Good Night and Good Luck* continues the smear campaign against Senator Joseph McCarthy and lionizes leftist reporter Edward R. Murrow.



Melinda Sue Gordon Copyright © 2005 Good Night Good Luck

George Clooney's new movie on Edward R. Murrow and Joseph McCarthy has well-written dialogue and some stellar acting but glosses over McCarthy's successes in ferreting out Communists in government.

by Thomas R. Eddlem

Give George Clooney credit; he knows the core market for his new movie *Good Night and Good Luck*. The former television actor from the popular show *ER* opened his movie on the struggle between anti-Communist Senator Joseph McCarthy and television reporter Edward R. Murrow on October 7 to limited release in only five cities (Boston, Los Angeles, New York, San Francisco, and Washington, D.C.). Clooney picked the heart of American liberalism to premier his renewed attack on the late Senator Joseph McCarthy.

I viewed the movie in Boston — more specifically, Harvard Square in Cambridge. This was indeed the right place for a movie catering to liberalism and perpetuating its mythology.

The movie is based heavily upon the self-serving memoirs by Murrow's CBS coworkers Fred Friendly and Joe Wershba.

It is written and directed by Clooney, who also costars as CBS Producer Fred Friendly. Senator Joseph McCarthy is played by the actual Senator Joseph McCarthy, whose appearances in the black-and-white movie are culled exclusively from historical newsreels. There is also some stellar acting by David Strathairn (Murrow) and Frank Langella (CBS Executive William Paley).

This movie does a good job of spouting the liberal line that McCarthy unconsciously targeted innocent victims and castigated them mercilessly, ruining their lives. The mood throughout the theater I attended was one of disgust that a U.S. senator would intrude into the personal associations of American citizens and prohibit Communists from serving in the government. You could tell by the tsk-tsing of people in the crowd every time McCarthy's statements were played.

The movie, of course, overlooks the fact that the Communist Party USA was widely recognized at the time as being a

foreign arm of the Soviet government, an assessment that has since been confirmed by declassified secret cables such as the Venona documents, communications between the Soviet Union and their agents in America, which show that Stalin had been subsidizing the organization.

As Herbert Romerstein and the late Eric Breindel noted in their study *The Venona Secrets*: "The Communists did not represent just another political party. Their loyalty was to a foreign power, the Soviet Union, and their goal was nothing less than the subversion and destruction of American [constitutional government]. To advance that goal, the leadership of the Communist Party conscripted whichever of its members were capable of espionage to assist the Soviet intelligence service."

At the time, the U.S. government required federal employees to assent to a non-competitive employment contract similar to what most corporations make employees sign — just as a software engineer for Microsoft Corporation can't moonlight at Corel, a U.S. government employee is not supposed to be on the payroll of a foreign government.

The movie co-mingles a corporate CBS "loyalty oath" with McCarthy's investigation of Communists in government, as well as government investigations that had nothing to do with McCarthy. The movie begins with one of Murrow's reporters (played by Robert Downey Jr.) discussing the CBS loyalty oath and the case of Milo Radulovich, an Air Force Lieutenant cashiered from the service as a security risk because of his father's communist political associations. Radulovich was later reinstated by the Secretary of the Air Force. Neither the corporate loyalty oath nor the Radulovich case have anything to do with McCarthy, but the viewer is led to believe

there was a connection through McCarthy's supposed reign of fear.

"He's wrong 100 percent of the time," Strathairn's Murrow rails against McCarthy during the movie, adding later: "Any-one who criticizes or opposes the methods of Senator Joseph McCarthy is a Communist or fellow traveler." Thankfully, according to the movie, Edward R. Murrow and his crew of patriotic reporters at CBS news had the courage to stand up to McCarthy to bring an end to his long reign of terror. That's the theme of the movie. The problem with the theme is that it's wrong. McCarthy did not target innocent people, and he went out of his way to treat the people he investigated fairly.

Take the case of Annie Lee Moss. Senator McCarthy had accused Moss of being a member of the Communist Party, noting that captured membership lists from the Communist Party itself had listed Moss as a party member. "Did you know that there are three Annie Lee Mosses in the phone-book?" a staffer asks Murrow in the movie, implying that Moss was not a member of the Communist Party. Yet history records that McCarthy was accurate about Moss. Her Communist Party membership had identified her address. All of his other major cases — such as Army Major Irving Peress, Lauchlin Currie, Gustavo Duran, Theodore Geiger, Mary Jane Keeney, Edward Posniak, Haldore Hanson, and John Carter Vincent — were also later demonstrated to be Communists.

The movie attempts to show that Moss's career was wrongly threatened by a persecutive McCarthy as he trod on fairness and justice. "Their claim was that she had the right to meet her accusers face to face," Murrow's character said of Moss and her attorneys. But though the movie would have one believe that employment by government is a right, it is not, and since Moss was not charged with a crime or threatened with any loss of her liberty, traditional due process requirements should not really have been an issue. And though Moss had perjured herself before a committee of Congress, McCarthy's "reign of terror" did not prevent Moss from keeping

her job at the Pentagon until 1958 (after McCarthy had died), despite her proven Communist Party membership.

Additionally, the movie's insinuation that Murrow was a trailblazer in taking the lead on criticizing McCarthy is laughable on its face. Joseph McCarthy had been attacked regularly by much of the major media — television, radio and newspapers — as well as his fellow senators from the very beginning of his national prominence.

Clooney even undercuts his own case (and the claim in Joseph Wershba's memoirs) that McCarthy led a virtually unchallengeable reign of terror. Clooney reenacted lines from a Murrow program called *See It Now* that documented how McCarthy had already been roundly criticized by newspapers from across the nation by the time Murrow's broadcast aired. "The ratio is about three-to-one against the senator," Murrow stressed, citing how newspapers both liberal and conservative had criticized McCarthy. If Clooney wanted to prove that the news media had been terrorized and intimidated by McCarthy, and that Murrow had blazed the trail by being the first to criticize McCarthy, he's done a terrible job of it.

In the movie, like in real life, the climax of the conflict between Murrow and McCarthy came when Murrow accused McCarthy of frequently stepping across "the line between investigating and persecution." When he made the accusation,

Murrow offered McCarthy an opportunity to defend some of his actions — such as McCarthy's berating of a Brigadier General, Ralph W. Zwicker, who had lied under oath about ordering an honorable discharge for Communist Party member Irving Peress after the Army knew Peress was an avowed Communist.

McCarthy took up Murrow's offer for a rebuttal and gave a speech on CBS on April 6, 1954. This rebuttal was McCarthy's real undoing, not his actions in trying to rid the government of Soviet agents. McCarthy's response to Murrow hardly addressed Murrow's accusations, but attacked Murrow personally. McCarthy's rebuttal was by any account a major tactical blunder; he could have easily exposed Murrow's clever editing of McCarthy's worst moments of emotional outbursts and minor factual errors. But instead he talked about Murrow's leftist political associations such as his work on an exchange with Soviet "educators" under the Institute for International Education in 1935 and his alleged membership in the International Workers of the World. (Murrow's character in the movie denies he was ever a member of the IWW.)

Expectedly, Clooney's movie reinforces the myth that McCarthy was "wrong 100 percent of the time," and those uninformed about the historical facts regarding McCarthy's investigations are as likely to fall for the line as Clooney's liberal audience at Harvard Square. ■

Senator McCarthy (with his aide Roy Cohn at right) uncovered many Stalinist agents who had burrowed into the federal government, but liberals have been loath to admit this historical fact even to this day.



Tyranny and Posse Comitatus

Enacted as part of a political bargain in 1878, the Posse Comitatus Act brought down the curtain on a shameful era of military dictatorship in the southern United States.

by William Norman Grigg

General Robert E. Lee knew the South had lost the war. He was also vividly aware that many, perhaps even most, of his troops were willing to continue the fight with vengeance, not victory, as the primary objective.

Southern military leaders were well-schooled in the guerrilla tactics refined by Spanish patriots in the Peninsular War against Napoleon — referred to in history texts as the Corsican despot's "Spanish ulcer." With Lee's blessing, Southern commanders could have melted into the countryside and waged an insurgency lasting for years, or decades, bleeding the victorious Union government until it permitted the South — in some form — to go free.

The prospect of partisan resistance by the South haunted many Union Army commanders, particularly William Tecumseh Sherman, whose murderous "march to the sea" had done more than its share to whet the Southern appetite for vengeance. Soldiers and statesmen on both sides of the War Between the States were similarly plagued by images of Missouri, a border state where partisan warfare degenerated into unalloyed barbarism.

Missouri was "the war of 10,000 nasty little incidents," recalls historian Jay Winik, a "killing field" that "produced the most bloodthirsty guerrillas of the war" — including William Quantrill, "Bloody" Bill Anderson, and Frank and Jesse James. The Quantrill-led raid on Lawrence, Kansas, in 1863 resulted in the slaughter of hundreds: "Black and white, ministers, farmers, merchants, schoolboys, recruits," writes historian T.J. Stiles. That atro-



Missouri in flames: In 1863, after pro-Confederate "bushwhackers" led by William Quantrill slaughtered hundreds in Lawrence, Kansas, federal troops carried out General Order 11 — a measure expelling the residents of the Missouri counties bordering on Kansas. That region became known as the "Burnt District."

ity prompted General Thomas Ewing, Jr., military governor of western Missouri, to issue General Order 11 on August 25, 1863. That directive expelled everyone residing within the area.

"There [are] hundreds of people leaving their homes from the country and God knows what is to become of them," wrote Colonel Bazel F. Lazear of the pro-Union Missouri State Militia. "It is heart sickening to see what I have seen since I have been back here. A desolate country and women and children, some of them almost naked. Some on foot and some in old wagons. Oh, God, what a sight to see in this once happy and peaceable country."

But this expulsion did nothing to put an end to the parade of horrors; instead, it added fuel to the insurgency — and Federal forces responded in kind.

"The Union soldiers hunted the guerrillas like animals, and in return, they, too, eventually degenerated into little more

than savage beasts, driven by a viciousness unimaginable just two years earlier," records Winik. "By 1864, the guerrilla war had reached new peaks of savagery. Robbing stagecoaches, harassing citizens, cutting telegraph wires were everyday occurrences; but now it was no longer simply enough to ambush and gun down the enemy. They had to be mutilated and, just as often, scalped. When that was no longer enough, the dead were stripped and castrated. In time, even that was insufficient. So ears were cut off, faces were hacked, bodies were grossly mangled."

Quantrill's raiders rode with scalps dangling from their bridles, and brandished other grisly trophies — ears, noses, teeth, and fingers removed from their victims. Union reprisals were just as vicious. "Groups of revenge-minded Federals, militia and even soldiers, became guerrillas themselves, angrily stalking Missouri, tormenting, torturing, and slaying Southern

sympathizers," writes Winik. "Reprisals and random terror became the norm, and the entire state was dragged into an incomprehensible and accelerating whirlpool of vengeance."

"There's something in the hearts of good and typical Christians ... which had exploded," reported one stunned Union commander. "Pandemonium itself seems to have broken loose," commented the *Kansas City Journal of Commerce* in 1864, "and robbery, murder and rapine, and death run riot over the country."

Missouri had become an evil proverb by April 1865, when Lee's Army of Northern Virginia — bloodied, emaciated, but still valiant — was checkmated. But the devastated South still boasted several armies capable of mounting serious partisan campaigns. Men like Mosby and Forrest had the capacity to create many Missouris throughout the Southland.

Lee wouldn't permit it. And his moral authority alone was what prevented it.

General Lee exemplified Christian patriotism. Though he may not have made Augustine or Aquinas his bedside reading, he understood the Just War doctrine of proportionality. It was his judgment that the evils to ensue from continuing the war as a guerrilla campaign would be greater than those resulting from surrender. So the general, clothed in the serene dignity that never deserted him, made the grim and bitter visit to the courthouse in the village of Appomattox, Virginia. Lee's surrender was an act of patriotic love for his "country," Virginia. It also reflected his wistful hope that the federal government would reconstruct the Union in a just and magnanimous fashion.

Years later, as the victorious Radical Republicans in Congress imposed their will on the prostrate South, Lee came to question his decision. Shortly before his death in 1870, Lee confided to former Texas Governor Fletcher Stockdale.

"Governor, if I had foreseen the use those people designed to make of their victory, there would have been no surrender at Appomattox Courthouse; no sir, not by me," declared General Lee. "Had I foreseen these results of subjugation, I would have preferred to die at Appomattox with my brave men, my sword in my right hand."

Social Engineers With Bayonets

Reconstruction was not simply an exercise in knitting together anew the sundered Union. It was an effort to eradicate the culture of the South and create an entirely new one through military dictatorship. Although the abolition of chattel slavery

Reconstruction was not simply an exercise in knitting together anew the sundered Union. It was an effort to eradicate the culture of the South and create an entirely new one through military dictatorship.

was an unqualified blessing, one that was badly overdue, it was only a small part of the penalty the South was forced to pay. And it was a process that had already begun in the late stages of the war as the desperate South offered freedom to those black men who would bear arms on behalf of the Confederacy.

As an experiment in social engineering,

Reconstruction was immensely profitable for many corrupt, well-connected people. It was also a monumental disaster for race relations, since it exploited the emancipated blacks as a political resource, while pitting them against white Southerners. And it provoked, to a limited but still tragic extent, the same variety of terrorism that had turned Missouri into an American killing field.

"After the Civil War," writes Johns Hopkins historian Benjamin Ginsberg in his book *The Fatal Embrace*, "radical Republicans sought to drastically alter the social and political structures of the states of the former Confederacy. They sought to establish a regime that would break the political power of the planter class that had ruled the region prior to the war."

The leading lights on the congressional Joint Committee for Reconstruction were Senator Charles Sumner of Massachusetts and Rep. Thaddeus Stevens of Pennsylvania. Both were Radical Republicans who insisted that the Southern states be treated as conquered provinces.

Prior to the war, the right of states to secede from the Union



The hard face of war: General William Tecumseh Sherman's 1864 "March to the Sea" avoided Confederate military units; his army focused its wrath on the civilian population in a campaign of terror. Sherman was understandably concerned about the possibility of post-war Confederate guerrilla uprisings.

A coalition of Radical Republicans, carpetbaggers, and scalawags soon became entrenched in power. In many Southern communities, Reconstruction amounted to official corruption, supported by military occupation and enforced through covert terrorism.

had been explicitly recognized in several state constitutions, and taught as a valid constitutional principle at West Point. However, Sumner insisted that the exercise of that recognized right amounted to "a practical abdication by the state of all rights under the Constitution," and insisted that the post-war Southern states were now under "the exclusive jurisdiction of Congress as [any other conquered] territory." Rep. Stevens was even more vindictive. As historian Paul Leland Haworth astutely wrote in his 1912 study *Reconstruction and Union*, Stevens "possessed much of the sternness of the old Puritans, without their morality."

Leftist historian Daniel Lazare, an admirer of Stevens, notes that he was "the most powerful figure" in the Reconstruction-era Republican Congress, which was "a surprisingly disciplined and militant body." Stevens "saw the war in terms that were as much social as military; his tone was apocalyptic and revolutionary," continues Lazare. He "was openly contemptuous of constitutional constraints — he once called the Constitution 'a worthless bit of old parchment.'" Stevens insisted on dealing with the "late Confederate states as conquered provinces possessing no rights the conquerors were bound to respect."

Stevens was a key architect of the Reconstruction Act of March 1867, which, according to Lazare, was inspired by Oliver Cromwell's military dictatorship in England:

Where Cromwell had divided England up into eleven military districts, each governed by a major general with wide-ranging powers, the newly radicalized Congress di-

vided the South into five districts, each ruled by a military governor under the overall direction of General Grant. The military authorities banned veterans' organizations and other groups deemed threatening to the new order, fired thousands of local officials and half a dozen governors, and purged state legislatures of pro-Confederate elements as well. A twenty-thousand-strong army of occupation, aided by a black militia, enforced order.... Political rights were withdrawn from thousands of Confederates who had been granted executive clemency by the President, and all told some one hundred thousand white voters were stricken from the rolls.

As a condition for readmission into the Union (and the end of military occupation), each state was required to convene a constitutional convention for the purpose of repudiating its act of secession, and ratifying the 14th Amendment to the U.S. Constitution. (How the Constitution could be legitimately amended by occupied provinces not considered part of the United States has never been adequately explained.)

Military governors in the Southern states

"proceeded to create a new electorate and through it new civil governments," records Dr. Haworth. In most Southern states, the new electorate was drawn heavily from among previously disenfranchised whites and newly emancipated blacks, who had little or no understanding of representative government — and were thus easily manipulated by "carpetbaggers," corrupt and ambitious Northerners who had arrived in the South to enrich themselves. As a consequence, writes Haworth, "the constitutional conventions chosen by this electorate included in varying degrees men utterly unfitted by previous training for the work of constitution making" — but eminently suited to the work of plundering what remained of the conquered South.

Reconstruction and Plunder

A coalition of Radical Republicans, carpetbaggers, and "scalawags" (opportunistic Southerners) soon became entrenched in power. Haworth describes it as a "sinister alliance" sustained not only by Congress and federal troops but also by a secret society called the "Union League" or "Loyalty League," "under cover of which, with awe-inspiring rites, the new voters received political instruction from the white [Reconstruction] leaders.... In some cases, its members resorted to whipping or otherwise maltreating Negroes who



Repression and reprisal: The corruption and abusiveness of Reconstruction governments in the South created conditions in which the equally corrupt and violent Ku Klux Klan took root and flourished.

became Democrats." In many Southern communities, Reconstruction amounted to official corruption, supported by military occupation and enforced through covert terrorism.

A hint of things to come came after the seizure of the cotton crop immediately after the war. "I am sure I sent some honest agents South," commented U.S. Treasury Secretary Hugh McCulloch, "but it sometimes seems very doubtful whether any of them remained honest very long." "From the estimated \$100 million worth of captured property sold, the government received only \$30 million," notes Jeffrey Rogers Hummel in his book *Emancipating Slaves, Enslaving Free Men*. The seeds of corruption blossomed handsomely as Reconstruction took root.

"Many of the state governments developed spending programs designed to bolster their political support by giving a variety of groups a stake in their preservation," recalls Ginsberg. "These programs included a substantial expansion of state patronage positions, economic development, particularly railroad construction, and elaborate public works projects." Not surprisingly, "many of the radical governments had to turn to deficit spending and borrowing to finance their ambitious development and public works programs."

The results were just what could be expected. In South Carolina, the Reconstruction government eviscerated the economy through profligate spending and outright plunder. Between 1868 and 1874, the state government rolled up over \$14,000,000 in public debt (at a time when that amount was a formidable figure). During the same period, the aggregate value of private property slumped from \$490,000,000 to \$141,000,000, in large measure because of confiscation and other undisguised larceny conducted or tolerated by the military government.

Franklin Moses, a South Carolina "scalawag," was a typically rapacious Reconstruction oligarch. As speaker of the Reconstruction-era state House of Representatives and then as governor, Moses "proved to be especially adept at raising money through the sale of state securities," Ginsberg observes. While running up huge debts and undermining what remained of the state's economy, Moses — who be-



Library of Congress

Stillness at Appomattox: Prior to General Robert E. Lee's surrender, many Confederate commanders urged that the war continue as a guerrilla campaign. Well aware of the horrors that would ensue, General Lee opposed that idea — although the horrors of Reconstruction later made him question his decision.

came known as the "Robber Governor" — "organized a 14,000-man state militia composed mainly of black troops and led by white officers." This praetorian guard was used to intimidate potential Democratic voters during the 1870 election. It was also used to stymie attempts to execute legal judgments against him.

Similar scenes played out elsewhere in the conquered South. In 1866 and 1867, Louisiana under the Reconstruction dictatorship was a spectacle of "wholesale corruption, intimidation of new voters by thousands and tens of thousands, political assassinations, riots, revolutions — all of these were the order of the day," writes Haworth.

Caught in the Lethal Pincers

The crimes of the "sinister alliance" did not go unanswered. "The new order of things was backed up by northern bayonets, open resistance was hopeless," Haworth points out. Thus ensued a revival of the option that had been dismissed at Appomattox: guerrilla warfare by way of secret societies, most notoriously the Ku Klux Klan, as well as the White Camelia, the Pale Faces, and the White Brotherhood.

Those who enrolled in the Reconstruc-

tion-supported secret society, the Union League, purported to be acting out of a noble desire to vindicate the rights of formerly enslaved black people. The Klan and its allies used as "justification" for their terrorist acts the legitimate need to protect the South from the depredations of corrupt Reconstruction officials, and widespread lawlessness that was allowed to fester in many communities under federal military rule. But in time-honored fashion, these factions were firmly under the control of immoral, ambitious men, lustful for power. With helpless, innocent populations caught in the middle, the federal government exploited the crisis to expand its dictatorial power yet again.

In 1870 and 1871, Congress passed two Enforcement Acts, the second of which was popularly known as the "Ku Klux Act." That measure was used in October 1871 by General Grant (who had been elected president in 1868) to designate nine South Carolina counties "in rebellion." Troops were dispatched by Grant to arrest hundreds of people, which had the understandable effect of exacerbating an already terrible situation.

From our contemporary perspective, Reconstruction of the American South ap-

The Posse Comitatus Act is brief and too easily circumvented. But it expresses an indispensable constitutional principle: the separation of military and law enforcement powers. And it is also a useful reminder of the horrors that can occur when that separation breaks down.

pears uncannily to prefigure more recent forays into nation-building — particularly the ongoing misadventure in Iraq:

- The policy was garbed in the rhetorical robes of noble intentions;
- It was driven by ideologically zealous politicians determined to remodel a recalcitrant population through force;
- It was carried out by politically connected opportunists who seemed determined to steal everything they could lay their hands on;
- It provoked violent guerrilla resistance from some segments of the occupied population;
- And the policy required the U.S. Army to carry out tasks entirely incompatible with its constitutional purposes.

Reconstruction, according to Professor James J. Schneider of the Army Command and General Staff College at Fort Leavenworth, "represented, from a military standpoint, the darkest days in the history of the Army." It was "an effort in peacekeeping, peace enforcement, humanitarian relief, nation-building and, with the rise of the Ku Klux Klan, counter-terrorism," wrote Schneider in the April 1995 issue of *Special Warfare*. "The Reconstruction activities of Army units were unprecedented in their time, and they sound remarkably familiar today."

For roughly a decade, Reconstruction continued to sow misery in the South and cultivate federal corruption. Its end

came — appropriately enough — as a result of a backroom political deal growing out of the 1876 presidential election.

Dirty Dealings

When Ohio's Republican Governor Rutherford B. Hayes went to bed after the first returns came in, he was convinced that he had lost to New York Governor Samuel J. Tilden, the Democratic standard-

bearer. Hayes had lost the popular vote by a margin of roughly 164,000 votes. However, the Republicans contested the electoral votes of South Carolina, Louisiana, and Florida; if Hayes could win all three states, he would have the 185 electoral votes needed for victory.

In January 1877, Congress created an election commission composed of eight

Republicans and seven Democrats. Given that alignment, it's not surprising that each of the contested state returns were all awarded to Hayes by an 8-7 vote.

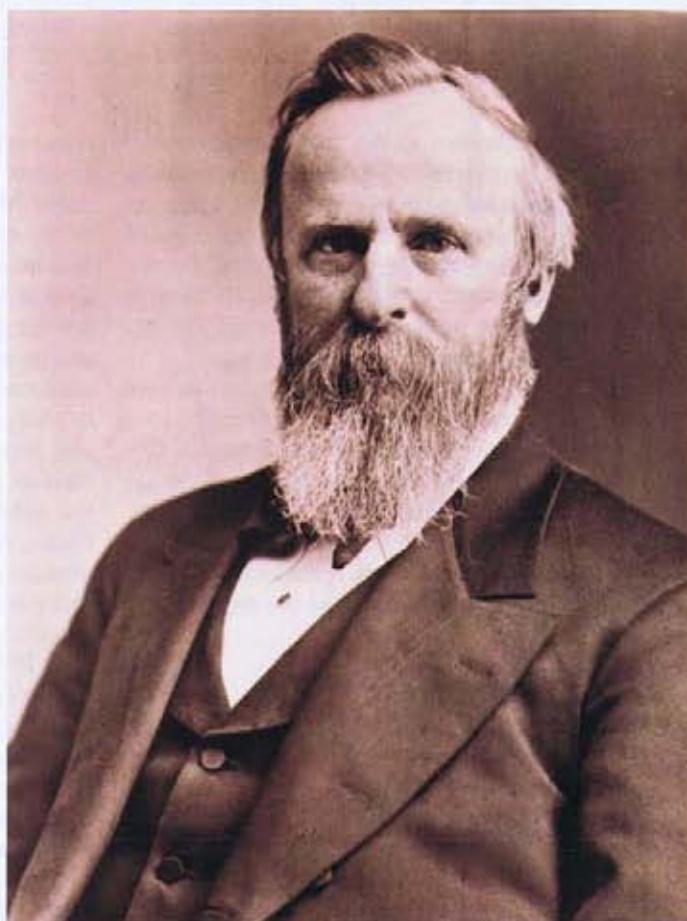
Since this outcome was unbearably pungent even to those inured to the casual corruption of the period, the Republican leadership offered the Democrats multiple consolation prizes in exchange for the presidency: a cabinet post, patronage jobs, subsidies for "internal improvements," and, most enticingly, an end to Reconstruction.

"In Louisiana and South Carolina, dual governments existed, and peace between the factions had been preserved only by the presence of federal troops," writes Haworth. "In the last days of the electoral count, certain Republican leaders had secretly promised that if filibustering would cease, Hayes, upon becoming president, would withdraw the troops and allow the

Carpetbagging governments to totter and fall.... In less than two months after the inauguration, the Carpetbag governments vanished into thin air."

But their stench remained. For more than a year, Congress grappled with proposals to enact a statute explicitly banning use of the Army as a domestic law enforcement agency — a policy upon which the entire corrupt enterprise of Reconstruction had depended. Finally, on June 18, 1878, an appropriations bill was amended with an austere, one-paragraph rider forbidding the use of the Army as "a posse comitatus, or otherwise, for the purpose of executing the laws" without specific authorization from Congress.

The so-called Posse Comitatus Act is brief and too easily circumvented. But it is a valuable expression of an indispensable constitutional principle: the separation of military and law enforcement powers. And it is also a useful reminder of the horrors that can be, and have been, visited on Americans when that separation breaks down. ■



Library of Congress

The art of the deal: Although he lost the popular vote by a substantial margin, former Union General Rutherford B. Hayes carried the Electoral College through a post-election deal that resulted in withdrawal of Federal troops from occupied Southern states.

Immigration Has Its Costs

by Kurt Williamsen

In speaking about immigration, people who advocate massive or unlimited immigration usually contend that immigrants make Americans wealthier because immigrants are a hardworking group who are not here for government handouts. These advocates add that immigrants do not take jobs from native workers and, in fact, create new jobs, benefiting all Americans. However, these claims are based on errors or misrepresentations.

To begin with, this argument assumes a high level of education among immigrants. A report by the pro-immigration Cato Institute, which favors unlimited immigration, states: "The proportion of immigrants with a bachelor degree or postgraduate degrees is higher than the proportion of the native labor force"; hence, we are told, the immigrants are beneficial because intelligent people are innovative and create jobs. But while this finding and conclusion are based on the U.S. maintaining a relatively steady flow of illegal immigrants of 250,000 to 300,000 per year from countries all over the world, the actual immigration rate is an estimated one to three million per year, mainly poor Hispanics. And even the Cato report

acknowledges that only 1.7 percent of immigrants from Mexico are in the "professional, executive, or manager" category. The report also ignores the fact that we get most of our well-educated immigrants through legal immigration.

Similarly, the Cato report contends that past large-scale immigration of poorly educated im-

migrants has not hurt native workers. It uses as proof the fact that cities with a large influx of immigrants did not experience any significant declines in the employment rates of minorities and high school dropouts (those who would compete directly with illegal immigrants for jobs). But this very well could have been a case of employers moving to areas with large amounts of low-wage workers. If immigration does not hurt native workers because, as some people are fond of saying, immigrants "take jobs that Americans won't do," the wage rates of natives should not be affected by immigration. In reality, according to the Center for Immigration Studies, "between 1989 and 1999, the real wages (adjusted for inflation) of workers who lack a high school education and work full-time year-round declined by 7.2 percent ... [while] wages ... of full-time, year-round workers who have completed high school rose 9 percent."



Uncontrolled immigration is economic suicide. We're allowing our native poor to languish in poverty and forcing the middle class to bear the costs of welfare and healthcare.

Approximately 8 percent of adult natives who work full-time are high school dropouts, but they make up approximately 26 percent "of full-time native workers living in poverty." The increased competition for jobs by immigrants is lowering or stagnating pay levels for them, virtually ensuring that the native poor will stay in poverty.

The pro-immigration lobby also errs in claiming that immigrants pay more to government in taxes than they use in government-provided services. In fact, large-scale waves of poor immigrants are devastating our country's coffers through their use of means-tested programs (government handouts), causing hardships for Americans. Because low-wage workers qualify for most welfare programs and over 74 percent of illegal Mexican immigrants and their children are living in or near poverty, an inordinate percentage of them use welfare. Though the immigrants themselves are barred from using many of the welfare programs (not all), their U.S.-born children are immediately eligible to participate. "Whereas 14.8 percent of native households use at least one of the five major welfare programs, among households headed by an illegal alien from Mexico the figure is 24.9 percent," states the Center for Immigration Studies. These statistics are from 1999, before we added millions of poor Hispanics to our country's population. In 1999, over \$300 billion was spent on the welfare programs. Last year, over \$300 billion was spent on Medicaid alone.

Illegal immigrants from Mexico also received the Earned Income Tax Credit — which is not considered a welfare program — at a far higher rate than natives. "Persons receiving the EITC pay no federal income tax and instead receive cash assistance from the government based on their earnings and family size," states the Center for Immigration Studies. Over 49 percent of Mexican immigrants use the EITC versus about 13 percent for natives. In 1999, this program cost about \$39 billion. Also, U.S. law mandates that anyone who goes to an emergency room must be treated whether he pays or not. Estimates of the percentage of uninsured legal and illegal immigrants range from 32 percent and up. Heavy use of "free" medical care by immigrants drives up the cost of healthcare, meaning more low-income Americans can no longer afford health insurance. About \$3.6 billion a year is spent on incarcerating illegal immigrants in federal and state prisons, and many billions more are spent investigating and prosecuting their crimes. Add to that the \$28.6 billion that's spent each year to educate the children of illegal immigrants.

Uncontrolled immigration is economic suicide. We're allowing our native poor to languish in poverty and forcing the middle class to bear the exploding costs of welfare and healthcare. Altruism is to be admired, but we can't afford to import poverty from around the world. ■