

'pursuit' is in progress."

This, from the man who sings "Titties in Beer" with a (fairly) straight face.

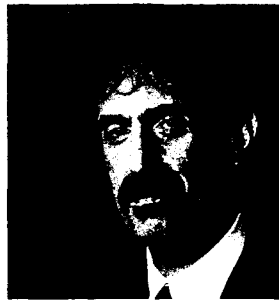
Some libertarians not acquainted with his music began to take notice of Zappa in 1985, when he first confronted "Big Mother"—Tipper Gore's well-connected Parents Music Resource Center (PMRC)—and her attempt to "label" (read "censor") certain "undesirable" forms of music. During testimony before the Senate Committee on Commerce, Technology, and Transportation, Zappa scornfully referred to the PMRC's proposal as "an ill-conceived piece of nonsense which fails to deliver any real benefits to children, [and] infringes the civil liberties of people who are not children." The Recording Industry Association of America (RIAA) eventually capitulated anyhow, agreeing to implement the PMRC's system of "voluntary" labeling.

Why? Zappa suspects that more than self-righteous moral fervor was at play here. Sounding a little bit like Nobel laureate economist James Buchanan, Zappa argues that the whole debacle was a simple case of an organized special interest (the well-heeled RIAA) snuggling up to legislators (and their wives) in order to get their pet legislation introduced in Congress—in this case, a tax on sales of blank cassette tapes. As Buchanan has been arguing for years, the very individuals whose interests are being traded away—the public—have very little influence on the outcome of this political interchange. Buchanan refers to this process as political "rent seeking." Zappa prefers the term "extortion."

Beyond Buchanan-style public choice arguments, Zappa sees a more fundamental moral argument against the government-as-mother perspective of the PMRC. "A lot of people who cry out for government intervention or, as Tipper Gore called them, 'consumer tools,' to help raise and control their children are people who are just too lazy to do it themselves....Grandma never would have put up with this shit."

His point is well taken. In any relatively free society, the freedom to choose always comes with a burdensome respon-

sibility, especially for parents concerned about the welfare of their children. If a mother doesn't want the term *masturbation* in her 11-year-old daughter's vocabulary, why not take the time to listen to the music she's listening to? Parents cannot come to expect a legion of government agencies to raise their children for them merely because they can't find the



Frank Zappa: "You own the government —It doesn't own you."

time. Of course, "offensive" is more gray than black and white. When some members of the PMRC complain about pornographic music, they're really talking about *Purple Rain*.

Zappa is equally articulate on other issues. On drug prohibition, for instance, he sometimes echoes the views of Milton Friedman, although it's a safe bet that the two men have never met. Zappa sees a direct cause-effect relationship between

prohibition and drug-related crime and worries that government attempts to control illegal drug use produce results far worse than the problem itself. "Alcohol Prohibition," Zappa observes, "introduced us to the thrilling exploits of wise-guy gangsters, supplying the entertainment needs of a booze-guzzling public—held hostage by a truly stupid piece of legislation. Prohibition today has produced cartels of international party-boys who take in enough cash daily to finance the LBO of any corporation on the planet."

Maybe the real Frank Zappa isn't too mysterious after all. Perhaps he's just a real-life Howard Roark with a human sense of humor. In an era where Big Government do-gooders spend their tax-financed days attempting to replace the free choices of individuals with the central scrutiny of more "enlightened" social policies, many will find Frank Zappa's modest proposals a welcome change.

More important, you will also disagree with him, and he doesn't really care. "It has never mattered to me that thirty million people might think I'm wrong," says Frank. "The number of people who thought Hitler was 'right' did not make him 'right.'"

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The Choice of Life

BY TOM G. PALMER

Individuals and Their Rights, by Tibor R. Machan
La Salle, Ill.: Open Court, 300 pages, \$32.95/\$16.95 paper

It has been 15 exciting years since the publication of Robert Nozick's *Anarchy, State, and Utopia* made classical liberal political philosophy respectable once again. Nozick artfully drew out the implications of the idea that "individuals have rights, and there are things no person or group can do to them" without violat-

ing their rights. He offered little or no argument, however, in defense of this basic presumption, leading the philosopher Thomas Nagle to charge that Nozick had advanced a form of "libertarianism without foundations."

Quite recently, a number of very fine books have appeared that attempt to pro-

vide foundations for individual rights. Notable among them are H. Tristram Engelhardt, Jr.'s *The Foundations of Bioethics*, Henry Veatch's *Human Rights: Fact or Fancy?*, Loren Lomasky's *Persons, Rights, and the Moral Community*, Jan Narveson's *The Libertarian Idea*, and now Tibor R. Machan's *Individuals and Their Rights*.

Machan's book, in the natural-rights tradition, is in many ways a sophisticated elaboration of Ayn Rand's distinctive approach. Machan goes to great lengths to show that a naturalistic foundation can be provided for moral claims; that what distinguishes moral action from mere behavior is freedom of choice; that the choice of life—specifically the choice of human life—provides the context of all morality; that the commitment to a human life entails responsibility for doing well in our own lives; and that political philosophy cannot be divorced from deeper foundations in ethics.

I must confess that I had never been able to make any sense of the Randian focus on the "choice of life" as the foundation of morality until I read Machan's book. Why should the question of suicide be the foundation of all morality? And, given that one does not kill oneself, and hence (by default, as it were) "chooses" to live, how does that generate moral norms?

As Machan argues, "human existence suggests a distinctive ontological domain, different from all others." Hence, it is wrong to take the deterministic path, for "human beings can choose either to reject or to pursue life and this introduces the distinctive domain of self-determination." Machan focuses on a central, determining act of choice, which he sees as a yes-or-no commitment to a rather definite project. "Given that the life one has chosen to live is that of a human being, a rational animal, one ought to carry on one's life by considering its nature and its circumstances in a careful, sensible, rational fashion and guide oneself in the light of the results." The choice generates the obligation, but there seems to be little or no obligation for the choice itself. This may, however, be no fault of the argument but simply a sign of

the corruption of the questioner who asks, Why live at all?

Perhaps the strongest feature of the book is Machan's rejection of the idea that natural law is derived deductively from analysis of ideas or contemplation of timeless essences. The *essence of man* is not an idea in the mind of God. As Machan

I must confess that I had never been able to make any sense of the Randian focus on the "choice of life" as the foundation of morality until I read this book. Machan explores the meaning of that choice in the context of self-determination and moral obligation.

expresses the matter, essence is an epistemological and not a metaphysical concept. As I understand him, that means that essences are not timeless in the way that metaphysical truths (for example, the law of the excluded middle) are, but may be revised in the light of experience. (This seems to lead to the somewhat embarrassing conclusion that the nature of a thing changes when I learn more about it. I think that there is a way out of this trap, but Machan does not deal with the problem.)

Natural law and natural rights are not necessarily self-evident but must be discovered. Previous civilizations that did not recognize human rights were not made up of stupid people unable to grasp obvious truths but of rational beings who had not yet had the experiences that allow us to discover truth. The philosopher may arrive on the scene later to rationalize—and perhaps even to extend—what has been learned, but the discovery procedure itself involves other processes besides philosophical speculation.

Machan does not do any of this work for us here (not a flaw of the book), but exactly this task is undertaken in F.A. Hayek's latest book, *The Fatal Conceit*. What Hayek adds to the concrete facts of history is what the Scottish moral philosophers called "conjectural history," that is, the rational reconstruction of real historical processes to understand what about them is repeatable and hence universal.

Besides sometimes abstruse metaphysical speculation, Machan's book contains a great deal of sound common sense. Machan carefully and patiently deals with the objections of antiliberal philosophers and offers convincing responses. He has synthesized a great deal of material in this work and has engaged the critics of libertarianism in a fair, respectful, and serious debate. It would be too great a task to examine all of the arguments, so I simply recommend that the reader buy the book. Having praised the book, I would like to move on to the much more manageable task of pointing out its faults.

First, Machan's view of moral choice puts far too great a focus on deliberation in choice and pays too little attention to the formation of character and habit. He equates rationality with conscious deliberation. Machan would be on stronger ground if he were to emphasize the purposiveness of human action and not the deliberative character of choice.

Second, his theory of property is rather muddled. While he makes very sound arguments about the necessity of property rights for moral choice, he offers a somewhat confused set of foundations. On the one hand, he argues for "limits which spell out some spheres of personal authority" and that "private property rights are morally justified in part because they are the concrete requirement for delineating the sphere of jurisdiction of each person's moral authority." But Machan also argues that the initial assignment of property rights is a "reward" (from whom?) for "prudent judgment, wisdom, [and] clear assessment of the prospects one might anticipate from...mixing of one's labor."

What, then, of so-called "intellectual

property rights"? Are they justified? On the one hand, they limit our rights to use our tangible property (our voices, cameras, tape recorders, printers, industrial machinery, etc.), even without any form of consent—tacit or express—to be so limited. On the other hand, they are often justified as rewards for creative efforts. Here the arguments seem to conflict. Even worse, this combination of arguments leads Machan to argue that many profits are "undeserved" but still merit legal protection: undeserved, because the result of chance or of actions—such as selling pornography—that Machan considers immoral but not rights-violating.

This is a terrible confusion, one that threatens to undermine the moral foundations of the market system. It would be much better to combine the property theory of Locke with the moral dualism of Hayek. The theory of self-ownership, or ownership by each person of his or her body, provides a firmer foundation for property rights than such inherently subjective notions as "moral desert." A "two-tiered" approach to morality, with one set of rules for the small group—such as the family, where moral desert makes sense—and another, abstract set of rules for the extended orders—such as the market economy—avoids the problems with which Machan inadequately deals.

Third, and by far the biggest problem with Machan's book, is his concluding argument for government. There are two elements to his argument. The more worrisome is his assertion that we "consent" to be governed and that we can even consent to give away our rights. Thus, criminals "consent" to be punished, even with death.

Machan rather clumsily employs the theory of implicit consent, the tool of tyrants for hundreds of years. Implicit consent is far more likely to justify slavery than freedom. Moreover, it contradicts one of the central claims of Machan's theory of rights—that some rights are inalienable features of our human existence. Locke saw the trap in the implicit consent argument and instead argued that although inalienable rights could never be given to another, they

could be made *forfeit*, through various heinous criminal acts, such as murder.

The second element to Machan's argument for government is historically false: He simply asserts—with no argument at all—that "a just human community can have only one final authority" and "it is a necessary feature of a good human community that its political authority be undivided." As economic and legal historians have shown, the emergence of the rule of law, individual rights, and widespread prosperity in the West was a result, not simply of philosophical speculation and propaganda, but of the dispersion of political, legal, religious, and economic authority and the resulting competition among these authorities to attract followers, capital, skills, population, and so on.

As Hayek has argued, competition is a discovery procedure and to cut it off—in

science, in economic life, in law, or in politics—would be to destroy the very process that allows us to learn about the world. Thus, if Machan is right and natural law is a matter to be discovered, and not simply deduced from gazing at "timeless essences," then monopolization of law and authority would leave us blind, unable to know what natural law is.

Despite its shortcomings, *Individuals and Their Rights* is well worth reading. Machan offers good arguments for individual rights and the free society they ground, and even when he is wrong his mistakes are illuminating.

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Unreliable Guide

BY ALLEN R. SANDERSON

Choosing a College, by Thomas Sowell
New York: Harper & Row, 214 pages, \$17.95/\$7.95 paper

Thomas Sowell is often—and intentionally—controversial, occasionally infuriating, never boring, and usually right. From clever applications and extensions of basic economic principles, to broader social, philosophical, and public policy questions, his perspectives and contributions have earned him a substantial readership and a loyal following (of which this reviewer is a member). Thus when he sets out, as father, economist, and educator, to write a guide for prospective college students and their parents, the reader anticipates a solid addition to the genre. However, *Choosing a College* proves a disappointing and perhaps even disturbing book.

Bashing higher education has been a popular participant and spectator sport of the 1980s. Allan Bloom's *The Closing of the American Mind*, aided by former Secretary of Education William Bennett and others, fueled debates on Western civilization. (Bennett also scolded stu-



Thomas Sowell: His pet peeves offer a disappointing guide to colleges.

dents for having too much money and colleges for taking it from them.) Charles Sykes's *Profscam* claimed, among other things, that professors have driven a large, self-serving wedge between reward and effort. Other forays have included investigations of big-time college

athletics, the validity of both standardized admissions tests and preparatory courses (as well as the causes of declining SAT scores in this country), and, most recently, alleged collusion and pricefixing among the nation's elite colleges and universities.

In *Choosing*, Sowell is, for all practical purposes, functioning as a critic of higher education. The book is not so much a guide as it is a personal litany of complaints that are barely distinguishable from those of Bennett, Bloom, Sykes, and others. Siskel and Ebert review films, sometimes very critically, but they are not openly hostile to the medium. They are also knowledgeable—and they do their homework. The same could be said of those in the ABC booth for "Monday Night Football."

But reading Sowell on colleges is akin to watching Sam Donaldson covering Republican conventions: He is uncomfortable with this crowd, his satisfactions are heavily dependent on an occasional, serendipitous uncovering of land mines in the making, and his fears of being boring or ignored influence his reporting. Sowell needs no permit to be a critic of higher education, though he may have to take a number and get in line, but he should not be doing it in the guise of a purported how-to volume subtitled "A Guide for Parents and Students."

Throughout *Choosing*, Sowell is openly hostile, angry, and goading toward most of higher education. His complaints are seemingly ubiquitous, and his language is unnecessarily pejorative and condescending. Sowell rails against coed dormitories, public graffiti, interdisciplinary programs, Marxists, professors who don't teach undergraduates, social permissiveness, college athletics, treatment of minorities, and even food on campus. From an avowed purpose "to help parents and students sort out some basic and very important questions" and "to offer some practical suggestions," he tells parents in the same breath "not [to] defer to, or be intimidated by, educators who have failed so many children in so many ways for so long."

The first third of the book is by far the

best. Chapters one through four offer solid information and thoughtful counsel on a range of important questions—tests and admissions, costs and financial aid, differences among colleges (including institutional type and personal factors such as values). Normative aspects in these pages are confined to the economist's perspective that working one's way through college is less efficient than borrowing (though this overlooks the social and change-of-pace benefits from working while attending school), and the assertion that research universities value research over teaching (while rejoinders from these institutions would point out that these two activities are closely and positively related because involvement in the advancement of knowledge increases effectiveness in the classroom).

In this section and throughout the book, Sowell focuses almost entirely on permutations of doctorates—the percentage of an undergraduate student body continuing on for Ph.D.s (very small even in the best colleges), the percentage of faculty members at a given school with Ph.D.s, the graduate schools and programs whence a college's faculty members obtained their Ph.D.s, and so forth—as the basic measure of quality. While probably important, placing these criteria so far beyond anything else, to the exclusion of all others (including graduates who pursue advanced training and careers in business, law, or medicine, for example), is odd and quite likely distorts the larger case he wants to make.

The middle third of the book is inappropriate at best. Chapters five to seven dwell, via a collection of anecdotes and thinly disguised prejudices, on Sowell's pet peeves and on factors that one may want to consider in making the most of college once matriculated but not in choosing one school over another. While topics such as tests, financial aid, other published guides, and libraries receive some coverage, the largest sections are devoted to indoctrination and irresponsibility in teaching, the sexual environment, and how colleges mismatch black students. Furthermore, here

and in subsequent chapters Sowell assumes levels of both naiveté and sophistication on the part of parents and high school seniors that are unlikely and inconsistent.

Few would argue with Sowell's comment that "the policies, practices, and attitudes of colleges and their officials can influence the social environment, which can be of enormous importance to the personal as well as academic development of a student." But this is the introduction to one of the longest sections in the book, and what follows it is a condemnation of current sexual policies, practices, and attitudes, which include distribution of "safer sex" kits, encouragement of nontraditional sexual experimentation, pro-gay and lesbian stances, and coed dormitories (the longest list in the entire book is of colleges and universities with predominantly single-sex living accommodations). The point is not that such things are unimportant—calling attention to abuses and biases is to be applauded—but that Sowell's coverage is callow and caustic and has little in the way of substance or counsel.

In previously published material Sowell raised the "mismatch" issue—that black students on many campuses may be at the top of their academic group or with respect to the population as a whole, but their academic records would place them near the bottom of student bodies at their predominantly white institutions. The point is controversial, it raises both hackles and important policy questions, and it is a claim that in this day and age could have been made explicit only by a black educator such as Sowell. But beyond this, the chapter on minority students is unfortunately of little use to, and probably unrealistic for, the vast majority of black students and their families.

While Edward Fiske and other authors of popular guidebooks rely on small armies of students, surveys, and reams of data for their commentaries and tables, Sowell's research exhibits little depth. His cases and examples are largely anecdotal and most likely isolated examples that could be generated—and virtually assured—by the Law of Large