

that our debts were causing, together with pleas to Congress that it drop demands for further reform and pay up. Therefore, it is no surprise that the Clinton Administration's recent request for \$1 billion to pay U.S. arrears does not depend on any further UN reform. While Boutros-Ghali expressed little interest in the issue during his last years in office, replacing him did not significantly alter the dynamics of the General Assembly, which remains extremely hostile to any reform proposal.

Thus, Mrs. Albright's sacking of Boutros-Ghali was no more than a cynical ploy to assure her appointment as secretary of state. It was not coincidental that she was nominated to the post the day after Boutros-Ghali suspended his re-election campaign. Given these circumstances, it is unconscionable for the Administration to treat Mrs. Al-

bright's billion-dollar promise as anything other than a personal debt incurred to further her own career interests.

After more than a decade of trying to have it both ways, the UN is overextended, underfunded, and incapable of doing all that the U.S. and the other 184 members expect. Given the Clinton Administration's commitment to a balanced budget, and the sacrifices that demands of Americans, the U.S. must no longer follow policies which add to the cost of membership while paying no more than lip service to UN reform. Congress, which has provided the only real leadership on UN reform over the past ten years, must not waver. It should enforce the relevant provisions of P.L. 103-236 and consider new legislation, if necessary, until the task is completed. □

NBC reported that the fly, listed as an "endangered" subspecies in 1993, has already cost the taxpayers of San Bernardino County some \$4.5 million. The reason? Eight flies were seen buzzing around the building site for a new hospital. The subspecies was listed less than 24 hours before construction was scheduled to begin; as a result, the county had to move the hospital, set aside almost ten acres of valuable land for a fly preserve, and monitor the fly's fortunes for the Federal Government. The county had paid approximately \$400,000 per acre for that land; the Federal Government reimbursed none of that cost.

As expensive as this was, it could have been worse. Initially, an official of the U.S. Fish & Wildlife Service, Linda Dawes, demanded that the county set aside the entire 68-acre hospital site for the fly. According to the sworn affidavit of a witness, Miss Dawes went so far as to demand that Interstate 10, an eight-lane freeway, be shut down—or traffic slowed to 15 mph—during August and September, when the flies emerge for their week-long sojourn above ground. She worried that one of these rare bugs might end up on the windshield of a speeding car.

In the end, construction of the hospital went forward, I-10 remained open, and Linda Dawes left her job at Fish & Wildlife. But that does not mean that all is well in San Bernardino County. The intersection of Valley Boulevard and Pepper Avenue near the hospital's main entrance is severely congested. Unless the approach to the hospital is improved, a recent study concluded, "virtual gridlock" will result when the hospital opens. Emergency access will be slow, costing precious time to those for whom a few minutes can make the difference between life and death.

The Fish & Wildlife Service, however, insists that the county's plan to reconfigure the intersection will "encroach" on a "migration corridor" for the fly, thus "harming" the fly and violating the ESA. No flies have ever been documented as using this migration corridor, but that doesn't matter. The Service has a theory.

According to Service biologists, the flies need to be able to travel, unimpeded, over natural vegetation, from the hospital preserve to suitable habitat about a quarter-mile away. Presumably, the flies will head west, following the 100-foot-wide corridor designed for

## Lords of the Flies

*The United States Government is forcing landowners to spend millions of dollars to protect an endangered bug.*

IKE C. SUGG

WHEN President Nixon signed the Endangered Species Act in 1973, he inadvertently codified Aldo Leopold's stylish but stupid aphorism, "To keep every cog and wheel is the first precaution of intelligent tinkering." Should we lament the extinction of smallpox, or expand the ESA to protect unique life forms such as various viruses for future generations? Before we "Save the fungus among us!" as Gary Larson once quipped, we might want to reconsider what we are already trying to save—and, more importantly, how we are going about it.

At present, the ESA protects 33 species of insect. While most Americans might not think twice about stepping on a bug, the federal penalty if the bug turns out to be a rare one can amount to \$200,000 in fines and one year in

jail. And the same goes for modifying the habitat of such a species—even if the critters in question do not actually live on the land in question. In short, the ESA authorizes the Federal Government to prohibit *anything* that might encroach on or disturb species that are classified as "threatened" or "endangered."

Consider the case of the Delhi sands flower-loving fly, featured in a recent *NBC Nightly News* report on "The Fleecing of America." This fly is a native of the Colton Dunes in California's San Bernardino and Riverside Counties. It is known to live on less than 200 acres, all but 10 of which are privately owned.

The fly spends most of its life underground, in a larval stage, and lives for only about a week above ground. During that short period of time, the males find mates and breed. After these encounters the females deposit their eggs beneath sandy soil. Then the adult flies die and the cycle begins anew.

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them, then make a 90-degree turn to the north, where the flyway narrows to 30 feet, and follow that path for 700 feet. At the end of the flyway, the flies will make a 90-degree turn to the west and cross a four-lane street, on the other side of which their habitat awaits.

Assuming that the flies will understand and follow the flight path laid out for them, one wonders how they will make it across the busy street. Common sense suggests that oncoming traffic

*'The extinction of the Delhi sands flower-loving fly in the immediate future is a likely event,' according to the Interior Department's own report.*

would pose a greater threat than an overly narrow flyway. The county proposed to retain an 18-foot-wide migration corridor for the fly, but the Service said that the proposal was "not biologically justified" and threatened to sue the county if it went forward without "mitigating" for the flyway. In other words, the county will have to buy the Delhi sands flower-loving fly yet another preserve.

IT gets worse. These imperiled insects live alongside imperiled people, in an area of historically high unemployment and economic distress. To attract industry and create jobs, the 10,000-acre Agua Mansa Enterprise Zone was established in 1986, one of California's first enterprise zones. It offers specific tax advantages to businesses that locate within the zone. But there is a fly in the ointment.

For CanFibre, Inc., a Canadian manufacturer of recycled fiberboard, the Delhi sands flower-loving fly has added \$450,000 to the cost of building a plant in the Agua Mansa. The Fish & Wildlife Service claimed that CanFibre's entire 300-acre property was occupied by the fly, and that the company would have to give up 65 acres to "mitigate." Tom

Olsen, a biologist who consulted on the project, says the government's demands rest on "rhetorical horse manure."

"Less than 10 acres of suitable habitat exists on the property," says Olsen. Indeed, his biologists "had [only] two sightings of males flying over the property; there was no evidence of use by females, and the two males we identified could have been the same fly." As with the hospital, the feds backed off on halting the project, but they collected a cool \$450,000 in cash.

Such extortion—wherein landowners fork over money, land, or both in exchange for permission to use their own land—is commonplace under the ESA. Indeed, that's what "habitat conservation plans" are all about. The cost of obtaining such permission has deterred at least one firm, Trism, Inc., from locating in the zone. "What they want is a fly park," said a Trism representative.

Since then, the Fish & Wildlife Service has come up with a new idea: it has announced that it wants to set aside 200 to 300 acres in the enterprise zone for yet another fly preserve (that makes three, for those who are keeping count). The Service claims this preserve will actually make things easier for the area's beleaguered landowners. Rather than forcing individual property owners and developers to run the regulatory gauntlet for development permits one at a time—an expensive and time-consuming process—the Service wants to create one grand extortion scheme through which landowners pay collectively.

Such region-wide habitat conservation plans are supposed to be good for everyone. The fly gets a big preserve, and the landowners get "regulatory certainty." Since the fly preserve will be clearly defined, landowners will know

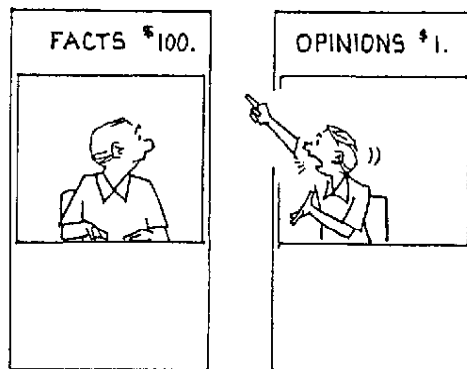
up front whether the government is going to take their land. Those who own land nearby will pay a "development mitigation fee" to help compensate their neighbors whose land is to be included in the preserve. In other words, those who have flies on their land will be dispossessed, while those who do not have flies on their land will be robbed. Despite the admonition in the Fifth Amendment: "nor shall private property be taken for public use, without just compensation," the Federal Government is here proposing not to distribute this cost across the whole public through taxation, but rather to impose it on a handful of people who happen to own neighboring property.

Local planners say the preserve land is worth approximately \$35,000 per acre. That means a 300-acre fly preserve will cost \$10.5 million—to be paid by those who develop land that is completely devoid of endangered flies. Because the ESA requires such "mitigation" to be paid only when "actual death or injury" occurs to protected wildlife, and because those who will be paying the mitigation do not have such wildlife on their land, the government's extortion scheme is patently contrary not only to the Constitution but also to the Act it is supposedly enforcing.

Many landowners will capitulate anyway. For those with liens on their property and notes to pay, fighting the feds is a losing proposition. In their view, it is a choice of being allowed to develop some land or none at all. Environmentalists claim such plans are totally voluntary, but in reality they present a Hobson's choice.

Even if developers buy into the scheme, it is likely to take them years to come up with the millions necessary to pay for the preserve. And even if the dispossessed landowners eventually get paid \$35,000 an acre for their land, that may be far less than what it is really worth. San Bernardino County paid between \$150,000 and \$400,000 per acre for the nearby hospital site. As luck would have it, the most expensive land was where the eight flies were found. Now the flies are the de facto owners of prime real estate, taken on their behalf by the Federal Government.

While some might argue that the ends justify the means, in this case it appears that the ESA is causing all this trouble for nothing. "The extinction of the Delhi sands flower-



loving fly in the immediate future is a likely event," according to the Interior Department's Draft Recovery Plan for the fly. The authors of the 1996 Recovery Plan predicted that the fly would go extinct even with the protection of the ESA's land-use regulations.

So why all the regulations? The answer is clear: Controlling development, rather than saving endangered species, has become the point of the ESA. Indeed, if environmentalists were honest they would admit that the ESA is encouraging habitat destruction, not conservation.

Endangered species are the last things landowners want on their property, and many are taking affirmative actions to ensure that their land is devoid of such species. This is the ESA's dirty little secret. The only way to correct such perverse incentives is by explicitly removing the Federal Government's claimed authority to take private property without paying for it. Until Congress does this, the United States' government-run protection racket will continue to wreak havoc on the lives of its hapless victims, both human and non-human. □

end will be allowed to wobble and grow faint. There will always be passionately argued reasons for killing (relief from

*A shoplifter can't say,  
'I was exercising  
my right to choose,'  
and neither can the  
smoker in a  
non-smoking zone.*

## Personally Opposed

*When politicians profess personal opposition to abortion,  
the appropriate answer is a question.*

MICHAEL NOVAK

**H**AVE you ever nursed the fantasy that you would have the chance to ask certain politicians *one* question face to face?

Well, I have. To all those politicians who begin talking about abortion by saying, "Personally, I'm opposed to abortion but—" I would like to put one question: Can you tell me just *why* you are opposed to abortion? Can you give me just one good argument?

Tucker Carlson lived out my fantasy in an article in *The Weekly Standard* (June 24, 1996). Just as I suspected, the "personally opposed" crowd had nothing defensible to say.

So the public is still left in the lurch.

On no public issue except "choice" is there such a deafening public silence on one side. We constantly hear the arguments for choice. They're not so hard to understand. (I don't agree with them, but I understand them.) The argument I've never heard is why "choice" is a weak argument, and why the pro-life principle is a strong point of democracy.

The reason why "choice" is not a persuasive argument is that in moral matters the "right to choose" explains nothing. Everyone has to choose; choice is unavoidable. But that doesn't make particular choices justifiable. A shoplifter can't say, "I was exercising my right to

choose," and neither can the smoker in a no-smoking zone. The *public* has a right to set rules that deprive the individual of some choices. Stronger reasons than "choice" are needed.

Of course, there is always a legitimate argument about *where* the public should make rules, and where it should not. Some argue that the matter of the beginning of life is at once so intimate and so disputed that the decision should be left to individuals. But there are two serious problems with that argument.

1. Any principle accepted for the beginning of life will logically be applied by the Courts to the end of life. If private citizens can terminate the life of one human being at the beginning, some will claim the same right to terminate the life of another at the end. Some lower courts have already affirmed this right. The practice of abortion will injure minds and hearts to the practice of mercy killing. The delivery of death by private persons at the beginning of life will lead to the delivery of death by private persons at the end.

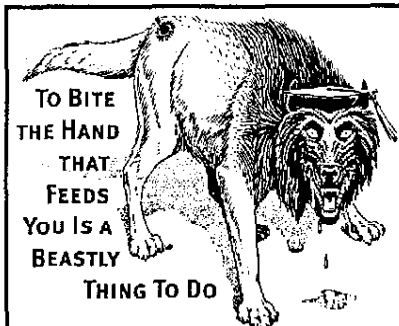
As the consent of the aborted is not even considered at the beginning, so requirements for obtaining consent at the

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intolerable pain; the crushing costs of care).

In short, the boundaries of life and death *must* be set by public decision. Each of us, at our beginning and at our end, is vulnerable to the choice of others. We need public protection against those others.

This, indeed, was John Locke's argument for the social contract. In the state of nature, humans act like wolves toward one another. They enter civil society through a social contract that takes all acts of violence out of private hands, and entrusts violence exclusively to public authorities, acting through due pro-



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