

# Houston Objectivism Society



Vol.6, No. 5      October 1993      Newsletter

## Free Legal Counsel: a Debate for November

On November 13, the next meeting will feature a presentation by Michael Mazzone on the issue of free legal counsel in criminal trials. The issue was legally resolved in the 1962 case *Gideon v. Cochran*, and *Gideon* was represented by Abe Fortas. The activities will include a debate on the issue as well as the playing of a tape of Fortas' argument.

Please join us at the Phillips clubroom at 6:30 pm, Saturday, November 13.

## TJS, Potluck & Future

The meeting on October 9 inaugurated the policy of holding monthly meetings every second Saturday of each month. A potluck dinner was followed by two activities: First, Jeri Eagan and Donald Granberry provided very interesting accounts of their adventures at the Thomas Jefferson School, held this summer in San Francisco. Then Janet Wich led a lively discussion and planning session on future activities of the club, including the events of future meetings.

New HOS member Keith Robertson was welcomed along with his companion Caroline Yeoman, and Bonnie Berckenhoff accompanied Michael Gold.

## "Planning for Success" a Success

At the August meeting, Joe Blackburn presented a workshop on planning for success to one of our largest audiences.

Joe's presentation included an examination of a popular success book and related Objectivist principles to the attainment of goals in any endeavor. He also handed out a work sheet designed to outline and concretize various steps

in the planning process and asked attendees to use it for some current goal. After some time was allowed for this purpose, several people reviewed their own work for the audience.

The presentation was concluded with the audience asking Joe questions about the process and about his experience in building Eye+Tech, a chain of quick service optometry offices.

Thank you, Joe, for an entertaining and enlightening evening.

## The Most Rational Garage Sale in History

On Saturday, October 16, a garage sale benefiting the Houston Objectivism Society Library was held at 5933 Bellaire Boulevard, the site of Phillips Exterior Services. Brian and Dawn Phillips report that over \$200 was raised and that additional sales in the future are possible.

Thanks to those who contributed items—Warren Ross, Janet Wich and Chris Land—and to those who both contributed items and helped out: Brian and Dawn, Johnnie McCulloch, Donald Granberry, Dave Wilens, Pete Jamison, Clark Hamilton and Jeri Eagan.

## TOSC V in October

On the weekend of October 29-31, the fifth annual Texas Objectivist Societies Conference will take place in Austin at the Holiday Inn Town Lake Hotel, located at 20 North IH 35. Attendees will enjoy the presentation of several papers, workshops, art and an evening of entertainment.

Two members of HOS, Brian Phillips and Jeri Eagan, are scheduled to present papers. Brian will present *Politics of Reproduction*, an examination of legal restraints applied to recent developments in reproductive technology and the ideas used to justify such restraints. Brian finds that "just as there are those

who seek to impose parenthood upon those who do not want it, there are those who seek to deny parenthood to those who do. In both instances, freedom is under attack."

Jeri Eagan will present *Rights in the Parent/Child Relationship*, which identifies "the philosophic principles upon which rational laws governing the relationship between parents and children should be based." While contemporaries view rights as need-based claims on others, Objectivism sees rights as sanctions to self-generated action in pursuing values. How is this principle applied in those transitional contexts where such action is severely limited in scope and inadequately directed, as with children? And does not the parenting experience imply an imposition of duty? These questions and many others are addressed by examining the philosophical roots of rights, as identified by Ayn Rand. In addition, Jeri compares current legal concepts with a proper view of rights in this area.

Brian Johnson of Chicago will present *The Jefferson Bible*, an examination of Thomas Jefferson's carefully edited version of the Bible. In seeing what Jefferson retained and discarded of the Bible, Brian shows us the outlines of Jefferson's thought on metaphysics, epistemology and ethics. Then Brian uses this knowledge to answer Conservative assertions that America was born of Christian morality and religious faith.

Are computers capable of thinking? Some researchers in the field of "artificial intelligence" are content to develop more sophisticated applications of computers without ascribing any more characteristics to computers, but others retain the hope of creating an artificial mind in the form of a digital computer.

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Paul Blair of Austin presents *Limits to the Simulation of Human Intelligence* to examine this field of inquiry to see if such goals are realistic: "Can we know the answer to this question in advance, or can the answer only be discovered through experiment? What can philosophy tell us about such issues? Does the fact that consciousness is an irreducible primary bear on the issue? Does consciousness require life? Paul uses his knowledge from both philosophy and computer science to clarify the issue of "artificial intelligence".

The division of labor lies at the core of the science of economics, but fully appreciating this principle involves understanding the philosophical fundamentals which give rise to it. In *The Philosophy and Economics of the Division of Labor*, Robert Garmong outlines those philosophical principles and shows how their understanding could have benefitted the work of the Classical economists.

Various workshops will also be presented at this, the fifth Texas Objectivist Societies Conference. One of these Conferences has been held in Houston, while the rest have taken place in Austin. The Texas Objectivist Societies Conference is unique, and the organizers can take great pride in their achievement. For more information on this year's Conference, contact Steve Rogers, Hill Country Objectivist Association, (512)282-5528.

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## Perpetual Rights

by  
Dwyane Hicks

Part of the pleasure in studying the intellectual roots of America is experiencing the intellectual honesty and good will of the period. This is not to say that people were without vices, but that rational standards were recognized. In large part, this was due to the respect that men held for their capacity to reason in regard to a common reality. Disagreements were handled with extensive argument, among opponents and friends, with reality implicitly acting as umpire. Despite the possibility of heated conflict, this approach is structurally

benevolent: the most accurate identification of reality benefits every person of good will.

In contrast, when truth is the product of one's ethnicity or, as with pragmatism, a myth to justify one's action or policy, conflict is inevitable and irresolvable. When "reality" is made the handmaiden of one's feelings or arbitrary desires, no benevolent common ground is possible. In fact one's position is bolstered, by appearing moderate, to the extent that one's "reality" diverges from that of one's opponent. Lying is not a vice but an institutionalized tool. In this spirit, the present campaign by the Clinton administration to re-invent America requires the re-inventing of the founding of America.

Conservatives have, for some time, projected the Founders as fervent religionists, whose goal was to establish a Christian republic. In this endeavor, a very selective focus found every reference to God (inconveniently absent from the Constitution) and dragged out Washington's inaugural Bible. But the most casual reading of materials available in any American history course renders such religious assertions as laughable.

Conservatives, however, were following a policy long practiced by liberals in creating historical myths. In the liberal version of the American Revolution, for example, the "People's" revolt against British imperialism is betrayed by the Constitutional Convention, where "reactionary" interests established a capitalist system while Jefferson, the incipient radical, was occupied in Europe. (Finding nothing objectionable about this wholesale context dropping, Libertarians have adopted a modification of this version, with the "anti-federalists" projected as anarchists.)

President Clinton, not surprisingly, is steeped in this leftist version of America's founding, and is not above adding his own peculiar twists to it. In March, he gave a speech at Rutgers University, advocating his plan for National Service. In part of his speech, he stated:

*The concept of community and the idea of service are as old as our history.*

*They began the moment America was literally invented. Thomas Jefferson wrote in the Declaration of Independence: "With a firm reliance on the protection of divine providence, we mutually pledge to each other our lives, our fortune, and our sacred honor."*

This kind of context dropping might make even Barbara Branden blush but not Clinton. He is so outrageous as to ascribe collectivist and selfless ideals to a revolution fought to establish individual rights, including the right to the pursuit of happiness. And lest you think *The Ominous Parallels* was an instance of arbitrarily viewing philosophy as the fundamental causal factor of history, consider the following from the same speech:

*National service will be America at its best, building community, offering opportunity and rewarding responsibility. National service is a challenge for Americans from every background and walk of life, and it values something far more than money. National service is nothing less than the American way to change America.*

*It is rooted in the concept of community, the simple idea that none of us on our own will ever have as much to cherish about our own lives if we are out here all alone as we will if we work together, that somehow a society really is an organism [from Plato] in which the whole can be greater than the sum of its parts. And every one of us, no matter how many privileges with which we are born, can still be enriched by the contributions of the least of us, and that we will never fulfill our individual capacities until, as Americans, we can all be what God meant for us to be.*

*If that is so, if that is true, my fellow Americans, and if you believe it, it must therefore follow that each of us has an obligation to serve...*

*You will know the satisfaction of being valued, not for what you own, or what you earn, or what position you hold, but just because of what you have given to someone else.*

Here, in one speech, are all the

ideals of an America that never was, an America of selfless duty, collectivism, egalitarian humility, altruism, contempt for personal wealth and love of "national service" to effect change. How does one convince Americans that this America ever existed and that Clinton's restructuring is tame by comparison? In part, one enlists one of the Founding Fathers in one's cause.

After traveling from Jefferson's Monticello for his inauguration, Clinton cited Jefferson's essay "The Earth Belongs to the Living", originally a letter sent to James Madison in 1789. This letter has been given great prominence not only in Clinton's inauguration speech, but also in political science courses. What is it in this letter that is so appealing to liberals and what does Jefferson actually say? The following is a summary, followed by an analysis of the letter and Clinton's illegitimate use of it.

### The Letter

Jefferson's letter was sent from Paris, September 6, 1789, and reached Madison in New York in February 1790.

The letter starts by asking, in general, "whether one generation of men has a right to bind another..." To arrive at an answer to this question, Jefferson starts with a premise which he regards as self-evident:

"that the earth belongs in usufruct to the living; that the dead have neither powers nor rights over it. The portion occupied by any individual ceases to be his when himself ceases to be, and reverts to the society."

As an application of this principle, Jefferson notes that no man can recklessly incur debt during his life-span and impose his obligations on his descendants, or without limitation assign the use of his property beyond his lifetime. If he could, "then the lands would belong to the dead—the reverse of our initial principle."

Now another principle is stated—the derivative nature of the rights of a society:

"What is true of every member of the society individually is true of them all collectively, since the rights of the whole can be no more than the sum of the rights of individuals."

Every society consists of individuals of different age. Jefferson proposes to clarify issues dealing with a society of staggered age by assuming, temporarily, that all men of a society are born and die on the same dates, respectively. In this situation, the application of the initial principle would recognize each individual's right to incur debt for a period not to exceed the term of his life, till age 55 during Jefferson's time, the average age of mortality.

To apply this principle to a normal population of staggered age, Jefferson proposes that such a society could contract a debt only to the point where "a majority of those of full age are dead." Using statistics of Jefferson's era, he calculates the length of time from age 21 to this "majority point" as being about 19 years. To clarify this notion, suppose that a society is composed of 100 people, ages 21 to 55. Then after 19 years, over 50 of them would be dead, replaced by a more youthful 50, who could not now be burdened by the debts and wishes of the dead.

Jefferson concludes: "Then 19 years is the term beyond which neither the representatives of a nation, nor even the whole nation itself assembled, can validly extend a debt."

Two examples are given to clarify this point. The first is that Louis XIV and V cannot have indebted all of France to Genoese creditors, forcing the next generation to cede its land to the same. The second example is that Louis XV and his generation could not have borrowed money the repayment of which could not start after 19 years.

Thus, no nation should be able to incur debt which cannot be paid off in 19 years, for a longer period would not have the sanction of a majority. Similarly, all contracts should void payment after 19 years. Additional practical benefits would include putting lenders and borrowers on guard and bridling the spirit of war.

Then Jefferson shifts to the political

argument (assuming that the argument, thus far, has been non-political):

"On similar ground it may be proved that no society can make a perpetual constitution, or even a perpetual law. The earth belongs always to the living generation. They may manage it then, and what proceeds from it, as they please, during their usufruct. They are masters too of their own persons, and, consequently, may govern them as they please. But persons and property make the sum of the objects of government. The constitution and the laws of their predecessors extinguished them, in their natural course, with those whose will gave them being. This could preserve that being till it ceased to be itself, and no longer. Every constitution, then, and every law naturally expires at the end of 19 years. If it be enforced longer, it is an act of force and not of right."

This is Jefferson's primary conclusion, although he argues further that it is not enough to leave men free to repeal perpetual law: "...a law of limited duration is much more manageable than one which needs a repeal."

Jefferson argues further that a 19-year limitation on the government's power to contract debt would "exclude, at the threshold of our new government, the contagious and ruinous errors of this quarter of the globe [Europe] which have armed despots with means not sanctioned by nature for binding in chains their fellowmen. We have already given, in example, one effectual check to the dog of war by transferring the power of letting him loose from the executive to the legislative body, from those who are to spend to those who are to pay. I should be pleased to see this second obstacle held out by us also in the first instance [the Constitution]."

"Establish the principle also in the new law to be passed for protecting copyrights and new inventions by securing the exclusive right for 19 instead of 14 years. Besides familiarizing us to this term, it will be an instance the more of our taking reason for our guide instead of English precedents, the habit of which fetters us..."

### Clinton's Purpose

It is obvious why a liberal pragmatist is attracted to the conclusion of this letter. For a subscriber to the philosophy of John Dewey, who remarked that Aristotle's logic worked so well for earlier cultures that it is now overdue for a replacement, it is no great leap to call for fundamental change in America's political structure and to enlist one of the more prominent Founders in that effort. Bill Clinton's idol John Kennedy campaigned on an issueless "Give me power," while Bill Clinton campaigned on a related demand for unidentified change, change more fundamental than the electorate realized. However feebly interpreted today, the Constitution still stands as a bulwark against the sweeping measures desired by the political Left. How comfortable and disarming, then, to quote out of context from Jefferson: "The earth belongs always to the living generation. They may manage it then, and what proceeds from it, *as they please*, during their usufruct. They are *masters* too of their own persons, and consequently, may *govern them as they please* [emphasis added]."

But in reading Jefferson, as with any writer, we must keep in mind his context and the hierarchy of his premises and values—not only to understand what he meant, and thereby to discern his mistakes, if any, but also to correct misinterpretations by others.

### Jefferson's meaning

Always wary of the instrument of government and confident in man's reason, Jefferson often favored measures which erred on the side of flexibility, versus stability, for the new government. He could not know that his age was the twilight of the Enlightenment and that subsequent change in structure and in interpretation of the Constitution would be more of a threat to its protection of liberty than a safeguard.

Jefferson, in this instance, also seems to take too literally "the consent of the governed," whereby here he seems to say that it must be concretely renewed with every generation. As Dr. Leonard Peikoff points out in *Objectivism: The Philosophy of Ayn*

*Rand*, "The 'consent of the governed' is the source of a government's power, since government is an agent of its citizens. But this does not mean that the citizens can delegate powers they do not possess."

"The source of a government's power is not arbitrary consent, but *rational* consent, based on an objective principle. The principle is the rights of man." (p. 369)

As Ayn Rand has shown, these rights derive from man's nature and are not transitory. From Jefferson's writings, it is clear that Jefferson also does not regard rights as ephemeral. Read his words to Madison in 1788 on habeas corpus: "Why suspend the habeas corpus in insurrections and rebellions? The parties who may be arrested may be charged instantly with a well defined crime..." "Yet for the few cases wherein the suspension of the habeas corpus [in England] has done real good, that operation is now become habitual and the minds of the nation almost prepared to live under its constant suspension." Nor does Jefferson regard the purpose of government as the product of contemporary fashion. As he remarks to Francois d'Ivernois in 1795, "...it is to secure our just rights that we resort to government at all."

Among other mistakes, Jefferson aims his criticism at the means of government, as instituted by any particular generation, but, by attacking the concept of perpetual constitution, hits its end: the protection of individual rights. Specifically, he does this by failing to appreciate the fundamentality of constitutional law, which provides the structure of protecting rights, such as habeas corpus, and must therefore be as stable as that which it protects. In part, Jefferson realizes this, later, in a letter to Samuel Kercheval in 1816: "I am certainly not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with, because, when once known, we accommodate ourselves to them and find practical means of correcting their ill effects." He still, however, in the same letter, recommends a new assessment every two decades but now "so that it may be hand-

ed on, with periodical repairs, from generation to generation to the end of time, if anything human can so long endure..."

Jefferson also fails to apply his second principle, as stated in the "Living" letter: "...the rights of the whole can be no more than the sum of the rights of individuals." Such a limitation on "the whole" applies even more so on a half, i.e., on a majority. Of course the initial adoption of a Constitution is so weighty that at least a majority must recommend it, but Jefferson's periodic extinguishing of a constitution substitutes "the sanction of a majority" for the standard of man's rights. Such a periodic examination would have rendered vulnerable the Constitution to every historical fashion, and it could not have survived the issue of slavery. Prior to the Civil War, "the sanction of a majority" could not have prevented the Southern society from seceding and changing the Constitution into a document which negated individual rights, ultimately, for all its citizens.

A perpetual constitution is not a sufficient condition for protecting man's rights, but it is a necessary one.

### Clinton's meaning

In regard to Bill Clinton's reference to "The Earth Belongs to the Living", he uses it in an attempt to deny the earth to the living, i.e., to man. Clinton's message is just the opposite of Jefferson's. Jefferson's fundamental concern was that the rights of living individuals not be sacrificed to any constituency, living or dead, majority or minority, individual tyrant or democratic mob. His few errors are made in the successful attempt to shackle government so that men might be free. Clinton's complaint over gridlock is a reflection of his contempt for the American system of checks and balances which produced it. The re-inventing of America is the dismantling of that system for the opposite of Jefferson's ends—for Plato's non-existent organic collective, for "suffering" ozone and South American jungles and for car-pooling for the Reich.

Jefferson's suggestion that fundamental law be periodically reviewed was

only a means to the end of protecting man's rights. To suggest that he would lend his support to the pragmatic tyranny of the current consensus is to turn the whole sentiment of Jefferson and his era upside down. \$



**Houston Chronicle—10/2/93**

One of the questions asked [for this forum] was "can the United States protect

civil rights and combat rampant violence?" Not only can we protect civil rights and combat violence, civil rights are the means to that end.

But what are civil rights? Therein lies one of the major problems of modern society. Rights have been so skewed as to have become not only meaningless, but destructive of justice. Today thugs are treated like victims, and victims like meaningless entities, and the result is what we see.

The father of rights is John Locke. He defined rights, in consonance with man's nature, as the right to life, liberty and the fruits of one's labor. This implies that the government defend the freedoms of the citizenry. When one citizen encroaches upon the freedoms of another by initiating force or the threat of the initiation of force, that constitutes a violation and deserves punishment by due process.

For the sake of a peaceful, just and rational society, it is imperative that people are treated in accordance with their actions. If a man respects the rights of others, he should be left free and respected. If a man violates the rights of others, he should be dealt with by a punishment commensurate with the crime. There can be no compromise

of justice. I submit that this is not the way our current system of law is working and that we are suffering for it.

*John Alway, Victoria*

**Houston Chronicle—10/6/93**

In a Sept. 24th editorial Mark Turner claimed that there is \$100 billion paid per year on paper work in the medical field and then goes on to blame this on the free market. The fact is that the paper work and costs have risen in the medical field as a direct result of government intervention via Medicare and Medicaid. It had nothing to do with the free market. Indeed, had it been a truly free market there is little doubt that medical costs would have gone down while quality would have gone up. Why? Because that is the way of the free market in every field. Indeed, medical care was quite affordable before government got involved.

He then goes on to accuse the "private-sector", aka free men, of "greed and stupidity." If by greed he means that they want the right to the money they've earned, then there is nothing morally wrong with this. There is, however, a great deal immoral about the governments claim on the freedoms and wealth of others. As to "stupidity," well, I think it is clear that the stupidity lies in the private sector to the extent that they give up their liberties to the thugs in government. Give the government an inch, and it will take the whole thing. The only answer to medical costs is to get the government thugs out completely and utterly.

*John Alway, Victoria*

**Houston Post—10/11/93**

The debate over zoning has been disappointingly lacking in principles. Zoning advocates have consistently refused to identify the principles underlying zoning; zoning opponents have responded by telling us that zoning will raise taxes, stifle business development, etc.

While the claims made by zoning opponents are, for the most part, true, they fail to address the fundamental issue involved.

The principle underlying zoning is

that government should control all land use within a community. An individual may use his property, not by right, but by permission. Which means, the values of individuals are made subordinate to the values of the community. That the zoning ordinance was drafted with the input of thousands of Houstonians does not change the nature or purpose of zoning.

It is true that zoning is impractical; more importantly, zoning is immoral.

*J. Brian Phillips*

**CALENDER of HOS Events for 1993/94**

November 13: Free Legal Counsel—Michael Mazzone.

December 11: "How Come?"—Chris Land.

January 8: Mock debates with issues of the day.

February 12: To be announced—George Marklin and Mary Heinking.

March 12: Intro to Objectivism—Dawn Phillips and Chris Land.

April 9: Pamphleteering—Warren Ross.

May 14: Objectivism at work and play—Johnnie McCulloch.

June 11: Current events and essays—Keith Robertson.

July 9: Mock trial—Matthew Gerber.

August 13: Arguing ideas—Clark Hamilton.

September 10: Guest speaker—Warren Ross.

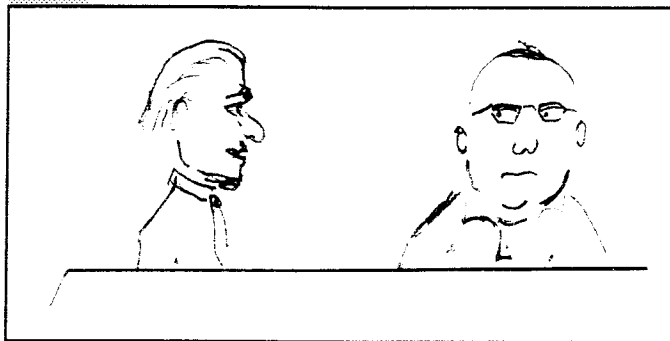


## Announcements

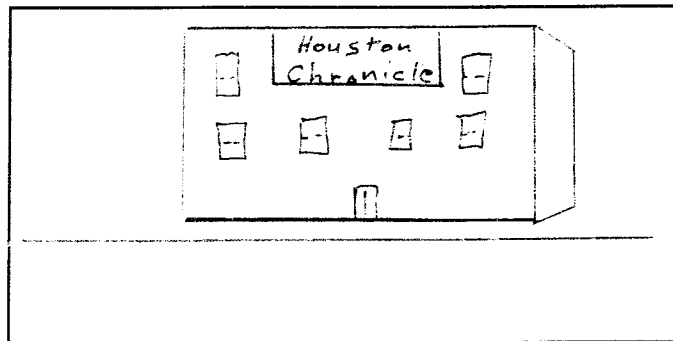
- \$ Leonard Peikoff will speak in Boston at the Ford Hall Forum on November 7 on "Modernism and Madness." For event and membership information, call the Forum at (617)373-5800.
- \$ Second Renaissance Conferences will hold a two-week summer conference in Secaucus, New Jersey in July 1994. For more information, write to Sandra Schwartz, SR Conferences, 130 Federal Road, Suite 56, Danbury, CT 06811.
- \$ The fifth annual Texas Objectivist Societies Conference will be held October 29-31 in Austin. Lectures and concurrent workshops are scheduled. Contact Steve Rogers, Hill Country Objectivist Association, (512)282-5528.
- \$ The second Pacific Northwest Objectivist Conference will be held in Union, Washington, March 24-27, 1994. Two-day courses will be conducted by Edwin Locke, Andrew Bernstein and Gary Hull. Contact Pamela L. Benson, (206)876-5868.
- \$ Congratulations to HOS Newsletter subscriber and contributor Bennett Karp for his article "Sustaining the Assault on Development" in the September issue of *The Intellectual Activist*.
- \$ Congratulations to Brian Phillips on his article "Aquaculture: The Birth of an Industry" appearing in *Man and Nature*, a book published by The Foundation for Economic Education. George Reisman's "The Toxicity of Environmentalism" also appears in the same book.
- \$ On October 5, Richard Salsman addressed a general audience of about two hundred people in Austin at the University of Texas with his speech "Capitalism and the Environment."
- \$ HOS is looking for ways to advertize inexpensively. From what sources do you find information on events, meetings, etc? Please jot down your sources and send the list to Dwyane Hicks,
- \$ On November 2, Houstonians will vote on the issue of zoning. A recent poll has indicated that the zoning measure will pass. We urge you to write letters-to-the-editor in favor of property rights and freedom and to vote accordingly in November.

### Yuks

by Dwyane Hicks



So, Tom, on your break?  
 What are you having for lunch? Do you think the Houston Oilers  
 are back on track? How are your kids? That's a nice shirt—where did you get it?



I dunno. Those are pretty extreme questions.  
 Excuse me, I have to go write an editorial.

HOS President *Warren S. Ross*  
 Editor: *Dwyane Hicks*

HOS Executive Committee:  
*C. J. Blackburn*  
*Dwyane Hicks*  
*J. Brian Phillips*  
*Warren S. Ross*

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