

1999

Orwell versus Huxley: Economics, Technology, Privacy, and Satire

Richard A. Posner

Follow this and additional works at: https://chicagounbound.uchicago.edu/law_and_economics



Part of the [Law Commons](#)

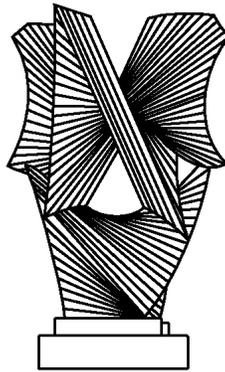
Recommended Citation

Richard A. Posner, "Orwell versus Huxley: Economics, Technology, Privacy, and Satire" (John M. Olin Program in Law and Economics Working Paper No. 89, 1999).

This Working Paper is brought to you for free and open access by the Coase-Sandor Institute for Law and Economics at Chicago Unbound. It has been accepted for inclusion in Coase-Sandor Working Paper Series in Law and Economics by an authorized administrator of Chicago Unbound. For more information, please contact unbound@law.uchicago.edu.

CHICAGO

JOHN M. OLIN LAW & ECONOMICS WORKING PAPER NO. 89
(2D SERIES)



Orwell versus Huxley:
Economics, Technology, Privacy, and Satire

Richard A. Posner

THE LAW SCHOOL
THE UNIVERSITY OF CHICAGO

This paper can be downloaded without charge at:

The Chicago Working Paper Series Index:
<http://www.law.uchicago.edu/Publications/Working/index.html>

The Social Science Research Network Electronic Paper Collection:
http://papers.ssrn.com/paper.taf?abstract_id=194572

ORWELL VERSUS HUXLEY: ECONOMICS, TECHNOLOGY, PRIVACY, AND SATIRE

RICHARD A. POSNER*

Abstract

Orwell's novel Nineteen Eighty-Four and Huxley's novel Brave New World have often been thought prophetic commentaries on economic, political, and social matters. I argue, with particular reference to the supposed applicability of these novels to issues of technology and privacy, that the novels are best understood as literary works of art, rather than as social science or commentary, and that when so viewed Orwell's novel in particular reflects a dissatisfaction with everyday life and a nostalgia for Romantic values.

The organizers of this conference have asked me to discuss what *Nineteen Eighty-Four* may have bequeathed to us in the way of useful thinking about technology and privacy. Many people believe that the relentless advance of science and technology in recent decades has endangered privacy and brought us to the very brink of the Orwellian nightmare. With the organizers' permission I have enlarged my canvas to take in another famous English satiric novel from the era that produced *Nineteen Eighty-Four*. Aldous Huxley's *Brave New World*, published in 1932, has many parallels to Orwell's novel, published in 1949—and Orwell borrowed extensively from the earlier work (as both works did from Yevgeny Zamyatin's novel *We* [1924])—yet it is far more technology-intensive and in ways that bring out the limitations of Orwell's vision. Indeed, the contrast between these two celebrated dystopic novels, notably in their ideas about the relation between sex and privacy, is striking. But relating

* Chief Judge, U.S. Court of Appeals for the Seventh Circuit; Senior Lecturer, University of Chicago Law School. This is the amplified text of a talk given at a University of Chicago Law School conference on "1984: Orwell and Our Future" on November 12, 1999. I thank Paul Choi for his helpful research assistance and Larry Downes, Joseph Epstein, Lawrence Lessig, Charlene Posner, Eric Posner, Richard Rorty, and Richard Stern for their helpful comments on a previous draft.

the two works to technology is no easy matter, and I need two mediating approaches: that of economics, in relation to technology, and that of literary criticism, in relation to satire, which is the genre of both novels, although I shall argue that Orwell's novel is not only a satire.

To telegraph my punch, I don't think either novel has much to teach us about what it means to live in an age of technology, though both are fine novels. They don't have a lot to say about privacy either, although what they do say about it is important—in particular, that a taste for solitude is inimical to totalizing schemes of governance and social organization, whether the utilitarianism of *Brave New World* or the totalitarianism of *Nineteen Eighty-Four*, because when people are alone they are more apt to have wayward thoughts about their community than when they are immersed in it.¹ This is not a new idea; it lies behind Jeremy Bentham's proposal for the "Panopticon," a domed prison the cells of which would have no ceilings so that the prisoners could be kept under continuous observation by warders stationed at the top of the dome. Privacy and technology are related in Orwell's novel through the "telescreen," a means of universal surveillance. They are largely separate in Huxley's novel, except insofar as reproductive technology is related to privacy.

I do not mean to rest with making negative points. I shall try to explain what in my view these novels are most importantly about and where they succeed and where they fail. I shall suggest² that it is a mistake to try to mine works of literature for political or economic significance—even when it is political literature.

¹ "To do anything that suggested a taste for solitude, even to go for a walk by yourself, was always slightly dangerous. There was a word for it in Newspeak: *ownlife*, it was called, meaning individualism and eccentricity." George Orwell, *Nineteen Eighty-Four* 70 (1949). All my quotations are from the 1961 paperback edition published by New American Library under the title *1984* (the date was spelled out in the original edition). Subsequent page references to Orwell's novel appear in the text of this paper.

² As I have done elsewhere: see my essays "Against Ethical Criticism," 21 *Philosophy and Literature* 1 (1997); "Against Ethical Criticism: Part Two," 22 *Philosophy and Literature* 416 (1998).

I. SOME ECONOMICS OF TECHNOLOGY

I imagine that anyone who thinks that these two novels—both in their different ways distinctly dystopic, if not downright dyspeptic—are commentaries on technology thinks they are critical commentaries. Economics can provide focus, structure, and critique to the widespread fear that technology is a danger to man as well as a boon—indeed a master as well as a servant, so that technological “progress” may be, at the same time and perhaps more fundamentally, retrogressive from the standpoint of civilization. There are five ways in which the economist can help us to see the downside of technological change.³ I shall call them externality, marginality, rent seeking, interaction effects, and economies of scale and scope.

A new technology will be brought to market by a profit-maximizing firm if the output embodying it (for example, automobiles equipped with power steering) can be sold at a price that will equal or exceed its cost to the seller. Under conditions of competition, the firm will expand its output of the product embodying the technology until marginal cost (the cost of expanding output by a small amount) just equals price. Since consumers will not buy a product unless they think it will make them better off, the ability of the technology to win its way in the market in the way just described is *prima facie* evidence that the technology is a “good thing.”

But it is only *prima facie* evidence. One thing that can rebut the *prima facie* case is that the seller may not take the full costs of the new technology into account, in which event technology may be introduced even though its net social benefits are negative. As economists say, some of the costs may be *external* to his decision-making process. A transcontinental supersonic airline service would reduce travel times, but it would also generate sonic booms, annoying people, and breaking windows, beneath the flight path.

³ This is not the usual focus of economic analysis of technology. The usual focus is on the relation between science and technology (the former being a major input into the latter), the different incentive structures of the two activities, the social benefits of technological progress, and the means (such as patent rights) for encouraging private individuals and firms to produce these benefits. See, for an excellent discussion, Partha Dasgupta and Paul A. David, “Information Disclosure and the Economics of Technology,” in *Arrow and the Ascent of Modern Economic Theory* 519 (George R. Feiwel ed. 1987).

These harms would be a cost of supersonic travel, but not a cost borne by the airline unless the law made the airline liable for it. External effects can be positive as well as negative, however, and on balance the external effects of modern technology have been positive. The positive effects stem largely from the fact that most technological innovations are imitable and patent laws provide only very limited protection against imitation. The benefits to consumers of most technologically advanced products, ranging from pharmaceuticals to color television, greatly exceed the profits of the manufacturers.

I said that the level of output in a competitive market is determined by the intersection of price and marginal cost. This implies that the marginal purchaser—the purchaser willing to pay a price no higher than marginal cost—drives the market to a considerable extent. It follows that a technological innovation that is attractive to the marginal consumer may be introduced even though it lowers consumer welfare overall; this is a kind of negative externality.⁴

⁴ Suppose an airline has to decide whether to reconfigure its aircraft in a way that will provide very cramped seating at a lower price than with its existing, roomier seating. Let us suppose that with the cramped seating the plane can carry 300 passengers each paying \$100, so that the total revenue per flight will be \$30,000, while with roomier seating it can carry only 250 passengers each paying \$110, for a total revenue of \$27,500. So, assuming (as I will) that the cost of operating the plane is the same, the airline will switch to the cramped-seating configuration. But there may well be an overall social loss. The extra 50 passengers are marginal in the sense of not being willing to pay very much for airline travel; let us assume that the most they would pay would be \$101 a ticket, so their net welfare is enhanced by a total of only \$50 as a result of the new configuration. Of the other 250 passengers, let me assume that 200 are indifferent between the lower price and the reduced comfort, so they neither gain nor lose by the change. But now suppose that the remaining 50 passengers value roomy seating very highly; they would be willing to pay \$150 for it. The airline will not charge that much, however, for if it did the flight would attract only 50 passengers and the airline's total revenue for the flight would be only \$7,500. In other words, the inframarginal consumers cannot compensate the airline for the cost to it of the roomier seating, and so, notwithstanding their strong preference for such seating, the airline will switch to the cramped configuration. As a result, 50 passengers will have lost a total of \$2,000 in the value they derived from flying ($50 \times \$150 - \110), the difference between what they did pay and what they would be willing to pay for the flight with the roomier seating, while gaining only \$500 ($50 \times \10) in lower price. The net loss to them is \$1,500 and exceeds the net gain to the "winners" from the change (\$50).

Rent seeking refers to the fact that economic activity is generally guided by the prospects for private gain rather than the prospects for social gain. As a result, costs may be incurred that do not increase society's overall wealth but merely alter its distribution among persons. The principal effect of a firm's spending heavily on an advertising campaign may be to get business away from a rival who may respond with his own advertising expenditures. Consumer welfare may be higher as a result of the information or entertainment value of the additional advertising, but it may not be higher by an amount equal to or greater than the full amount of the two firm's expenditures. Many technological innovations raise costs without increasing net social benefits. This is particularly true of innovations relating to internal and external security. A more lethal gun has value both to criminals and to the police, but after both sides in the war against crime are equipped with it, the only effect of the innovation may be to increase the costs of crime and crime control. Likewise, but on a much larger scale, with military weapons. The "arms race" is indeed the classic example of wasteful competition. Both crime and conquest are close to being purely rent-seeking activities. The costs incurred in trying to obtain a competitive advantage by adopting a new technology are entirely wasted from the standpoint of overall social welfare except to the extent that the technology can be beneficially adapted to civilian use—a spillover analogous to the informational or entertainment quality of advertising designed purely to wrest business from a competitor.

Technological innovations also can interact with each other or with the social structure to produce unforeseeable long-run consequences that may be good or bad, a possibility dramatized by World War I, which revealed the unexpected destructiveness of

This problem with pricing equal to marginal cost can be and is alleviated to a considerable extent by the widespread practice of price discrimination in the airline industry. The airlines try as far as possible to vary prices according to each individual consumer's willingness to pay, and they also divide each aircraft into classes (first class, business class, and coach) that allow for different levels of comfort. The *principle* that pricing equal to marginal cost may not produce a social optimum is not affected by efforts to alleviate the problem, since they cannot be assumed always to solve it completely; but the airline case is a good example of how market forces themselves operate to limit market failures.

warfare under conditions of technological progress. The problem of technology's unanticipated consequences, the subject of a vast literature in history, sociology, and cultural studies,⁵ is merely the problem of externalities writ large. For I am speaking now of external effects that cannot be predicted; often they cannot be evaluated even after they have come to pass. Consider such innovations of the last half century as improved contraceptive and labor-saving devices, fast food, and the automation of many tasks formerly requiring substantial upper-body strength. Their interaction probably is largely responsible for women's emancipation from their formerly constrained role in society, an emancipation that has brought in its train a high divorce rate, a low marriage rate and high age of first marriage, a high rate of abortions and of births out of wedlock, a low birth rate, an increase in fertility problems that has contributed in turn to an increased rate of innovation in reproductive technology, and a profound change in sexual morality, including increased tolerance of homosexuality. None of these consequences of the technological innovations that I have listed was foreseen, and the net impact on social welfare is unclear, or at least unmeasurable, though I am inclined to think it positive. Other unintended consequences of technological progress include the effect of life-extending medical technology on the costs of Medicare and social security, and the effect of automation and computerization on income equality: the effect has been to increase inequality by increasing the demand for highly educated workers relative to manual workers. These are modern examples, but the problem that they illustrate that they illustrate is very old.⁶

The four reasons that I have discussed thus far for uncertainty about whether technological innovation will increase or reduce social welfare can help us understand the sense that many people have that scientific and technological progress is "out of control" and leading us into a future that may not be a net improvement on

⁵ See *The Intellectual Appropriation of Technology: Discourses on Modernity, 1900-1939* (Mikael Härd and Andrew Jamison eds. 1998), and references cited there.

⁶ See, for example, the fascinating story of the effect of the invention of the stirrup on medieval society in Lynn White, Jr., *Medieval Technology and Social Change*, ch. 1 (1962).

the present. Those of us who have lived most of our lives in the second half of the twentieth century are likely to be optimistic rather than pessimistic about where technology is leading, but perhaps only because technology has been on the whole very good to us. I can remember life in the late 1940s and early 1950s well enough to attest that scientific and technological progress since then has made life a good deal safer, healthier, more comfortable, and more enjoyable, though of course not for everyone even in this society. But the economics of technological innovation that I have been sketching suggests the need for caution about projecting the beneficent trends of the recent past into the future.

None of the specific concerns so far discussed figures in either novel. What worried the authors was that technology, and “technocratic” methods and attitudes more generally, might conduce to supplanting economic competition (the market) and political competition (democracy). Our authors believed, like many of their contemporaries, that engineering methods, applied both to production and to people (“social engineering”), epitomized rationality, entailed central planning and centralized control, were much more efficient than the market, and implied political as well as economic rule by experts. In economic lingo, the concern was that technology was bringing about radically increased economies of scale and scope—was making the efficient size and scope of enterprises so large that eventually all activity would be conducted on a monopoly basis.

The relation between monopoly and technology is complicated. If technological innovation is risky, too little of it may be undertaken if competitors can appropriate the benefits of the innovation. This is the rationale of patent protection, which is a form of monopoly. So technology may “invite” monopoly and at the same time may lower its costs, perhaps by reducing the cost of control. Computers were once expected to facilitate central planning of an economy; recently they have been effective in reducing middle management, and thus reducing the costs of internal control of enterprises and so presumably increasing the span of effective control and thus the optimum size of enterprises. But equally technology can foster decentralization, for example by

reducing transaction costs among independent firms.⁷ Another possibility is that new (hence small) firms may be better at technological innovation,⁸ in which event technological progress will favor small firms over large, competition over monopoly. It is an empirical rather than a theoretical question whether technological progress on balance favors monopoly or competition. As of now it appears, contrary to widespread fears in the 1930s and 1940s, not only that competition generally is a more efficient method of organizing production than central planning but also that the more technologically advanced the economy, the greater the advantage of competition.

Nor has technological progress imperiled democracy; rather the opposite. Technological progress has increased average incomes in most nations, and income not only is strongly positively correlated with political freedom but also appears to play a causal role in that freedom.⁹ We should consider, however, the possibility that technology may threaten that freedom through its effect on privacy. Consider the two principal aspects of privacy when it is distinguished from autonomy, for which “privacy” has become a common synonym in constitutional law, where rights of sexual and reproductive freedom are described as aspects of the “right of privacy.” The two nonautonomous aspects of privacy are solitude and secrecy, and to a totalitarian regime the social costs of both are great. Solitude (not complete isolation, but enough private space to enable a person to think for himself) fosters individualistic attitudes; conversely, the constant presence of other people, or sense of being under constant surveillance, enforces decorum and conformity. Secrecy, in the sense of concealment of what one is thinking, or writing, or saying to friends or other intimates, enables subversive thinking and planning to be hidden from the authorities. Indeed, planning implies communication, and serious independent thinking is hardly possible without having someone to “bounce ideas” off, but the communication of “dangerous” thoughts is itself

⁷ This effect is emphasized in Larry Downes and Chunka Mui, *Unleashing the Killer App: Digital Strategies for Market Dominance* (1998).

⁸ As argued in Clayton M. Christensen, *The Innovator's Dilemma: When New Technologies Cause Great Firms to Fail* (1997).

⁹ Richard A. Posner, “Equality, Wealth, and Political Stability,” 13 *Journal of Law, Economics, and Organization* 344 (1997).

dangerous if there is no privacy of communication. So solitude creates the elementary conditions for independent thought, and concealment creates the essential conditions for the refinement and propagation of that thought. In both *Brave New World* and *Nineteen Eighty-Four*, the high social costs of privacy to the regime, conjoined with technological advances that make it costly to maintain privacy, result in dramatically less privacy compared to that of our society.

Each of these aspects of privacy can be regarded as an economic good, and its demand and supply conditions investigated. Both, though solitude particularly, are superior goods in the economic sense of the term: the demand for them grows with increases in income. The supply price varies with a host of economic factors, such as the price of land; the higher that price is, the higher the cost of privacy as solitude. In the case of privacy as secrecy, the supply price has risen with the rapid expansion in computerized data storage and retrieval and especially the rise of the internet; it is increasingly costly to conceal any information that is in a record, whether a medical record, purchasing records (including subscription information), or title documents. To put this differently, the cost of invading privacy has fallen with the “information revolution”—now the “cyberspace revolution.”¹⁰ (We shall see this when we see how labor intensive the means of surveillance employed in *Nineteen Eighty-Four* are.) Yet it is unlikely that the net amount of privacy has declined, since it is a superior good; and it is certain that people today are better informed, more individualistic, and more self-assertive than they were in Huxley’s and Orwell’s time—which is what we would expect if privacy had, on balance, grown.

An even more important point is that privacy as secrecy is not an unalloyed good. Charismatic political leadership—the most dangerous kind—depends on the leader’s ability to control public information about him. If he loses that ability—if he loses his “privacy”—his mystique, and with it his power, erodes. The same technological advances that have made it costly for private persons to protect their privacy have, by making government more transparent, made it more costly for public officials to conceal bad

¹⁰ See, for example, Lawrence Lessig, *Code—and Other Laws of Cyberspace* 142–156 (1999).

acts—including snooping into the private affairs of the citizenry. Secrecy, in short, is a bad as well as a good, and so the net effect on social welfare of making secrecy more costly to maintain is difficult to assess.

I anticipate the argument that in examining issues of technology and privacy from the standpoint of economics, I am instantiating the problem rather than analyzing it. Modern economics is itself a form of “technocratic” thought closely allied to such clearly technocratic fields as statistics, engineering, computer science, and operations research. Max Weber would have thought that modern economic thinking, especially when it is applied to noneconomic behavior, as I have done in many of my writings, is a prime example of the triumph of the trend, which he thought defined modernity, toward bringing more and more areas of human life and thought under the reign of rational methods. This theory, which as we’ll see influenced both Huxley and (under the rubric of “managerialism”) Orwell, is indeed worth considering in a discussion of the relation of *Brave New World* and *Nineteen Eighty-Four* to issues of technology, and I shall do so. Specifically, I shall argue that the disenchantment of the world which Weber predicted as a byproduct of the triumph of rational methods appears in Orwell’s novel as a nostalgia for Romantic values. We might think of this as a spiritual consequence of technology and technocracy that is apart from the economic and political consequences that I have been discussing and that are often though I think erroneously considered the heart of the novels’ critique of modernity.

II. SATIRE

We need to think about the genre, satire,¹¹ to which both novels belong, though *Brave New World* more obviously. Satire is a genre of fiction that invites the reader’s attention to the flaws in his society, or in society (or humanity) more generally. Often, as in such classics of the genre as *Gulliver’s Travels*, it is set in a fantastic world, seemingly remote in time, place, or culture from the satirist’s (and reader’s) world. This point is directly applicable to both *Brave New World* and *Nineteen Eighty-Four*. The fact that they are set in

¹¹ Superbly discussed in Alvin Kernan, *The Cankered Muse: Satire of the English Renaissance*, ch. 1 (1959).

the future (600 years and 35 years, respectively) need not imply that they are efforts at prophecy, rather than critiques of, or warnings against, tendencies visible in the writer's own society. In both novels, as we shall see, futuristic technology is a straightforward extrapolation from well-known technologies of the author's day.

It is also characteristic of satire that there is a satirist *character* in the work—a denouncer of the flaws to which the author wishes to invite the reader's attention but not necessarily identical to the author. Often he is a gloomier, shriller figure than the author, and sometimes he embodies many of the flaws that he denounces. *Brave New World* has two main satirist characters—the Savage, who like Gulliver is an outsider to the “world” that is being satirized, and Bernard Marx, the insider, a classic satiric misfit.¹² In *Nineteen Eighty-Four* the satiric character is also an insider, Winston Smith, who, being like Bernard something of a misfit¹³ and also like Bernard (and relatedly) having the taste for solitude that both authors deem the precondition for independent thinking, is able to see through the lies that undergird his society and is thus able to denounce it. The satire figures in both novels come to a bad end—death, “unpersonhood,” or, in the case of Bernard Marx, exile to Iceland—which is also typical of the genre. Likewise the fact that both provide an anchor to the real world of the present by dwelling on certain familiar objects, such as the Savage's copy of Shakespeare's complete works, or, in Orwell's novel, the paperweight, thrush, statue of Oliver Cromwell, real coffee, silver-foil-wrapped chocolate, and other objects left over from before the Revolution. Characters in satires tend to be cardboard figures, “humors” rather than three-dimensional human beings. Winston and Julia, in *Nineteen Eighty-Four*, are the only richly human characters in either novel, and some doubt that even they are that.

¹² Marx is bitter, marginal, excessively intelligent, insecure, timid, boastful, and socially inept—all apparently stemming from his being short. “They say somebody made a mistake when he was still in the bottle—thought he was a Gamma and put alcohol into his blood-surrogate. That's why he's so stunted.” Aldous Huxley, *Brave New World* 46 (1932). (All my quotations are from the 1998 HarperCollins Perennial Classics edition, and subsequent page references to it appear in the text.) He is probably meant to remind the reader of a Jew, though there are no Jews in the society depicted in the novel. Winston Smith is physically challenged as well, as we shall see.

¹³ Though, in keeping with the quite different tone of Orwell's novel, he is not ridiculous, as Bernard becomes.

Satire tends, finally, to be topical. This makes it perilous to try to understand a satire without some knowledge of social conditions in the time and place in which it was written. Satire is akin to parody, and to understand a parody you have to understand the conditions being parodied, which are usually those of the satirist-parodist's own society. To understand Swift's *A Modest Proposal*, you have to understand eighteenth-century English attitudes toward both cannibalism and the Irish.

Simply identifying the genre of the two novels that I am examining is helpful in dispelling common misunderstandings about them: that the authors were trying to predict the future, that they were pessimists (as they would have to be regarded if they thought they *were* predicting the future), and that Huxley identifies with the Savage (or, less plausibly, Bernard) and Orwell with Winston Smith. To write in a particular genre is to adopt the conventions of that genre, and this need not reveal anything of the character, emotions, or even beliefs of the author. Of course, from all we know about Orwell it is obvious that *Nineteen Eighty-Four* is a warning about communism, specifically its Stalinist variant.¹⁴ But that is not necessarily the most important thing that it is; among other things he was warning us about tendencies that he believed latent in capitalism.

III. *BRAVE NEW WORLD*

Huxley's novel is much more high-tech than Orwell's. This is not surprising; Huxley came from a distinguished scientific family and studied to be a doctor, whereas Orwell had no familial or educational background in science. Futuristic technology is a pervasive feature of the society depicted in *Brave New World* and is meticulously described and explained. It is of three types. The first is reproductive technology. Contraception has been made foolproof yet does not interfere with sexual pleasure. So sex has

¹⁴ Though it can be argued, from the meeting in O'Brien's apartment at which the tactics of the "Brotherhood" (led by Emmanuel Goldstein, the Trotsky figure) are laid out and Winston pledges his willingness to throw sulfuric acid in a child's face if that will advance the Brotherhood's cause, that Orwell believed that a Trotskyite version of communism would have been no better than the Stalinist. It is merely arguable, because it is uncertain whether the Brotherhood or Goldstein actually exists. Goldstein is probably no more a real person than Big Brother is.

been separated reliably from procreation at last and, at the same time, procreation has been separated from sex. Ova extracted from ovaries are mixed in the laboratory with sperm, and the fertilized ova are brought to term in incubators. The procedure has enabled the perfection of eugenic breeding, yielding five genetically differentiated castes, ranging from high-IQ Alphas to moronic Epsilons, to enable a perfect matching of genetic endowment with society's task needs.¹⁵

Second is mind- and body-altering technology, including hypnopaedia (hypnosis during sleep), Pavlovian conditioning, elaborate cosmetic surgery, and happiness pills (*soma*, similar to our Prozac, but nonprescription and taken continually by everyone). For the elderly, there are "gonadal hormones" and "transfusion of young blood" (p. 54). Third is happiness-inducing entertainment technology, including television, synthetic music, movies that gratify the five senses (the "Feelies"), and, for the Alphas, personal helicopters for vacations.

These technological advances are represented as having profound effects. They induce mindless contentment, including guiltless promiscuous sex. They induce complete intellectual and cultural vacuity, and complete political passivity. Marriage, the family, and parenthood—all conceived of as sources of misery, tension, and painful strong emotions—have gone by the board. But none of these consequences is presented as an *unintended* consequence of technological innovation, which is our fear of technology and a fear that the economics of technology suggests some rational basis for. Technology in *Brave New World* is the slave of a utilitarian ideology. Above everything else, Huxley's novel is a send-up of utilitarianism. "The higher castes... [must not] lose their faith in happiness as the Sovereign Good and take to believing, instead, that the goal was somewhere beyond, somewhere outside the present human sphere; that the purpose of life was not the maintenance of well-being, but some intensification and refining of consciousness, some enlargement of knowledge" (p. 177). Technology has enabled the creation of the utilitarian paradise, in which happiness is maximized, albeit at the cost of everything that

¹⁵ "We decant our babies as socialized human beings, as Alphas or Epsilons, as sewage workers or future...Directors of Hatcheries" (p. 13).

makes human beings interesting.¹⁶ The Savage is unhappy but vital; the “civilized” people are fatuous, empty. The role of technology is to create the conditions in which a tiny elite can combine complete control over social, political, and economic life with the achievement of material abundance. This is an echo of the 1930s belief in the efficacy of central planning.

The topicality of satire, well illustrated in Huxley’s novel by the caste system that is obviously a satiric commentary on the English class system and by the exhibiting of the Savage and his mother to the shocked Londoners as exotic specimens of New World savagery (though the two of them are in fact English), invites us to consider conditions in England when *Brave New World* was written. It was in the depths of a world depression that Keynes was teaching had resulted from insufficient consumer demand and could be cured only by aggressive government intervention. Capitalism was believed to have failed, for lack of sufficient coordination or rationalization, resulting in excessive, destructive competition. Capitalism (competition, the “free market”) was not merely unjust; it was inefficient. There was also great anxiety about falling birth rates and the quality of the genetic pool.

All these concerns are mirrored in *Brave New World*. One of the salient features of the society depicted in it is consumerism, which encompasses planned obsolescence and a “throwaway” mentality (“ending is better than mending” [p. 49]). People are brainwashed to want ever more, ever newer consumer goods, lest consumer demand flag. This is an example of how everything is planned and directed, down to the smallest detail of culture, technology, and consumption, from the center. And eugenic breeding solves the population and gene-pool problems. The society of *Brave New World* is the “logical” outcome of reform measures advocated by advanced thinkers in England and other countries during the depression. Developing the logic of an existing social system to an absurd or repulsive extreme (Huxley appears to have thought it the latter, not doubting its feasibility) is a typical technique of satire; we shall see it at work in *Nineteen Eighty-Four* as well.

¹⁶ “Yes, everybody’s happy now,” echoed Lenina. They had heard the words repeated a hundred and fifty times every night for twelve years” (when they were children) (p. 75).

Without technology, the “solution” that Huxley limns to 1930s-type problems would not be workable. But the technology plays a supporting rather than initiating role. It is the tool of a philosophical and economic vision. There is no sense that technology has merely evolved, unplanned, to a level that makes the regimented, trivial society depicted in the novel likely, let alone inevitable. There is no law of unintended consequences operating. Technology enables but does not dictate.

What makes *Brave New World* still a good “read” today is mainly the fact that so many of its predictions of futuristic technology and morality have come or are rapidly coming to pass. Sex has been made largely safe for pleasure by the invention of methods of contraception that at once are reliable and do not interfere with the pleasure of sex, while, as I noted earlier, a variety of other technological advances, ranging from better care of pregnant women and of infants to household labor-saving devices and advances in the medical treatment of infertility and the automation of the workplace, have (along with the contraceptive advances, and safe abortion on demand) freed women from the traditional restrictions on their sexual freedom.¹⁷ The result is a climate of sexual freedom, and of public obsession with sex and sexual pleasure, much like that depicted in Huxley’s novel, though “mother” is not yet a dirty word as it literally is in the novel and marriage has not yet been abolished, though the marriage rate has fallen considerably.

The society of happy thoughtless philistines depicted by Huxley will strike some readers as exaggeration rather than distortion of today’s America. “The world’s stable now. People are happy; they get what they want, and they never want what they can’t get. They’re well off; they’re safe; they’re never ill; they’re not afraid of death; they’re blissfully ignorant of passion and old age; they’re plagued with no mothers or fathers; they’ve got no wives, or children, or lovers to feel strongly about; they’re so conditioned

¹⁷ “In some areas, despite its being a dystopia, *Brave New World* offers women a better deal than the contemporary British society of the 1930s. There is no housework, no wifely subjugation, no need to balance children and a career.” June Deery, “Technology and Gender in Aldous Huxley’s Alternative (?) Worlds,” in *Critical Essays on Aldous Huxley* 103, 105 (Jerome Meckier ed. 1996).

that they practically can't help behaving as they ought to behave. And if anything should go wrong, there's *soma*” (p. 220). We too are awash in happiness pills, of both the legal and illegal variety, augmented by increasingly ambitious cosmetic surgery to make us happier about our appearance. We are enveloped by entertainment technology to a degree that even Huxley could not imagine; in our society too “cleanliness is next to fordliness” (p. 110). We have a horror of physical aging and even cultivate infantilism—adults dressing and talking like children. “Alphas are so conditioned that they do not *have* to be infantile in their emotional behaviour. But that is all the more reason for their making a special effort to conform. It is their duty to be infantile, even against their inclination” (p. 98). We live in the present; our slogan, too, might be, “Never put off till to-morrow the fun you can have today” (p. 93). Popular culture has everywhere triumphed over high culture; the past has been largely forgotten. We consider it our duty as well as our right to pursue happiness right to the edge of the grave. In the “Park Lane Hospital for the Dying...we try to create a thoroughly pleasant atmosphere..., something between a first-class hotel and a feely-palace” (pp. 198–199). Our culture is saturated with sex. Shopping is the national pastime. Although Americans are not entirely passive politically, we are largely content with the status quo, we are largely free from envy and resentment, the major political parties are copies of each other, and a 1930s style depression seems unimaginable to most of us. Depression in both its senses is becoming unimaginable.

We may even be moving, albeit slowly, toward a greater genetic differentiation of classes, although not by the mechanism depicted in *Brave New World*—yet that mechanism will soon be feasible. With the decline of arranged marriage and the breaking down of taboos against interracial, interethnic, and religiously mixed marriage, prospective marriage partners can be expected to be sorted more by “real” similarities, including intelligence.¹⁸ IQ has a significant heritable component, so the implication of more perfect assortative mating is that the IQ distribution will widen in future generations.

¹⁸ On the tendency to “assortative” mating—likes mating with likes—see Gary S. Becker, *A Treatise on the Family*, ch. 4 (enlarged ed. 1991).

But all this has come (or is coming) about without foresight or direction, contrary to the implication of Huxley's novel. It turns out that a society can attain "Fordism"¹⁹—the rationalization, the systematization, of production that was originally symbolized by the assembly line—without centralization. Huxley was mistaken to equate efficiency with collectivization.²⁰ Our society has no utilitarian master plan and no utilitarian master planner. There is nothing corresponding to *Brave New World's* "Controllers," the successors to Dostoyevsky's Grand Inquisitor: "Happiness is a hard master—particularly other people's happiness" (p. 227). And despite its resemblance to Huxley's dystopia, what we have seems to most people, even the thinking people, rather closer to Utopia.

IV. NINETEEN EIGHTY-FOUR

By 1948, the year in which Orwell completed *Nineteen Eighty-Four* (he had begun writing it two years earlier), the depression of the 1930s was over and concern with rationalizing production and simulating consumption had diminished. The thought of politically conscious people was dominated instead by vivid recent memories of World War II and the menace of the Soviet Union, and these gloomy, foreboding thoughts are everywhere reflected in the novel. The dinginess of London in 1984 is recognizably the dinginess of that city during and immediately after the war, a time of shortages, rationing, and a prevailing grayness of life; and rocket bombs are falling on London in 1984 just as they did in the last year of World War II. The novel dwells obsessively on these features of life in Orwell's imagined dystopia, making a stark contrast with the consumer's heaven of *Brave New World*. Orwell depicted the future London as he did less, I suspect, because he was prescient about the incapacity of the Soviet economy, or of socialist central planning in general, to bring about abundance—a loyal member of the Labor Party to the end of his life, he never relinquished his belief in democratic socialism—but because he was extremely

¹⁹ Henry Ford is the Karl Marx of the society depicted in *Brave New World*. Instead of making the sign of the cross, the denizens of the world make a T, which stands of course for Ford's Model T.

²⁰ His equation of them is well discussed in James Sexton, "Brave New World and the Rationalization of Industry," in *Critical Essays on Aldous Huxley*, note 15, at 88.

sensitive to squalor, and to the sights and sounds and texture of lower-class life in London. Orwell's ambivalence about the lower class (the "proles," in *Nineteen Eighty-Four*), which he seems to have found at once repulsive and appealing, is strongly marked.

The novel's "take" on technology is a curious one. On the one hand, the world of 1984 is presented²¹ as technologically retrogressive, and this is explained by the fact that it is an oligopoly of three perfected totalitarian "superstates," Oceania, Eurasia, and Eastasia, which have tacitly agreed to impose rigid thought control on their populations, thus stifling the scientific and inventive spirit. On the other hand, this development is inevitable because of technology, which in the form of machine production enables an almost effortless creation of wealth. (Shades of Huxley.) When wealth is abundant, people cease to believe in the necessity of a hierarchical society with marked inequalities. To stave off equality, the ruling classes channel the "overproduction" enabled by technology into warfare, which has the further advantage that in times of war people are readier to submit to collective control. So technology leads to totalitarianism, though by a more indirect route than supposing that it simply fosters centralization at all levels because of the greater efficiency of technocratic methods (which Orwell also believed, however, as we are about to see).

Nineteen Eighty-Four is correct in suggesting that the conditions of a totalitarian society, in particular its suppression of freedom of thought, inquiry, and communication, are inimical to scientific and technological progress. This (another reason, by the way, to doubt that technology conduces to the elimination of political freedom) is one of the lessons of the fall of communism—we now know that much of the technological success of the Soviet Union in the domain of weaponry, the only domain in which it had such successes, was due to espionage. The other half of the novel's technology thesis, however, is clearly wrong; the great increase in material wealth in the developed countries of the world since Orwell wrote has produced both greater economic inequality *and* greater political stability.

²¹ In *The Theory and Practice of Oligarchic Collectivism*—the treatise ostensibly written by Emmanuel Goldstein (the Trotsky figure in the novel), but actually forged by the Inner Party—from which Winston reads a long selection aloud to Julia shortly before they are arrested.

The silliness of supposing that economic development leads to the Orwellian nightmare is brought out in Erich Fromm's afterword to the 1961 edition of *Nineteen Eighty-Four*. Fromm attributes to Orwell the view (with which Fromm makes clear that he agrees) that "the danger [of the Orwellian nightmare] is inherent in the modern mode of production and organization, and relatively independent of the various ideologies [that is, capitalist and communist]" (p. 267). But the attribution of this view to Orwell, or more precisely to the implied author of *Nineteen Eighty-Four*, as it is perilous to read off an author's personal views from his imaginative writings, seems approximately correct. (One clue is that the currency of Oceania is the dollar, not the pound.) Among the unmistakable sources of Orwell's novel is the concept much touted in his day of "managerialism," which predicted incorrectly that capitalism would evolve into a *dirigiste*, bureaucratized, centralized economic system indistinguishable from Soviet communism.²² The superior efficiency of competitive markets for coordinating production was not widely understood.

The only technological innovation that figures largely in *Nineteen Eighty-Four* is two-way television (the telescreen) by which the securities services keep watch over the members of the Party, though there is also reference to music and verse synthesizers. (The technology is that of modern "videoconferencing.") The telescreen is a powerful metaphor for the loss of privacy in a totalitarian state. But it is inessential to the political theme of the novel, which is the feasibility of thought control through propaganda, education, psychology (including behavioral modification), informers (including children), censorship, lobotomizing, stirring up war fever, terror, and, above all, the manipulation of historical records and of language. The most interesting single feature of the novel is Newspeak, a parody of Basic English, as well as of Nazi and Soviet rhetoric, designed to make dangerous thoughts unthinkable by

²² See, for example, James Burnham, *The Managerial Revolution: What Is Happening in the World* (1941). Burnham's prediction that World War II (then in progress) would result in a division of the world into three indistinguishable superstates, see, for example, id. at 264–265, is another of Orwell's conspicuous borrowings in the novel.

eliminating the words for them.²³ None of the instruments of thought control described in the novel, except the telescreen and possibly the lobotomizing-like machine that eliminates portions of Winston's memory, involves any technological advance over Orwell's time (as he emphasizes—it is, remember, part of his take on technology). Indeed, all but the telescreen and the lobotomy machine were in use in the Soviet Union of the 1930s and 1940s, though in a less thoroughgoing form than in Orwell's imagined world. *Nineteen Eighty-Four* would be less vivid and suspenseful, but not different in essentials, without any telescreens.

Because there is so little futurism in Orwell's novel, he had no reason to set it in the *remote* future; he was extrapolating only modestly from contemporary conditions; one can imagine Soviet leaders reading *Nineteen Eighty-Four* for ideas.²⁴ Yet, oddly enough, Huxley's far-futuristic extravaganza comes closer to describing our world. The reason is not that Huxley could foresee the future (no one can) but that science is the story of our time, and Huxley was genuinely interested in science and his interest is reflected in his novel.²⁵ Although Soviet-style brainwashing undoubtedly had considerable effect on the minds of the people of the communist countries,²⁶ the rapidity and completeness with which communism collapsed (today only Cuba and North Korea

²³ For a comprehensive discussion, see John Wesley Young, *Totalitarian Language: Orwell's Newspeak and Its Nazi and Communist Antecedents* (1991).

²⁴ A defector from the Polish Communist Party claimed that members of the "Inner Party," who alone could easily obtain copies of *Nineteen Eighty-Four*, were fascinated by Orwell's "insight into details they knew well." Czeslaw Milosz, *The Captive Mind* 40 (1990).

²⁵ A subordinate explanation of Huxley's prescience is that until recently there was a long lead time between scientific discovery and widespread practical application. Helicopters, television, mind-altering drugs, eugenic breeding, and large-screen color movies with wraparound sound and (if desired) tactile and olfactory sensations were all known in the 1930s to be technologically feasible, but it was decades before any of them became an important part of our culture. For example, it wasn't until the 1950s that television, which had been developed in the 1930s, became a major factor in American culture, and it was not till the 1960s that it became a major factor in political campaigns. The longer the lead time between invention and application, the easier it is to foresee the future technological condition of society.

²⁶ See Timur Kuran, *Private Truths, Public Lies: The Social Consequences of Preference Falsification*, ch.13 (1995).

are genuinely communist countries) demonstrated its ultimate ineffectuality. The combination of techniques described in *Nineteen Eighty-Four* seems frighteningly plausible, but this is a tribute to Orwell's artistic imagination. The system he describes is not realistic.²⁷ To see this, one need only ask who is to man all the telescreens. There are several in every apartment and office occupied by members of the Party—of whom there are a total of about 45 million, for we are told that 15 percent of the population belongs to the Party and that Oceania's total population is 300 million—and it is implied that all the telescreens are manned. Suppose there are 100 million telescreens; that would probably require 10 million watchers.²⁸ This is a clue to the element of fantasy in the novel, which is important to an understanding of it as literature.

Without the (infeasible) telescreen surveillance, the system of thought control depicted by Orwell is essentially the Soviet system under Stalin, which began eroding shortly after Stalin died,²⁹ four years after *Nineteen Eighty-Four* was published; even in the Stalin era, the Party's control of public opinion was spotty.³⁰ Orwell may have had an inkling of the fragility of thought control. Eighty-five percent of the population of Oceania consists of the proles, who are much like Huxley's lower castes except that the proles' stupidity is not genetic—and, potentially, is redemptive. Having no "brains," the proles are immune to being brainwashed, as is Julia, who is not "clever."³¹ Most brainwashing is directed at Party members, and it is only imperfectly successful; Winston and Julia, we discover late in

²⁷ Not a new point; see, for example, George Anastaplo, *The American Moralists: On Law, Ethics, and Government*, ch. 13 (1992).

²⁸ I am assuming two shifts, so that each watcher would be responsible for monitoring 20 telescreens.

²⁹ See, for example, Abbott Gleason, "'Totalitarianism' in 1984," 43 *Russian Review* 145 (1984).

³⁰ "The normal posture of a Soviet citizen was passive conformity and outward obedience. This did not mean, however, that Soviet citizens necessarily had a high respect for authority. On the contrary, a degree of skepticism, even a refusal to take the regime's most serious pronouncements fully seriously, was the norm." Sheila Fitzpatrick, *Everyday Stalinism: Ordinary Life in Extraordinary Times: Soviet Russia in the 1930s* 222 (1999).

³¹ Though Julia, like Winston, is broken by torture, the ultimate method of control.

the novel, are not the only imperfectly socialized Party members.³² Hence the large number of “vaporizings” (liquidations), though, just as in Stalin’s Soviet Union, many of those liquidated are in fact loyal Party members, notably the lexicographer Syme.

Most important, the Inner Party—the directing mechanism, two percent of the population—necessarily comprises people who see through the lies they are trying to foist on the rest of the society. Like the rulers of the Soviet Union, the members of the Inner Party have their own shops, which stock otherwise unobtainable luxury goods of traditional bourgeois character. The novel denies, however, that the fanaticism of the members of the Inner Party has been undermined by comfort or hypocrisy, arguing that through the mental technique of “doublethink” the members both know and don’t know that their ideology is false. This was indeed a characteristic of thought under communism,³³ but the novel exaggerates its effectiveness and tenacity.

Orwell seems to have realized that a system of thought control will be unstable if major nations, knowledge of the conditions in which cannot be wholly masked from the subject population, remain outside the totalitarian sphere. The novel emphasizes that there are no such nations in 1984. But this is not a plausible equilibrium—another point of which Orwell may have had an inkling because he notes that the three totalitarian superstates have tacitly agreed to refrain from competing in military research. Without such an agreement the totalitarian oligopoly would be unstable because each superstate would have a compelling incentive to seek a military advantage by relaxing its thought control sufficiently to foster scientific and technological innovation. We now know that liberal nations, like the United States, are, in the long run, politically and militarily more formidable than authoritarian or totalitarian ones, because they create much better preconditions to rapid social and economic development, more than offsetting the loss of centralized control and direction. A

³² Consider the egregious Parsons, a Party zealot turned in by his seven-year-old daughter who overhears him saying in his sleep, “Down with Big Brother!” (p. 193). Maybe, though, his real sin is being proud of his daughter for turning him in; it shows that he continues, contrary to Party doctrine, to attach great importance to family.

³³ Kuran, note 26 above, at 218.

particular weakness of totalitarian states is the tendency to “subjectivism,”³⁴ the view much emphasized in *Nineteen Eighty-Four* that truth is what the Party or Leader says is true. This led to such disastrous totalitarian misadventures as the Nazi rejection of “Jewish physics” and the Soviet embrace of Lysenko’s crackpot genetic theories.

The Orwellian nightmare is unstable in a second sense as well. Neither Stalin nor Mao, the greatest practitioners of the kind of thought control depicted in Orwell’s novel, was able to *institutionalize* the system of thought control, which disintegrated rapidly after their deaths. Their tyrannies were personal, while that depicted in *Nineteen Eighty-Four* is collective. Big Brother is not a living person, but a purely symbolic fabrication. The collective leaderships that succeeded Stalin and Mao in their respective nations were authoritarian, but they were unable to maintain the degree of control that Stalin and Mao had achieved and that *Nineteen Eighty-Four* parodies. Orwell does not explain how the Party, and its counterpart in the other totalitarian superstates, have managed this trick.

The political significance of *Nineteen Eighty-Four*, as of Orwell’s earlier political satire, *Animal Farm*, is to depict with riveting clarity the *logic* of totalitarianism—not its practice or its prospects, but the carrying of its inner logic to extremes that are sometimes almost comic, though darkly so. An example is the sudden, *retroactive* substitution of Eastasia for Eurasia as Oceania’s eternal enemy (an allusion, obviously, to the Nazi-Soviet pact of 1939) on the sixth day of Hate Week. An orator of the Inner Party is handed a slip of paper in the middle of his speech, and without missing a beat he completes the speech with “Eastasia” replacing “Eurasia” wherever the latter name appears in his prepared text.

It is natural for intellectuals, even one like Orwell who was contemptuous of intellectuals (“the more intelligent, the less sane” (p. 177)),³⁵ to exaggerate the efficacy of attempts at brainwashing,

³⁴ For an excellent discussion, see George Watson, “Orwell’s Nazi Renegade,” 94 *Sewanee Review* 486 (1986).

³⁵ “One has to belong to the intelligentsia to believe things like that: no ordinary man could be such a fool.” George Orwell, “Notes on Nationalism,” in *Collected Essays, Journalism and Letters of George Orwell*, vol. 3, pp. 361, 379 (Sonia Orwell and Ian Angus eds. 1968). The “that” was that American

since, loosely speaking, intellectuals are in the business of brainwashing as well as being principal targets of it.³⁶ It is noteworthy that Orwell got the political significance of television backwards. He thought it a medium of surveillance (the telescreen) and indoctrination (the “Two Minutes Hate”). It has proved to be a medium of subversion, vastly increasing people’s access to information about society and politics. It played a role not only in the fall of communism but also, long before that, in the thwarting of Lyndon Johnson’s attempt to conduct a war in Vietnam without the informed consent of the American people.

Orwell’s most recent biographer takes the “message” of *Nineteen Eighty-Four* to be that

there must be a place in the modern world for things that have no power associated with them, things that are not meant to advance someone’s cause, or to make someone’s fortune, or to assert someone’s will over someone else. There must be room, in other words, for paperweights and fishing rods and penny sweets and leather hammers used as children’s toys. And there must be time for wandering among old churchyards and making the perfect cup of tea and balancing caterpillars on a stick and falling in love. All these things are derided as sentimental and trivial by intellectuals who have no time for them, but they are the things that form the real texture of a life...Readers see Winston fail, but they also see how a whole society failed years before “1984” when the people of that society allowed the state to strip them systematically of their right to be sentimental and trivial, taking away their rich language and replacing it with an ugly, utilitarian one and denying them the ordinary pleasures of a private life.³⁷

troops had come to England during World War II not to fight the Germans but to crush an English revolution.

³⁶ The same exaggeration is visible in another notable novel about Stalinism, Arthur Koestler’s *Darkness at Noon*. See Richard A. Posner, *Law and Literature* 138 (revised and enlarged ed. 1998). It is notable that Winston, Julia, and the other targets of thought control and intimidation in *Nineteen Eighty-Four* are themselves all engaged in “political work”; it is such people who pose the largest political threat to a totalitarian regime and who therefore must be watched most closely.

³⁷ Michael Sheldon, *Orwell: The Authorized Biography* 436–437 (1991).

I find this largely unconvincing. For one thing, there is no basis in the novel for foisting blame on “the people of that society [who] allowed the state to strip them of their right to be sentimental and trivial.” The origin of the totalitarian dictatorship of Oceania is not described, and so there is no more reason to blame the people for it than to blame the Russian people for the communist dictatorship; Lenin seized power in a coup, and Stalin achieved absolute control through terror. For another thing, Newspeak is a project; it has not yet replaced standard English, even within the Party.³⁸ Nor is there anything to suggest that trivia and sentimentality are the keys to freedom—Huxley thought they were the keys to a kind of slavery.

But there *is* something to Shelden’s belief that Orwell is trying to tell us that if political freedom is to be preserved, “there must be time for...falling in love.” For if you ask yourself what other “party” of “thought controllers” disfavors sex among party members (and the Party in Orwell’s novel is emphatic in teaching that the sole legitimate function of sex is procreation and in discouraging sexual pleasure³⁹), the answer is the Roman Catholic priesthood. It is a fair guess that one model for the Party is the Roman Catholic Church, though a more important one is, of course, the Communist Party of the Soviet Union, which, however, no doubt borrowed some of its techniques from the Church.⁴⁰ Orwell explicitly compares the “adoptive” (as distinct from a hereditary) oligarchy of the Church with that of the Party. The Church preaches love, but in its heyday tortured and burned people. The junction is symbolized by Orwell’s “Ministry of Love,” which is the torture and liquidation bureau. Love the sinner, hate the sin.

One of the distinctive elements of Christianity—it is dramatized in the Catholic practice of confession to priest—is its concern with people’s thoughts (the confessional is a mode of surveillance,

³⁸ I have made the same mistake as Shelden. See Posner, note 36 above, at 297.

³⁹ Though only among the members of the Party, that is, the 15 percent of the population that corresponds to the middle- and upper-class of a normal society. The leaders of the Party have no interest in the morals of the proles.

⁴⁰ Orwell personally was hostile to Catholicism and at times compared it to communism, John Rodden, “George Orwell and British Catholicism,” 41 *Renascence* 143, 144 (1989); John P. Rossi, “Orwell and Catholicism,” 103 *Commonweal* 404 (1976), but I am reluctant to use a writer’s personal opinions to interpret his imaginative writings.

though also of absolution—and there are elements of that, too, in Winston’s ordeal), and its placing of thought on a moral par with action, so that adultery in the mind is a mortal sin just like adultery in the flesh. Another name for this concern is thought control—priests correspond to the Thought Police of Orwell’s novel—and it is linked to hostility to sex through the fact that sexual pleasure involves thoughts that are in the control very largely of our animal nature rather than of a priestly caste that tells us what we ought to be thinking about. “Not merely the love of one person, but the animal instinct, the simple undifferentiated desire: that was the force that would tear the Party to pieces” (p. 105). In this respect, *Nineteen Eighty-Four* is the opposite of *Brave New World*, where promiscuous sex is mandatory for good citizens. “Orgy-porgy, Ford and fun, / Kiss the girls and make them One./ Boys at one with girls at peace; / Orgy-porgy gives release” (p. 84).

The contrast between the two authors’ views of the political consequences of a society’s sexual mores suggests that there may not be a unique totalitarian “position” on sexual freedom.⁴¹ Perhaps, however, any kind of intimacy is a potential threat to a totalitarian society, which seeks to mobilize the population for selfless communal projects; and the issue is then what policy toward sex discourages intimacy. The societies depicted in both novels are hostile to the family. In *Brave New World* it has been abolished, while in *Nineteen Eighty-Four* its abolition is one of the Party’s long-term goals, to be achieved in part by perfecting the system under which children are encouraged to report thought crime by their parents. The problem, so far as assigning a political valence to sexual freedom is concerned, is that promiscuity can undermine the family, but so can a degree of puritanism that weakens the sexual bonding of married people. Maybe that’s why some communes encourage free love and others celibacy, or why the Soviet Union veered from sexual liberalism in the 1920s to puritanism in the 1930s. Notice that if Huxley is right, the U.S. Supreme Court is wrong to think that contraception and abortion protect privacy viewed as a precondition of intimate relationships, while if Orwell is right, those things do protect privacy in that sense. But, as I say, either extreme may be inimical to intimacy.

⁴¹ See Richard A. Posner, *Sex and Reason* 239 (1992).

I doubt the underlying premise, however—that totalitarianism is inherently hostile to the family. The radical Islamic nations, such as Iran, are at least quasi-totalitarian, but they are strongly pro-family. They are hostile to nonmarital sex, but not to marital sex; marriage is obligatory for Islamic clergy. A patriarchal family can reinforce a totalitarian ethos. Hitler, Stalin, Franco, and Mussolini were all strongly pro-family, as is the Roman Catholic Church, despite its prohibiting sex and marriage to its clergy. The dictators wanted to increase the birth rate and thought that encouraging family formation was the most effective way of doing this.

Sex is rather a side issue but the idea that one is *always* under surveillance, no matter how alone one thinks one is, is central to Christianity. The Christian is under surveillance by God, and similarly the inhabitants of Oceania by Big Brother, who, like the Christian God, is “infallible and all-powerful... Nobody has ever seen Big Brother. He is a face on the hoardings, a voice on the telescreen. We may be reasonably sure that he will never die, and there is already considerable uncertainty as to when he was born. Big Brother is the guise in which the Party chooses to exhibit itself to the world. His function is to act as a focusing point for love, fear, and reverence, emotions which are more easily felt toward an individual than toward an organization” (p. 171).

The Inquisition was merely the pathological extreme of the Christian concern with what Orwell calls “crimethink.” O’Brien, the Orwellian Grand Inquisitor, depicts the activities of the Ministry of Love as the perfection of the Inquisition. “We do not destroy the heretic because he resists us; so long as he resists us we never destroy him. We convert him, we capture his inner mind, we reshape him. We burn all evil and all illusion out of him; we bring him over to our side, not in appearance, but genuinely, heart and soul. We make him one of ourselves before we kill him... By the time we had finished with them [three notorious traitors] they were only the shells of men. There was nothing left in them except sorrow for what they had done, and love for Big Brother... They begged to be shot quickly, so that they could die while their minds were clean” (pp. 210–211).⁴²

⁴² “Orwell plays brilliantly upon traditional religious language.” Joseph Adelson, “The Self and Memory in *Nineteen Eighty-Four*,” in *The Future of Nineteen Eighty-Four* 111, 116–117 (Ejner J. Jensen ed. 1984). To get the point,

My point in bringing out the parallels between the practice of totalitarianism in *Nineteen Eighty-Four* and the usages of the Catholic Church is not to be gratuitously offensive,⁴³ or to obscure the role of Catholicism post-Orwell, notably in Poland, in opposing totalitarianism, but rather to bolster my earlier statement that brainwashing is not the story of today. Even the Catholic Church, which I am arguing is one of the models of the “Orwellian” state, has, though it remains immense and powerful, lost most of its control over people’s minds, especially in the developed world. Gone are the Inquisition and the *index purgatorius*. Italy has a very high abortion rate and a very low birth rate, and even Ireland has now legalized divorce and abortion. Free thinking among even deeply religious people is the order of the day, not everywhere (in particular, not in all Muslim nations), but in most quarters of the wealthy nations and many of the nonwealthy ones as well. What remains a subject of genuine concern for our world, but one that neither novel casts much light on, is the juggernaut quality of technological progress, which for reasons that I stated at the outset—reasons that economics elucidates better than satire can, or either of our authors—cannot be assumed to operate automatically to the net benefit of humankind.

V. THE NOVELS AS LITERATURE

With 1984 receding into the past, and the memory of Stalinism and Maoism already dim in our rapidly changing world—with Orwell proved “wrong,” and Huxley “right,” or at least more right, by history—how is one to explain the fact that Orwell’s novel is, I believe (without having been able to obtain statistics), more popular than Huxley’s? The part of the answer that interests me is that Orwell’s may be the “better” novel (my use of scare quotes

just substitute “God” for “Big Brother” and “burned at the stake” for “shot” in the passage quoted in the text.

⁴³ The parallels have been noted before, moreover. See, for example, William Steinhoff, *George Orwell and the Origins of 1984* 184–185 (1975); Jaroslav Krejci, “Religion and Anti-Religion: Experience of a Transition,” 36 *Sociological Analysis* 108, 120–22 (1975). Steinhoff’s book is an exhaustive study of the novel’s sources. I want to make clear that the Catholicism with which I am comparing totalitarianism is traditional, not modern American, Catholicism. On the differences, see James D. Davidson and Andrea S. Williams, “Megatrends in 20th-century American Catholicism,” 44 *Social Compass* 507 (1997).

acknowledging the inherently subjective character of such a judgment). As the political relevance of *Nineteen Eighty-Four* recedes, its literary quality becomes more perspicuous. We can see it better today for what it is—a wonderfully vivid, suspenseful, atmospheric, and horrifying (in the sense, not meant pejoratively, that much of Henry James is horrifying, even Gothic) romantic adventure story. In places it is even a melodrama, even a boy's adventure story, as when the villains, O'Brien and Charrington, recite nursery rhymes, or Charrington is seen without the disguise that had made him look old. The scenes in Charrington's shop bear the stamp of *The Secret Agent*, while the visit of Winston and Julia to O'Brien's apartment for induction into the nonexistent Brotherhood could be a scene in a John Buchan novel. The fairytale note is sounded in the very first sentence of Orwell's novel: "It was a bright cold day in April, and the clocks were striking thirteen" (p. 5). We soon discover that there is nothing uncanny about a clock's striking 13 in Oceania, because Oceania numbers the hours 1 to 24, which is a clearer and simpler method for recording time than the a.m.-p.m. system, just as it uses the dollar rather than the nondecimal English currency of Orwell's day and just as it uses the metric system in place of English weights and measures. Yet these simple, "rationalizing" measures turn out to be sinister in their own right. They illustrate the Party's effort to empty the culture of its historical residues, to make the present discontinuous with the past.

The *literary* significance of the telescreen has less to do with technology or privacy than with enhancing the perilousness of Winston's affair with Julia, the need for their elaborate rituals of concealment, and the inevitability of eventual detection and punishment. The suspense is so intense, right up to the dramatic arrest scene, that, inevitably, the third of the book that remains is anticlimactic. Indeed, except for the penultimate scene—the final meeting and parting of Winston and Julia—the last third has seemed to most readers, and seems to me, inferior to the first two-thirds of the novel from a literary standpoint. The problem is not that it is "didactic." The most didactic portion of the book is the long selection from *The Theory and Practice of Oligarchic Collectivism* that Winston reads (to us, as it were) just before he and Julia are arrested. The reading has enormous dramatic impact. The problem with the last third is that it is not well crafted. The first

post-arrest scene, with Winston in a holding cell with other political prisoners, is intended to be horrifying but succeeds only in being disgusting—and with the entry of Parsons, who expresses pride in his seven-year-old daughter for her having turned him in for thought crime, even a bit ridiculous. That is also my reaction to the famous scene in which Winston is threatened with the rats and screams “Do it to Julia! Do it to Julia!” (p. 236).⁴⁴ The last sentence of the book—“He [Winston] loved Big Brother” (p. 245)—also, it seems to me, verges on the bathetic.

Oddly, given Orwell’s political aims, the last part of the book undermines the satire of communism by making the totalitarian dictators seem almost benign compared to O’Brien, who is a sadistic lunatic. Hitler and Stalin were cruel and paranoid, but they would hardly have said, or, probably, even thought, that “progress in our world will be progress toward more pain” or that “we shall abolish the orgasm” (p. 220).⁴⁵ This is overdone to the point of being ridiculous (though it echoes and parodies the ascetic strain in Christianity, and so is further evidence for the link that the novel forges between Catholicism and totalitarianism), as is O’Brien’s insistence on teaching Winston that if the Party says that $2 + 2 = 5$, then it is so. That scene, a too deeply buried allusion to the Soviet Union’s five-year plans,⁴⁶ and so again an error of literary craft, makes O’Brien seem more like a bullying schoolmaster trying to drum the rules of arithmetic into the head of a slow student than like a torturer. The basic problem is that no *political* purpose is served by the elaborate cat-and-mouse game that O’Brien plays with Winston and Julia. Neither of them either has any valuable information about the “Brotherhood” (which probably does not exist) or is important enough to have to be brainwashed into making a public recantation of heresies. For remember that neither is a member of the Inner Party, let alone an “old revolutionary”

⁴⁴ The scene in which Winston confronts in the mirror the damage that torture and starvation have done to his body is very effective, however.

⁴⁵ “The worst Nazi lived on something besides cruelty.” George Kateb, “The Road to 1984,” in *Twentieth Century Interpretations of 1984* 73, 75 (Samuel Hynes ed. 1971).

⁴⁶ The slogan “ $2 + 2 = 5$ ” was popular in the Soviet Union during the first five-year plan; it expressed the aspiration of completing the plan in four years. Steinhoff, note 38, at 172.

(like Jones, Aaronson, and Rutherford) whose taming is important to the Party's image of omnipotence and infallibility.

But these are details. All I want to argue is that we can begin to read Orwell's novel as we read Kafka, or *The Waste Land*, with which *Nineteen Eighty-Four* has some curious affinities, for the vividness of its nightmare vision relieved by the occasional poignant glimpse of redemptive possibilities. Reading it as literature (and cognizant of its literary imperfections), we resist, as Orwell sought to resist, the politicization of everything, the trend that has so damaged university English departments.⁴⁷ We also resist reducing the novel to a document of the author's biography, a common reduction in analyses of both our novels.

In arguing for an aesthetic approach to literature and against treating works of literature as works of moral or political philosophy, I do not wish to be understood as advocating acontextual readings. A rich understanding of social context is often necessary to appreciate the wit and bite of a satire, a good example being O'Brien's effort to get Winston to believe that $2 + 2 = 5$. But it is one thing to require an understanding of political and other social issues as a precondition to fully appreciating a work of literature, and another to suppose that the significance of that work lies in its relation to those issues. The issues are not the point, but are rather the raw material on which the literary imagination operates to produce beauty.

Surprisingly, when we do what I am suggesting—approach these novels as free from nonliterary preconceptions as is possible—we discover in both of them a deep, “Romantic” dissatisfaction with everyday modern life (“bovarism,” after Madame Bovary). *Brave New World* has the more brilliant surface, and a sparkling wit that links it to the great British comic tradition,⁴⁸ but it is not a happy book; it has no characters who

⁴⁷ “On every campus...there is one department whose name need only be mentioned to make people laugh’...Everyone knows that if you want to locate the laughingstock on your local campus these days, your best bet is to stop by the English department.” Andrew Delbanco, “The Decline and Fall of Literature,” *New York Review of Books*, Nov. 4, 1999, p. 32.

⁴⁸ Its funniest scene is the madcap confrontation of the Director of Hatcheries and Conditioning by the Savage's mother, revealing that the Director had produced the Savage by “viviparous” reproduction, viewed as obscene in the society of *Brave New World*. Of course he resigns immediately.

engage the reader's sympathy and no emotional depth. The conquest by science of the tragic realities of human life as we know it in our day is shown as destroying the possibility of romance. Conversely, the love affair that is the emotional core of *Nineteen Eighty-Four* is exalted by the proximity of terror and death. Julia is neither beautiful nor clever, is in fact rather shallow; and Winston, at 39, with his varicose veins, his five false teeth, his "pale and meager body" (p. 118), is already middle-aged.⁴⁹ Their relationship—like that of Jordan and Maria in *For Whom the Bell Tolls*, like that of Andrei and Natasha in *War and Peace*, and like that of Julien Sorel and Madame de Rênal in *The Red and the Black*, which seem to me the appropriate precedents in the literary tradition⁵⁰—would lack savor were it not for the background of terror and danger and the certainty of doom. His love for Julia is the last thing that Winston relinquishes under torture. The world of today, made so comfortable and safe by the technology foreseen by Huxley, has no place in it for Romanticism. The world has become disenchanted. That Julia is rather commonplace is not, as some feminists believe, a sign of Orwell's alleged misogyny; it is part of the point of the novel. (They also overlook her courage.)

From this perspective we see that the significance of the paperweight which Winston buys in Mr. Charrington's shop is not as a symbol of the charm of the ordinary. It is to show how even the most commonplace object can become luminous when it is bracketed with danger; one is put in mind of how some people get a greater kick out of sex when there is a risk of discovery.

A Weberian perspective can also help us see that people who think that *Nineteen Eighty-Four* is "about" technology in some deep sense are confusing technology with technocracy. Technology is the application of rational methods to material production and technocracy their application throughout the whole of life.⁵¹

⁴⁹ Julia is 26 years old, so 13 years separate them—another sinister touch.

⁵⁰ Notice that in all these pairings, including Winston-Julia, the woman is quintessentially feminine and hence sharply differentiated from the man. (With reference to Julia, see Leslie Tentler, "'I'm Not Literary, Dear,': George Orwell on Women and the Family," in *The Future of Nineteen Eighty-Four*, note 42 above, at 47, 50–51.) This is a convention of Romantic literature.

⁵¹ "'Technocracy'...signifies a social order organized on principles established by technical experts." W. H. G. Armytage, "The Rise of the

Weber's vision of human life become so completely rationalized that all enchantment would be squeezed out of the world⁵² is profoundly anti-Romantic and therefore profoundly dismaying to persons of Romantic temperament.

To attribute to Orwell a Romantic fascination with the theme of love braided with cruelty and death will seem perverse to anyone who expects a work of imaginative literature to be continuous with the public persona and conscious self-understanding of the author. Orwell, as everyone knows, because he told us again and again, stood for honesty, simple decency, plain talking, common sense, abhorrence of cruelty, delight in the texture of ordinary life, and the other conventional English virtues. But to write imaginative literature one must have an imagination, and imagination draws on the unconscious depths of a person's mind. The author of *Nineteen Eighty-Four*, who objected to the publisher's blurb for the book because "it makes the book sound as though it were a thriller mixed up with a love story,"⁵³ was a more interesting person than we think, and perhaps than he knew.⁵⁴

I noted earlier the distinction between the actual and the implied author of a novel. When as in the case of Orwell much is known about the intentions of the author in writing the novel, it is well-nigh irresistible to assume that the novel means what the author intended it to mean. Biography overwhelms the text. If one starts with the novel, setting aside, so far as possible, what one knows about the author, one may find that the novel means something

Technocratic Class," in *Meaning and Control: Essays in Social Aspects of Science and Technology* 65 (D. O. Edge and J. N. Wolfe eds. 1973).

⁵² The dehumanizing effects of a technocratic organization of society remains a popular theme. See, for example, Andrew Feenberg, *Alternative Modernity: The Technical Turn in Philosophy and Social Theory* (1995).

⁵³ George Orwell, Letter to Roger Senhouse, Dec. 26, 1948, in *Collected Letters, Essays and Journalism of George Orwell*, note 35 above, vol. 4, p. 460.

⁵⁴ I have found only one previous suggestion that *Nineteen Eighty-Four* can be understood as a Romantic work. W. Warren Wagar, "George Orwell as Political Secretary of the Zeitgeist," in *The Future of Nineteen Eighty-Four*, note 42 above, at 177. Orwell's "real allegiance was to the self, the romantic genius picturesquely estranged from everything and everybody, who must always be free to feel exactly what he feels and to say exactly what he pleases." Id. at 196. Although Professor Wagar is on to something, he spoils it for me by denouncing Orwell as politically retrograde and expressing relief that Orwell died in 1950, thus sparing us "his first Holy Communion at the side of Malcolm Muggeridge." Id.

quite different from what the author intended to mean. One constructs by inference an implied author, the author whose values and intentions are latent in the novel itself; and I am suggesting that the implied author of *Nineteen Eighty-Four* is a Romantic quite different from the “real” George Orwell.⁵⁵

It would be absurd to deny political, even philosophical, significance, let alone purpose, to either novel; and that is not my aim. (But the economics in both novels is terrible!) Huxley’s novel is a powerful satire of utilitarianism. Orwell’s satire of communism has lost its urgency, but his reminder of the political importance of truth,⁵⁶ of the malleability of the historical record, and of the dependence of complex thought on a rich vocabulary (that is, that language is a medium of thought as well as of expression) remains both philosophically interesting,⁵⁷ and timely in an era in which history textbooks are being frantically rewritten to comply with the dictates of political correctness. That truth shall make us free, and that ignorance is weakness (to reverse one of the slogans of the Party), have rarely been as powerfully shown as in *Nineteen Eighty-Four*. O’Brien is also an arresting spokesman for idealism in its zany philosophical as opposed to its political sense, denying that there is any reality apart from human consciousness; his program for rewriting history (and not just history textbooks) resonates with the long-standing philosophical debate over the epistemological robustness of testimony.⁵⁸ All these things are “in the book” in a perfectly valid sense. And while Orwell himself was not particularly interested in technology, it is easy to see how the recent advances in photographic simulation and computer data manipulation would facilitate a project of rewriting history, and it is also easy to transform Winston’s workstation into a computer terminal in which

⁵⁵ And of course the real George Orwell was really Eric Blair.

⁵⁶ In the sense of factuality—truth with a lower-case t, not the Truth of religious or political dogmatism.

⁵⁷ Young, note 23 above, at 11–18; cf. Peter Carruthers, *Language, Thought and Consciousness: An Essay in Philosophical Psychology* 51–52 (1996).

⁵⁸ “The mutability of the past is the central tenet of Ingsoc. Past events, it is argued, have no objective existence, but survive only in written records and in human memories. The past is whatever the records and the memories agree upon. And since the Party is in full control of the minds of its members [as well as of all records], it follows that the past is whatever the Party chooses to make it” (p. 176). Compare C.A.J. Coady, *Testimony: A Philosophical Study* (1992).

he edits “history” conveniently stored on line. This is legitimate extrapolation as well.

But ultimately literature survives if at all as literature rather than as political or philosophical or even social commentary, for in the latter roles it is bound to be superseded sooner or later, and usually sooner. On that basis, and that basis alone, I predict a longer life for *Nineteen Eighty-Four* than for *Brave New World*. Literary judgments are matters of taste, not reason, so in suggesting that Orwell’s novel is better than Huxley’s I am simply expressing my own preference for a literature of narrative tension and emotional depth to one of glittering caricature. The important point is that there is no contradiction in asserting that the novel which (though written earlier) predicted our current situation more accurately is the lesser work of literature.

All rights reserved. Readers with comments should address them to:

Richard A. Posner
Senior Lecturer
University of Chicago Law School
1111 East 60th Street
Chicago, IL 60637

Chicago Working Papers in Law and Economics
(Second Series)

1. William M. Landes, Copyright Protection of Letters, Diaries and Other Unpublished Works: An Economic Approach (July 1991).
2. Richard A. Epstein, The Path to *The T. J. Hooper*. The Theory and History of Custom in the Law of Tort (August 1991).
3. Cass R. Sunstein, On Property and Constitutionalism (September 1991).
4. Richard A. Posner, Blackmail, Privacy, and Freedom of Contract (February 1992).
5. Randal C. Picker, Security Interests, Misbehavior, and Common Pools (February 1992).
6. Tomas J. Philipson & Richard A. Posner, Optimal Regulation of AIDS (April 1992).
7. Douglas G. Baird, Revisiting Auctions in Chapter 11 (April 1992).
8. William M. Landes, Sequential versus Unitary Trials: An Economic Analysis (July 1992).
9. William M. Landes & Richard A. Posner, The Influence of Economics on Law: A Quantitative Study (August 1992).
10. Alan O. Sykes, The Welfare Economics of Immigration Law: A Theoretical Survey With An Analysis of U.S. Policy (September 1992).
11. Douglas G. Baird, 1992 Katz Lecture: Reconstructing Contracts (November 1992).
12. Gary S. Becker, The Economic Way of Looking at Life (January 1993).
13. J. Mark Ramseyer, Credibly Committing to Efficiency Wages: Cotton Spinning Cartels in Imperial Japan (March 1993).
14. Cass R. Sunstein, Endogenous Preferences, Environmental Law (April 1993).
15. Richard A. Posner, What Do Judges and Justices Maximize? (The Same Thing Everyone Else Does) (April 1993).
16. Lucian Arye Bebchuk and Randal C. Picker, Bankruptcy Rules, Managerial Entrenchment, and Firm-Specific Human Capital (August 1993).

17. J. Mark Ramseyer, *Explicit Reasons for Implicit Contracts: The Legal Logic to the Japanese Main Bank System* (August 1993).
18. William M. Landes and Richard A. Posner, *The Economics of Anticipatory Adjudication* (September 1993).
19. Kenneth W. Dam, *The Economic Underpinnings of Patent Law* (September 1993).
20. Alan O. Sykes, *An Introduction to Regression Analysis* (October 1993).
21. Richard A. Epstein, *The Ubiquity of the Benefit Principle* (March 1994).
22. Randal C. Picker, *An Introduction to Game Theory and the Law* (June 1994).
23. William M. Landes, *Counterclaims: An Economic Analysis* (June 1994).
24. J. Mark Ramseyer, *The Market for Children: Evidence from Early Modern Japan* (August 1994).
25. Robert H. Gertner and Geoffrey P. Miller, *Settlement Escrows* (August 1994).
26. Kenneth W. Dam, *Some Economic Considerations in the Intellectual Property Protection of Software* (August 1994).
27. Cass R. Sunstein, *Rules and Rulelessness*, (October 1994).
28. David Friedman, *More Justice for Less Money: A Step Beyond *Cimino** (December 1994).
29. Daniel Shaviro, *Budget Deficits and the Intergenerational Distribution of Lifetime Consumption* (January 1995).
30. Douglas G. Baird, *The Law and Economics of Contract Damages* (February 1995).
31. Daniel Kessler, Thomas Meites, and Geoffrey P. Miller, *Explaining Deviations from the Fifty Percent Rule: A Multimodal Approach to the Selection of Cases for Litigation* (March 1995).
32. Geoffrey P. Miller, *Das Kapital: Solvency Regulation of the American Business Enterprise* (April 1995).
33. Richard Craswell, *Freedom of Contract* (August 1995).
34. J. Mark Ramseyer, *Public Choice* (November 1995).
35. Kenneth W. Dam, *Intellectual Property in an Age of Software and Biotechnology* (November 1995).

36. Cass R. Sunstein, Social Norms and Social Roles (January 1996).
37. J. Mark Ramseyer and Eric B. Rasmusen, Judicial Independence in Civil Law Regimes: Econometrics from Japan (January 1996).
38. Richard A. Epstein, Transaction Costs and Property Rights: Or Do Good Fences Make Good Neighbors? (March 1996).
39. Cass R. Sunstein, The Cost-Benefit State (May 1996).
40. William M. Landes and Richard A. Posner, The Economics of Legal Disputes Over the Ownership of Works of Art and Other Collectibles (July 1996).
41. John R. Lott, Jr. and David B. Mustard, Crime, Deterrence, and Right-to-Carry Concealed Handguns (August 1996).
42. Cass R. Sunstein, Health-Health Tradeoffs (September 1996).
43. Douglas G. Baird, The Hidden Virtues of Chapter 11: An Overview of the Law and Economics of Financially Distressed Firms (March 1997).
44. Richard A. Posner, Community, Wealth, and Equality (March 1997).
45. William M. Landes, The Art of Law and Economics: An Autobiographical Essay (March 1997).
46. Cass R. Sunstein, Behavioral Analysis of Law (April 1997).
47. John R. Lott, Jr. and Kermit Daniel, Term Limits and Electoral Competitiveness: Evidence from California's State Legislative Races (May 1997).
48. Randal C. Picker, Simple Games in a Complex World: A Generative Approach to the Adoption of Norms (June 1997).
49. Richard A. Epstein, Contracts Small and Contracts Large: Contract Law through the Lens of Laissez-Faire (August 1997).
50. Cass R. Sunstein, Daniel Kahneman, and David Schkade, Assessing Punitive Damages (with Notes on Cognition and Valuation in Law) (December 1997).
51. William M. Landes, Lawrence Lessig, and Michael E. Solimine, Judicial Influence: A Citation Analysis of Federal Courts of Appeals Judges (January 1998).
52. John R. Lott, Jr., A Simple Explanation for Why Campaign Expenditures are Increasing: The Government is Getting Bigger (February 1998).

53. Richard A. Posner, Values and Consequences: An Introduction to Economic Analysis of Law (March 1998).
54. Denise DiPasquale and Edward L. Glaeser, Incentives and Social Capital: Are Homeowners Better Citizens? (April 1998).
55. Christine Jolls, Cass R. Sunstein, and Richard Thaler, A Behavioral Approach to Law and Economics (May 1998).
56. John R. Lott, Jr., Does a Helping Hand Put Others At Risk?: Affirmative Action, Police Departments, and Crime (May 1998).
57. Cass R. Sunstein and Edna Ullmann-Margalit, Second-Order Decisions (June 1998).
58. Jonathan M. Karpoff and John R. Lott, Jr., Punitive Damages: Their Determinants, Effects on Firm Value, and the Impact of Supreme Court and Congressional Attempts to Limit Awards (July 1998).
59. Kenneth W. Dam, Self-Help in the Digital Jungle (August 1998).
60. John R. Lott, Jr., How Dramatically Did Women's Suffrage Change the Size and Scope of Government? (September 1998)
61. Kevin A. Kordana and Eric A. Posner, A Positive Theory of Chapter 11 (October 1998)
62. David A. Weisbach, Line Drawing, Doctrine, and Efficiency in the Tax Law (November 1998)
63. Jack L. Goldsmith and Eric A. Posner, A Theory of Customary International Law (November 1998)
64. John R. Lott, Jr., Public Schooling, Indoctrination, and Totalitarianism (December 1998)
65. Cass R. Sunstein, Private Broadcasters and the Public Interest: Notes Toward A "Third Way" (January 1999)
66. Richard A. Posner, An Economic Approach to the Law of Evidence (February 1999)
67. Yannis Bakos, Erik Brynjolfsson, Douglas Lichtman, Shared Information Goods (February 1999)
68. Kenneth W. Dam, Intellectual Property and the Academic Enterprise (February 1999)
69. Gertrud M. Fremling and Richard A. Posner, Status Signaling and the Law, with Particular Application to Sexual Harassment (March 1999)

70. Cass R. Sunstein, Must Formalism Be Defended Empirically? (March 1999)
71. Jonathan M. Karpoff, John R. Lott, Jr., and Graeme Rankine, Environmental Violations, Legal Penalties, and Reputation Costs (March 1999)
72. Matthew D. Adler and Eric A. Posner, Rethinking Cost-Benefit Analysis (April 1999)
73. John R. Lott, Jr. and William M. Landes, Multiple Victim Public Shooting, Bombings, and Right-to-Carry Concealed Handgun Laws: Contrasting Private and Public Law Enforcement (April 1999)
74. Lisa Bernstein, The Questionable Empirical Basis of Article 2's Incorporation Strategy: A Preliminary Study (May 1999)
75. Richard A. Epstein, Deconstructing Privacy: and Putting It Back Together Again (May 1999)
76. William M. Landes, Winning the Art Lottery: The Economic Returns to the Ganz Collection (May 1999)
77. Cass R. Sunstein, David Schkade, and Daniel Kahneman, Do People Want Optimal Deterrence? (June 1999)
78. Tomas J. Philipson and Richard A. Posner, The Long-Run Growth in Obesity as a Function of Technological Change (June 1999)
79. David A. Weisbach, Ironing Out the Flat Tax (August 1999)
80. Eric A. Posner, A Theory of Contract Law under Conditions of Radical Judicial Error (August 1999)
81. David Schkade, Cass R. Sunstein, and Daniel Kahneman, Are Juries Less Erratic than Individuals? Deliberation, Polarization, and Punitive Damages (September 1999)
82. Cass R. Sunstein, Nondelegation Canons (September 1999)
83. Richard A. Posner, The Theory and Practice of Citations Analysis, with Special Reference to Law and Economics (September 1999)
84. Randal C. Picker, Regulating Network Industries: A Look at *Intel* (October 1999)
85. Cass R. Sunstein, Cognition and Cost-Benefit Analysis (October 1999)

86. Douglas G. Baird and Edward R. Morrison, Optimal Timing and Legal Decisionmaking: The Case of the Liquidation Decision in Bankruptcy (October 1999)
87. Gertrud M. Fremling and Richard A. Posner, Market Signaling of Personal Characteristics (November 1999)
88. Matthew D. Adler and Eric A. Posner, Implementing Cost-Benefit Analysis When Preferences Are Distorted (November 1999)
89. Richard A. Posner, Orwell versus Huxley: Economics, Technology, Privacy, and Satire (November 1999)