

# BOOKS

## **The Savage Wars of Peace: Small Wars and the Rise of American Power**

by Max Boot

Basic Books • 2002 • 448 pages • \$30.00  
hardcover; \$16.00 paperback

*Reviewed by Ivan Eland*

**M**ax Boot provides a thorough and relatively candid history of the U.S. government's involvement in small wars. The section of the book on Vietnam is particularly honest and insightful—unlike many conservatives, Boot blames the U.S. military for at least part of the fiasco, rather than heaping all of the responsibility on the Johnson administration. The history is well written and worth the read.

Despite the 14 chapters of history on America's minor wars and conflicts, the real purpose of the book lies in its 15th chapter. Boot, a senior fellow at the Council on Foreign Relations, maintains that contrary to conventional wisdom, the United States has never been isolationist—by which he means that it has engaged in small military forays in a wide range of countries throughout its history. He uses that history to justify the current Pax Americana and the country's assuming the role of the world's policeman.

Boot notes that throughout its history the United States has engaged in wars that involved no vital national interest, had no significant public support, and began with no declaration of war. By attacking the “conventional wisdom”—essentially a straw man—the author is really challenging those who prefer a more restrained U.S. approach around the world. They do not deny that the U.S. government has failed to uphold non-interventionism—both in the distant and more recent past. But they do plead for a return to the intent of the founders of the American nation with regard to military intervention. That view was best summed up by Thomas Jefferson's maxim: “peace, com-

merce, and honest friendship with all nations—entangling alliances with none.”

Boot argues that the original intent of the Constitution—that the president alone should not be able to take the country into war without approval by Congress—was undermined early in the republic's history during the wars against the Barbary states. Yet Boot's text indicates that Jefferson sent the U.S. fleet to the Mediterranean with a defensive mission vital to U.S. security—the U.S. Navy was to defend American merchant shipping and enforce treaty obligations. When the Pasha of Tripoli declared war against the United States, Congress authorized military action against that state. Later, Congress declared war against the state of Algiers.

Boot uses his compiled history to argue that the United States has always fought the “savage wars of peace” and should therefore not lack the confidence to do so in the future to “enlarge the ‘empire of liberty.’” The author is a member of the club of neoconservatives who proudly use the term American “empire.” Yet the “humanitarian interventions” that Boot advocates sound strikingly similar to Bill Clinton's policy of “engagement and enlargement,” which had a goal of enlarging the community of free-market democracies. The main difference is that while the Clinton administration protested that it was not acting as the world's policeman, Boot and other advocates of American empire fully embrace the globocop role for the United States.

Boot concedes that “the American track record of imposing liberal democratic regimes is mixed” and less successful in the Third World. He also concedes that “short-term (or even medium-term) occupations . . . are unlikely to fundamentally alter the nature of a society.” So he implicitly admits that spreading democracy and free markets at gunpoint is ineffective. Perhaps the United States should have more confidence that its system will prevail worldwide and act instead as a beacon for peoples shaking off tyranny and freely choosing liberty.

In the wake of September 11 the U.S. government should consider the possibility that

its policy of military intervention is out of date and much more costly than in the past. With the demise of the Soviet Union and the rise of catastrophic terrorism, the benefits of intervention have declined and the costs of angering or threatening militant terrorist groups or rogue nations with weapons of mass destruction have skyrocketed.

The empires of old tried to exploit their colonies for resources and sheltered markets and taxed them to the benefit of the imperial government. In contrast, the American “neo-empire” provides costly security for most regions of the world, but cannot even get its closest allies to fully open their markets to American trade. Furthermore, every military intervention without congressional authorization or a declaration of war undermines the U.S. system of limited, constitutional government.

In advocating overseas meddling, Boot joins other armchair generals who are willing to send Americans to die needlessly in obscure parts of the globe, to satisfy their dreams of “empire.” It is a shame that Boot’s promotion of that idea mars an otherwise intelligent and useful history. □

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## **American Law in the 20th Century**

by Lawrence M. Friedman

Yale University Press • 2002 • 736 pages  
• \$35.00

*Reviewed by Ian Drake*

**W**riting the history of a country’s laws, especially those of a nation as vast and varied as the United States, is a monumental task. It is even more difficult to encapsulate it in a single volume. Yet that is largely, if idiosyncratically, what Professor Lawrence Friedman of Stanford Law School has done.

The scope is grand by necessity because American government and law are immense at all levels. As I write this review and glance

around my room, each thing I see has laws regulating its creation, existence, or disposal—most of which were passed in the twentieth century. For instance, the parts for the computer I’m staring at were shipped under international commercial treaties (under United Nations auspices or simply between the United States and the shipping country). Certain books on my bookshelf are available thanks to the Supreme Court’s interpretation of the First Amendment. And finally, the dog sitting under my chair has been honored with a series of local ordinances that control how he is walked and immunized. Law is everywhere in America and, as Friedman notes, the history of almost any part of America in the twentieth century must make reference to the law.

His book can be divided into three large topics: the growth of American government at the federal, state, and local levels (and the resultant permeation of law into almost all aspects of life); the role of the state and federal courts in shaping statutory, common, and constitutional law; and “legal culture”—the lawyers, judges, officials, and bureaucrats, and their philosophies.

Friedman dutifully chronicles the growth of the federal government, especially noting the multitude of agencies and regulations. The story is peppered with obscure facts and anecdotes regarding the development of various agencies: for instance, the attorney general (Charles Bonaparte) who organized what became the FBI was a relative of Napoleon. Friedman accurately characterizes the federal government that evolved as a “Leviathan,” with a plethora of administrative agencies inhabiting a “subterranean world” of their own. But readers might doubt his assessment of the New Deal as “profoundly conservative.” (Friedman contends that the Works Project Administration and other programs were conservative because they sought to preserve dignity and maintain skills, rather than encourage idleness.)

As for the courts’ role in forming our contemporary world, the Supreme Court applied the Bill of Rights (originally applicable only to Congress) to all levels of gov-

ernment and created new constitutional rights (such as Miranda rights and the right to “privacy,” especially in the case of abortion). Throughout this section, Friedman’s “liberal” and statist sentiments are clear.

Finally, Friedman gives the lay reader valuable insights into what is best referred to as legal culture. In 1900 there were mostly small firms and lots of general practitioners. By 2000, huge law firms and legal specialization had become the norm, with many lawyers searching constantly for class-action suits to bring. The author also details legal theories that cropped up during the century—from formalism (adherence to deductive, universal rules) to critical legal studies (all law is another form of “power politics”).

Friedman does not shy away from making moral and political assessments, and advocates of limiting government power will surely disagree with many of his opinions. For example, he contends that the ever-expanding state was inevitable because a Leviathan was a necessary result of a large industrial society. Undoubtedly, railroads, airplanes, and automobiles required certain new rules (or new applications of old rules), but the New Deal agencies and Great Society programs were not inevitable. They were creations born not out of necessity, but rather out of specific ideologies, and preserved to appease various constituencies. After all, the Interstate Commerce Commission died and no one cared. In certain respects, Friedman has it exactly backwards: Social change does not always require new law, but sometimes new laws lead to changes in society—changes that are usually not for the better.

Readers of this impressive work will come away better informed about American legal history in the twentieth century, but they should bear in mind that Professor Friedman’s philosophy is hospitable toward the massive expansion of the state power that so drastically reduced individual liberty during that century. □

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## **Mad in America: Bad Science, Bad Medicine, and the Enduring Mistreatment of the Mentally Ill**

by Robert Whitaker

Perseus Publishing • 2002 • 352 pages  
• \$27.00 hardcover; \$17.50 paperback

*Reviewed by Sheldon Richman*

**A**ny snapshot can be misleading because it is necessarily out of context. Similarly, the flattering self-descriptions from the various headquarters of the mental-health industry can mislead anyone who is unfamiliar with the history of psychiatry. The superficial observer may be forgiven for believing that the industry is dedicated to healing.

That impression, however, is easily overcome with some historical knowledge, and medical journalist Robert Whitaker’s *Mad in America*, though hardly the first in this genre, lends a helping hand in that regard.

As Whitaker demonstrates, the history of psychiatry is a story not of diagnosis and treatment, but of the brutal control and torture of undesirables—called madmen or the insane or schizophrenics—by doctors deputized by the state. From the start, psychiatry treated its captives like beasts and laboratory rats.

The descriptions of “treatments”—which in most cases were not seen as such by those who inflicted them, but rather as methods of restraint and punishment—might make readers queasy. For example: “The Bath of Surprise became a staple of many asylums [in the early nineteenth century]: The lunatic, often while being led blindfolded across the room, would suddenly be dropped through a trapdoor into a tub of cold water—the unexpected plunge hopefully inducing such terror that the patient’s senses might be dramatically restored.” As this example indicates, a medical rationalization always accompanied the abuse.

If one thinks times have changed, Whitaker catalogs its successors up to the present, including insulin coma therapy, electroshock, lobotomy, and drugs that

induce the symptoms of Parkinson's disease. It reads like a description of a chamber of horrors. Nevertheless, each new "therapy" was hailed as a beneficent medical breakthrough that would return the insane to normal life. The inventor of lobotomy, Egas Moniz of Portugal, won the Nobel Prize for medicine in 1949. But invariably the optimism fizzled, a new therapy came along, and the old one was abandoned and even condemned. The pattern continues to this day.

Two points need to be stressed: (1) Doctors were not candid with their patients or the public about the risks and pain associated with these procedures, and (2) the patient's objections were irrelevant. For instance, "[T]he prevailing opinion among America's leading electroshock doctors in the 1940s and 1950s was that in the confines of mental hospitals, they had the right to administer such treatments without the patient's consent, or even over the patient's screaming protests," Whitaker writes. This was also the opinion of the legal establishment and the public. The Bill of Rights simply did not exist for those branded insane. It still does not.

Whitaker's chapters on the vogue, toxic antipsychotic drugs are eye-opening. First developed to control rambunctious (involuntary) hospital inmates, the drugs were transformed through a public-relations campaign into cures for schizophrenia when tight government budgets made deinstitutionalization fashionable. The documented corrupt collusion between the government-licensed medical profession and prescription-drug industry is a shameful episode in American history. Unfortunately, Whitaker doesn't fully appreciate how the Food and Drug Administration helped make this fraud possible.

Four problems mar this book. First, Whitaker fails to challenge involuntary psychiatric intervention in itself. He overlooks coercion when discussing the style of treatment he favors. This destroys his claim to being a champion of the victims of psychiatric injustice, for it is not the form of assault but assault per se that is immoral. In short,

he is a reformer rather than an abolitionist. But no reform can be acceptable within a compulsory relationship, in which psychiatrists are expected to represent the frequently conflicting interests of patients, families, and society at large.

Second, he is silent about the insanity defense, by which criminals are officially excused of their crimes while nevertheless punished with involuntary "hospitalization" and debilitating "treatments."

Third, he can't make up his mind whether mental illness is real or not, although he provides ample reason to see it as metaphorical illness and not the brain disease that psychiatry, despite the absence of biological evidence, has long insisted it is. Yet he entertains various genetic and neurological theories of schizophrenia as though he's not read his own catalog of psychiatric prevarications.

Finally, it is disturbing that in the entire book one finds no reference to Thomas Szasz. That Whitaker could have researched the history of psychiatry without encountering Szasz's half-century of criticism defies credulity. More likely, Whitaker avoided mentioning Szasz to prevent the book from being summarily dismissed in certain circles. Whatever the reason, it is poorer for the omission. For one thing, had he discussed Szasz's work, he'd have had to come to grips with the fact that behavior, however much disapproved, cannot be disease. □

*Sheldon Richman is editor of Ideas on Liberty.*

## Uncivil Wars: The Controversy Over Reparations for Slavery

by David Horowitz

Encounter Books • 2002 • 137 pages  
• \$21.95 hardcover; \$16.95 paperback

*Reviewed by George C. Leef*

Probably because he was once one of them, David Horowitz brings out the worst in leftists when he writes about their destructive beliefs and close-minded attitudes. His books and speeches are usually

met with wild vitriol by his former allies at Berkeley and the many other universities where tenured radicals (to use Roger Kimball's useful term) reign. Many would call him a racist and fascist if he wrote a book on raising hamsters.

*Uncivil Wars* is not about raising hamsters. It's about the absurdly divisive and emotional issue of reparations for slavery. In short, Horowitz says that it is nonsensical to adopt a policy that would require many people, not one of whom ever owned a slave, to give up anything to "compensate" other people, some of whose ancestors were held as slaves in the distant past. There really isn't anything new in Horowitz's argument, but he makes it cogently.

What the book is chiefly about is not the argument over reparations for slavery, but rather the reception the argument has received on America's campuses. The reaction at many elite universities to the mere presentation of an "insensitive" statement opposing reparations shows that we have a serious problem: they have become institutions of indoctrination rather than inquiry.

For several years the contention that the United States "owes" reparations to the black population for the long-gone institution of slavery has been circulating in the media and political circles. Randall Robinson, author of a book titled *The Debt*, has been especially vocal in pressing his case, which boils down to saying that today's Americans are responsible for the bad acts of the politicians who permitted slavery in the eighteenth and nineteenth centuries. Horowitz thought the time had come for a refutation, so in 2001 he wrote a piece entitled "Ten Reasons Why Reparations for Slavery Is a Bad Idea—and Racist, Too." He then attempted to have it published in various campus newspapers.

Where it was published the response from pro-reparations students and faculty members was swift and nasty. Horowitz writes that at the University of California, within hours of publication in the *Daily Californian*, "40 angry black students accompanied by their political mentor, a professor of African-American studies, invaded the

paper's editorial offices. In a raucous, finger-wagging session, they accused Editor-in-chief Daniel Hernandez of running an ad that was 'racist,' 'incorrect,' and demanded a printed apology." Hernandez capitulated and confessed his errors in the paper the next day, writing that it was "unfair" for Horowitz to have purchased space in the paper without giving a chance for opposing views to answer directly.

What makes that last statement so risible is that neither at Berkeley nor any other campus did Horowitz's antagonists attempt to debate his arguments on their merits. Over and over the protests took the form of angry paroxysms. It's obvious that many college students have soaked up the post-modern idea that feelings are all that matter.

At the University of Wisconsin, a mob demanded that the administration bar the *Badger Herald*, which had chosen to print the Horowitz piece, from campus on the grounds that it was a "perpetrator of racist propaganda."

When the campus paper at Brown printed it, a new element appeared—theft. After the customary demand for an apology was ignored, protesters responded by taking every copy of the paper at every distribution point and throwing them away. A spokesman said that the theft was justified because Horowitz had made "a direct assault on communities of color at Brown." A faculty member defended the students, explaining, "I have talked to students who told me that they can't perform basic functions like walking or sleeping because of this ad."

The whole episode shows that many young Americans, students at top universities, are incapable of rationally discussing their political beliefs. Instead, they turn reflexively to storm-trooper tactics when someone challenges anything remotely connected with their "identity." Horowitz concludes that many Americans—not just those black student protesters—want the status of victimhood so badly that they can't think logically about arguments denying that they are victims entitled to reparations or other preferential treatment.

While *Uncivil Wars* makes a useful contribution to the case against reparations for slavery, the greater value of the book is that it exposes an ugly truth about the intellectual climate at American colleges and universities. Horowitz says that they have become “swamps of almost bottomless ignorance and malice.” He’s right, and I fear that they will remain so long after the silly debate over reparations has been forgotten. □

*George Leef is book review editor of Ideas on Liberty.*

## **The New White Nationalism in America: Its Challenge to Integration**

by Carol M. Swain

Cambridge University Press • 2002 • 416 pages  
• \$30.00

*Reviewed by Walter E. Williams*

In *The New White Nationalism*, Professor Carol Swain, who teaches political science and law at Vanderbilt University, warns about the growing “white nationalist” movement in contemporary America that she says threatens racial harmony.

Swain argues that over the last ten years, this new white-consciousness movement has gained strength through exploiting white resentment over racial preferences and double standards favoring blacks and other minorities. The movement has also exploited white anger over soaring interracial crime rates; according to 1997 FBI statistics, of approximately 1.7 million violent interracial crimes involving blacks and whites, 90 percent were committed by blacks against whites. Fifty-six percent of violent crimes committed by blacks had white victims, whereas only 3 percent of violent crimes committed by whites had black victims.

According to Swain, the actual number of white hate groups is in question because of differences in classification by watch groups such as the Simon Wiesenthal Center, Southern Poverty Law Center, Jewish Defense League, and others. However, as of 2000 the

Southern Poverty Law Center puts the number at 554. Experts differ as to the threat posed by groups such as the Ku Klux Klan, Aryan Nation, and Skinheads. Some suggest that “liberal” watch groups might overstate hate-group threats to enhance their fundraising opportunities. Swain nonetheless sees them as significant threats and an important wake-up call for Americans to re-examine policies and truthfully confront racial issues.

I agree. Professor Thomas Sowell, who has written extensively on matters of race, has frequently pointed out that multi-ethnic societies are inherently unstable. Sowell says, “Group polarization has tended to increase in the wake of preferential programs, with non-preferred groups reacting adversely, in ways ranging from political backlash to mob violence and civil war.” Swain agrees with Sowell’s findings, saying that racial preferences create a made-to-order grievance for white nationalist groups and their recruitment strategies.

Black and Hispanic emphasis on group pride, group self-determination, and multiculturalism have provided white nationalists with justification for advocating parallel forms of white solidarity seeking to protect white interests. In fact, David Duke formed the first National Association for the Advancement of White People (NAAWP) in response to his college experiences. He became upset because whites were not allowed to express racial pride while blacks faced no condemnation for doing so.

One of the most important parts of Swain’s book is her discussion of what needs to be done. Mainly there must be open and honest discussion of racial issues in academia and the political arena. She says that honest discussion in the political arena is avoided, in part, so as “not to offend the affluent blacks in the Democratic Party coalition.” She adds, “Instead of genuinely addressing the problems associated with white hostility toward racial preferences and how this is affecting the experiences of young Americans of all races, African-American leaders are expending valuable political capital on the pursuit of purely symbolic victories such as the removal of the

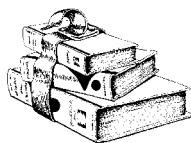
Confederate flag from public places, an effort that in much of the South has increased racial polarization without producing any concrete benefits for blacks or for anyone else.”

Professor Swain’s chapter “Concluding Observations and Policy Recommendations” makes bold recommendations. They are really just plain common sense, but they seem bold because common sense is so rare—especially in academia and politics. First, she says that “Americans need to regain control over institutions of higher learning and to restore an environment where ideas on controversial racial topics can be expressed without fear of harm or retaliation.” The average American would be shocked by how intolerant professors, administrators, and students are on many campuses, where speakers with differing views are booed off stage, cursed, assaulted, and often require police protection.

Swain also says there must be a rejection of racial double standards that allow blacks to verbally assault and slander whites with racial epithets and false charges without suffering any loss of respect or financial damages. Examples include the NAACP’s election 2000 advertisements suggesting that George W. Bush was an accomplice in the lynching death of James Byrd, Jr., and Jesse Jackson’s telling black voters that a Bush win would mean the end of black civil rights. Other racial double standards include the acceptance of separate racial groups such as the Black Congressional Caucus or Black Students Union. Imagine the outcry if whites organized a White Congressional Caucus or White Student Union. Remarkably, Swain even calls for the ending of all racial preferences in employment and promotion.

All in all, I recommend Professor Swain’s book as worthwhile reading.

*Walter Williams is professor of economics at George Mason University.*



## What Kind of Nation: Thomas Jefferson, John Marshall, and the Epic Struggle to Create a United States

by James F. Simon

Simon & Schuster • 2002 • 348 pages  
• \$27.50 hardcover; \$14.00 paperback

*Reviewed by George M. Stephens*

The struggle between Thomas Jefferson and Alexander Hamilton to define American government is well known. James Simon, professor of law at New York Law School, has written a carefully researched, thoughtful book about the less-familiar but equally important battle between Jefferson and John Marshall, third chief justice of the United States Supreme Court, to shape the kind of nation we would have.

Jefferson favored a government limited to protecting life, liberty, and estates, following the ideas of the English political philosopher John Locke. All other dealings, he thought, should be a matter of private contract between citizens. In the kind of nation Jefferson envisioned, the central government’s effect on people’s lives would be almost imperceptible.

Jefferson’s limited-government view triumphed in the political arena following his election in 1800. But it did not prevail in the judicial arena. Hamilton’s expansive “High Federalist” view was placed on the United States Supreme Court for life in the person of John Marshall. Marshall favored a far greater concentration of power in the central government than Jefferson.

Marshall was one of President John Adams’s “midnight judges” (last-minute appointments with which he filled the judiciary with Federalists). Another was William Marbury, to be a justice of the peace, whose commission was duly signed by Marshall as secretary of state. Jefferson named James Madison to be Marshall’s successor, and Madison refused to deliver Marbury’s commission, setting up the famous case *Marbury*

*v. Madison*. The Marshall Court in 1801 was asked to issue a judicial order to Madison to show cause for not delivering the commissions to Marbury and the other complainants.

Simon conducts a skillful analysis of Marshall's approach to *Marbury*, explaining how he crafted the decision to give Jefferson a tactical victory (ruling that Madison could not be compelled to deliver the commissions), while simultaneously giving himself the strategic victory by establishing the proposition that the Supreme Court had the power to invalidate unconstitutional laws.

Simon also takes up several other important cases of the era, including *Martin v. Hunter's Lessee*, which was a conflict between the judicial authority of a state and that of the federal government's authority to enforce the terms of a treaty, overturning the Virginia Supreme Court of Appeals. Justice Joseph Story, Marshall's principal ally on the Court, wrote that the Supreme Court must have authority to harmonize state and federal laws, or the Constitution would be different in different states.

Two more Marshall cases that set key precedents were *McCulloch v. Maryland*, which established that a state could not tax property of the United States, and *Gibbons v. Ogden*, in which the Court ruled against New York's steamboat-monopoly law in favor of the congressional coasting statute, because the Constitution made the federal law supreme in that field. This decision became the basis for extending interstate regulation to other modes of transportation.

The point of Simon's historical survey is to demonstrate how, with just a few crucial decisions, John Marshall's centralized government view triumphed over Jefferson's state-centered view, thereby determining the

kind of nation we would become. In that, the book clearly succeeds.

Simon is doing scholarly historical research, not assessing consequences, but it is interesting to examine a couple of them. Centralization of power is more likely to produce abuse than is fragmentation of it—a point that Jefferson often made. An example is interstate-commerce doctrine, which descended from *Gibbons*. In the late-nineteenth- and twentieth-century, Congress began to regulate even commerce that did not actually move between states but somehow “affected” it, and the Commerce Clause became the vehicle for much federal intervention. Many constitutional scholars have said that the framers meant only to give Congress authority to “regularize” commerce: to prevent the states from erecting barriers against each other. Arguably, Marshall's Federalist jurisprudence is responsible for today's regulatory state, with its penchant for controlling almost every aspect of business.

A second important consequence arose from the decision in *U.S. v. Butler* (1936), which redefined federal powers. The Court said that, notwithstanding the list of powers granted to Congress in Article I, Section 8 of the Constitution, the General Welfare clause in that article was a conveyance of virtually unlimited powers. The Court cited the views of Justice Story in his *Commentaries on the Constitution of the United States*. It is highly doubtful that Marshall would have approved of the decision in *Butler*, but he had set his Court on the path. Jefferson had warned that through abuse of the Welfare clause the federal government could step onto a “boundless field of power,” which it surely has. □

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