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pline their troops, has produced a body of free-lancers who abuse the freedoms the Senate's lax rules provide them. (For instance, Senator Dodd forces the Senate into a rare secret session on Central America—a brazen ploy so contrary to the old folkways that it “would never have been allowed 20 years ago,” complains Barry Goldwater.)

Miller is also displeased that the dilatory tactic of the filibuster, or threat thereof, has

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come into its own over the last decade. Its finest current practitioner, Ohio Sen. Howard Metzenbaum (D), uses the threat of a filibuster at the end of every Senate session to prevent the more egregious pork-barrel bills from slipping through. The Senate establishment (and, I take it, Miller) hates Metzenbaum. Yet in demanding debate on these foolish give-away bills, Metzenbaum is transporting the Senate back to the character the Founders desired for it—“the source of a more deliberate, more knowledgeable, longer-run view of good public policy,” in the words of the luminous congressional scholar Richard Fenno.

The strength of Miller's book is its emphasis on the enormous role that Senate staffs play in the governing of our nation. Since the first full-time clerks were hired in 1856, congressional staff size has increased exponentially—to 7,000 by 1960 and 18,000 today, a ratio of 33 Indians to every chief. Most of the Senate's important business occurs not on the floor but in its 15 committees, whose real work is done by a cadre of staffers. The committee staffs write the bills, compose the speeches, and orchestrate the hearings, often with minimal direction from senators. The groundwork thus laid, the Great Men show up; zap—they legislate; then down the hall they run, to another committee meeting or caucus or maybe just to catch 40 winks after a rough night.

Although Miller describes one staffer

who “hatches his own ideas and tries to force them on Baker,” factotums who work at cross-purposes from their boss seldom last long. The real problem with Senate staff isn't so much their independence; it's just that there's so many of them, scurrying about, searching every nook and cranny of the policy universe for schemes to advance their boss's career. The result is that a senator often tackles dozens of issues he knows nothing about, usually to the detriment of the liberties of the people.

Of course, being a Senate staffer is a heady job, the more so if one works for a powerful senator like Baker or Domenici. But the price of the ticket is steep. Staffers, notes Miller, quickly learn “to have no ideology at all, or to purge oneself of whatever ideology one does have.” Living testaments to this political abnegation stride purposefully through this book, ideological eunuchs who've sold their manhood for the chance to be a powerful man's minion. It's a pathetic sight, really, to see grown men and women drawing their own sense of worth from their employers' stature. (Indeed, it's striking how many House staffers refer to their boss as “my member”—though perhaps we're treading here on psychosexual ground best left untrod.)

At all events, Miller offers no solutions to Senate gridlock, his presumed purpose being simply to sketch the problem. The tepid reforms he touches on—restricting the right to filibuster, cutting staff size—miss the forest for the trees. The Senate is “in crisis” (as the book's flap warns us) because its purview has expanded far beyond what its creators ever envisioned. Raising and

spending \$1 trillion a year, determining which interests shall profit from the ceaseless plunder of the taxman, advising the executive in the bloody and byzantine affairs of the American Empire—these are jobs quite beyond the capability of a republican institution that places a premium on the prerogatives of individual legislators.

Two alternatives to the status quo recommend themselves: either adopt the drastic reforms that have given the Soviet Central Committee its crisis-free reputation, or return the federal government to its handful of original functions. The latter, though preferable, may be impracticable. As Luther Martin understood two centuries ago, the natural tendency of legislators is to identify their interests with the state's interest; the legislator's power increases as the individual's liberty decreases.

One hopes that *Running in Place* is the first droplet in a spate of books marking next year's 200th anniversary of the Constitutional Convention. No doubt we're in for one hellacious celebration, with the most-clamant cheering coming from that group of men and women whose prospects center in the favors and emoluments of an omnipotent government. Maybe the rest of us, though, can step back from the parade and do some good hard thinking about the state of the political institutions bequeathed us by our forefathers. We can try to figure out just what went wrong; and we can determine how we might go about setting things right again.

Former Senate staffer Bill Kauffman is REASON's Washington editor.

Individualist Feminism Under Fire

By Joan Kennedy Taylor

***A Lesser Life: The Myth of Women's Liberation in America*
By Sylvia Ann Hewlett, New York: Morrow, 459 pages, \$17.95**

Social movements go in cycles, and the feminist movement is no exception. It began as a reaction to restrictive laws and customs and was associated with the abolitionist movement. But gradually, after the turn of the century, it became a battleground between forces advocating equality before the law (which social thinker F. A. Hayek has called “the only kind of equality conducive to liberty”) and forces that wished to use the law to create “equality” for women by compensating for their inferior strength and clout.

With World War II and the postwar years, feminism more or less disappeared. But then in the late '60s and early '70s a new women's movement swung the pendulum again toward equality before the law, with the strong push to ratify the Equal Rights Amendment (ERA).

But now, if Sylvia Hewlett's book *A Lesser Life* and the positive reception it is getting are any indication (the author was a guest on *Face the Nation* this past Mother's Day), the pendulum is swinging in the other direction again. The force of Hewlett's

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argumentation poses a challenge that those who disagree will have to answer.

Hewlett was assistant professor of economics at Barnard College from 1974 to 1981 and then became director of the Economic Policy Council, a private-sector "think tank," where she worked with the likes of Albert Shanker, president of the American Federation of Teachers, and Ray Marshall, secretary of labor from 1976 to 1980—both of whom provided enthusiastic jacket blurbs for the book. She is now, according to the jacket of her book, vice-president for economic studies at the United Nations Association. British born and raised, she came to work in this country convinced that it is the focal point for contemporary feminism and that a feminist is what she is.

But her experiences once she began having children and trying to combine family and work led her to question a great deal about the contemporary position of American women. This led in turn to her research for this book, interviewing "business leaders, journalists, government officials, and hundreds of working parents in five different countries."

In some ways *A Lesser Life* is an infuriating book—so much of it is good. It is well written. It has the historical facts right about the early history of the ERA and how it was opposed by Eleanor Roosevelt and the Women's Bureau of the Department on Labor on the grounds that women didn't need equality before the law, they needed special legislation (a New Deal) that an ERA would invalidate. It masterfully combines research and personal anecdote. It accurately describes many of the dilemmas that face women in today's world.

But then, understanding the issues and naming them, Hewlett comes down squarely on the side of "social feminism," European version. Her message is that only ever-expanding government programs can solve these problems. She concludes that, because of the lack of protective legislation in this country as compared to Europe, American women are less liberated than their European counterparts. Women's problems, she argues, are problems that women cannot solve for themselves, voluntarily, without the coercive intervention of government.

She calls it a "problem" of "consciousness raising" that it "tends to shift the burden for change away from society and toward the individual woman. It encourages women to look to themselves, or to that small group of women with whom they share consciousness, as the source of their 'liberation.' In short, consciousness raising is an approach that deemphasizes broad-

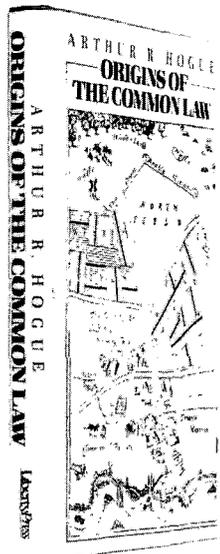
based social action in favor of personal redemption....Because it shifts responsibility away from society and toward the individual, it tends to deemphasize political action in favor of highly personal transformation experiences." She adds later, "These self-help solutions to problems—even when they don't work—relieve the pressure on government to seek collective solutions to women's problems."

The problems the book describes are those of working mothers. At a time when marriage no longer provides women with economic security, the workplace offers little alternative security to working mothers. Only childless women are able to take full advantage of the opportunities for high-powered careers that equal-rights feminists have helped to win. The rise in divorce has been accompanied by financial settlements meant

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ORIGINS OF THE COMMON LAW

By Arthur R. Hogue



First published in 1966 by Indiana University Press Arthur R. Hogue's *Origins of the Common Law* looks at the deep medieval roots of our legal system during the early formative period of the common law. Between 1154 and 1307, from the reign of Henry II to that of Edward I, common law experienced a spectacular growth as a legal system enforced in the English Royal Courts. Paraphrasing Professor Hogue: in the form of writs, judicial decisions, treatises, royal ordinances, and parliamentary statutes, the common law, in large part the definition of established customs, emerged into explicit written form and formal procedure to order better such ordinary relationships among Englishmen as those between landlord and tenant, merchant and money lender, and buyer and seller.

In his final chapter, "From Medieval Law to Modern Law," Hogue concludes, "The rule of law, the development of law by means of judicial precedents, the use of the jury to determine the material facts of a case, and the definition of numerous causes of action—these form the principal and valuable legacy of the medieval law to the modern law." And one might add, to the growth of the concept of liberty as well.

This thoughtful, lucid account is a work of history, not a technical legal treatise, and should be of interest to the general reader and the specialist alike.

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to be egalitarian but actually detrimental to women, so that more and more women need a paycheck. That paycheck, except for a very small percentage of women, is less than the average male worker's—there is a wage gap between men and women.

In the face of this situation, 48 percent of mothers of children *under one year* are now in the labor force. And only 40 percent

Instead, the '50s gave rise to a cult of motherhood as a full-time occupation, which cult still keeps American public policy from solving women's problems and set the sexes and the generations against each other in the late '60s and early '70s. So no one—not businessmen, not business women, certainly not politicians—is interested in doing anything to make life easier for working mothers.

The people who should be interested, feminists, began their feminism either as young radicals who had learned to hate men through their contemptuous treatment in left-wing politics or as former housewives who felt bitter because they hadn't emulated men in the job market. Neither group was concerned about children. The fight over the ERA in the '70s developed another set of activist women: traditional women determined to hang on to the economic security of the marriage pattern of the '50s. But, says Hewlett, "neither the feminist movement nor the antifeminist movement has yet had much success in improving women's economic security."

In the absence of a national movement to secure legislation gaining special privileges for working mothers, the only hope that Hewlett sees to better their lot is pressure from trade unions in collective bargaining. It's ironic that this book, calling for *social feminism* as in "social democrat," is being perceived as a middle-of-the-road, even conservative, document. After all, it criticizes the National Organization for Women (NOW), and it takes the side of antifeminist Phyllis Schlafly in the ERA fight—while deploring Schlafly's negative stand on equal pay for work of comparable worth. The challenge of the book is that the problems it identifies are real and the "solutions" do exist in European countries.

Never mind that part of what is working in those European countries is a tradition of *more stable marriage* ("The divorce rate in the United States is now double that in Sweden, Britain, and Germany; triple that in France; and twenty times as high as in Italy"). Never mind that our deficits couldn't support the kind of investment that federally supported child care, to mention just one item on the list, would cost—either economically or politically. Never mind that mandated paid maternity leave could also negatively affect the employment patterns of women, as it would add enormously to the cost of employing women. And never mind that a great deal of research was done in the early '70s showing that laws purporting to "protect" women in the labor market actually discriminate against them; maxi-

mum-hour laws forbid overtime and hence inhibit promotions; laws against nightwork or dangerous occupations keep women from competing for high-paying jobs; maternity leaves become prohibitions on working for certain periods before or after pregnancy. Dr. Hewlett's picture of the problem has the ring of truth, and her solutions seem realistic.

Those who care both for the family and individual freedom have been warned. The ball is now in our court.

Joan Kennedy Taylor is a New York-based book editor.

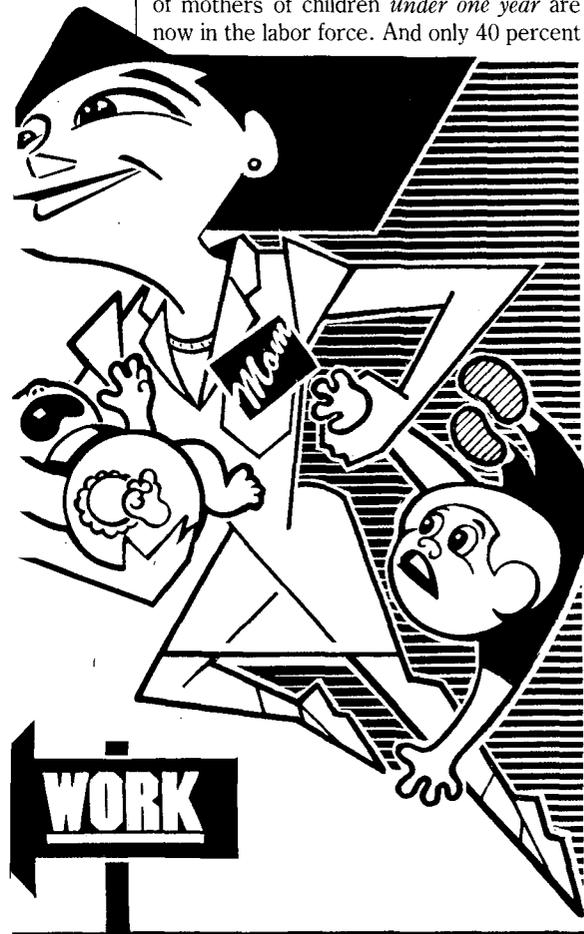
The Undying Flame: Mariano Moreno of Buenos Aires, by Ellen Garwood, Washington, D.C.: American Studies Center, 227 pages, \$15.00. Americans know far too little about Latin America. As a child, I remember reading about Simon Bolivar, the liberator, who led some of the colonies in revolt against Spain. But aside from Bolivar, how many of us have even heard the names of San Martin, O'Higgins, Belgrano, or Moreno?

This is the ignorance with which I opened *The Undying Flame*, Ellen Garwood's biography of Mariano Moreno, the architect of Argentina's revolution against Spain. What I found was the story of a genuine hero, an advocate of reason and liberty in an age when such principles were still considered heretical.

A lawyer, originally schooled by Franciscan monks (who smuggled in free-thought books from Europe despite the Inquisition), Moreno in 1809 was hired by Argentina's ranchers to present a brief to the colonial government arguing for free trade. At the time, only trade with Spain was permitted, and with the Napoleonic wars raging, the British navy was interdicting most Spanish vessels. As a result, the ranchers had virtually no market for their hides and tallow, yet the cost of their largely imported supplies was soaring.

Support for this mercantilist policy came from the local Spanish merchants, who were charging sky-high prices for a small volume of smuggled-in goods. But Moreno's *Representacion de los Hacendados* made such a persuasive case for free trade (in part by appealing to the government's self-interest in higher tariff revenues from a much larger volume of trade) that the monopoly was overturned, with highly beneficial results.

Much of Moreno's inspiration for the *Representacion* came from Adam Smith's *Wealth of Nations*, a Spanish translation of which had been given to him by his friend, Manuel Belgrano—later a fellow revolution-



SAM MCKAY

of these working mothers had any sort of maternity leave or job-back guarantee. They have uncertain child-care arrangements, and if they try to get flextime or part-time work while their children are little they usually lose job benefits. In Europe, on the other hand, "advanced democracies have instituted family-support systems such as paid maternity leaves, child allowances, subsidized day care, and free health services, all of which considerably ease the lives of working parents."

A large part of Hewlett's book examines why there is no national movement in favor of similar public-policy measures in this country. Hewlett's answer, in a nutshell, is the '50s. The '50s, she says, were so aberrant in the adoption of extreme "masculine" and "feminine" roles that they interrupted the move toward social feminism that might otherwise have surged here as it did in Europe.