where the company attempts to anticipate, if not create, the future innovations in its markets. The company now patents strategically, in anticipation of trends in its industry, and sets up a system to measure and report its performance.

Each chapter offers examples; they come from Ford, H.B. Fuller, IBM, Rockwell, Sprint, Xerox, and other companies. Davis and Harrison end their book with a chapter-long case study of IAM at Dow Chemical. Three appendices suggest how to mine a patent portfolio for value, why and how to perform a competitive assessment, and how one might transcend financial accounting standards to develop a system for reporting performance.

Everyone who manages IP for a company, a university, or a federal agency, should look at this handbook and the Web site associated with it: www.andersen.com.

Lawyers should be warned that Davis and Harrison confine the legal profession to the lower levels of the value hierarchy. Moving the company to a higher level requires, in their view, reducing the control of the legal department over the company's IA. **TFL**

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What Are Freedoms For?

By John H. Garvey
Harvard University Press, Cambridge, MA, 1996 (paperback edition, 2000). 312 pages, $18.95.

REVIEWED BY MICHAEL FOSTER

When James H. Garvey chose as the title for his book the deceptively simple question, *What Are Freedoms For?*, he must have smiled to himself, for he had just subjected his readers to what law students have come to fear and respect: the Socratic method, a technique for generating discussion that demonstrates that the answer to a question is anything but simple and almost never devoid of controversy. In the end, the ensuing dialogue on such a question both enlivens and enlightens those who participate in it.

Garvey is dean of Boston College's Law School and a nationally known constitutional scholar. The hardcover edition of this book was well-received in the academic community, and the views Garvey expressed in it were widely debated among legal scholars. It is now available in paperback and will interest both attorneys and students of constitutional history.

Garvey criticizes a prevailing justification for our freedoms — that they serve to secure individual autonomy and thus the right to choose how to live one's life. In his view, we protect our most fundamental rights because they "allow us to engage in certain kinds of actions that are particularly valuable." He rejects what he calls "bilateralism" — the belief that the purpose of freedom is to permit choices between actions of equal value. He argues that some choices are plainly not as good as others, that some have a higher moral value than others. He criticizes bilateralism for allowing us to rationalize wrong choices too easily, and he sees it as an artifact of the psychological approach that says that our freedoms allow us to satisfy our drives and desires. Bilateralism's other justification — that it offers political stability and freedom from civil strife by tolerating opposing viewpoints — is also, Garvey believes, a slender reed by which to support the concept. A repressive government also provides a stability of sorts, Garvey would say. Bilateralism is both morally ambiguous and practically wrong, in Garvey's opinion. He systematically discredits the view in this polished and tightly reasoned book.

In the early chapters Garvey develops his premise: The three freedoms to which he directs most of his attention — religion, speech, and association — are protected because they allow us to do good things, to pursue values that are both inherently good and consistent with the views held by the drafters of the Bill of Rights. They are good in themselves, and demonstrably so, Garvey asserts, because they promote accepted societal beliefs. "I suggest that we begin with an idea about what is good to do, and then assign rights so as to allow people to do what is good."

To prove his point, Garvey analyzes Supreme Court decisions to show that the good that justifies a freedom often figures prominently in the reasons the Court gives to support its conclusions, and that its rulings are flawed when the Court strays from this approach. He cites *Roe v. Wade,* 410 U.S. 113 (1973), as an example of bilateralism at work — an application of the theory that personal autonomy is the key value to be preserved. He criticizes the Court for assigning equal weight to the choice to abort a fetus and the decision to give birth to a child. He cites *Bowers v. Hardwick,* 478 U.S. 186 (1986), as an example of the view he espouses. Hardwick had been arrested when he was found in his bedroom engaging in sex with another man. The state declined to prosecute, but Hardwick sued to have Georgia's sodomy statute declared unconstitutional. The Court refused, with the majority viewing Hardwick's challenge as an effort to establish homosexual sodomy as a protected right, rather than viewing the statute, which on its face applied to both genders, as a violation of protected privacy interests (the view that Justice Blackmun adopted in dissent). An explanation for the Court's ruling that homosexual sodomy is not a right of fundamental significance, Garvey reasons, is that the conduct does not further "good action" that justifies a right; conversely, actions that nurture long-term relationships, or are supportive of marriage and the family, would be protected. Garvey notes that the constitutional challenge of a married couple who joined Hardwick in the suit was dismissed for lack of standing, and not pursued. He concludes, however, that the outcome would have been equally justified if the facts had shown, as in Hardwick's case, that the heterosexual conduct had been part of a one-night

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