

NATIONAL REVUE



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WHY CORPORATE AMERICA
TURNED TO THE LEFT

Kevin D. Williamson



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The Importance of NATO

To the paragraph about President Trump's getting NATO mostly wrong (the Week, February 6), I would add the following: Yes, Article 5 has been invoked by NATO just once in history, and it was for the U.S. Most Americans are unaware that, following the atrocity committed on September 11, 2001, NATO sent six of its AWACS (Airborne Warning and Control System) aircraft to Tinker Air Force Base, Okla., to fly cover over our great country. The reason they came to our aid with these aircraft is that most of our own AWACS aircraft were scattered all over the globe ensuring the security of the free world. Having spent more than a couple of years in NATO, I can tell you it was a warm feeling having our NATO partners at Tinker flying cover for us.

I would also add, for what it is worth, that, yes, our allies ought to pay their share of NATO costs; but whatever the cost to the U.S., it is most assuredly worth every penny to keep this important alliance together. NATO has kept Europe safe for many decades.

Frank Alfter

Colonel, United States Air Force (Ret.)

Beavercreek, Ohio

VAT Chance

Kevin Hassett, in exhorting Congress to implement a VAT-like consumption tax to "move the tax base toward the international norm," appears to be unaware of two things. The "international norm" in terms of the advanced VAT economies is now low growth at best and more typically stagnation. The EU had a 2015 growth rate of 1.8 percent; its major economies (Germany, France, and Italy) were well below that. Japan has not achieved sustained 2 percent growth for over a decade. Both have VATs at or near the "international norm."

Mr. Hassett also appears to be unaware of something more fundamental: There is small chance of a VAT-type consumption tax replacing the income tax at the inception. Congress might express an intention for an eventual phase-out of the income tax, which also has an approximately 0 percent chance of ever really happening. Once a VAT is implemented, the income tax would find its sunset fading away into a distant future as government grew accustomed to having more money than even it ever thought possible. A VAT would be precisely what it has become in the slow-growth countries that have implemented it: an undammed river of fresh private-sector dollars flooding into the government's bottomless pocket to augment high income-tax rates. It is an odd sort of economics that regards that as optimal, and an ingenuous political outlook to believe that something better might happen.

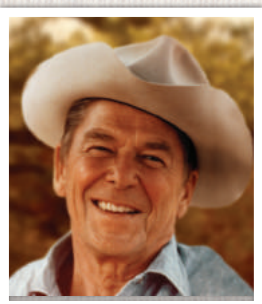
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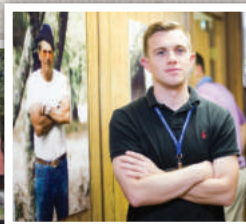


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■ Honestly, we do kind of wonder whether he told Flynn, “You’re fired!”

■ National Security Adviser Michael Flynn was ousted. He had told Vice President Mike Pence that he hadn’t discussed anti-Russian sanctions with Russian ambassador Sergey Kislyak in December 2016, when President Obama imposed them. Pence had defended him based on that assurance. Then unnamed members of the intelligence community reported that Flynn had indeed discussed the sanctions. Flynn apologized to Pence and to President Trump before leaving his job after less than a month. Should Flynn have talked to Kislyak? Democrats invoked the Logan Act, which forbids private citizens to negotiate with foreign powers, but how can an incoming administration signal its intentions except by the use of intermediaries? Why did the American intelligence community leak on Flynn? Because they hated him, evidently; but who will say anything to anyone if our own spooks routinely leak it? Should Flynn have misled the vice president? No (Flynn claims a faulty memory). It was the public revelation of the erroneous account that brought him down. With Congress promising investigations of Russia’s role in the election and Democrats, the media, and bureaucrats ready to form a hanging party, we are closer to the beginning of this story than the end.

■ Interviewed before the Super Bowl by Bill O’Reilly, President Trump yet again equated modern America and Vladimir Putin’s Russia. “I do respect him,” Trump said of Putin, whereupon O’Reilly said, “Putin is a killer.” “There are a lot of killers,” Trump responded. “We have a lot of killers. Well, you think our country is so innocent?” The only effect of an American president speaking this way could be to make people cynical about republican government and indifferent to thuggery. Intellectually, such remarks are at the level of Twitter trolls; morally, they are worse than many Twitter trolls. The president and his colleagues should be ashamed of them.

■ Left-wingers have been mining Supreme Court nominee Neil Gorsuch’s record and coming up empty. Nancy Pelosi claimed that Judge Gorsuch is “hostile” to schoolchildren with autism. In the relevant case, Gorsuch found that the law did not entitle the family in question to the specific assistance they wanted. But he expressed sympathy for them, and two other judges, including a Bill Clinton appointee, joined the decision. Senator Ron Wyden said that “Gorsuch represents a breathtaking retreat from the notion that Americans have fundamental constitutional rights” but supplied no evidence to support that outlandish claim. Senator Kirsten Gillibrand accused him of being “out of the mainstream” because he ruled in the *Hobby Lobby* case that a corporation could be treated as a person with the right to invoke a religious-freedom law. Only two justices of the Supreme Court took the same view as the senator in that case. It’s Gorsuch’s critics, in other words, who are out of the mainstream—and, worse, dishonest.

See page 12.



■ Vice President Mike Pence cast a tiebreaking vote to confirm Betsy DeVos as the nation’s secretary of education after two Republican senators—Alaska’s Lisa Murkowski and Maine’s Susan Collins—joined Democrats in acquiescing to the demands of teachers’ unions. Since DeVos’s nomination in November, the National Education Association, the American Federation of Teachers, and the rest have demonstrated to what extent they control the present-day Democratic party, coordinating the extraordinary antagonism to DeVos that defined her confirmation process. NEA president Lily Eskelsen Garcia said that DeVos is “dangerously unqualified” and that she has designs to “harm our students”; the president of the Michigan Education Association said that DeVos is beholden to a “disastrous ideology.” The *New York Times* and other publications sought to bolster these accusations by declaring DeVos’s charter-school program in Detroit a failure, misrepresenting the data to make their case. Days after her confirmation, protesters attempted to block DeVos from entering a D.C. public school. DeVos has spent nearly a quarter century promoting a multifaceted school-choice agenda that has helped states and municipalities free parents and students of failing public-school monopolies. She now has an opportunity to advance that work by rolling back the federal government’s aggressive insinuation of itself into the day-to-day workings of school districts and classrooms. If that has teachers’ unions and their Democratic allies worried—good.

■ Senator Cory Booker (D., N.J.) seems to be suffering a case of amnesia. In January, Booker made a show of breaking with Senate precedent to testify against the nomination of Alabama senator Jeff Sessions for attorney general—just eleven months after



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Booker declared himself “blessed and honored to have partnered with Senator Sessions” to award the Congressional Gold Medal to participants in the 1965 Voting Rights March from Selma to Montgomery, Ala. Then, in February, Booker cast a vote against Betsy DeVos—just nine months after giving a supportive address to the American Federation for Children, the school-reform group founded and long chaired by DeVos. In fact, Booker has long been a school-choice advocate. During his two-term mayoralty in Newark, he expanded the city’s charter-school system, which currently serves 14,000 students, even earning the opprobrium of the local teachers’ union, which backed his opponent during his 2010 reelection campaign. In 2012, again at an AFC conference, Booker said that he “cannot ever stand up and stand against parents’ having options” and that he would “fight for the freedom and the liberty and the choice and the options of my people.” With 2020 in his sights, it seems America’s schoolchildren are no longer Senator Booker’s people.

■ Passion can run high on the floor of the Senate: In 1850, Henry Foote pulled a pistol on Thomas Hart Benton, and in 1856 Charles Sumner was beaten with a cane. Rule 19, adopted in 1902, forbids senators to impute unworthy conduct or motives to one another in debate. It was invoked against Elizabeth Warren (D., Mass.) when, in speaking against Jeff Sessions’s confirmation as attorney general, she quoted 31-year-old comments by Coretta Scott King and Teddy Kennedy opposing Sessions’s nomination as a federal judge (Kennedy had called him “a disgrace”; King had said he had “chill[ed]” black voting rights). Rule 19 makes it marginally harder for senators to debate the merits of nominees who are their colleagues. Yet Senate decorum is a good thing. Add incivility to the list of Senator Warren’s peccadillos—or speaking with crooked tongue.

■ It seems that all too many journalists are reaching a point of maximum anti-Trump credulity. Take, for example, the kerfuffle over an allegedly “botched” Special Forces raid in Yemen. General James Mattis recommended and President Trump approved a dangerous raid in Yemen that the Obama administration had planned but handed over to the new administration because of operational concerns. When the raid actually happened, American forces lost the element of surprise, and in the ensuing firefight a SEAL lost his life, al-Qaeda forces used human shields, and civilians died. In the immediate aftermath of the battle, Reuters reported about unnamed defense sources who claimed that Trump had approved the raid “without sufficient intelligence.” Journalists forwarded the story enthusiastically, and a narrative was born. Never mind that the *New York Times* contradicted Reuters with a far more comprehensive report. Never mind that operational planning isn’t a presidential responsibility. This raid, to some, was “Trump’s Benghazi.” But the raid wasn’t an outrage; it was war. It was also a reminder that not every Trump scandal is real and not every anonymous source is right. When it comes to separating truth from lies, a little investigation goes a long way.

■ Never one to miss an opportunity for a hit job, Sidney Blumenthal—yes, that Sidney Blumenthal—used his essay “A Short History of the Trump Family” in a recent issue of the *London Review of Books* to explain how Donald Trump’s father, Fred, created two test television commercials while weighing a run for New York City mayor in 1969: “One of them, called ‘Dope Man,’ featured a

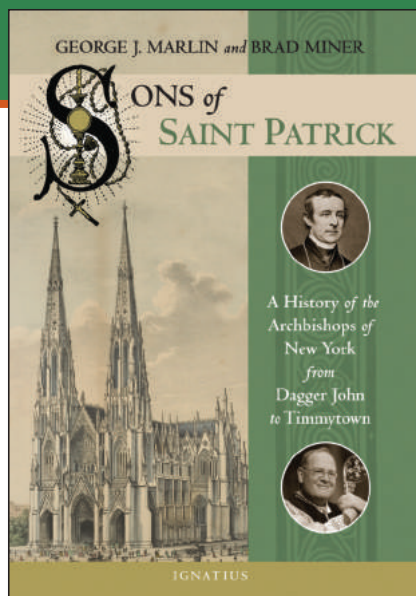
drug-addled black youth wandering the streets. ‘With four more years of John Lindsay,’ the narrator intoned, ‘he will be coming to your neighbourhood soon.’ The ad flashed to the anxious faces of two well-dressed white women. ‘Vote for Fred Trump. He’s for us.’ The other commercial, ‘Real New Yorkers,’ showed scenes of ‘real’ people from across the city, all of them white. Fred Trump, the narrator said, ‘is a real New Yorker too.’ In the end he didn’t run, but his campaign themes were bequeathed to his son.” It made for a good story. The only problem was, it never happened. Trump seems never to have weighed a mayoral run; the videos were created last year by “Historical Paroxysm,” a video-art project that creates “found footage from alternate realities.” The LRB removed the misleading paragraph from the essay (adding, sniffily, that it still “accurately reflected Trump’s racial attitudes”), but the smear will no doubt live on, having been widely circulated among credulous readers. Or, as Blumenthal would surely say: Mission accomplished.

■ Secretary of State Rex Tillerson wanted foreign-policy eminence Elliott Abrams as his deputy. A meeting with President Trump appeared to go well. Then Trump learned that Abrams had criticized him during the 2016 campaign. (The criticisms were fairly mild, but Abrams’s critics have made them spicier in the retelling.) He vetoed the nomination. Some of Abrams’s fans are grouching about Trump’s “thin skin,” but any president would prefer to staff his administration with people who supported him in the election. Trump has not adopted an ironclad no-past-critics rule, though, selecting Nikki Haley, Betsy DeVos, and Rick Perry for top jobs. These exceptions reflected that Trump isn’t like any previous president: A lot of Republicans criticized him; he is short-staffed, particularly in key foreign-policy posts; and the people he has do not have much government experience. And Trump has just hurt the credibility of one of those people, Tillerson, who was unable to get the deputy he wanted. The last-minute nixing of Abrams is not a disaster. It does seem like bad management, and bad judgment.

■ Nordstrom, the department-store chain, announced that it will not carry Ivanka Trump’s products. Then Kellyanne Conway imprudently urged those listening to her interview on Fox News to “go buy Ivanka’s stuff.” From Ivanka’s couture to diplomats’ booking themselves into the Trump International Hotel in Washington to the Trump sons’ not-so-arm’s-length management of their father’s empire, there is an odor of favor-seeking and self-promotion about this presidency. The most important thing Trump could do to dispel it and defang his critics is to release his tax returns. Never before has such a wealthy man, active around the world and new to public service, occupied the White House. Who his partners, creditors, and debtors are is of interest to the public. The law does not require transparency, but republican seemliness does. Then let people buy whatever shmattas they like.

■ *Mother Jones* thinks Keith Ellison—congressman for Minnesota’s fifth congressional district and front-runner to head the Democratic National Committee—may be “just what Democrats need” to rally after a year of crushing defeats. But the long essay touting him may not be quite the favor the magazine intended. Reporter Tim Murphy uncovers examples of the anti-Semitism for which Ellison was well known as a Minneapolis activist but which he has long denied, and demonstrates that, while claiming

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George J. Marlin, Chairman of the Aid to the Church in Need, is the author or editor of twelve books, and the general editor of the *Collected Works of G.K. Chesterton*. **Brad Miner**, former Literary Editor of *National Review*, is Senior Fellow of the Faith & Reason Institute and Senior Editor of *The Catholic Thing*, and the author of six books.

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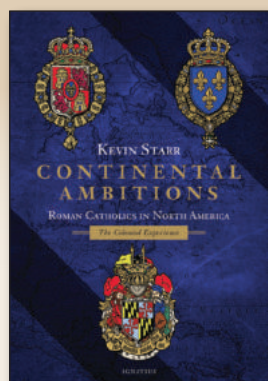
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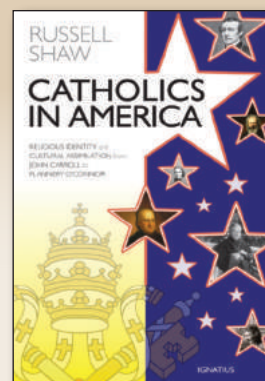
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never to have been a member of Louis Farrakhan's Nation of Islam, Ellison was in fact deeply involved in its Twin Cities activities, attending meetings, speaking in the local leadership's stead, and even showing up to community events flanked by members of the Fruit of Islam, the organization's security wing. Murphy notes: "It was only in 2006, as his run for Congress floundered, that Ellison repudiated Farrakhan." Ellison, who was elected the first Muslim member of Congress in 2006, has long suggested that criticisms of his past associations were simply thinly veiled attacks on his faith. But *Mother Jones* shows that assertions of Ellison's radicalism are no smear campaign. They are simple fact.

■ In 2011, Democrats in Wisconsin were upset at the reforms proposed by Governor Scott Walker and his fellow Republicans. Gaudy protests took place in the capitol building. And some of the

protesters took that act to the homes of Republican legislators, scaring and intimidating their families. In 2013, protesters used this same tactic on Kris Kobach, the secretary of state in Kansas. He said he would defend his family by force, if necessary. Now protesters have gone to the homes of the two party leaders in the Senate: Mitch McConnell and Chuck Schumer. In each case, the protesters were upset at President Trump's cabinet nominations. (Protesters were damning the Democrat, Schumer, for voting for some of them.) This is mobocracy, not democracy. Politicians' homes should be out of bounds. As Kobach said four years ago, there are public offices and other public spaces. Protesters can take their act there, and leave it there.

■ In search of an inspiring quote from Lincoln to include in its tweet honoring the 16th president on his birthday, the Republican

The Road Back from France?

BACK in 2007, I wrote an article for *Bloomberg* that argued that U.S. growth was likely to slow because our economic policy was on the "road to France." The U.S. had posted a significantly better track record than most of Europe through 2006, and the academic consensus was that a major driver of our higher growth was our smaller government. But the expiration of the Bush tax cuts created a surge in revenue that would give the Democrats who controlled Congress at the time an excuse to spend more money. That, plus the impending upswing in entitlement spending, meant that the small-government U.S. was going to look like big-government Europe. How could growth fail to look more European?

Looking back on that piece a decade later, we see that many unexpected things occurred. A financial crisis knocked the stuffing out of the economy, and President Obama's preferred approach to digging out, a Keynesian stimulus, accelerated the upswing in government spending. Regulations surged much more than one might have expected in 2007, as did entitlements, because of the Affordable Care Act. It is well known that recoveries from financial crises are slow, but as the dust settled it became clear that, after a rocket-powered trip down the road to France, we settled in at a growth rate that just about matched the European one that was so concerning back in 2007.

The nearby graph shows the average annual GDP-growth rates across different periods of time for both the U.S. and the EU. These rates come from the OECD database, which includes past growth figures as well as future projections. The most current projections were published this past November. Since the EU has changed composition over the past 30 years, the 15 countries included in the chart are the EU countries prior to May 1, 2004.

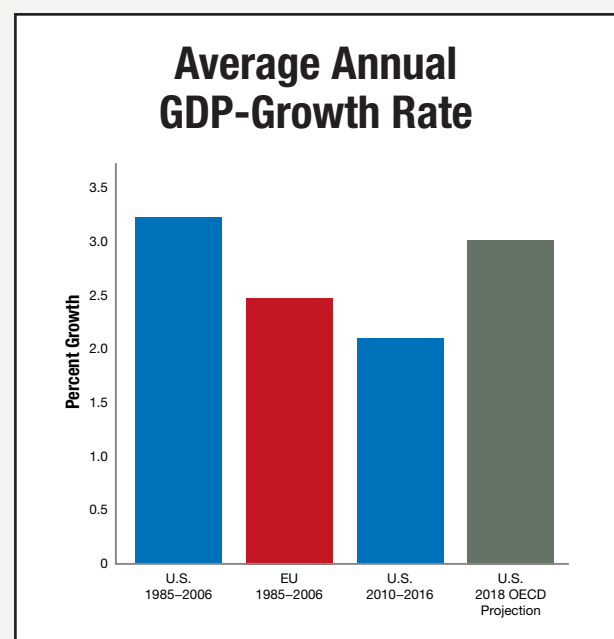
As seen in the graph, the average annual growth rate of the EU was more than three-quarters of a percentage point lower than that of the U.S. between 1985 and 2006. The U.S. average over the past few years of the Obama

administration was even a bit lower than that. European growth (not shown) dropped even more. But, as mentioned in this space in December, the OECD expects major policy reforms in the U.S. that, when fully in effect, will take growth almost back to the old normal.

The OECD staff, it seems, buys into an analysis that is consistent with that *Bloomberg* piece from a decade ago. The U.S. copied the policies of Europe and began to grow like Europe. If policies head in the other direction, then growth will too.

There is a respectable opposing view, that the financial crisis created a collapse in global demand from which we still have not recovered. According to that view, we were doomed to slow growth no matter what. Perhaps—but if it is hope you are looking for, be grateful that we are on the road back.

—KEVIN A. HASSETT





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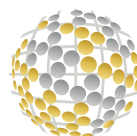
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National Committee hit on this one: “And in the end, it’s not the years in your life that count. It’s the life in your years.” The trouble was that Lincoln did not, in fact, utter this banal bit of uplift. It comes from an advertisement for a 1947 self-help book by Edward J. Stieglitz. Alerted to its mistake, the RNC quickly deleted the tweet, but not before it had earned a round of well-deserved mockery. If GOP staffers want to honor Lincoln’s legacy, they might start by reading him. They’ll find he doesn’t sound much like Oprah.

■ The Reforming American Immigration for Strong Employment (RAISE) Act, introduced by Republican senators Tom Cotton (Ark.) and David Perdue (Ga.), is a carefully crafted, albeit limited, bill that would change America’s immigration system to better serve the American economy. It would restrict family-based chain migration—a key source of the large-scale immigration of low-skilled and unskilled workers that is pulling down wages in low-skill occupations—to the spouses and minor children of U.S. citizens and legal permanent residents. (It makes an exception for elderly parents in need of caretaking, who would receive a temporary visa on the condition that their children demonstrate that they will provide completely for their parents’ health-care needs.) It would end the Diversity Immigrant Visa Program, which makes 50,000 visas available annually to entrants from countries with low rates of immigration to the U.S. That program serves no clear economic or humanitarian aims and promotes diversity only questionably. And it would cap the number of green cards available for refugees at 50,000 per year, in line with the average of the Bush and Obama eras. The bill is not a fix-all, but its proposals ought to be key elements of any conservative immigration agenda. The senators’ Republican colleagues should follow their lead on this issue.

■ In 1954, a conservative nonprofit group campaigned against Lyndon Johnson, then a senator, in the Democratic primary. The result was what is called the “Johnson amendment”: a law forbidding tax-exempt organizations, including churches, to support or oppose political candidates, whether through contributions or statements. It has never been consistently enforced, and religious-conservative groups have long sought its abolition. President Trump agrees. So do we: Churches and nonprofits ought to be able to make endorsements in the course of their usual activities without threatening their tax status. (If any of them spent most of their time and money on politics, it would be a different story.) Pastors, priests, imams, and rabbis have many good reasons to refrain from overt political involvement, but fear of the legal consequences should not be among them.

■ A new video from the pro-life group Live Action has revealed that the Planned Parenthood Federation of America has long imposed abortion quotas on its affiliates, rewarding clinics that meet their target numbers with pizza parties and extra paid time off. In an interview with Live Action, a former clinic manager and a former Planned Parenthood nurse explain that upper management vigorously enforced these quotas for financial gain, incentivizing workers to manipulate vulnerable women into choosing abortion. “I felt like I was more of a salesman sometimes, to sell abortions,” said former nurse Marianne Anderson in the interview. But we are told there’s nothing to see here but “women’s health.”

■ It is a rare day on which the ACLU, the NRA, and a host of America’s mental-health and disability advocates agree upon a cause, but that day came in January. The aim of this motley crew was a noble one: to reverse an Obama-era rule that labeled Americans on disability who are unable to manage their finances as too dangerous to own a gun. The target of the coalition was the Republican Congress, which, under the Congressional Review Act, has the power to identify bad rules and to remove them from the books. The reasons given were varied—some noted that the medical reasoning was shamefully bad; others that the rule should have been explicitly authorized by Congress; yet more that there were no due-process protections—but the argument was clear and unanimous: This wasn’t a partisan matter, and its resolution was of the utmost urgency. Happily, the House agreed, passing the reversal without fuss and sending it on to the Senate. We wish it a speedy journey to the president’s desk.

■ Remember the dramatic announcement, not long before the 2015 Paris climate conference, that the purported 20-year hiatus in global warming had been based on a miscalculation, and in fact the world’s temperature was rising fast? Now John Bates, a climatologist who just retired from the National Oceanic and Atmospheric Administration, has cast doubt on those results. According to Bates, the scientists behind the revision used incomplete, unverified data; processed it with unfinished, buggy software; ignored contrary evidence; and relied on unsound assumptions. (For example, ocean-temperature readings taken from ships are higher than those taken from buoys, since ships generate heat. The researchers increased the buoy readings to make them comparable to the ship readings, even though decreasing the ship readings to match the buoys would have given a more accurate result.) In any event, says Bates, the researchers did not back up their research with proper records, so it can’t be duplicated. To be sure, scientists often disagree, and nobody is accusing the researchers of anything worse than using debatable methodology. But Bates’s caveats are a reminder that the projections and averages on which climatology—and, more to the point, climate policy—depends are inherently approximate. We should avoid making expensive, large-scale changes on the basis of anything but the most precise data.

■ At the risk of having you suspect we’re engaged in a cheap and transparent ploy to sell magazines with titillating headlines, a few words about the fiduciary rule, which the Trump administration is reviewing with an eye to its reform or repeal. Formulated by the Department of Labor under the Obama administration, and originally scheduled to take effect this April, the rule would oblige certain salesmen of financial products to act in a “fiduciary” capacity, meaning they would be legally bound to act in their clients’ best interest irrespective of their own interest in fees, commissions, or other sources of income. Registered investment advisers have long been required to act as fiduciaries, but the DOL rule would also apply that to “registered representatives,” who are essentially salesmen for brokerages rather than investment advisers. The effect of the rule would be to give federal regulators a whip hand over fees and commissions charged to those who are investing for retirement. The problems with the rule are several: For one thing, there will be implicit conflicts as long as there are fees and commissions, and the fiduciary rule does not eliminate those. For another thing, what is good financial advice

depends heavily on what happens in the market. What seemed like excellent advice for someone retiring in June 2007 might have worked out poorly after the housing crash, whereas what might have looked like self-interested advice (buy an annuity and pay me a large commission!) might have turned out better. This is a case in which disclosure—about who is getting paid what by whom—is a better strategy than prohibition.

■ Overshadowed by liberal behemoths Massachusetts, Connecticut, and New York, Rhode Island seems determined to show that it can be just as loony-left as its bigger neighbors: *City Journal* calls Little Rhody “the bluest state”; in last year’s primary, it gave Bernie Sanders 55 percent; the entire state has declared itself a sanctuary for illegal aliens; and its idea of a Republican was Lincoln Chafee. Now a Rhode Island legislator has introduced a bill regarding judicial vacancies, under which any departing trial judge who is a “person of color” must be replaced by another “person of color.” Here, as so often happens, life imitates television; yet even if this were not a silly idea for all the obvious reasons, it clearly violates the U.S. Constitution as well as that of Rhode Island.

■ Vladimir Kara-Murza is a democracy activist in Russia. He worked closely with Boris Nemtsov, the democratic politician. Nemtsov was murdered within sight of the Kremlin in February 2015. Three months later, Kara-Murza fell into a coma, the victim of poisoning. He recovered. In early February, he was again in a coma—again the victim of poisoning. The latest news is that he has regained consciousness. A long time ago, he sent his family out of Russia, for safekeeping. But he himself remained. He is an extraordinarily brave man. In other news—and related news—Alexei Navalny has been effectively disqualified from running for president in 2018. He is one of Vladimir Putin’s most prominent critics. Therefore, the Kremlin has bedeviled him with phony charges. Putin controls the media, business, and much else. We are told that he is terribly popular in Russia. Why, then, should he fear such a man as Navalny? Dictators and strongmen are not as secure as they sometimes appear.

■ The Swedish government proclaims with a swagger that it is “feminist.” Equality of men and women is a stated objective of Swedish foreign policy. Prime Minister Stefan Lofven led a delegation to Tehran 15 strong, eleven of them women. A law in Iran obliges women to wear the hijab or headscarf, and the visiting Swedish eleven duly wore it “almost all of the time.” At a reception with President Hassan Rouhani, they might just as well have been Iranian. Ayatollah Ali Khamenei, the Supreme Leader, tweeted his satisfaction. Under their hijabs and side by side at a signing session, Ann Linde, a Swedish cabinet minister, and her Iranian counterpart looked indistinguishable. When she was criticized for complying with compulsory discrimination, Linde’s apologia was “One can hardly come here and break the laws.” Diplomats and scholars have long been saying that reform in Muslim societies will come from women demanding their rights. They just won’t be Swedes, evidently.

■ “You should see that any question about slavery is very complicated,” says Jonathan A. C. Brown, a professor of Islamic studies at Georgetown, sliding from scholarly nuance to sophistry in the service of Muslim apologetics. In a paper published online

and delivered at a small gathering in early February, Brown, a Muslim convert, discussed slavery in Islam, comparing it to serfdom in Christian Europe and to the bond that ties an employee to his employer. Serfdom? Good riddance. And, no, an employee is not like a slave. He’s a free agent: He doesn’t have to pay his boss for the right to quit. Historians share no single, precise definition of slavery, Brown argues: “Ownership, freedom and exploitation come in shades of gray.” But in medieval Islamic societies they often came in some of the same stark colors that, looking back, Americans recognize in “the peculiar institution” that our forefathers died to abolish. Clear-eyed acknowledgment of past sins increases one’s honor. The attempt to excuse them diminishes it. In whitewashing the historical record, Professor Brown only does a disservice to his faith.

■ Milo Yiannopoulos was prevented from delivering a talk at the University of California at Berkeley when rioters began attacking police and bystanders, destroying property (a half-million dollars’ worth, according to the local business association) and finally firebombing a campus building. Yiannopoulos is a right-wing performance artist who thrives on this sort of thing; indeed, we wonder whether he even bothers writing speeches anymore or simply allows rioters to relieve him of the necessity. He is a distasteful character, but the villains in this story are those who engaged in political violence—what happened at Berkeley is plain terrorism—and the Berkeley authorities who indulged it. The black-bloc rioters know that they are not going to face any sanction at Berkeley: One of them, an undergraduate by the name of Neil Lawrence, even went so far as to give an interview to *Newsweek* describing the thrill of violence. The student newspaper had published his threats before the event. The so-called peaceful protesters had as their explicit aim suppressing Yiannopoulos’s speech—at the home of the “Free Speech Movement.” Berkeley police should prosecute the rioters, and the university should expel those engaged in violence and vandalism. If they do not, President Trump should follow through on his threat to seek to restrict federal funds to the institution.

■ Yale University announced that it would un-name one of its residential colleges for John C. Calhoun (class of 1804). The college’s new eponym will be Grace Murray Hopper (Ph.D., 1934), who helped develop the UNIVAC computer and the early computer language COBOL. Calhoun (1782–1850), congressman, senator, secretary of state, and vice president, was a smart, principled, public-spirited man who did immeasurable damage, maintaining that slavery was a positive good and devising constitutional arguments for bolstering the rights of slave states. No doubt the tide of history and the pull of self-interest would have led the South to secede if Calhoun had never lived, but he gave it a good conscience. The best argument for Yale’s keeping his name was memory: We cannot fix the past by closing our eyes. The stronger argument, for removing it, is that we should honor mankind’s benefactors, not those who have led it astray.

■ Some residents of Henryetta, Okla., had a nice idea: a Valentine’s Day dance for adult sweethearts. Then the city attorney told the organizers about an obscure municipal ordinance that bans dancing within 500 feet of a church. Hardly anyone in town had

heard of it. One might think that, in a state whose very nickname celebrates lawbreaking, the occasional forbidden shindig would be indulged. But a rule's a rule, so the event had to be canceled. The law in question, it turns out, was passed in 1979, not because any preachers considered dancing the road to perdition, but to preserve public order: The previous fall, a miscreant had set up a dance floor on Main Street and (according to a contemporary newspaper account) invited Henryettans to get their groove on to "Disco Duck." That by itself might not get you sent to hell, but it should at least put you on the watch list. Happily, with the disco threat at last starting to subside, Henryetta is set to consider repealing the ordinance at a February 22 city-council meeting.

■ It's the funniest thing she has done in years. Comedienne Sarah Silverman indignantly tweeted a photograph of the pavement near her hotel, which bore a spray-painted marking that resembled the x of algebra textbooks. It's a common symbol, used to show the location of underground utility lines, but the sight of it made Silverman frantic. Math anxiety? No, just leftist paranoia: She suggested that the symbol was a swastika, though it was at best perhaps a swastika's second cousin. Critics corrected her in the usual robust Twitter fashion, and Miss Silverman responded as graciously as you'd expect, calling her interlocutors "condescending c***s" and explaining that lately she's been getting lots of Nazi messages and it's all Trump's fault. We have found today's equivalent of the 1950s John Birchers who saw "Reds under the bed."

■ It was the best of games, it was the worst of games, it was the height of pluck, it was the abyss of choke. The New England Patriots scored 19 unanswered points in the fourth quarter to tie the game and send it to overtime. On second and goal, Tom Brady tossed the ball to running back James White for the first walk-off touchdown in 51 years of Super Bowl history. Final score: Patriots 34, Falcons 28. Glory in Boston, gloom over Atlanta.

■ When John McCain ran for president in 2008, some thought him too old. His mother has just turned 105. Roberta McCain was born when William Howard Taft was president. Woodrow Wilson was gearing up to challenge him. A few days after she was born, Arizona became a state. Her son now represents that state in the Senate. She has seen a lot and weathered a lot—personally, nationally, and globally. She is a beautiful lady. And we wish her many happy returns.

IMMIGRATION

Judicial Overreach

THE Ninth Circuit's decision against President Trump's immigration order is worse than wrong. It is dangerous.

In January, Donald Trump issued an executive order temporarily blocking entry by refugees and aliens from seven Muslim-majority countries—Iran, Iraq, Syria, Yemen, Libya, Somalia, and Sudan—chosen not for reasons of bigotry but because they have governments that are either non-functional or implacably hostile to the U.S., rendering any efforts to screen their citizens uniquely difficult, as was made clear in a statute enacted by Congress and signed by President Obama. This was insufficient for Seattle-area federal judge James Robart, who issued a temporary restraining order against the travel ban, and now the Ninth



Circuit has upheld his usurpation of the power to make American national-security policy.

According to the three-judge panel, perhaps even illegal aliens have due-process rights against government actions to protect Americans from foreign threats. Therefore, the president and Congress (i.e., the branches of government constitutionally responsible for national security) may not take such actions unless and until the judiciary (the branch with no such responsibility) has approved those actions.

That aliens are not citizens and have no constitutional right to come to the United States is apparently superseded by their new-fangled "right" to be welcomed into the United States' courts. And if they are not here already, even if they remain in the far reaches of the globe, this alien "right" may be asserted by state governments, whose interest in having foreign students and scholars at their public universities outweighs the public's interest in excluding aliens who may be terrorists, law-breakers, public charges, or individuals hostile to our Constitution and culture.

The unanimous ruling is the type of lunacy with which the Ninth Circuit has become synonymous. It is also the inevitable result of an earlier judicial power grab (2008's *Boumediene v. Bush*) in the realm of national security, in which the Supreme Court radically altered the doctrine of separation of powers, effectively arrogating to itself the plenary power of the political branches to conduct foreign relations, repel foreign invasions, and prescribe the conditions under which aliens may be admitted to and remain in the United States. Writing for the liberal majority in *Boumediene*, Justice Anthony Kennedy announced that, henceforth, the courts would have the last word on these subjects.

The political branches' constitutional power, and the heightened deference owed by courts to their national-security judgments, is precisely at stake in the matter of President Trump's executive order. In the interest of preserving both, it may be best at this point for the White House to consider a tactical retreat. A new, more narrowly tailored order, implemented with the thoughtfulness that was manifestly lacking in January, would be easier to defend in public and in court.

Even in a post-*Boumediene* world, the high court might recognize the wisdom of judicial self-restraint. Because if not, we're all living in the Ninth Circuit now.



Foreign Entanglements

The Trump Organization's unnecessary emoluments-clause problem

BY DAN McLAUGHLIN

It is a measure of the foresight of the Founding Fathers that every few years we suddenly consider some obscure part of the Constitution that had long been ignored, from the procedures for impeachment to the resolution of deadlocked elections. This year, thanks to Donald Trump's sprawling global business empire, it's the foreign-emoluments clause (Article I, Section 9, Clause 8):

No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

How obscure is the foreign-emoluments clause? There are few references to it in the convention and ratifying debates of 1787, the courts have never been asked to interpret it, and Congress has never charged any federal official with violating it. Potential violations rarely get farther than the Office of Legal Counsel, which in 2009 advised President Obama that his Nobel Peace Prize (a gratuitous

gift if ever there was one) did not violate the clause, since the Nobel committee is not a foreign sovereign.

But the foreign-emoluments clause wasn't an afterthought in the Constitution. It was carried over from the Articles of Confederation, which in turn had borrowed it from a 17th-century Dutch statute. It was chiefly aimed at the practice among European royalty of lavishing gifts on foreign diplomats, but it was written to cover all federal officers. A constitutional amendment that was passed by Congress in 1810 and nearly ratified would have expanded the clause beyond federal officers to cover every American citizen and strip the citizenship of anyone who violated it. The concern it reflects for insidious corruption of American officials by foreign sovereigns remains a serious one, touching on issues that range from foreign donations to the Clinton Global Initiative to the long list of American officials who have ended up on the Saudi payroll after leaving office.

One durable argument in favor of electing billionaires to public office is that they are too rich to be bought. Yet whatever the actual size of Trump's fortune, he could still face a blizzard of potential conflicts of interest in representing America while his Trump Organization runs overseas hotels and golf courses that can be

dependent on regulatory favor (especially in diplomatically sensitive countries such as Turkey and the Philippines), rents space to a state-owned Chinese bank in Trump Tower, and has opaque financing relationships with Russian interests. Trump's lifelong habit of mixing business with everything else hasn't abated even in the Oval Office. He took to Twitter to berate Nordstrom for dropping his daughter Ivanka's clothing line, even though she had supposedly resigned from any role in the clothing business. He has also used Trump Organization properties for state purposes, footing the bill for Japanese prime minister Shinzo Abe to stay at Mar-a-Lago and mix with the paying members.

Liberals looking for a silver bullet to justify an immediate impeachment of Trump have seized on the idea that Trump's business dealings violate the foreign-emoluments clause. A Brookings Institution paper by Norman L. Eisen (the chairman of David Brock's liberal gadfly group Citizens for Responsibility and Ethics in Washington [CREW]) and law professors Richard Painter (the vice chairman of CREW) and Laurence Tribe argues that *any* payment or legal benefit from a foreign government or leader to the Trump Organization—such as when a head of state or a diplomatic delegation stays at one of Trump's hotels around the world, or even when any Trump business is granted a trademark or a building permit—would qualify as an “emolument” from a foreign sovereign that Trump might accept only with the consent of Congress.

While there is scholarly debate over whether the foreign-emoluments clause actually applies to the president, based on conflicting evidence from the founding generation, Trump's lawyers have agreed that he must comply with it. But what, exactly, is an “emolument”?

The Constitution mentions emoluments in two other clauses. The compensation clause (Article II, Section 1, Clause 7) bars the president from receiving emoluments from a state or the federal government besides his presidential salary, and the incompatibility clause (Article I, Section 6, Clause 2) bars senators and representatives from taking any federal office whose emoluments have been increased during their current term in Congress, until the full term is over. In both clauses, the term has historically

been understood to refer only to the salary and monetary benefits of the office itself. President Obama faced no compensation-clause challenges for collecting income from the federal government on more than half a million dollars' worth of Treasury bonds he owned while president, since the income wasn't connected to his job. And "benefits" has sometimes been construed narrowly: The Office of Legal Counsel approved President Reagan's receipt of a pension from the State of California despite the compensation clause, and Hugo Black was allowed to leave his Senate seat in the middle of his term and sit on the Supreme Court after Congress had recently given retired justices a pension, despite the incompatibility clause. When Hillary Clinton was nominated for secretary of

received a prohibited "present" if one of his hotels were paid above-market rates by a foreign sovereign (a particular concern when doing business in areas that, unlike hotel rooms, have no clearly comparable market price, such as a licensing deal or the construction of a landmark building). Even if the Trump Organization doesn't violate the Constitution, there could still be an appearance of impropriety if foreign leaders tried to curry favor with Trump by patronizing his businesses.

Presidents and other high executive-branch officials often have significant business interests before taking office, but typically as stockholders—sometimes large stockholders, such as Dick Cheney as Halliburton's ex-CEO and Rex Tillerson as ExxonMobil's ex-CEO. Stocks and partnerships, as passive investments, can more

has proposed a complex and opaque series of protections against conflicts of interest, including an ethics ombudsman for the Trump Organization and the donation of "all profits from foreign governments' patronage of his hotels and similar businesses during his presidential term to the U.S. Treasury" (in the words of Trump's lawyers). This is a good start, but it's essentially a toothless honor system. That's particularly true with the malleable concept of "profits," given how easily privately held businesses can show a paper loss.

A more responsible way to resolve the foreign-emoluments clause and conflict-of-interest issues would be to obtain bipartisan congressional approval for an ethics structure that would install a non-partisan federal monitor to confirm the Trump Organization's compliance with

There could still be an **appearance of impropriety** if foreign leaders tried to curry favor with Trump by patronizing his businesses.

state in 2009, after Congress had increased the salaries of Cabinet officers during her term, Congress revoked the increase for Clinton's office to avoid an incompatibility-clause problem.

These and other historical precedents are cited by University of Iowa law professor Andy Grewal, who argues that, in general, the term "emoluments" was long understood to refer to the compensation for holding a particular office or performing specific duties for a government, and not to every kind of revenue produced by commerce or investments. As Grewal notes, under the broad definition of emoluments used in the Brookings paper, the proposed 1810 amendment would have stripped the citizenship of any American innkeeper who rented a room to a passing diplomat, or any merchant who sold tobacco to foreign royalty, or even the author of a book if one copy was purchased by a foreign prince—a draconian sanction that would surely have raised some debate before it passed both houses of Congress. Under that test, Obama would have been impeachable if any foreign head of state had bought a copy of *The Audacity of Hope*, and Trump would be in violation if one of his hotels rented a room to an official from a foreign nation.

Under Grewal's interpretation, President Trump might still be deemed to have

easily be managed with blind trusts and other strictly financial solutions to reduce conflicts with a public official's duties.

The Trump Organization is another matter. The "Organization" is a web of hundreds of privately held enterprises, often with Trump and/or his family as controlling owners, so shares cannot easily be liquidated. Moreover, Trump's businesses are often highly leveraged (i.e., bought with mostly borrowed money), so disposing of them at fire-sale prices would trigger significant losses on outstanding debt. And many of them count the "goodwill" of Trump's personal "brand" on their books as a major asset. Trump is also very resistant to dismantling the business: Even if he serves two full terms and is ready to retire at age 78, he has built the organization with the obvious intention of handing it over to his children. A true blind trust is also impossible: Trump has actively managed the organization for years and is intimately familiar with its holdings, many of which consist of landmark buildings with Trump's name on them.

These are all matters that Trump and voters should have considered well before he became president. Nonetheless, the voters elected Trump, and practical accommodations should be made to enable him to serve to the best of his ability. Trump

specified rules for avoiding profits from foreign governmental business. A monitor could report confidentially to a select committee of Congress.

Unfortunately, nobody has an incentive right now to do that. Trump got away with flouting prior ethical norms when he refused to release his taxes, and he has every reason to think he can do the same for now. Congressional Republicans want to save their bullets to push Trump to support their policy priorities and are loath to engage him on an issue with no immediate political upside. And Democrats would rather have an ethical cloud hovering over Trump than offer him any solution he might be tempted to accept.

Under the best reading of the foreign-emoluments clause, the Trump Organization's ordinary business operations won't put President Trump in violation of the Constitution. But any ethical conflicts that might be presented by his businesses are completely avoidable, and if Trump's promises of forgoing profits from foreign deals are sincere, he has nothing to lose from accepting oversight. If Trump and congressional Republicans want to avoid trouble from a less friendly Congress down the road, they'd be well advised to present a plan now for congressional sign-off on neutral oversight of the Trump Organization. **NR**



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Which Refugees?

*We can direct our aid
less arbitrarily*

BY NAYLA RUSH

THE Trump administration has paused the U.S. refugee-resettlement program for 120 days for assessment. That is a good thing. It is time the United States reconsidered not its humanitarian efforts to help refugees but the manner and means by which it provides this help while keeping Americans as safe as possible. The new administration has the opportunity to reform a broken refugee system by resettling those who cannot stay put, assisting them better and longer, and helping millions of refugees in their own regions more efficiently.

Here's how.

The administration should not simply pick a lucky few out of millions who are undergoing common hardships. Choosing to offer some a better life in the U.S. and leaving behind others who are in similar circumstances is akin to playing God. This huge responsibility should not be in the hands of a few and should always be guided by nothing less than urgency and necessity. Resettlement should be applied as it was initially intended under the auspices of the United Nations High Commissioner for Refugees (UNHCR): as a protection available solely to the most vulnerable refugees who are not able to remain in the country to which they fled. Contrary to officials' claims under the Obama administration, the U.S. has not been prioritizing these urgent cases. The recent pause in the program can help ensure that we're offering resettlement to those who are in real danger in their countries of refuge—including people who urgently need medical care that's unavailable where they are, or persecuted religious minorities such as Christians in the Middle East or Muslims in Burma.

The United States should reconsider its total reliance on UNHCR. Currently, the refugees chosen for resettlement in

the U.S. are selected solely on the basis of referrals from this U.N. agency, whose staff is entrusted with the entire selection and pre-screening process. U.S. officials do not know much about the men and women who are believed to possess the good judgment and expertise needed to make refugee determinations and resettlement referrals; they are hired by the United Nations and accountable only to it.

Moreover, this selection process is based on a "benefit of the doubt" policy and can be somewhat subjective. UNHCR's 2011 guidelines for determining refugee status state: "It is hardly possible for a refugee to 'prove' every part of his case and, indeed, if this were a requirement, the majority of refugees would not be recognized. It is therefore frequently necessary to give the applicant the benefit of the doubt." This is understandable, because UNHCR's mission is to help as many refugees as possible. But United States government officials are not heading a humanitarian agency. To the extent that the U.S. takes UNHCR's referrals, we should recognize the organization's limitations and not follow it blindly.

Let us not forget that resettlement is one of UNHCR's "durable solutions." A resettlement card gives access to U.S. citizenship because resettled refugees are required by U.S. law to apply for a green card (permanent residence) one year after arrival. (Green-card holders can apply for American citizenship after five years; refugees may apply for citizenship four years after they receive their green card, because the five-year count starts on the day of arrival.) So UNHCR is not only deciding who can move to the United States; it is also choosing who ultimately gets a chance to become an American. Given such high stakes and existing safety hazards—terrorist attacks and attempts committed by groups such as ISIS, with ISIS agents infiltrating refugee flows into Europe—the Trump administration should reconsider its collaboration with UNHCR.

Vetting measures must be improved. Current ones, especially for refugees coming from countries that present national-security challenges, are flawed. The Obama administration argued that refugees are subject to the highest level of security checks, that the vetting process

for refugees takes 18 to 24 months, and that the program is safe because families, women, and children are being resettled here.

But these talking points are not valid. In reality, refugees are not rigorously screened, despite the insistence of Obama-administration officials that they are. For the most part, there is simply no information to check against. By the admission of Kelly Gauger, a State Department official under President Obama, the resettlement system is overwhelmed and "not the fastest program in the world." Gauger explained: "We are not spending 18 months doing security checks." In other words, this time frame is more about waiting than vetting.

Speeding up the system is not the answer, either. It's not reassuring that the State Department conducted what it called a "surge operation" to meet President Obama's 2016 refugee target. For this, it interviewed more than 12,000 Syrian refugees in just three months.

As for family-oriented resettlement, it is also not a safeguard. The Somali refugee responsible for the terrorist attack in Ohio in November 2016 came to the United States as a teenager with his mother and six siblings. In a desire to reassure the American public, State Department officials often stress that the refugees admitted here are different from migrant flows that recently made it to Europe, which were disproportionately young, unmarried, unaccompanied, and male. But in the case of the recent Ohio attack, terror came from one of the seven children. It shouldn't come as a surprise, but terrorists have families, too.

Vetting is essential and should remain a top priority. But no matter how extreme it is, it can give only a glimpse of the past and the present; it does not secure the future. Even if refugees themselves pose no threat, the risk could come down the road, because terrorist groups prey on vulnerable communities and recruit people who feel estranged in their host country. The initial screening of the Somali family mentioned above was not necessarily flawed; if U.S. officials found nothing, it might well have been because there was nothing to find. The son's radicalization might have come later.

Successful integration and shared values are the best shields against radicalization of resettled refugees. But the current

Nayla Rush is a senior researcher at the Center for Immigration Studies.



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Trump as Communicator

The president has developed an aggressive, successful idiom

BY HEATHER R. HIGGINS

NEVER before have we had a president who so consumes the national conversation. Because of his style, most attribute Trump's constant dominance of our public colloquy to an extraordinary, emotionally impulsive, and self-indulgent ego. That perspective may be right—but it is an assumption that made it hard to see how Trump could win even a primary, never mind a general election, and makes it hard now to fathom what he says or why he says it.

Let's stipulate that he has a large ego—after all, who gets to be president without one?—and consider another hypothesis: that Trump's outbursts and pugnaciousness are not random, thoughtless, and emotionally driven, but are calculated and intentional, reinforced by their useful by-products—for example, chilling potential criticism, intimidating opposition, or successfully negotiating better deals—and learned from years of success in business, media, and now politics.

If Trump's public persona were simply driven by a need to be the center of attention, one would expect him to be a narcissist in his off-camera life too. Certainly he's no angel, and many see much they don't like. Yet by multiple accounts, the private Donald Trump is not what one would expect from the tabloid reporting. He's often described as charming—even by those who didn't want to like him or expect to be impressed—an attentive listener, a loyal friend, deeply interested in his lowest-level employees' lives and opinions, a great father, and someone generous to and concerned about others. Even his ex-wives seem to like him.

It seems likely that, if his speech were driven by emotional impulse, his repeated and—we were assured during his campaign—doom-guaranteeing “missteps” would have sunk his candidacy. Instead,

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debate about refugees often revolves around admissions numbers while largely ignoring the issue of integration. This is where the Trump administration can make a difference. Currently, refugees are assisted for the first eight months by “voluntary agencies” partly funded by the government that help with (among other things) housing, English lessons, cash, job searches, applications for Social Security cards, school registration for children, arranging medical appointments, and connecting refugees with social services. But refugees, especially the most vulnerable, are not likely to integrate (economically, socially, culturally) into the United States in just a few months. For traumatized people who have suffered a lot, integration is especially tough. They need assistance for longer than eight months. It's important to ensure that they are socializing, for instance, and are happy at their workplace. Follow-up help by social workers might be helpful in that context.

The notion that all refugees can easily integrate into Western societies and live happily ever after is an illusion. And refugees are not interchangeable; some are better equipped to integrate, and others need ongoing assistance. Economic achievements, for instance, vary by nationality. For three groups of refugees—Iraqis, Somalis, and Cubans—longer U.S. residence does not equate with higher income, according to data from the Migration Policy Institute.

It is important that resettled refugees be provided with every tool possible for successful integration. The Trump administration can intervene to ensure that every refugee admitted receives the appropriate, personalized help necessary to build a successful life in the United States, even if that means admitting fewer refugees and focusing on better and longer-term care for each one.

While some Trump critics are shocked by the order to temporarily halt the resettlement program—the arrival of thousands into the United States could be postponed—they do not seem equally outraged by the terrible conditions millions of refugees face in their own regions. Refugees don't want handouts; they want jobs, as attested by refugee scholars, activists, U.N. officials such as UNHCR chief Filippo Grandi, and refugees themselves. Above all, most refugees state clearly that they want to

return home as soon as possible. A new refugee strategy is in order for today's refugees, who are “overwhelmingly fleeing mass disorder rather than state persecution,” according to Oxford economist Paul Collier, who recommends that refugees live in a “haven that is proximate, so that it is easy to reach and from which it is easy to return once a conflict ends.”

A development-based policy (rather than a resettlement-based one) could give millions autonomy and opportunity and render them better equipped to rebuild their post-war countries. UNHCR is a humanitarian agency rather than an organization with economic competence, and it is not equipped to meet the true needs of refugees. That would explain why 90 percent of refugees “ignore it,” according to Collier, and choose not to stay in camps. Refugees’ “top priority is not food and shelter,” Collier said in a recent interview. “If you're going to be a refugee for some years, your top priority is the ability to earn a living.” Economic agencies such as the World Bank, various NGOs, and businesses—which are far better equipped to provide training and job opportunities—should step in.

The United States is the world's biggest donor to the UNHCR. The new administration can encourage development-based initiatives that empower refugees close to their homes and redirect some (if not most) of the U.S. funding for that purpose. Current refugee programs often fail the very people they were meant to protect. A better refugee system would put more emphasis on helping refugees where they are while working to end conflicts and eventually secure the refugees' safe return to their homelands—though this may require years of effort. It could also provide better and longer-term help to those who have no choice but to be resettled here, making sure that they integrate successfully into American culture and that their wounds (mental and physical) are largely healed.

Bottom line: Stop using the refugee-resettlement program as a political tool, a fund-raiser, or a conscience alleviator. Choosing to resettle just a few out of millions of refugees in similar circumstances is not praiseworthy. Helping refugees help themselves, whether here or there, is the right thing to do. **NR**

repeated predictions of Trump's certain demise were proved wrong. Did all his attacks work? No, and some certainly backfired. But many hit home. Had these been random, emotional broadsides, their failure rate would have been far higher, and he would have been hoist by his own petard long ago.

If impulse and emotion were driving what he targets and how he tweets, his barbs would not so often be "kill shots"—a term first applied by the ever-insightful Scott Adams—e.g., "low-energy Jeb." Moreover, the issues Trump chooses to champion would not all have consistently been shown to command public support.

One could ascribe to demagogic ego Trump's long-running feuds with journalists who have been critical of him. Alternatively, those feuds could be part of a strategy to always be on offense, to solidify an intimidating reputation that will make others think twice before tangling with him. Perhaps it is both. But the important thing to consider is that the strategy has huge utility and is intentional.

More important, were his vanity in charge, we wouldn't see Trump repeatedly reverse tone with neck-whipping speed when it suits his purpose to pivot from aggressive attack to gracious conciliation.

These are clues that his bravado and bluster are an act. Trump has learned that intimidation, misdirection, controlling the conversation, graciousness, and conciliation all have their uses.

If, despite appearances, what drives the tweeter in chief is not uncontrolled emotional impulses and self-gratification, what is it?

Try calculated persuasion—done to manage his brand, manipulate the media, and maneuver the conversation, all with one goal: to win. The benchmarks for a win, his promises to the American people, were laid out in his inaugural address.

Integral to winning is Trump's embrace of new technology to directly communicate with the public and show that the mainstream media no longer control the narrative—he does. The old standard-bearers of journalism flung everything they could at him and were shocked to see that he fed on it, fed on them, and grew stronger. Expect Trump to continue during his presidency to rely on many of the tactics that served him so well in the campaign.

On a scale far different from that of any past president, President Trump will

work to control the conversation and speak directly to voters. He'll do so, first, by telling us preemptively what will happen, and then claiming credit when his predictions are borne out. Trump is a master at framing stories before they happen, as he so successfully did with media bias, terrorism, the immigration crisis, and Brexit. Recall that during the campaign, Trump was the only candidate to provide a list of potential Supreme Court nominees and to promise to pick from the list. Then he did just that, and now he can say, "See, I did what I said I would do." Or consider his labeling of the media as dishonest. When they prove him right, people see it, and he takes credit for pegging them accurately. Trump knows that when people are looking for something, they are more likely to see it, or see its absence. When he frames it for them, they'll see it from his perspective.

Trump will use Twitter and other social media proactively more than reactively in the future. He will now have the awesome resources of the presidency at his disposal to amplify everything he does and says, and not only will he use Twitter to punch back at his critics in the media, but he will also use it to

punch preemptively, and, more than anything else, to reward, as with this tweeted praise: "Miami-Dade Mayor drops sanctuary policy. Right decision. Strong!!" With the right amount of carrots, and the knowledge of a very powerful stick, management by tweet can be most effective.

Trump has said he will keep his own Twitter account, and therefore his own audience, as president. We can expect that he will use every means to bypass the usual media filters, occasionally even calling in to TV and radio shows and thereby avoiding editing and interpretation. He will tell the American people that they don't need the biased elites and pundits telling them "what Trump meant."

Rather, he will let Americans themselves interpret what he says. He will use local and targeted media in areas of the country where his most loyal constituents live, and he'll rely less on the urban, liberal media outlets that he perceives have a history of bias against him or don't represent the views of all Americans. After all, why empower "the opposition"?

Trump will communicate at lightning speed and with high frequency. While the media, dotting their "i"s, crossing their

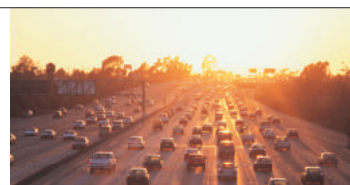
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“t”s, and defending against “fake news,” respond more slowly, Trump will already be on to the next thing. He’ll be entrepreneurial, action-oriented, and constantly testing which versions of his message work best. Media are already trying to slow him down by expressing concern over a potential hacking of his Twitter account and the inherent security risks of a president’s communicating important issues seemingly impulsively on social media. In response, expect President Trump to just go . . . faster!

Trump knows that what matters most is not policy but what people see with their own eyes, in their own neighborhoods and lives. Trump will use storytelling, and we will see him highlight lots of examples of people positively affected by his presidency.

One of the things they should expect to see, and see a lot, is Trump doubling down. We saw it during the campaign. He never backed off from a controversy and often ratcheted them up. We saw it more recently with his refusal to dial back rhetoric about making Mexico pay for a wall on its border, even to the point of scuttling a planned summit with Mexico. And we are even seeing it preemptively, as in Trump’s saying that he’d be fine with the Senate’s using the “nuclear option” if needed to get Neil Gorsuch confirmed as a Supreme Court justice. This refusal to back down is one more way of conveying that he will do what he says he’ll do, and normal Washington impediments won’t stop him.

Finally, the Left and the media will continue to portray Trump’s behavior as chaotic and outrageous. Trump in turn is already using their own arguments against them, describing as outrageous the Democrats’ theatrical obstruction of his nominees. Who will win this fight? People will tire of the perpetual outrage from the media and progressives. They will see Trump’s actions as Trump being Trump—which is what they are. How outrageous is something when it happens all the time? We can see the Left’s fear of the public’s acceptance of Trump by their aggressive effort to fight his “normalization.” They will fail, not least because the more they discuss him, the more “normal” he will become.

Either Trump is the luckiest SOB on the planet to have achieved what he has, or there is a method in his madness. My money is on the latter. **NR**

Industrial Policy by Tweet

A novel use of the bully pulpit

BY ROBERT D. ATKINSON

AMONG the most controversial uses that President Donald Trump has found for the bully pulpit, at least in the eyes of free-market advocates and believers in Washington’s pro-trade consensus, has been to hector individual companies into keeping jobs in the United States. Indeed, in what appears to be a wholesale rejection of the economic principle of “comparative advantage,” which holds that countries should specialize in whatever they’re best at and not worry about the rest, President Trump insists that companies must use U.S. labor if they want to sell their products to U.S. customers.

As with much else he has done, the president has telegraphed his policy intentions on Twitter, as when he trumpeted, “I want new plants to be built here for cars sold here!” And woe betide any company that announces plans to build a factory outside the U.S., for retribution on Twitter will be swift, as Toyota found out when Trump tweeted, “Toyota Motor said will build a new plant in Baja, Mexico, to build Corolla cars for U.S. NO WAY! Build plant in U.S. or pay big border tax.” Ford evidently heard that message loud and clear, and in response Trump tweeted, “Thank you to Ford for scrapping a new plant in Mexico and creating 700 new jobs in the U.S. This is just the beginning—much more to follow.”

All of which raises the question: Does Trump’s industrial activism herald a new kind of economic patriotism (albeit forced) that will be good for the economy, or is it instead a kind of banana-republic manipulation that will lead to misallocation of resources, a lower standard of living for Americans, and less globally competitive U.S. companies?

Before we answer that, we need to go back to the year 2001, when China joined

the World Trade Organization (WTO). In the 1990s, things were pretty good: Real median wages grew 6 percent, and while manufacturing employment declined, it did so by a relatively small 2.9 percent. Hopes were high that the world was entering a new era of turbo-charged growth powered by China’s admittance into the global trading system. President Clinton called China’s accession to the WTO “a hundred-to-nothing deal for America when it comes to the economic consequences,” while George W. Bush promised it would “narrow our trade deficit with China.”

But it very quickly became clear that, as H. Ross Perot famously said about the North American Free Trade Agreement, China’s WTO entry actually would create “a giant sucking sound” as U.S. manufacturing jobs whooshed away.

Even before the ink on the WTO agreement was dry, consulting firms sounded the call: If a company’s CEO was not moving a significant share of jobs to China, then it was time for him to find a new job himself. Emblematic was the assessment of Boston Consulting Group (BCG) that, “for more than a decade, ‘Made in China’ has been a compelling sourcing option. Today, in almost every industry, it is becoming an imperative.” It advised its client CEOs that “the question is not ‘Why outsource to LCCs [low-cost countries]?’ but ‘Why not?’”

Sure, some workers might lose their jobs (as about 20 percent of U.S. manufacturing workers in the 2000s lost their jobs owing to trade), but the Washington elite told us that the U.S. economy would gain. They were wrong, though. Recent studies have shown quite clearly that, far from opening its doors to the world, China has been surreptitiously hauling in as much foreign production as possible through a deep embrace of mercantilist industrial policies (e.g., currency manipulation, standards manipulation, export subsidies, and other policies designed to restrict imports and boost exports) that have severely wounded the U.S. economy. MIT economist David Autor estimates that 2.4 million U.S. manufacturing jobs have been lost to Chinese-import competition since China joined the WTO, five times more than all the manufacturing jobs lost in the 1990s. Rob Scott (of the Economic Policy Institute) and the Information Technology and Innovation Foundation have found similar impacts.

Mr. Atkinson is the president of the Information Technology and Innovation Foundation.

So this gets us back to President Trump's jawboning. Given the damage done by the mercantilist-inspired movement of U.S. jobs, is he right to be the demander in chief, threatening recalcitrant CEOs with Twitter retribution or worse?

There are several reasons why the U.S. government should indeed apply some form of countervailing pressure against the offshoring surge. First, the study of economics is not nearly as pure as economists often imagine it to be; economics is really about "political economy," in which markets and politics are intertwined. To wit: Even if one insists that offshoring has been welfare-enhancing (e.g., expanded per capita GDP), there is simply no denying that it has produced considerable blowback among people who don't live and work in ivory towers. We all saw that on November 8. Even BCG acknowledged that this was a risk, writing that, "as more companies discover the advantages of manufacturing in China, the impact on Western jobs will grow, making it an increasingly potent political issue." No kidding. So now the pendulum may very well swing too far toward the protectionist side. A little jawboning rather than cheerleading in the 2000s might have kept us from the political conundrum we face now, in which it's harder to adopt trade-expanding policies such as the Trans-Pacific Partnership agreement.

Second, it was one thing to support global markets and free trade, but it was unforgivable to put the pedal to the metal without calling for complementary policies to ensure that the process unfolded in an above-board fashion. Where was the call to get tough with foreign innovation mercantilism (i.e., policies, such as forced technology transfer and intellectual-property theft, designed to grow a nation's innovation industries) that artificially spurred offshoring and obstructed U.S. exports? Where was the call for a national competitiveness agenda, starting with fixing the broken corporate tax code, which imposes the highest statutory rate in the Organization for Economic Co-operation and Development (OECD)? While many Republican and some Democratic elected officials did call for corporate-tax reform, the trade community was largely silent, in part because not only did they deny that jobs were being lost



A vast Chinese factory

because of China's underhanded industrial practices, but they also hid from the fact that America was even in economic competition with other nations in the first place.

Third, much of the acceptance of offshoring came from a deep-seated but simplistic belief that the economy automatically maintains equilibrium between supply and demand and that any attempt to modify this balance leads to disequilibrium. But as economist Elvio Accinelli finds, economies can be in equilibrium with either a high level of innovation and high skills, or a low level of both. The latter alternative creates a "poverty trap." In other words, if there are not enough skilled workers, then firms will not adopt advanced technology; and similarly, if firms don't adopt advanced technologies, then workers won't seek out the skills needed to use these technologies. Thus, when China emerged as a global player, there could have been two market responses: the one that happened (i.e., companies decided they had no choice but to move production to China), or an alternative of increasing investment in machinery and worker skills to compete with China by raising productivity. Most U.S. companies' first response was to move, partly because of relentless pressure from investors to meet unforgiving quarterly earnings targets. But that is not the prevailing culture everywhere. I once asked a group of Austrian CEOs why they didn't move as

much production to China as U.S. companies did. They responded that the first thing they did was call in their engineers to see whether they could restructure the product or manufacturing process to do the work economically in Austria. Only if that wouldn't have worked did they move jobs overseas. When I asked what would happen if they moved them without taking that step, their response was revealing: "We would be shunned socially."

We will have to watch carefully to determine whether Trump's hectoring is a constructive form of social pressure to get companies to take a deep breath before offshoring—to look first to their engineers rather than to their accountants—or instead is just a blunt instrument of undifferentiated protectionism. If all Trump does is fire tweets at CEOs to shame them, that won't be enough to restore American competitiveness. The president should instead look to the Conservative-party governments of David Cameron and Theresa May in the U.K. for a model: They have lowered corporate taxes, expanded government funding for industry-led R&D partnerships, invested to boost worker skills, expanded export financing, and embraced other steps appropriate to a well-devised industrial strategy. Ultimately, a bit of jawboning could be just what the doctor ordered, as long as it's coupled with policies to help American companies improve their productivity and competitiveness.

NR

Permanent February

Some personal thoughts on the 'Blacksonian'

BY JAY NORDLINGER

WHEN I first heard about it, I said, “Oh, great: segregation on the Mall. A permanent February.” As you might guess, I wasn’t very happy about it. What was I talking about? The coming National Museum of African American History and Culture, to be part of the Smithsonian Institution, ensconced on the National Mall.

There was already a National Museum of American History. And if black Americans aren’t part and parcel of this history, who is? Betsy Ross, Audie Murphy, and a few select others?

As for “February,” I was talking about Black History Month, which has always gotten my goat. It gets Morgan Freeman’s, too. In a controversial interview with Mike Wallace in 2005, the actor called Black History Month “ridiculous.” He also said, “Black history is American history.”

It is also a rich field, black-American history. Rich enough and distinctive enough to justify a separate museum? A separate museum in America’s Backyard (as the Mall is called)?

I was worried about the furtherance—indeed, the enshrining—of identity politics, a national curse. I was also worried about the furtherance and enshrining of the grievance culture, another curse. Americans are constantly flicking the scabs off wounds. “Let’s flick the scab off that wound,” President Nixon would say, when he wanted to reopen a grievance, for some political purpose.

There is a difference between clarity about wrongs, past and present, and scab-flicking. Happy is he who adopts the former and avoids the latter.

Here was another concern: If you have a separate museum for black Americans, what about other racial or ethnic groups? Or religious groups? A Mormon museum would be interesting, wouldn’t it? You can envision a proliferation of museums.

“Everybody wants to get into the act,” Jimmy Durante used to say.

(The Smithsonian has a National Museum of the American Indian, but that is another story. Another essay, perhaps.)

I am aware that I had an unusual upbringing, for a white kid. I was steeped in black history and black culture. Many years ago, a literary agent suggested that I write a memoir called “Growing Up Black.”

In my school system, we heard at least as much about the Edmund Pettus Bridge as we did about the *Mayflower*. I’m pretty sure we heard more about John Lewis than about John Winthrop. I’m not sure that Audie Murphy’s name came up. I have joked that, every year from the seventh grade through grad school, I was assigned either *Black Boy* or *Native Son*. (Books by Richard Wright.) I was never assigned *Hamlet*.

I am not complaining, necessarily: I liked all this, and regarded it as important.

At my university, there was a dorm that had a lounge for black students only. (At least it was this way in practice.) We’re talking about the Angela Davis Lounge. I’m not sure which was worse: a segregated lounge or one named after Gus Hall’s running mate. In this period, she was the vice-presidential nominee of the Communist party. Twice. Had black Americans struggled, bled, and died so that we could celebrate this darling of the Soviet bloc?

E pluribus unum—“Out of many, one”—are three of the most vital words in the American creed. I wish that more of us took them to heart. I wish the integrationist instinct were stronger and the tribal instinct weaker. I also remember, “If wishes were horses, beggars would ride.” A great many people prize their racial or ethnic identity. This may be especially true of people whose forebears were persecuted. So, here we are.

Having been established by Congress in 2003, the National Museum of African American History and Culture opened on September 24, 2016. That name is a mouthful, by the way, and the acronym is awkward: “NMAAHC.” A lot of people just say “the Blacksonian.”

President Obama presided over the opening ceremony, which featured a remarkable woman: Ruth Bonner, 99 years old. She is the daughter of a man

born a slave. On this opening day, she rang a bell.

The building is distinctive on the Mall: an inverted pyramid, in bronze. The corona is meant to evoke the Yoruban culture of West Africa.

I paid a visit on a bright February day. (A February visit to a February museum?) The museum is a stone’s throw from the Washington Monument and an even shorter throw from the National Museum of American History. As I looked at the two museums, I thought of a word: *apartheid*. In Afrikaans, it means “apartness.” I also thought of a phrase out of the American past: “separate but equal.”

The Blacksonian is spiffy, having that new-car smell. It will get dingy, like all material things, but for now it is pristine. The atmosphere on this day is almost festive. The majority of the visitors are black, and the majority of *those* are students. To get to the history galleries, you have to take a large elevator downstairs. In anticipation of what we will see—and possibly nervous—a young man jokes to his friends, “I ain’t pickin’ no cotton.”

Once downstairs, we enter a dark room, where there is a piece of timber and an iron ballast. These are from the *São José*, a slave ship. In another room, there are shackles. A woman says to a boy not more than three, “Do you know what those are? They’re called ‘shackles.’ They were put on people’s wrists and ankles, to control them.” Is the boy too young for that lesson? I tend to think so, but maybe I’m wrong.

The museum points out the paradox of the American Founding: a republic devoted to liberty, which held slaves. On the wall is a quotation from Frederick Douglass, to wit, “Liberty must either cut the throat of slavery or slavery would cut the throat of liberty.” One or the other.

There are many interpretations of history—American and other history—and you can’t enshrine them all on the National Mall. Unless you perform an impressive balancing act, you can’t enshrine both Forrest McDonald (the late conservative) and Howard Zinn (the late leftist). So, who gets enshrined?

Also, what artifacts do you include? This museum has almost 37,000 of them. Nat Turner’s Bible, anyone could understand. But the handcuffs



The National Museum of African American History and Culture

used on Professor Henry Louis Gates when he was arrested in 2009? (President Obama helped make this arrest a cause célèbre.) Really?

The more recent the history becomes, the more tendentious, or disputable, the museum gets. I suppose this is natural. I consider the museum's treatment of the Black Panthers a disgrace. They are utterly whitewashed, pardon the expression. They are portrayed as extra-bold civil-rights activists and social-welfare providers. The Panthers "quickly came into conflict with the police and the FBI," says the museum. Funny how that happens when you kidnap, rape, and murder.

We see a prominent picture of Anita Hill. She is testifying against Clarence Thomas, accusing him of sexual harassment. That is all we know of Justice Thomas, from the Blacksonian. (Conservatives are making this a cause célèbre, or trying to.)

Yet there are sections of the museum that are less tendentious, less disputable, and pure fun. Chuck Berry's 1973 convertible Cadillac, in candy-apple red? Sweet. In a section on fashion, George C. Wolfe, a playwright and director, is quoted: "God created black people and black people created style." This is a permissible boast, I think. But I can hear Italians, from the Renaissance onward, saying, "Huh? Seriously?"

The classical-music section omits William Grant Still, which I find odd. He is probably the most famous black-American classical composer (unless we count Scott Joplin as classical, for his opera *Treemonisha* among other things). It *does* include George Walker, who happens to be 94 and living in New Jersey. I got an e-mail from him a couple of years ago, in response to something I had written.

A group of little kids are sitting on a bench, having a rest. They are black. Their teacher, or guide, is white: a nice white lady. "What has been your favorite thing about the museum so far?" she asks. One boy says, "Army!" Another boy agrees, "Army!" The lady says, "Oh, you mean learning about the African-American men and women who have served in the armed forces?" The boys look a little confused, and say again, "Army!"

I love it. You can't stop boys from being boys, no matter what.

In huge letters on a wall, there is a statement from James Baldwin: "The great force of history comes from the fact that we carry it within us, are unconsciously controlled by it. . . . History is literally present in all that we do." That sentiment is very popular, and I don't believe it. I also agree with Thomas Sowell that the phrase "legacy of slavery" is one of the most spe-

cious and harmful in America today. It covers a multitude of sins, present ones—for which distant slavery may be a mere scapegoat.

I think I have greater sympathy with Henry Ford—"History is bunk"—than I do with Baldwin.

Yet I should not be too breezy. And I recognize that it can be hard, if not impossible, to slip into other people's skin. Let me give you a lesson from Sunday school, a few weeks ago.

I was teaching the Bible, as one does, and my sole pupil that morning was a little girl whose parents came from India. With a look of concern on her face, she said, "Does dark mean bad?" For a second, I was stuck for words. Then I muttered something about how people have long feared the night and waited for the break of day. My pupil was mollified, but not 100 percent satisfied. I could tell.

All day long, I could say that "dark" is merely metaphorical. But if I had dark skin—would I be so metaphor-friendly?

Whether we wished for its birth or not, the Blacksonian has been born and it is here to stay, plonked prominently on the National Mall. It is, in many respects, a wonderful museum, and I hope it will do some good. I also hope that America will not die from Balkanization, which is encouraged, in ways subtle and gross, day after day.

NR



Text

Progressivism in the Boardroom

A class and its interests

BY KEVIN D. WILLIAMSON

THE Organization Man, whom we first met in 1956, is still very much with us. And his eccentric career since that time partly answers a question that mystifies many contemporary conservatives: Given that progressives profess to hate corporations, why are our corporate leaders so progressive? It is easy to understand their taking a self-interested stand against the Trump administration over things such as the H-1B program and visa waivers, which interfere with their access to workers and customers, respectively. But 130 corporate leaders—including the CEOs of American Airlines and Bank of America—getting together to come down on North Carolina over public-bathroom rules that annoy transgender activists? Together with business leaders who have no presence in North Carolina and nothing to do with the state or its politics?

Is it only cravenness—or something more?

In the progressive lexicon, the word “corporation” is practically a synonym for “evil.” Corporations, in the progressive view, are so stoned on greed and ripped on ruthlessness that they present an existential threat to democracy as we know it. When the Left flies into a mad rage about . . . whatever, the

black-bloc terrorists don’t burn down the tax office or the police station: They smash the windows of a Starbucks, never mind CEO Howard Schultz’s impeccably lefty credentials.

Weird thing, though: With the exception of a few big shiny targets such as Koch Industries (the nation’s second-largest privately held concern, behind Cargill) and Walmart (the nation’s largest private employer), the Left’s corporate enemies list is dominated by relatively modest concerns: Chick-fil-A, which, in spite of its recent growth spurt, is only a fraction of the size of McDonald’s or YUM Brands; Hobby Lobby, which is not even numbered among the hundred largest private U.S. companies; Waffle House, a regional purveyor of mediocre grits and a benefactor of Georgia Republicans. Carl’s Jr. was founded by a daily communicant and Knight of Malta, a man who had some not-very-progressive opinions about gay rights. But even in its new role as part of a larger corporate enterprise (the former CEO of which, Andrew Puzder, has been nominated for secretary of labor), the poor man’s answer to In-N-Out is not exactly in a position to inflict ultramontane Catholicism on the world at large, though the idea of a California Classic Double Inquisition with Cheese is not without charm.

Far from being agents of reaction, our corporate giants have for decades been giving progressives a great deal to celebrate. Disney, despite its popular reputation for hidebound wholesome-ness, has long been a leader on gay rights, much to the dismay of a certain stripe of conservative. Walmart, one of the Left's great corporate villains, has barred Confederate-flag merchandise from its stores in a sop to progressive critics, and its much-publicized sustainability agenda is more than sentiment: Among other things, it has invested \$100 million in economic-mobility programs and doubled the fuel efficiency of its vehicle fleet over ten years. Individual members of the Walton clan engage in philanthropy of a distinctly progressive bent.

In fact, just going down the list of largest U.S. companies (by market capitalization) and considering each firm's public political activism does a great deal to demolish the myth of the conservative corporate agenda. Top ten: 1) Apple's CEO, Tim Cook, is an up-and-down-the-line progressive who has been a vociferous critic of religious-liberty laws in Indiana and elsewhere that many like-minded people consider a back door to anti-gay discrimination. 2) When protesters descended on SFO to protest President Donald Trump's executive order on immigration, one of the well-heeled gentlemen leading them was Google founder Sergey Brin, and Google employees were the second-largest corporate donor bloc to President Barack Obama's reelection campaign. 3) Microsoft founder Bill Gates is a generous funder of programs dedicated to what is euphemistically known as "family planning." 4) Berkshire Hathaway's principal, Warren Buffett, is a close associate of Barack Obama's and an energetic advocate of redistributive tax increases on high-income taxpayers. 5) Amazon's Jeff Bezos put up \$2.5 million of his own money for a Washington State gay-marriage initiative. 6) Facebook's Mark Zuckerberg has pushed for liberal immigration-reform measures, while Facebook cofounder Dustin Moskovitz pledged \$20 million to support Hillary Rodham Clinton and other Democrats in 2016. 7) Exxon, as an oil company, may be something of a hate totem among progressives, but it has spent big—billions big—on renewables and global social programs. 8) Johnson & Johnson's health-care policy shop is run by Liz Fowler, one of the architects of Obamacare and a former special assistant to President Obama. 9) The two largest recipients of JPMorgan cash in 2016 were Hillary Rodham Clinton and the Democratic National Committee, and the bank's billionaire chairman, Jamie Dimon, is a high-profile supporter of Democratic politicians including Barack Obama and reportedly rejected an offer from President Trump to serve as Treasury secretary. 10) Wells Fargo employees followed JPMorgan's example and donated \$7.36 to Mrs. Clinton for every \$1 they gave to Trump, and the recently troubled bank has sponsored events for the Human Rights Campaign, GLAAD, and other gay-rights groups, as well as donated to local Planned Parenthood franchises.

Even the hated Koch brothers are pro-choice, pro-gay, and pro-amnesty.

You may see the occasional Tom Monaghan or Phil Anschutz, but, on balance, U.S. corporate activism is overwhelmingly progressive. Why?

For one thing, conservatives are cheap dates. You do not have to convince the readers of NATIONAL REVIEW or Republicans in Valparaiso that American business is in general a force for good in the world. But if you are, e.g., Exxon, you might feel the need to convince certain people, young and idealistic and maybe a lit-

tle stupid in spite of their expensive educations, that you are not so bad after all, and that you are spending mucho shmundo "turning algae into biofuel," in the words of one Exxon advertisement, and combating malaria and doing other nice things. All of that is true, and Exxon makes sure people know it. The professional activists may sneer and scoff, but they are not the audience.

Even if it were only or mainly a matter of publicity (and it isn't—Shell, among other oil majors, is putting real money into renewables and alternative energy), big companies such as Exxon and Apple would still have a very strong incentive to engage in progressive activism rather than conservative activism.

For one thing, there is a kind of moral asymmetry at work: Conservatives may roll their eyes a little bit at promises to build windmills so efficient that we'll cease needing coal and oil, but progressives (at least a fair portion of them) believe that using fossil fuels may very well end human civilization. The nation's F-150 drivers are not going to organize a march on Chevron's headquarters if it puts a billion bucks into biofuels, but the nation's Subaru drivers might very well do so if it doesn't.

The same asymmetry characterizes the so-called social issues. The Left will see to it that Brendan Eich is driven out of his position at Mozilla for donating to an organization opposed to gay marriage, but the Right will not see to it that Tim Cook is driven out of his position for supporting gay marriage. For the Right, the question of gay marriage is an important moral and political disagreement, but for the Left the exclusion of homosexual couples from the legal institution of marriage was something akin to Jim Crow, and support for it isn't erroneous, it is wicked. Even those on the right who proclaim that they regard the question of homosexual relationships as a national moral emergency do not behave as though they really believe it: Remember that boycott of Disney theme parks launched with great fanfare by the American Family Association, Focus on the Family, and the Southern Baptist Convention back in 1996? Nothing happened, because conservative parents are not telling their toddlers that they cannot go to Disney World because the people who run the park are too nice to that funny blonde lady who has the talk show and dances in the aisles with her audience.

The issues that conservatives tend to see as life-and-death issues are actual life-and-death issues, abortion prominent among them. But even among right-leaning corporate types, pro-life social conservatism is a distinctly minority inclination.

And that is significant, because a great deal of corporate activism is CEO-driven rather than shareholder-driven or directly rooted in the business interests of the firm. Like Wall Street bankers, who may not like their tax bills or Dodd-Frank but who tend in the main to be socially liberal Democrats, the CEOs of major U.S. corporations are, among other things, members of a discrete class. The graduates of ten colleges accounted for nearly half of the *Fortune* 500 CEOs in 2012; one in seven of them went to one school: Harvard. A handful of metros in California, Texas, and New York account for a third of Fortune 1000 headquarters—and there are 17 Fortune 1000 companies in one zip code in Houston. Unsurprisingly, people with similar backgrounds, similar experiences, and similar occupations tend to see the world in a similar way. "A new breed of chief executive is emerging—the CEO activist," wrote Leslie Gaines-Ross, of Weber Shandwick, a global PR giant that advises Microsoft and had the unenviable task of working with Centers for Medicare and Medicaid Services on the ACA rollout. "A handful of CEOs

are standing up and standing out on some of the most polarizing issues of the day, from climate change and gun control, to race relations and same-sex marriage.” Hence chief executives’ joining en masse the great choir of hysteria on the question of toilet law in the Tar Heel State.

Whereas the ancient corporate practice was to decline to take a public position on anything not related to their businesses, contemporary CEOs feel obliged to act as public intellectuals as well as business managers. Many of them are genuine intellectuals: Gates, PepsiCo’s Indra Nooyi, Goldman Sachs’s Lloyd Blankfein. And, like Hollywood celebrities, almost all of them are effectively above money.

Some of them are rock-star entrepreneurs. But most of them are variations on the Organization Man, veterans of MBA programs, management consultancies, financial firms, and 10,000 corporate-strategy meetings. If you have not read it, spare a moment for William H. Whyte’s Cold War classic. In the 1950s, Whyte, a writer for *Fortune*, interviewed dozens of important CEOs and found that they mostly rejected the ethos of rugged individualism in favor of a more collectivist view of the world. The capitalists were not much interested in defending the culture of capitalism. What he found was that the psychological and operational mechanics of large corporations were much like those of other large organizations, including government agencies, and that American CEOs believed, as they had believed since at least the time of Frederick Winslow Taylor and his 19th-century cult of “scientific management,” that expertise deployed through bureaucracy could impose *rationality* on such unruly social entities as free markets, culture, family, and sexuality. The supplanting of spontaneous order with political discipline is the essence of progressivism, then and now.

It is hardly a new idea. The old robber barons were far from being free-enterprise men: J. P. Morgan and Andrew Carnegie, like many businessmen of their generation, believed strongly in state-directed collusion among firms (they’d have said “coordination”) to avoid “destructive competition.” You can draw a straight intellectual line from their thinking to Barack Obama’s views about state-directed “investments” in alternative energy or medical research.

It is not difficult to see the temptations of that approach from the point of view of a Bill Gates or a Warren Buffett: The decisions they have made for themselves have turned out well, so why not empower them, or men like them, to make decisions for other people, too? They may even be naïve or arrogant enough to believe that their elevated stations in life have liberated them from self-interest.

Populists of the Trump variety and the Sanders variety (who are not in fact as different as they seem) are not wrong to see these corporate cosmopolitans as members of a separate, distinct, and *thriving* class with economic and social interests of its own. Those interests overlap only incidentally and occasionally with those of movement conservatives—and overlap even less as the new nationalist-populist strain in the Republican party comes to dominate the debate on questions such as trade and immigration. Under attack from both the right and the left, free enterprise and free trade increasingly are ideas without a party. As William H. Whyte discovered back in 1956, the capitalists are not prepared to offer an intellectual defense of capitalism or of classical liberalism. They believe in something else: the managers’ dream of command and control.

NR

Treating Opioid Addiction

Never before have so many tools been available

Text

BY SALLY SATEL

IN Dandridge, Tenn., 16 women sat in a jailhouse cinderblock classroom. Clad in black-and-white striped uniforms reminiscent of those worn by 1950s chain gangs, the women were about to hear a presentation that was anything but old-fashioned.

“We’re happy to see you,” Sherrie Montgomery, the director of the Jefferson County Health Department, told the women, according to the *Tennessean*’s Anita Wadhvani. “We want you to relax, and we want you to listen,” Montgomery continued. She then showed the women, some of whom had been arrested on drug-related charges, *Born Hurting*, a video on the effects of a mother’s opioid addiction on her newborn.

Dandridge, like thousands of other communities, has seen a wave of infants suffering from neonatal “addiction”—babies who are physiologically dependent on opioids, though not technically addicted, and who require careful weaning with small doses of methadone, an anti-addiction drug. After the video, Montgomery led a pointed discussion about the benefits of birth control. She made a lot of sense in this context: If you don’t get pregnant after you’re released, you won’t have a drug-addicted baby.

Neonatal addiction is just one facet of America’s opioid crisis, which now claims the lives of between three and four people every hour. The term “opioid” refers to narcotic prescription medications, such as oxycodone (the narcotic in Percocet and OxyContin) and hydrocodone (Vicodin), as well as heroin and synthetic drugs such as fentanyl, which is 25 to 50 times as potent as heroin. In 2015, more than 35,000 Americans died of overdoses (13,000 from heroin, 9,600 from synthetic opioids, and 12,700 from prescription pills)—nearly equal to the number of deaths from car crashes.

Naturally, politicians and health professionals are calling for more treatment. Last year, President Obama urged action, and Congress allocated \$1.5 billion for treatment expansion and other services. President Trump recently told police chiefs and sheriffs that “prisons should not be a substitute for treatment.” “We will fight to increase access to life-saving treatment to battle the addiction to drugs,” the president said, “which is afflicting our nation like never, ever before.”

As an addiction psychiatrist, I applaud these efforts. I also share the anxious concerns over what repeal and replacement of Obamacare might mean for addiction-treatment coverage. At the same time, I think that politicians and public-health experts have

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overlooked a major impediment to the promise of treatment: how hard it is to get a patient to seek treatment and stay committed to kicking a drug habit.

While the situation is extremely serious, there is hope: a developing synergy of tools ranging from new anti-addiction medications to newly developed treatment methods (including those conducted within the criminal-justice system, e.g., in drug courts) to a new openness to involuntary civil commitment in the most serious cases. Call it all a necessary benign paternalism or a carrot-and-stick approach to addressing America's opioid crisis.

How did we get here? In the mid and late 1990s, campaigns by patient advocates and some clinicians for more-liberal use of narcotic painkillers in treating pain gained ground. This led to doctors' over-prescribing long-acting, high-dose narcotics in large quantities to treat nasty toothaches and minor injuries that required only a few days of pain relief. Aggressive marketing by narcotic manufacturers abetted this trend.

As more opiate medications entered circulation, more opportunities arose for patients—and especially non-patients—to abuse them. And as opioid-prescribing increased, so did deaths from these drugs.

The average abuser of prescription painkillers is not a person being treated for pain (though, to be sure, some patients do get addicted). The average “non-medical user,” as epidemiologists

call abusers, typically obtains pills from friends, shady doctors, or street sellers. He may “doctor shop” in search of a compliant prescriber or help himself to the medicine chests of unsuspecting relatives suffering from cancer, who often receive large quantities of opioids for their pain.

Heroin use had been simmering for many years. But it began to grow in the mid 2000s and jumped sharply over the last three to five years owing to the combination of an accelerated influx of heroin from Mexico around 2007 or 2008 and the heavy crackdown on illegal sale and abuse of painkillers by law-enforcement and health professionals that began in earnest around 2010. Subsequently, heroin-related overdose deaths surged threefold, in large part because the drug was laced with the much stronger fentanyl and fentanyl analogues that are now mixed undetectably with heroin. (Notably, while many current heroin users begin their use of opioids with painkillers they obtained outside the medical system, only a small subset of such painkiller abusers progress to heroin.)

At New Jersey's RWJBarnabas health clinic in West Orange, 200 patients who had had their overdoses reversed by Narcan were offered treatment. (Narcan, or naloxone, is the fast-acting antidote that works by shoving drug molecules off receptors in the brainstem and jump-starting a person's breathing.) Over two years, only two of them agreed to enter detox programs, which precede actual treatment and

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rehabilitation, and both dropped out within a couple of days. In Camden County, a program offered revived patients \$15,000 vouchers for detox and intensive outpatient treatment. Only nine of the nearly 50 patients who had been offered the vouchers since October 2015 entered treatment—and four of them quickly dropped out.

Those who do enter treatment will likely receive anti-addiction medication. Buprenorphine, or “bupe,” is most commonly prescribed. Bupe usually comes as a film strip that dissolves under the tongue. Like methadone, the classic addiction medication, bupe is itself an opioid. That means it can produce euphoria (though less effectively than most other opioids). Bupe also prevents withdrawal symptoms and suppresses drug cravings.

Moreover, bupe’s chemical properties make it less risky than methadone if taken in excess. It can also be prescribed by any qualified physician from his office. (To qualify, doctors must take a government-sponsored eight-hour course—a good idea, by the way.) In contrast, methadone must be administered in clinics tightly regulated by the Drug Enforcement Administration (DEA). I work in such a clinic.

Bupe’s relative safety and the restrictions on methadone account for the popularity of the former. Even though the drug is in such demand, however, it can sometimes be difficult to find a doctor to prescribe it. To some extent, this is a matter of uneven

patients relapse, the plan wisely allows community doctors to refer them back to the center for stabilization.

MORE-INTENSIVE involvement with patients early in recovery is essential, but it won’t completely solve another major problem with any kind of drug treatment: dropout. Forty to 60 percent of patients leave treatment within a few months of admission. Return to drug use typically follows.

This should come as no surprise. Users have habits in every sense of the word. Over months and years, they have become conditioned to think about drugs and crave them at the first feeling of distress. That’s because opioids have helped them cope with anxiety, despair, loneliness, emptiness, boredom, and hopelessness. What’s more, addicts are not particularly good at delaying gratification. Economists would call them “steep discounters.” So when the siren call of craving hits, they often act.

The less time patients have spent in treatment, the less exposure they have had to vital recovery strategies, such as identifying the specific circumstances in which they are most vulnerable to craving and devising strategies for subduing the urge to use. Leverage to keep patients in treatment is therefore necessary. Most of the time, such leverage comes from the addict’s own life.

There is one venue in which leverage is built in: the criminal-justice system, with its accent on monitoring and accountability.

Medicaid coverage. But I see it more as a matter of physician enthusiasm. Busy primary-care doctors and psychiatrists see how challenging it is to provide good care—which includes counseling and observed urine collection—to addicted individuals on an outpatient basis.

In fairness, I should add that some of my colleagues have had great success with bupe. But they also tell me that too many of their patients continue to use illicit opioids. Bupe is also the third-most-diverted prescription opioid, after oxycodone and hydrocodone, according to the DEA—and most of that supply of bupe comes from well-meaning clinicians. Its availability is especially dangerous for people who are not already tolerant to opioids, or children, for whom a dose will be fatal.

So on the whole I’m relieved to work in a methadone clinic. Our nurses watch patients swallow the cherry-flavored liquid medication daily for at least the first few months. If a patient resumes using heroin, we can provide more-frequent counseling, do more-regular toxicology screening, and suspend any take-home doses of methadone. Such careful monitoring accounts for very low rates of diversion of methadone from clinics.

A similar system could be developed for bupe. Rhode Island hopes to develop one. It will establish “centers of excellence” around the state where Medicaid and privately insured patients needing bupe will be seen.

Staff will disburse prescriptions for a few days of medication at a time and provide counseling. As patients progress in treatment, supervision will loosen. The goal is to get patients transferred to local clinicians within six months to a year. Should

Many patients, if not most, come to treatment because someone—a spouse, boss, child, or parent—mightily twisted their arm. At the very least, such pressure gets them in the door.

Incentives provide another kind of leverage. A vast literature exists, for example, on giving patients redeemable vouchers for making progress in programs and submitting clean urine samples. The gift-card vouchers have monetary value that patients can exchange for food items, movie passes, or other goods or services that are consistent with a drug-free lifestyle.

In one incentive model, a research team from Johns Hopkins offered addicts \$10 an hour to work in a “therapeutic workplace” if they submitted clean urine. If the sample was positive or if the person refused to give a sample, he or she could not attend work or collect pay for the day. Workplace participants provided significantly more opiate-negative urine samples than controls did, worked more days, and reported higher employment income and less money spent on drugs.

Clearly, incentives make a difference. The question for policymakers and health professionals is how to most effectively provide material encouragement for addicts in cash-strapped clinics.

THERE is one venue in which leverage is built in: the criminal-justice system, with its accent on monitoring and accountability. In fact, some of the most promising treatment and rehabilitation models can be found there.

Take drug courts. There are roughly 3,000 such courts, which typically offer offenders dismissal of charges for completion of a



twelve- to 18-month treatment program. Critically, the courts impose swift, certain, and fair consequences when participants fail drug tests or commit other infractions, such as missing meetings with probation officers or skipping work-training classes. The sanctions can escalate, depending on the number of infractions committed, ranging from warnings from the judge to community service to more-intensive probation supervision to flash incarceration (temporary stays in jail of one to ten days).

These courts are more effective than conventional corrections options, such as mandatory jail time or traditional probation. According to the National Association of Drug Court Professionals, offenders whose cases are handled by drug courts are one-half to one-third less likely to return to crime or drug use than those who are monitored under typical probationary conditions. On average, nearly two-thirds of drug-court participants graduate drug-free at 18 months. What's more, if carrot-and-stick approaches are scrupulously applied and perhaps combined with anti-addiction medication, it is very possible that not every opioid addict will even need rehabilitation treatment.

The Hawaii Opportunity Probation and Enforcement program shows how sanctions such as flash incarceration and incentives alone can work, without the need for outpatient care or expensive residential treatment. It treats people addicted to the stimulant methamphetamine, an addiction for which there is no medication, and offers treatment only to those who haven't quit using after being either threatened with penalties or offered incentives. The savings from not having to pay for treating all comers mean that those who do need intense intervention get more supervision and higher-quality care.

A randomized study found that, after one year, the Hawaii program's clients were 55 percent less likely to be arrested for a new crime than were those on traditional probation, and 72 percent less likely to use drugs. They were also 61 percent less likely to

skip appointments with their supervisory officer and 53 percent less likely to have their probation revoked. Programs modeled on this approach are being adapted for other locations and are already having success in Washington, Alaska, Texas, South Dakota, and elsewhere.

The most paternalistic form of leverage is, of course, involuntary commitment. Most states have some form of involuntary substance-abuse treatment. Traditionally, such statutes aren't deployed much, but the appetite for using or refining them may be growing. In January, a New Hampshire state senator introduced a bill that would expand the state's list of mental illnesses qualifying for involuntary commitment to include "substance-use disorders" as defined by the American Psychiatric Association.

THESE approaches—incentives, drug courts, swift-certain-fair punishment, and civil commitment—will be even more effective when combined with medication. In addition to methadone or buprenorphine, both opioids, there is another addiction medication, called Vivitrol (naltrexone), that should be used more widely. Offered as a monthly injection, it is an opioid blocker, which means that if a person were to use painkillers or heroin while on Vivitrol, he would get no effect. This medication has a major role to play for people who have already been detoxified, such as inmates who will soon be released from jail.

Never before have there been so many different therapeutic elements to apply *in combination* to promote recovery. The nation saw many drug epidemics in the 20th century, and today both politicians and police chiefs are putting a strong emphasis on treatment over punishment. This is a healthy development, but it will work only if we are clear-eyed about the nature of addiction and the demands of recovery—an appreciation that inevitably leads us to the virtues of benign paternalism. **NR**

Fixing Finance, Still

Replace Dodd-Frank with something that will work

BY NICOLE GELINAS

Two weeks into his term, President Trump took on the Dodd-Frank law, President Obama's 2010 attempt to reform the financial industry. "We expect to be cutting a lot out of Dodd-Frank," the president said on February 3. The same day, he signed an executive order directing regulators to look through the nation's financial laws to determine whether they conform to several key principles he has set out, including that they must "prevent taxpayer-funded bailouts."

Trump is correct to revisit Dodd-Frank. This is a good example of his overall predicament: To right a private sector that has suffered from decades of government distortion, he must confront a deep regulatory state that is a self-contained economy of its own. The government entity that Trump has directed to revisit Dodd-Frank, the Financial Stability Oversight Council

To right a private sector that has suffered from decades of government distortion, Trump must confront a deep regulatory state that is a **self-contained economy** of its own.

(FSOC), is itself a creation of Dodd-Frank. Would its staff counsel the president to eliminate their jobs?

It will take the FSOC 120 days—four whole months—to report back to the president. Consider that FDR signed into law the Securities Act of 1933, the country's first major such law, less than three months after taking office. That much simpler law—still only 93 pages, even after decades of amendments—continues to serve the country well in preventing stock-market fraud.

Trump and his advisers are correct to intuit that Dodd-Frank did not end the "too big to fail" policy, and correct, too, to be concerned about this. Having large financial firms that are immune to marketplace discipline is bad for competition. Small and mid-sized banks are at a disadvantage, because they must comply with many of Dodd-Frank's rules and restrictions without benefiting from the investor perception that the government would bail them out.

The persistence of "too big to fail" is a lurking political and social disaster, too. Trump won office in large part because, nearly a decade after the financial crisis, voters are *still* angry

at the establishment politicians of both parties who protected investors in large financial firms even as they were oblivious to the personal cost of foreclosures and job losses.

ONE of President Obama's main purposes in signing Dodd-Frank was straightforward. The law, he said during the White House signing ceremony, would "put a stop to taxpayer bailouts once and for all." Nearly seven years later, though, we still have no evidence that the law has ended 2008-style bailouts of large financial firms, for the obvious reason that no large financial firm has failed since then.

Both commercial banks and investment banks continue to benefit from the extraordinary measures the government took after 2008. Record-low mortgage-interest rates, a key post-2008 government policy, have spurred tens of millions of people to refinance their homes or to purchase new homes, generating new fees for banks. Low interest rates have also enabled financial firms to profit from investments in government bonds and other supposedly low-risk instruments whose value goes up when rates go down.

Investment banks and brokerage firms had their most profitable year ever not in the boom before the crash, but in 2009. That year, their \$61.4 billion in earnings more than made up for the \$53.9 billion in losses they had experienced during the previous two years. They have continued to do well since.

There's another reason it's hard to judge Dodd-Frank's effectiveness. The 848-page law required regulators to write 390 new rules. Rulemaking is not just a matter of writing a couple

of lines of text, such as "Thou shalt not steal." Rather, it is a matter of soliciting tens of thousands of pages of comments from industry players and anyone else interested in commenting, and then writing up thousands of pages of legalese. As of December, the General Accounting Office notes, more than six years into the Dodd-Frank regime, regulators had issued only about 75 percent of their rules, meaning that "the full impact of the Dodd-Frank Act remains uncertain."

Even after the government has issued its rules, the outcome can remain unclear. One of Dodd-Frank's major provisions to prevent bailouts, for example, is the "Volcker rule," named after the Carter- and Reagan-era Federal Reserve chairman who suggested it. The rule, prohibiting a financial firm from making speculative short-term trades that could precipitate its failure and the government's intervention to save it, seems like it should be easy to understand. But the final Volcker rule, along with the background information that the government thinks is necessary for sophisticated financial-industry workers to understand it, is 1,089 pages—yes, longer than Dodd-Frank itself. The rule attempts to cover every conceivable scenario: What if a bank buys a financial instrument for the long term but a regulator *makes* the bank sell that instrument in the short term? Should the firm be punished?

Nicole Gelinas, a Chartered Financial Analyst charterholder, is a senior fellow at the Manhattan Institute.

The Volcker rule also falls short because it requires regulators to determine the intent of traders at financial firms, not their actions. For example: Is a broker buying a bond because he thinks a customer might want to buy it tomorrow, or because he wants to make a quick buck by selling it back on the open market tomorrow? Attorneys at the law firm Davis Polk observed in January that “the intent-based focus . . . of the Volcker Rule is a fundamental flaw; discerning intent in a complex, rapid trading environment is effectively impossible.”

The fatal flaw of the Volcker rule, though, is that it seeks to prevent firms from failing in the first place. In a healthy free-market economy, firms will inevitably fail. The government’s goal should be to prevent their failure from infecting the rest of the economy.

On that front, there are reasons to be skeptical that Dodd-Frank can help regulators avoid bailouts of critically important financial firms—reasons that can be found both in the official mechanisms laid out for those regulators in the event of such failure and in regulators’ post-2008 behavior. The main way Dodd-Frank is supposed to avoid bailouts is through something new called an “orderly-liquidation authority,” which allows the government to seize a struggling financial firm rather than allow it to go through bankruptcy.

In bankruptcy, bondholders, lenders, and other investors could recover their money only if the firm’s assets had sufficient value. In orderly-liquidation authority, by contrast, the government can seize a financial company in danger of default, pump government money into it, and run it for three years, or five years if the government informs Congress that

longer government management is necessary to preserve the company’s value or to protect the financial system’s stability. This gives the government extraordinary power to cushion the blow for investors in a failed firm. It can use taxpayer money from a Treasury-financed fund to lend to, or purchase the assets of, the afflicted company; to guarantee its assets against loss; and to assume its obligations.

Yes, even under Dodd-Frank, creditors and shareholders, eventually, are supposed to bear losses. But the government can favor some creditors over others, in its making of payments to them and other areas, if it thinks doing so is necessary “to maximize the value” of the firm’s assets. If the government cannot recoup the taxpayer money it has put into the failing firm, it can recoup it via an assessment on other large financial firms.

There is a lot wrong with this. Five years is a long time for the government to run, say, Bank of America. Because the Federal Deposit Insurance Corporation would run a failed financial firm, and because the president appoints the FDIC’s board, the president would have extraordinary control over a large part of the economy. And the government doesn’t have a good track record of figuring out what to do with the financial firms it already runs. It still hasn’t figured out what to do with Fannie Mae and Freddie Mac, the mortgage firms that it has run, under a mechanism similar to orderly-liquidation authority, for nearly a decade.

It is also not clear why the shareholders of other financial firms should have to transfer their profits to the investors in a failing firm. Such risk transfer isn’t just unfair and anti-capitalist.



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President Donald Trump signs an executive order to initiate a review of financial regulations, February 3, 2017.

It could trigger a panic if several large firms were to come under liquidation authority all at once and investors in the surviving firms were uncertain that they could bear the losses of their fallen competitors at the same time as they dealt with a struggling economy.

Orderly-liquidation authority is complicated, and we can't know how it will really work until there is an opportunity to see it in action. But there are already some indications that the government would be gentle with failing firms. Under Dodd-Frank, banks must create "living wills" to demonstrate how they could fail without harming the rest of the economy. But five big banks out of the eight that must endure such tests initially failed them last year. Wells Fargo has failed twice, the second time in December. That is, the government has decreed that, as of now, there is no way Wells Fargo could fail without unacceptably harming the rest of the economy, yet the firm still exists; the government has only told Wells Fargo that it cannot make certain acquisitions while it figures out how to pass the test.

Another problem is practical. The large financial firms are much bigger than they were before Dodd-Frank. In 2010, just as Dodd-Frank was passed, the nation's seven largest banks—each with half a trillion in assets or more—each had, on average, a 7.39 percent share of the market. By mid 2016, the seven banks were down to six, and each had, on average, a 10.52 percent market share. Such concentration is bad for competition. Dodd-Frank would also make winding down the banks harder. If the government had to seize JPMorgan Chase, to whom, exactly, would it sell the bank, or its pieces?

The good news about big banks is that they have much more capital—money available to absorb losses—than they did a decade ago. Large financial institutions' capital hovered below 7 percent of their assets, on average, before the financial crisis. Today, it is closer to 12 percent. But this isn't necessarily good news about Dodd-Frank. Before Dodd-Frank became law, the Federal Reserve and other

banking and securities regulators already had the authority to require banks to hold more capital. They didn't need complex new legislation to exercise that authority.

FIXING Dodd-Frank's too-big-to-fail shortcomings should be one of the Trump administration's top priorities in addressing financial regulation. How to go about it? First, ask Congress to repeal the Volcker rule. It is a regulatory distraction, and it perpetuates too-big-to-fail rather than confronts it. After all, if the government has failed to stop a financial firm from short-term speculation that ends in its ruin, why isn't the government also responsible for insulating investors from this failure? Unlike Obamacare, the Volcker rule will be missed by nobody if it is gone, except for all of the lawyers and compliance officers who have spent seven years working for it or against it.

Second, take a page from the House Financial Services Committee's proposed Financial Choice Act, released last year and updated in February for the Trump era. Ask Congress to repeal Dodd-Frank's orderly-liquidation authority and require large financial firms to go through the same federal bankruptcy code that other companies must. (Small depositors would keep the FDIC protection they have had since the FDR days without the need for wider bailouts of more sophisticated investors.)

Democratic members of Congress have an incentive to support these changes. In a financial crisis, they must ask themselves: Do we want Trump in charge, armed with all of the discretion that Dodd-Frank gives him to favor some financial firms and creditors over others and to run multitrillion-dollar banks for years on end under an utterly untested procedure? Or do we want the independent judiciary to oversee bankruptcies under tools and rules that worked well for decades before the politicians threw them away in favor of bailouts in the 2008 crisis?

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Sufficient unto the Day

THE TV action serial *24* has been revived. You remember that show, right? Jack Bauer running around shouting “WE’RE RUNNING OUT OF TIME” into his cell phone while harried computer experts in a dimly lit room squinted at floor plans on a monitor. Every segment ended with the sound of an enormous alarm clock being crushed repeatedly: ChangCHANK. ChangCHANK. ChangCHANK.

The first show premiered two months after 9/11 and was an odd form of comfort food for a nervous, unsettled audience. Its hero was patriotic, clear-eyed, and capable of, shall we say, improvisational persuasion when it came to national security. Sample:

Jack: TELL ME WHERE THE BOMB IS!

Sneering terrorist: Never. Your infidel president, his cabinet, and also your daughter who is involved in a seemingly unrelated subplot—all will die horribly!

Jack: THIS IS YOUR LAST CHANCE!

Terrorist (sneering): American fool! I am a soldier of God, swarthy and stubbled! I have sworn to Sheik Aroma Bin-Ladle that I will never—

Jack: (Saws off terrorist’s leg)

Terrorist (screaming): I WILL TELL YOU EVERYTHING INCLUDING MY HOTMAIL PASSWORD.

Jack: THAT’S A START! (Beats terrorist with severed leg)

It struck a nerve at the time—or, rather, salved a raw one. We knew that Jack Bauer’s secret outfit, CTU, wasn’t real. But surely the government had something like that, right? A place with lots of monitors and young people who knew how to hack into things by typing really quickly, then saying, “There’s encryption in the firewall, I’m going to inject an SQL Trojan,” and then they could access all the records of the Lebanese warlord behind the evil plot to blow things up.

The show also had the foresight to make the POTUS an African American—a new idea for some, though old-hat for those who knew from movies that Morgan Freeman was the first black president. There would be a female president later, because the producers saw Hillary the way NASA astronomers detect asteroids that won’t enter our solar system for ten years.

Oh, it was great. At first. Then it swerved into the left lane, as these things do.

The bad guys, revealed in the second half of the series, usually turned out to be a front for the League of Shadowy White Capitalists. The writers treated Jack so shabbily you expected the last season to be nothing but Jack on hold with the VA for 24 hours, trying to get painkillers for his leg.

Now it’s back. The first episode seems to reflect the new tropes of the Trump times, as if the producers saw his election months in advance. The bad hombres are Arab terrorists

who are breaking into the homes of Special Forces operatives and killing everyone in revenge for the assassination of Sheik Yemini Kriket, or someone.

You just know that every one of these guys not only is devoted to the destruction of America but is probably also overstaying a visa. The super-terrorists also want a box that has a flash drive with the names and locations of terrorist sleeper cells—which means there are agents planted all over America ready to blow things up on behalf of whatever Islamist group the writers wanted to stand in for ISIS. When the word comes down from the Top Sheik, they’ll activate the network of 25-year-old single male refugees who claimed to persecute Syrian puppy vets!

In other words—ripped from the headlines! As timely as tomorrow’s news!

Except this is *24*, and you know this isn’t what it’s really about. It may look like a terrorist plan to cripple America, but it’s really going to be about a cabal of corporate executives led by Jon Voight who want to increase drug prices.

There’s a new Jack Bauer, named Corey Hawkins; he’s an African-American spec-ops guy who’s just as brave, and also doesn’t need to eat or use the bathroom.

He’s good in the role, but he’s not having a good time. No one in TV who is defending America has a good time. Compare these characters to James Bond, who was always going to exotic locales, wooing a beautiful biochemist named Bosom DeChlorophylle while trying to find a missing aircraft carrier.

We can’t have that sort of blithe, confident, dapper national symbol anymore. Our shadowy soldiers must be dark, gritty, conflicted, anguished, and so on—and it has to slap us in the face with the wet mackerel of our bigotry. Example: There’s a powerful government figure who’s nominally Hispanic; you get the sense that the producers thought, “He’s ethnic, but he’s, you know, Jimmy Smits ethnic.”

The character—played by Jimmy Smits, as it happens—has a Muslim aide, who isn’t Huma Abedin at all, NO SIR. There’s an accusation that she attended a radical mosque and used her position to access secret documents. This happens in the second episode, so it’s possible she’ll be exonerated in the fourth but re-indicted in the 17th when it turns out she really works for fake Islamic terrorists in league with Opus Dei.

If the *24* reboot does well, the next season will have to adapt to a changing cultural landscape, and you know Hollywood will step up to the plate and tailor its product to reflect the new zeitgeist.

Hour 1: A threat is made against a brash, unconventional president by white nationalists who are furious the POTUS hasn’t banned all Muslims yet.

Hours 2–24: The hero agent sits in a café doodling on a napkin, occasionally checking Twitter to see if anything is happening, sending all the calls from CTU to voicemail. ChangCHANK. ChangCHANK. ChangCHANK.

NR

Mr. Lileks blogs at www.lileks.com.



The Long View

BY ROB LONG

"The Kellyanne Conway Show"

Episode 107: Out Like Flynn

FADE IN: INT. OFFICE—DAY

Kellyanne enters in a rush. Reince is already at his desk, typing away.

KELLYANNE: (to Reince) I cannot believe I'm late again! I have to learn not to trust that Metro! So many delays! It's like the Metro is for people who are looking for jobs, not for people who have them!

REINCE: That explains why I saw Mike Flynn walking to the Foggy Bottom station this morning.

Kellyanne gives him a look.

KELLYANNE: Oh, Reince!

REINCE: What? I saw him heading down the escalator and all I could think was, there but for the grace of The Big Mouth goes I.

The office door swings open and Mr. Bannon enters from his office.

MR. BANNON: Reince! Where's that executive order I asked for?

REINCE: The one about no Muslims allowed on television?

MR. BANNON: Yeah.

REINCE: Not doing it, Steve. Unconstitutional.

MR. BANNON: Wait. Seriously, Reince?

REINCE: Seriously, Steve.

MR. BANNON: I wish you had told me! I scratched one out last night and handed it to the big guy for review.

REINCE: Well, maybe he read it and realized it's out of bounds and didn't sign it.

Long pause.

REINCE: I'm kidding. Did we all forget what kidding is?

Mr. Bannon looks to Kellyanne.

MR. BANNON: Kellyanne! We need to get that executive order found and destroyed before you-know-who finds it and signs it.

KELLYANNE: On it, Mr. Bannon! And, I was wondering if I could have—
Mr. Bannon heads back into his office and slams the door.

KELLYANNE: (finishing)—just a few minutes of your . . . time?

REINCE: I wouldn't head in there, Kellyanne. He's in a bad mood.

KELLYANNE: I don't care! I've been here for almost six weeks and it's time I got a raise.

She stands at her desk and crosses to Mr. Bannon's office, smoothing her dress and fixing her hair as she does. She takes a deep breath, then knocks.

MR. BANNON (OS): What?

KELLYANNE: Mr. Bannon, I'd like to speak with you if I could.

MR. BANNON (OS): You can't.

KELLYANNE: Mr. Bannon, I'm coming in there!

Kellyanne crosses into Mr. Bannon's office. Donald Trump enters from the lobby doors.

DONALD TRUMP: Hi guys!

They ad-lib hellos.

DONALD TRUMP: Reince, I need to talk to you about the material you wrote for me last night. I have to say, it was a little off-color.

REINCE: (sighs) What are you talking about? It was a short speech about the Middle East.

Donald Trump produces a piece of paper and shows it to Reince.

DONALD TRUMP: What's this word?

REINCE: "Shiite."

DONALD TRUMP: Oh.

CUT TO:

INT. MR. BANNON'S OFFICE—CONTINUOUS

Kellyanne is standing in front of Mr. Bannon's desk. Mr. Bannon ignores her as he types on his typewriter. He types for a few moments without looking up.

MR. BANNON: (still typing) Kellyanne?

KELLYANNE: Yes, Mr. Bannon?

MR. BANNON: You're hovering. I hate hovering.

She sits.

MR. BANNON: Okay, now you're sitting. Don't know which I hate more, hovering or sitting.

KELLYANNE: Mr. Bannon, I've been working here for almost two months, and in that time I've done a great job. I mean, I think I have. I've appeared on news shows, spoken up for our policies, been ever-vigilant against Muslim apologists, and I really think it's time, I mean I really really think it's time—

MR. BANNON: Okay, Kellyanne, you can have a raise.

KELLYANNE: —that I get a raise.

Beat.

KELLYANNE (CONT'D): What?

Mr. Bannon smiles.

MR. BANNON: You know something, Kellyanne? You've got integrity.

KELLYANNE: Thank you, Mr. Bannon.

MR. BANNON: I hate integrity.

Kellyanne's face drops.

MR. BANNON: I'm just kidding, Kellyanne. You don't have integrity.

Her smile returns.

KELLYANNE: Thank you, Mr. Bannon!

CUT TO:

INT. OFFICE—CONTINUOUS

Donald Trump stands by Reince's desk, pointing out parts of a prepared speech.

DONALD TRUMP: And that's why I think we need something in there about my resort property in Ireland. Not because it's mine, Reince, but because it's beautiful. It's a beautiful pristine place untouched by anything. Still pure and empty and new.

REINCE: Sort of like your mind.

DONALD TRUMP: Ha ha. Very funny. I just think people should know we still have units available.

Kellyanne enters from Mr. Bannon's office.

KELLYANNE: (to Donald Trump) Sir! Good morning! I've been looking for you!

DONALD TRUMP: Well, you found me! Kellyanne, will you talk to Reince about putting dirty words in my speeches?

REINCE: Donald! "Shiite" is not a dirty word. And neither is "emoluments."

DONALD TRUMP: Are you sure about that last one? Sure sounds sexual.

KELLYANNE: Sir, I was hoping I could ask you to give me back the paper with the Muslim television ban on it?

DONALD TRUMP: No time to talk, Kellyanne. I have to go announce that I've banned Muslims from television. Afterwards, we can talk about whatever it is you're talking about.

Donald Trump exits toward the television studio.

KELLYANNE: Uh boy.

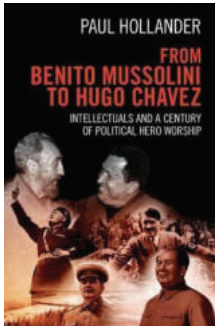
FADE OUT.

END OF ACT ONE.

Books, Arts & Manners

Treason of The Clerks

DAVID PRYCE-JONES



*From Benito Mussolini to Hugo Chávez:
Intellectuals and a Century of Political Hero
Worship, by Paul Hollander
(Cambridge, 338 pp., \$29.99)*

PAUL HOLLANDER was in his mid twenties when he left his native Hungary at the time of the 1956 revolution. Firsthand experience of Nazism and then Communism marked him for life. These dictatorial regimes claimed to be acting on behalf of the masses, but he could recognize persecution and injustice when he saw it. Settling in the United States, Hollander found thousands and thousands of educated men and women who supported Communism. The virtues they ascribed of their own free will to the Soviet Union were fictions that they were asking the public to take for truth. Not merely deluded, they were also justifying the strong as they set about victimizing the weak. A good many of them were not members of the Communist Party but intellectuals possessed by self-righteousness and identified in the apparently neutral idiom of the period as “fellow travelers.”

Pursuing an academic career, Hollander found his place in the battle of ideas and ideology known as the Cold War. A hero of rationality and a humanist, he is everything a genuine intellectual ought to be, rescuing political and moral discourse from the demoralizing level of fellow-traveling. Lenin, the would-be

master of revolution the whole world over, coined the cynical phrase “useful idiots” for the throng from Europe and the United States who were promoting Communist fictions, best of all if they were not aware of doing so. In the same vein, George Orwell once famously observed: “There are some ideas so absurd that only an intellectual could believe them.”

What goes into the making of a fellow traveler was an unexplored subject until Eric Hoffer’s *The True Believer* came out in 1951, and that book still remains fresh and original. According to him, one who takes up a cause has found a way to be violent and basically obedient and submissive at the same time. He quotes someone who says, “We are free from freedom,” which Hoffer takes to mean that happiness and fulfillment do not come from within the individual but from losing himself in a cause.

Hollander’s *Political Pilgrims* (1981) is a fully researched study of the extraordinary phenomenon of fellow-traveling and the damage it leaves in its wake. Written objectively, as though classifying pathological symptoms, that book is a classic. Fellow-traveling is shown to have grown out of rejection of democratic and homegrown society; in other words, an aspect of it is anti-Americanism writ large. For the Left, it has been axiomatic that equality is a good far greater than any other, a supreme end in itself, and that Communism alone can achieve it. Liberty, the main contending good, will obviously have to be suppressed. Trying to get that point across, Party apparatchiks deceived fellow travelers with techniques of dissembling and hospitality well described by Hollander, and fellow travelers deceived themselves because they wanted to.

One example so extreme that it verges on the comic is Beatrice and Sidney Webb’s *Soviet Communism: A New Civilization?* These two prominent intellectuals (he had been a cabinet minister) mistook every fiction for fact, so that their descriptions and judgments on the page bear no relationship to what is visible and encountered in the street. Taken together, George Bernard Shaw, H. G. Wells, Henri Barbusse, Jean-Paul Sartre,

Emil Ludwig, the famous and the infamous alike, shifted the climate of opinion in favor of dictatorship. An archetypical fellow traveler was Romain Rolland. A Frenchman and winner of a Nobel Prize in Literature, he enjoyed absolute freedom of speech. A visit to Moscow in the summer of 1935, and an interview with Stalin, led him to pour out admiration for Communism regularly in the Party newspaper in Paris. The diaries and correspondence of this bafflingly split personality at the very same time reveal horror that friends of his and colleagues of Stalin’s had been subjected to show trials and summary execution. The consistent misrepresentation of Communist reality is a lasting monument to credulity and, more than that, evidence of bad character.

Flaubert used to publish a short but telling lexicon of the idiocies of his literary colleagues, and Hollander’s new book *From Benito Mussolini to Hugo Chávez* is a similar sort of anthology. For instance, Joseph E. Davies, American ambassador to the Soviet Union from 1936 to 1938, reported that Stalin had a cordial smile, great simplicity, and wisdom, and noted that “his brown eye is exceedingly kindly.” Stalin, he thought, “insisted upon liberalism.” The show trials then being staged in Moscow were “authentic,” and Andrei Vyshinsky, prosecuting—and, in court, openly raving against the accused—was “calm, dispassionate, intellectual, able, and wise.” This complete suspension of critical faculties, as Hollander sums up, “set a new record in misperception.” Long since exposed as untrustworthy and quite probably corrupt, Walter Duranty, the *New York Times* correspondent in Moscow, also judged Stalin to be wise and perceptive, “a quiet, unobtrusive man.” Collectivization of agriculture meant enforced famine, deportation, and death in Siberian camps for millions. Duranty blanketed Stalinist crime with the notorious observation that you can’t make an omelet without breaking eggs. Hollander notes that Fredric Jameson, a Marxist literary critic, dismisses the evidence and claims that Stalinism successfully fulfilled “its historical mission” to industrialize—which is only

another version of the broken-eggs-and-omelet apologia.

Nazi Germany offers comparisons. Hitler's eyes, just like Stalin's, made an overpowering impression of good intentions upon interlocutors. In common with almost everyone who had an interview with Hitler, the historian Arnold Toynbee came away "convinced of his sincerity in desiring peace in Europe"; this was in 1936, as Hitler's planned campaign of conquest was getting under way. Two years later, I know from private information, Toynbee refused to vouch for a Jewish art dealer from Hamburg desperate to reach Britain, telling him that now was the moment when Jews should be loyal to the Führer. The philosopher Martin Heidegger included the slogan "Heil Hitler" in one of his articles. He saw in Hitler, in a phrase Hollander quotes from historian Claudia Koonz, "the embodiment of the ethnic regeneration for which he had

who denied or minimized the mass murders carried out by the Pol Pot regime in Cambodia. Professor Bruce Cumings of the University of Chicago pleaded for "the proper understanding and urgent moral rehabilitation" of Kim Il-sung in North Korea. Impressed by Syrian president Bashar al-Assad, Professor David Lesch, a Middle East expert, described him as "the type of person who has wanted to help people his entire life." Richard Falk of Yale and then the United Nations suggested that Ayatollah Khomeini was "defamed by the news media" and that there was no trace of religious fanaticism in him. The attorney and journalist Eva Golinger found that the Venezuela of Hugo Chávez "is truly a beacon of the world." Many in the news media took the death of Fidel Castro as an opportunity to praise him as a heroic figure sure to go down in history as one of the greatest leaders of Latin America. His responsibility for the judicial executions of

The Age of Dictators may be fading, but its legacy is psychological disorder.

longed." Another philosopher, Alfred Bäumler, presided over the book-burning carried out by storm troopers in Berlin in 1933, and then "played a major role in the Nazification of universities." Konrad Lorenz, a post-war Nobel Prize winner, joined the Nazi Party in 1938 and as a biologist became a member of the Party's Office of Racial Policy. According to Hollander, he contributed actively to Nazi policies of repopulation and ethnic cleansing in Poland. A Jewish professor of classics at Kiel University sincerely compared Hitler to the Emperor Augustus.

Far exceeding Hitler and Stalin in the number of his victims, Mao Tse-tung in Hollander's account is at the top of the all-time list of ideologically inspired mass murderers. The Great Leap Forward in 1957, by itself, left some 30 million dead. This did not prevent Professor John K. Fairbank, probably the most acclaimed of specialists on China, from asserting in 1972 that "the Maoist revolution is on the whole the best thing that happened to the Chinese people in centuries."

This showcase of useful idiots includes Noam Chomsky and Edward Herman,

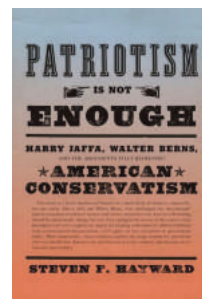
some 8,000 dissidents, the long-term prison sentences handed out to many more, and the huge numbers that preferred exile to Cuban Communism were grounds for silence or prevarication. That same wishful thinking turns Che Guevara, essentially a gangster and murderer, into "the subject of an unprecedented global hero worship."

The Age of Dictators may be fading, but its legacy is psychological disorder. The great mistake of the intellectual class has been to believe that the supreme end of equality justifies all means to obtain it. This is how the show trials, concentration camps, secret police, and terror came to be treated as necessary and beneficial steps toward the promised utopia. Hollander attributes this complete suspension of critical faculties to "a religious, or secular-religious, wellspring" that conditions useful idiots. Human beings, he emphasizes, have always shown a remarkable capacity to hold a wide range of inexplicably bizarre beliefs. I take it from this thoroughly documented and heartfelt book that he doesn't think a big change for the better is coming anytime soon.

NR

First Principles

JEREMY CARL



Text

Patriotism Is Not Enough: Harry Jaffa, Walter Berns, and the Arguments That Redefined American Conservatism, by Steven F. Hayward
(Encounter, 296 pp., \$25.99)

STEVE HAYWARD may be the most versatile man in American conservatism. A prolific author, perhaps best known for his justly lauded two-volume biography of President Reagan, Hayward has written highly regarded books on everything from Winston Churchill's leadership to environmental theology. He's a leading blogger at the popular *Power Line* site, a prolific podcaster, formerly a frequent guest host of Bill Bennett's talk-radio show, and currently a senior resident scholar at UC Berkeley's Institute of Governmental Studies.

But even given Hayward's diverse skills and prolific output, *Patriotism Is Not Enough* still comes as a surprise. There are just not many conservative public intellectuals who have deep knowledge of public policy who can also offer a subtle and textured analysis of political philosophy. But in this study of Leo Strauss and some of his leading disciples and their profound effects on American conservatives' views of politics and statesmanship, that is just what Hayward has done.

On further reflection, however, perhaps *Patriotism* isn't such a departure after all. It ties together the various strands of Hayward's career: After his writings on environmentalism, he explores politics as a study of "human ecosystems"; and his

Mr. Carl is a research fellow at the Hoover Institution, Stanford University.

studies of Churchill and Reagan showed the practical importance of leadership and statesmanship, which *Patriotism* now grounds in philosophy.

Hayward's intellectual roots are very much in high political theory and, in particular, the school of West Coast Straussians that grew up around Harry Jaffa at the Claremont Graduate School. It was there that Hayward was first exposed to some of the principal ideas that animate his book. The book is part history and part memoir, written in a literary style that brings out his wry personality.

Patriotism is, at its heart, an exploration of some of the most important philosophical debates in modern conservatism, taking as its point of departure the deaths on the same day in 2015 of Jaffa and Walter Berns, who, despite many areas of fundamental agreement, carried on a lifelong quarrel about the meaning of Strauss's work and its relationship to America's founding. The book is also a critique of modern political science, which has denigrated statesmanship in favor of regression modeling and "value free" methodology. What unites Strauss and his followers, even those who, like Berns and Jaffa, quarreled bitterly, was their rejection of this approach and their

elevation of the importance of statesmanship, which Hayward defines as "the point of contact between political philosophy and real politics."

Despite the often bitter and fundamental disagreements the Straussians had, this focus on statesmanship rather than data analysis united them well outside the mainstream of academic political science. (As Hayward approvingly quotes Strauss disciple Herbert Storing regarding his fellow Straussians: They feel "relief that they have not allowed political science to make them more stupid than they need to be.")

Above all, Hayward, like the colorful figures he profiles, calls for a return to values in politics and a skepticism of the supposedly value-free modern social science. He quotes Strauss disciple Edward Banfield's attack on so-called scientific politics: "Would anyone have maintained that in the Convention of 1787 the Founders would have achieved a better result with a staff of model-builders?"

For Strauss and his disciples, the positivism and historicism of contemporary social science kept it from answering truly important questions. Strauss wrote that modern social science was like Nero fiddling while Rome burns, excused

only by the fact that "it does not know that it fiddles and it does not know that Rome burns."

Hayward's book touches on prominent philosophers from Plato and Aristotle to Locke and Heidegger; it even includes an extensive discussion of Shakespeare's politics. He also profiles statesmen and more obscure philosophers whose work is relevant to his theme, always showing a firm grasp of the material. The theoretical sledding is at times heavy—"Locke is what Aristotle would have been had Aristotle experienced the challenge of Christian revelation"—but Hayward writes in an accessible and easily comprehensible style, even when covering difficult territory.

One noteworthy element of *Patriotism* is the way that it eschews all of the modern buzzwords of Straussianism that caused Strauss to become something of a household name among conservative intellectuals. There is no discussion of ancients vs. moderns or the "theologico-political problem," and no analysis of esoteric writing. Hayward's Strauss is the Strauss of the public square, not the Strauss of the academic cloister.

At the heart of the dispute between Jaffa and Berns was the role of natural

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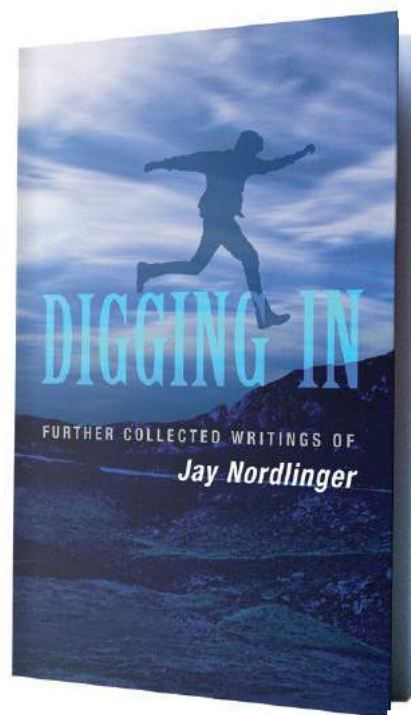
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law as embodied in the Declaration of Independence, as a source of U.S. law as interpreted by the judiciary. For Jaffa, the Declaration and the Constitution were inextricably intertwined, and the rights spoken of in the Declaration must be vindicated by judges interpreting American law. For Berns, as a textualist, the Constitution itself should be the only guide, and to go beyond the constitutional text was to invite judicial activism. With respect to the various schools of Straussians, Hayward inclines somewhat toward a more expansive natural-law view of constitutionalism (a position taken by his mentor Jaffa), but he is a scrupulously fair judge and is quick to detail the problems with the position at length, especially as it opens the door to leftist meddling and the creation of nonexistent “rights” at the whim of liberal activist judges.

Hayward also stresses the importance of practical, or pragmatic, wisdom in

“emblematic of why libertarianism attracts so few adherents.”

Patriotism does not attempt to referee the dispute between Berns and Jaffa. Instead, it shows how they strengthened conservatives’ engagement with serious constitutionalism. The two camps defined by Jaffa and Berns have split the conservative legal movement, with luminaries such as Bork and Scalia on the side of Berns and the textualists, and legal scholars such as Richard Epstein and Randy Barnett and Justice Clarence Thomas endorsing Jaffa’s natural-law view.

But while *Patriotism* does not explicitly favor either Scalia’s or Thomas’s view, Hayward is quick to critique today’s law students, even at the best schools, as “constitutional technicians rather than constitutionalists,” because they are unable to argue the underlying meaning of the Constitution outside of narrow court precedents. They lack even

areas of agreement that the arguments sometimes appear to be “a distinction without a difference”—which Hayward acknowledges. For example, while Hayward brilliantly delineates the great differences between the philosophical background of Justice Scalia’s judicial conservatism and that of Justice Thomas’s version, in the real world virtually all conservatives would be delighted to have either, and certainly both are vastly preferable to the basket of deplorable liberal justices on today’s Supreme Court. To have angst about the Scalia–Thomas differences is the ultimate conservative “First World problem.”

Both Jaffa and Berns were politically engaged; Jaffa wrote for Barry Goldwater the famous line that “extremism in the defense of liberty is no vice.” Early in the book, Hayward recounts a conversation he had with Jaffa late in Jaffa’s life. The fate of the world, Jaffa told

Patriotism does not attempt to referee the dispute between Berns and Jaffa. Instead, it shows how they strengthened conservatives’ engagement with **serious constitutionalism**.

statesmanship. In discussing Lincoln’s position on slavery, a subject of great interest to Straussians, Hayward notes that “securing a right is not the same as declaring a right”—a fact that the verbose yet toothless Obama administration would have done well to study. For example, Lincoln’s less ambitious claims about the rights of African-American slaves helped develop a consensus among his fellow Republicans that ultimately secured those rights after the Civil War and set up the foundation for future gains. Lincoln’s mastery of the politics of the possible is something of a touchstone of leadership for both Berns and Jaffa (Jaffa having written a classic study of the Lincoln–Douglas debates, *The Crisis of the House Divided*). Hayward not only handles these debates skillfully, he also shows awareness of occasional controversies about Lincoln and state power among conservatives and libertarians, some even present in the early days of this magazine. He memorably dismisses harsh critiques of Lincoln by Lew Rockwell (a major influence on Ron Paul) as

the conceptual framework to deal with the Jaffa–Berns debate.

Given their critique of contemporary social science, it is unsurprising that Hayward and the thinkers he profiles are critics of the modern technocratic administrative state and its pretensions to be apolitical, a conceit that deifies the technocrat and ignores the larger questions of government. And this skepticism has more than just theoretical implications.

“That bureaucratic government is the partisan instrument of the Democratic party is the most obvious, yet least remarked upon, trait of our time,” Hayward notes. This is not simply a philosophical aside: This will be one of the most profound challenges President Trump faces. The issues raised by Hayward, Berns, and Jaffa are very relevant for modern politics.

As in any book, there are some areas that leave the reader eager for more. Despite their rancor, the disputes between Strauss’s disciples that Hayward illuminates are so much less consequential, at least on the surface, than their

Hayward, depends on the United States, the fate of the United States depends on the conservative movement, and the fate of the conservative movement depends on the health and success of the Republican party.

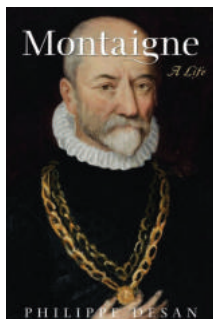
Whether this presents a hopeful view or a cautionary one in the age of Trump remains to be seen, but, as with much else in this sparkling book, it provides a direct connection between the work of the philosopher and that of the statesman. While Hayward’s book is a deep meditation on statesmanship and political philosophy, one need not be an admirer of or even familiar with Leo Strauss to appreciate this paean to statesmanship.

The title of *Patriotism* comes from Jaffa, who often liked to say that “patriotism is not enough” to command the respect and affection of a nation’s citizens—a theme his adversary Berns echoed in his own work. For both of these Straussians, to be worthy of its citizens’ respect and affection, America must be great again. And if we are going to make America great again, our citizens, and our statesmen, must be good again. **NR**

A New Man

DOMINIC GREEN

Text



Montaigne: A Life, by Philippe Desan
(Princeton, 796 pp., \$39.95)

THE story of Michel de Montaigne is that rare case, a political life that ends in success. Not, admittedly, the success that Montaigne sought. Nothing succeeded so well for Montaigne as failure. “My world is done for, my form is emptied,” he wrote shortly before his death in 1592. “I belong entirely to the past.”

Montaigne wrote this in the margins of what scholars call the Bordeaux Copy, a print copy of the fifth edition of his *Essais*. Published in Paris in 1588, the fifth edition was the last to appear in Montaigne’s lifetime. The 1588 edition added a third book of 13 chapters and 600 revisions to the two books and 94 chapters of the first edition of 1580. This expanded the text by about a third, and the *Essais* from one volume to two.

No sooner did the 1588 edition appear than Montaigne started to revise it. The Bordeaux Copy’s text is thick with corrections and underlinings, its margins dense with expansions and explanations. The emendations are the work of a man very intent on merging a literary form that will belong to the future—the essay—with its author’s image.

That Montaigne is a philosophical stance, not a historical personality. He stands for the Renaissance in France, and the philosopher in the character of Hamlet. He stands at the head of the line of belles-lettres, and head and

shoulders above the religious violence that preoccupied his contemporaries. What he stood for in his lifetime seems incidental. This is the desired effect of the *Essais* in their posthumous form, the sixth edition of 1595. But that is the affect Montaigne’s conversational tone conveys, and the result of an editorial process as much autobiographical as literary.

The flyleaf of the Bordeaux Copy carries Montaigne’s handwritten instructions for the printer of the next edition. The printed title page omits Montaigne’s public offices and titles, even though the inheritance and pursuit of public office defined his life. What remains is our image of Montaigne as the philosopher of private experiences, writing in his private tower, describing instead of prescribing, a conversationalist not an orator.

Philippe Desan’s *Montaigne: A Life* is an elaborate, exhaustive, and frequently brilliant restoration of Montaigne’s life to its times. Born in 1533 on the family estate near Bordeaux, Michel Eyquem de Montaigne seemed destined for public life. Michel’s great-grandfather, having made a fortune in herrings, bought the Montaigne estate and noble title. Michel’s father was the mayor of Bordeaux. His mother, Antoinette de Louppes, came from a merchant dynasty of Sephardic Jewish extraction. He rarely mentions her in the *Essais*, but his father figures prominently.

Montaigne was raised to “live nobly,” in standing as in thought. “In my youth I studied for ostentation,” he was to claim in one of his last essays, “later, for recreation, never for gain.” But ostentation

and gain were inseparable. The intellectual currency of humanism was fungible, and was most valuable at the royal court. His father, following Erasmus’s advice in *De Pueris* (“On Boys,” 1529), chose Latin as Michel’s native tongue. Even the valets and maids had to speak it to him. After that, from the age of six to 13, Michel boarded at the best school in the region, the College of Guyenne, for more Latin, some Greek, and a little French, too.

The rest of his education is obscure. Desan is surely right to suppose that Montaigne studied law at Toulouse, where he had relatives on his mother’s side, and perhaps in Paris, too. The essay “Of Cripples” implies that Montaigne was in Toulouse in 1560 and attended the trial of the false Martin Guerre, a soldier accused of usurping a fellow soldier’s identity.

At the time, the law courts were the forum for the usurpation of the old “nobility of the sword” by the parvenu “nobility of the paper”—families like Montaigne’s. In 1556, family connections secured Montaigne a magistracy on a local court at Périgueux. A year later, he joined the *parlement*, or provincial court, at Bordeaux. His marriage in 1560 to Françoise de La Chassaigne was a treaty between two families. Marriage, Montaigne wrote, was “a bargain,” made for “procreation, alliances, wealth.” Only one of their six daughters survived infancy. His wife does not appear much in the *Essais*, either.

Another “paper friendship” shaped Montaigne’s political and literary

IMAGE

Between the sunset and the window shade,
The maple leaves were quaking in the wind.
I saw the shaken shadows that they made
As if in fear—as if they were afraid
That soon a palling dark was coming on,
And that their shadows, trembling and unpinned,
Cast on translucency, would, in one black,
Fade fast and disappear. Then they were gone
In fact, and, I could see, would not be back,
No matter what the wind did, come the dawn.

—LEN KRISAK

Text

Mr. Green, a fellow of the Royal Historical Society, teaches politics at Boston College.

TERRIFIC! DAY 4 ON THE NR 2017 TRANS-ATLANTIC CROSSING

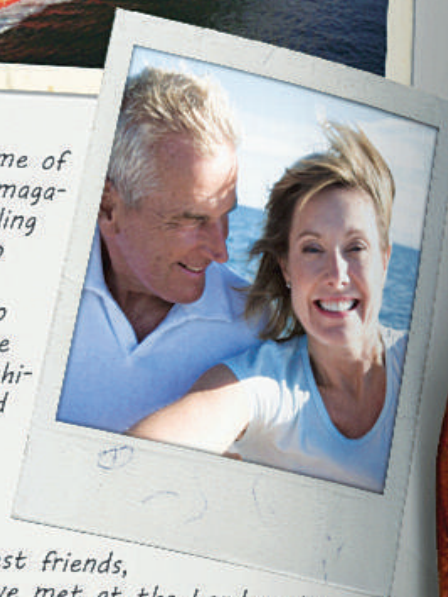
Well, I've got to admit it. I always figured my secret wish to do an ocean sailing on Cunard, on one of its historic ships, was maybe ... silly. That people like Stan and I just didn't do that -- "other" people did. But after spending four nights on the Queen Mary 2, boy was I wrong. This was indeed meant for us, and we are having the time of our lives. The time! In November, when I saw that NR magazine ad about the 2017 summer voyage, and the pre-sailing tour in southern England, where I have always wanted to visit, I just knew the time had come for me to live my dream. And it turns out it is was the secret dream of so many in the NR group (Stan said he feels sorry for those who wanted to come but "just couldn't get over their inhibitions; they literally missed the boat"). You live and learn ... and enjoy!

Honey, please bring my copy of Liberlitzsism to dinner -- we are dining w/ Jonah!

I signed us up for the NR shuffleboard contest. RandOne is us versus the Lilelcs!

Charlie said he and Karin will tape a "Mad Dogs" podcast tomorrow by the pool -- he'll answer your question then.

*Made the spa appointment for Wednesday at 2 PM. I'm loving this -- And You!!



About today: After breakfast we ran into our new best friends, Don and Gayle Willey, who we met at the London airport (he was wearing an NR cap!) and decided to take a walk on the Promenade Deck. It was a glorious day. Jay Nordlinger was out too, and about to lap us, but when he saw that I was carrying his book "Digging In" he stopped and we had a swell impromptu visit. He and Gayle are both Michigan grads so they had a lot to chat about. Anyway, Jay told us he had tried out the QM2's golf simulator the previous night, and that was all that the guys needed to hear. As soon as Jay left they were off to play. But just as they disappeared who came along but Jim Geraghty (we had dinner with him the first night). He told a couple of funny out-of-school tales about NR. What a swell guy.

LUNCH When we booked the trip, we didn't know what to expect of the NR speakers. Outside of the scheduled events, would they ... interact? Well, there we are at the Britannia Restaurant, just sitting down to lunch when Charlie Cooke and his lovely wife Kate ("I remember you from the first cocktail party") stop at our table to ask if they could join us. Stan is a huge CCWC fan and said "Heck yeah," and not five

minutes later Rob Long wandered by looking lost, so Charlie waved him over and he joined us too. For nearly an hour we talked about favorite tv shows and movies and Rob regaled us with stories about Hollywood craziness. I felt we were with good friends. And, maybe, we were.

AFTERNOON PANEL So far every session has kicked off with a fascinating one-on-one interview. I didn't think we could top yesterday when David French got Judge Michael Mukasey to describe at length the legal effort required to truly fight the Islamofascists. But this afternoon's -- Rich Lowry quizzing Tom Coburn about the dysfunction of Capitol Hill -- was off-the-charts smart. Then followed an hour-plus panel, with Reihan Salam moderating, featuring Charlie, John O'Sullivan, David Pryce-Jones, and Douglas Murray -- oh my what a lineup! -- analyzing British politics and the state of Brexit. No one in the Illuminations Lounge (it's really an honest-to-goodness planetarium) wanted to leave. The panelists got a standing ovation, were mobbed for photos, and asked to autograph books. Which seems to happen after every session!



COCKTAIL RECEPTION That session alone would have made my day. My year! But the day was far far from over. Tonight was the second NR cocktail reception, at the Golden Lion Pub, which like every other place on this ship is designed to perfection. We caught up with the Willeys talking and laughing with this lovely trio (a grandmother, mother, and daughter -- she's named Chris), and alongside them there was this group of eight or nine "singles" who had found each other on the voyage's first day and became very fast friends (they all feared they might be fifth wheels, and all were thrilled to see just how wrong that was!), and before you knew it we melded into one big conservative martini-loving scrum, and Jonah Goldberg was swallowed up by us and held court, talking about his forthcoming book and his dog -- we gabbed about how much we loved our pets, shared pictures, took pictures. And then Ramesh and his wife April joined us and the talk turned to raising kids. And still lots of laughs. And then the man with that little gong came, banging away, breaking up the fun. Alas! But we had a sumptuous dinner ahead. (Brent Bozell was at our table! More fun!).



SWEET DREAMS! Stan is pooped. Me too. What a day. What a week!. I'm so glad it's not over! And so glad we made the decision to sail on the Queen Mary 2 with NR!

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the beautifully equipped Canyon Ranch SpaClub® Fitness Centre. **26.** Make up for that decadent breakfast by swimming a few laps in the domed Pavilion Pool. **27.** Unwind, refresh and enjoy the healing power and nurturing hot-and-cold environments at the Canyon Ranch SpaClub® aqua therapy centre. **28.** Hit the links at Pebble Beach or any of the 51 courses available on the golf simulator. Test your serve and volley with a match on the Tennis Court. **29.** Rejuvenate in a yoga class on deck (weather permitting). **30.** Welcome the morning with a cappuccino and fresh baked pastries at Sir Samuel's. **31.** Sample the Chalosse Duck or Wild Turbot en Papillotte in newly opened restaurant, The Verandah. **32.** Join the chief sommelier to sample Sangiovese, Dolcetto and other varietals as you

wine your way across Northern Italy. **33.** Order one of your pub lunch favourites in the Golden Lion: Fish 'n' Chips, Steak and Ale Pie, Chicken Tikka Masala or Bangers and Mash. **34.** Indulge in Memphis style Baby Back Ribs in the new alternative dining venue, the Smokehouse. **35.** Celebrate with a bottle of Chateau Lafite Rothschild from Queen Mary 2's famously large wine cellar. **36.** Fall in love with the signature dessert Tonka Bean Mousse with Extra Virgin Olive Oil ice cream in The Verandah. **37.** Take the Martini Mixology class so you can make it for your friends at home. **38.** Enjoy a fine cigar whilst savouring an aged Napoleon Cognac in Churchill's Cigar Lounge. **39.** Follow your ocean course as you gaze at the illuminated maps and enjoy delicious canapés in the elegant Chart Room. **40.** Indulge in the Veuve Clicquot Champagne Afternoon Tea in the Champagne bar. **41.** Mix your palette and discover your inner artist by joining a water-colour painting

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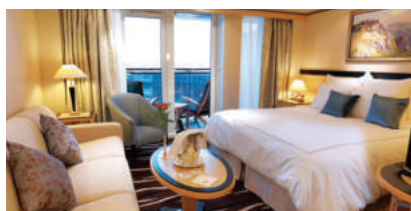
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class. **42.** Salute the sun and unwind in one of the ship's relaxing whirlpools. **43.** Look forward: head to The Lookout, an observation area with endless views off the bow. **44.** Hit, stay or double-down in the Empire Casino. **45.** Visit The Clarendon Art Gallery and enjoy a presentation on the life, style and influences of Jack Vettriano. **46.** Embark on a literary journey at a meeting of the Cunard Book Club. **47.** Watch the waves crest as you sit and relax in a plush swivel chair by a sea-level window. **48.** Enjoy a stargazing stroll around the Promenade Deck and identify the constellations. **49.** Spar to be the top Bridge player in the Atlantic Room. **50.** Wrap up in a cozy blanket, relax in a steamer chair out on deck, sip on a cup of afternoon tea and gaze at the passing Atlantic!

development. Étienne de La Boétie was a little older and a lot more successful as a lawyer. Montaigne knew La Boétie first on paper, through La Boétie's *Discourse on Voluntary Servitude*, a founding work of French political philosophy. They were friends for little more than three years, until La Boétie's death, probably from dysentery, in 1563. Montaigne idealized their friendship as a union of souls—"because it was he, because it was I"—but Desan identifies a creeping annexation, on paper, of La Boétie by Montaigne.

Aristotle, in his *Nicomachean Ethics*, defined friendship in relation to utility, pleasure, and virtue, with virtuous friendship the only true friendship. Montaigne, in the late essay "Of the Useful and the Honorable," notes the decline of noble values and the rise of the utility-minded, mercantile bourgeois. Desan

of Huguenots, as French Protestants were known. In 1571, the year of Montaigne's ostensible retirement to his tower, Charles IX elevated him to the rank of knight of the Order of St. Michael. Charles IX and his successor, Henry III (1574–89), used the Order as a "political tool," to "attract allies" and retain the loyalty of mid-level provincial lords, such as Montaigne, who remained silent about the Saint Bartholomew's Day massacre of 1572 and about the mass executions of Protestants in Bordeaux that followed.

Montaigne understood that, rather than ancient *virtus*, modern politics required Machiavelli's *virtù*, amoral self-interest. One of the chief pleasures of Desan's biography derives from its portrait of Montaigne as a *pratiqueur*, a negotiator exploiting the utility of his friendships amid massacre and famine.

cost. Like Henry III, he "affected and studied to make himself known by being unknowable." In his handwritten revisions to the 1588 edition, the political Montaigne disappears. A new and final Montaigne emerges, the public man who speaks as a private individual.

Machiavelli whispers in his prince's ear. Francis Bacon, domesticating Montaigne's essay to English, builds sentences with the balance and force of mathematical formulae. But Bacon, while a better lawyer than Montaigne and a more successful politician, was a worse human being. Montaigne is a conversationalist, a free associator of ideas offering an ideal of friendship. As Philippe Desan shows, this implicitly radical exploration of his inner freedom makes him a perpetual companion, for the same reason that Bacon never was.

Montaigne understood that, rather than ancient *virtus*, modern politics required Machiavelli's *virtù*, amoral self-interest.

detects this drift in Montaigne's relationship to La Boétie. Montaigne, the erudite but unspectacular lawyer, felt pleasure at finding a brilliant companion; he idealized pleasure as a virtue. After La Boétie's death, Montaigne edited his friend's works. In the process, Montaigne reworked a virtuous friendship for its utility. La Boétie became an asset to Montaigne's literary persona and its "commerce" with politics.

In 1568, Montaigne's father died, and he inherited the family estate and title. In February 1571, Montaigne, then 38, retired to the tower of the family chateau with his books and started writing his *Essais*. In the inscription over the bookshelves in his study, he described himself as "weary of the servitude of the court and of public employments," and as wishing to spend the rest of his life in "freedom, tranquility, and leisure." But the *Essais*, Desan argues, were intended as an "entrance to politics" during the barbarism of the French Wars of Religion.

Geographically, Desan notes, Montaigne lived "at the heart of the religious discord of his time." Southwestern France contained a substantial minority

Both ambitious and cautious, he secured royalist regional patrons, the Foix-Gurson family, while stepping lightly between Charles IX and his Protestant rival Henry of Navarre. It is, Desan writes, "sometimes very difficult" to determine whether Montaigne acted as a negotiator in a series of civil wars or as a "double agent in the service of a third political force," the Foix-Gurson family.

The first edition of the *Essais* offered what Desan calls a "new approach to post-Machiavellian politics." But Henry III, as his sister Margaret of Valois said, was "of such a humor that he was offended not only by effects but also by ideas." In the 1580s, Montaigne's political career foundered. In the 1588 edition of the *Essais*, he extricated himself from the quicksand of religious politics. The obsolete politician reinvented himself as a private philosopher, a martyr only to his kidney stones.

In a late essay, Montaigne criticized Henry III for lacking "a middle position": The king was "always being carried away from one extreme to the other." Montaigne tacked between the extremes of a fanatical age, but at a

Erich Auerbach observed that Montaigne created "a new profession," the man of letters, and "a new social category," the non-specialist "writer" who addressed the mass of the laity, not the fellow specialists of the clergy. Auerbach, noting that the Protestant reformers had earlier addressed themselves to the laity, identified the vernacular version of Calvin's *Institutes of the Christian Religion* (1536) as a forerunner of Montaigne's essayist persona.

Montaigne adopted the literary style of the new religious personality, but not its social forms. Formally and politically, Montaigne remained a Catholic. Yet the *Essais* do not discuss the theological principles for which Europe's Christians were slaughtering one another. Montaigne contemplates death like an ancient. Death is a philosophical terminus, not the anteroom to heaven or purgatory. In a world of religious war, the only predestination is that all men shall die. Montaigne, like Hamlet, considers what a later age called the "problem of commitment." In this, as in much else, the *Essais* are "a mirror and critique of their time"—and ours.

NR

Preserving The Magic

DAVID P. DEAVEL &
CATHERINE JACK DEAVEL

‘SHALL I go on?” This is the question for all creators of magnificent and popular series of tales. After his third Oz story, L. Frank Baum tried to write other works, some of which, including *Queen Zixi of Ix*, were mildly successful. But he was forced to keep coming back to the Oz franchise, owing to the failures of his other novels. Arthur Conan Doyle wrote the death of Sherlock Holmes in an 1893 story, freeing himself, he thought, from what his literary estate’s website calls “a fictional character that oppressed him and overshadowed what he considered his finer work.” By 1901, public outcry had brought more Holmes.

What is the author of a beloved series to do? The later instances of Sherlock Holmes continued in quality. The later versions of Oz are, in the words of our seventh-grader, who has read all of them, “crummy, cheesy, and preachy.” They are also inconsistent in detail with the other books. Perhaps Conan Doyle’s return to the well was reasonable, but Baum’s was mistaken?

What both authors did right was to turn to other artistic and commercial outlets for their creations, particularly the stage. Doyle adapted “The Adventure of the Speckled Band” for the stage, and Baum, a theater junkie who also acted, similarly adapted *The Wonderful Wizard of Oz* and *Ozma of Oz*. *The Patchwork Girl of Oz* was written with the stage in mind but ultimately became a film. (The classic 1939 film version of *The Wizard of Oz* was made 20 years after Baum’s death.) Baum even spoke of purchasing property to create an Oz amusement park, though there is no evidence that he ever acted on the impulse.

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Eddie Redmayne in *Fantastic Beasts and Where to Find Them*

Joanne “J. K.” Rowling said in 2007 that *Harry Potter and the Deathly Hallows*, the seventh and final book, published that year, would be the end of her best-selling Harry Potter series and that her future writing would not likely be in the fantasy genre. Her books had already become a series of rather inconsistently made but unbelievably profitable movies. She, unlike Baum, actually has an amusement park for her creation, along with seemingly endless tie-in toys and gadgets. Rowling bruted the idea of a Potter encyclopedia but claimed that it might take ten years. And though she had written a few extra Potter-themed books for charity, they were supplements to the fiction—books that had “existed” in the fictional universe of the original series, including Newt Scamander’s *Fantastic Beasts and Where to Find Them* (2001), Kennilworthy Whisp’s *Quidditch through the Ages* (2001), and the book of fairy stories that plays such a decisive role in the series’ outcome, *Tales of Beedle the Bard* (2008).

She did branch out, with *The Casual Vacancy* (2012), an adult novel that would sell over a million copies and later be adapted as a three-part BBC miniseries, and then, under the pseudonym Robert Galbraith, the detective novel *The Cuckoo’s Calling* (2013), featuring private investigator Cormoran Strike. Early reviews of the latter were solid, but this was no million-copy run—until a tweeter connected to Rowling’s legal team leaked the hypothesis that Galbraith was really Rowling. While Rowling professed disappointment, the result was that the book took off. Two more Cormoran Strike novels have been published, and a seven-part BBC series based on the novels is planned for 2017.

Yet if branching out was successful, moving on was perhaps a broom ride too far. By 2010, Rowling was dishing with Oprah about what future Potter books might be like. In 2011, she launched Pottermore, a website including new writing in the vein of the encyclopedia she had discussed four years before.

And 2016 saw the arrival of two new Potter-themed stories. One is *Harry Potter and the Cursed Child*—a play actually written by the theater and TV veteran Jack Thorne but based on a story co-written by Rowling—which has had remarkable success in London, recently winning the *Evening Standard*’s Best Play award for 2016. It’s now in discussion for a 2018 run on Broadway, according to the play’s website. The other is Rowling’s first screenplay, *Fantastic Beasts and Where to Find Them*, a prequel to the Potter series. With A-list actor Eddie Redmayne as Newt Scamander, the film has certainly been a financial success, making over \$720 million worldwide by December 21 (its budget was \$180 million), though the reviews have been mixed at best.

That it’s a moneymaker is hardly surprising. Her books have sold more than 450 million copies worldwide. Anything with her name associated with

No-Majs (the American equivalent of “Muggles”), particularly given the rise of the “Second Sailemers” anti-witch movement. Newt Scamander, a world-traveling scholar and protector of rare magical creatures, has arrived, purportedly to obtain one creature but really to release another, a Thunderbird, into the Arizona desert. Several magical creatures escape from his suitcase and, in the midst of retrieving them, he accidentally trades suitcases with a No-Maj named Jacob Kowalski. The rest of the story is a madcap 48-hour scramble in which Newt and Tina Goldstein, a demoted American auror (magical policewoman) try to retrieve the creatures while the American magical community searches for a young wizard whose magical power has been suppressed, thus creating an angry magical cloud called an “Obscurus” that has been wreaking havoc on New York and now threatens to kill the young wizard. One character

such investments will be possible with Newt and Tina.

Though Rowling didn’t write the script of *Harry Potter and the Cursed Child*, this eighth Potter story has an advantage in that it returns to the thematic core of friendship and family that was at the heart of the Potter books. The play follows Harry’s son, Albus Severus Potter, a teenaged black sheep who has befriended Scorpius, the son of Harry’s old nemesis Draco Malfoy. Albus longs to impress his father, now a middle-aged auror who is yesterday’s hero. When the aging father of Cedric Diggory, who died in the fourth book, hears about a time-turner device confiscated by the Ministry of Magic and demands that Harry travel back in time to save his son, Albus sees his chance. Albus and Scorpius, egged on by Delphi, Mr. Diggory’s caretaker and supposed niece, steal the time-turner and end up bringing about various alternative histories, in

The true test of the wisdom of J. K. Rowling’s decision to go on should be not financial success but **faithfulness to her literary universe.**

it—as the Cormoran Strike novels show—will reach literary platinum. But the true test of the wisdom of Rowling’s decision to go on should be not financial success but faithfulness to her literary universe. We haven’t been to London for the play, but one of us journeyed with four children to the multiplex for a screening of *Fantastic Beasts*. And anyway, to judge the stories as stories, we’ve been able to read them both. Rowling’s continuation of the Potter universe via stage and screen has been accompanied by releases of the play and movie scripts—another bit of financial genius resulting in more millions of books sold. Do her published scripts give evidence of the, well, magic that really was at the heart of the Potter books?

Fantastic Beasts has the double disadvantage of being Rowling’s first screenplay and the introductory story of a reported five-film series based on the original book. Its world is 1926 New York, where the American magical community takes a very hard line against interactions between Wizards and

is revealed to be Albus Dumbledore’s old opponent Grindelwald.

This summary can’t do justice to all the plot lines begun in the script, including two love stories and what promises to lie at the heart of the five-movie series—Grindelwald’s desire for war on Muggles. This overstuffed introduction to a larger series results not only in an uninspiring plot but also in a cast of characters for most of whom it is difficult to care, since we know them so little. One of the forgotten aspects of the original Potter books is how much time the books took with the characters, in both ordinary and extraordinary situations—the hundreds of pages that readers would spend with them. Even the best of the films fell short of the charming detail of Rowling’s world and the emotional depth that came from access to Harry’s inner thoughts, but the films could invoke readers’ connection to the source material. By the time the overall plot got going in the books, readers had an investment in the characters. It’s an open question as to whether

one of which Voldemort wins. When Albus and Scorpius manage to reverse this time-travel disaster, Delphi, revealed to have a strange connection to Voldemort, strands the two back in 1981, on the eve of Voldemort’s attack on Harry’s parents. Harry, Ginny, Ron, Hermione, and Draco Malfoy—now their ally—go back in time to foil Delphi and rescue Albus and Scorpius.

While the time-travel plot has the Swiss-cheese incoherence of all such stories, *The Cursed Child* has more of the deeper core animating the book series, and an appreciation of the moral seriousness of our choices. The time-travel element also allows a kind of nostalgia tour of the books, with returns to key scenes and deceased characters. Both of Rowling’s new Potter projects are most successful when they stick to the themes and character-driven approach of the original books. The challenge for Rowling in going on with her Potter stories will be to continue in this direction, despite her shift to genres less intimate than that of her original books.

NR

Empire Builder

ROSS DOUTHAT

IN “The Founder’s Paradox,” a late chapter in his unusual business book *Zero to One*, Peter Thiel discusses the tendency of successful tycoons to contain multitudes—to “oscillate between sullen jerkiness and appealing charisma,” to be dorkish outsiders one moment and consummate insiders the next, and to be adulated one moment and scapegoated soon after.

In *The Founder*, John Lee Hancock’s smoothly ingratiating origin story about a little restaurant chain called McDonald’s, we get a fascinating variation on the Thielian paradox. The movie’s subject is Ray Kroc (played energetically by Michael Keaton), the man who put the golden arches in every town and strip mall and rest stop in this fair land. And Kroc is, indeed, a creature of paradox: a lifelong failure who suddenly found astonishing success, a gee-whiz salesman who turned out to be a ruthless corporate infighter, a man who sold McDonald’s as the most all-American and family-friendly of restaurants and eventually saw it become the epitome of soulless, mechanized fast food.

But the title has a wink in it, because Kroc was not actually the founder of McDonald’s. Or, perhaps more accurately, there was no single founder: Instead, Thiel’s paradox found expression not just in Kroc himself but in the relationship between the hustler and the men whose idea he borrowed, amplified, and ultimately stole.

Those men were Mac and Dick McDonald (the reliable character actor John Carroll Lynch and Nick Offerman, the *Parks and Recreation* star), a pair of brothers touched by genius but lacking the ruthlessness required for billions and billions sold. We see their genius through Kroc’s eyes: He’s schlepping milkshake makers around the Midwest, listening to motivational records in his underwear in cheap motels, when he gets an order for not one but six of his milkshake churners—six, when he can’t get the hamburger joints he’s hitting up to buy just one.



Michael Keaton in *The Founder*

The order comes from San Bernardino, Calif., and Kroc unfurls the map and decides, why not, and drives there. What he finds is a work of Fordist brilliance. In a flashback that, rather cleverly, feels like its own biopic distilled, we watch the McDonalds pursue their hamburger-stand dream, discover all the flaws involved in drive-in ordering, and finally achieve their breakthrough—the assembly line of hamburger preparation, the stripped-down menu (just burgers and fries and milkshakes), the meal in a paper wrapper, and “Welcome to McDonald’s!”

Except that people don’t understand it: The burger-flippers make a hash of the process and have to be coached like the team in *Hoosiers*, the crowds come on opening night expecting a drive-in or a sit-down restaurant, and then the bright lights bring a plague of bugs, and our heroes think all is lost, they’re about to close the restaurant . . . and then a boy shows up and orders a burger and fries. And then another one shows up, and another, and another, and in this little movie-within-the-movie there is exultation, apotheosis, the American dream imagined and then grasped.

But what the brothers have grasped is a thriving business in a single mid-size city in southern California. It takes our man Kroc, heretofore a mid-life Willy Loman who gets mocked at the local country club his dignified wife (Laura Dern) insists they join, to grab the idea and take it national—inking a franchising deal with the control-freak brothers in which they retain absolute control over the design of every single

restaurant, mortgaging himself to the hilt to put golden arches up outside Chicago, and then fighting a two-front war to simultaneously expand the brothers’ restaurant empire and persuade them to give him the flexibility he needs to make everybody (but mostly himself) rich.

By the end of the story, it’s *his* restaurant empire, thanks to the brothers’ naïveté and some complicated corporate maneuvering, in which a clever lawyer, Harry J. Sonneborn (B. J. Novak), plays a crucial role. Which makes Kroc a sort of villain, or at least an antihero, a transformation underlined by the fact that he essentially steals his second wife (Linda Cardellini) as well, taking her from one of the go-getters who signs up to run one of his very first franchises.

But the argument in *The Founder*, its contribution to the literature on foundings, is that a little villainy is a requirement if you’re establishing an empire—and that when you start out with men of genius who lack that killer instinct, a great imperial success like McDonald’s requires something like the strange, ultimately unhappy dynamic between Kroc and the brothers McD. They are one part Wozniak to his Jobs, one part Remus to his Romulus: There would have been no golden arches without them, but their idealism had to give way to his persistence for the empire to be born.

If this sounds a little glib, a little like a salesman’s self-justifying pitch—well, spend two hours in the dark with Keaton’s Kroc. See if he sells you on it. **NR**

Sensitive Senate

HERE, I feel compelled to rise in defense of Senator Elizabeth Warren of Massachusetts. Or, more precisely, I rise to defend the ability of any politician, even a squawking socialist demagogue, to have her say on the floor of Congress.

In a widely covered recent kerfuffle, Warren was said to have been “silenced” by Senate majority leader Mitch McConnell after violating the institution’s rules of decorum—igniting widespread rending of garments and a slew of catchy hashtags across the Twittersverse.

Warren was in the midst of assailing fellow senator Jeff Sessions, the president’s nominee for attorney general, when she was told to knock it off. The former regulatory czarina persisted and continued reading a Coretta Scott King letter likening Sessions to a modern-day Bull Connor. To put an end to it, McConnell invoked the super-secret Rule 19, which prohibits members from taking to the floor and “directly or indirectly by any form of words imput[ing] to another Senator or to other Senators any conduct or motive unworthy or unbecoming of a Senator.”

My question: Why should the feelings of the powerful be spared in pursuit of the truth? What if a senator has engaged in conduct unworthy or unbecoming of his office? To make my point and avoid impugning the character of any sitting elected official, I’ll use a fictitious politician . . . let’s call this person “Chris Murphy, the junior United States senator from the State of Connecticut.” What if “Chris Murphy” were nothing more than an authoritarian popinjay whose entire career was a thinly veiled effort to weaken the document he’d sworn to protect? Isn’t it then the duty of his peers to impute this unworthy or unbecoming motive to him?

Republicans argue that maintaining civility is a test of national character and a hallmark of a durable republic. “Turn on the news and watch these parliaments around the world where people throw chairs at each other, and punches, and ask yourself how does that make you feel about those countries?” Republican Marco Rubio asked. “It doesn’t give you a lot of confidence about those countries.”

Well, it depends.

In 1856, anti-slavery Republican Charles Sumner of Massachusetts famously accused Stephen Douglas of Illinois of being a “noisome, squat, and nameless animal.” Of North Carolina’s Andrew Butler, who was suffering a speech impediment because of a stroke, Sumner said, “He cannot open his mouth but out there flies a blunder.” No one stopped the irascible lawmaker from deploying these attacks. Well, I mean until Preston Brooks, a Democratic representative from South Carolina and relative of Butler’s, stopped him two days

later by beating him within an inch of life with a walking cane.

This incident is what everyone seems to bring up whenever congressional incivility is mentioned. Many consider it symbolic of the breakdown of discourse that made politics untenable and the Civil War inevitable. But perhaps it wasn’t immoral to call out those who supported the idea of human chattel. And perhaps the nation got a sense of what civility meant to those who did.

We’ve got our own problems, of course, yet we’re nowhere close to that kind of animosity. So it doesn’t hurt to be skeptical about institutions that arbitrarily use sweeping rules regarding “civility” to police rhetoric. To Senator Rubio, I say that many autocrats enact laws of civility to insulate the powerful from censure, as well.

You may recall, for instance, that when the Tea Party was first gaining political currency in Washington and the nation was immersed in a conversation about civility, House Democrats sent out copies of Section 370 of the *House Rules and Manual* to remind the GOP that many topics were off the table.

Referring to officials as “our half-baked nitwits handling foreign affairs” (no, I didn’t make that up), or to government as “something hated, something oppressive,” or to the presidential message as a “disgrace to the country,” or to alleged “sexual misconduct on the president’s part” was all permitted.

On the other hand, Democrats had forbidden describing the president’s veto of a bill as “cowardly” and charging that the president was “intellectually dishonest” or a “liar” or a “hypocrite.”

That puts some potentially important topics off limits.

In his *Manual of Parliamentary Practice for the Use of the Senate of the United States*, Thomas Jefferson asks members to avoid “hissing, coughing, spitting, speaking or whispering” while others members are speaking. No standing up or interrupting. No walking across the chamber or any other discourteous action that might distract the person addressing the Senate body.

So don’t spit on your coworkers or yell “You lie!” as they’re giving a speech. But do not regulate speech. We can’t be so brittle a citizenry that we’re unable to handle a raucous debate regarding the future of the country—especially on the floor of our lawmaking institutions.

None of this is to say that Sessions is a racist. It is to argue that Sessions is a big boy and can handle criticism. Senators are, of course, free to institute any rules of decorum they please. Norms of courteousness make for healthy debate and a functioning legislative branch. Still, attempts to quiet, subdue, and bring “civility” to America have almost always been incognito attempts to chill speech, undermine debate, and protect the powerful from criticism. This is what worries me. Even when it comes to squawking socialist demagogues.

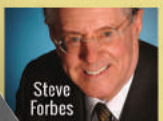
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Mr. Harsanyi is a senior editor of the Federalist.

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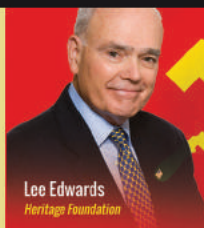
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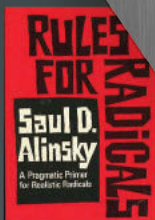
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100 YEARS OF
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**1917-2017
WHAT HAVE WE
LEARNED?**



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Saul Alinsky:

- ✓ Satanic Communist?
- ✓ Radical Freedom Fighter?

A radical debate between



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President
Alinsky Center



Grover Norquist
President
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Dinesh D'Souza
Author, Filmmaker



Mock Trial Judge
Lisa Kennedy
Fox Business News

AT THE CROSSROADS

EXPLORING THE NEW
FRONTIERS OF FREEDOM



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