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RIGHT BUT REPULSIVE**  
ANDREW STUTTAFORD

the weekly

# Standard

OCTOBER 31, 2011 • \$4.95



## ON A ROLL

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closing the GOP's  
articulation gap

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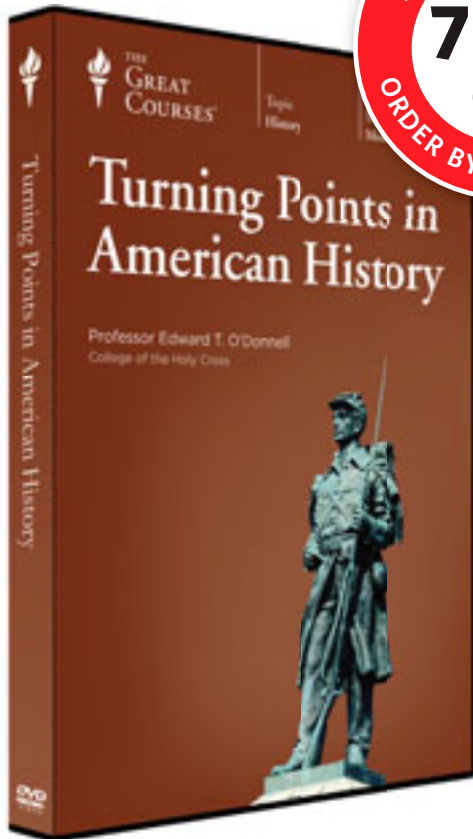
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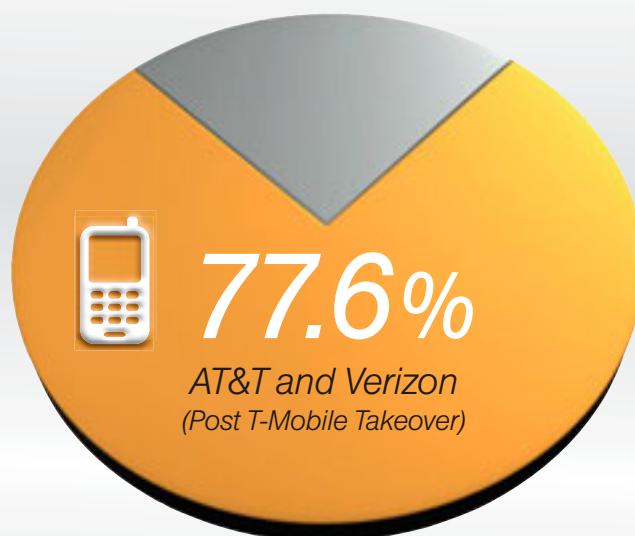
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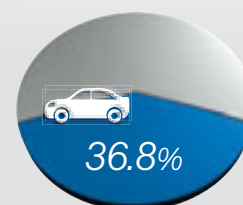
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Airline source: DOT, form 41, Schedule P-1.2.  
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Auto source: SEC 10-K filings, (includes cars and trucks and may include other revenue streams).  
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COVER BY CHRIS MORRIS



# Susan Sarandon, Smear Artist

Susan Sarandon's left-wing "activism" is too well known to be recounted here in much detail. The actress has embraced causes as various and predictable as the 2008 presidential campaign of John Edwards and the bona fides of author-murderer Jack Henry Abbott (1944-2002), for whom she named her son. Last week, however, Sarandon hit a nerve.

In a question-and-answer session with actor Bob Balaban at the Bay Street Theatre on Long Island, she recounted her role as the anti-death penalty nun Helen Prejean in *Dead Man Walking* (1995). Indeed, so impressed was Sarandon by Sister Helen that she sent a copy of Prejean's memoir, on which the movie was based, to the pope: "The last one [John Paul II]," she specified, "not this Nazi one we have now." When Balaban gently rebuked her for this slur of Benedict XVI, Sarandon pointedly repeated it.

THE SCRAPBOOK does not expect, or require, that Susan Sarandon count herself among the pope's admirers:

People are entitled to their own opinions. However, as the late Senator Moynihan once ruled, they are not entitled to their own facts. Benedict XVI, born Joseph Ratzinger, is German, as everybody knows; but he was not a Nazi, as Sarandon should know. At the age of 14 (1941), he was conscripted into the Hitler Youth, as required by law, but is reported to have skipped most meetings. Later, while a seminarian (1943), he was drafted into the German Army's antitank corps but deserted to his family's home (1945) when his unit ceased to exist, and was briefly incarcerated in an Allied POW camp. By November 1945, age 18, he was back in the seminary.

In the many decades during which Benedict XVI has been a senior Roman Catholic cleric there has never been any suggestion, or even hostile allegation, that he was a Nazi or Nazi sympathizer. Indeed, quite the contrary, as his subversive attitude toward the Hitler Youth would imply. THE SCRAPBOOK need hardly add that visible contempt for the Hitler Youth and

reluctant conscription into the Wehrmacht during the Third Reich would have required considerably more courage—indeed, courage at the risk of death—than any of the fashionable causes embraced by Susan Sarandon.

The real problem, however, is that "Nazi" has become an all-purpose epithet, especially as applied to conservatives, employed by progressives ranging from TV personality Keith Olbermann to Rep. John Lewis (D-Ga.), the civil rights veteran. "Only in the Hamptons," commented *Newsday*, which reported the incident, "could Sarandon get a laugh with such a comment."

Well, the Hamptons—and a lot of other comfortable locations as well. Susan Sarandon and friends are free to find Pope Benedict objectionable, as they wish. But "Nazi" is a term with very specific meaning and horrific connotations; and its abuse is an insult to the memory of the millions killed by the Nazis or—left, right, and center—who risked their lives to rid the world of Hitler. ♦

## Decline and Fall

You can count on one hand, perhaps on two or three fingers, the presidencies that have declined as rapidly and appallingly as Barack Obama's. Now Obama is desperate. And you can see it in the crass, corrupt, and dishonest campaign he is running for reelection.

On a three-day bus tour through North Carolina and Virginia, he poisoned the air with attacks on Republicans. Their jobs plan is "let's have dirtier air, dirtier water, less people with health insurance," he said. Republicans "want to gut regulations. They want to let Wall Street do whatever it wants."

That wasn't all. Republicans are fine with taxes on the middle class going up "when all they've been doing is cutting taxes for the wealthy

est Americans." There was more. Layoffs of firefighters and police are okay with Republicans, which means "firefighters can't always get to fires before they become major fires," Obama said. "And that makes their job more dangerous. It means police officers can't respond to every crime."

This was Democratic hack talk of the Harry Reid variety that the president of the United States was mouthing. He showed no sign of embarrassment or shame. The crowd at one stop chanted "four more years" and the speeches were anything but bipartisan, yet the White House insisted it was a purely "presidential" trip, not a campaign excursion. Which means: The taxpayers foot the bill.

Obama's chief argument for the jobs bill, that it will create nearly two million jobs and boost economic growth by 2 percent, is absurd, by the

way. A survey of 34 economists found it would create or save 288,000 jobs over two years. Obama claimed a consensus of "independent economists" agreed with the two million figure. When pressed for names, the White House could cite only two.

Obama can't run on his record and hope to win. So the alternative he's adopted is a campaign of mangled facts, dishonest numbers, and baseless charges. "I just want to be fair," he said in North Chesterfield, Virginia. He hasn't come close. ♦

## Raping the Truth

Vice President Joe Biden also hit the campaign . . . whoops, the official business trail last week, touting his boss's "jobs bill." Early in the week, at a stop in Flint, Michigan,

he made a rather novel argument in support of the \$35 billion bill that Democrats want to use to shore up the salaries of teachers and first responders: “Murder will continue to rise. Rape will continue to rise. All crime will continue to rise.” That’s a bold and frightening assertion, though it reeks of such desperation that we feel no real need to refute the ironclad logic of “pass this bill or they’ll rape your daughter.”

However, THE SCRAPBOOK will never tire of reminders that Joe Biden long ago ascended to the pantheon of buffoonery and has tirelessly committed himself to remaining a national embarrassment ever since.

This latest incident is particularly illuminating in one respect. Most people assume Joe Biden is generally well meaning in his doltishness. The Great Amtrak Commuter just likes to hear himself talk, and once he gets on a roll he’s prone to say some inadvisable things.

But the rape and murder charge was different—Biden cited crime statistics for Flint to back up his claim that the federal government needs to spend billions more subsidizing public employees:

Let’s look at the facts. In 2008, when Flint had 265 sworn officers on the police force, there were 35 murders and 91 rapes in this city. In 2010, when Flint had only 144 police officers, the murder rate climbed to 65 and rapes—just to pick two categories—climbed to 229.

Biden later used some, uh, stimulating math to argue that these numbers show how rapes in Flint had “quadrupled.” Let’s take a competent look at the facts. According to factcheck.org, Biden was comparing the first figure of 91 reported rapes with 229 incidents filed under the much more inclusive heading of “all cases of criminal sexual conduct.” So the two numbers are not comparable. According to FBI statistics, rapes in Flint actually declined 11 percent from 2008 to 2010.

But this brief foray into fun with numbers illustrates the real problem.



THE OLD OBAMA JOB PLAN



THE NEW OBAMA JOB PLAN

The national press corps tends to excuse or ignore Biden’s ramblings out of pity. However, as this incident demonstrates, Biden is the Lennie Small of American politics. He isn’t just daft—he’s mean.

Make no mistake, the \$35 billion jobs bill is explicitly partisan legislation. Note that public employee unions gave Democrats well in excess of \$100 million during the last election cycle. Of the \$35 billion in the current jobs bill, \$30 billion is going to teachers, with just \$5 billion for cops and firefighters. If public safety is such a big issue, why are cops and firefighters getting such short shrift? We might cynically suggest that cops’ and firefighters’ unions didn’t pony up as much cam-

paign cash as the teachers’ unions, which spent nearly \$70 million electing Joe Biden vice president in 2008. (Police and firefighters’ unions also occasionally have the temerity to back Republicans.)

So heading into an election year, Biden takes a piece of legislation specifically designed to reward Democratic campaign benefactors, flies to the American city with the highest violent crime rate in the nation, accuses the legislation’s opponents of being accessories to rape and murder (multiple times), and has somebody on staff cook up a bunch of bogus statistics to buttress his case.

In a just world, the press and the American people would see Biden for what he is: a guy who has consistent-

ly lied, including multiple instances of plagiarism, to advance his career. It may be easier to laugh at Biden than accept how nasty and dishonest he can be. But as long as he remains a heartbeat away from the presidency, the joke's on us. ♦

## Puppy Love

THE SCRAPBOOK would like to extend hearty congratulations to *New York Times* executive editor Jill Abramson on the stunning critical reception of her new memoir, *The Puppy Diaries*. The book, which chronicles her adventures raising a young and rambunctious golden retriever named Scout, received not one, but two honest-to-goodness rave reviews last week. Way to go, Jill!

John Grogan, quite the puppy diarist himself as the author of the bestselling *Marley and Me*, thinks Abramson's book is a "worthy addition to the crowded so-called dogoir genre." Not to be outdone, William Styron's daughter Alexandra declares that Abramson "has vanquished the writer's self-regarding pose" and "comes up with a golden retriever of a memoir." As a cat person, we thought this might be an insult, except that Styron goes on to explain that *Puppy Diaries* is "unaffected, unironic," and "should hit the wide, heart-shaped mark cultivated by dog fanciers everywhere."

And though Styron warns that "sentimental notions and flights of extreme anthropomorphism abound in *The Puppy Diaries*," she is quick to point out that "Abramson seems confident of her congenial audience." And why shouldn't she be confident? Both of these reviews appear in (drum roll please) . . . the *New York Times*. Yes, the very same *New York Times* where Abramson is the new boss.

Despite this seeming conflict of interest, THE SCRAPBOOK is inclined to give Abramson and her publicity agent—um, newspaper—the benefit of the doubt. Is it really so hard to believe that the book offers a "can-

did glimpse . . . into the softer, personal—yes, even cuddly—side of one of the world's most influential opinion shapers"? After all, Abramson is "a prize-winning investigative reporter." Of course she "writes with intelligence and grace and never descends into the saccharine." Why, just look at this graceful and intelligent passage: "Besides looking for any excuse to inhale that irresistible puppy smell, I felt a reflexive urge to cover the top of Scout's soft head with kisses."

We can hardly dispute Grogan's charge that "some readers will be looking to brand [Abramson] elitist," but we sympathize with his contention that this is unfair. So what if she fed her first dog "rosemary dusted chicken and wild Alaskan sockeye salmon"? She has had to deal with the same doggie dilemmas as even the lowliest, non-prize-winning investigative reporter, like Scout's "relieving herself in the middle of the Duxiana mattress" (\$5,000 and up, in case you were wondering), and "trying to swipe a chicken from an outdoor table at Locanda Verde." And her "voice is bighearted and surprisingly down to earth"—even if she is "a powerful journalist few would dream of discounting."

Like Styron and Grogan, THE SCRAPBOOK wouldn't dream of discounting Abramson. She runs the *New York Times*, after all. As we all know, the Gray Lady's stout commitment to objectivity is the very light that guides her through the shadowy caverns of modern life in search of all the news that's fit to print—and stuff like this, that isn't. ♦

## Sentences We Didn't Finish

‘Huntsman will almost certainly fail, but that doesn't make what he is doing any less important. He's betting everything—"a Vegas move," he called it—that there is still some constituency in the Republican Party for reason . . ." (Dana Milbank, *Washington Post*, October 18). ♦

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## The Cocktail-Party Test

I don't read fiction," Billy Hunter proudly told sports reporters this month. "I only read stuff I can learn something from." What a line, from the head of the NBA Players Association. It's the kind of thing I used to treasure—except that I've begun to realize just how often I hear something similar. "I think of myself as a true reader," a political activist told me the other day, but it turns out she meant only that she follows a few mystery writers and reads a lot of new books about politics.

As well she ought. Don't get me wrong—plenty of first-rate nonfiction has been published in recent decades. Plenty of good fiction, as far as that goes. And yet, somehow, novels have disappeared from public-intellectual life. You can read them if

you want, but you don't *have* to read them to participate in the serious public discourse of America. A friend uses what he calls the cocktail-party test for a new book: Would you be embarrassed to show up at a get-together of writers and public-intellectual types without having read it? And the last novel he can remember for which that was true was Tom Wolfe's *Bonfire of the Vanities*—from 1987.

Almost 25 years without a public novel, in other words. The modernist novel defined itself with the publication of Joyce's *Ulysses* in 1922 and the completion of Proust's *Recherche du temps perdu* in 1927. It found a last peak with Thomas Mann's *Doctor Faustus* in 1947 and Ralph Ellison's *Invisible Man* in 1952. By the time Thomas Pynchon brought out *Gravity's Rainbow* in 1973, the whole project was clearly coming to an end. And that was pretty much

it—not just for the modernists but for the whole idea of the novel.

Think about that for a moment: The fundamental art of Western civilization for almost two hundred years—the device by which, more than any other, we tried to explain ourselves to ourselves—just doesn't count for much anymore. Even the hobbyists who read new fiction don't look to such books



for deep explanations of the human condition. And as far as other readers go, some plow their way through science fiction, westerns, Napoleonic naval stories, etc.—the green fields of genre fiction. The rest spend their time with biography: Ron Chernow's tale of Alexander Hamilton. Rick Brookhiser's new account of James Madison.

The common move at this point (among conservatives, at least) is to blame the writers. The nation's novelists, you see, were ruined by the writing-workshop aesthetic that came out of the colleges. They were hurt as well by politics: the mainstreaming of left-wing thought, the sidelining of artists who failed to toe the line.

It's a nice thesis, except for the fact that the Académie française didn't destroy the nineteenth-century novel in France, although it had a stronger influence on a national literature in

the 1870s than the American academy ever has. For that matter, leftist politics was far more important to the great writers of the 1930s than to the fading writers of the 1970s.

Besides, novels are hardly the only art to decay. When was the last time you cared about a new opera? Poetry failed the cocktail-party test somewhere around the death of W.H. Auden in 1973. Sculpture got gobbled up by its own theory long before Henry Moore died in 1986. You can be a lively and cultivated guest these days without being able to name a living painter, composer, or playwright you admire.

Personally, I think the cause was a failure of nerve not in art but in metaphysics. If novelists themselves don't believe there exists a deep structure of morality and manners that can be discerned by the novel, why should readers believe it? Why should they care?

When other nations speak of Western culture, they typically mean nothing more than movies and pop music. Hard to tell them they're wrong. It's not much of an exaggeration to say that, outside Hollywood and pop music, we haven't produced a single major—a single world-historical—work of art since about 1975. Maybe since 1950.

Which is all right, I guess. These things run in cycles, and what goes down may come up. But I was at a conservative conference recently—one of those "In Praise of Western Civilization" things that get called together from time to time—and I must have heard at least three talks demanding that we "defend Western culture" from the vandals within and the Visigoths without. Lord knows, there's plenty of defending to be done. And yet mostly I found myself thinking, *Why, exactly?* What culture do you think we have left to defend?

JOSEPH BOTTUM

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# From Tripoli to Tehran

**K**illing Muammar Qaddafi wasn't easy. What President Obama said would take days wound up taking eight months. At first the administration did not seem to understand that NATO's objective of protecting the civilians rising up against the Libyan tyrant's 40-year rule would require capturing or killing the man who was most likely to harm them. Unfortunately, the learning curve here seems to be something of a yardstick for Washington's understanding of the Middle Eastern state most likely to kill Americans—the Islamic Republic of Iran.

Still, we applaud the White House for at last getting Qaddafi. His execution at the hands of Libyan rebels closes a dark chapter in history, one that saw the murder of hundreds of U.S. citizens in acts of terror sponsored and directed by Qaddafi, including most spectacularly the Lockerbie bombing in 1988. Our thoughts are primarily with the family and friends of those killed by Qaddafi's agents. The justice they have now is final and cannot be betrayed again, as it was two years ago when Libyan intelligence officer Abdel Basset al-Megrahi was released from a Scottish prison and returned home to a hero's welcome. Later it became clear that Megrahi's freedom was the price the British government paid for a prospective oil deal—with the cost borne by the relatives of Qaddafi's victims.

London, to be sure, played a leading role in the NATO action against Qaddafi. But the Megrahi deal should remind us that our interests do not always align with those of our allies. The point of American leadership is not only that we lead, but that we do so for the purpose of maintaining and advancing American security, especially the protection of U.S. citizens. If this is not a priority for the British, then it is certainly not going to matter to, say, the Russians and Chinese. So why is the Obama administration wasting valuable time seeking support from Moscow and China in its efforts to isolate Iran?

When one considers Qaddafi's career of anti-American terror, a larger and even more dangerous assault on the

United States becomes ever clearer: the Islamic Republic of Iran's decades-long war against America. Given Tehran's efforts the last several years in Iraq and Afghanistan, the clerical regime and its Revolutionary Guards cohort are perhaps responsible for more American deaths than Qaddafi. The U.S.-led coalition against Saddam Hussein compelled Qaddafi to abandon his nuclear weapons program. The Iranians have pressed on with theirs.



The White House is rightly proud to have brought down Qaddafi without risking the lives of American ground troops. Libya, the administration believes, is a new model for projecting American power. "What we're moving towards," says deputy national security adviser Ben Rhodes, "is a far more targeted use of force in which we apply direct power against al Qaeda and those who pose a direct threat to the United States

and then galvanize collective action against global security challenges." But that is not the way it is going to go with Iran. Instead, the United States is going to find itself in a large and destructive conflict with the Islamic Republic.

The plot to kill the Saudi ambassador in a Washington restaurant shows that the Iranians are getting bolder. The bizarre belief that the Drug Enforcement Administration, FBI, and CIA have fundamentally misconstrued the Iranian operation in its details and its provenance shows that American elites have become even more elaborate in their efforts to explain away Iranian intentions and ambitions. In effect, we've executed a disinformation campaign against ourselves, in which we keep saying the water that is about to come to a boil is only getting a little warmer. The Iranians, though, see it rather more clearly: *The Americans have deterred themselves and will pull back even further once we've acquired the bomb.*

Iranian aggression and American wishful thinking will bring not peace but war. Hitler was incensed with Chamberlain when the Brits finally went to war after the invasion of Poland: There was nothing in the past behavior

of the allies that suggested they would ever do anything but appease the German dictator. We can imagine Iran's supreme leader Ali Khomeini will be similarly furious when we finally take action against the Iranian regime. The Americans did nothing to stop us before, they will rightly note—not when we bombed their embassy in Beirut and the Marine barracks, not in Iraq, not in Afghanistan, not when we plotted to kill the Saudi envoy regardless of American casualties in the U.S. capital.

One day soon, however, the Iranians will cross the line, and the American president will have no choice but to retaliate—even if the Iranians have the bomb. There won't be time then for the "collective action" prized by Obama and his deputies. The time for "collective action" is now.

Collective action does not mean bringing the unmovable Russians and Chinese on board. It means going after Revolutionary Guard camps. It means destabilizing Iran's ally Syria by creating a no-fly zone there that protects the Syrian opposition and helps bring down Bashar al-Assad. Collective action means using every possible method and tactic to destabilize the Iranian regime by working with allies inside and outside of Iran. It means doing everything possible to ensure that Ayatollah Ali Khomeini, stripped of his clerical robes, is the next Middle East dictator dragged from a hole in the ground.

—Lee Smith

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# The Solyndra Stonewall

About 24 hours after he recited the oath of office, Barack Obama addressed senior executive branch officials and cabinet secretaries at the Eisenhower Executive Office Building. The new president promised that his administration would bring a new openness to Washington, with strict ethics requirements and a presumption in favor of public disclosure of, well, almost everything. "For a long time now, there's been too much secrecy in this city," he declared. "The old rules said that if there was a defensible argument for not disclosing something to the American people, then it should not be disclosed. That era is now over. Starting today, . . . this administration stands on the side not of those who seek to withhold information but those who seek to make it known."

Think about that promise as you consider the Obama administration's response to the congressional investigation of a \$535 million loan guarantee to the bankrupt solar panel manufacturer Solyndra.



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After the Department of Energy complied with an initial Solyndra document request from the House Energy and Commerce Committee in February 2011, the Obama administration became largely uncooperative. When there has been a defensible argument for not disclosing something, the administration has used it. Officials have withheld thousands of pages of documents. They have ignored requests for information as a matter of routine. In late June, the deputy director of the Office of Management and Budget did not show up at a congressional hearing for which he was the only witness. In late July, OMB failed to meet a deadline to provide documents that had been subpoenaed by the Energy and Commerce Committee. In October, after the head of the Department of Energy's loan program resigned, the administration finally provided some of the requested documents—but did so late on a Friday of a three-day weekend and only after briefing select reporters in advance to spin the damaging materials.

These are the “old rules.” As questions surrounding the Solyndra loan grow more serious, the Obama administration is digging in. It's not hard to see why.

Late last week, for instance, the administration muzzled a key figure in the developing controversy. The Department of Energy denied a request from the House Energy and Commerce Committee for a transcribed interview, under oath, with Susan Richardson, chief counsel to the Depart-

ment of Energy program that granted the risky loan to Solyndra. Richardson is the author of two memos from earlier this year about the restructuring of that loan—changes which ensured that private investors, including several prominent Obama supporters, would be paid back before taxpayers in the event of a default.

The two memos are nearly identical except for their dates and, perhaps significantly, the addressees. The first, labeled “draft” and dated January 19, 2011, is a “Memorandum for the Secretary”—Energy Secretary Steven Chu—to be delivered “through Scott Blake Harris,” the department's general counsel. A second version, dated February 15, 2011, is addressed directly to Harris, with no mention of Chu.

Why the difference? Perhaps Richardson, or someone in her employ, didn't want to burden a busy Secretary Chu with more paperwork. Or maybe Richardson thought it was up to Harris to decide if the issue was important enough to be brought to Chu's attention.

Those are the charitable explanations. Here's another possibility: Richardson may have sought to protect Chu from the political fallout if an increasingly flimsy Solyndra collapsed. No one, after all, had been a bigger advocate for the Solyndra loan than Steven Chu. From the beginning, Chu sought to expedite the loan guarantee, even if that required changing the rules meant to protect taxpayers. In February 2009, for example, Chu complained to the *Wall*



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*Street Journal* that paperwork requirements were burdensome. “It might be too much,” he said.

A month later, Chu had apparently made some progress. The Solyndra loan application had been denied by the Bush administration in mid-January 2009. But the new rules yielded different results. “We’ve accelerated and streamlined the process and the loans are coming out,” he said. “We’re trying to streamline it so that the period of time will be reduced from a scale of four years to several months.”

Two years later, as Richardson was preparing her memo justifying the loan restructuring, the political implications of a Solyndra collapse were on the minds of top Obama administration figures. Officials at the Office of Management and Budget thought Solyndra so important, in fact, that they recommended having a top OMB representative raise the issue directly with Chu.

An email between OMB officials dated January 31, 2011, notes that an upcoming meeting about the loan program “might present an opportunity to flag to DOE [Department of Energy] at the highest level the stakes involved, for the Secretary to do as he sees fit (and be fully informed and accountable for the decision).”

The email further suggests that the OMB director “privately” point out the risks of restructuring and the potential political implications to Chu:

While the company *may* avoid default with a restructuring, there is also a good chance it will not. *If Solyndra defaults down the road, the optics will arguably be worse than they would be today.* . . . [Q]uestions will be asked as to why the administration made a bad investment not just once (which could hopefully be explained as part of the challenge of supporting innovative technologies), but twice (which could easily be portrayed as bad judgment, or worse). In addition, the timing will likely coincide with the 2012 campaign season heating up, whereas a default today could be put in the context of (and perhaps even get some credit for) fiscal discipline/good government because the administration would be limiting further taxpayer exposure . . . ).

Prescient words. The important question, however, is this: Did Richardson leave Chu off the February 15 memo to protect him? And if so, did someone tell her to do so?

We don’t know. Testifying under oath, however, would allow Richardson to answer those questions and others that might help shed light on the whole sorry mess. That the Obama administration is blocking her—and refusing to cooperate fully with congressional investigators—makes clear the president and his lieutenants are less interested in sharing the facts of the case than in hiding them. As President Obama put it in January 2009: “The way to make government responsible is to hold it accountable. And the way to make government accountable is make it transparent so that the American people can know exactly what decisions are being made, how they’re being made, and whether their interests are being well served.” He was right.

—Stephen F. Hayes

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# CLASS Dismissed

As the debate on Obamacare reached a crescendo in late 2009 and 2010, no question was more hotly contested than whether the plan would narrow or widen future federal budget deficits. This issue was particularly sensitive among the handful of wavering Democrats from conservative-leaning districts and states. Their constituents were dubious of the budgetary wisdom of the entire Obamacare exercise, but the bill couldn’t pass without their votes. So, to keep them in the fold, the Obama White House and congressional Democratic leaders manufactured a strategy for legislative success: Without changing the substance of Obamacare’s massive entitlement spending, they would do whatever else could be done to create the perception that the bill was fiscally responsible.

On one level, their plan worked. The Congressional Budget Office (CBO) issued a series of cost estimates showing Obamacare would cut the budget deficit modestly over the period from 2010 to 2019. And these estimates, including the final one issued in March 2010, may have been decisive in rounding up the final votes to get the bill through Congress.

But on another level, this strategy failed miserably, because no matter how many times the president repeated the “Obamacare will cut the deficit” talking point, basically no one believed him. And why is that? For starters, it’s simply unbelievable to most Americans that a massive entitlement expansion will lead to less borrowing and pressure on taxpayers. All experience indicates otherwise. It’s also the case that Obamacare’s supposed deficit reduction was based on a series of gimmicks and sham accounting that was exposed well before the final votes were cast. Indeed, one of the most memorable moments in the entire debate was Representative Paul Ryan’s systematic dismantlement of the budgetary arguments being pushed by the president at the White House health care “summit” in February 2010.

Among the canards Ryan exposed that day was the so-called CLASS Act. Now, a year and a half after Obamacare’s passage, the White House has been forced to admit that Ryan and other critics were right all along with regard to CLASS. On October 14, the administration had to kill the program to prevent it from becoming a budgetary disaster in its own right. But that wasn’t what they said about CLASS when Obamacare was under consideration in Congress.

CLASS (for Community Living Assistance Services and Supports) is a voluntary long-term care insurance program that hitched a ride on Obamacare. The program was set up to charge participants premiums for at least five years before they became eligible for benefits—meaning that, as the pro-

gram commenced, there would be several years of premium collection before any meaningful expenditure.

This turned out to be awfully convenient timing for the White House, as it created the perception of a \$70 billion, 10-year CLASS surplus that was used to make Obamacare's overall books look better.

Counting CLASS in the Obamacare totals was an abuse for two reasons. First, as Ryan pointed out, the same dollar can't be spent twice. But that's exactly what the White House wanted to do. They said CLASS's \$70 billion surplus could be used both to pay for Obamacare and to liquidate CLASS Act obligations after ten years.

That was bad enough. But the problem was even worse because CLASS itself was a ticking budgetary time bomb, and the administration knew it. Every actuarial analysis done on the program showed it would never last without a massive taxpayer bailout. That's because it would only attract participants who expected to draw benefits, not those who are generally healthy today. Not only did CLASS create a phony \$70 billion surplus in the CBO cost estimate, it also put taxpayers on the hook for a massive bailout down the line.

All of this was well known to the administration, even before Ryan pointed it out to the president. But no matter: The White House and its allies in Congress pressed ahead for Obamacare, with CLASS in tow, because the convenience of the budget trick was simply too tempting to resist.

Unfortunately for the White House, reality can only be ignored for so long. The CLASS provisions required the secretary of health and human services to certify that the program could be sustained only with participant premiums—and not even Obama's HHS could find a way to do that. The administration thus had to pull the plug on the program and expose it as the budget gambit it always was. And just like that, \$70 billion in supposed deficit reduction from Obamacare vanished.

This won't be the last humiliating admission for the administration thanks to Obamacare. Beyond the CLASS Act surplus, the CBO cost estimate also assumes: Medicare cuts that would force thousands of hospitals to stop admitting senior citizens; cuts to Medicare Advantage that would force millions of enrollees to drop out of the coverage they have and like today; and a decision made by thousands of employers to continue offering coverage to millions of low-wage workers who would be eligible for large subsidies if they were dumped into the Obamacare system. None of these assumptions is plausible, and yet the administration is relying on all of them, just as it relied on CLASS, to back up its contention that Obamacare will cut the deficit.

Sooner or later, these other assumptions will be exposed as flawed too. Most voters won't be surprised when that happens, though. It will only confirm what they already knew.

—James C. Capretta

## Opportunities for Consensus on Job Creation

**By Thomas J. Donohue**

President and CEO  
U.S. Chamber of Commerce

Nearly two weeks ago, something remarkable happened in Washington. Congress passed—*overwhelmingly*—free trade agreements with Colombia, Panama, and South Korea. Strong bipartisan majorities came together and voted for these long-delayed trade pacts. The president signed them. The U.S. Chamber of Commerce has pushed for them for five years. And, as a result of these agreements, hundreds of thousands of Americans will find jobs, and businesses will have access to new markets and customers.

This is only remarkable because in Washington today it seems like there are almost no issues that enjoy such broad consensus. I disagree. Everyone has a jobs plan—the U.S. Chamber does, the White House does, Senate Republicans do. It's safe to say that we all want to create jobs.

But the devil is in the details, and

everyone knows that the competing jobs packages have no chance of passing wholesale. Nonetheless, Washington must do something to curb chronic unemployment and get our economy back on track. So where else can we find agreement?

There are opportunities in energy. We're eagerly awaiting a green light on the Keystone XL pipeline, a project that would create hundreds of thousands of American jobs. The President's Jobs Council and The Washington Post Editorial Board have joined the growing, bipartisan ranks of Keystone supporters. Moving forward on this pipeline is an acknowledgment that our nation needs energy, and we must take the next logical step—developing our own resources to help meet demand.

There are opportunities in infrastructure. It seems likely that Congress will address the infrastructure piece of the president's jobs plan. The Chamber will take a close look at the specific proposals—and how they are paid for—to ensure that it would be money well spent. We should be rebuilding

America's infrastructure now, when labor is available, materials are cheap, and the need is great. We're going to have to do it anyway.

There are opportunities on regulations. New legislation gives us hope this could be another point of consensus. The Regulatory Accountability Act—introduced in the House and Senate with bipartisan support—would modernize our process for the first time in 65 years. And it would provide our nation's job creators with some certainty and predictability.

Progress on these items alone won't dig us out of the unemployment rut. But they're a strong start. What we can't afford is more dawdling and delays like we saw on the trade agreements. We've already fallen behind. We must take steps now to put Americans back to work, revitalize our economy, and maintain our competitive edge.

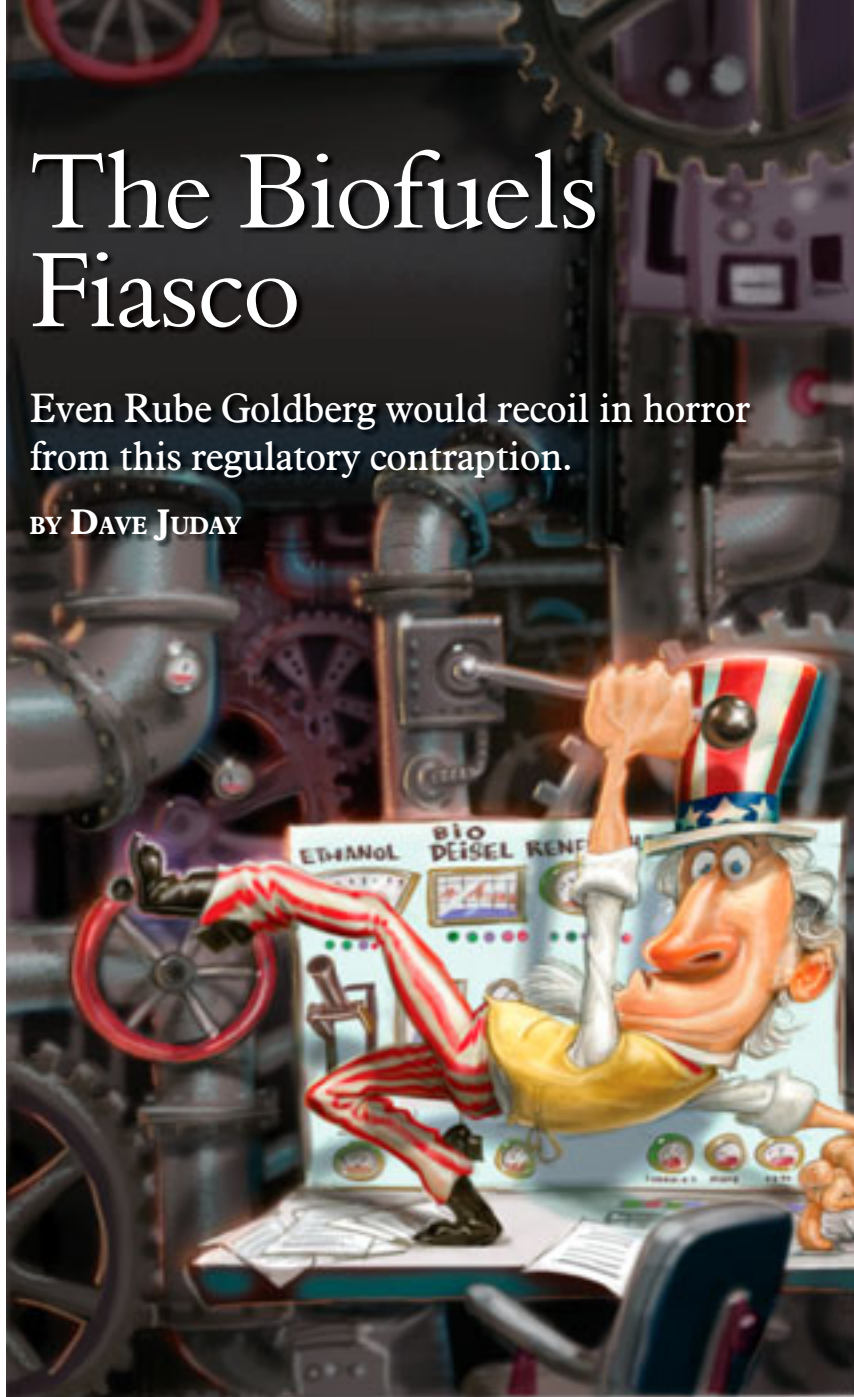


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# The Biofuels Fiasco

Even Rube Goldberg would recoil in horror from this regulatory contraption.

BY DAVE JUDAY



A food versus fuel debate has raged for the past few years as ethanol consumes more and more of the U.S. corn supply. Ethanol will use about 40 percent of the U.S. corn crop this year, and for the first time ever, more corn will go into motor fuel production than into feed for livestock. As the National Cattlemen's Beef Association has pointed out, since Congress mandated the use of ethanol in the nation's fuel supply, corn use

*Dave Juday is an agricultural commodity market analyst.*

by ethanol mills has increased by 382 percent, yet with a limited supply of farmland and the need to grow other crops, plus some less than ideal weather conditions this year and last, corn production has increased only 5.4 percent over the same period.

As a result, ethanol policy has been a major contributor to reduced red meat production. Per capita beef supplies for next year are projected to be at their lowest level since 1955. Food inflation is rampant—especially in categories where corn is a significant input. To date, poultry prices are up 3.4 percent

over last year, milk and dairy is up 9.1 percent, pork is up 7.5 percent, and hamburger is up 10.4 percent. All categories are projected to increase even more next year. Moreover, the impact is not just domestic, as more than 60 percent of the world's tradable corn supply originates in the United States.

Food versus fuel is not the only market distortion caused by the federal mandate to use ethanol in the U.S. motor fuel supply. The federal regulations and mandates of what feedstocks may be used to make which biofuels are now creating chaos within the fuel sector—which hits motorists and taxpayers in the pocketbook, too.

Consider that within the overall mandate that 36 billion gallons of ethanol be used for fuel by 2022, ethanol distilled from corn is limited to 15 billion gallons because of food versus fuel concerns. Despite already consuming 40 percent of the U.S. corn supply, corn ethanol has not yet hit its 15 billion gallon limit. Nonetheless, there still is more corn ethanol being produced than the market can absorb because of slackened motor fuel demand and a number of regulatory barriers.

Federal support for the ethanol industry has resulted in an excess, and thus exportable, supply of ethanol. Sold politically just four years ago in the 2007 Energy Independence and Security Act as a means to secure domestic energy independence, subsidized American ethanol is now exported to Great Britain, Finland, and the Netherlands, helping them comply with biofuel mandates issued by the European Union. Complex biofuel policy schemes are not just a U.S. mania.

While excess corn ethanol is exported, however, the U.S. market is still short of overall biofuel supply to meet the 2007 mandate. To make up the 21 billion gallons difference between corn's allotted maximum and the total biofuels mandate, so called advanced biofuels—which are simply those made from feedstocks other than corn—are also prescribed by statute.

Biodiesel is one such advanced biofuel. It is mostly made from soybean oil. The federal mandate for

GARY LOGKE

biodiesel use provides for one billion gallons by 2012. That is more than one-third of the country's total soybean oil supply. While blenders of corn ethanol enjoy a 45 cents per gallon tax credit, biodiesel receives a \$1 per gallon tax credit. At wholesale prices above \$5.50 in mid-October, even the dollar reduction provided by the tax credit still leaves biodiesel far more expensive than the \$3.80 per gallon retail price of petroleum diesel.

For a time, the \$1 tax credit provided a huge incentive to import soy oil from South America, blend it with a small amount of petroleum diesel to claim the U.S. tax credit—the blending often occurred while the tanker ship was still in port—and then re-export the blended fuel to Europe to further capture EU subsidies. That little scheme was known as “splash and dash,” and it was a \$300 million subsidy to promote domestic biofuel use that did not in fact subsidize biodiesel use in the United States.

Consider the absurdity of splash and dash at its height: According to the Department of Energy, in 2008 the United States produced 678 million gallons of biodiesel and exported 677 million gallons. We imported 315 million gallons, and domestic U.S. consumption was 316 million gallons. That particular stratagem ended in 2009, but exports haven't. Despite not meeting the mandated minimum for domestic biodiesel use last year, more than a third of the biodiesel produced in this country was exported in 2010.

Biodiesel production dropped more than 40 percent in 2010 from 2009 levels—down to 311 million gallons, even though there was a mandate to use 650 million gallons that year. The reason for the production shortfall was the expiration of the \$1 per gallon blenders' credit. That production drop-off provides a glimpse of the economics of biodiesel. Without the tax subsidy, production was not quite half the minimum mandated consumption level. Congress then restored the tax credit for 2011—and did so retroactively, providing a windfall subsidy to the 2010 production, which had already occurred without the credit. The tax credit is due

to expire again at the end of this year.

Another category of so-called advanced ethanol is cellulosic, made from grass, wood, and other nonstarch feedstocks. Cellulosic producers now get a net tax subsidy of 56 cents per gallon. Plus, there's a small-producers' tax credit of 10 cents per gallon for ethanol producers who make less than 60 million gallons per plant. For context, 60 million gallons is about five times the most robust market projection for total cellulosic ethanol production in 2012, so effectively all cellulosic producers qualify for the additional subsidy.

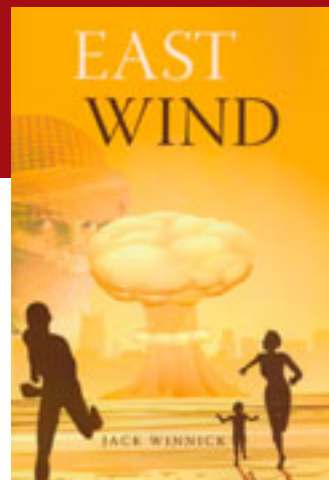
Indeed, cellulosic technology has not hit the break-even point yet. So, despite the mandate that fuel retailers use it, there is no commercial supply available. The shortfall is so acute that the prescribed 100 million gallon mandate for 2010 was reduced to 6 million gallons; the 250 million gallons mandated for 2011 were reduced to 7 million. That is a 337 million gallon shortfall in meeting the mandate.

While the cellulosic portion of the advanced biofuel mandate was waived, the overall mandate for advanced biofuels was not. So with corn-based ethanol not eligible, the difference has to be made up by a third category of advanced ethanol referred to as “undifferentiated,” which includes biodiesel and imported Brazilian sugar-based ethanol.

So the United States now imports ethanol from Brazil to meet the federal mandate for ethanol use, and yet those imports are subject to a 54-cents-per-gallon tariff to protect the U.S. domestic ethanol industry. Ethanol is also imported from Canada, which is not subject to a tariff, and owing to trade agreements and foreign policy considerations, the United States is committed to importing ethanol from all Caribbean Basin countries, with special set-asides for El Salvador and Costa Rica. Remember: Despite all this import and export activity, ethanol policy was justified on grounds of U.S. energy independence.

Yet, just as the shortfall of advanced biofuels has created a new demand for Brazilian sugar ethanol imports, Brazil has reduced its ethanol production. In

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fact, Brazil has even begun to import ethanol to meet its own biofuel mandates. Imports into Brazil so far in 2011 include corn ethanol from the United States. Before long, ships carrying U.S. corn ethanol southbound could regularly pass ships carrying Brazilian sugar ethanol northbound—a sort of splash and dash part two, driven by the U.S. mandate for “advanced” biofuels rather than by a tax credit.

On top of all the complexity of the tax credits, tariffs, and the import quotas, the federal mandate by feedstock category creates an intricate compliance system. Energy companies who comply with blending regulations to meet the mandate are issued a “renewable identification number,” known as a RIN. These are 38-character numeric codes to trace the transfer of biofuels. Even the National Biodiesel Board itself confesses that “a RIN may look, at first glance, like a wicked advanced algebra problem,” but “in reality, it is the basic currency for . . . credits, trading, and use by obligated parties and renewable fuel exporters to demonstrate compliance, as well as track the volumes of renewable fuels.”

There is a sophisticated secondary market for RINs among “obligated parties”—i.e., energy companies who must blend biofuels into petroleum-based fuels to meet the standards. Companies who earn RINs may sell them to companies who don’t. It is a miniature cap and trade regime.

Energy companies who cannot procure advanced biofuels on the market because supplies are not available are forced to buy RINs. Given the production situation—overproduction of corn ethanol combined with severe underproduction of advanced biofuels—it came as no surprise to industry observers when a Maryland biodiesel producer was indicted for fraudulently selling counterfeit RINs.

Yet, to effectively maintain the overall biofuels mandate imposed in 2007, the Obama EPA recently proposed to increase the 2013 biodiesel mandate above the statutory level of 1 billion gallons to 1.28 billion gallons. There can only be one outcome: U.S. diesel users will pay more for fuel

in order to offset the cost of imported sugar ethanol from Brazil and the lack of viable commercial cellulosic production technology. This was foreseeable when President Bush proposed, and Congress adopted, the mandate for cellulosic ethanol back in 2007. For all intents and purposes cellulosic fuel did not exist at the time. Nonetheless, its use was mandated.

If cellulosic ethanol were to reach the market, on top of the excess corn ethanol supply, there would have to be higher concentrations of ethanol in retail fuel blends—which is the ethanol industry’s primary policy goal now as they keep fingers crossed for a cellulosic breakthrough. But there are a few problems with increasing the blends. First, cars get lower mileage when fueled by the blends. This puts the ethanol mandate in tension with the federal mandate for the auto fleet to achieve higher fuel efficiency.

Second, there is the issue of damage to engines from burning ethanol blends. The ethanol content in fuel is currently limited to 10 percent. The Environmental Protection Agency is finalizing a regulation to allow 15 percent blends (so-called e-15), but even the EPA has admitted this can harm engines, issuing a statement warning that “all motorcycles, all vehicles with heavy-duty engines, such as school buses, transit buses, and delivery trucks, all off-road vehicles, such as boats and snowmobiles, all engines in off-road equipment, such as lawnmowers and chain saws, and all model year 2000 and older cars, light-duty trucks, and medium-duty passenger vehicles (SUVs)” are prohibited from using e-15. Needless to say, this will cause chaos at the gasoline pumps.

Finally, as if that weren’t enough, in the offing lurks another compliance challenge. The 2007 energy statute limits the production of crops for biofuels mainly to land that was “existing agricultural land” at the enactment of the bill. Specifically, that means land that was cleared or cultivated prior to December 19, 2007, and since that time has been in continuous agricultural use. While the fuel market is a little more than halfway to its ultimate

36 billion gallon goal for biofuel use by 2022, land use is already at 98 percent of that cap. Once the cap is met, each gallon of biofuel will have to be classified by its feedstock and also certified to have originated on preexisting farmland. More regulation, more record keeping, more costs.

Ethanol started out as the quintessential subsidy program back in the 1970s. It cost a large number of taxpayers a relatively small amount of money apiece to provide a large benefit to a relatively small number of beneficiaries. It didn’t hurt that most of the beneficiaries were—and still are—in Iowa, where 25 percent of all ethanol is produced. Average farmland prices in the Hawkeye State have grown from about \$2,600 per acre to \$6,400 per acre since 2004, the year before the latest mandate was put in place. In 2004, owning 385 acres of typical Iowa farmland made you a millionaire. Today 160 acres will do the trick.

If politicians had set out to cater to and enrich some of the most influential voters in our presidential primaries every four years, they could scarcely have come up with a more ingeniously targeted policy. But the program is now starting to collapse under the weight of its own complexity and market distortion. Indeed, biofuels policy is now recognized by many of those same politicians as a program of dubious if not harmful environmental impact that imposes major costs on taxpayers and food consumers—with additional costs to motorists soon to come.

There are proposals in Congress to establish a trigger based on corn stocks to waive the corn ethanol mandate temporarily, to let states opt out of the federal mandate, and to deny the tax credits afforded biofuels. Those proposals are intended to address the budgetary costs and the now-widely recognized food versus fuel impact of biofuel policy. But, even if they are adopted, a mind-numbingly convoluted regulatory regime will be left in place. As long as Iowa looms large in our quadrennial selection of presidential candidates, don’t look for leadership on the issue to arise in this White House, or its successors. ♦

# A Man with a Plan

Whatever its merits, Herman Cain's 9-9-9 proposal is receiving an odd critique. **BY IRWIN M. STELZER**

Politics being what it is, I suppose it is no surprise that Herman Cain's rivals for the Republican nomination should heap scorn on his 9-9-9 tax reform plan. I have no massive computer model that can tell me whether Cain's proposal would generate enough revenue to be part of any plan to bring the deficit under control. But I do know this: The objections so far raised are more than a little odd for candidates vying for the support of conservatives.

Start with the fact that Cain is not, well, one of us, "us" being the Republican establishment. His two millionaire opponents, both having reached that elevated station in whole or in part because they were born into it, make it clear that no man who has worked his way up, and made a bit of money in the pizza business, can be *un homme sérieux*. Developed the plan on the back of a pizza box, they chortle. Never mind that this might be as good a way as using the computer models that told President Obama's team that his massive stimulus plan would lower the unemployment rate. Or that the criticism smacks of the aversion of the British hereditary classes to "trade." It is an unbecoming line of criticism for a party that is supposed to represent the upwardly mobile entrepreneurial class.

In its more sophisticated version this criticism morphs into an attack on Cain for not having consulted the usual gaggle of academics. His main adviser is "not a trained economist," sniffs *Politico*. Surely Larry Summers would have taken time out from such duties as he might have at Harvard

to give Cain his views. Or the conservative economists who advised George W. Bush that his plan to fund the purchase of prescription drugs for old folks was affordable could have been brought in for a full-day seminar at which pizza might be served, reviving memories of those Clinton-era gabfests.

The sad fact is that economists who specialize in macroeconomics—the big picture—do not have a particularly good record of being helpful to policymakers either here or in Europe. It always amazes me that pundits hang on every word of the economists who queue up to announce the latest revisions in their forecasts: "I had it all wrong only weeks ago, so pay attention while I tell you why and give you the latest results of my soon-to-be revised-again look into my crystal ball." Cain has chosen to rely largely on his own real-world experience to come up with a tax structure that might stimulate growth: a 9 percent business, personal income, and sales tax. The other candidates, lacking such experience of their own, substitute for it the academic economists who have brought us to where we are—on the verge of another recession.

More important is that 9-9-9, whatever its other virtues or vices, accomplishes a long-held conservative goal: It transfers a portion of the tax burden from work, risk-taking, innovation, and job creation to consumption. How can a conservative object to such a change? Yes, it is regressive, transferring some of the tax burden from upper- to lower-income families. But opposing the Democrats' proposed tax on millionaires is also regressive. If you are really opposed to any tax that has regressive features, you might as well sign on with Chuck Schumer, unless of course you want to be constructive

and make suggestions for reducing the regressivity in a plan that its creator says is "a work in progress." And instead of sneering at that honest admission, ask if you can remember a single feature of Mitt Romney's fully formed, no-further-progress-needed, 59-point plan for job creation. Woodrow Wilson made do with only 14 points, Franklin Roosevelt with only Four Freedoms. Besides, 9-9-9 provides a more compelling rallying call than "See my 59 points."

Finally, conservative opponents of 9-9-9 object that the sales tax component is too easy to raise and cite European experience moving the value-added tax from around 8 percent in the early days to over 20 percent now. But they fail to understand the difference between the parliamentary and presidential systems. In Europe the chancellor of the majority party or coalition proposes some change in taxation, his party or coalition partners say "aye," and the deal is done. No congressional committees to worry about, no obstreperous senators or hostile House of Representatives. Ask and it shall be done. That just isn't the way the Founding Fathers set us up. The president might want to raise the sales tax component of 9-9-9, but he can't point to the swoosh on his Nike sneakers and say "just do it," as any European chancellor of the exchequer can. Doubt that, and read your daily newspaper about Obama's difficulty getting senators in his own party to raise taxes on families earning more than \$250,000.

There you have it. Herman Cain might not have credentials that suit the Republican establishment as personified by some of his rivals—neither did Ronald Reagan who worked his way up as, ugh, an actor. He might have decided that the economists who got us here are not the best sources of wisdom. And he might have stuck with principles of taxation long admired by conservatives, but never pursued for lack of political courage.

If you want to attack 9-9-9, it would be a good idea to find better reasons than those trotted out so far. There well might be many, but we haven't heard them yet. ♦

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# Losing the Economic Battle

The global debt apocalypse approaches.

BY DAVID M. SMICK

**O**n the issue of public debt, Washington is experiencing what psychologists call “learned helplessness.” The financial news is so relentlessly terrible that people have become numb to it and assume nothing can be done to regain control over our fate.

Today the world’s public and private debt exceeds an incredible 300 percent of GDP. We are at risk of succumbing to an ugly, downward, global mark-to-market in asset prices. Yet the discussion in Washington fails to reflect the immensity of the threat.

Some money managers have a theory that this mark-to-market process has been under way for some time. Stage One was the 1990s Asian crisis. Global financial markets concluded that Asia’s debt was dangerously high and its banks’ balance sheets not reflective of reality. Global traders pounced. Interest rates soared, equity markets plummeted, banks failed, and currencies collapsed.

Stage Two is happening in Europe today.

Stage Three will eventually hit the United States. Washington policymakers seem confident America’s public debt risk is years away. They believe that the U.S. economy, with the dollar the reserve currency, enjoys some immunity from these concerns. The central bank, moreover, can buy bonds to keep interest rates from rising in response to growing debt. Yet these are risky assumptions.

A year ago, senior European

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officials never dreamed they’d be in their current mess. Greece represents only 3 percent of the Eurozone economy. Bailout tricks and clever central bank interventions were supposed to calm nervous markets. That happened, but didn’t last. A powerful global financial market brought officials to their knees. Today, many European policymakers can’t believe America is risking a similar outcome. True, as a means of protection the Fed itself will try to manipulate credit markets by keeping long-term interest rates artificially low. But global financial markets will simply penalize bank stocks, a phenomenon that may result in a credit contraction and double dip recession.

The larger danger is that ballooning debt reaches a tipping point beyond which financial markets conclude the debt cannot be repaid without instigating political chaos. That is Europe’s predicament today. Markets realize that the austerity policies needed to bring the debt under control are making the task of debt reduction impossible, as tax revenues plummet.

Some analysts, including Criton Zoakos, argue that the global economy has reached a “point of no return.” Debt suffocates growth, which destroys equity values (particularly financial stocks), which diminishes lending, investment, and consumption. Falling tax receipts lead to even more debt. Optimists argue not to worry. The world since January 2008, they say, has been undergoing an important period of public and private deleveraging. Growth will resume once deleveraging is completed.

If only life were that simple! Global indebtedness, according to Zoakos,

has actually *increased* by 17 percent since the beginning of 2008. Nations have enacted generous bailout and stimulus programs while growth has averaged an anemic 1.2 percent.

With the world having fallen into a giant liquidity trap, monetary policy has been ineffective. Because of the growing slack in the economy as the developing world joins in the global slowdown, the central bankers couldn’t inflate their way out of today’s debt problem through bond purchases even if they wanted to.

What the Greek situation has shown (debt 120 percent of GDP before the crisis and 170 percent today *after* reforms) is that austerity without a strategy for vigorous economic growth is a recipe for failure. But Washington’s political environment is so poisonous, bipartisan fiscal compromise seems impossible.

Washington is overflowing with tax reform policies, proposals to bend the cost curve of entitlements, and ideas for smart infrastructure spending. There even seems to be a beneath-the-surface bipartisan consensus to move forward on these items, which probably won’t happen short of a stock market crisis that forces Congress to act.

Yet these reforms may not be enough. Policymakers also need to reform today’s slow-to-lend, too-big-to-fail banks. Here’s an important question: Should governments and central banks continue to try to prop up the value of the assets on bank balance sheets even though those values are unsustainable? This losing battle has already contributed to global public debt-to-GDP ratios that boggle the mind. We may be saving our banks, but we’re losing our economy.

Like a giant bow wave building up on each side of the vessel, the growing debt is threatening to swamp the entire world economic ship. A feeling of helplessness has taken hold at the precise moment policymakers need to be audacious. The numbers behind presidential candidate Herman Cain’s 9-9-9 plan may not add up, but his gut instinct is on the mark. America needs radical reform on the issues of both growth and debt. ♦

# Something New for Schools to Fail At

L.A.'s misbegotten teen dating curriculum.

BY HEATHER MAC DONALD

If you wonder why American students rank poorly among industrialized nations on academic skills, here's part of the explanation, from a seventh-grade classroom in the Los Angeles Unified School District:

On a recent morning, [reports the *Los Angeles Times*,] Trina Greene, manager of Peace Over Violence's Start Strong program, faced a class at Berendo Middle School in Pico-Union and dived into matters of love and control.

She took students through an exercise in which they had to decide whether to leave a relationship. Under one scenario, a girl pinched a boy for looking at another girl. The students said they would end the relationship. But when she bought him a gold chain for his birthday, a number of them wavered, saying they might stay.

Only 35 percent of Hispanic seventh-graders at this overwhelmingly Hispanic middle school were deemed proficient in California's English Language Arts test in 2010-11, and only 43 percent were deemed proficient in Math. Yet Berendo's students are spending precious class time role-playing dating scenarios rather than studying the grammar of dependent clauses or poring over algebra work sheets. (The purchase of a gold chain in this dating scenario is interesting, since we can safely assume that the Start Strong program has been rigorously vetted for "cultural appropriateness." Taxpayers subsidize lunch for 96 percent of Berendo's students.)

Now comes a member of the Los Angeles Board of Education who wants every school in the Los Angeles

public school system to teach students "how to recognize when a relationship is becoming abusive," according to the *Los Angeles Times*. Over the last several months, L.A. Board of Education member Steve Zimmer, a former teacher and activist, has been working closely with the anti-dating-violence program Peace Over Violence on how to expand its services district-wide. The proposed expansion, estimated to cost \$2 million in its first year and approximately \$600,000 a year there-

**Why is a school program necessary to teach students to recognize if they are in an abusive relationship? Here's a simple test: If you are being mentally or physically abused, you are in an abusive relationship.**

after, would hire a new central district administrator and four full-time assistants who would coordinate each school's anti-dating-violence programs and would train a teacher or staff member on each campus to "help students identify when they may be veering toward physical, emotional, or verbal abuse and to raise awareness of these issues."

Zimmer got a boost for his effort in late September when an 18-year-old student, Abraham Lopez, fatally stabbed his 17-year-old ex-girlfriend, Cindi Santana, during lunch at South East High School. If any politician were inclined to oppose Zimmer's proposal, it will be harder to do so in the wake of the Santana stabbing.

Nevertheless, a few questions about this symbol of our dysfunctional schools present themselves:

- Why is a school program necessary to teach students to recognize if they are in an abusive relationship? Here's a simple test: If you are being mentally or physically abused, you are in an abusive relationship.

- Why are seventh-graders dating?
- Isn't teaching about dating the family's responsibility? The all-purpose justification for the takeover of schools by the social work bureaucracy is: "Parents are not doing their jobs." But the causality here works both ways. The more that schools purport to take on the functions of parents, the more marginalized those parents become and the less class time is devoted to the academic material that could help propel students out of underclass culture.

- How can a government employee hope to instill in a child the subtle understanding of self, usually built up over years of interactions with parents, that would insulate someone from an abusive relationship? If government social workers could stem social breakdown, inner-city family structure would be the healthiest in the world.

Schools have been piling on social services for decades, yet the illegitimacy rate continues to rise, most cataclysmically among blacks (73 percent) and Latinos (53 percent). (Teen birth rates have gone down since the early 1990s, though they are still magnitudes higher than in Europe and Asia.) The social dysfunction that results from this spiraling illegitimacy rate provides the pretext for further increasing the school social work bureaucracy.

Berendo Middle School, located in a gang-ridden section of south Los Angeles County, already has a robust therapeutic staff, including a coordinator of social services who "outreaches" to other social work agencies in the community. In 2006, I visited Berendo's Violence Intervention Program for children who show signs of gang involvement and their overwhelmingly single mothers. The students' siblings often came from a dizzying array of different fathers. The Violence Intervention Program's listless group therapy

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session did not inspire confidence that students were better off parked there than in front of a math textbook.

The dominant ethos of the social service lobby guarantees that it will fail to stem family breakdown, even if it had any hope of serving as a viable surrogate for parental oversight to begin with. The lobby is obsessively value-neutral about promiscuity and family structure. It's fine for teens to have sex, so long as they do so in a nonsexist, non-heteronormative, condom-using way. It's also fine for women and girls to have children out of wedlock; to suggest otherwise violates the first principle of feminism: "Strong women can do it all." Children don't need fathers; they just need good "support systems."

Of course, the mainstream media and large swaths of the opinion elite are just as nonjudgmental about premature sexual activity and the disappearance of marriage as the social work bureaucracy is. The *Los Angeles Times* presented Jessica Contreras,

an 18-year-old graduate of the Los Angeles Unified School District, as an example of the benefits of anti-dating-violence programs. Contreras says "she wished she had learned more about healthy relationships before she ended up in an abusive one," according to the *Times*. (Parental guidance? Not on the radar screen.) When Contreras was 14, her 18-year-old boyfriend slapped her after she "told him off" for hanging out with another girl at school. For a year afterwards, she said, "I didn't know what to think or how to feel." Jessica's bewilderment did not last long: Now 18, she is "raising her one-year-old son from another relationship." The news gets even better: "With counseling and help from programs like Peace Over Violence, she said, she knows how to define boundaries in a relationship and stand up for herself."

Apparently those "boundaries" kick in *after* granting access to private parts, not before.

The problems purportedly addressed by school social programs

are unquestionably serious. The demise of the norm of sexual modesty has resulted in a grotesquely sexualized culture that many parents do nothing to counter and that the entertainment and consumer industries do everything to accentuate. Dating violence and domestic violence are likely to worsen with the growing Hispanic population, which is already responsible for large increases in domestic violence calls in big-city police departments.

Schools do have one powerful tool to stem this tide of dysfunction, however: homework. Asian teen pregnancy rates are negligible in part because the Asian family is still strong, but also because the children are studying so single-mindedly that they don't have time to hang out at the mall, get drunk, and fornicate.

Every school with a teen pregnancy problem should double its academic requirements and enforce consequences for blowing them off. The \$2 million that Los Angeles Unified board member Steve Zimmer wants to spend on a new bureaucracy could instead be used to send the message that school is about gaining precious knowledge of the world; the money could restore lost library hours and stock library shelves with Poe, Conan Doyle, and books conveying the excitement of science and history.

Schools have a second line of defense against social breakdown when families fail to civilize their children: a pervasive ethic of self-discipline and respect for others. Rather than creating specialized classes in various dysfunctions, schools should simply insist on nonnegotiable norms of promptness, neatness, effort, and courtesy. The KIPP schools—high-achieving, inner-city charters whose students sign enforceable pledges to behave responsibly, including following their teacher's directions—are the best examples of this civilizing environment. Students who are taught to respond respectfully to adults are less likely to abuse each other. But such traditional methods of socialization do not add to school district and union payrolls or to their supporters' electoral prospects. ♦

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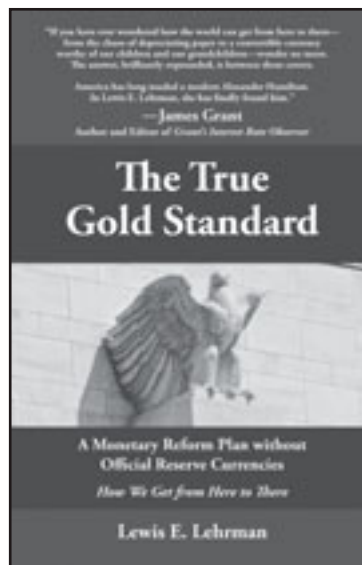
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# The Texas Diversity Wars

Will the Supreme Court step in?

BY TERRY EASTLAND

Among the cases the Supreme Court is being asked to take in its new term is one from Texas challenging racial preferences in college admissions. Alice Fisher was finishing her senior year at Stephen F. Austin High School in 2008 when she applied, unsuccessfully, for admission to the University of Texas at Austin. Having good academic credentials, she sued in federal district court, alleging discrimination on account of an admissions policy that favors black and Hispanic applicants. Fisher lost in the lower courts, but her case, if granted by the Court, could be one of the term's most important. The Obama administration already is on record in *Fisher v. Texas*, having supported the university in an amicus brief in the court of appeals for the Fifth Circuit.

Fisher argues her case in terms of the Fourteenth Amendment, under which no state, nor the federal government for that matter, may deny to any person within its jurisdiction "the equal protection of the laws." Over the years the Court has made clear that the clause casts deep suspicion on the use of race by government. It doesn't matter, the Court has explained, whether the complaining individual is white or black, a minority or a nonminority; or whether the use of race is "invidious" or ostensibly "benign." "To the person denied an opportunity or right based on race," the Court has said, "the classification is hardly benign." Accordingly, any consideration of race must

be subjected to "strict scrutiny." The doctrine calls for an exacting evaluation of the purposes for which race is being used and the means employed to achieve them.

The Court addressed the particular issue of racial preferences in admissions in 1978, in the landmark *Bakke* case, and then again in 2003, in two companion cases from Michigan, *Gratz v. Bollinger* and *Grutter v. Bollinger*. Applying strict scrutiny, the Court in *Gratz* struck down the "mechanistic" system by which the University of Michigan automatically gave minority applicants a certain number of points that increased their chances of admission. And in *Grutter* the Court upheld the Michigan Law School's more subtle use of race in its admissions procedures. *Grutter* and *Gratz* immediately became and remain today the Court's leading cases in this area of law, a guide as to how public universities may design their admissions procedures in order to enroll more minority applicants.

Writing for the majority in *Grutter*, Justice Sandra Day O'Connor said that the "educational benefits" that flow from diversity constitute a "compelling interest" that may be achieved by obtaining a "critical mass" of "underrepresented" minorities through the "narrowly tailored" use of race in selecting a class. A university thus may regard race as a "plus" factor in the "individualized consideration" of each applicant. But it can't use racial quotas. It can't award points on the basis of race. It can't engage in "racial balancing," either. And the use of race in admissions should end. "Race-conscious admissions policies

must be limited in time," she wrote, adding: They "must have a logical end point," they must have "a termination point." They must be (quoting a prior case) "temporary."

The composition of the Court has changed since O'Connor wrote in *Grutter*. Most important, in 2006, O'Connor herself retired and Justice Samuel Alito took her place. The Court is now more conservative in its jurisprudence, and if it takes the case, it could vindicate Fisher while also clarifying or reconsidering key parts of *Grutter*.

The policy Fisher is challenging is one of several admissions policies at the University of Texas (the others are at professional and graduate schools) that were revised in 2004 to include consideration of race in selecting applicants. Before then, UT as well as public colleges and universities throughout the state were unable to distinguish and prefer applicants on grounds of race thanks to *Hopwood v. Texas*, the 1996 case in which the Fifth Circuit held unconstitutional the Texas law school's race-preferential admissions process. *Grutter* made possible the return in 2004 to preferences in admissions since it effectively overruled *Hopwood*, thus enabling Texas to craft new policies. And Texas did so in light of, indeed inspired by, *Grutter*'s teachings.

The policy for the undergraduate school is different from the others in a key respect, for it governs only a small portion of seats in a class. In 1997, concerned that *Hopwood* might result in fewer black and Hispanic students enrolling at Texas colleges and universities, the legislature enacted the Top Ten Percent Law, under which in-state high school students graduating in the top decile of their class are automatically admitted to the state college or university of their choice. The law has affected admissions since 1998. Over the years Top Ten students have taken more and more seats in the freshman classes at UT-Austin—81 percent of the seats, in fact, in the class of 2008 to which Fisher applied. The remaining seats

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are governed by the race-conscious admissions policy.

Fisher, not incidentally, finished just outside the top decile of her high school class. So when she applied for admission to the university in 2008, she was competing with 16,000 non-Top Ten students for 19 percent (1,216) of the seats in the class. Fisher also was applying to a class more than 20 percent of whose members were black and Hispanic, thanks in large part to the Top Ten Percent Law. The year before the law took effect, roughly 1,000 Texas high schools failed to send even one student to UT-Austin—the law is race-neutral but, sweeping through every high school as it does, it disproportionately benefits black and Hispanic students.

The Top Ten Percent Law and its impact upon undergraduate admissions could be a key issue in *Fisher*. In *Grutter*, O'Connor wrote that "narrow tailoring [requires] serious, good-faith consideration of workable race-neutral alternatives that will achieve the diversity the university seeks." She asked whether "percentage plans" such as those in Texas, Florida, and California would qualify as just such an alternative, a position the Bush administration advocated. Considering that argument in the context of an undergraduate school, O'Connor wrote that percentage plans "may preclude the university from conducting the individualized assessments necessary to assemble" a diverse student body.

If the *Grutter* Court was right about this—if the Top Ten Percent Law isn't a "workable race-neutral alternative"—then Texas's percentage plan is irrelevant to deciding whether the challenged policy is unconstitutional. But *Fisher* differs in a critical respect from *Grutter*: It is not a case about a university that is considering whether to adopt a percentage plan but a case about a university with a plan already in place. Granted, the Top Ten Percent Law authorizes not an ideal admissions policy. It takes into account only class rank and thus forecloses consideration of everything else, including SAT scores and school quality and curriculum. But the plan

has contributed significantly to the growing numbers of black and Hispanic students that the university has enrolled since 1998. And the plan is race-neutral by its terms, something that cannot be said about the race-conscious policy under which non-Top Ten students apply.

Under that policy, the number of black and Hispanic students who are enrolled thanks to consideration of race is small, roughly 55, in the persuasive estimate of Fifth Circuit judge Emilio Garza, who concurred in the opinion by the three-judge panel upholding the policy, having concluded that the decision was "a faithful, if unfortunate, application" of *Grutter*. Dissenting from her court's denial of Fisher's request for rehearing the case, Fifth Circuit chief judge Edith Jones, joined by four of her colleagues, wrote that the "additional diversity contribution of the university's race-conscious admissions program is tiny and far from 'indispensable.'" The use of race, said Jones, is not "narrowly tailored" and for that reason the admissions policy is unconstitutional.

Another issue in the case is novel: Whether "classroom diversity" is a compelling interest. The university says it is, citing surveys of undergraduate classes of "participatory size," meaning those with 5 to 24 students, which found that very few contained a black or Hispanic student. *Grutter* did not go so far as to endorse classroom diversity as a compelling interest. But Texas has read *Grutter* as if it did. And so the university has pointed to classroom and campus-wide diversity in justifying the use of preferences in admissions in order to obtain a "critical mass" of black and Hispanic students.

But if Texas is right about classroom diversity, there is no reason why the university may not also "consider race" in assigning students to schools and colleges—thus enabling them to be in more classes of "participatory size," where the educational benefits of diversity are supposed to best accrue. As Judge Garza wrote, "A university's asserted interest in racial diversity

could justify race-conscious policies . . . not merely in the student body generally, but major by major and classroom by classroom." An obvious question here is how such employment of race in sorting students might ever end. Garza was skeptical that there was any basis on which it could end, writing that his court's decision would "in practice, allow for race-based preferences in seeming perpetuity."

Of course, it is by no means certain that the Supreme Court will take *Fisher*. The case isn't about a split in the federal circuit courts. Nor is it about a conflict among state supreme courts over the meaning of a federal law. Nor is it about a federal law that was struck down by the lower courts.

On the other hand, there is reason to think that the Court might decide to review the case. Consider that at the end of her opinion in *Grutter* Justice O'Connor stated the majority's expectation that "25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today." More than a third of that time has passed, surely enough for racial preferences to begin their demise. Why wouldn't the Court want to take a case now to see whether this is happening?

And if the justices do decide to review *Fisher*? Given how the composition of the Court has changed since *Grutter*, a more judicially conservative majority may see *Fisher* as a constitutionally worrisome case about expanding racial preferences. It may have doubts about whether federal courts should be as deferential to institutions of higher education as *Grutter* allows them to be in their race-plussing admissions procedures. It may show less patience with the elusive meanings of such terms as "critical mass" and "underrepresentation," not to mention "diversity" itself.

As for a statement of first principles, a majority will do no better than repair to what Justice Scalia wrote in concluding his partial dissent in *Grutter*: "The Constitution proscribes government discrimination on the basis of race, and state-provided education is no exception." ♦

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# The Gift of Gab

*With Mitt Romney as its candidate, could the GOP find that its long national nightmare of verbal inadequacy is over?*

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BY JAMES W. CEASER

If, as most pundits now believe, Mitt Romney has the inside track for the Republican nomination, he is the first GOP candidate in more than a generation not to be syntactically challenged. Just look at the list of the party's choices since Richard Nixon, whether elected (Ronald Reagan, George H.W. Bush, George W. Bush) or defeated (Gerald Ford, Robert Dole, John McCain). Whatever other attributes these candidates possessed, facility in extemporaneous exchange was not one of them. None of these men could be counted on to handle a challenging question, let alone always keep noun and verb somewhere near their rightful places.

This deficiency took a psychological toll on the Republican faithful over the years. Hours before a presidential debate or a major interview or press conference, Republicans, nerves frayed, would begin beseeching heaven that their candidate might escape disaster. Could he get through without denying that the Soviet Union dominated Eastern Europe (Gerald Ford in 1976) or leaving some imaginary figure, a century hence, wandering aimlessly down a California coastal highway (Ronald Reagan in 1984)?

With Mitt, at last, Republicans can sleep easy. Agree with him or not, this is a man who's not about to be stumped. Romney's verbal repertoire even extends to a capability that Republicans had forgotten still existed: nuance. Romney displayed his adeptness in the New Hampshire debate three weeks ago when parrying a challenge about the complexity of his 59-point plan from Herman Cain. Without hesitation, and with no hint of condescension, Mitt explained "that simple answers are always very helpful but oftentimes inadequate." Not exactly an answer that Bob Dole would have come up with on the spot. And he showed that he could stand up for himself as well, going toe-to-toe with Rick Perry last week in Las Vegas in the epic battle for the microphone.

Romney's debate performances the first time around,

in 2007-08, were not always so well honed. To his credit, he used his four years of practice to master the craft. This kind of hard work and discipline in an executive may be exactly what the American people are looking for this time. Besides, the simple truth is that there are few absolute naturals in this business.

The template for Republican verbal inadequacy was established before the Nixon era by President Eisenhower. Ike became known from his press conferences as one of the English language's great manglers, to the delight of reporters bent on depicting him as some kind of fool. This view of Ike prevailed for a time until presidential scholars, led by Fred Greenstein, began to point out that not only was he a demanding taskmaster of the written word—he had prepared speeches for General MacArthur in the 1930s—but his imprecision was sometimes deliberate or studied. "It is far better," Eisenhower once noted, "to stumble or speak guardedly than to move ahead smoothly and risk imperiling the country."

Across the aisle, meanwhile, Adlai Stevenson, the Democratic candidate in 1952 and 1956, spoke like an intellectual. The intelligentsia, the cheapest date around, embraced him as one of their own, beginning a love affair with the Democratic party that has endured ever since. No matter what the truth, the thinking classes, with the sophisticated journalists following obediently behind, have regarded the Democrats as their kind and most Republicans as dunces. Republicans' verbal struggles provided just enough cover to make the charge plausible.

Nixon stands as the exception. An articulate speaker, he was usually at ease handling difficult questions. But even Nixon caused Republicans much mental anguish. No one could know when his suppressed feelings of inferiority or self-pity might come bubbling to the surface, as in his promise to the press, after losing the California governor's race in 1962, "You won't have Nixon to kick around anymore." Nixon prided himself on being an accomplished debater, and he showed as much in the first-ever televised presidential debate against John F. Kennedy, whom the media were already touting as a great intellect.

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Nixon was judged to be victorious in surveys of those who listened on radio, though the opposite was the case for TV viewers. The simple fact was that Kennedy was handsome, while Nixon couldn't get a clean shave.

It has added no luster to the history of American rhetoric that the institutionalization of presidential debates, which began in 1976, featured a matchup between Gerald Ford and Jimmy Carter. Neither man was a Churchill, though Carter, an engineer by training, could be precise almost to a fault. (Certainly no one in 1976 would have suspected that Carter, in retirement, would publish a book of poetry.) Ford was another matter. He spoke slowly and deliberately, but he managed nonetheless to jumble his syntax and leave his phrases dangling. Smooth he was not. Perhaps to his credit, he could not talk and chew gum at the same time.

Ronald Reagan remains the most intriguing of the Republicans. Known today as the Great Communicator, he was superb in the set speech. At any given moment, he could also shine in debate or extemporaneous speech with a great quip or a beautiful one-liner. But even his admirers conceded that he was never one to be concerned with mastering all the details. And they worried continually at what he might come up with, as in his remark in 1981 that "trees cause more pollution than automobiles" (a claim that scientists more than two decades later discovered to be not entirely off-base). Reagan's weakness in this mode of communication was seized on by his opponents, whose efforts to depict him as a simpleton knew no bounds. Liberal intellectuals, who in this era were less taken than they are today with the intellectual prowess of Hollywood stars, repeatedly belittled Reagan for gleaning his deepest thoughts from the scripts of B-movies. Yet as in Eisenhower's case, historians in the decade after Reagan's retirement discovered that he had read widely and for years carefully crafted his own speeches.

The post-Reagan era has served only to confirm the weakness of the Republicans' extemporaneous speaking skills. George Bush *père* was never thought unintelligent—he had served in posts demanding intellectual ability, like ambassador to China and head of the CIA—but fluent in speaking he was not. He was a chronic assailant of English syntax, and his victory over the more articulate Michael Dukakis owed nothing to his skill at debating or answering questions. Bush's fate four years later was to encounter a man, Bill Clinton, who was one of the more gifted talkers in American history. A Rhodes scholar, a quick study, and a master of every dossier, Clinton could talk intelligently, or seem to, about almost any subject. (His problem, if he had one, was that he could not stop talking.) To put Bill Clinton four years later in the ring with Bob Dole was an act of rhetorical cruelty. Master of the one-liner, Dole

unfortunately found himself in situations where it was necessary to string together a second and third line.

George W. Bush was much better in both debate and spontaneous exchange than his critics made out. He clearly bested Al Gore in the debates in 2000, though this was more the result of Gore's own implosion than Bush's skill; and he held his own against John Kerry, whom the liberal media had built up as an intellectual giant. Still, Bush's mispronunciations, for example of "nuclear," and his neologisms, like "misunderestimate," became the constant fare of late-night comedians. It was no plus for the intellectual distinction of the president that his press secretary, Scott McClellan, defended his deficiency, noting that "Al Gore had perfect diction, and we still beat him. We've got a different kind of diction, it's a good diction." Far more important, no one listening to Bush would ever say that he could express his thoughts with ease. The joint press conferences he held with Tony Blair were painful displays of how much this deficiency hurt him. Blair, in full command of the language, could express what Bush could only hint at.

Much the same was evident in the Obama-McCain debates in 2008. John McCain could be sharp and concise in many matters of foreign affairs, but when it came to articulating his views on economic issues, he could not cover his weaknesses. To say it was a struggle would be charitable. Obama might not have been quite the master that some expected him to be, but even so, the contest was unequal.

**M**any centuries ago, Aristotle analyzed success in political persuasion along three dimensions: *logos* (the quality of argument), *pathos* (the power of emotional appeal), and *ethos* (admiration or respect for the character of the speaker). Barack Obama in 2008 enjoyed the trifecta. He was universally lauded for his keen intellect, his mastery of the details of policy, and, in debates, his reasoned style. (Joe Biden, surely qualified to judge, later opined that Obama had a "brain bigger than his skull.") He could speak in informal settings like an intellectual, even an academic, as in explaining in one of the Democratic primary debates that he and Hillary had a "philosophical difference" on health care—that difference, incidentally, being over the requirement that citizens purchase health insurance, which Obama then "philosophically" opposed. As for *pathos*, Obama had it to burn, launching an inspirational appeal to hope and change that captured the imaginations of millions worldwide, from humble urban dwellers in Cairo to sophisticated post-moderns in Paris. Finally, Obama was thought to have the makings of greatness, from his perfectly creased pants to his vision of a new future for America and the world.

It is no secret that Obama has lost ground on all three dimensions. Until recently, many who disagreed with him still liked or admired him. Now even that is beginning to fade, as his opponents have come increasingly to regard him as arrogant and duplicitous. More important, over the last few months even some of Obama's supporters in 2008 have started openly questioning his preparation for the job and his competence. "What people say when he is not in the room," Mortimer Zuckerman told the *Wall Street Journal* in an interview published on October 15, "is astonishing."

Obama's pathetic appeal has both changed and diminished. A soaring rhetoric of unity has given way to a bitter politics of division. Anger has replaced hope as the dominant emotion. There is no lift left. It may be on the dimension of logos, however, that Obama has suffered most. People do not doubt that he is smooth and articulate, though they have wondered at his addiction to the teleprompter. But they have come to dismiss the logic or reason of his arguments. Both in the health care debate and in the debate on the deficit, more and more are convinced that his figures just don't add up, and—going back to character—that he knows they don't add up. His cleverness is fooling no one.

And Mitt Romney? His candidacy today has impressed

many who once counted him out or wished him out. He has won the admiration, sometimes grudging, of many doubters for the way he has thought through every issue and is able to express his views. No one is pretending that he is an inspirational candidate, and he has not made the mistake of trying to be. Travel the byways of Iowa and New Hampshire, and you won't see very many "I love Mitt" signs. Nor is his full character held up as a paragon. Nothing in his biography is truly stirring, and the various evolutions in his political positions do not make him a hero as a leader of conviction. His strength on the dimension of ethos lies in his steadiness and the probity of his family life and personal character.

The shape of the Romney campaign is now clear. His bet is that conservatives will be satisfied that he is conservative enough to be their standard-bearer; that Republicans will want a candidate who can go up against Obama in debate without a handicap; and that the American people generally, having had their fill of charisma and inspiration, will be looking for competence attached to sound judgment. The era of world historical leadership is over, for the time being. Now is the moment not for the narrow manager but for the sound CEO, someone ready and prepared to step in and run the country. ♦

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## *Harrisburg's waste to energy to bankruptcy saga*

*The incinerator that sank the capital of Pennsylvania*

BY JONATHAN V. LAST

**O**n October 12, Harrisburg, the capital of Pennsylvania, filed for bankruptcy. The move took most of America by surprise—headlines on CNN and the Drudge Report played the story as breaking news. It was not. Harrisburg's failure has been so long in the offing that last June the state legislature passed a law forbidding the city from declaring bankruptcy until July 2012. (The city will challenge this law in court.) People in Pennsylvania have been waiting for Harrisburg to go broke for a long time.

Harrisburg's financial ruin has long been assured, but not for any of the usual reasons. There are no runaway pensions eating up the budget or dirty officials embezzling funds. The city's tax base has not hollowed out like Detroit's. Instead, Harrisburg was doomed by a single project: a waste-to-energy incinerator that has left a city with an annual budget of \$55 million some \$280 million in debt. That's a debt load of \$6,000 for each of the 49,500 men, women, and children in town, an amount so staggering it was impossible for the city to sustain it. (The saga has been chronicled by John Luciew of the local *Patriot Times* for several years in a tour de force of reportage.)

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Harrisburg's runaway incinerator is a compendium of failure—a combination of fashion-based policy, bad decisions by a local government, and schizophrenic federal mandates.

**T**he story begins in 1967, when Harrisburg contracted with a local engineering firm to conduct a study of its waste-disposal needs. This was a period in American life when garbage disposal was just beginning to take shape as an engineering field. Prior to the mid-'60s, more than half the towns in America had *no* long-term plan to deal with solid waste; they simply found the cheapest available land and dumped their refuse or buried it in landfills. The proper planning and management of dumps and landfills had yet to be refined, and many of these sites were considered hazards. It was common throughout the period to hear garbage horror stories, like the great fire at the Kenilworth dump in Washington, D.C., or the toxic-waste scare at Love Canal in New York.

Then the federal government stepped in. Incinerators had been around since before the turn of the century: The Army built the first American incinerator in 1885. And while they had been popular in big cities during the 1930s, they fell out of favor over the next 30 years. As the federal government began grappling with waste management, it decided to give the incinerator industry a little boost to help

AP / CAROLYN KASTER

revive it. To that end, the 1970 Clean Air Act put an end to open-burning at landfills, making landfills more costly to operate and incinerators an attractive alternative. It was not terribly surprising that Harrisburg's consultants recommended the town build its own incinerator.

An incinerator works about the way you'd imagine: Trash goes into a furnace, mechanical grates churn it, and intense heat reduces it to ash, which is ejected out the side while gaseous emissions are pumped out of a stack. Harrisburg's incinerator was built for \$12 million and boasted a total theoretical burn capacity of 500 tons per day. It opened for business on October 10, 1972.

From the start, the plant didn't work very well. There were frequent explosions and unintended fires. Ash kept gumming up the mechanism, and whenever the metal grates jammed, the entire system had to be shut down. It's unclear how much money the operation cost the city during those early years, but it was a major announcement when the town's mayor declared, in 1981, that he had gotten the incinerator out of the red. Later evidence suggests that the mayor was exaggerating: The plant continued running at a loss until 1985. Either way, the expenses piled up: In addition to the initial cost, and the revenue hole, and higher-than-expected maintenance, the debt had to be refinanced. A few years later, the city had to float a \$25 million bond just to clean out the incinerator's landfill. Locals dubbed the plant's 80-foot-tall pile of ash "Mt. Ashmore."

But in the midst of all the bad news, there was a glimmer of hope. As part of the '70s oil shocks, parts of the American energy establishment cottoned on to the idea of turning "trash to steam" to generate electricity. In 1978, for instance, the Public Utility Regulatory Policies Act was passed requiring the Federal Energy Regulatory Commission to guarantee a market (meaning subsidized loans) for electricity produced by small power plants (meaning trash-to-steam facilities). The idea was simple: Use the heat from incinerators to send steam from boilers through turbines, which generate electricity. The Europeans had been using variations of trash to steam for years, and if the Europeans liked it, it had to be a good idea. The first American waste-to-energy plant (engineers in the field hate the term "trash to steam") opened in Massachusetts in 1975; and the fad spread nationwide.

Harrisburg jumped on the bandwagon in 1984, when it built a 5,000-foot pipeline to vent steam to power a nearby Bethlehem Steel plant. In 1985 the town added a turbine, for on-site electricity generation. But the added revenues

did little for the bottom line. In 1993 the city unloaded the plant, selling it to a quasi-public utility, the Harrisburg Authority. The incinerator was "sold" for \$40.7 million, which wasn't as good a deal as it looked. The Harrisburg Authority was closely tied to the city, and most of the money from the sale was in IOUs.

**S**hunting the incinerator to the Harrisburg Authority was mainly a way to insulate the town's mayor and council from the decision to raise garbage collection fees. The city was still on the hook for the costs of the plant. For instance, when the incinerator needed \$10 million worth of repairs in 1996, the Harrisburg Authority technically borrowed the money—but the city backed the loan and guaranteed whatever payments the company couldn't make.

In the late '90s pollution from the plant began to get worse, too. Dioxin levels ran eight times higher than they had been just a few years earlier and the incinerator was clearly on the wrong side of the 1990 amendments to the federal Clean Air Act. Harrisburg bargained with the EPA for a decade before the feds finally came in and shut the incinerator down in December 2000.

The shutdown was a crisis for the city. They still owed enough money on the facility that they needed the revenues it provided (even though it still ran at a net loss). And the city continued to believe that, if the kinks could just be worked out and the boilers kept running at peak capacity—for much of the time, the plant limped along at 25 percent capacity—then it could eventually be made profitable. And sitting out there was the debt load. Abandoning the plant would mean eating the entire nut, with nothing to show for it.

The EPA gave the city two options: shut the incinerator down permanently, or put in place a plan to meet federal air-quality standards by 2003. The city deliberated for three weeks. Then they decided to double down.

Over the next three years, the city requested bids for modernizing the plant. The proposals from the big players in the industry were in the \$100 million range. (The highest bid came in at \$178 million.) But one contractor stood out. Barlow Projects had a revolutionary design for waste-to-energy boilers. They were willing to do the job for \$57 million.

The Barlow price was a trap. It was so low that it should have sent the city running. But by 2003 the total

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**The EPA gave the city two options: shut the incinerator down permanently, or put in place a plan to meet federal air-quality standards by 2003. The city decided to double down.**

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accumulated debt on the incinerator was \$104 million. So the fact that the price was absurdly low made it, for a city already on the ropes, almost impossible to pass up.

Retrofitting the plant meant shutting it down for three years. In order to pay for the job, cover lost revenues, and maintain service on their existing debt, the city had to take out \$125 million in new loans. The plan called for rebuilding the existing two boilers and adding a third, upping the plant's capacity to 800 tons per day. In addition, Barlow's proprietary technology promised that the boilers would have no moving parts (forced air would churn the trash), so they would not constantly be on the fritz, as they were in the old plant. The plan projected that revenues from the new facility would be \$23.2 million in the first year and would rise robustly from there. By 2034, it would be generating \$44 million a year and the entire debt would be worked off.

The cascade of failure which followed resembled the sinking of the *Titanic*.

The problems began immediately. The new contractor, Barlow, revised its cost upward to \$77 million before it even began work. Also, it turned out that the firm was too small an operation to get bonded for a project of such magnitude. Instead, the city sought to protect itself by withholding large chunks of payment until goals were met, attaching stiff penalties for failure.

Barlow's lack of experience proved problematic. Right off the bat, one subcontractor, a steelworks in charge of forging the boilers, ran six months behind schedule. This destroyed the entire timeline—a big problem since the town's \$125 million loan only covered its debt-service payments through what was supposed to be a hard completion date.

And that's when things got *really* bad. In the legal world, entities without money are thought of as "judgment proof." That is, even if you could win a lawsuit against a bad actor, it wouldn't really matter, since they couldn't pay you. Barlow was "penalty proof."

Barlow Projects was so undercapitalized that by 2005 it wasn't able to continue work on the project without the funds the city was withholding. Barlow was behind schedule and hadn't met its goals, but it was also on the verge of going out of business. So the city couldn't penalize it. In fact, Harrisburg had no choice but to continue fronting money to the foundering company—because if the city pushed Barlow under, the project would be in even deeper trouble. So long as there was a *chance* Barlow might finish the job, the city would do whatever it could to keep the company afloat. Harrisburg was shoveling good money after bad; but by this point, it had no better option.

As Barlow began to sink, the city disbursed the money it had been holding in escrow. When Barlow went over deadline and was supposed to be paying \$22,000 for every day each boiler was late, the city forgave the penalty. But

in the end, the city couldn't drag Barlow across the finish line. The company went bankrupt, the third boiler was never finished, and the city finally sued Barlow for \$70 million. This lawsuit, however, was mostly therapeutic: To the extent the company still exists as a legal entity, it will never be able to compensate Harrisburg for the damages it caused.

By the time Barlow gave up the ghost, Harrisburg's incinerator was a shambles. A story in *Governing* magazine reported that "streams of water flowed through the facility, amidst piles of ash; . . . the all-important third boiler had been 'completely scavenged' to maintain the two existing boiler units." Another firm, Covanta Energy, was hired in December 2006 to try to salvage the job. When he first saw the plant, Covanta vice president Jim Klecko reported, "I don't want to say I was scared, but I had reservations about physically going through the facility." Without the third boiler, the city was losing another \$1 million a month. The total debt from the incinerator stood at \$288 million.

**F**rom the minute the Barlow project failed, it became clear that the city would eventually take refuge in bankruptcy. The debt load was simply too great for a town of such modest size—there was no way to dig out. That's why Harrisburg declined to make any payments on its debt in 2010. Like a homeowner underwater on his mortgage, the town realized that there wasn't much point treading water on the note because eventually it would have to hand over the keys and walk away.

To that end, the city declined not only to service its debt but to take measures that might at least have put a dent in its obligations. It raised property taxes, but only slightly. It cut a handful of city workers. But when the mayor—whose career was effectively over—put forth a proposal to lease city-owned garages near the capital for \$100 million, the council rejected it. The council understood that \$100 million wouldn't get the city out of danger and they were better off retaining what assets they had.

Eventually, the mess will be sorted out by the courts. Harrisburg is suing Barlow for breach of contract and asking another court to nullify the state's attempt to keep it out of bankruptcy. Bondholders have filed six suits against the city, seeking to get at least some portion of the total debt or at least a chunk of the \$65 million which is already overdue. Late last week, the state legislature voted to take the city into receivership.

As for the incinerator, Covanta, which came in on the salvage mission, has taken over the plant and has it up and running again—and burning Harrisburg's trash. The company claims that the incinerator is now running at 92 percent capacity. ♦

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# Right but Repulsive

*The trashing of Britain's euroskeptics*

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BY ANDREW STUTTAFORD

A doctor ignored by a smoker won't celebrate if lung cancer strikes. Britain's euroskeptics are generally too worried about the consequences of the Eurozone's thoroughly predictable crisis to submit to the temptations of I told you so. Well, most of them are. The United Kingdom may be outside the Eurozone, but some British Banquos have managed to crash its beggar's banquet nonetheless. One, Foreign Secretary William Hague, has compared the currency union to "a burning building with no exits." He can be forgiven his bluntness. As Tory leader, he had said the same and much more besides when that ill-fated building was still under construction. The reward for his prescience was to have his words used against him as part of a vicious and deceptive campaign that failed in its specific objective, yet succeeded in a wider task: contributing to a political and cultural climate that doomed Hague to vilification and defeat in the 2001 general election, and Britain to years more of Tony Blair.

That campaign—to persuade Britons to adopt the euro—has now been retrieved from the memory hole and made the subject of *Guilty Men* (Centre for Policy Studies), a brutal, brilliant new pamphlet by Frances Weaver, a freelance writer and researcher, and Peter Osborne, the *Daily Telegraph's* chief political commentator. The title is provocation and insult. Published in 1940, the original *Guilty Men* was a savage, if not always accurate, attack on British politicians of the appeasement era. To revive its name was to hurl down a gauntlet.

*Guilty Men* should be seen as the third in an Osborne trilogy that began with *The Rise of Political Lying* (2005). That volume and *The Triumph of the Political Class* (2007) are two of the finest books on British politics in recent years. Their titles speak for themselves, and their message ought to resonate far beyond Britain. The same is true of *Guilty Men*. Within its covers you will find the description of an elite unimpressed by its homeland, enthralled by transnationalism, seduced by the main chance, and buttressed by a mistaken conventional wisdom that it chose

to defend by any means possible. None of this, of course, could ever happen here.

Like all the best thrillers, *Guilty Men* begins with a dastardly foreign plot. In its introduction, Peter Jay, a distinguished journalist and a former British ambassador to the United States, describes a lunch in Paris he attended as a 15-year-old in 1952. The guest of honor was the French diplomat Jean Monnet, the man who launched what eventually became the European Union. Dismayed by the spectacle of a France now eclipsed by the United States and Soviet Union, Monnet apparently explained that the only way that *la gloire* could return to France was within a Greater Europe. But this would have to be a superpower created gradually and by indirection, "by zig and by zag," until, as Jay puts it, "the walls of old-fashioned national sentiment collapsed in favor of a new focus of national unity, Europe itself."

In the nearly 60 years that have followed, there has been plenty of zig, and plenty of zag, and rather too much European Union, but the United States of Europe has yet to emerge. And as for "the dimension of empire" that EU Commission president José Manuel Barroso claimed to detect within Brussels's realm back in 2007, well. . . .

Critically, there is, to borrow the unkind observation of Václav Klaus, the Czech Republic's splendidly Thatcherite president, "no European *demos*—and no European nation." There are, of course, the institutions—the parliament, the Commission, and so on—and the pretensions and the massive regulatory overreach. There's a pretty flag and, via Beethoven and Rhodesia, a nice enough anthem, but that's about it. To the extent that there is any European patriotism beyond the expensively furnished lairs of the upscale and, let's concede the point, some genuine enthusiasm for Europe's Ryder Cup golf team, it finds its most powerful expression in, significantly, something negative—distaste for the United States. These are too-flimsy foundations on which to build a challenge to the world's colossi.

Thus it was not some atavistic dream of empire that persuaded so many of Britain's best and brightest to rally behind the campaign to sign their country up for a shoddily constructed currency that was, whatever Paul Volcker (oh yes) might have said, clearly ill-suited to the U.K.

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*Andrew Stuttaford works in the international financial markets and writes frequently about cultural and political issues.*

economy. For some, career was the motive, and not only in an obvious way. Brussels can pay well, directly and indirectly, but, more than that, opposition to the euro had been cleverly smeared as a badge of the bizarre, an ornament to no résumé worth having.

The sharply told tale of how the *opponents* of the Eurozone's madhouse money came to be regarded as nuts takes up some of the most interesting sections of *Guilty Men*, but it's worth pausing to note how the structure of Britain's politics and media makes it easier to manipulate public opinion there than in the United States. Power is much more centralized. There are fewer movers and shakers who need to be convinced. There are no awkward states to cajole. The press is ideologically diverse, but television and radio matter far more, and in broadcast the loudest voice is that of the officially nonpartisan, taxpayer-funded BBC, a megaphone for the pieties and prejudices of the soft left. There is no meaningful equivalent to Fox News or America's gung-ho Genghis talk radio to bite back. And at the time when the euro wars were at their most intense, the blogosphere was still being born, and Twitter had yet to hatch.

The BBC had therefore an immense advantage, and it abused it. In the course of one nine-week period in 2000 on BBC Radio 4's influential *Today* program, Osborne and Weaver record, "the case for the euro was represented by twice as many [speakers], interviews, and soundbites [as] the case against." That's not the end of it. A controversy can be defined by the way that it is framed by the media. When euroskeptics were heard on the BBC, it was often in the context of hugely exaggerated reports of splits within Conservative ranks over the single currency. A divided party is electoral poison, and the splits became the story. The argument against abandoning the pound was shelved for another day.

Word games of a type all too familiar from America's mainstream media were deployed (it was euroskeptics who were the "hardliners"). Scare stories of the terrible fate that awaited Britain outside the Eurozone made headlines, inconvenient statistics that cast doubt upon them were buried. If you think that sounds a lot like much of the American media's treatment of the global warming debate, you're correct.

The BBC was not the only prominent media institution to play these tricks. The *Financial Times* is widely perceived as authoritative, serious, *informed*, the voice of British business, the house journal of the City. It is meant to be something more than a mere newspaper. Osborne and Weaver demonstrate how, when it came to the euro, it was very much less. Not all its writers played along, but too often the *Financial Times* resorted to a camouflaged advocacy journalism that may even, ironically, have contributed to the Eurozone's present mess. How many bankers

will have read the paper's ecstatic accounts of the euro's progress and felt just that much better about lending to Greece, Ireland, or Portugal? What could go wrong? On May 26, 2008, the *FT* ran a leading article with a headline that included these words: "Europe's currency union has been a remarkable success." Remarkable indeed. Less than two years later the first Greek bailout was under way.

With such purportedly fair-minded grandees lending weight to the cause of the euro, and the Tories burdened by the irrational popular loathing that had swept them out of office, the vitriol of more openly partisan journalists came to be treated by many as something approaching gospel. In its viciousness their work anticipated the high-minded nastiness seen in the coverage of the Tea Party a decade or so later. Weaver and Osborne have plenty of examples showing just how low reputedly respectable detractors of "euroskeptical" could stoop. The euroskeptics were a "menagerie of has-beens, never-have-beens, and loony tunes." They were "a sect" of "intellectual violence . . . [stoking] the phobic fire." They were keen on "Hun-bashing," yet had something to do with the Latvian SS. They were liars, they were hatemongers. They were a "paradigm of menace and defeat," "extremist," "dogmatic," and "hysterical." Surely someone somewhere must have said that they were "bitter." They were "maniacs." Their opponents were "sane," a loaded adjective frequently abused in American polemics too.

This dark mood music was deftly conducted by Prime Minister Blair and an entourage skilled in the blackest arts of politics. What was there to lose? An economic illiterate, Blair didn't grasp how destructive dumping the pound could be, but as an iconoclast he appreciated the break with the past. And campaigning for the euro could bring its own rewards. The Conservatives' opposition to a change supported by some of the country's smartest could be used to reinforce the image of the know-nothing Tories, out of touch and not even "sane." The assault was relentless: Addressing the Labour party conference in 1999, Blair launched into an attack upon the "forces of conservatism," a faintly totalitarian diatribe that implicitly linked the jailers of Nelson Mandela to the euroskeptical threat. The idea was to push the electorate's perception of the Tories to a point where the Conservatives would be viewed as oddballs who deserved to be driven out of parliament and, indeed, polite society altogether: Under former Conservative prime minister John Major, explained Blair, "it was weak, weak, weak. Under William Hague, it's weird, weird, weird. Far right, far out. . . . The more useless they get, the more extreme they get."

Naturally, a place in the respectability room would be found for those “sane” Conservatives who would sign up for the “cross-party” crusade for the euro. Quite a few did just that.

Polite society paid attention. Conventional wisdom builds upon itself, especially when self-interest is greasing the way. It wasn't just individuals on the make who discovered their faith in currency union; it was companies too, dancing the corporatist waltz. Obama's GE would understand. Firmly in the pocket of big business interests confident of their ability to play the EU game, the influential Confederation of British Industry (CBI) threw itself behind the campaign, lending it further credibility and then, less helpfully, incredibility. The CBI's polling data showed that 84 percent of British business supported the euro. Once this distinctly Soviet result was revealed (thanks to the work of yet another determined euroskeptic “crank”) to have been arrived at by distinctly Soviet math, the pushback slowly began. Within a few years the CBI found itself (in the words of one well-known journalist) “tugged towards the new extremism and euro-phobia.” In other words, it adopted a neutral stance on the euro.

But don't see this saga as evidence of some giant conspiracy. There were a few plotters to be sure, notably in the Labour party and, doubtless, Brussels, but for the most part the surge of support for the euro among the U.K.'s chattering classes was the result of something more insidious and less planned: This was a scheme they simply *felt* to be right. For many British intellectuals, the cultured Europe of their vacations and their imaginations has long been a finer place than their grubby, greedy, and in all senses insular homeland. The weather is nicer, the food is better, and the ambience is both pleasingly picturesque and refreshingly sophisticated. Most alluring of all, Continentals treat the intelligentsia with a respect rarely to be found in unruly, ill-read Blighty.

To such folk, confident in the inadequacies of what they prefer to describe as their midsized nation (then perhaps the fifth-largest economy in the world, with nukes to boot, but let that pass), the EU was a safe haven that only the mad or the bad would disdain. The fact that it had evolved, not into the superpower of Peter Jay's fears but into the vaguely utopian, proudly progressive post-national technocracy that was Monnet's greater vision, only added to its appeal. If signing up for the euro was the price of admission to the EU's inner circle, why would any civilized, “sane” individual want to object? And who knew anyone who had?

There was a lady called Pauline Kael who once asked a question much like that.

In the end, the thin red line held, maintained by politicians of integrity (and, yes, sometimes eccentricity), the caution of British voters, and, crucially, the venom

of Gordon Brown, the finance minister, too jealous of the upstart Blair to allow him to take the U.K. into the Eurozone. Britannia stayed out, and has weathered the current economic storms far better than she could have done with the euro around her neck. Signing up for the single currency will be off the agenda for quite a while.

A happy ending then? No, it's more a “to be continued.” As Weaver and Osborne understand, the opprobrium heaped on the Conservative party for being, as it turned out, right about the euro helped derail the careers of three Tory leaders and paved the way for “modernizers” such as Prime Minister David Cameron, determined to avoid “banging on about Europe” at a time when that's just what he needs to be doing. The increasingly desperate attempts to resolve the Eurozone crisis are likely to include proposals to change the EU's legal framework in ways that will require the approval of all member-states. That will be a good moment (if Cameron can be persuaded to seize it) for the U.K. to finally play hardball with its European partners over the repatriation of powers that should never have been transferred to Brussels in the first place. Britain's euro-claque will noisily object. A reminder to the rest of the country of just how hard that still largely unapologetic claque worked to shove Britain into the Eurozone's abyss is just what such a debate could use. And that's what *Guilty Men* is designed to provide.

Osborne and Weaver give plenty of indications of how much it will be needed. One of the guilty, former EU commissioner Lord Patten, chairs the BBC's governing body. His vice chairwoman, Diane Coyle, is a lady once deeply concerned about the “gut anti-Europeanism and Little Englandism” of the pound's “elderly” defenders. This dismal duo will find little in the Beeb's current EU coverage to disturb them. The *Financial Times* is now edited by its former Brussels chief, another cheerleader for currency union. He is in charge of a newspaper that appears sadder these days, if not much wiser. Waiting, perhaps, for a fresh euro-dawn, former CBI boss Adair Turner is currently using another collective mania to hobble the British economy. He's chairman of Britain's Committee on Climate Change, a perch from which he can admire similar efforts by Britain's destructively green energy minister, Liberal Democrat Chris Huhne, a europhile who has lost none of his vim. And then there's Tony Blair, continuing to pontificate to anyone who will pay attention or, at least, pay. He's not the only member of the Labour party who still believes that Britain should sign up for the single currency—when the time is right, of course.

Zig and zag. ♦



*'Police Gazette' (1955)*

# Willem de Maestros

*MoMA gives de Kooning his due.* BY DANIEL GELERNTER

*New York*  
**A** few months ago, at the Hirshhorn Museum in Washington, I noticed that all the greatest de Koonings were missing. They have since

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**de Kooning: A Retrospective**  
*Museum of Modern Art*  
 Through January 9

resurfaced, along with most of Willem de Kooning's greatest work, at the Museum of Modern Art here in Manhattan. The Hirshhorn and the Metropolitan Museum of Art are the two larg-

est lenders (nine works each) to MoMA's exhibition of nearly 200 pieces from 100 different collections.

This is the first major de Kooning retrospective since the artist's death in 1997, the first big show to span de Kooning's entire career, the first time since MoMA's 2004 redesign that a whole floor has been turned over to a single artist, and the first exhibition ever to use

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the full gallery space of MoMA's sixth floor: 17,000 square feet. The show will also probably be the museum event of the decade, and makes dazzlingly clear that Willem de Kooning (1904-1997) is art history's greatest abstract painter.

The retrospective was six years in the making, from the first conversation between de Kooning's daughter and heir, Lisa, and MoMA's chief curator emeritus of painting and sculpture, John Elderfield. Elderfield traveled the country and world securing his choices for a definitive view of de Kooning and was denied only two works. One was an early abstraction, too fragile to travel; the other was *Woman IV*, which the Nelson-Atkins Museum in Kansas City has, unfortunately, made the only gap in de Kooning's famous six-painting series of 1950-53.

The first gallery covers 30 years of early development, from a 1916 academic still life (de Kooning at 12) to the iconic *Pink Angels* of 1945. The first works following de Kooning's 1926 stowaway passage from Holland to Manhattan are strongly Matissonian in composition and color; still lifes from 1927 and 1929 are the first beautiful paintings in the show. De Kooning used house paints, as he would continue to do for much of his career. (His paint had to be cheap enough that he'd never worry about scraping it off a canvas and throwing it out.)

De Kooning made his first abstractions when he went to work for the WPA as a mural artist in 1935. He'd met the influential Armenian painter Arshile Gorky in 1932. (A great Gorky-period painting, *Two Men Standing* [1938] is a notable omission from the show.) De Kooning and Gorky were close friends for a decade until Gorky became famous. Thereafter he abandoned de Kooning; but Gorky's influence is

still visible in two remarkable pencil drawings on display: *Self Portrait with Imaginary Brother* (1938) and *Portrait of Elaine* (1940).

The Second World War began, the friendship with Gorky collapsed, de Kooning met his future wife, Elaine Fried, and his first great style emerged. It began with a series of woman paintings—among them *Seated Woman* (1940), *Pink Lady* (1944), and *Queen of Hearts* (1943-

ously. This is true, but misleading: de Kooning's abstractions are always a year or two behind his women. Thus *Pink Lady* (1944) led to *Pink Angels* (1945), and *Woman* (1948)—the next big shift—led to the epochal *Excavation* (1950). The women of 1950-53 led to *Gotham News*, *Interchange*, and *Easter Monday* in the mid-fifties and, ultimately, to the grand gesture of *Suburb in Havana* and *Door to the River* at decade's end. The watery handling of paint that first appears in the "Clam Diggers" women of the 1960s led to *...Whose Name Was Writ in Water* (1975) and the other abstract masterpieces of the '70s.

Because de Kooning used representation to experiment, his women are never as great as the nonwomen that followed. In his discussion with Elderfield, MoMA director Glenn Lowry was proud to point out that the 1950-53 women were not only the center of de Kooning's career but the "topographical" center of the retrospective. (And they are masterfully displayed on the center wall of the center room.) Many otherwise-perceptive art historians mistakenly consider these paintings the greatest, or at least most important, of de Kooning's career. (MoMA chose its own piece from the series, *Woman I*, for the catalogue cover.) But these

works have never recovered from the notoriety of the 1953 Sidney Janis Gallery show, which Harold Rosenberg (inventor of the phrase "action painting") used to anchor his fight against the preeminent hostile critic, Clement Greenberg.

When de Kooning had his first solo show at the Egan Gallery in 1948, Greenberg was exhaustively enthusiastic about the great black-and-white works such as *Black Friday* and *Painting*. (The latter, de Koon-



Willem de Kooning (1985)

46). These increasingly ferocious and fractured ladies are de Kooning's earliest mature pieces, both in color and draftsmanship. They pioneer the technique he used in his first great abstractions. Throughout his career, de Kooning's women are the cutting edge of his next big development. John Elderfield said at MoMA's press preview that it was wrong to think of de Kooning as alternating between representational and abstract painting; in fact, he did both simultane-

ing's first museum acquisition, was purchased by MoMA in 1948.) Greenberg called de Kooning "an outright 'abstract' painter." But de Kooning's return to women horrified him. To paint the figure, Greenberg thought, was to betray modern art. Rosenberg co-opted the woman paintings as a means of setting himself apart from Greenberg and became de Kooning's most volatile supporter among the leading critics. (Greenberg, thinking that Jackson Pollock had run his course, entrenched with Clyfford Still.)

The woman paintings of 1950-53 were, by virtue of being at the center of the debate on what modern art ought to be, elevated to the high status they still enjoy but do not quite deserve. Greenberg was right that, taking each painting as a whole, they aren't as good as the earlier abstractions. He failed to notice, however, that certain abstract passages in the new woman paintings were more focused, brilliant in brushwork, and explosive in color than anything de Kooning had produced before. De Kooning's new manner of abstraction took over the whole canvas. The female form (fainter and fainter as de Kooning progressed) was buried and shattered, just as it had

been with the women of 1948 and those in his first series from the early '40s. Each return to the figure—to women—was a new beginning, and de Kooning developed through the gradual destruction and sublimation of the figure. When he had taken an idea as far as it would go, the figure was gone. It was replaced by pure energy.

The great abstractions of the mid-1950s contain more energy—hurricane-force intensity—per square inch than any other paintings in the show. No de Koonings are greater than

*Interchange*, *Police Gazette*, or *Gotham News* (all 1955) with their enriched-uranium levels of energy density—except, perhaps, the paintings on the opposite wall, the grand-gesture paintings, what *Art News*'s Thomas Hess called "the full arm sweep." These works—among them *Park Rosenberg* and *Bolton Landing* (both



'Seated Woman I' (1952)

1957) and *Suburb in Havana* (1958)—are what you'd get if you blew up two square inches of a 1953 woman painting to big-canvas size. Controlled chaos and overall frenzy is replaced by the majesty and freedom of the big brush. De Kooning simplified his palette—warm yellow, cream, ultramarine, red earth—and the subdued colors of these paintings gave way, after de Kooning visited Rome at the turn of the decade, to the luminous *Door to the River* (1960) and *Rosy-Fingered Dawn at Louse Point* (1963). Brown

is replaced by creamy, peach pink. It has the effect of bringing *Suburb in Havana* into bright daylight and taking an overexposed photograph.

This show's most magnificent moment comes as one turns to the left, away from *Door to the River*, to face the far wall. There are five large canvases, from left to right: *Untitled XI* (1975), *...Whose Name Was Writ in Water* (1975), *Untitled I* (1977), *Screams of Children Come from Seagulls* (1975), and *Untitled* (1977). I had never considered de Kooning's '70s abstractions his greatest, but the effect created by these five paintings together is without parallel. The color and form and flow is overwhelmingly, surpassingly lovely. And to get from the "full arm sweep" to these utterly different pieces, de Kooning once again painted women. MoMA gives the "Clam Diggers" women of the 1960s and their subsequent abstractification a whole room, which is too much. These paintings are the weakest, lacking the ferocity of the earlier women; and despite the occasional success in color, the overall effect is flimsy vulgarity.

The end of de Kooning's career has always given curators trouble, but Elderfield handles it superbly. In the mid-eighties (1984 was a tipping point), symptoms of Alzheimer's Disease became acute. De Kooning's paintings began to empty out—ribbons of color cut across large swaths of smooth white. He painted with increasing difficulty and with the aid of studio assistants. In 1989 he was ruled mentally incompetent; in 1990 he stopped painting, although he lived until 1997. Elderfield cuts off the retrospective at 1987, the last year de Kooning's work could be considered fully realized. The final paintings are spare, graceful, serenely beautiful. ♦

BURSTEIN COLLECTION / CORBIS

# Punishment and Crime

*A distinguished scholar tells us how we got here.*

BY ERIN SHELEY

**M**oderation is too rarely a stance to gain impassioned support in policy debates, and even less so when the subject is the state of American criminal justice. The disproportionate number of young African-American men behind bars at any given time (approximately 11 percent of those between ages 20 and 34) frequently elicits sweeping condemnation of both the justice system and the police departments that enforce the law. On the other side of the coin, the project of constitutional criminal procedural reform, inaugurated by Earl Warren's Supreme Court in the 1960s and extended in the decades since, frequently sparks outrage for its tendency to allow the guiltiest of defendants to escape punishment through the exclusion of incriminating evidence on procedural grounds. (A recent example is *Giles v. California* from 2008, which found that a defendant's Sixth Amendment right to confront his accuser was violated by the introduction of his girlfriend's past account of physical abuse at his hands because she was unavailable to testify in person at his trial—for her murder.)

The sheer stakes of criminal justice debates—weighing, as they do, the threat of criminal violence against victims with the threat of state violence against defendants—naturally alienate the most invested sides from one another, particularly along racial lines, and in a uniquely virulent manner.

In this, his last book, now published

## The Collapse of American Criminal Justice

by William J. Stuntz  
Belknap Press of Harvard, 432 pp., \$35

posthumously, the Harvard Law School scholar William J. Stuntz attempts to bridge the gap with a comprehensive look at the historical, legal, and social forces that have produced today's criminal justice system. Synthesizing the insights from a prolific career—shortened tragically by cancer earlier this year—Stuntz here describes how we arrived at today's

flawed system and offers his prescriptions for making that system more just for victims and defendants alike. And though he draws from a wide range of scholarly sources across several fields, Stuntz's writing is accessible for most general readers with an interest in crime, criminology, and justice.

The closing words of the epilogue indicate the ideal of justice-in-moderation which animates Stuntz's entire project:

The criminals we incarcerate are not some alien enemy. Nor, for that matter, are the police officers and prosecutors who seek to fight crime in those criminals' neighborhoods. Neither side of this divide is "them." Both sides are us.

The most important contributions are Stuntz's identification of the highly contingent, even coincidental, developments that have contributed to the dramatic alienation between the criminal, the criminal justice professional, and the citizen in general. While the bulk of this account proceeds in a chronological manner, four themes emerge most powerfully to reshape one reader's thinking about criminal punishment.

The first relates to changing demographics and the impact of suburban

voters on criminal justice policy. Stuntz points out the similarities between the two great migrations of the 19th century and their consequences for criminal justice: the influx of poor European immigrants into American cities, and that of the newly freed slaves into the North. And while the enforcement of Prohibition during 1920-33 has been compared to the "war" on drugs in its disproportionate targeting of minority populations—during Prohibition it was primarily Catholic immigrants—Stuntz points out that enforcement was ultimately unsuccessful because of the local nature of crime politics at the time. The architects of turn-of-the-century enforcement were local police and prosecutors, who depended on urban immigrant voters for their election. The result, Stuntz shows, was frequent jury trials in lieu of the broad prosecutorial discretion afforded by today's substantive criminal law, and a criminal justice system more directly responsive and legitimate in the eyes of the populations it policed.

Stuntz argues that the rise of suburbs and more affluent white neighborhoods within cities has resulted in a situation where the political authority over punishment has shifted to those who are least affected by the realities of crime and away from the populations with the greatest stake in judging it. Therefore, even though African Americans are the disproportionate *victims* of criminal violence, these communities feel mistrustful and alienated from the authorities who seek to punish it.

Second, Stuntz describes the relationship between this detachment and what he calls a "pendulum swing" of justice during the second half of the 20th century. He points out that the original effect of elite voter apathy with respect to depressed urban environments was actually a disproportionately *lenient* criminal justice system: The 1950s saw the beginning of a three-decade-long crime wave at a time when prison populations were actually falling. The disconnect between these trends contributed to a backlash that resulted in the excessively *punitive* system we have today. In both instances, Stuntz maintains

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that centralization has proved to be the enemy of appropriately responsive levels of punishment.

Third, Stuntz points to the evolution of the constitutional law of criminal procedure under the Warren Court and its successors. He notes that the Fourteenth Amendment—drafted to ensure the “equal protection of the laws” to all citizens as part of Reconstruction—has been struck down as a means of challenging substantive inequalities in criminal punishment (for example, the disproportionate prosecution of African Americans for the same crimes for which whites are less likely to face punishment, or for which their sentences are statistically lighter). Stuntz explains how the Warren Court attempted to improve criminal justice by building up the protections of the Fourth, Fifth, and Sixth Amendments against police and prosecutorial misconduct in evidence-gathering. Apart from being ill-suited to the task of targeting unequal outcomes in similar cases, Stuntz argues, the exclusion of incriminating evidence serves to exonerate the very defendants most likely to be guilty: those against whom such evidence exists. At a systemic level, this drains limited resources away from investigatory efforts more likely to separate innocent defendants from guilty. Not least, the apparent injustice of letting the guilty walk free has contributed to the cultural backlash driving today’s levels of incarceration.

Finally, Stuntz points to the dramatic degree of discretion today’s prosecutors have to determine punishment. Because of a dearth of prosecutors and public defenders, the vast majority of criminal cases are resolved by plea bargains, which hides the mechanics of justice from the public. Furthermore, an ever-growing body of federal criminal law of strict liability for drug and gun possession results in dual liability for crimes that were once strictly state law questions, a situation that inevitably drives up state criminal sentences. As Stuntz says, “local district attorneys can threaten to send drug or gun crime defendants to the nearest U.S.

Attorney’s office” if they refuse to cop a plea.

Stuntz’s conclusions, in light of these structural problems, are both surprising and enlightening. The answer is less spending on prisons and fewer forays by the federal government into criminal legislation, but *more* spending on local police, prosecutors, and public defenders. Defederalization of substantive criminal law, coupled with greater resources for investigation and community policing, would allow for the

essential self-government most crucial to a functional criminal system.

As Stuntz acknowledges, the greatest problem with these proposals is the unilateral political disarmament they would require, which is probably beyond the realities of this particular historical moment. But as a fascinating mix of history, law, and policy analysis, *The Collapse of American Criminal Justice* should engage and motivate those who wish to take the first steps toward reform. ♦



# The German Voice

*A journey to the source of Martin Walser’s fiction.*

BY SUSANNE KLINGENSTEIN

**T**he way I got to Martin Walser, Germany’s most German writer and, at age 84, one of its national treasures, was to scrawl three lines on an envelope: Martin Walser, writer, Nussdorf am Bodensee.

Nussdorf isn’t Berlin or Frankfurt; it’s a small, suburban-style hamlet on the eastern shore of Lake Constance where Walser has lived for 43 years. I figured the postman would know where to find him. I believe in the German postal service. That Walser bought his exquisite property in 1968 (on credit) for nearly a half-million marks when he was almost penniless and decidedly a man on the left, moving in his sympathies toward the Communist party, was not really a contradiction. Nor was it hypocritical of him. It was an expression both of his extraordinary confidence in himself as a writer—because his writings would have to pay the bills—and of his deep rootedness in the region where he was born and raised.

The eastern shore of Lake Constance

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is Walser territory in the way Mississippi’s Lafayette County was William Faulkner territory. In two dozen novels Walser created his own Yoknapatawpha County out of the seemingly idyllic yet blood-and-history-saturated region between the Danube and Lake Constance. If Walser was ever a Communist, he was a Communist in the way Ralph Waldo Emerson and Henry Thoreau were Communists, anchored in a small, rural, but educated community whose economic functionality set them free to think big thoughts and want the well-being of the common man.

But Walser, as a product of the hard-working German south, and scarred by the economic hardships of the 1930s, World War II, and its aftermath, is also eminently more practical. He has always considered writing a profession, and has been hyperconscious that the writer must sell his wares in the marketplace. His heroes, usually versions of himself, are sales reps or brokers or other kinds of middlemen who make a living by persuading people to buy a product they don’t need and don’t want.

Like writers.

If there is a contradiction in Martin Walser, it is the tension between his

traditional German idea that a writer should be in touch with his sensibilities (*Empfindungen*) and make the world more beautiful through language, and his understanding that writing must sell: writing as business. Perhaps that isn't a contradiction. Does he sell hundreds of thousands of copies because his novels convey that the core of life is love and that love can only be had in one's longing for it, never in its fulfillment? It's a product people can want. In Walser's novels, love is rarely requited and never fulfilled. But in writing and reading about love, the world becomes more radiant—especially since Walser's portrayals of heroes, plagued continually by a sense of falling short, unfold an array of admirable feelings that plum the depth of what it is to be human on a good day.

The unfolding of such exquisite sensitivity is the positive side of being German, a side nourished by the poetry of Hölderlin, Heine, and Goethe, and by the idealism of Schiller and Lessing. But of course, in Europe, the memory is still fresh of those times when the Germans had their bad days, when their national sense of insufficiency, of falling short, of humiliation and underachieving, propelled millions to submit willingly to the megalomania of an underachiever who promised easy enrichment by getting rid of their successful competitors. There is a huge swath of Germany that is present only obliquely in Walser's books, but it's present for those who look for it.

Walser's prototypical hero is the aging, sensitive irredeemably middle-class male who loses out to a younger, dynamic rival in business and love. The Halms, Buchs, Zürns, Horns, and Kristleins are empathetically depicted in a powerful, idiosyncratic German of great simplicity, shot through with occasional southernisms but hiding its punch in the pictorial potential and metaphoric magic of a language in which simple nouns with Germanic roots—*Aufhebung*, *Verklärung*—require knowledge of the theology-turned-philosophy and leave the translator at a loss whether *Verklärung* should be rendered as transfiguration (as in the assump-

tion of Christ) or as the more modest idealization. In his 2010 novella *Mein Jenseits* (*My World to Come*), which constitutes part three of the just-published *Muttersohn* (*Mother's Son*), unrequited love becomes the fuel of faith. Faith is the willingness to believe that something can come into being that cannot possibly come into being: "Believing so that something will be where now there is nothing." Walser uses the term *Verklärungsbereitschaft*. What he means is a human's basic need to believe and make the world (if only in his perception of it) fuller and more beautiful than it is.

in America? The last English translation of a Walser novel appeared in 1989. When an Italian journalist came to see him three years ago, Walser asked what Italians were thinking of him. The answer was: *troppo tedesco*—too German. Wasn't there a time when Faulkner was *troppo Americano*? Faulkner wasn't widely read until he won the Nobel Prize in 1949. Walser is not Faulkner, for sure, but he would have to make the Second World War and the fate of the Jews the subtext of all his novels in the way the Civil War and slavery haunt Faulkner's decrepit South. That is not where Walser is going.



Martin Walser at home in Nussdorf (2008)

This, says Walser, is his program as a writer. Writing and faith are both fueled by an awareness of absence, of loss, of the lack of something. Writing, like faith, is fueled by need. This message, packaged and repackaged by Walser in his dynamic German, has made him a wealthy man. It also helps that Walser is wickedly witty, and that his high sensitivity to slights in the press—no writer is more ardently attacked—and his keen observation of vanity have made him one of the great media satirists of German literature. He has also written a slew of plays that skewer German hypocrisies.

Why is it, then, that unlike Günter Grass or Peter Handke or Hans Magnus Enzensberger, Walser has no presence

Walser's theory is that he isn't published in America anymore because, following his 1998 acceptance speech for the Peace Prize, Germany's highest award for intellectuals, the German media created the impression that he wanted to end Holocaust remembrance. And the media, so Walser says, intensified its campaign against him in the wake of his 2002 novel *Tod eines Kritikers* (*Death of a Critic*) in which a viciously destructive German star critic—clearly modeled on Germany's own literary pope, Marcel Reich-Ranicki—appears to have been murdered. But the critic pops up again at the end—after a successful erotic escapade!—to continue his dismissals of toiling German writers. The fact that Reich-Ranicki had

survived the Warsaw Ghetto suggested that Walser's resurrection of the "murdered" critic should be read as intolerable anti-Semitism and set off a witch hunt against him. Long-term friendships were publicly broken. The writer and literary scholar Ruth Klüger, who had survived Auschwitz and had known Walser since their student days in Regensburg in the '40s, broke her ties to him. Elie Wiesel made it known that future editions of his Holocaust memoir-novel *Night* would be published without the introduction Walser had written in 1962.

But the half-life of scandal is short. In the nine years since Martin Walser was publicly accused, tried, and found guilty of anti-Semitism, the media found other obsessions. The very paper that threw the first accusatory stone, in 2002, serialized Walser's 2008 novel about the 74-year-old Goethe's unrequited love for the 19-year-old Ulrike von Levetzow. And the then-president of the Federal Republic, Horst Köhler, attended Walser's first official reading, always celebrated at some choice location. This one took place in the castle at Weimar, Goethe's old haunt, now famously near Buchenwald; surely a German president would not attend a reading by an anti-Semite?

Walser believes that his reputation in America has been irreparably damaged and speculates that because of the accusations of 1998 and 2002, no American publisher would touch him. But in fact, translation ceased after the publication of *No Man's Land* (1989), an exceptionally weak novel about the division of Germany into two countries and Walser's *Empfindung* that the two parts belong together. The German original, *Dorle und Wolf*, was published in the spring of 1987, two and a half years before the fall of the Wall. By that time Walser had completed his gradual move from left-wing social critic to enthusiast for rootedness in German landscapes, the German language and its regional varieties, German poetry, German history. He had sharpened his profile as a man who sees himself as part of the German nation understood as a community bound by shared experience (*Schicksalsgemeinschaft*). In Germany this

marked him as a nationalist, and the connector between his leanings to the left and his leanings to the right was the loaded term *Volk*, suggesting Walser's pretend anti-intellectual identification with ordinary, regionally rooted people living frustrated lives.

Yet those Jews whom Walser not only likes but esteems most highly as intellectual companions—Viktor Klemperer and Rudolf Borchardt foremost among them—were Jews who felt tied to Germany precisely in Walser's ways, as well as through language and thought.

In 1979 Walser wrote that "not a day has passed since Auschwitz." Time and again his speeches declare that the murder of the European Jews is an ineradicable and insurmountable part of German history, and one that pains him deeply. What he objected to in 1998 was the *instrumentalization* of German guilt for political ends. Holocaust remembrance rituals had taken on a religious significance in German public life and required politically correct behavior. That was clear to all. Walser objected to ritualized remembrance and its uses, and was ostracized for his objection. His punishment was an illustration of a media mechanism that Walser had already described as long ago as 1957, in his acceptance speech for the Hermann Hesse Prize. Criticism, he said, serves to elevate the critic morally at the expense of the criticized. It's an old technique, and Jesus had exposed it by asking him who was without guilt to cast the first stone.

Yet despite Walser's rehabilitation and reintegration into the German intellectual elite—which has always regarded itself as a moral elite—his bad reputation abroad clearly rankles him. So it was no surprise that, in response to my note in which I said I was a Jew visiting from America, a postcard arrived the next day: Would I please come see him? The postal service had delivered, and Walser had taken the bait.

You take a train to get to Nussdorf from Wasserburg. It's an easy 50-minute ride with a change in Friedrichshafen, bombed to smithereens during 1943-45 because it was a center of the

armament industry. The train courses swiftly through green farmland: Hops, apples, pears, cherries, plums, and, above all, green grapes for the smooth white wines of the region are the main crops. The train rushes west, away from Austria and toward France. The Swiss Alps are clearly visible across the lake. The placid, shimmering surface of the giant lake is almost always in sight, and the highlight is the moment when the train sweeps past the Birnau, a massive pink baroque church that looms large above a steep vineyard. From far out on the lake it looks like a tiny crown atop a sweet crest of hills, an experience more eerie in the train. The few hundred yards that separate the vineyard on the right and the lake on the left create the sensation of a narrow funnel through which the train is sucked into Walser territory. Three minutes later we stop in Nussdorf, where there is only one track. The eastbound train has to wait in Überlingen, the next stop, for the westbound train to pass.

Walser waits on the platform: gracious, pleasant, welcoming. A white-haired gentleman, slightly stooped, bright blue eyes hidden under his trademark wild eyebrows. It is a short ride in his small Mercedes to his house, heading back toward the magnificent Birnau, in the midst of Walser territory. The region between the Danube and Lake Constance is dotted with churches and monasteries, secularized when Napoleon vanquished the German aristocrats. The clerical wealth disappeared into secular coffers; the worldly rulers benefited from the elimination of their religious rivals. But the beautiful buildings remained, and some now are schools, some museums, some mental hospitals. Walser's novella *Mein Jenseits* is set in Schussenried, called Scherblingen (Shardsville) in the text, a monastery secularized in 1803 and used as a psychiatric hospital until 1997. The novella was a great critical success—although the usual mockers complained that, having exhausted sex in two novels about intensely horny old men who fear their decrepitude (*Angstblüte*, 2006, *Ein liebender Mann*, 2008), Walser had now found religion and renunciation as a cure.

In the stony foyer of Walser's house, a venerable black dog guards an enormous pile of boxes. Three hundred copies of *Muttersohn*, Walser says with a shrug. A short set of stairs leads down into a living room dominated by books and his wife's Steinway and a window front looking out over a lawn sloping down to the lake, which is half concealed by old trees as well as a generous growth of reeds. Visitors are customarily seated at a table on the terrace, served coffee and tea and a cake made with apricots, peaches, or plums, depending on the season. Käthe Walser, his wife of 61 years and mother of their four daughters (three writers, one actress), has typed every word of Walser's that ever appeared in print. Of course she sits down with us, and it's only now that I present my offering. It's not the slim, 60-page sheaf I have in my bag, an English translation of *Mein Fenster*; what I offer is my willingness to listen, to argue, to understand.

"I am totally dependent on being understood," says Walser, and for several hours we talk, about the enthralling power of Catholicism to let the word become flesh, about the intellectual elegance of Judaism to let the word be the mediator between immanence and transcendence, about love as magical connector, about art as an invitation to idolatry or *Verklärung*, about the task of literature to make the world more beautiful than it is. I balk at this. And we could go around the block again. But it is late, and a call comes announcing the death of an acquaintance, and Walser has to sit down to write words of praise about the dead man for the next day's paper.

As the train sweeps past the looming majesty of the Birnau, her Barbie-pink now dulled to gray by the night, and I am swooning at the thought of the church's seductive interior, I become aware of the cultural distance separating the Birnau from Boston, and Nussdorf from Chicago, the two cities Walser will visit next month to explain himself to Americans. If he is right, his literary art, his novels about the longing for love, will function as the connector. It is only the décor of his works that appears *troppo tedesco*. Their core is familiar to all who have failed in love. ♦

BCA

# Mugabe's Dungeon

*The nightmare of Africa's longest-ruling tyrant.*

BY DAVID AIKMAN

Africa has had its share of brutal regimes and rulers in the past half-century. The apartheid regime of the Afrikaners in South Africa was, for quite a long time, a model of well-planned and methodical dictatorship. The eight-year half-comical/half-nightmarish regime of Idi Amin in Uganda appeared, for a while,

to set a new mark in buffoonery, cruelty, and arbitrary violence. Then, when nobody seemed to be paying attention, one of the greatest acts of genocide of the past half-century took place in 1994 in Rwanda, with Hutu militias murdering perhaps as many as 800,000 members of the minority Tutsi ethnic group.

As usual, there was much hand-wringing by great powers watching from the sidelines, but nobody came to help the poor Rwandans until all the murdering had already been done. The regime of Robert Mugabe is altogether different. The longest-serving ruler in any African country (since independence in 1980), Mugabe has perpetuated his personal rule by an increasingly vicious series of assaults upon real and imagined opponents. Unfortunately, he has been aided and abetted in his hold on political power by the political establishment of South Africa and other African nations who are so mesmerized by Mugabe's former leadership of a guerrilla independence movement that they are unwilling to lay a glove on him.

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*The Fear* starts off with the writer, who was born and partly raised in Zimbabwe, returning to the country, as he says in the first chapter, "to dance on Robert Mugabe's political grave" in 2008. Mugabe had agreed to presidential elections in March of that year; pollsters and observers of all stripes—including Mugabe's own people—had strongly suspected

that the opposition, led by Morgan Tsvangirai, might actually win. In fact, as it became clear within days of the election, the opposition won a plurality of the votes, but not a big enough majority to avoid a runoff. And within hours of Godwin's plane touching down in Harare it became apparent not only that Mugabe was going to steal the election and falsify the results but wreak frightful vengeance on as many Zimbabweans as he could identify as having voted for the opposition party, Movement for Democratic Change.

Godwin's account is vastly enriched by his personal background in Zimbabwe. He spent many of his adult years as a foreign correspondent for the *Sunday Times* across the globe, and is familiar with the geography of Zimbabwe and many of its citizens, both black and white. But it is the reporter's instinct for developing news, combined with the gifts of a deft wordsmith, that renders this so powerful a read.

One example, early on:

If you were casting the role of "hom-icidal African dictator who fights his way to power and stays there against the odds for three decades," Robert Mugabe wouldn't even

rate a call-back. This is no swaggering askari, no Idi Amin Dada, heavyweight boxing champion of the King's African Rifles, nor some wide-shouldered, medal-strewn Nigerian general.

The descriptive talents become sharper-edged, however, as Godwin tours hospitals filled with torture victims of Mugabe's goons, and as he follows the case of one white politician who incurred Mugabe's wrath for supporting the MDC. One of his friends, Roy Bennett, an almost saintly former white farmer who was *jambanja'd*—expelled from his land by Mugabe's "war vets"—and then joined the opposition, was subjected to beatings and extreme privation when in jail, yet retained through it all an amazingly sweet disposition.

Some of Mugabe's black political opponents fared worse than Bennett, who at least eventually gained his freedom. Godwin interviewed one political activist whose legs were crushed by having them repeatedly driven over by a vehicle belonging to (and driven by agents of) Mugabe's version of the KGB, the Central Intelligence Organization (CIO). Mugabe has not been reticent about his megalomania: "I am still the Hitler of the time!" is one of his pronouncements. The third presidential candidate in the race actually won by Morgan Tsvangirai, Simba Makoni, has a more modern twist on this dictator theme: "Why have we allowed him to become the Kim Il-Sung of Africa?" he asks Godwin.

Why, indeed? The North Korean analogy is appropriate. It was Zimbabwe's North Korean-trained Fifth Division that was responsible for most of the deaths of some 20,000 in Matabeleland during the years 1982-85. Tens of thousands more were tortured in camps specially built for this purpose. Everyone seems to know who was behind the Matabele-

land massacres: One of the characters, still active as a Mugabe enforcer today, is Air Marshal Perence Shiri who, according to Godwin, was part of a team assembled by Mugabe in 2009 for the planned electoral runoff with Tsvangirai. The violent campaign against oppositionists was called Operation Ngatipedzenavo ("Let's finish them off!"), but

Godwin was eyewitness, at one point, to some gutsy behavior by the American ambassador, James McGee, an African-American career diplomat who was a veteran of four previous African postings. On an unannounced tour of locations near Harare where there had been reports of beatings and torture by Mugabe's men, McGee was confronted by a police officer who made it clear that he was armed and that McGee's convoy of diplomatic staff cars was not going to be permitted to leave.

"Stop, stop!" said the rattled officer.

"Or *what?*" said McGee. "What you gonna do? *Shoot me? Go ahead.*" McGee then advanced towards the flustered group of agents, untwisted the wire keeping the gate of the compound closed, and hauled open the gate.

Episodes like this kept me turning the pages rapidly, as did the heartrending stories of ordinary Zimbabweans caught up in Mugabe's relentless vortex of violence and terror. At one point in the narrative Godwin himself barely escapes arrest after a church service in the village where his father had been buried years earlier. He is partly protected by hymn-singing black Zimbabwean ladies who ensure that all the (possibly incriminating) contents of his backpack are sneaked away from the authorities who suspect him of the crime of journalism, or worse.

*The Fear* has a telling description of Robert Mugabe's style of rule in Zimbabwe over his three decades in power: "smart genocide . . . as if he has taken the entire nation hostage, using them as human shields." With desperate hyperinflation, a drop in male life expectancy from 62 in 1990 to 44 today, widespread cholera, and desperate malnutrition, Zimbabwe is a dying state presided over by an 87-year-old mafioso. ♦

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Margaret Thatcher, Robert Mugabe (1988)

during the runoff Tsvangirai himself was arrested three times and his supporters arrested and beaten. He withdrew from the contest to spare the MDC from even more brutality.

There are several heroes and heroines in Godwin's account: ordinary Zimbabwean citizens who risk everything to tell their stories, indefatigable doctors and nurses who continue to attend to torture victims despite regime threats. There are also some impressive foreign diplomats.

# Honky Tonk Girl

*Loretta Lynn, at 76, still casts a spell.*

BY DAWN EDEN

Loretta Lynn famously sang “You’re Lookin’ at Country.” But as three urban cowgirls arrive at a Washington, D.C., hipster haven, the 9:30 Club, to see Lynn’s first local show in two years, we’re looking at irony: opening act Southern Culture on the Skids, a longtime favorite in the campy genre known as psychobilly. The crowd cavorts as the band twangs out the final notes of a country-fried surf instrumental buoyed by the staccato stylings of a bass player bedecked in a mammoth red wig—a piled-up parody of Lynn’s sixties hairdos (which even she now calls “hair-don’ts”). As the bouffanted bassist introduces the next tune, one of my friends gasps, “I thought she was a man!”

Between acts, gazing at the packed house, we agree that only half the crowd were alive when Lynn published her 1976 autobiography that became the basis for the hit film *Coal Miner’s Daughter* (1980). The success of Lynn’s first-rate 2004 comeback album, *Van Lear Rose*, produced by alternative-rock guitar hero Jack White of the White Stripes, probably takes part of the credit for the audience’s youthful skew. Moreover, same-sex couples, both male and female, are out in force, attracted (so we’re told by a bespectacled librarian and her girlfriend) by Lynn’s mix of Cinderella glamour and straight-talking, self-made womanhood.

A young woman steps up to the microphone who looks eerily like an earlier version of Loretta Lynn, minus the hairspray. Introducing herself as Patsy Lynn, one of three

of the singer’s children in the band, she elicits encouraging cheers as she alerts the audience that her mother had a knee replacement just five weeks ago. After some warm-up tunes by the Lynn progeny and backing band, the Coalminers, the star of the evening takes the stage to wild acclaim, gowned in a stunning powder-blue floor-length number with ladylike puffed shoulders, a lace-fronted bodice, and, of course, sequins everywhere.

“They don’t make ’em like my daddy anymore,” she sings, and the real message is that they don’t make ’em like *her* anymore. As if to drive the point home, she follows the tune with “You’re Lookin’ at Country.” Against the Dolly Parton aesthetic of “nip it, suck it, and tuck it,” with Loretta Lynn, what you see is what you get: her real body (knee replacement and all), real skin, real voice, even—glory of glories—her real hair.

And that voice. Lynn starts out being less secure of it than the crowd is. Performing “When the Tingle Becomes a Chill” and “I Wanna Be Free,” she hits the notes flawlessly but is reluctant to interact with the audience. Finally, pausing between songs, she shyly invites fans to join in the singing—“because I don’t think my voice is worth hearing tonight.” But it is. Yes, it lacks the power of her younger pipes, but it’s got all the pitch, control, and, most important, the feeling. Loretta Lynn doesn’t

phone it in. Every song is a story, and she puts it across as though it were written on her heart. After “Here I Am Again,” she’s more relaxed, asking playfully, “Am I the only coal miner’s daughter here tonight?” The only proper response to such a question is cheering, and that’s what she gets.

Answering a request for her 1960 debut, “I’m a Honky Tonk Girl,” Lynn declares, “This is the first song I ever wrote”—and the band knows what to do. There is something deeply moving about seeing a 76-year-old woman perform a song that she wrote more than a half-century ago—a song that retains the power to cause catharsis in lonely

hearts—and realizing that this is her legacy. As she follows up with another self-composed classic, “You Ain’t Woman Enough (To Take My Man),” one of my friends squeals, “You just want to hug her!”

Eager to oblige requests, Lynn gently chides her guitarist when he brings her a chair: “I’m not sitting down on the job.” Only after an hour does she finally seat herself long enough to give various band members a chance to show their singing talents. But she’s soon back on her feet for a gospel medley, including a no-nonsense rendition of her glorious answer to *Time* magazine, “Who Says God Is Dead!” And having succeeded in getting an Obama-era Washington audience to applaud songs about Jesus, Lynn triumphantly breaks into “Coal Miner’s Daughter.”

Standing a few feet from the front of the stage, I feel somebody push her way up behind me. I turn to find myself staring up into a tower of auburn Dynel. It’s the bass player of Southern Culture on the Skids, but she is not looking at me. She is staring at the only real coal miner’s daughter in the room, and she looks like she wants to cry. I do, too. ♦



Dawn Eden is the author of *The Thrill of the Chaste*.

LISA L. TALLENT

**“With so much discussion right now of the 99 percent vs. 1 percent, *The New Yorker* has a timely profile by Jane Mayer of Art Pope, businessman, philanthropist, and political funder in the state of North Carolina. The title and subtitle indicate the gist: ‘State for Sale: A conservative multimillionaire has taken control in North Carolina, one of 2012’s top battlegrounds.’”**

**—Chronicle.com, October 9, 2011**

**RAW, RIGHT-WING POWER  
SCHOOLYARD FOR SALE**

On an iron-gray afternoon this past March, Nathan Foley, the line leader in Mrs. Flagler’s first-grade class, met behind the monkeybars of Winterpock Elementary School in Chesterfield, Virginia, with Timmie Jordan, the son of a local orthodontist. Foley was facing a challenge from Amanda Peatross, a modest and unassuming girl who loves ponies, Taylor Swift, and helping out at her parents’ organic chicken farm in Amelia. By tradition, if not by statute, it was Amanda’s turn to be line leader next week. Foley wanted to know if Jordan could do anything about that.

Jordan is a political fixer—the kind who has modeled his career after that of the late Lee Atwater but without any twinge of conscience. “He’s really mean,” says Ian McIntyre, a former classmate of Jordan’s at the Kramer-Williams Child Development Center in Midlothian. McIntyre blames Jordan for the fact that he was not invited to Chip Price’s 2009 birthday party at Romp ‘n’ Roll, even though, like, pretty much all the other kids were.

Jordan soon put Foley in touch with Josh Butler, scion of the Butler family, which owns a string of Ford and Mazda dealerships in the Central Virginia region. To avoid attracting attention from grownups or from that tattletale Nancy “Wee-wee” Wyjowski, Jordan arranged for Foley and Butler to meet inside the habitat of a Chick-fil-A children’s play

area. Butler—whose mom drives him to school because she doesn’t even have to work, they’re so rich—quickly agreed to underwrite Foley’s campaign. “Yeah, okay,” he said, according to a source who was present at the meeting.

Within 24 hours, fliers appeared on lunchroom chairs calling Peatross “Cheat-ross,” “Feet-ross,” and—over a Photoshopped image of a giant bamboo-eating panda with Peatross’s face superimposed on it—“A-panda.”

“I cried so hard,” recalls Peatross today. Peatross’s mother, Gwyneth, says her daughter may be scarred for life.

The fliers carried no disclaimer. There was no “Paid for by” line, no indication whatsoever that Jordan had dreamed up the attack or that Butler had financed it. No matter. Public opinion in Room 312 swiftly shifted in Foley’s favor, and he was chosen as line leader for an unprecedented third week in a row.

Jonathan Daniels, who teaches fifth-grade social studies at Winterpock, says the Foley-Peatross contest has opened a dark new chapter in elementary-school politics—and he blames the Supreme Court’s decision in *Citizens United* for the shift.

“Corporations are not people,” Daniels told me as he was making coffee in the teachers’ lounge a few weeks ago. “And children aren’t people, either. I mean they are, but they’re not grown-up people.” Daniels finds it particularly troubling that moneyed conservative pupils like Butler have been able to