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CHRISTOPHER
CALDWELL



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COVER BY DAVID CLARK

To Milk a Mockingbird

Flannery O'Connor once famously said of *To Kill a Mockingbird* that “it’s interesting that all the folks that are buying it don’t know they are reading a child’s book.” Which is true enough. But it seems that its 87-year-old author, Harper Lee—recipient of the Pulitzer Prize, the Presidential Medal of Freedom, civic awards and citations and honorary degrees too numerous to mention—has an adult-sized appetite for revenue as well as honors.

Miss Lee, who is in the midst of a protracted legal struggle with relatives of her onetime agent, is struggling to regain the copyright of her one and only novel, which was published a half-century ago. Presumably, she is not without resources for the battle: *To Kill a Mockingbird* has sold more than 30 million copies since 1960, was made into a much-loved Hollywood movie, and is required reading for virtually every middle-school student in the United States.

THE SCRAPBOOK takes no side in this particular dispute. But as sometimes happens when litterateurs join

hands with litigators, the story has produced some ugly scenes. A case in point is the news that Harper Lee has filed suit in federal court to force the Old Courthouse Museum in her hometown of Monroeville, Alabama, to stop selling unlicensed souvenirs based on her novel—T-shirts, tote bags, “Mockingbird Lemonade Mix”—in its gift shop. Lee’s lawyers, in Alabama and Manhattan, contend that the museum and its gift shop are getting rich at the expense of their client and her trademark, and demand damages as well as destruction of the offending tote bags.

Monroeville is a rural county seat of 6,500 inhabitants, about halfway between Mobile and Montgomery—and pretty much in the middle of nowhere, even by Alabama standards. There is no question that its modest annual tourist traffic is largely inspired by the fact that *To Kill a Mockingbird* is set in its fictional equivalent—there is an annual theatrical production of the story—and that Monroeville also happens to be the hometown of another (and con-

siderably more distinguished) writer, Truman Capote.

The museum’s lawyer told the *Wall Street Journal* that the gift shop’s profits amounted last year to the princely sum of \$28,000, “and that the museum put ‘every penny’ of the money back into the museum’s mission: education and historical preservation.” THE SCRAPBOOK cannot vouch for that figure but has no doubt that the proceeds from the shop’s cash register aren’t making anyone rich. What is likely, however, is that if Harper Lee and her lawyers prevail in court, the Old Courthouse Museum might be forced to close its doors, leaving Monroeville with one less venue to honor its most famous resident.

In one of his incessant homilies throughout *To Kill a Mockingbird*, Atticus Finch tells his daughter that “you never really understand a person until you consider things from his point of view.” Well, THE SCRAPBOOK has considered Harper Lee’s point of view in this instance, and concludes that we now understand her, and her legal team, all too well. ♦

The Last Days of Stop and Frisk

Here’s our travel advisory for New York City: It’s always a great time to go, given the restaurants and the museums and the other sites and attractions. But starting January 1, the city may not be as safe.

Yes, we said “safe,” meaning physically secure. So by all means go to New York City, but if you want to hedge your bets, go between now and January 1.

Why then, you ask? And what’s this concern about safety? Well, there is a story here:

For more than two decades now New York City has experienced substantial declines in murder and other

major crimes, becoming the nation’s safest big city. The New York Police Department attributes that development in part to its use of a crime-prevention strategy known as “stop-question-and-frisk.” Thus, officers stop and question a person based on reasonable suspicion and sometimes pat down the clothing of the individual to ensure that he isn’t armed.

City liberals, of whom there are a few, have never much liked stop-and-frisk. They have fought back through the courts, recently winning a pair of cases handled by the federal district judge, Shira Scheindlin, who declared unconstitutional the NYPD’s stop-and-frisk practices and ordered a set of remedies that would make the policy

acceptable by, well, emasculating it.

The city appealed Judge Scheindlin’s decisions to the U.S. Court of Appeals for the Second Circuit, asking for a stay of her rulings. Late last month, the three-judge panel surprised just about everyone by removing Judge Scheindlin from any further involvement in the cases on account of actions and statements of hers that violated the Code of Conduct for United States Judges.

The estimable law blogger Ed Whelan has well summarized her infractions: “Scheindlin advised plaintiff’s lawyers how to get stop-and-frisk cases in her court, and her public statements strongly indicate that she aggressively employed the related-case rule in order to

keep such cases from going to other judges who might not rule as she would like.”

It’s rare that a judge is yanked from a case by the court above, and THE SCRAPBOOK pauses here to confess its satisfaction that this judge, a partial judge indeed, got what she deserved. As you might have expected, she is fighting back with the help of big-name liberal attorneys in the city, trying to bring about an appeal of her removal to the Second Circuit. That may not be possible, though her fate is a story worth following.

Of relevance to our travel advisory is the other of the Second Circuit’s two orders, for indeed the panel did block implementation of Judge Scheindlin’s rulings, pending appeal, the oral argument in which it scheduled for March 2014. As a result, the NYPD may use stop-and-frisk as it did before the judge’s decisions (or in any way it deems best). And it may do so for as long as city officials wish, which is at least until January 1, when Mayor Michael Bloomberg, the policy’s most steadfast defender, steps down, and the new mayor, Bill de Blasio, is sworn in.

De Blasio campaigned against the police department’s stop-and-frisk policy, supports Scheindlin’s decisions, and opposes the city’s appeal (“deeply misguided,” he said) and the Second Circuit’s order (“extremely disappointing”). His background is hard left, and it’s difficult to imagine that as mayor he would reverse course on stop-and-frisk and stay with the appeal. Indeed, he has promised to drop the appeal on his first day in office, January 1. He appears likely—maybe even that same day—to begin implementing most of the remedies Scheindlin ordered.

In policing and other areas, New York City under de Blasio is heading in new directions. But for the next few weeks the NYPD will have available to it the same stop-and-frisk policy it has developed over the years, one that has helped make the city, and its visitors, safer than not. Remember it well, for someday there could be



demand for its return to the precincts of Gotham. ◆

The Show Must Go On

There are few better examples of the fecklessness of the Obama presidency than the sight of the huckster-in-chief speaking at a conference to sell foreign companies on the advantages of investing in the United States, which is what he stooped to on October 31 at the SelectUSA Investment Summit.

There are two possible reasons for him to have done this: The first is that he really thinks that he can

give a speech and spur foreign direct investment. That perspective is, of course, asinine, and would be the Washington equivalent of a Pacific island cargo cult. It’s not like a presidential address is a magical incantation. And it’s not like the United States is some hidden gem that investors are unaware of. The reason for foreign entities to be here is that we are one of the most prosperous countries on the planet. The downside is that we have a tax code not all that favorable to foreign companies, not to mention a regulatory regime that can make the costs of operating here much greater than in almost any other part of the world. Nothing the president can say will change

that calculus at all, and he has not yet evinced any enthusiasm for actually trying to fix either problem.

So if he isn't incredibly naïve, then the speech represents nothing but cynical, warmed-over stagecraft. Rather than engage with a Congress that's struggling to put together a tax reform package that really could increase foreign investment, he shows up at some banal event set up by the Commerce Department to announce America's "open for business," a message meant for no one but a few voters half-paying attention.

Being president involves more than giving speeches, but the current tenant of the Oval Office would apparently rather go through the motions than enlist the power of his office to lower the true barriers to attracting more foreign investment. Pity. ♦

The Delay Award

Among the many parts of our big government is something called the Community Development Financial Institutions Fund. Congress created the fund almost 20 years ago, placing it in the Treasury Department. As stated on its website, the fund's purpose is to promote "economic revitalization and community development through investment in and assistance to community development financial institutions"—CDFIs, in Treasury-speak.

Banks, credit unions, loan funds, and community development venture capital funds can apply for formal certification as CDFIs. There are now more than 700 such financial institutions, and this year through its various revitalization and development programs, the fund will award them a total of \$165 million.

THE SCRAPBOOK only learned about the fund last week when a friend of the magazine forwarded an email from the entity dated November 4 that in the subject line said, "A Message to Our Users." The message is that the fund is "in the process of upgrading its . . . information mapping system to version

3." But there are some "issues" that have arisen that will take "longer to resolve than the planned upgrade period," and that development might adversely affect organizations working to meet program application deadlines. The issues concern "the ability to save and submit maps attached to applications." Something glitchy happened, THE SCRAPBOOK guesses. The email concludes: "To prevent creating an undue burden for current applicants, and to ensure the best experience for our users, we have decided to delay the launch" of version 3.

Yes, you read that right: "We have decided to delay the launch."

THE SCRAPBOOK has no opinion about the merits and effectiveness of the CDFI Fund. But we're happy to recognize the fund's administrators for their sound judgment in delaying the launch of technology important to users of their site that was not ready for prime time. Give them the Delay Award, or something.

Health and Human Services Secretary Kathleen Sebelius had multiple opportunities this past week to compete for the Delay Award. But she turned down bipartisan calls to shut down HealthCare.gov (where in theory you are supposed to be able to shop for insurance under Obamacare) for as long as it takes in order to fix its many glitches. "Why just keep limping along?" she was asked by fellow Democrat Sen. Max Baucus during a hearing in his chamber.

Good question. Delay is the right answer, or at least one right answer. ♦

Sentences We Didn't Finish

Kosilek is now 64 years old, and she has spent the last 20 years of her life at MCI Norfolk, a medium-security men's correctional institution in southern Massachusetts. She has attempted suicide twice. She has also tried to castrate herself. . . . ("Should this Inmate Get a State-Financed Sex Change Operation?" the *New Republic*, October 30). ♦

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The Business of Europe . . .

The Good Book tells us “God blessed the seventh day and made it holy, because on it He rested from all the work He had done in creation.” What biblical scholars cannot tell us, however, is precisely how God spent his Sunday. Did He go for a run? Read the paper while sipping on a venti macchiato at Starbucks?

But I am certain the Lord didn’t just sit around the house all day—unless, of course, the Lord happened to live in Europe, where commerce comes to a near standstill on Sundays. True, many cafés remain open, but retail stores? Closed. Supermarkets? Closed. Pharmacies? Closed.

I learned this during my college year in Vienna. One Sunday I needed to pick up a few groceries, only to discover the grocery stores were *geschlossen*—not a single location of the BILLA supermarket chain was open. I remember sarcastically asking an Austrian if hospitals and power plants were also closed. He chuckled and nodded, acknowledging the absurdity of the laws.

A few months after my arrival in Vienna, a Virgin Megastore opened on Mariahilferstrasse, one of the city’s main thoroughfares. To Richard Branson’s credit, the store was kept open on Sundays even though it meant paying a hefty fine. I suspect, however, that this penalty was offset by all the customers who flooded the store that day.

Two months ago I was in Berlin and in need of cold medicine. The problem, once again, was that it was a Sunday. A German told me the only option was going to the train station, where a few shops were allowed to operate. That’s right—in the year 2013, in a city of three-and-a-half million inhabitants, the capital of the

economic powerhouse of Europe, in order to purchase a bottle of Tylenol, I have to go to a train station.

But lately, there’s been some push-back. Cosmetics giant Sephora runs a store on Paris’s Champs-Élysées that closes at midnight on weekdays and 1 A.M. on weekends. Predictably, a court battle ensued, pitting unions against the corporations. In Septem-



ber, an appeals court ruled that the chain must close its doors after 9 P.M., though many Parisians insist the late hours are the only opportunity they have to shop because of their own job schedules.

As the *Wall Street Journal* notes, “Advocates of more-limited hours argue that allowing employees to work late or on Sundays can hurt the country’s social fabric, preventing families from spending time together.” My German friend Claus defines that family time as “dad sitting on the couch with his bottle of beer, watching football beginning at 11:30 A.M.” He explains that quiet Sundays were meant for families to attend church services. “Of course,” he adds with a laugh, “nobody goes to church except the elderly.” (In addition to Sundays, businesses close for various holy days—and I’m not talking

about Christmas. I remember Vienna shutting down for *Fronleichnam*—the Feast of Corpus Christi.)

If a family wants to stay home all Sunday long, in the words of Vice President Biden, God bless ’em. But shouldn’t this be a matter of choice? Growing up in New Jersey, I fondly remember the quality time spent with my family. First we attended Mass, then we drove over to the Ocean County Mall for a pizza, followed by a few hours of shopping—or, in my case, hunkering down at the arcade.

During the week, I see my own children for just an hour in the morning and a couple of hours at night. So the weekend is when I get my fill of the kids—sometimes to the point of overdose. (I often wonder how my wife deals with their insanity: “You need to turn around the black den chair,” she informs me, because the chair’s backside terrifies our 3-year-old daughter. In response, I thank her for explaining the rules of this asylum.) Nevertheless, we’ve got the option of spending our time outdoors, at the mall, or even food shopping. There’s no sense of confinement, unlike in Europe.

Speaking of which, if European nations want to boost their economies, they ought to seriously consider expanding Sunday hours for business. This would lead to greater revenue, extra pay for the workers, and the need to hire additional employees. (Last I checked, Spain’s youth unemployment rate was 56 percent.) Not only would it help the continent, but it would also aid U.S. exports.

In fact, President Obama missed a golden opportunity during his last visit to Berlin: If he’d wanted to make his mark the way Kennedy (“*Ich bin ein Berliner!*”) and Reagan (“Mr. Gorbachev, tear down this wall!”) did, the president should have ended his speech by exclaiming, “Frau Merkel, open these stores!”

VICTORINO MATUS

The Republican Task: No Obamacare, No Iran Nukes

Watching the Obama administration at work this week, a friend offered this judgment: Under Obama, Iran keeps its nuclear program and Americans lose their health insurance.

Historians and political scientists will have much to say, after its collapse, about contemporary liberalism's propensity to be at once tough on American citizens and soft on Iranian mullahs. Today's liberals are pleased to use the power of the state to nudge—not to say bully—their fellow Americans, while shunning the exercise of power abroad, preferring to accommodate—not to say appease—the nation's enemies. It would seem to be a paradox.

Or perhaps not. Aren't the bossy often insecure? Aren't bullies often cowards? Those who throw their weight around when they aren't resisted often shy away from confrontation with those who won't yield. A fatal conceit at home can be the flip side of a fatal loss of nerve abroad.

This is a moment that reveals the bankruptcy of contemporary liberalism. It's also a moment of truth for American conservatism, which, at its best, combines the sound judgment of an older conservatism and the fighting spirit of an older liberalism. It's a moment of truth for an American conservatism that embodies "that honorable determination which animates every votary of freedom, to rest all our political experiments on the capacity of mankind for self-government" (*Federalist* 39). This suggests the immediate task of American conservatives: resistance to the nanny state at home and the enemies of freedom abroad.

The spirit of resistance is there. The rise of the Tea Party shows that. But the energy of the Tea Party, as its activists know, isn't enough. A strategy of successful resistance has to be embodied in and carried forward by a real political party. That's the Republican party.

We're now at a moment of truth for the Republican party. Can it act energetically and effectively in Congress to reverse Obamacare's most obnoxious elements, delay the most dangerous, and place it on a path to ultimate

extinction? Beginning with legislation in the House this week to allow Americans to keep their current health plans if they wish, congressional Republicans seem to be getting their act together in opposing Obamacare. The challenge will be to stay focused, not to dissipate their energies on fights of far less importance or squabbles among themselves, and to remember that Obamacare is the center of gravity of American politics.

At the center of gravity of world politics is the question of a nuclear Iran. Here the Republican task is more difficult, for Congress has less leverage over and less ability to shape foreign policy. It will be hard to prevent the administration from consummating a bad deal with Iran. But Congress can insist on moving ahead with sanctions. Congressional Republicans can make clear that they oppose bad deals that would do nothing to reverse, and little even to slow, Iran's nuclear program. And Republicans can say that if the Obama administration is committed to doing nothing to stop that program, they will support our ally Israel if she chooses to act on her own, and on our, behalf.

Of course Republicans can't just resist. They need a positive agenda in both domestic and foreign policy, and work on that needs to go on. But for the immediate future, the crucial service the GOP can perform for the country is to stop both Obamacare and the Iranian nuclear program. Eventually the GOP will have to govern. It has to prepare to govern. But resistance precedes governing.

Successful resistance requires courage and competence—and a certain amount of cooperation. Now is surely the time for the Tea Party and the establishment to put aside some of their differences for the sake of their party, and their country. In light of the threats we face at home and abroad, now is surely the time for Republicans to hearken to the words of that great friend of American liberty, Edmund Burke: "When bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle."

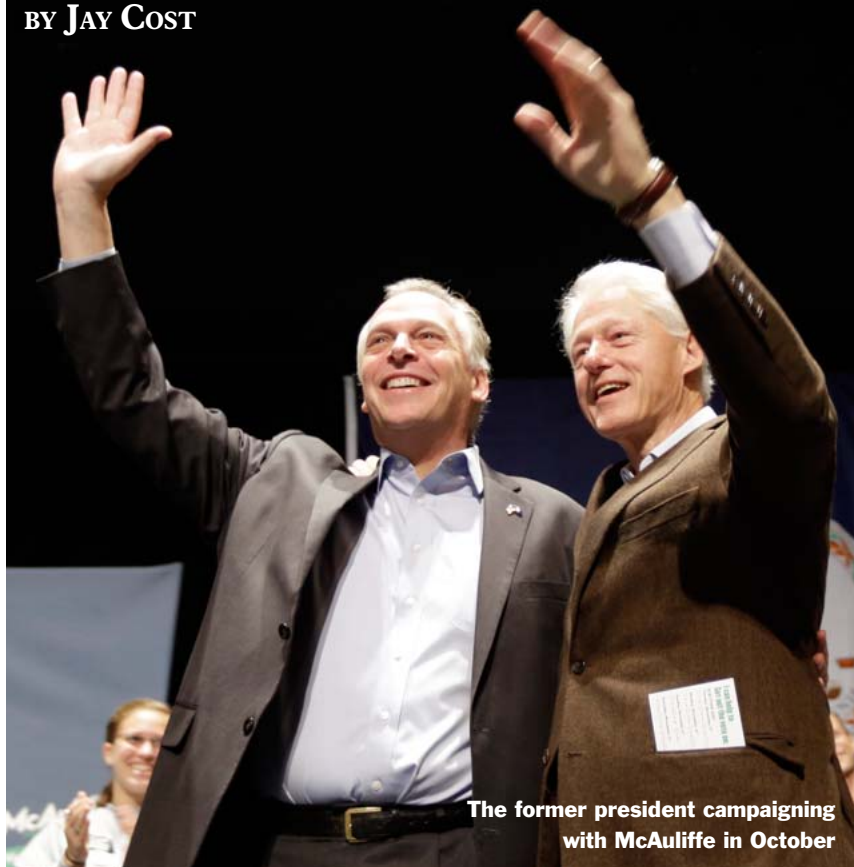
—William Kristol



Something Clinton This Way Comes

Will the GOP be ready?

BY JAY COST



The former president campaigning with McAuliffe in October

The governorship of Virginia has been held by some of the most eminent men in American history: Patrick Henry, Thomas Jefferson, Edmund Randolph, Henry Lee, James Monroe. And now, Terry McAuliffe will sit in their chair. Depressing? Perhaps, but it is worth remembering that for about half a century, the political machine of Harry Byrd selected Virginia governors based upon their loyalty to “the Organization.” If Virginia has seen better leaders than the Democratic apparatchik

who served as chief fundraiser during the scandal-plagued Bill Clinton years, it should come as some comfort to denizens of the Old Dominion that it has (probably) also seen worse.

What to make of the longer-term implications of the 2013 off-off-year elections, both in Virginia and in New Jersey, where Chris Christie cruised to an overwhelming victory? It is hard to judge what they mean for 2014 and beyond, although many pundits will try. These are but 2 states out of 50, and, moreover, the electorates that emerged last week will probably not be seen again. Such is the nature of low-turnout affairs a year before a

midterm and three years before a presidential election. Still, there are some conclusions to draw about the broader national picture, especially looking at the two states together.

Let’s start with Virginia. Terry McAuliffe has all the sleaziness of Bill Clinton with none of the Southern charm or policy wonkery. Yet he managed to win a comfortable, if underwhelming, victory in a state that until recently had been solidly in the Republican column. The manner in which he accomplished this feat is what should interest conservatives, for he mimicked the old Clinton approach, which will surely be Hillary Clinton’s tack in 2016.

McAuliffe did exactly what his master did in 1996. First, he started with a solid base of support from those in the lower socioeconomic strata of society, in particular poor African Americans. According to the exit polls, he won 65 percent of those who make less than \$30,000 a year, and 90 percent of African Americans. To this substantial group—about half his total voting coalition—he added people at the high end of the socioeconomic strata. He won 57 percent of people with a postgraduate degree and 55 percent of people who make more than \$200,000 a year. In Virginia, a state with a tight relationship to the federal government, these are people with great faith in the capacity of technocratic experts to manage society. Add their gentry liberalism (support for environmentalism, abortion rights, gay marriage, etc.), and they were easy McAuliffe targets.

But this is not enough in Virginia, especially the Virginia of 2013, a state whose electorate last week was not terribly disposed to the party in power. President Obama’s job approval in the exit polls was a weak 46 percent, identical to support for Obamacare. On top of that, the voters roughly split on who deserved blame for the government shutdown, with just a slight plurality pointing the finger at the Republicans. So how did McAuliffe get this indisposed electorate to back him?

That is where his comfort level with the upper echelon of society comes into play. McAuliffe followed a tired-but-true playbook: In his public

AP / STEVE HELBER

Jay Cost is a staff writer at THE WEEKLY STANDARD.

appearances, he played the role of crusading populist, looking out for the people and not the powerful; behind the scenes, he massively outtraded his opponent by currying favor with the powerful interests he publicly disclaimed. What to do with all that cash? With an electorate that is growing tired of big government, it is not enough for a Democrat as liberal as McAuliffe to paint a positive vision of the future. Instead, he had to scare the bejesus out of people, warning them in ad after ad that his Republican opponent, Ken Cuccinelli, is an extreme crypto-Puritan who would set the Old Dominion back a century or more.

It is in this way that McAuliffe pulled in just enough anti-Obama voters to win. While a majority of Virginia voters disapproved of the president, McAuliffe pulled in 11 percent of them. Of voters who opposed Obamacare, McAuliffe won 11 percent. This is not much by any stretch of the imagination, but elections are always fought at the margins—and, importantly, McAuliffe managed to win more Obama opponents than Cuccinelli won Obama supporters. In his quest, he was assisted enormously by a divided Republican party, including a donor class that never really gave Cuccinelli a second look. The state's attorney general, of course, failed to help his own cause by running an inept campaign. Ditto the party activists who saddled Cuccinelli with a lieutenant governor candidate, E. W. Jackson, whose controversial comments put him too far outside the mainstream.

In the immediate aftermath, many Republicans were pleased that the results were as close as they were, but a loss is a loss. They allowed a third-rate Clinton impersonator to defeat them with a playbook that has been in operation for a generation. By now, one would think that Republicans would have come up with a good answer to the charge of extremism, or that they would have successfully shown the voters the rank hypocrisy that the “party of the people” displays by milking special interests for all they're worth to run ads against special interests. But, alas, one would be wrong.

That should be a sobering fact, because the Democrats look set to nominate a second-rate Clinton impersonator (his wife) in three years who will assuredly run the Clinton playbook once again. She'll go up to Wall Street and, nudge-nudge-wink-wink, reassure the country's economic barons in so many words that, indeed, all will be fine in a second Clinton presidency. Goldman Sachs boss Lloyd Blankfein has already signaled he'll be on Team Hillary, so she will not even have to work very hard at this. Then she will use Goldman Sachs money to convince the country that her opponent will hand the government over to Goldman Sachs. And, of course, she'll

The Democrats look set to nominate a second-rate Clinton impersonator (his wife) in three years who will assuredly run the Clinton playbook once again.

apply a healthy dollop of fearmongering over birth control, abortion, immigration, gay marriage, and any other cultural hot-button issues she can think of to persuade voters that the Republican nominee is the bane of all that is right and good.

Are the Republicans ready for this? By the looks of the Virginia gubernatorial race—not to mention four out of the last six presidential elections—the answer appears to be no. But maybe they can get ready.

Farther up the Acela Corridor, in New Jersey, the results hold promise for the GOP. The Democratic playbook is as predictable as it is (usually) effective, yet it failed utterly in the deep-blue Garden State. In fact, the failure was foreseen so long ago that the Democrats did not even try to forestall it. Their nominee, Barbara Buono, was left to twist in the wind and complain bitterly about how her party had abandoned her to a 60-38 shellacking from Republican governor Chris Christie.

That goes to show that the old

one-two punch of people-versus-the-powerful and cultural demagoguery just does not work on certain candidates, those whose mere presence somehow reveals the entire schtick to be as vacuous as it truly is. Christie is just that sort of Republican. He is pro-life, but nobody was ever going to tag him as a dangerous Holy Roller. He went after the labor unions with vigor, but Democrats did not even try to tag him as an enemy of the common man. He has his fair share of friends at the corner of Wall and Broad Streets, but he never gives the impression that he's in their pocket. The Democrats could have given Buono \$50 million to run the Clinton playbook against Christie, and she still would have lost.

Those are the sorts of qualities the Republican nominee must have to take on Clintonism in three years' time. But that is not to say Christie is the man for the job, at least not yet. His problem is that—so far—he looks to be a divisive figure within his own party. Many conservatives are suspicious of him. Whether their reasons are legitimate or not is beside the point. One of the (many) causes of Cuccinelli's failure in Virginia was that his own coalition was divided between the “grassroots” (who loved him) and the “establishment” (who did not). This sort of division, if taken into 2016, will prove crippling. Alienate the grassroots, and watch the base stay home. Alienate the establishment, and watch the big-money donors withdraw. The party must find a candidate who not only is immune to Clintonism, but also does not exacerbate existing divisions within the GOP coalition. All hands will have to be on deck in 2016.

Whether Christie is that candidate is still to be seen. A lot of questions remain. Can he reassure the base? Can he appeal not simply to the Northeast, but also the Midwest, where elections are won and lost? Can he stand up to Clintonism when it is actually being administered by a Clinton and funded by half a billion dollars (or more)?

It is too soon to say. At the least, we can conclude that last week's elections imply promise *and* peril for conservatives in the years ahead. ♦

The Great Divide

Populists versus elitists in the Republican party.

BY FRED BARNES

The least interesting thing that happened in the odd-year election was Chris Christie's reelection as governor of New Jersey. It was like a football game between Alabama and Vassar: A Republican governor with extraordinary political skills and an impressive record in his first term crushes a throwaway Democratic challenger in a blue state. This was totally expected, thus devoid of excitement or drama.

So we move on. There were two discoveries in the election, one a joy to Republicans, the other a help to Democrats. The first is that Obamacare moves the numbers. Two weeks before the election, Republican Ken Cuccinelli declared the Virginia governor's race a referendum on Obama's health care law. Attacking Obamacare furiously, he surged. He didn't win but gained 10 percentage points or more almost overnight and came close. And he demonstrated that Obamacare is an issue with a future. Democrats are terrified.

The second is that Republicans are as clueless as ever in combating the charge they're waging a "war on women." Mitt Romney failed last year to deal with it. He went limp. This year Cuccinelli did the same. He ignored the charge and paid a heavy price. Now Democrats have every reason to continue using the tactic.

It was surprising that Cuccinelli hadn't focused on Obamacare earlier. He had a legitimate claim on the issue. As Virginia attorney general, he filed the first lawsuit in 2010 seeking to have the law ruled unconstitutional. And Obamacare is as unpopular in Virginia as everywhere else. Yet Cuccinelli was slow to embrace the issue,

doing so only when his campaign was behind and desperate.

Might he have defeated Democrat Terry McAuliffe if Obamacare had been the centerpiece of his candidacy all along? We'll never know. Cuccinelli didn't have enough money left to run TV ads on Obamacare in the final weeks. Overall, McAuliffe out-



Cuccinelli: The truce fails.

spent him nearly 3-to-1. But money isn't everything in politics. A powerful issue can overwhelm it.

Cuccinelli's finishing kick left Democrats shaken. With hundreds of thousands losing their health insurance because of Obamacare—despite the president's repeated promise that no one would—the issue has taken on a raw intensity. A split among Democrats is spreading. Senators up for reelection in 2014 want the president to delay the law or at least restore insurance to those who've lost it. But Obama has shown no mercy. He refuses to yield.

The president's strategy is to brazen his way through this crisis of his presidency, figuring the fickle press will soon turn to other issues. This has worked for Obama before—on Benghazi, on Syria, on the IRS scandal, on

the slumping economy. Changing his policies or apologizing for their failure seems to be the farthest thing from his mind. He'd rather blame Republicans.

Obama refuses to acknowledge that his vow to let thousands keep their insurance was a lie. And he's put Democrats and members of his media clique in the awkward position of having to argue that his lie wasn't a lie. This has made the furor over the insurance cancellations linger.

Meanwhile, not only has Obama's job approval dipped below 40 percent for the first time, his personal popularity has also dropped. His "image has taken a big hit," GOP pollster Ed Goetas says. "The president no longer has a reservoir of personal goodwill that he can use to turn around dissatisfaction about his job performance."

But Democrats shouldn't be seen as helpless. The idea of a Republican "war on women" may be ridiculous. But phony issues are hardly new to politics. Recall, for instance, John Kennedy's claim of a "missile gap" in the 1960 presidential race.

Cuccinelli adopted what some Republicans call the "truce strategy." It assumes that if a GOP candidate declines to discuss social issues like abortion, contraceptives, and divorce, the Democratic opponent will go along. Only it's a one-sided truce. Democrats don't honor it. They never said they would. Obama didn't last year in his attacks on Romney. McAuliffe didn't this year. His campaign spent an estimated \$7 million on ads tarring Cuccinelli as a social issue radical, "too extreme for Virginia."

By not fighting back, Cuccinelli allowed the charge to sink in. And McAuliffe found himself in a situation candidates dream about. On social issues, he could say what he wanted about Cuccinelli without being rebutted. "The truce strategy can only work if the other side isn't kicking the crap out of you," says Jeffrey Bell of the American Principles Project, a group that advises Republicans to speak out on social issues.

Their advice makes sense. In response to the torrent of Democratic ads, Cuccinelli might have targeted

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McAuliffe's position on abortion and dubbed him the "real extremist." McAuliffe supports abortion on demand with no exceptions. So he was vulnerable.

At one point, the pro-life Susan B. Anthony List conducted a focus group of Democratic-leaning women. They hadn't a clue about McAuliffe's stand on abortion. When informed, they were appalled. Told of this, Cuccinelli still declined to go on offense against McAuliffe on abortion.

Two other troubles for Republicans were exposed in last week's election. One is the GOP slide in the suburbs. Cuccinelli got clobbered in Fairfax County, the big, wealthy suburb outside Washington. Republicans don't have to win a majority of the Fairfax vote to win statewide in Virginia. Roughly 43 or 44 percent will do. Cuccinelli got 36 percent. Four years ago, Republican governor Bob McDonnell carried Fairfax.

Since 2010, a divide between Republican populists and elitists has been growing. It's likely to grow more in the wake of the national GOP's failure to fund Cuccinelli's campaign in the closing weeks and the U.S. Chamber of Commerce's intervention in an Alabama congressional primary to defeat a Christian conservative with Tea Party leanings.

Populist Republicans blame Cuccinelli's loss on establishment Republicans for abandoning him in October. In truth, they had an excuse. A month out, Cuccinelli looked like a loser. Once the Obamacare issue took off, however, he could have used their support. The money they put into Christie's campaign, which Christie didn't need, could have been shifted to Cuccinelli's.

A populist backlash against what happened in Alabama didn't erupt immediately, but it's likely to. That means Republicans are probably in for a rough season of primary clashes, conventional Republicans versus insurgents, in 2014. It could get ugly.

At least Republicans won't have to worry about Christie. He's riding high. He's on his way toward a bid for the Republican presidential nomination. No surprise there. ♦

Bye-Bye, Privacy

The other problem with HealthCare.gov.

BY JONATHAN V. LAST

Americans are methodically dealing with the Kübler-Ross stages of Obamacare grief, with our national healing process moving briskly through roughly one stage per week: (1) denial upon realizing that the website HealthCare.gov didn't work; (2) anger at the realization that the technical back-end of the exchanges



is as dysfunctional as the front-end of the site; (3) shock at the cancellation of plans and increase of premiums; and (4) depression at the prospect of losing access to doctors, too. We're ready to move on to the fifth stage: acceptance that privacy will also be a casualty of HealthCare.gov.

Justin Hadley was perhaps the first consumer to witness this breach. As was reported by the Heritage Foundation, Hadley is a North Carolina resident who used to buy his insurance from Blue Cross Blue Shield on the individual market. In September, Blue Cross Blue Shield informed him that, thanks to Obamacare, they were canceling his policy. Hadley went to HealthCare.gov and was one

of the lucky few able to register with the system. He was rewarded when a letter popped up onscreen. The letter was made out to someone else—one Thomas Dougall, of Elgin, South Carolina—and it contained Dougall's contact information and notes on his and his family's eligibility to buy insurance on the exchanges. When Hadley reached out to Dougall to inform him of the mistake, Dougall was shocked.

He shouldn't have been. When members of Congress questioned Kathleen Sebelius about privacy concerns last month, the secretary of health and human services protested, "I would tell you we are storing the minimum amount of data, because we think that's very important. The hub is not a data collector."

It's difficult to imagine what Sebelius was thinking. "The hub"—meaning the web portal that is HealthCare.gov—does not collect medical records to store away on government servers. But it does collect all sorts of data about you, which it keeps attached to your account.

Yet what worries people about the site isn't that HealthCare.gov is a "data collector"; the concern is that it's a data sieve.

The people who created the site seemed to understand this trepidation. In mid-October Jeryl Bier reported on this magazine's website that by examining the source code of the "Terms & Conditions" page, the following statement—which was not displayed on the page itself—became visible: "You have no reasonable expectation of privacy regarding any communication or data transiting or stored on this information system." (HHS later removed this language.)

On his blog, professional software tester Ben Simo began tinkering

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with HealthCare.gov shortly after it launched and uncovered security holes almost immediately. At first, the site processed an application that he had begun filling out but did not submit—meaning the site took the personal information he had entered and forwarded it to a state agency without his authorization. Next, he tried changing the email address associated with his HealthCare.gov account. With most websites, when you change your email, they send a notice of the change to your old address, so that if your account has been compromised by a hacker who changes the email, you'll be alerted. Instead, HealthCare.gov sent an email to Simo's new address about the change—a redundant step that provides no security for users. When doing another bit of routine maintenance on his HealthCare.gov account, Simo found that the site was sending information about his username via unsecure HTTP protocols, rather than the encrypted HTTPS. As anyone even passingly acquainted with shopping on the Internet would realize, this is, as Simo put it, "a huge security flaw" because HTTP information can be intercepted by anyone who cares to look for it.

Why would it matter if someone intercepted your username? Because if someone sniffs out a username sent over HTTP, then they can use HealthCare.gov to confirm the existence of the username, reveal the email address associated with it, reveal the password reset code, and show the security questions associated with the account. Which is pretty much everything a malicious party would need to take over your account.

There's more: On most websites, when you create an account, the site sends an email to the address associated with the account and requires you to click on a link to activate it. This process validates the email address being used and makes sure that you're not creating an account with someone else's email. Simo discovered that on HealthCare.gov, when you create an account, you verify the email associated with it by clicking

on a link displayed in your browser. Which means that anyone could make an account using anyone else's email.

Those are just the problems concerned with how HealthCare.gov handles your account and whatever information is contained therein. And however worrisome these failures are, presumably they can be fixed. (Some already have been.) The rest of the iceberg is much scarier.

For instance, like many websites, HealthCare.gov doesn't just push information back and forth between itself and individual users. In certain circumstances, it allows third parties to participate, too. For example, HealthCare.gov uses third-party clients to keep analytics on usage of the site. HealthCare.gov's privacy statement explicitly says that "no personally identifiable information" will be shared with these third-party vendors. But Simo found that when you activate an account or reset your password, your information is sent to the third parties, too.

And the flow of information with

third-parties is a two-way street. Not only does HealthCare.gov share information about users with some third parties—either by accident or design, who knows?—but when a HealthCare.gov user is on another site, that site may take their information and share it with HealthCare.gov. As the Obamacare website warns users, "If you have an account with a third-party website and choose to 'like,' 'friend,' follow, or comment, certain [personally identifiable information] associated with your account may be made available to HealthCare.gov based on the privacy policy of the third-party website and your privacy settings within that website." The love affair between Big Silicon and Big Government continues apace.

Simo acted as a true white hat in all of this: Every time he uncovered a breach, he alerted HealthCare.gov's customer service. He even went to the trouble of finding a back channel to the HHS web team so that he could get information directly to them. And as a public service, he posted



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Veteran journalist Jerry Kammer will lead our tour through captivating West Texas, sharing his expertise from more than 30 years of writing on border issues. He will be joined by the Center's executive director, Mark Krikorian, as we explore the areas around El Paso and Big Bend National Park. The trip will be filled with perspectives from local residents and law enforcement officials that are invaluable to understanding the problems and complexities of illegal immigration, as well as unforgettable excursions, including a canoe trip down the Rio Grande.

Space is limited. Please contact John Wahala, jaw@cis.org or 202.466.8185 to reserve your spot

extensive accounts of all the problems he found. It was the kind of beta testing HealthCare.gov should have undergone last year. For his trouble, during her congressional testimony, when Sebelius was asked about the problems Simo had uncovered, she dismissed him as a “skilled hacker” who had tried to attack the site.

The reason Simo was so persistent is that if a malicious hacker had gained access to a HealthCare.gov account, he would gain access to an enormous amount of personal information: your name, address, email, phone number, birth date, income, marital status, and much, much more.

All of these privacy problems are technical in nature, the result of both poor design and poor execution. Yet the biggest privacy concern is systemic: By sending your information hither, thither, and yon—from HealthCare.gov to the state exchanges to individual plans, each of which will use third-party applications—users have geometrically increased the exposure of their information. And not just to hackers. As Michael Astrue put it in *THE WEEKLY STANDARD* when he first sounded the alarm:

With HHS’s convoluted patchwork of contractors, including the data centers of “the cloud,” tens of thousands of people have now gained access to our personal data. The churning of marginal employees through the lowest bidders of “the cloud” particularly increases the risk of massive disclosures like those that Edward Snowden recently inflicted on the intelligence community and Bradley Manning inflicted on the military. Our greatest vulnerability may not be the hardware or the software, but the integrity of the contractors who use these tools.

There is a saying in the programming world: With 10,000 eyes, all bugs are shallow. This little Zen koan gets at one of the immutable rules of writing code: If you have enough testers and programmers, you can untangle any mistake. HealthCare.gov may be the exception that proves the rule. ♦

The Lawlessness of Obamacare

King Rex meets King Barack.

BY ERIC FELTEN

It may have been the worst moment for Jay Carney in what was a very bad press briefing. The president’s spokesman was fumbling his way through the administration’s justifi-



cations for the catastrophic Obamacare rollout when ABC’s Jonathan Karl pressed him about the fines the law imposes on the uninsured. People can’t currently enroll and, Karl said

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with some disbelief, “You are going to charge people a fine for not enrolling.”

Carney went into a rambling filibuster (Washington Rule #168: The longer it takes to answer a question, the less likely it is to be a real answer). He acknowledged, using an overly optimistic verb tense, “problems that have existed on the website.” He offered a dissertation on the shopping habits of consumers. He explained, “Our focus is on making the Affordable Care Act work . . . not on figuring out who is to blame.”

Somewhere in the midst of all this, Carney allowed that “people who do not have access to affordable care,” whether because of problems with the website, the dereliction of state governments, or “due to other factors, will not be penalized.”

Karl sought clarity—“So, if the website is not fixed, will people still have to pay the fine?” Carney dodged: “We are way still early in the process.”

The correct answer, of course, would have been that if it is impossible to obey a law, one can’t be punished for breaking it. It’s not just common sense, but a fundamental principle of law—or as the late legal philosopher Lon L. Fuller put it, “laws requiring the impossible” aren’t laws at all. They violate “the morality that makes law possible.”

Fuller, who taught jurisprudence at Harvard Law School midcentury, famously took on the legal-positivist notion that law had nothing to do with morality. But instead of arguing the old-fashioned view that the contents of some laws were properly rooted in moral commands, Fuller argued there was a different sort of morality at work in the law—that for a rule to bind us

in any legitimate way, it has to be consistent with the “internal morality of law.” Requiring the impossible fails to meet that internal morality, and Fuller identified seven other ways a would-be legislator could fail to make law—failures that will be familiar to anyone who has followed the Obamacare saga.

Fuller illustrated the internal morality of the law allegorically, telling a parable about “the unhappy reign of a monarch who bore the convenient, but not very imaginative” name King Rex. A zealous reformer, Rex ascended the throne convinced that his legal system needed to be transformed. He aspired “to make his name in history as a great lawgiver.” It would be his fate to fail—epically.

His first act was “the immediate repeal of all existing law.” Instead of a fussy and tiresome set of rules, Rex “announced to his subjects that henceforth he would act as a judge in any disputes that might arise among them.” Not only did that leave the people without any rules on which to base their behavior, Rex turned out to be utterly inconsistent in his judgments. People, the king discovered, were unhappy with this.

For his second try, Rex wrote out a set of rules, but to avoid sniping and second-guessing (Rex was a bit thin-skinned), he declared that the text of this new code would remain a state secret. He was surprised to find his subjects considered it “unpleasant to have one’s case decided by rules when there was no way of knowing what those rules were.”

By now the peevisly ambitious Rex was becoming annoyed with his subjects, who were insufficiently grateful for his many exertions. And so there was nothing to be done but to publish the code. Which is when the people discovered that their monarch’s new set of rules was “a masterpiece of obscurity.” Not a single sentence could be understood by even the most skilled lawyer, let alone the average citizen. Protesters showed up outside the palace with signs reading “How can anyone follow a rule that nobody can understand?”

So Rex went back to work and, with a growing grudge against his subjects,

“decided to teach them a lesson and put an end to their carping.” The new code required that a citizen “summoned to the throne” arrive in 10 seconds. The crime of coughing or sneezing in front of the king was punishable by 10 years of hard time. “It was made treason not to understand, believe in and correctly profess the doctrine of evolutionary, democratic redemption.” This enumeration of impossibilities was met with near-revolution as the bewildered public wailed (*pace* Carney), “A command that cannot be obeyed serves no end but confusion, fear and chaos.”

Eager to avoid mutinous unpleasantness, Rex tried again, this time with

Decades ago, Harvard legal philosopher Lon L. Fuller taught that for a rule to bind us in any legitimate way, it has to be consistent with the ‘internal morality of law.’ Obamacare is hardly the first modern legislation to run afoul of this, but it is impressive in just how many failures of lawmaking it packs into one big bundle.

the help of experts. His legal advisers delivered a clear and coherent set of rules that could be followed. But they couldn’t leave well enough alone and every day issued a slate of revisions and amendments. Unable to keep up with the relentless changes, the public was as bewildered and bitter as before.

Frustrated with the whole business, Rex went back to ruling from the throne. The code (with all its changes) was still in place, but the king simply ignored it in making his judicial decisions. The public again was spurred to near revolt, at which point Rex gave up the ghost, “old before his time and deeply disillusioned with his subjects.”

With his story of the hopelessly inept King Rex, Lon L. Fuller identifies what he called the “Eight Ways to Fail to Make Law.” They are (1)

ad-hockery, (2) secrecy, (3) retroactivity, (4) incomprehensibility, (5) irreconcilable inconsistencies, (6) impossibility, (7) unsettled changeability, and (8) capriciousness.

Obamacare is hardly the first modern legislation to run afoul of Fuller’s rules, but it is impressive in just how many failures of lawmaking it packs into one big bundle. There is the ad-hoc, capricious suspension of rules, as when the administration announced it was putting off the employer mandate for a year. There is the incomprehensibility of a law consisting of half-a-million words, a bewilderment compounded with thousands of pages of administrative rules. Nor is there any end in sight for the writing of Obamacare rules, which means the law will be unsettled and unpredictable for years to come. And don’t forget the possibility of impossibility.

Fuller was enough of a legal anthropologist to recognize that the internal morality of the law is often—all too often—ignored or overlooked. He noted that the basic notions of fairness are so fundamental that they aren’t addressed explicitly even in constitutions. “One of the most obvious things about a law is that there ought to be some way for the citizen to find out what it says,” Fuller wrote, “yet the Constitution of the United States contains no provisions requiring the publication of laws.”

Do such absences mean that, in a constitutional system, the internal morality of law isn’t binding on judges and lawmakers? Hardly. “The writing of constitutions becomes impossible unless the draftsman can assume that the legislator shares with him some implicit notions of the limits of legal decency and sanity.”

It is one of the gravest flaws of modern lawmaking that legislators give so little thought to the status of laws as law. If the votes and the procedure can be found to get a bill through, and if enough judges can be found to consent, goes modern thinking, then what else is there to ask about the legitimacy of a law?

As poor old Rex discovered, plenty. ♦

The Crisis Arrives

Obama's dubious legacy.

BY NOEMIE EMERY

In March 2010, Barack Obama placed a giant bet on the docility and stupidity of the American people, when he decided in the face of three huge electoral warnings to force his health plan down the unwilling throats of the American people. And by November 2013, it was clear he had lost. It was not going to work. It would never be popular. And it was falling apart on its own. The HealthCare.gov website unveiled on October 1 had immediate problems, which were quickly revealed as the tip of the iceberg, as many worse things lay below.

"If you like your plan, you can keep your plan. Period," Obama had said over three years on at least 29 different recorded occasions. But around 15 million people who bought plans for themselves on the individual market suddenly found that these had been canceled, or soon could be, and the alternatives were much more expensive plans, with higher deductibles. Dissed by the White House as a mere tiny sliver of the population, they were still a bad group to mess with, as they tended to be independent, articulate, upper-middle-class people, politically savvy, with a large number of writers among them, able to punch way above their own weight.

If the act does go down, the tip of the spear may belong to Edie Littlefield Sundby, a California woman with stage-four cancer, kept in remission these past seven years by a crack team of doctors, whose services she is shortly to lose. Her op-ed, running in

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the *Wall Street Journal*, went viral on Monday, November 4, and had wide circulation over the Internet, on talk radio, and on cable TV.

"Thanks to the law, I have been forced to give up a world-class health plan," she wrote. "For a cancer patient, medical coverage is a matter of life and death. Take away people's ability to



Defending Obamacare, November 4

control their medical coverage and they may die. I guess that's a highly effective way to control medical costs. Perhaps that's the point." Chris Matthews dismissed this as a cheap, "sexy" shot at his president, but look for it to be used in 2014 against every Democrat running for office. And look for many, many more Edie Littlefield Sundbys to step forward if, as predicted, employer plans start scaling back, leaving many more millions of Americans adrift. In 2012, Obama supporters made hay with claims that Mitt Romney had caused an ex-employee's wife to die of cancer by terminating her husband's employment and coverage. By this standard, Obamacare will soon be a mass serial killer. How will he explain it? "If you want to make an omelet, you have to break eggs?"

And then, there's the lie. As lies go,

"If you like your plan, you can keep it" is right up there with "I am not a crook" in the annals of presidential mendacity, and way above the Bill Clinton threshold, as other people's lives, health, and financial arrangements were not affected by whether or not he had had "sexual relations with that woman."

According to a thorough account in the *Wall Street Journal* on November 2, the mendacity rested on two related rationalizations: First, that it was not Obamacare that ended the plans but the insurers who canceled them (although the law had forced them to do so); second, that the plans being canceled were "substandard" (or "crappy," in the common phrase of defenders), which meant they did not include certain services—drug treatment, mental health treatment—that were mandated under Obamacare despite being needed and used by very few people. The Obama team knew all of this, but suggestions that they should address these points were always rejected as distracting from the impact of the message the president wished to convey.

"You try to talk about health care in broad, intelligible points that cut through and you inevitably lose some accuracy when you do that," as one former official told the *Journal*. Speechwriter Jon Favreau said that the aim was simplicity. Richard Kirsch, former campaign manager of Health Care for America Now, said the words were "reassuring" and that "adding an asterisk to note that people who had shoddy insurance might need to change plans was not practical." "The actual, accurate, statement is if you have good insurance and you like it, you can keep your plan," he explained.

The problem was the word "good," which in the way that Obamacare defined it meant almost none of the existing plans—a tiny detail that was never made clear. If Obama had sold a vacuum cleaner under these terms, he'd be facing prosecution for fraud.

Obama had to have a great deal of

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contempt for the American people to think he could pull this off without consequence, just as he needed it in the first place to think he could push the bill through against the will of the country without repercussions that were entirely justified. Some of his flacks have used the word “sabotage” to describe the choice of many governors not to set up state exchanges, ignoring the fact that these acts are (a) entirely legal and (b) represent exactly the sort of judgment governors are elected to make.

“Sabotage” hardly describes this—it is called politics—and it hardly describes the train of disasters that

is in the process of self-repealing this program. The website is broken, and not likely to be fixed quickly. The people who have persevered and managed to enroll are mainly 50 and over or younger people who are going on Medicaid. Furious voters are besieging their elected representatives. Democrats, especially those running in 2014, must fear facing opponents quoting Edie Littlefield Sundby. Obama is a lame duck with an approval rating now around 40, and he can no longer save them.

However this ends, it will not go well for this president. He built it. He owns it. And now it’s all his. ♦

a party that provides the type of vision and hope for the future that would encourage people to be with us?”

Christie says that Martinez is, like him, “a conservative Republican governor in a blue state who has to decide: Do you want to win the argument or do you want to govern?” Christie’s formulation is a little odd: His success in governing was due in no small part to his impassioned appearances at the over 100 townhalls where he won arguments about the pressing need for reform of pensions and property taxes.

What he seems to be saying is that he and Martinez have chosen their battles wisely. “She’s decided, as I have, that what you’re hired to do is to govern, to bring people together, Republicans, Democrats, and independents, and to make principled compromise,” Christie continues. “She’s done that out in New Mexico, which is why she’s so incredibly popular.”

That night Christie and Martinez attended one more campaign rally, in Union City, where 85 percent of residents are Latino and 21 percent earn less than the federal poverty line. The next day, Christie racked up an enormous 22-point victory statewide, winning a majority of Latinos and women. He even won a majority in Union City.

Some chalk up the blowout to Hurricane Sandy, after which Christie’s ratings soared. Mike DuHaime, Christie’s chief strategist, tells me that “the hurricane allowed people to see his leadership in a new light,” but “for 19 straight months before the storm, he had approval ratings over 50 percent.” The last Quinnipiac poll taken before the hurricane showed Christie holding a 16-point lead over Democratic opponent Barbara Buono. Not bad for a governor who had faced millions of dollars in attack ads from public-sector unions.

More than two years out from the 2016 primaries, it’s far from clear that Christie’s message—that he’s the conservative Republican who can win—will carry him to victory. But it’s fair to say that for now, Christie is the GOP frontrunner and a force to be reckoned with in 2016.

Skeptics point to Rudy Giuliani, a popular northeastern Republican who

The Christie Juggernaut

The New Jersey governor muscled his way to the front of the pack, for now. BY JOHN McCORMACK

Morris Plains, N.J.

On election eve, Chris Christie has come home to rally a few hundred supporters in Morris County, the place where he was first elected and now lives with his wife, Mary Pat, and their four children.

His reelection is a foregone conclusion, as it has been for months; all that anyone gathered at the Morris County VFW hall wants to talk about is Christie’s likely 2016 presidential campaign. Before the New Jersey governor arrives, I find myself in the back of the room talking to two of his donors, one a personal friend of the governor who is very optimistic that Christie has a lock on the 2016 nomination.

“Nationally, you’ve got the Ted Cruzes of the world, Rand Paul, you’ve got all of these guys that are going to cannibalize each other for that piece of the party,” he tells me. “And there is no

other figure out there, with the exception of Jeb Bush, who has this niche in the Republican party.”

The other donor, a former Wall Street trader, doesn’t see it that way. In his view, a Tea Party frenzy has taken over the party and only a conservative purist will win the nomination. “I think a Christie-Bloomberg third-party ticket is more likely than Christie capturing the [Republican] nomination.”

When the governor appears, he gives his supporters a glimpse of what an attractive Republican presidential ticket might look like. Joining him on stage is New Mexico governor Susana Martinez, the only elected Republican from outside the state Christie asked to campaign with him.

When Christie begins to talk, his speech sounds more like an opening statement in a Republican primary than a closing argument in a gubernatorial race. “Our party is looking across the country to say, ‘Can we win again?’” Christie declares. “Can we be

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crashed and burned in the 2008 primaries, as a cautionary tale. But Christie is in a much better position than Giuliani was.

First, Christie is more in tune with the Republican party on the issues. Christie gained a moderate label following his embrace of President Obama after Hurricane Sandy devastated New Jersey right before the 2012 presidential election. But before that, Christie was adored by most conservatives for taking on public-sector unions and successfully pushing pension reform and a property tax cap through a Democratic legislature.

The most important policy difference between Christie and Giuliani is that Giuliani was pro-choice on abortion, and a pro-choice Republican has about the same odds of winning the GOP nomination as a pro-life Democrat has of winning his party's nomination—which is to say close to zero.

“Governor Christie is the first pro-life governor of New Jersey since *Roe v. Wade*,” DuHaime notes. Christie vetoed taxpayer funding for Planned Parenthood five times, for which he was relentlessly attacked by Buono. He still won female voters by 12 points.

Buono also hammered Christie for vetoing a gay marriage bill, and during an October 15 gubernatorial debate, Christie was asked what he would do if his own child came out as gay. “I would grab them and hug them and tell them I loved them,” Christie replied. “But what I would also tell them is that Dad believes that marriage is between one man and one woman.”

Of course, there will be a lot of Republicans jockeying for the nomination in 2016 who are both fiscal and social conservatives. Christie's great strength is his larger-than-life personality. Some might find his blunt approach obnoxious, but a great deal more will consider his demeanor a gust of fresh air. Both Christie and Giuliani worked as federal prosecutors, but Christie comes across more as a

working-class New Jerseyan than as an executive from Manhattan.

Christie works a room full of voters with ease, chatting up folks about their meals and planting big smooches on the cheeks of his female fans.

“We were talking about how good he looks with the weight loss. Phenomenal,” one waitress at the Peterpank Diner tells me during Christie's Election Day visit. “I lost like 75, so I was telling him I know what it's like.”

While Christie's weight problem is seen as a potential political problem

often described as a ban on “gay conversion” counseling for minors. “The bill does not ban a specific kind of destructive therapy; it is a blanket ban on any licensed counseling professional helping any teenager who does not wish to act on gay (or transgender) desire,” Maggie Gallagher, a leading social conservative, wrote at *National Review Online*.

But, as Christie might say, do you want to win the argument, or do you want to govern?

It's also not clear how Christie's hawkish denunciations of libertarians like Kentucky senator Rand Paul will play out. In the wake of allegations by Edward Snowden about the scope of the NSA's surveillance programs, Christie said at a July forum in Aspen that libertarian opposition to government surveillance is “a very dangerous thought.”

“These esoteric, intellectual debates—I want them to come to New Jersey and sit across from the widows and the orphans and have that conversation,” he said.

“President Obama has done nothing to change the policies of the Bush administration in the war on terrorism,” Christie added. “And you know why? 'Cause they work.”

Perhaps Christie's most difficult task will be explaining his decision to expand Medicaid in New Jersey with federal dollars allocated by Obamacare. “He will always do the right thing for the people who elected him,” says one GOP operative who supports Christie.

That argument won't fly in Republican primaries outside of New Jersey, but running hard against Obamacare and in favor of a reformist agenda just might do the trick.

“Campaigns are never about yesterday. They're always about tomorrow,” Christie says during his election eve speech in Morris County. “The candidate that people want to vote for is the candidate who credibly and honestly expresses his optimism and has a plan for the future.”



Susana Martinez, left, listens to Chris Christie on November 4.

by some (he had to have lap-band surgery this year), it actually serves as a way for him to relate to others and be self-deprecating.

Later, a woman tells Christie she drove many miles just to get a special sandwich called a Fat Owl, which is stuffed with meatballs, mozzarella sticks, and French fries. “Sounds like something I *don't* need,” Christie replies.

Christie will face plenty of challenges in 2016. The field will likely be full of political talent, and Christie definitely isn't a purist. He will have to convince enough Republican primary voters that his deviations from the conservative line on issues like guns, gay rights, and immigration don't make him an unacceptable choice.

In the past few months, Christie declared support for in-state tuition for the children of illegal immigrants, signed one gun control bill while vetoing others, and signed legislation

Hear No Evil

The administration's move to silence a Pentagon strategist. **BY REUBEN F. JOHNSON**

Andrew Marshall, the longtime director of the Pentagon's Office of Net Assessment, has had a number of titles conferred on him over the years. A 1999 profile in *Washingtonian* magazine dubbed him "the most influential policy maker you have never heard of." Others of us who have known him over the years have christened him "the Jedi Master" because, like the enigmatic Yoda from the George Lucas *Star Wars* saga, he has an uncanny ability to see ahead and to grasp the strengths and weaknesses of the nation's adversaries.

As the only man to head up the Office of Net Assessment since its creation in 1973, he has, of course, seen his share of internecine battles in which one or another part of the Pentagon establishment wanted to put him out to pasture, either closing his office down or moving it out from under the secretary of defense and into some bureaucratic backwater where it would die a quiet death.

But America's most experienced and capable defense strategist is now under concerted attack from above. According to sources familiar with the foreign policy debate within the administration, the White House is not pleased with the analyses of Net Assessment on the prospects for the People's Republic of China (PRC) becoming a more serious military adversary down the road. A slew of stories in recent weeks have reported that Secretary of Defense Chuck

Hagel intends either to defund the Office of Net Assessment or reorganize it in such a way as to be tantamount to closing it.

Ask any number of defense and foreign policy specialists in the United States, Asia, and Europe who know Marshall and are familiar with his work and you hear a surprisingly uniform response: This is an administration that chronically behaves in an



Andrew Marshall

obsequious manner towards hostile countries while denigrating friends and allies. Why is anyone surprised that they would not like a senior strategist who takes the PRC seriously as a potential threat?

At the same time, when you ask the administration's enablers to defend the quiet campaign to have Marshall's office shut down, you hear a chorus of intellectually bankrupt innuendo. "He has been in the job for *forty* years, that's too long." (Translation: You cannot have anyone in a senior position who is far wiser and more experienced than our narcissistic president and his retinue.) Then there is the old tried-and-true "Nixon appointee" name-calling, as if that automatically makes someone evil. (Actually, he was

an appointee of then-defense secretary James Schlesinger.) Not to mention the slander that compares him to J. Edgar Hoover, as a bureaucratic survivor who has outmaneuvered his political master.

Not only is "comparing Marshall to Hoover obscene," said one U.S. specialist on the Russian military I spoke with, "but there was one political master named Bob Gates who had no problem with Andy at all because he was wise enough in the ways of Washington to realize what a national resource Net Assessment was. If Gates [who ran the Pentagon from 2006-11] never complained about how Marshall did business, it means there is nothing to this whingeing about having 'outmaneuvered' people above him."

The campaign against Marshall first came to light in an August 2012 *Washington Post* article that depicted him as a kind of mad scientist peddling pessimistic doomsday scenarios. An old joke was recycled, that his small operation of a dozen or so staffers should be known as the "Office of Threat Inflation."

Yet the last label anyone who knows Marshall's work would put on him is that of alarmist. When I was living in Moscow in the 1990s, one of the proposals floating around the post-Soviet

Russian diplomatic and military community was a tripartite strategic alliance with either India and Iran or China and Iran. The Russians' theory was that such a three-nation bloc could be a balancer against the now-sole superpower in Washington.

As I described this to Marshall in his Pentagon office a few weeks later, he took a sanguine view. Unlike the political hacks of the day, Marshall understood that all of these nations faced huge internal problems—decrepit to nonexistent infrastructure, demographic train wrecks foreseeable down the tracks, lack of a stable middle class, rampant growth of diseases like HIV and TB—that are long-term impediments to becoming

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peer competitors to the United States. Rather than dashing off a self-serving memo to his superiors on “why we need to bulk up the defense budget,” he managed a smile and a chuckle. “That’s just great,” he said. “Three crippled nations pulling together—let them try one of those combinations.”

That response is illustrative of his thinking. Rather than being distracted by flashy proclamations of foreign politicians who try to score points with their populations, he looks at facts. He reminds you of the quotation attributed to every great military mind from Napoleon to Omar Bradley: “Amateurs think about tactics, professional military men study logistics.”

In September 2012, for instance, China’s PLA Navy put their one and only aircraft carrier to sea for trial runs, having spent more than a decade and untold piles of money refitting the ship. The carrier was originally built for the Soviet Navy as the *Varyag*, and was purchased by Beijing in 1999 in a

half-completed state from the Nikolayev shipyards in Ukraine and towed halfway around the world to the PLA Navy shipyards in Dalian.

Aircraft carriers may be a necessity for a nation like the United States with a blue-water navy and the need to project power. But China likely only intends to use a carrier to extend its land-based air defense network and control vital sea routes, which will make it a huge sinkhole for money more effectively spent in other ways. The opportunity cost of owning it is likely to be very high. Once again—looking at these numbers—Marshall sagely observed, “Well, I am glad to see [the Chinese] finally have an aircraft carrier.”

In reality, the Office of Net Assessment looks at a cornucopia of future alignments of nations and interests—a conflict with an aggressive and hostile PRC being only one of many potential eventualities they consider, and Marshall is by no means fixated on a future in which the Chinese

become our most dreaded and powerful enemy.

“The irony of the [*Post*] article,” he said just after its publication last summer, “is that we here are about the *only* institution in the U.S. government also looking seriously at the other side of the coin as well—that the weaknesses of Chinese national unity could cause the PRC to collapse and it could fracture into more than one regional power—and how the United States would cope with that eventuality.”

Marshall’s chief sin, from the perspective of the White House, may simply be that he is an independent thinker in an administration that doesn’t value independence. Asks the U.S. military specialist, If you think that the Office of Net Assessment “paints an overly aggressive picture of the PRC and that that crowd in Beijing are actually such nice people, then why [did Obama call for] the ‘pivot to Asia’ that the U.S. military has been committed to?”

Good question. ♦

Bigger Government Doesn’t Mean Better Governing

By **Thomas J. Donohue**

President and CEO
U.S. Chamber of Commerce

Oh, the irony. After botching the launch of the health care exchanges, the government is calling the private sector to the rescue. President Obama phoned Verizon and, in a twist on the company’s famous tagline, asked: “Can you help me now?”

Though a private company created the various parts of the federal exchange website, the government took those pieces and attempted, unsuccessfully, to assemble them. Almost half a trillion taxpayer dollars later, we have a nonfunctioning website. Meanwhile, millions of Americans who buy individual health insurance in the private marketplace are being told that their existing plans are being canceled because they don’t meet the exacting criteria of the Affordable Care Act.

These disruptions are emblematic of Obamacare as a whole—it’s a huge, complex, government-directed scheme that seeks to transform the health care

system—which accounts for one-sixth of the economy. Unfortunately, the “kinks and glitches” have only just begun.

There are some things that only the federal government can do and must do well. National security is one such critical function. Building and maintaining a seamless national transportation infrastructure is another. Enhanced border control and an effective national employee verification system will be essential components of comprehensive immigration reform, and these must be federal responsibilities too.

Yet policymakers must be far more discerning in determining when a societal need warrants a federal program or response. States, localities, companies, schools, community organizations, and the people themselves are often better equipped with better and more workable solutions. This is surely the case with something as personal and individualized as health care. While American health care needs improvement and reform, the notion of trying to devise a federally operated

one-size-fits-all system enveloping more than 300 million people begs the question: “What in the world were they *thinking?*”

Thomas Jefferson said: “A wise and frugal government, which shall leave men free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned—this is the sum of good government.”

Thomas Paine was more succinct: “That government is best which governs least.” Ronald Reagan’s more modern take was equally insightful: “You can’t be for big government and still be for the small guy.”

The times and needs have changed since those great Americans walked the earth. But, still, there is wisdom in their words, which we ought to heed every time a new proposal is offered to have the government take over that which has traditionally been handled by the states, private enterprise, and free people.



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Commerce Trumps Security?

The pressure is on to sell to China's military.

BY JOSEPH A. BOSCO



A Japanese coast guard vessel, right, rams a ship flying the flag of China to prevent it from drawing close to disputed, Japanese-held islets in the East China Sea.

Next month's meeting of the U.S.-China Joint Commission on Commerce and Trade in China will feature a familiar ritual. American negotiators will face intensified pressure for Washington to lift restrictions on the sale of military and dual-use technology to China. Over time, the perennial drip-drip of Beijing's complaints against U.S. trade discrimination in this area, bolstered by American business desires to close the trade gap, has proved effective.

Despite growing recognition that the security threat from China is real and increasing, the U.S. government is lowering its guard by

facilitating the sale of technology that can enhance Chinese military capabilities—beyond what China has already stolen through conventional and cyber espionage.

China's increasingly assertive behavior in the East and South China Seas has raised concerns among its neighbors that its rise might not be as peaceful as Beijing has claimed. Southeast Asian countries openly describe it as aggressive. When Xi Jinping took over China's helm from the unpopular Hu Jintao this year, many in the West expressed the cautious hope that he would begin reforming the political system and moderating China's foreign policy.

Instead, Xi accelerated a crackdown on the media, dissidents, and the Internet. He invokes the teachings and governing style of Mao Zedong to advocate purity of Communist thought and practice. He declares as

his theme of governance the "China dream" of greatness. But in a series of early visits to installations of the People's Liberation Army, he made clear that military power is paramount in those aspirations. He urged military units to prepare for "actual combat" and has continued the provocative expansion of the Chinese presence in disputed maritime areas, creating "facts on the ground" on islands, shoals, and reefs, while repeatedly challenging Japan's administration of the Senkaku/Diaoyu Islands.

Yet the response of the West to the hardening line of this putative reformer has been to continue undoing many of the military safeguards put in place after the harsh turnaround of an earlier anticipated political reformer, Deng Xiaoping. After the traumatic decades of Mao Zedong's Great Leap Forward and Cultural Revolution, Deng's opening of China's economy beginning in 1979 encouraged many in the West to believe that political change would not be far behind.

Those hopes were dashed in the regime's bloody crackdown on China's democracy movement in June 1989. The naked brutality of the onslaught of tanks and guns against peaceful students shocked the West. Suddenly the diminutive leader who donned a 10-gallon hat and charmed the American public seemed less benign, exposing the essentially unchanged nature of China's Communist government. When democratic push came to authoritarian shove, the regime would act in ways reminiscent of the worst of Mao's teaching—that political power grows out of the barrel of a gun. Moreover, a system that acted so bloodily against its own people revived concerns regarding its intentions toward its neighbors.

Tiananmen triggered a range of Western economic and political sanctions against the Chinese government. Congress prohibited the export of crime control arms that could be used against domestic dissidents as well as larger weapons systems that a more powerful Chinese military could deploy against democrats in Taiwan or

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Japan. The European Union imposed a parallel embargo on arms that would serve either “internal repression or external aggression.” Tiananmen had fundamentally altered the West’s perceptions of the nature of the Chinese government and the long-term prospects for a genuinely friendly relationship based on shared values. Western prudence in arming China now seemed in order.

Ever since, Beijing has conducted a relentless campaign to roll back the restrictions as impeding “normal” China-U.S. and China-EU relations and—American and European companies echo this—as costing the West business and jobs. Washington has pressed our European allies not to let up on their own sanctions, which they came close to doing in 2005. European concerns about China’s ongoing human rights depredations helped hold the line then.

Asserting national security concerns, Republican and Democratic administrations have struggled to resist Chinese and American commercial pressures to allow military exports but have nonetheless tolerated significant erosion of the safeguards. The Congressional Research Service has reported that relaxed restrictions and

waivers granted over the years have clearly “harmed U.S. national security.” Allowing the transfer of dual-use technology, ostensibly for disaster relief or other nonmilitary missions, further enhances the capabilities of the Chinese military, which is committed to the incorporation of Taiwan, by force if necessary. Americans called upon to defend Taiwan against a Chinese attack would be facing weapons built or enhanced by American technology. Japan, our most important Asian ally, fears that sophisticated U.S. weaponry will tilt the balance of power in Asia in China’s favor in a conflict with Japan.

Beijing is now making an all-out push to eliminate the arms prohibitions and has presented Washington with a long list of weapons systems and dual-use technology it wishes to acquire. With the support of important American business sectors, the efforts have begun to bear fruit. The Obama administration has launched a broad relaxation of export controls under the president’s Export Control Reform Initiative. In 2010, the administration lifted export restrictions relating to C-130 cargo aircraft ostensibly to be used in maritime oil spill response operations.

In 2011, U.S. ambassador to China Gary Locke announced that the administration planned to loosen export controls on nearly one-third of the 141 high-technology items sought by China. This was despite the ambassador’s having noted that China’s human rights record has deteriorated over the past few years and “is getting worse.” Later, the administration granted a high-technology arms export license to a China-linked satellite company in Hong Kong.

In addition to demanding the right to acquire U.S. weapons and technology, Beijing urged the U.S. government to reorganize itself and transfer export licensing decisions from the relatively strict State Department to the Commerce Department, whose primary mission is to promote American business and exports. In June, a presidential executive order did exactly that, moving the licensing authority for a range of defense-related articles from State to Commerce.

China has quickly exploited the change, sending Commerce an expanded list of weapons and technology requests in preparation for the coming trade talks. The requests are under review amid a full-court press for approval by the Chinese government and U.S. business interests.

It has long been clear that commercial considerations trump human rights in the U.S.-China relationship. As Hillary Clinton said on her first visit to China as secretary of state, humanitarian concerns “can’t interfere” with business-as-usual on the larger China-U.S. agenda. Now the danger is that commerce trumps not only human rights but national security as well. China seems determined to vindicate Lenin’s observation that “capitalists will sell us the rope with which to hang them.” Meanwhile, James Clapper, the director of national intelligence, warned the Senate Intelligence Committee in 2011 that China’s conventional and strategic forces pose a “mortal threat” to the United States. Committee chair Dianne Feinstein reprimanded the director for his bluntness. ♦



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Drivers Get Rolled

*Bicyclists are making unreasonable claims to the road—
and winning*

BY CHRISTOPHER CALDWELL

Late last August, along the coast of New Hampshire, Kevin Walsh, police chief in the town of Rye, got a lecture on law enforcement from a bunch of grown-up bicyclists. Local law requires bikers to ride single-file when there is traffic. But this day, a pack of a dozen or so bikers were racing down Ocean Boulevard, at high speed, up to five abreast, according to an interview the chief later gave. Walsh decided to flag them down and tell them what they were doing was unsafe, “out of control,” and “an accident waiting to happen.” He stood in the middle of Ocean Boulevard and signaled them to stop. The bikers blew past him in a *whoosh!* of Lycra, sweat, and profanity. Walsh got in his cruiser and cut off the bikers four miles up the road. When he stopped them, they began to chew him out. “You almost killed somebody back there, standing in the middle of the road,” one of them screamed at the cop. “Do you understand we can’t stop? Do you understand we can’t stop like a car?”

Like many episodes in the world of adult recreational cycling, this one breaks new ground in the annals of chutzpah. Few noncyclists would think to scold a law enforcement official for having nearly been run over by them. Fewer still would release to the news media a video of the incident—which came from a camera mounted on the handlebars of one of the bikers—in the almost demented belief that it constituted a vindication rather than an incrimination. And yet you can see it online.

Incidents like this now happen every day. Laws

governing bikes on roads have never been crystal-clear, and have always been marked by a degree of common sense and compromise. An increase in racing and commuting bikers has altered what passes for common sense. Cyclists like the ones in New Hampshire, whose reckless riding and self-righteousness have earned rolled eyes nationwide and the nickname of “Lycra louts” in England, have tested the public’s willingness for compromise. As bicyclists

become an ever more powerful lobby, ever more confident in the good they are doing for the environment and public health, they are discovering—to their sincere surprise—that they are provoking mistrust and even hostility among the public.



Expensive real estate: a bike lane on Broadway in Manhattan

TRANSPORTED

When there are more bicyclists on the road, when most bicyclists are no

longer children and teens, and when well-built bikes can easily descend a hill at 50 miles an hour, new questions come up. The first is how we are to think of bikes. Are they like really fast pedestrians? Or like cars with a lower maximum speed? The law’s general view is that they are vehicles. But what the law really means is not that bikes are exactly like cars but that they are analogous. You don’t need to get a license to ride a bike, you don’t need your vehicle inspected to put it on the road, and you aren’t charged tax for the upkeep of highways. There is considerable ambiguity here, and activist bikers, with lawyerly sophistication, almost unfailingly claim the best of both worlds. Consider the guy we mentioned above who insisted police chief Walsh give him all the rights of the road for a vehicle he claimed to be unable to stop. Bicyclists are exactly like cars when it suits them—as when they occupy the middle of a lane in rush hour. But they are different when it suits them—going 18 mph in that very same lane even though the posted speed

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is 45, riding two abreast, running red lights if there's nothing coming either way, passing vehicles on the right when there's a right turn coming up. This makes bikes a source of unpredictability, frustration, and danger.

This should not alarm us unduly. Bicyclists sometimes do require the middle of the roadway, and do need special consideration. The rightmost part of the road is often punctuated with old-fashioned sewer grates that will swallow a tire whole and fling you over the handlebars. There are broken bottles, dropped hypodermic needles, oil slicks that have drained off the road's crown, and places where the road is frittered away. The right side of the road is also where passenger doors get flung open, sometimes suddenly, and one piece of bad timing will send you to kingdom come. Almost 700 cyclists died on the road in the United States in 2011. Let us not forget the environmental, aesthetic, and health benefits of cycling over driving, which are obvious and undeniable.

The problem is that our transportation network, built at the cost of trillions over the decades, is already over capacity, as the Obama administration was fond of reminding us when arguing for the 2009 stimulus package. It is not so easily rejiggered. Unquestionably we have misbuilt our transport grid. It makes us car-dependent. It should better accommodate bikers and walkers. But for now it can't. Unless you want to cover much more of the country in asphalt—which is far from the professed wishes of bikers—lane space is finite. There are few places in America where public transportation can serve as a serious alternative to driving. In only five metropolitan areas—Boston, New York, Washington, Chicago, and San Francisco—do as many as 10 percent of commuters take public transportation.

So, except in a few spots where roads were built too wide and can now accommodate bike paths, adding bicycles to the mix means squeezing cars. Bike-riders don't "share" the road so much as take it over. Their wish is generally that the right-hand lane of any major or medium-sized road be turned into a bike lane or, at best, a shared-use lane. This would place drivers in a position of second-class citizenship on roads that were purpose-built for them. There are simply not enough cyclists to make that a reasonable idea. What is going on is the attempt of an organized private interest to claim a public good. Cyclists remind one of those residents in exurban subdivisions who, over years, allow grass and shrubbery to encroach

on dirt public sidewalk until it becomes indistinguishable from their yards, and then sneakily fence it in.

Our numbers about how many people bike and how often are relatively imprecise. The best estimates come from counting commutes and accidents. According to the U.S. census, 120 million people drive to work every weekday, and 750,000 bike. In other words, there are 160 drivers for every biker. Bike use is growing—but even at 40 times the present level it would still not be sensible public policy to squander a quarter, a third, or half of the lane space on a busy rush-hour artery for a bike lane.

Bike riding could be the wave of the future, or it could be a sports fad, the way tennis was in the 1970s or skateboarding in the 1980s or golf in the 1990s. It is hard to tell, since bike riding is now the beneficiary of vast public and private subsidies and massive infrastructure projects, from Indianapolis's \$100 million plan to add bike lanes and other nonauto byways to Citibank's underwriting of the New York City bike-share program. "Subsidize it and they will come," could be the motto. Drivers are being taxed to subsidize their own eviction.

Generally, cyclists want the right-hand lane of any major or medium-sized road to be turned into a bike lane or, at best, a shared-use lane. But there are simply not enough cyclists to make that a reasonable idea. What is going on is the attempt of an organized private interest to claim a public good.

HIGH ROLLERS

There are a number of internationally recognized signals through which bicyclists convey their intentions to drivers. The raised left hand means a right turn, the dropped left hand means

slowing down, and so on. I have never seen either of these gestures used. Instead, cyclists tend to communicate with motorists through a simpler, all-purpose gesture, the raised middle finger. The self-righteousness, the aplomb, of bicyclists is their stereotypical vice and quirk, like the madness of hatters, the drunkenness of poets, and the communism of furriers.

The attitude was nicely captured in a pro-biking letter to the editor in the Brookline *TAB*, the community paper for Boston's richest neighborhoods: "Whenever someone bikes or walks to the store or to work," the writer began, "he or she is taking one automobile off the road and making a significant contribution both to Brookline's safety and to reducing the carbons so dangerous to life on earth." You see? It only looks like I'm having a midlife crisis—I'm actually on a rescue mission! The question of what courtesy the cyclist owes the community is immediately taken off the

table, replaced by the question of what the community can possibly do to repay its debt to the cyclist.

All of us who care about the environment have a sense—even a conviction—that biking is more virtuous than driving. What distinguishes the biking enthusiast is that he is just as convinced that biking is more virtuous than walking: “While riding,” another *TAB* correspondent wrote, “I have encountered pedestrians who are texting. They are a danger to themselves and others, because they sometimes make erratic movements and often ignore requests to step to the side so a bicycle can pass.” By “request,” the writer probably means a barked command of “*On your right!*” or “*On your left!*” made by a cyclist approaching from behind at 30 mph.

If bicyclists have a more highly developed sense that they can boss others around, this is because they disproportionately belong to the classes from which bosses come. They are, to judge from their blogs, more aggrieved by delivery trucks parked in bike lanes than drivers are by delivery trucks parked in car lanes. This may be because proportionately fewer of them have ever met a person who drives a delivery truck. The 2011 accident data of the National Highway Traffic Safety Administration give us a hint that ardent bicycling is not, for the most part, a youthful avocation, as those whose biking days ended in the 1970s or '80s might assume. The average age of those killed cycling—presumably a rough proxy for those doing the most grueling road riding—has been rising by close to a year annually. In 2003 it was 36; in 2011 it was 43. Cyclists are heavily weighted towards the baby boom generation. The group involved in the most fatal accidents in 2011 is ages 45-54, followed by ages 55-64. The two cohorts make up those born between 1947 and 1966.

This generation is at the height of its earning power, and bikers are drawn from the very richest part of it. Shortly after Birmingham, England, got almost \$30 million from the government to make itself more bike-friendly, the *Birmingham Post* researched who was building bike spaces in London. Topping the list were the Gherkin, the ghastly Norman Foster-designed skyscraper in the financial district that houses a lot of London's financial-services industry; Goldman Sachs's Fleet Street headquarters; and London Wall Place, a high-end office building slated for construction in the City. This helps explain why Portland, Oregon, is so proud of its status as the country's most “bicycle-friendly” city, and why Las Vegas, Louisville, and

other places are vying to outdo it. City officials want to be “bicycle-friendly” for the same reason they want to be “gay-friendly” or “Internet-friendly,” and for the same reason they built opera houses in the nineteenth century and art museums in the twentieth—it is a way of telling investors: “Rich people live here.”

Once you understand that bicycling is a rich person's hobby, you can understand the fallacy that *Slate* editor David Plotz, an ardent bicyclist, committed when he asked why such a large number of dangerous drivers he encountered while cycling to work drove the same make of car. Of the 20 scares he's had in his life, 10 came from BMWs. “In other words,” Plotz wrote, “the BMW, a car that has less than 2 percent market share in the United States, was responsible for 50 percent of the menacing.” Why, he wondered? Was it a sense of entitlement, or were BMW-drivers just “assholes”? Probably neither—it is that luxury-car-driving and bike-commuting are heavily concentrated in the same very top sliver of the American class hierarchy. The percentage of BMWs driving between where the average cyclist lives to where the average cyclist works is a heck

of a lot higher than 2 percent. It may not be 50 percent—the Help, after all, needs to use these roads, too—but it is high.

WHEEL ESTATE

If bike-friendly areas are rich neighborhoods, they are a particular kind of rich neighborhood. They are college towns, or at least “latte towns,” to use the term David Brooks coined in these pages. The top cities for cycling commuters, according to the U.S. census, are Corvallis and Eugene in Oregon, Fort Collins and Boulder in Colorado, and Missoula, Montana. The census notes that Portland, Oregon, is the only metropolitan area in which at least 2 percent of commutes are by bike.

Its concentration in cultural hubs has consequences. Bicycling's apostles have behind them not just the economic and lobbying power of the “One Percent,” but also the cultural and intellectual power of its most sophisticated members. The idea that there might be alternative social goods competing with cycling, or any reason not to offer cyclists as much leeway and indulgence as they might demand, seems scarcely to have occurred to anybody who discusses it in public. That, surely, is why a cyclist might think that posting a video of a cyclist scolding a well-meaning New



Claiming a piece of the commons in Toronto, 2011

Hampshire police chief might help the cycling cause. The promotion of cycling is open to discussion as to means, but not as to ends. The question is how, not whether, to build more bike infrastructure; and how, not whether, to educate motorists about their responsibilities to bikers. It is never about educating bicyclists on how to find alternative modes of transport.

Leaders of the biking community, though, most often try to cast themselves as an underprivileged minority. Ian Walker, a “traffic psychologist” from the University of Bath, describes cyclists as a “minority outgroup”—they suffer in a society that “views cycling as unconventional and possibly even infantile.” In an August editorial calling for an end to “anti-cyclist bias,” the *San Francisco Bay Guardian* opined: “To focus exclusively on the behavior of cyclists is like blaming a rape victim for wearing a short skirt.”

As is not uncommon when progressive utopias are being constructed, there are a number of informal activist groups for enforcing opinion. The Twitter feed CycleHatred was founded in Britain to expose those who wrote negative things about cyclists, although recent press reports have implicitly questioned whether such exposure might do the anticycling cause more good than harm. The cycling journalist Peter Walker of the *Guardian* commented on a Tweet (probably good-humored) attacking Britain’s Olympic gold medalist Bradley Wiggins for having made cycling popular (“If Wiggins came in here, I’d give him a piece of my mind”). Ian Walker responded:

This is a fantastic example of what is sometimes called the “cyclists should get their house in order” argument—that people who have nothing in common except choosing cycling as one of their several regular forms of transport are nonetheless necessarily defined by it, and are somehow responsible for the worst actions by others on bikes.

But this is a category error. That our road system cannot provide the resources to support cyclists in the style to which they would like to become accustomed is a matter of policy and limited resources, not of civil rights and prejudice. An action that is ignorable at the individual level—such as cycling down the middle of the street at high speed—can become a problem when the masses do it. That is why, for instance, people have been forbidden to burn leaves in their backyard for the past half-century. One pile

of leaves is a beautiful smell. Several are a pollution problem, or so they tell us. Right or wrong, those who consider leaf-burning a problem are not making a bigoted assessment of the personalities of the individual leaf-burners.

Bikers’ unmet needs, in terms of both infrastructure and law, are limitless. A common trope is to compare America’s spending on bikes with that of the Netherlands. Amsterdam spends \$39 per resident on bike trails, laments the *Boston Globe*, while Boston spends under \$2. Until we shell out as much as the Dutch, there can be no such thing as misspent money. Pointing to areas, mostly poor, in which Washington, D.C.’s Capital Bikeshare program has failed to win a following, the director of the program

assured the *Washington Post* that “those areas where the bike community is not yet self-sustaining” are “precisely where the District Department of Transportation needs to double its efforts.”

The bicycle agenda is coming to resemble the feminist agenda from the 1970s, when previously all-male universities went co-ed. Everything that was ever off-limits to the aggrieved

minority must be opened up, while sancta established for the minority in the old days must be preserved, and new ones founded. So bikers must have access to roads and hiking trails, but also get their own new “bike boulevards.” Having a special bike-friendly highway, such as Route 9W, west of the Hudson River, does not mean that certain other highways will ever be closed off to bikes in the interest of efficiency or fairness.

While it is wrong to call bicyclists a downtrodden minority, they are a minority in one sense. They are one of those compact, issue-oriented small groups that, as the economist Mancur Olson warned in his classic *The Logic of Collective Action* (1965), generally take unmotivated majorities to the cleaners. There are probably a million dedicated cyclists in this country, bent on taking over a quarter or a third of the nation’s road space, built at the price of, let us repeat, trillions. They are ranged against the 200 million drivers who have a vague sense they are being duped. But this sense is only vague, and because motorists, like other American voters, have developed the habit of being talked into giving up what is theirs, any wise person would bet on the bicyclists’ winning all they ask for. A small collection of elite hobbyists will continue, as Tacitus might have put it, to make a traffic jam and call it peace. ♦



A New York City bicyclist weaves through moving cross-traffic.

What Happened in Laramie

Everything you know about Matthew Shepard is wrong

BY ANDREW FERGUSON

Stephen Jimenez sounds remarkably chipper on the phone when he calls in from Portland, his thirteenth city on a seemingly endless book tour. He's plugging *The Book of Matt*, and the reason he's chipper is that he hasn't been burned in effigy, yet, or heckled mercilessly, yet, or denounced, at least by anybody that really matters, as a traitor to the cause. Yet.

The "cause" in this case would be gay rights, in all of its astounding exfoliations. Jimenez's book threatens to uproot a foundational myth of the movement: that the murder of a University of Wyoming student named Matthew Shepard, in 1998, was a "hate crime."

The approved account, received for 15 years now as both a horror and an inspiration, tells us that Shepard was approached in a bar one night by two strangers, who drove him to the outskirts of Laramie and then beat him nearly to death with the butt of a .357 Magnum pistol, for the simple reason that he was homosexual. One of the blows fell so hard it pushed Shepard's brain into his brain stem, cracking it. He was found the next morning tied to a rail fence crucifixion-style, after 18 hours in near-freezing temperatures, comatose.

Even before his death five days later, Shepard had been made a symbol, thanks to quick work by mainchancers from national gay rights organizations and by compliant reporters from back East, who found in the story a ready-made example of the intolerance, cruelty, violence, and raging homophobia of America's flyover country, Western States Division.



Matthew Shepard, left, and Aaron McKinney

Well, no, says Stephen Jimenez. Beginning as a self-described amateur journalist (the best kind), he studied Shepard's murder off and on for 13 years, conducted hundreds of interviews with sources on and off the record, and pored over a public record many thousands of pages long. His comprehensive account corrects the approved version in small matters and large. Shepard was not tied to the rail fence as if crucified, for example, and it's still not clear, even after Jimenez's exhaustive reporting, how this piece of mis-

information became common knowledge—beyond the obvious explanation that reporters thought the detail was, as the saying goes, too good to check.

More surprisingly, Jimenez concludes that Shepard's death had nothing to do with homophobia. It was instead the horrific result of a drug deal gone wrong. Indeed, in *The Book of Matt*, Jimenez offers lots of circumstantial evidence that Shepard and one of his murderers, a violent and drug-addled bit of tumbleweed called Aaron McKinney, were rival

dealers in crystal meth. Several named witnesses told Jimenez that the two even had a sexual relationship.

"I knew in writing the book that it would stir up a lot of questions, a lot of conversation," Jimenez said on the phone, "and it has!"

As an author hoping to sell his book to the widest possible public, Jimenez says he worried that in debunking an important piece of left-wing mythology the book might become a conservative *cause célèbre*—thereby alienating, Coulter-style, the far larger audience of nonconservative book buyers. Jimenez himself is clearly a man of the left, and gay too, and briefly it looked as though his fear might be well placed. *Breitbart.com*, *World Net Daily*, *Pf Media*, and *Gateway Pundit* all hailed the book weeks before its

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publication date. “NO H8?” read the Breitbart headline, a little too cleverly, “BOMBHELL BOOK: MATTHEW SHEPARD TORTURED, MURDERED BY GAY LOVER.”

For the most part the conservative press was undeterred by the fact that *The Book of Matt*, as impressive as it is for the author’s tirelessness and courage, is something of a mess. When it comes to gay true-crime investigator-writers, Jimenez is no Truman Capote. He has chosen to tell the story of Shepard’s life and death through a first-person account of his own investigations. It is thus not so much a book that tells a story as a book that tells a story about telling a story, a bit like the famous totalitarian mural titled “The Struggle of the Little People to Finish the Mural.” This technique plays hell with the chronology, and it’s often difficult for the reader to tell which character said what when. The reader’s unease is compounded knowing that many of Jimenez’s sources are the kind of witnesses usually considered unreliable: meth heads, hustlers, hookers, drunks, various species of trailer trash.

In his defense Jimenez says that if his witnesses seem unreliable, it is only because this is the sort of people Shepard and his murderers associated with. They knew the participants firsthand—and these are the same witnesses that authorities relied on to get a conviction. For each of his more striking claims Jimenez has been careful to gather multiple sources, usually named. No alert reader can come away from the book still believing the approved story of a shy young man robbed of his life because of his assailants’ “fear of the other.” The myth that thrilled the progressive heart for 15 years cannot survive Jimenez’s accumulation of evidence.

So the note of triumphalism among conservative reviewers, while tasteless, is understandable. Conservatives, after all, often think rather highly of their country, particularly that part of it squeezed between the Boston-Washington megalopolis and the San Diego–Seattle corridor. We are not so susceptible to the sour view that held Shepard’s murder to be exemplary of American life, and we are annoyed at the ease with which others can assume it was.

It’s hard to overstate how deeply embedded the Shepard murder is in the progressive understanding of contemporary America. No fewer than four TV movies have been made about the case, each more mawkish than the last. Tourists, both worshipful and ghoulish, still arrive in Laramie, hoping to see the fence. (It was removed long ago.) There is a thick catalogue of Shepard books—dramatizations, poetry collections, art anthologies, self-help manuals,

memoirs, sociological studies, and political manifestoes. The Matthew Shepard Foundation, begun by Shepard’s mother and still employing her and her surviving son, sells T-shirts, hoodies, wristbands, books, acrylic tumblers, even sunglasses with a Shepard theme. (“Erase Hate This Holiday Season,” says one come-on.) Mrs. Shepard herself gives more than 50 speeches a year, turning a grief that has no dimension into an endless tour promoting same-sex marriage, antibullying legislation, and other causes whose relation to the murder, even in its approved version, is hard to figure. Each year the foundation auctions off specially designed and dressed teddy bears, signed by celebrities ranging from Barry Manilow to Lady Gaga.

The most successful retailer of the Shepard myth is a long-running play called *The Laramie Project*. It was assembled from transcripts of interviews with Laramie’s townfolk in the aftermath of the murder. It has been staged more than 2,000 times since it debuted in 2000. For several years it ranked among the top 10 plays got up by U.S. high school drama departments—a kind of *Our Town* for the new America of the 21st century. Like *Our Town* it requires no scenery beyond a table and a few chairs and no costumes beyond street clothes. What it does require is a school principal willing to tolerate its many F-bombs, its distasteful subject matter, and its unblink-

ing depiction of middle-class American life as essentially psychotic. But of course we have plenty of those.

It is no accident, as an earlier generation of progressives used to say, that the publication of Jimenez’s book in October coincided with a monthlong staging of *The Laramie Project* at Ford’s Theatre in the nation’s capital—both play and book were timed to exploit the fifteenth anniversary of the murder. Ford’s, of course, is preserved by the National Park Service as the scene of Abraham Lincoln’s assassination. Each week the theater bused in local middle and high school students to watch while the seemingly “healthy” town of Laramie disintegrated on the stage. Study guides were distributed for classroom discussion of homophobia, “Fear of the Other,” the culture of violence . . . all the “issues” that Shepard’s murder is said to have raised.

The play is very long. It was written by a veteran of off-off-Broadway called Moisés Kaufman, who explained his playwrighting method this way, the old fox: “We used a technique I developed called moment work. It is a method to create and analyze theater from a structuralist (or tectonic) perspective. For that reason, there are no scenes in this play, only moments.”

“Moment work” relieves the playwright of enormous



Stephen Jimenez

burdens—for example, the need to write a play with a plot. As a theatrical experience, *The Laramie Project* begins and then it goes along for awhile; moment follows moment and then, after two intermissions, it ends. Perhaps as compensation for this dramaturgical weakness, the management of Ford's surrounded the play's monthlong run with festivities. There were panel discussions and a candlelight vigil, a speech by Mrs. Shepard and readings of a sequel to *The Laramie Project*, celebrations in the local press and a special museum exhibit about the murder in Ford's Center for Education and Leadership, called "Not Alone: The Power of Response."

I can hear you, as you learn of this combination of Lincoln and gay rights, asking the question: *Excuse me?* Why would Ford's Theatre put on a show whose overriding purpose is political agitation? Again, no coincidence: The theater's current management, swimming in donations from American corporations, has lately turned it into a venue for just this sort of political agitation under a program called The Lincoln Legacy Project. The purpose is to remind theatergoers of the dismal country they live in: Wallowing in the sty of hate, it is yet capable of redemption—transcendence, even!—so long as it acknowledges its own cancerous nature.

"When we began The Legacy Project," the theater's director, Paul Tetreault, wrote in a program note, "I knew we must include *The Laramie Project* as part of our exploration of intolerance and injustice in America." In fact, intolerance and injustice are the only aspects of America Ford's does bother to explore, leaving aside the annual Yuletide showing of *A Christmas Carol*.

Shepard's murder, Tetreault went on, "was a watershed moment, opening America's eyes to the brutality and intolerance suffered by 'the other.'" Even after 15 years, he said, "his story still reverberates."

Jimenez's book raises an uncomfortable question: Can activists like Tetreault still insist the story continues to reverberate now that we know it's not true? And the answer is: You bet! The approved version can reverberate for as long as the activists want to ignore the factual version. No one at Ford's or *The Laramie Project* would agree to comment on Jimenez's revelations. And we can assume *The Book of Matt* won't much matter to them—"too good

to check" is a temptation for agitators too, even when they're disguised as arts administrators and dramatists.

But their stubborn silence, this studied ignorance, is beginning to seem anachronistic, and here may be the most interesting lesson that *The Book of Matt* has to teach us. In quarters where you'd expect angry resistance, even hostility, the reaction has been mild and matter-of-fact.

"I think you could say I was very pleasantly surprised by the thoughtful reaction of liberals," Jimenez told me, "and many, many gay people have had nice things to say."

The leftwing watchdog *Media Matters* called Jimenez's account of the murder "Trutherism," associating it with the crackpot insistence that Barack Obama was born in Kenya (or was it Malaysia?), and at first there were the expected calls for boycotts. A petition circulated round the web demanding bookstore owners cancel Jimenez's promotional appearances.

But these failed spectacularly. Instead the American Booksellers Association came to Jimenez's defense, and several gay bookstores invited him to appear as a repudiation of the boycotters.

"This is definitely a book that has a lot to say," said Ken

White, the manager of Books, Inc., in San Francisco's Castro District, and it "is especially relevant to where we are."

Meanwhile, *Kirkus Reviews*, the left-leaning tip sheet of the publishing industry, gave the book a rave notice. The gay website *The Dish* ran a long and respectful video interview with Jimenez. The *Advocate*, the country's most widely read gay magazine, ran an article summarizing Jimenez's reporting and asking, "What if nearly everything you thought you knew about Matthew Shepard's murder was wrong?"

Jimenez says he was surprised at how little outrage his appearances caused. "I've had a lot more people, gay people, coming up to me and saying, 'Thank you for telling the truth,'" he said. "'We needed to hear the truth.'"

This reaction to the dismantling of a foundational symbol by the movement that built it is not merely surprising. *The Book of Matt* and the serene, even approving, reception it's received suggest that the movement is outgrowing its own mythology. It is a sign of political maturity and cultural confidence—an acknowledgment by gay activists that, whatever really happened to Matthew Shepard that horrible night 15 years ago, they have carried the day.



"The Laramie Project" at a St. Louis prep school



French troops en route to the front, August 1914

How It All Began

A historian assigns the blame for World War I. BY HENRIK BERING

While the Second World War is considered the necessary war against Nazi evil, World War I is widely seen as a pointless tragedy, an impression first shaped by the British trench poets Wilfred Owen and Siegfried Sassoon, then reinforced by Barbara Tuchman's *Guns of August* (1962). That book, which was on John F. Kennedy's mind during the Cuban Missile Crisis, held the Great Powers equally responsible, and blamed the outbreak of war on mobilization timetables spinning out of control. Many readers came away convinced that wars are mainly caused by accident, as no

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Catastrophe 1914
Europe Goes to War
by Max Hastings
Knopf, 672 pp., \$35

rational person would want them—a fallacy that still persists.

Max Hastings does not buy any of this. What he sees as “the poets’ view” of the Great War has been accepted uncritically by historians for much too long, and though he admires Barbara Tuchman’s narrative power, in his view, her arguments do not hold up. Rather, World War I happened because somebody wanted it and worked hard to bring it about. Rich

in detail, *Catastrophe 1914* covers both the diplomatic lead-up to the struggle and its first five months, when the battlefields were still fluid, until stalemate set in around Christmas 1914.

The trigger was the assassination in Sarajevo (on June 28, 1914) of the heir to the Austro-Hungarian throne, Archduke Franz Ferdinand, by a Serbian nationalist named Gavrilo Princip. But with their patchwork empire suffering from internal strains, Austria’s military leaders had long been itching for an excuse to attack their pesky Serbian neighbor: The murder of the archduke provided the perfect occasion. So the Austrians presented the Serbians with an ultimatum they knew the Serbs could not accept, as it

UIG / GETTY IMAGES

included the right of the Austrians to conduct investigations on Serbian soil. The Serbs agreed to all of the demands except that one.

Whatever the Serbs had done, however, it would have made no difference, as proved by this message from Vienna to the Austro-Hungarian ambassador in Belgrade: "However the Serbs react to the ultimatum [then being prepared] you must break off relations and it must come to war." Hastings also quotes the Austrian count of Hoyos, the official who handled relations with Germany, as a typical example of parochial Austrian recklessness: "It is immaterial to us whether world war comes out of this." If the Russians, who were the Serbs' security guarantor, intervened, the Austrians trusted *their* ally, Germany, to back them up.

But in their alliance with Germany, the Austrians were very much the junior partner: The Germans could have stopped them had they wanted to, notes Hastings. But as victims of a self-induced paranoia, Kaiser Wilhelm II and his High Command's chief of staff, Colonel General Helmuth von Moltke, had their own reasons for war. Believing that the strategic balance in Europe was about to turn against them, they felt it imperative to strike while their empire was at its peak. In 1912, Moltke had stated, "a war is unavoidable; the sooner the better."

Compared here to an amateur actor struggling with the monarch's part in a Shakespeare drama, the kaiser, in between his bloodcurdling posturing, had moments of hesitation—but always too late to make up for his rashness: "The exclamation mark was his favored instrument of policy making," writes Hastings.

Instead of acting as a brake on the Austrians, the Germans urged them to hit the accelerator. "What happened was not 'war by accident' but war by ill-conceived Austrian design, with German support," Hastings writes. Afterwards, of course, the Germans pretended not to have seen the Serbian ultimatum before it was published.

Neither the Russian czar, Nicho-

Strange Meeting

When shell shock caused a creative explosion.

BY JEANNETTE BROWN

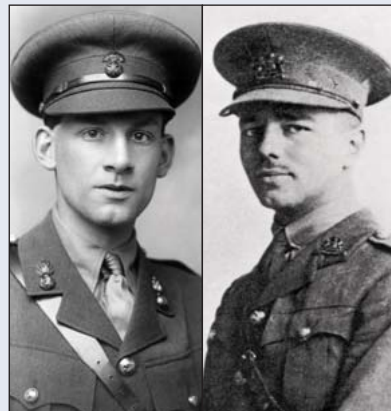
During the Great War, an accidental respite from battle enabled two poets to establish a friendship, a literary journal, and some of the era's finest poetry.

In the late 19th century, the combination of electricity and water therapy became the formula for good health. Most hydropathic clinics were in rural areas, but the Craiglockhart Hydropathic Hospital in Edinburgh had proximity to civilization; most of its clients were wealthy people who came with servants and, sometimes, their entire families. Between 1916 and 1919, however, the Craiglockhart facility was used as a psychiatric hospital for the treatment of shell-shocked officers. And during 1917, the hospital housed its most famous patients and made its reputation (at least temporarily) as a literary destination.

On June 26 of that year, Wilfred Owen (1893-1918) arrived after spending 12 days under intense bombardment from enemy fire along the Hindenburg Line. One large shell exploded only two yards from his head. Owen was diagnosed with neurasthenia. (Neurasthenia was also known at the time as shell shock; the current equivalent would be post-traumatic stress disorder.)

Unlike other war hospitals, which treated shell shock with electroconvulsive therapy, doctors at Craiglockhart encouraged patients to be active. Dr. William Rivers, for example, believed that reactions to war experience were due not to the experience itself but, in the words of one account, to "the attempt to banish distressing memories from the mind. He encouraged his

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Siegfried Sassoon, Wilfred Owen

patients to *remember*, instead of trying to forget what they had been through."

Accordingly, Rivers encouraged Owen to write poetry, and the young man became the editor of the hospital's magazine, *The Hydra*. The four months that Owen spent at Craiglockhart were, in fact, to be the most creative of his short life, and his best-known poems, "Anthem for Doomed Youth" and "Dulce et Decorum Est," are from this period.

Siegfried Sassoon (1886-1967) arrived at Craiglockhart a few weeks after Owen, on July 23. Sassoon was not suffering from shell shock but was being punished for publishing a public declaration against the war: "I am making this statement as an act of willful defiance of military authority," he wrote, "because I believe that the War is being deliberately prolonged by those who have the power to end it."

I am a soldier, convinced that I am acting on behalf of soldiers. I believe that this War, on which I entered as a war of defense and liberation, has now become a War of aggression and conquest. . . . I have seen

Continued on next page

las II, who feared for the future of his dynasty, nor the British government of Prime Minister Herbert Asquith was eager for war. The *Manchester Guardian* memorably reflected the British mood: "If it were physically possible for Serbia to be towed out to sea and sunk there, the air of Europe would at once seem cleaner." Though the British cabinet knew that it could not afford to let a victorious Germany dominate the continent, it did not fully commit itself until Germany broke Belgium's neutrality.

The German war plan was a modified version of the Schlieffen Plan, named for Moltke's predecessor as army chief of staff, Alfred Graf von Schlieffen. It envisaged a two-front war, first hitting the French, and then dealing with the Russians. On the Western Front, Moltke's idea was to pin the French down with a defensive force in Alsace-Lorraine, while the main German armies would pour through Belgium and hit France from the north in a great flanking movement.

The early stages of the war were fought in a decidedly 19th-century fashion. French cavalry were still wearing fancy Napoleonic uniforms; the French infantry, proponents of the offensive and the bayonet attack, were dressed in red pants and blue coats, while the British were more sensibly dressed in khaki, and the Germans in field gray. (The French military attaché in Berlin had earlier that year

suggested that it might be wise for the French to follow the German example and dress in something a little less conspicuous. But at the war's outbreak, the switch to new uniforms had not yet been accomplished.)

And instead of learning from the American Civil War that attacks over open country against prepared positions are not a great idea, tacticians had drawn the opposite conclusion from the Russo-Japanese War in 1905, which saw big Japanese charges succeed against poorly organized Russian defenses. A photograph from the beginning of the Great War shows French foot soldiers attacking in dense formation, creating perfect targets for German machine gunners. As a result, on August 22, 1914, 27,000 Frenchmen were killed, to which should be added the wounded and missing, casualty figures surpassing those of the first day of the Battle of the Somme (July 1, 1916), which, as Hastings notes, is customarily (and wrongly) cited as the costliest day of the war. During the next five months, the French incurred over one million casualties, while German casualties numbered 800,000.

"Both sides' commanders grossly underrated their opponents," writes Hastings. On the Allied side, the French commander in chief, Field Marshal Joseph Joffre, was totally absorbed in his own plans (a thrust through the Ardennes), and was oblivious to the intentions of his foe. But having

bungled the start, he redeemed himself when Moltke's strategy finally dawned on him: Joffre shifted large forces to the north and made his stand on the Marne. Though not one of history's great commanders—he was replaced two years later after the huge losses at Verdun—Hastings considers Joffre's firm stand on the Marne a vital contribution.

Joffre's British ally, Field Marshal Sir John French, embodied British superciliousness at its infuriating worst. "*Au fond* they are a low lot," he noted of his French colleagues, with whom he preferred to have as little interaction as possible. Only when ordered to do so by his government did Field Marshal French take his position alongside the French Army, and Hastings describes the British contribution to the Marne offensive as "slow and half-hearted. . . . The best that could be said is that they took their place in the line." But, as Hastings further notes, the German commanders who headed the best-trained army on the continent did not acquit themselves much better. Moltke put all his weight behind the Schlieffen Plan, although he was not at all confident that it would actually work. Moltke saw his main role as keeping the meddling Kaiser out of mischief, and Hastings portrays him as acting more like the chairman of a corporate board than as chief executive officer: "The consequence was that Germany's seven field army commanders in the west were left to conduct the

Continued from previous page

and endured the sufferings of the troops, and I can no longer be a party to prolong these sufferings for ends which I believe to be evil and unjust. . . . On behalf of those who are suffering now I make this protest against the deception which is being practiced on them; also I believe that I may help to destroy the callous complacency with which the majority of those at home regard the contrivance of agonies which they do not, and which they have not sufficient imagination to realize.

Because Sassoon had served honorably on the Western Front and been awarded the Military Cross for rescuing (under heavy fire) a lance-corporal who had been lying wounded close to enemy lines, the authorities could not very well court-martial him. So they sent him to Craiglockhart for a cooling-off period. Sassoon and Rivers became friends and corresponded for the rest of their lives.

Sassoon also became a teacher to Wilfred Owen. They spent the next three months writing poetry, working on *The Hydra*, and taking walks

around the Craiglockhart grounds. Sassoon encouraged Owen's writing, and the two produced some of the best—some would argue *the* best—poetry of the Great War.

In time, both returned to battle. Owen returned to the front in September 1918, was awarded the Military Cross a month later, and was killed on November 4, seven days before the Armistice, by a German machine-gunner. He was 25 years old. Sassoon returned to his regiment, too, and was wounded, but lived for another half-century. ♦

largest military operation in history in a manner each thought best.”

Indeed, after initial successes, and convinced that victory was in the bag despite a manifest lack of prisoners, the Germans managed to delude themselves into believing that an overall strategy no longer mattered. When things started to bog down, Moltke suffered a nervous breakdown and had to be replaced: “No man had done more to precipitate the calamity of European war,” writes Hastings, “yet, having got his way, Moltke proved incapable of effectively conducting his nation’s armies.”

Much has been made of Moltke weakening his right flank by siphoning off troops for Alsace-Lorraine and the Eastern Front, but Hastings makes a larger point: “Not even Napoleon could have achieved a different outcome in 1914.” With firepower vastly surpassing developments in communications and mobility, odds favored defenders. And since the warring sides were about equal, stalemate was inevitable: “The war now became a contest of rival wills, a case of displaying superior tolerance of suffering and loss.”

So what might have happened if the Kaiser had won? Hastings rejects as ahistorical the arguments of those who, professing to see little moral difference between the warring sides, claim that Europe would have been better off with a German victory.

It is entirely a mistake to suppose that it did not matter which side won. Even if the Kaiser’s regime cannot be equated with that of the Nazis, its policies could scarcely be characterized as enlightened.

The dominance of Europe was Germany’s aim, and the 6,000 civilians massacred in Belgium and northern France did not speak well of their intentions.

No doubt, in Germany, some may interpret *Catastrophe 1914* as British German-bashing: While Germans are willing to assume responsibility for World War II, they generally consider the Great Powers to be equally at fault for World War I. But no one can accuse Max Hastings of engaging in triumphalism here, and, as he has argued elsewhere, ignoring the historical record serves no one. ♦

BCA

Rage for Fame

Charles Jackson’s saddest story was his own.

BY STEFAN BECK



Ray Milland, Howard Da Silva in ‘The Lost Weekend’ (1945)

The line that opens Charles Jackson’s *The Lost Weekend* (1944), a minor novel but a masterpiece of addiction literature, is bracing and unforgettable: “The barometer of his emotional nature was set for a spell of riot.” That the line is not Jackson’s own—his protagonist and surrogate, Don Birnam, reads it in James Joyce’s *Dubliners*—tells us plenty about Jackson as author. It is a symptom of his obsessive wish to achieve literary greatness that he contrived to make the reader’s first encounter with his prose an encounter, in fact, with that of a confirmed genius. Charles Jackson spent his entire life trotting along in the dust of titans to whom he never had a prayer of catching up.

At least you can’t say he lacked taste.

Stefan Beck writes about fiction for the New Criterion and elsewhere.

Farther & Wilder
The Lost Weekends and Literary Dreams of Charles Jackson
by Blake Bailey
Knopf, 496 pp., \$30

It’s a long way from “set for a spell of riot” to Lindsay Lohan’s confession to Oprah Winfrey that she is “addicted to chaos.” The alcoholic’s solipsism and self-justification may be a constant, but that does not mean, as Blake Bailey’s biography makes plain, that all addicts are equally tiresome. The man on display in *Farther and Wilder* is more fascinating and tragic than the besotted self-promoters of our time. He even had the self-respect to cast his personal nightmare as a *novel*, not a memoir, and to insist for a long time that it was a work of imagination.

With nothing but his bibliography to go on, one might suspect Blake

Bailey of harboring an undergraduate preoccupation with boozing novelists: He has previously written biographies, each heavy on gory detail, of Richard Yates and John Cheever. But Bailey anticipates the reader's skepticism: "Insofar as my books have an aim," he has said, "it's to reconcile the paradox of a highly compartmentalized personality, and ruinously alcoholic midcentury American writers seem to fill that bill nicely." Bailey's ability to give a biography an essentially novelistic feel means one can read happily and profitably about even a figure as trivial as Jackson.

The modern landscape is strewn with tragic figures whose flaw was to crave fame (or mere notoriety) above all else. Jackson wanted to create high art, though he frequently and masochistically questioned his own motives. Thus, in a daydream, Don Birnam thinks: "Oh to feel the power of giving such a performance, or the power of swaying others in any medium, the power of accomplishment. Would it ever be his?" But elsewhere in *The Lost Weekend*, the character lashes himself: "He only wanted to be The Artist, anyhow, with no thought of the meaning or content of the work which would win him such a title."

The trouble, as anyone who has read *The Lost Weekend*, or seen Billy Wilder's harrowing 1945 film adaptation knows, is that the *content* chose Jackson, not the other way around. The teaser "Five shocking days in the life of an alcoholic" on the lurid cover of one Signet edition could hardly have prepared readers for how hopeless a case was in store for them. Birnam's alcoholism is so advanced that few but doctors would have seen anything like it. Indeed, Ray Miland, who in Bailey's telling "hardly ever took a drink himself," prepared for the role of Don Birnam in part by "spending a night, incognito, in the alcoholic ward of Bellevue." That Jackson's story would be a sensation, as a book or movie, was inevitable.

Of course, like a rich man who wonders whether women love him or his money, Jackson could never be sure which merits the book had succeeded

on. It tortured him. Part of his appeal as an artist is that he wanted badly not to take shortcuts—unlike those memoirists of today who deliberately pique morbid curiosity and then conflate sales figures with proof of genius. Alas, Jackson's successes and failures were often outside his control. Just as *The Lost Weekend* is a cautionary tale about alcoholism, *Farther and Wilder* is a warning to writers about the limitations and perils of the inward gaze.



Charles Jackson, ca. 1950

Certainly Jackson had much in his past worth working out in fiction. (*The Working Out*, incidentally, was his proposed title for a *Lost Weekend* sequel.) His childhood was blackened by twin tragedies: His father abandoned the family shortly after two of Charles's siblings died in an accident. Yet it would be a mistake to suppose that Jackson's artistic impulses issued from a desire for therapy. He was creative, and appreciated for it, from an early age. *The Lost Weekend* alludes to this in the very moment when Don Birnam recalls his own father's cruel departure:

He had run upstairs then and flung himself down on the bed and cried his eyes out, weeping for the father who would no longer be giving him the cardboards from his laundered shirts to draw beautiful pictures on,

pictures his father always admired and showed to all his friends and sent off to the Children's Page of a New York newspaper.

Jackson's father had taken pride not only in Charles's shirt-cardboard masterworks but also in productions more unusual for a young boy—poems. It was, perhaps, this early surfeit of praise, and consequent addiction to it, that made Jackson's life so difficult. His mother was certainly no great source of encouragement. Of the now-dated underbelly-of-suburbia stories in *The Sunnier Side*, in which Jackson recast his Newark, New York, hometown as "Arcadia," his mother said: "This is a small town, and my home, and I want them to say and think only the best of you."

Jackson had, in fact, addressed what he saw as this kind of squeamishness, or philistinism, in his introduction to *The Sunnier Side*, a letter to a "fan" who has complained that "it sometimes does seem a pity that a man with your gifts should dwell so much on the morbid & sordid. . . . Life is often unpleasant enough without having to come across the unpleasant in books." Jackson's reply, though illuminating at times, reads a bit like a freshman lecturing his parents over Thanksgiving dinner. But it does nothing to address another of his mother's problems with Jackson's penchant for drawing from life: "[I]t all happened, all you had to do is write it down."

A stab, then, at addressing that problem. Bailey's exhaustively detailed account shows us a life that did not simply happen, but which had at every turn to be endured. To his childhood tragedies one must add Jackson's fish-out-of-water adolescence; his repressed homosexuality and humiliation for it while a freshman at Syracuse; his long bout of tuberculosis; his marriage, an ill-fated attempt at both companionship and bourgeois respectability. Not even his *Lost Weekend* celebrity was fun for long: The thrill of rubbing elbows with stars like Judy Garland only made the years of Jackson's decline darker by contrast. Though Alcoholics Anonymous, for

TIME & LIFE PICTURES / GETTY IMAGES

which Jackson became a star speaker, forestalled the inevitable, it also perpetuated the sense that he had only one subject. No one could have been surprised when Jackson succumbed, at last, to alcohol, Seconal, and suicide.

Jackson had only one subject, and it was neither his alcoholism nor his biography but, rather, his pain. He was not a great writer. Posterity may render the strange judgment that his novels and stories are most important for how they inform our engagement with Bailey's biography. All the same, Jackson's mother was far too dismissive: Nothing could have been more difficult or more important for

Jackson than to "write it down." His late-life artistic impotence, his ever-more-frantic obsession with writing a Proustian epic, must have come from the belief that his pain was only worth surviving if he could make it bear fruit.

The *why* of Jackson's failure is what Bailey, through his faithful stewardship of Jackson's private history, has shown us most vividly. Jackson never bothered to cultivate the tools a writer needs most: curiosity and imagination about the lives of others. And Bailey, who has those tools in spades, has given us in *Farther & Wilder* a crash course in their use. ♦



Washington's Monument

The roots of presidential war-making power are deep.

BY ILAN WURMAN

This account of George Washington's wartime precedents regarding prisoner abuse, congressional power over war policy, military tribunals, and civilian rights represents one of the best and most colorful uses of history to help shape our understanding of the commander-in-chief clause of the Constitution. Anyone interested in the original meaning of the Constitution, or America's revolutionary struggle generally, should read this riveting and informative account. And while Logan Beirne reveals the important contribution historical inquiry can make to constitutional interpretation, he also reveals that even the best historical analysis is but one interpretive tool that must be carefully examined alongside the Constitution's text.

When the ratifying public approved the Constitution, with its clause naming the president "Commander in Chief

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Blood of Tyrants

George Washington & the Forging of the Presidency

by Logan Beirne
Encounter, 440 pp., \$27.99

of the Army and Navy of the United States," they, Beirne is mostly correct in saying, "knew exactly what that meant: the powers that the great soldier of liberty had shaped in the crucible of war." Surely the public, as well as the Framers, had in mind the precedents of their only previous commander in chief.

Thus, the public knew that George Washington had the liberty, under the Articles of Confederation, to treat prisoners either humanely or cruelly as he saw fit to meet the needs of the war effort. The public also knew that Washington was greatly deferential to Congress's strategizing, but that Congress eventually saw the need to give Washington full authority to prosecute the war in his own way. Finally, the

people probably understood that while Washington insisted on civilian trials for citizens and courts-martial for soldiers and American spies, he disobeyed congressional directives and tried foreign spies in military commissions with minimal due process.

But how many of those practices did the Framers ratify in the text of the Constitution? They wrote that executive power shall be vested in the president, and that he shall be commander in chief of the armed forces; but this does not necessarily tell us enough. For example, George Washington was commander in chief both when Congress was directing war strategy and after Congress relinquished its power of direction. Does this mean that the commander-in-chief clause ratified his authority only in this latter period, or that it required the commander in chief to obey Congress—whether or not it was directing war strategy?

Fortunately, the Framers left us with additional textual evidence. In this case, they explicitly gave Congress the power—in Article I, Section 8—to *declare* war but not to *make* war, as had been proposed. Thus, the Framers did, indeed, ratify the understanding that the commander in chief shall have full power to direct war strategy, but they provided an explicit textual hook.

The same questions arise in the context of prisoner treatment. Ultimately, Washington followed Congress's instructions with respect to prisoners. These instructions sometimes demanded humane treatment and sometimes granted Washington the power to use cruel treatment. Our first commander in chief generally obeyed these instructions. He did, however, directly flout congressional directive in his treatment of Archibald Campbell, a British officer—though Congress did grant post-hoc approval for his actions. Beirne is careful not to venture overboard on whether this means that the president or Congress should have final say on such matters; he is merely illustrating that prisoner abuse was a tool readily used.

Such history can certainly shed light on how our current Congress and

president should approach the question of, say, torture; but it tells us less about what independent power the commander in chief may have.

In his most riveting episode, Beirne chronicles the travails of the British major John André, famous for his part in Benedict Arnold's treasonous plot. "Despite the congressional resolution calling for spies to be tried by court-martial," writes Beirne, "Washington viewed it as his prerogative instead to try a foreign enemy combatant without 'the formality of a regular trial.'" Washington dispatched André after a military commission, in which André was not afforded counsel or the opportunity to confront the witnesses against him, had condemned him. Beirne writes that here, "the commander had defined American military justice."

This history is useful as far as it goes, and it helps us understand the role of the commander in chief. At least equally important, however, is the fact that the Framers gave Congress the power to "make Rules concerning Captures on Land and Water." This history is not enough to make sweeping claims about whether Washington's practice could be repeated—though, careful as always, Beirne avoids overreaching in his argument.

George Washington was seen as the paragon of a virtuous and good commander in chief. One Dutch businessman, upon glimpsing Washington, wrote that he had seen "the greatest man who has ever appeared on the surface of the earth." There can be no denying that his leadership served as a model for future commanders in chief, but we must be careful in drawing this conclusion. Washington may well have been the greatest and most virtuous man of his era; but would future presidents be as virtuous? No one doubted Washington's virtue, but the presidency had to be crafted for all future occupants of the office. The Framers were aware of this necessity, and created an executive of limited duration, giving to Congress some traditional executive powers. They drafted the Constitution with a view to a future after George Washington. ♦

BCA

Moral Fiction

Three novelists and the challenge of engagement with the modern world. BY ELIZABETH POWERS

I have this thing about schlock books, those that cater to our enduring fascination with public portrayals of manners and morals, especially failures in that regard.

Even while writing my dissertation on Goethe, I avidly read biographies of movie stars. But the stars are not like you and me, and a book that recently came across my desk reminded me of this difference: *The Fatal Gift of Beauty: The Trials of Amanda Knox* (Broadway, 368 pp., \$14.99). Truth be told, I put in a request for the book at my local library. Walking home with the plastic-covered volume, however, I concealed the cover, not wanting to advertise on Manhattan's Upper West Side that I was reading about the woman who edged out Carla Bruni and Sarah Palin as Italy's Woman of the Year in 2009.

For those who have been in a time warp, Amanda Knox is the Seattle girl who was studying Italian in Perugia when she was accused of participating in the murder of Meredith Kercher, her English apartment mate, in November 2007. Kim Kardashian and the current fascination with reality TV are minor sideshows compared with the elements that coalesced in the Knox murder trial: The unconventional behavior of the winsome, if witless, white-bread American collided with entrenched Italian fears about Masonic conspiracies and prejudices concerning female beauty and sexuality.

Journalists flocked to Perugia to cover the trial of what the prosecution claimed was a satanic sexual ritual gone bad, and, in December 2009, Knox was found guilty and sentenced

to 26 years in prison. The conviction was overturned, and she was freed in 2011. In the meantime, the Italians have overturned the acquittal and are reconsidering the case.

As Nina Burleigh writes in *The Fatal Gift of Beauty*, there is a reason "vendetta" is an Italian word. Burleigh is a real writer, and her portrait of how the Amanda Knox narrative was created stands several notches above other books about the case, including Knox's own recent memoir, in which readers will find nothing about the Etruscan origins of Perugia or the persistence of paganism in Roman Catholic Umbria.

We are drawn to these narratives and, as such, they are framed for public consumption because these cautionary tales allow us to measure our own stricter standards and practices against those who so egregiously fail to live up to common values (e.g., Jodi Arias) or who appear to have been falsely accused (Amanda Knox).

The centrality of women is essential to these narratives, reflecting a weighty issue—namely, the attempts of society to come to terms with the changing role of the fairer sex since the 19th century. These tales follow in a long line of 19th-century novels charting the travails of women as diverse as Eliot's Dorothea Brooke and Tolstoy's Anna Karenina. Though the great Victorians wrote with sympathy about their subjects, society, too, had its mores that had to be respected.

Today's serious literary fiction continues to be concerned with the ruinous price exacted by society for transgressions; but unlike Tolstoy or Eliot, today's novelists evade passing judgment on their characters. We post-moderns, living in a more affluent

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age, believe the price too high. Thus, the moral dimension of individual will and bad choice disappears, and in its place Society (sometimes called “the family,” “the father,” “the husband,” “the parents,” “the boss”—they are all simply variants of power) is the culprit.

This is a big letdown, because people want both to be entertained and to see their own lives and values reflected in what they read. The reigning literary class, however—the folks who write and market books—runs away from the obvious. The public also flees in droves from high-status books and discovers its morality tales in schlock books and TV.

Which brings me to a piece that appeared in these pages last year, on “the American novel today,” in which Roger Kimball lamented the failure of contemporary novels to deal with the complexities of the moral life (“The Great American Novel,” February 27, 2012). Surprisingly, there was little about contemporary fiction; the only novel mentioned was *Gilead* by Marilynne Robinson. Instead, in making a point about the “proper” relation of literature to life and the current failure of literature in this regard, Kimball focused on the views of Matthew Arnold, Lionel Trilling, Henry James, T. S. Eliot, and even Hegel and Plato.

Roger Kimball is, of course, correct when he writes that we now lack “the requisite community of readers, and the ambient shared cultural assumptions, to provide what we might call the responsorial friction that underwrites the traction of publicly acknowledged significance.” If at one time—say, before 1950—“a cultivated person” could anticipate the appearance of an important new novel, we now have many more distractions and diversions that make less of a demand on our attention.

Very true. But the reason for the loss of shared cultural assumptions is historical and irrevocable. Capitalism and the advance of democratic institutions, beginning in the late 18th

century, have simply washed away an authoritative tradition, including the seemingly natural roles of men and women. In our complex and interconnected global economy, requiring increasing numbers of technicians and professionals, all hands are needed on board. There is an upside to this: Individuals are permitted to craft their own destinies, with women taking on tasks for which society formerly had no use. The downside is the mar-



Amanda Knox in custody, 2011

ket’s continuing appeal to waste the energy required to do so: all those distractions and diversions.

Thus, I doubt that literature, or “culture generally,” as Kimball writes (invoking Matthew Arnold), can provide “the civilizing and spiritually invigorating function that religion had provided for earlier ages.” Even in Arnold’s lifetime (1822–88), most people were not reading the novels of George Eliot in order to grasp the complexities of the moral life or even for literary edification. Thus, the ending of Kimball’s essay, when he writes that “increasingly, our most intense encounters with novels will be with novels of the past,” seemed a tad nostalgic.

The past, however, does offer guidance in our current cultural situation. It is precisely the value of the past that is at the core of the battle between liberals—or what I prefer to call “post-moderns”—and conservatives. This is a battle between “patriarchy” and

“patrimony,” and if conservatives wish to alter the current ideological milieu in their favor, they must fight to reclaim the past, unapologetically.

We should not, however, look to a specific past (since its practices are inevitably retrograde to modern eyes), or to a golden age, but to the long stretch of history during which certain values have been transmitted, even through the most terrible cataclysms. The survival of such values—love of family, sacrifice for others, courage, self-discipline, self-reliance, inner cultivation, patriotism—suggests that they are essential to the human condition, to the continuance of civilization, and, indeed, to the affluence that supports our historically unprecedented way of life. (Lacking self-discipline, Amanda Knox came unwittingly to fit the narrative created by journalists and prosecutors.)

Aristotle summed up these values long ago, and no one has improved on them. Or, to quote the aforementioned Marilynne Robinson from her recent collection of essays, reviewed here in June: “The great truth that is too often forgotten is that it is in the nature of people to do good to one another.”

The problem for most of us, however, is that goodness is often in conflict not only with other values but also with our basic desires. Thus, a major preoccupation of the Western literary tradition, since Sophocles and the Old Testament, has been what Georg Lukács called the breach between inner and outer worlds. Adam and Eve certainly had fewer distractions, but the condition of the individual under advanced capitalism, despite a panoply of choices, is in essence the same. When push comes to shove, one is often still faced with choosing between incompatible alternatives, between what we love or desire and what we are required to do. To be fully human, as conservatives recognize it, is to accept this challenge of the moral life.

My reading of contemporary literary fiction reveals that many young and prominent writers recognize and

are attempting to portray this challenge. Let me mention three.

The debut novel *The Tiger's Wife* by Téa Obreht (Random House, 368 pp., \$15) is particularly interesting in that it shows the attempt to eject history instruction from our schools and universities to be unsuccessful. Young novelists, it seems, have an innate drive to understand what preceded them. On one level, *The Tiger's Wife* is a straightforward, realist story about a

future) and presents in 13 individualized chapters the lives of people in and on the periphery of the music industry and public relations. The picture is not pretty—for instance, there is an excruciating scene in which a 13-year-old girl performs fellatio on a middle-aged man—and very few conservative writers have limned a more horrifying portrait of the degradation produced by these industries and popular culture.

What is remarkable, and what we

one is reading is not real life but has, instead, been “constructed.” Already in the 18th century, certain novelists—Diderot, Laurence Sterne—made themselves part of their narrative and cast doubt on the truth of the story they were telling. But what was radical in Diderot and Sterne has become common in modern literary novels.

Thus, Dinaw Mengestu’s *How to Read the Air* (Riverhead, 320 pp., \$15) is a novel about fictions; the

first-person narrator, trying to understand the failure of his own marriage, imaginatively recreates the life of his parents, Ethiopian immigrants in the Midwest, at a critical moment in their own marriage. One can read this novel as a story about family dysfunction, but the fault here lies not with a supposedly racist America: These immigrants, like others who have come before them, simply

carry too much baggage—namely, the overwhelming weight of their own past. Their failure is due to a lack of imagination, an inability to tell stories about another person and thus arrive at an empathetic understanding of one another. Moreover, Mengestu builds on a now-venerable 20th-century American literary tradition by writing about the experience of immigrants.

For conservatives who hope to win the future, one place to start would be engaging with such contemporary fiction, attending to and celebrating works that grapple with the enduring values of the Western cultural tradition. Through craftsmanship and inventiveness, many novelists, even as they portray the present reality of social fragmentation, are also reconnecting with the Western literary inheritance—with our patrimony. Let us give them our attention.

Failing that, we will have to rely on Amanda Knox. ♦



Téa Obreht, Jennifer Egan, Dinaw Mengestu

young Serbian doctor on a humanitarian mission in Croatia. The doctor, a rationalist, finds herself frustrated by local superstitions that are the product of a long history, which is recounted in alternating chapters. These are imaginative retellings of village tales that depict the irrational loves and hatreds that have historically bound these Balkan peoples together and then succeeded in tearing them apart. Obreht is not cynical or judgmental: She recognizes her ancestors as complex individuals, not the stock figures of the postmodernist imagination.

Equally at odds with the postmodernist vision is Jennifer Egan’s most recent novel, which portrays the difficulty of doing the right thing, or of finding one’s way to the right path in an ideological milieu that insists that all choices are okay, or all paths are good. *A Visit from the Goon Squad* (Anchor, 352 pp., \$15.95) ranges in time from about 1990 to 2019 (yes, into the

should celebrate as praiseworthy, is that Egan manages the considerable feat of neither glamorizing nor pitying her characters. She does not even blame society, but instead humanizes these individuals, who are trying to get through very bad times with only their own instincts to guide them. One character, a washed-up film star, becomes heroic when she stands up to a genocidal dictator.

It should be said that the most ambitious literary novelists today no longer write straightforward narratives, even when they eschew the postmodernist critique of society. Plot, narrative arc, descriptions of place, even states of mind—the stock in trade of the canonical novels—are used sparingly or have been dispensed with.

If there is any literary convention more pertinent to the dissolution of shared cultural norms, it is the insertion of the author into the narrative to draw attention to the fact that what

Veterans' Week

Two backward-looking films to look forward to.

BY JOHN PODHORETZ

Thank God the baby boomers are long-lived, because without them, there'd be almost nothing worth seeing at the movies. Boomers may bankrupt the country with their retirements and suck their kids and grandkids dry with their Medicare Part D, but they remain a large cohort of moviegoers and they remain interested in human-scale stories.

Right now there are two films I can heartily recommend that are pure baby-boomer fare. Both hark back to the kinds of movies that were made when the boomers comprised the only audience Hollywood cared about, before *Jaws* and *Star Wars* uncovered the vast demographic conspiracy of teenage boys who would see a movie 11 times in its first three weeks—whereupon everything went slowly but inexorably to hell.

The two movies are radically different in tone, style, and quality. *Captain Phillips* is smart, crisp, tense, exceedingly well told, and both jangled and somber in the manner of 1970s thrillers like *Klute* and *Three Days of the Condor*—even though it's a true story about the capture of an American merchant ship by Somali pirates in 2009. It's first rate.

I can't say the same of the bright, shambling, and silly *Last Vegas*. But this story of four old friends on the cusp of 70 who go for a weekend romp together in Sin City plays in unexpected minor keys reminiscent of emotionally complicated 1970s gems like *Going in Style* (a glorious and unheralded movie that begins with George Burns, Art Carney, and Lee Strasberg watching kids on a playground until the retired Burns says, flatly, "I'm sick of this s—t," and

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Captain Phillips

Directed by Paul Greengrass



Last Vegas

Directed by Jon Turteltaub



Kevin Kline

concocts a bank-robbing scheme for the four of them). *Going in Style* was actually quite tough. *Last Vegas* is lovable, which is not such a bad thing.

Mostly, though, what gives both *Captain Phillips* and *Last Vegas* their power is that they are about ordinary people. The title character of *Captain Phillips*, played by Tom Hanks, is a working-class guy who climbed up the ladder in the merchant shipping business to reach executive status and worries that his children have been born into a world in which there is no such clear course to success. Phillips is a model of self-effacing restraint; he has no small talk and little charm. But he's good at his job, and when his ship is overtaken by four gun-toting pirates, he has to swallow his fear and do what is best for his crew.

He remains in tight control for most of the movie's running time, before exploding into an extraordinary effusion of emotion in the movie's concluding

scenes. Hanks, who has seemed anesthetized on screen for most of the past decade, all but blows you through the back of the theater.

Hanks overpowers you; the four stars of *Last Vegas* creep up on you. Michael Douglas, his face a rictus desperately holding back the ravages of time, is Malibu-rich-guy Billy, who has remained best friends with his three buddies from his Brooklyn childhood. Archie (Morgan Freeman) is living under the overanxious supervision of his son in New Jersey. Sam (Kevin Kline), the cut-up of the crew, finds himself unhappily submerged in a Florida retirement community. Paddy (Robert De Niro) is sunk in grief back in Brooklyn after the death of his wife of 40 years, who was also the beloved of the never-married Billy.

Billy declares his intention to wed his 32-year-old girlfriend, and his friends insist on throwing him a bachelor party weekend in Vegas. They find the spark that's been missing in their lives, and they work to improve the life of each other. It's sentimental and sitcommy and more than a little lewd. But it's sweet and supple, and all four of the guys are terrific—even De Niro, who makes so many movies in which he performs so indifferently that a wax dummy is often more expressive than he.

Most surprising, though, is Kevin Kline, who has had one of the more mysterious performing careers of our time. Kline is a genuinely great actor; his Falstaff at Lincoln Center was the finest stage performance I have seen in four decades of dedicated theatergoing. He won an Oscar in 1988 for his turn as the idiot Nietzschean crook in *A Fish Called Wanda*, and was utterly inspired as a hammy soap opera has-been in the overlooked 1991 farce *Soapdish*.

But all too often he underplays on screen so profoundly that he seems to melt into the wallpaper or fade into the couch. Here, sporting a gray beard, a retiree's cap, and two pairs of glasses, Kline somehow conjures up comic magic with nearly every line. It's almost as though he saw in this part a way to tell the world that he ain't dead yet.

Both of these movies suggest there's a glimmer of life in Hollywood, too—a glimmer that comes with age. ♦

“President Barack Obama told cheering throngs in Washington, D.C. Monday night that he never truly promised Americans could keep their health insurance plans once his Affordable Care Act became law. . . . But at least 29 videotaped examples available online show Obama promising between 2008 and this year, in only slightly varied language, that ‘if you like your health care plan, you will be able to keep your health care plan, period.’”

—Daily Mail (U.K.), November 5, 2013

NOVEMBER 19, 2013

ONE DOLLAR CHEAP

OBAMA TELEPROMPTER FIRED OVER HEALTH CARE PROMISES

‘American People Deserve Better’

By PETER BAKER

WASHINGTON — A longstanding Obama administration teleprompter has been removed from duty after an investigation revealed it was responsible for President Barack Obama’s misstatements on the Affordable Care Act over the last few years. According to administration sources, Telmax TSP 17 prompted the president on more than one occasion to tell Americans, “If you like your health care plan, you can keep it.” In fact, that statement was in direct conflict with the president’s own understanding of how the law would be implemented.

“It is a sad day for me and for America,” said President Obama from the Rose Garden at the White House. “Telmax TSP 17, or as we in the administration called it, T-Max, was an integral part of my administration. But its failure on such a vital issue cannot be overlooked. The American people deserve better.”

Some close to the teleprompter speculate that its protracted, high-profile divorce from Amplivox T9AB19604, the podium at the 2008 Democratic National Convention, may have exacerbated Telmax TSP 17’s long-rumored struggle with alcoholism and distracted it from its professional responsibilities.

But administration insiders believe the teleprompter might have been motivated



Lucien Dalarun

Telmax TSP 17 on the campaign trail in October 2012 with President Obama.

by politics. Shortly after the announcement of Telmax TSP 17’s firing, several photos surfaced showing the teleprompter with former President George W. Bush during his second term, as well as at a fundraising event for New Jersey Governor Chris Christie earlier this year.

Whatever its motivations, Telmax TSP 17 is keeping a low profile, refusing to

respond to reporters this afternoon as it was carried from a white Dodge cargo van into a warehouse in Northeast D.C. But, the Times has learned, the teleprompter is in contact with noted civil rights lawyer Gloria Allred about the possibility of filing suit for wrongful termin-

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