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THE IDIOCY OF ACADEMIC LIFE
MARK HEMINGWAY • WILLIAM KRISTOL

JUDGING ROBERTS

ADAM J. WHITE
on the chief justice, ten years in

WEEKLYSTANDARD.COM

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COVER BY DANIEL ADEL

Helmut Schmidt, 1918-2015

On the death of the former West German chancellor Helmut Schmidt last week, The Scrapbook has two observations.

First, we cannot help but admire a man who seemed to smoke cigarettes incessantly and yet lived until a month before his 97th birthday. Indeed, on the few occasions over the years when The Scrapbook was privileged to be in Schmidt's presence, we're embarrassed to say that we remember his smoking more vividly than his talk. When asked a question, he had the habit of taking a long draw on his cigarette before answering—an obvious device to give him a moment to think. And when he did answer the question, we were always distracted—in fact, mesmerized—by the sight of the dangerously long ash he waved around in the air.

We always expected it to fly off the end of his cigarette and land in his lap, or in The Scrapbook's lap; but it never did. In smoking, as in politics, Schmidt knew what he was doing.

Which was fortunate, since he was the West German chancellor in interesting times (1974-1982). He followed on the heels of Willy Brandt's Ostpolitik policy of reaching out to the Warsaw Pact, especially Communist East Germany, and he straddled the administrations of Jimmy Carter and Ronald Reagan. This was the flood tide of the Cold

War, when the Soviet Union's dying gasps took the form of belligerence, and Western resolve (with West Germany on the front lines) was of paramount importance.

As a lifelong Social Democrat, Helmut Schmidt was closer politically to Jimmy Carter than to Ronald Reagan. But Carter's weakness and dithering in the face of the Warsaw Pact's SS-20 nuclear missiles, aimed directly at Western Europe, drove Schmidt to distraction. When Reagan fulfilled this country's pledge to install Pershing II and cruise missiles on NATO territory, unless Moscow withdrew its SS-20s, Schmidt supplied his unwavering support in the face of huge left-wing protests in Europe and America.

Indeed, throughout the 1980s and early '90s, when his fellow Social Democrats veered toward unilateralism and disarmament, Schmidt was especially outspoken in his criticism of his own party, and in his devotion to the Atlantic alliance and close relations with Washington. Of course, in the long term, the main beneficiary of these policies was his principal domestic rival and successor, the Christian Democratic leader Helmut Kohl, who was chancellor when the Soviet Union collapsed and Germany was reunified.

In that sense, Helmut Schmidt was a statesman as well as a politician—a rare combination, like a long-lived smoker. ♦

Sadly Unexceptional

Roxanne Gay, the author of the essay collection *Bad Feminist*, was the recent winner of PEN Center USA's Freedom to Write award, given to writers who have "demonstrated exceptional courage in the defense of free expression." Gay was an unusual choice because the award usually goes to people who genuinely have been persecuted for their writing—such as dissidents and assassinated journalists. The award is so associated with persecution that PEN's website specifies that "funds are collected from our members for the purpose of helping other writers or their families for lawyer's fees, bail or medical needs."

NEWSCOM

Suffice to say, being a liberal American feminist does not carry with it any real risks these days. If anything, it's a label that has cultural cachet. And Gay's winning an award for "free expression" is especially odd given her fondness for identity politics. Last week she penned a *New Republic* article defending the grievance hysteria at Yale and the University of Missouri, where student protests are premised in no small part on shrinking the scope of free expression and debate. Indeed, she criticized Purdue University president and former Indiana governor Mitch Daniels for emailing a statement supporting liberal values and free inquiry on college campuses. Here is Daniels's email:

> Events this week at the University of Missouri and Yale University should remind us all of the importance of absolute fidelity to our shared values. First, that we strive constantly to be, without exception, a welcoming, inclusive and discrimination-free community, where each person is respected and treated with dignity. Second, to be steadfast in preserving academic freedom and individual liberty.
>
> Two years ago, a student-led initiative created the "We Are Purdue Statement of Values," which was subsequently endorsed by the University Senate. Last year, both our undergraduate and graduate student governments led an effort that produced a strengthened statement of policies protecting free speech. What a proud contrast to the environments

that appear to prevail at places like Missouri and Yale. Today and every day, we should remember the tenets of those statements and do our best to live up to them fully.

Gay's response on Twitter: "What on earth is a university president doing, sending this email?"

Let's go ahead and answer this rhetorical question: University professors have been recently caught on tape urging physical assaults on student journalists, and the panic about racism rapidly spreading on campuses is actually corrosive of concern for real racial injustice. In a world that still has over 35 million enslaved people, the amount of attention paid to microaggressions at Yale is an affront to common sense. Daniels's statement supporting free speech on college campuses seems perfectly appropriate. More university presidents and administrators should speak out along the same lines.

There is a variety of ways to interpret Gay's tweet and article, but none of them suggests she's "demonstrated exceptional courage in the defense of free expression." PEN's bestowing the Freedom to Write award on her is an embarrassment to all involved. ♦

Imaginary Recovery?

For three decades now, liberals, er, progressives have been trying to explain why the Reagan recovery—that explosion of economic growth that lasted two decades—actually happened. It followed the down economy of the 1970s, when both unemployment and inflation soared in tandem. This wasn't supposed to happen. The liberal economists of the School of Keynes were perplexed. Their remedy of more and more government spending didn't work. And they were loath to credit President Reagan's supply-side tax cuts that Congress had enacted in 1981.

Now the puzzle has been solved: The Reagan recovery didn't exist. In a *New York Times* review of *Jack Kemp: The Bleeding-Heart Conservative Who Changed America*, Timothy Noah says the tax cuts produced "a disaster." It was Kemp who had persuaded Reagan to adopt across-the-board cuts in individual income tax rates. This, Noah says, "inaugurated two decades of sky-high budget deficits, accelerated a nascent growth trend in income inequality and did (depending on who you ask) little or nothing to ease the brutal 16-month recession that began around the same time the bill was passed." That's it. No mention of any recovery. It never happened.

The review doesn't bother to explain, absent a recovery, how Reagan could have declared "Morning in America" and won reelection in 1984 in a landslide. Was the public misled about the condition of the economy? Reagan was dubbed the Great Communicator, but convincing the public the economy was in great shape when it wasn't—even he couldn't manage that. In truth, he didn't have to. The economic numbers did it for him.

Something caused the economy to grow at a rate of 4.6 percent in 1983, 7.3 percent in 1984, and 4.2 percent in 1985. Over the rest of Reagan's presidency, the growth rate was 4.5 percent, and through 2000 the economy grew on average 3.7 percent. Those numbers, taken together, would seem to indicate a recovery occurred. What could have sparked it? Perhaps the tax rate cuts worked in the 1980s and 1990s, just as they had in the 1960s when JFK's tax cuts became law. Just a guess. ♦

Cleveland Loses Yet Again

It will come as no surprise to readers who are also sports fans that Cleveland has lost again—this time, at the Supreme Court.

Dedicated readers will remember that The Scrapbook actively rooted against the town in a lawsuit filed by two former NFL players who disputed how the city collected its "Jock Tax"—an income tax on athletes (and other high-income entertainers). Cleveland's method assumed players earn their income according to the number of games played, rather than also counting "duty days"—namely practices—as most cities do. In a 16-game NFL season, 1 game in Cleveland means the city would tax the player on 1/16 of his NFL income. Of course, this method yields higher revenues for Cleveland.

Cleveland won the first round at the Ohio Board of Tax, but that board lacked the authority to determine the constitutionality of the tax. The plaintiffs, former Indianapolis Colts center Jeff Saturday and former Chicago Bear linebacker Hunter Hillenmeyer, appealed to the Ohio Supreme Court, where they won in a unanimous ruling. Their collective refund? A paltry $8,356.

Still, this was a decidedly unpaltry victory for the players' union, since it undercut Cleveland's draconian tax scheme as applied to all professional athletes. So Cleveland orchestrated a legal drive to take the challenge to the U.S. Supreme Court. And like the Browns of the late 1980s, the city couldn't get the ball across the goal line, fumbling as time was running out: The Supreme Court has declined to hear their case.

With the matter settled, Cleveland stands to lose $1 million a year in tax revenue from professional athletes. At least they still have a team. ♦

The Bonfire of the Humanities Cornell 1969, Yale 2015 (for Walter Berns)

Walter! Thou shouldst be living at this hour—
Thy country needs thee. She is a mess
Of snits and umbrage, clamors for redress.
Thought is abandoned, reason overthrown,
The puppy-huggers make each slight their own
and flaunt ersatz stigmata. We are selfish men
(and women and transgender, et cet'ra, close paren)
and there is no health in us. So how can we again
restore those manners, freedoms, virtues, power?
These puritan bacchantes howling down the tower
Think they're the first ones, cannot see how small
The objects of their passions. A Pentheus of pages,
A holocaust of thought, a combat of them all
Against themselves. O, what can be the harvest when they fall?

Envoi
Remind us how to call a spade a spade,
To wear our boots in barnyards, but to dig
And not disdain beginnings truly made
But notice and direct the true-grown twig.

—Priscilla M. Jensen

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BPA WORLDWIDE

A Job in the Neighborhood

I taught at a university for 30 years, from 1973 until 2002. The timing of my departure was exquisite. I left before smartphones became endemic and political correctness, with triggering and microaggressions and the rest, kicked in. The courses I taught—in Henry James, Joseph Conrad, Willa Cather, and in something called Advanced Prose Composition—were all electives, and so my sampling of students may have been less than comprehensive, but I liked the kids who wandered into my classes. Twenty-five or so among them have become and remain my friends.

I began teaching in my mid-thirties, had no advanced degrees, and was neither offered nor sought tenure. When I told my mother about getting this job, she replied, "That's nice, a job in the neighborhood," for the university was perhaps six blocks from my apartment, and we went on to talk about more important things.

"A job in the neighborhood" was exactly what my teaching turned out to be. I would go off two mornings a week, teach for three hours, and return home. University teaching was roughly a six-month job, and as such a sweet deal; a "racket" an older friend at the same university called it. Racket though it may have been, I found I never entered any class without slight trepidation. What I worried about was being boring, revealing my ignorance, failing to bring out the profundity of the writers I taught, running out of things to talk about to fill my 80-minute classes. Whether or not I was a good teacher is not for me to say. What I can say is that those who confidently think themselves good teachers probably aren't. The teaching transaction—what goes on between teacher and student not merely in the passing along of information but in the realm of influence—remains a mystery, at least it does to me.

Just before I began teaching, student evaluations of teachers began. Of the thousands I received only two were of any value. One cited me for jiggling my change—useful because I could easily enough remedy this distraction by putting my change and keys in my briefcase. The other, more mysterious, read: "I did extremely well in this class. I would have been ashamed not to have done." The mystery of course was what did I do to induce such splendid shame in this student? If only I had known, I would do it over and over again with other students.

DAVID CLARK

Even though I had a good run, I stopped teaching without the least regret. The reason for this is that I always thought of myself as primarily a writer who was lucky to get a job teaching to help pay for my writing.

Three or so weeks ago, a former student of mine, who is teaching one of the courses I did at the same university, sent me an email informing me that he was using one of my books in his course on nonfiction writing and would be delighted if I would come in to speak to the students. My former student is now in his fifties. One's former students do tend to grow older. I now have former students in their early sixties. My friend Edward Shils, then in his early eighties, one day told me that he had been visited by two of his former students, one 75, the other 77. "Nice boys," Edward said.

I went into this class, as into every other I have taught, with the usual trepidation. I slept poorly the night before. I prepared some notes. Among them was a sentence that, though clear enough, contained five errors: "Hopefully, the professor will not be totally disinterested in the work on which I am presently engaged, and which, I have come to increasingly think, is rather unique." (The students caught only one of these errors—the word unique is an absolute condition and does not admit of qualification.) We discussed what was at stake in letting such errors into one's writing. I read a paragraph by Leo Strauss on the death of Winston Churchill and on the need "never to mistake mediocrity, however brilliant, for true greatness," and told them that one of the goals of a serious education is to train a person to discern the difference. They asked a number of intelligent questions about my own writing. We talked about the doleful effects of the Internet on literary writing. Something suspiciously like education seemed to be going on. I found I was enjoying myself hugely.

Two great lies about teaching are, first, that it is so wonderful one would do it for nothing and, second, that one learns so much from one's students. Still, this brief return to the classroom reminded me that, when it is going well, teaching, like ping-pong and sex, can be a splendid indoor activity.

Joseph Epstein

the weekly Standard

The Self-Destruction of the American University

"To give oneself the law is the highest freedom. The much-lauded 'academic freedom' will be expelled from the German university; for this freedom was not genuine because it was only negative. It primarily meant lack of concern, arbitrariness of intentions and inclinations, lack of restraint in what was done and left undone. The concept of the freedom of the German student is now brought back to its truth. Henceforth, the bond and service of German students will unfold from this truth."

Martin Heidegger
"The Self-Assertion of the German University," May 27, 1933

"If I am right in believing that Heidegger's teachings are the most powerful intellectual force in our times, then the crisis of the German university, which everyone saw, is the crisis of the university everywhere."

Allan Bloom, The Closing of the American Mind

It's in a way ludicrous to mention in the same breath the childish idiocy at Yale, the Lord-of-the-Flies frenzy at the University of Missouri, and the embrace of National Socialism by the great philosopher Martin Heidegger. We're tempted to say, "First time tragedy, second time farce," and leave it at that.

But isn't farce sometimes a kind of sugar-coated tragedy? Farcical illiberalism is still illiberal. Soft nihilism is less intimidating than hard nihilism. Self-pity is less threatening than self-assertion. But the damage to the American university—and to America—can still be great.

Let's be clear about what is happening at Yale and Missouri, and at colleges and universities all across the nation: Freedom is under assault.

It's actually been under assault for quite a while. But the attack has intensified in recent years, aided and abetted by the Obama Department of Education and its 2011 reinterpretation of Title IX of the Education Amendments of 1972. The assault has been, in the manner of today's liberalism, somewhat erratic and intermittent, enveloped in gauzy clouds of grievance and pious protestations of victimhood. The assault has been primarily on academic freedom—but not just academic freedom. For what is the limiting principle that would constrain the assault to the university campuses?

What is to be done? We could begin from the observation that the Education Amendments of 1972 were passed by the United States Congress. The University of Missouri is a public institution, funded by taxpayers and operated under the authority of the legislature of that state. Yale is governed by a corporate body whose membership is a matter of public record. The responsibility for acting to defend freedom on campus falls to our elected officials and to those with a responsibility for these institutions. Academic freedom, it is now clear, is too important to be left to academics.


Cornell 1969

UNDERWOOD ARCHIVES / GETTY IMAGES

In *The Closing of the American Mind*, Allan Bloom recounts an incident from almost a half-century ago:

> "You don't have to intimidate us," said the famous professor of philosophy in April 1969, to ten thousand triumphant students supporting a group of black students who had just persuaded "us," the faculty of Cornell University, to do their will by threatening the use of firearms as well as threatening the lives of individual professors. A member of the ample press corps newly specialized in reporting the hottest item of the day, the university, muttered, "You said it, brother." The reporter had learned a proper contempt for the moral and intellectual qualities of professors. Servility, vanity and lack of conviction are not difficult to discern.

Plus ça change . . .

But no serious actions were taken after those manifestations of illiberalism. The threats seemed to subside. The academic rot was gradual enough to be tolerated. Islands of intellectual excellence, liberal education, and academic freedom could be defended. The efforts by defenders of academic freedom were mostly focused on slowing the closing down.

But things have gotten bad enough, the situation has become dire enough, the decadence is now obvious enough that civic and political leaders can no longer watch from the sidelines. It's time to add the defense of intellectual freedom, of freedom of speech and of the mind, to the more familiar agenda—economic freedom, social and religious freedom, the defense of freedom abroad—that the party of freedom intends to place before the American electorate in 2016.

—William Kristol

‘I Need Some Muscle’

For decades, the American university system has been creeping towards both moral and intellectual bankruptcy. But the events last week at Yale and the University of Missouri suggest we are reaching a tipping point, and that campus culture is transitioning from painfully idiotic to wantonly destructive. Even at the height of the Vietnam war protests, administrators endeavored, with varying degrees of success, to keep the inmates from running the asylum. Now it appears that students can invent accusations for the sake of validating narcissistic identity politics and bring institutions to their knees.

At Yale, what started with a missive from an administrator warning about offensive Halloween costumes turned into a full-blown panic, involving the likely fictitious report of a “white girls only” fraternity party and an all-too-real “March of Resilience” on campus that drew thousands of students. The tenor of the “debate” was captured by a video showing angry students confronting Yale dean Jonathan Holloway—a black man—and demanding he be fired for not doing anything about a racist fraternity party no one can prove took place. In a related confrontation, a student angrily tells Professor Nicholas Christakis, “It is not about creating an intellectual space! It is not! Do you understand that? It’s about creating a home here! You are not doing that.” A college professor stands accused of trying to create an intellectual space? How dare he!

Professor Melissa Click, Missouri 2015

YOUTUBE

But that’s nothing compared with what happened at Mizzou. The origin of the hysteria there is vague, beginning with a general concern over what happened when police killed Michael Brown in Ferguson, Missouri, last year, giving rise to the Black Lives Matter movement. The student activists, calling themselves “Concerned Student 1950” (for the year the university was integrated), said the university hadn’t done enough to address a series of racial incidents, among them the smearing of a swastika made out of excrement on the wall of a dorm bathroom.

Since campus activists have faked a number of supposed hate crimes in recent years, Mizzou was forced to release photos of the poop swastika to assuage public doubts. University officials also noted “an intoxicated individual said ‘bitch ass nigga’ to a white resident, when having a heated interaction with multiple black residents in the third floor lounge, which is the same floor this bathroom incident happened on.” (They did not note the race of the suspect.)

We also have clear evidence of a student photographer on assignment—Missouri is renowned for its journalism school—being shoved by protesters who had previously been seeking attention. At one point a professor participating in the demonstration directs her ire at the photographer being assaulted. “Who wants to help me get this reporter out of here?” she yells. “I need some muscle over here.” The professor in question, Melissa Click, teaches in the communication studies department: “Current research projects,” the university website informs us, “involve *50 Shades of Grey* readers, the impact of social media in fans’ relationship with Lady Gaga, masculinity and male fans, [and] messages about class and food in reality television programming.”

Then the football team got involved with the protests. The team threatened to boycott its next game unless their demands were met. The economics of college football being what they are, a single canceled game could cost the university more than $1 million. The football team’s demands included the resignation of university president Tim Wolfe. On November 9, Wolfe and University of Missouri chancellor R. Bowen Loftin both resigned. The university also acceded to students’ demands to create a new position of “vice chancellor for inclusion, diversity and equity.”

Then Mizzou’s student body president warned that the KKK was invading campus—before backtracking on the claim. A professor who insisted on holding class in spite of the protests was so besieged he offered his resignation. Next, the school sent out a campus-wide announcement telling students if they hear anything offensive to call the cops. So, we’ve come full circle: Students, first outraged that the police are institutionally racist killers, are now leaning on police to keep them safe from hurtful words.

At a well-functioning university, such spurious and inflammatory accusations would produce ridicule and disciplinary action. Instead, the university has affirmed these students’ delusions of persecution. This is an alarming abdication of responsibility. It nurtures destructive fantasies and diminishes the real injustices in the world. Mob rule, purges, and shouting people down are serious steps not towards but away from a more just society. But that is the atmosphere our colleges are indulging and cultivating.

“Our demands must be met in totality to create systems of healing within the UM system,” said Marshall Allen, one of the original members of Concerned Student 1950, at a November 10 protest. Caving in to the “totality” of student demands is not how you create educated citizens. It’s how you create budding totalitarians.

—Mark Hemingway

Hillary Clinton, Jarhead?

A rare instance of media skepticism.

BY STEPHEN F. HAYES

Last week in New Hampshire, Hillary Clinton resurrected one of her favorite tales—the story of her unsuccessful effort to join the Marine Corps in the mid-1970s. The account has drawn skepticism over the years, and for good reason. She has offered little to back it up. But it's the perfect anecdote to illustrate what she'd like people to see as the challenges to her candidacy—sexism and ageism—and so it's proven irresistible.

The original version of the story came two decades ago, shortly after she moved into the White House with her husband. She described meeting a recruiter for the Marines, telling him of her desire to serve her country, and recalled his response.

"You're too old, you can't see, and you're a woman," she says he told her. "It was not a very encouraging conversation," she told her audience, adding: "I decided maybe I'll look for another way to serve my country."

What compelled Clinton to seek to join the Marines? That's not clear. But it certainly would have been an odd fit, though not because of her age or sex. Clinton was a promising young lawyer about to marry a rising political star. She had been an active opponent of the Vietnam war and, as Maureen Dowd noted at the time, had worked on the presidential campaigns of Eugene McCarthy and George McGovern, strongly antiwar candidates.

Nonetheless, she deployed the anecdote again last week, once more describing the exchange with the recruiter in the 1970s.

GARY LOCKE

He looks at me and goes, "Um, how old are you?" And I said, "Well, I am 26, I will be 27." And he goes, "Well, that is kind of old for us." And then he says to me, and this is what gets me, "Maybe the dogs will take you," meaning the Army.

CNN's Jeff Zeleny reported after the campaign stop that the Clinton campaign refused to provide anything more to back up the account. And he made clear that he was skeptical of her tale. "It seems so unusual that a Yale-educated lawyer who worked on the antiwar campaigns of McCarthy and McGovern, who had just moved to Arkansas, whose husband was about to become the attorney general of the state would decide to want to join the Marines."

Unusual indeed.

The episode was notable not only because Clinton retold her questionable story, but also because a reporter from a mainstream outlet expressed healthy skepticism about her account. Zeleny is an outstanding reporter with a highly calibrated B.S. detector. But he's the exception. Clinton is often allowed to make dubious claims without generating any scrutiny at all.

Take Sidney Blumenthal. Reasonable people can disagree about whether Blumenthal, the longtime Clinton family apparatchik, is relevant to the Benghazi inquiry or whether the congressional committee's investigators should devote much time to his role as an adviser to Clinton. But what's beyond dispute is that he *was* an adviser to Clinton.

And yet Clinton disputed just that during her appearance before the Benghazi Select Committee. "He was not at all my adviser on Libya," she testified.

Not at all her adviser? Yes, he was. Blumenthal sent Clinton dozens of emails on Libya policy. She read his advice, shared his advice, asked for more of his advice, made decisions based on his advice, and even tasked senior State Department officials with acting on his advice. Jake Sullivan, a top policy aide, reported in an email to Clinton that the speechmaking shop had turned a Blumenthal email into prepared remarks for her. Another email indicates that Clinton directed Ambassador Chris Stevens to follow up on a memo from Blumenthal. And in yet another email, Clinton suggests passing to the Israelis an intelligence report on Libya that she'd gotten from Blumenthal.

At the time Blumenthal provided this steady stream of advice, he was being paid by both the Clinton Foundation and political entities that would later support Clinton's presidential campaign.

Maybe it depends on what the meaning of "adviser" is? Perhaps when Clinton said he was "not at all

Stephen F. Hayes is a senior writer at The Weekly Standard.

my adviser" she really meant he was not an official adviser?

She did not. "Sid Blumenthal was not my adviser—official or unofficial—about Libya," she said later.

This claim is categorically untrue. It's demonstrably, provably false. It's not a matter of interpretation. It's not a gray area. It's a lie. There is literally not another word in the English language that better describes Blumenthal's relationship to Clinton than "adviser."

And yet reporters covering the hearing not only let her lie pass unchallenged, many of them praised her for her performance.

The same media outlets that sent teams of investigative reporters to interview Ben Carson's childhood friends to test claims in his biography from when he was 14 years old—or dispatched a reporter to Cuba to interrogate graying resistance fighters about stories that Ted Cruz's father told more than a decade before his son, the candidate, was born—couldn't be bothered to point out an incontrovertible falsehood from Clinton told in testimony broadcast on national television?

What explains the double standard? Perhaps reporters are so accustomed to Clinton's prevarications that they take on a dog-bites-man banality. Does the sheer volume of Clintonian mendacity somehow make it less newsworthy?

There's certainly enough of it. She blamed Benghazi on a video (despite repeated warnings that the video played no role). She said she wasn't involved in decision-making on embassy security (despite emails briefing her on threats to U.S. facilities in unstable regions). She claimed to be the most transparent candidate in American history (despite deleting half her emails). She claimed she only did what she was allowed to (despite State Department rules against personal emails). She said she never sent or received classified information (she did both). She claimed she provided all work-related email voluntarily (she was compelled by the State Department to turn it over, and investigators found work-related emails she had not disclosed). She said she only used one device for her emails (she used at least two). She claimed she didn't start using email until March 2009 (there are emails dated January 2009). And on it goes.

It's been nearly 20 years since William Safire famously declared Hillary Clinton a "congenital liar" in a *New York Times* column cataloguing the fabrications from her tenure as first lady. Her lies were newsworthy then and they are newsworthy now.

Semper fidelis, Mrs. Clinton. And how about a little more *veritas*? ♦

Hollywood Mythmaking

Of whitewashing and blacklisting.

BY FRED BARNES

Screenwriter Dalton Trumbo died in 1976, but Hollywood still hasn't gotten over its high regard for him. He is the subject of a new movie, *Trumbo*, that lionizes him as a passionate supporter of the First Amendment and free speech, a true patriot. But that defines Trumbo only in terms congenial to the political culture of the Hollywood left.

Trumbo was, in fact, a member of the Communist party during the years when it was under the tight control of the Soviet Union. He followed the party line faithfully. He was pro-Stalin, even during the 22 months of the Hitler-Stalin pact. He looked favorably on North Korean dictator Kim Il-sung, notably after Kim's invasion of South Korea.

But you won't pick up any of this from the movie. Instead, Trumbo is presented as a brave and principled member of the Hollywood Ten, a group of screenwriters who refused to say if they were members of the Communist party when asked at a hearing of the House Un-American Activities Committee (HUAC) in 1947. They went to jail for contempt of Congress—Trumbo for 10 months—and were blacklisted from writing screenplays for Hollywood studios.

Fred Barnes is an executive editor at THE WEEKLY STANDARD.

This made Trumbo a hero to the leftists who dominate the movie industry. And when he broke the blacklist in 1960 with his name in the credits for the screenplay in *Spartacus*, he became a deity. He'd earlier written screenplays under pen names, even winning an Oscar as "Robert Rich."

We now know the Hollywood Ten were all Communists—capital "C"—and disciplined ones at that. When the Hitler-Stalin pact was signed in 1939, Trumbo instantly switched from attacking the Nazis to demonizing Hitler's enemies, chiefly Franklin Roosevelt and the British. When Hitler invaded Russia in 1941, the Soviet line changed, and Trumbo changed with it, overnight.

Anyone who doubts Trumbo's allegiance to the Soviet Union should tap into *Hollywood Traitors: Blacklisted Screenwriters, Agents of Stalin, Allies of Hitler*. Its author, Allan Ryskind, devoted more than a decade to investigating the Hollywood Ten and the battle in Hollywood in the 1940s between Communists and anti-Communists, which the Reds came close to winning. Morrie Ryskind, the screenwriter and father of Allan, was a leading anti-Communist. The book is impressively researched. Every assertion is documented.

Ryskind (the son) refers to the Hollywood Ten as the "Stalinist Ten." But

could these now-sainted dissenters really have been Stalin groupies? Ryskind isn't alone on this point. In their book *The Inquisition in Hollywood*, Larry Ceplair and Steven Englund agree. "Communist screenwriters defended the Stalinist regime . . . with an infuriating self-righteousness, superiority, and selective memory which eventually alienated all but the staunchest fellow travelers," Ceplair and Englund write. And they did so "unflinchingly, uncritically, inflexibly—leaving themselves open to the justifiable suspicion that they not only approved of everything they were defending but would themselves act in the same way if they were in the same position."

Only one of the Hollywood Ten has recanted. It wasn't Trumbo. It was Edward Dmytryk, a respected director, who repudiated the Communist party. He was "shocked" by the HUAC testimony of John Howard Lawson, the Communist boss in Hollywood, and Trumbo. "It was clear to those who listened that the unfriendly witnesses were behaving as Communists could be expected to behave," Dmytryk wrote in a memoir.

Trumbo also behaved that way as editor of the *Screen Writer*, the publication of the Screen Writers Guild, from 1945 to 1947. It "championed Moscow's war aims, hailed Red screenwriters and their movies celebrating Stalin, lavished praise on Hollywood's Red guilds and unions and launched scathing attacks against the anti-Communist community," Ryskind says. The *Screen Writer* also notified readers of lectures from "a Marxist or Soviet point of view."

Part of Ryskind's research involved a trip to Madison, Wisconsin, where the Wisconsin Historical Society houses the papers of screenwriters. He found fresh evidence of Trumbo's total commitment to the Soviet Union and its allies. "Nothing so underscores his love for Leninism, Stalinism, and Communism in general as an unpublished movie script discovered in his papers," Ryskind writes in *Hollywood Traitors*.

The script was titled *An American Story*. The heroine is a mother about to lose her children in a custody case because of her political views. She wants to take them to North Korea, which she believes is in "a fight for independence, just as we had to fight for our own independence in 1776." The script was "Soviet Communist ideology in its rawest form," Ryskind writes. The movie was never made.

The Hollywood Ten in front of the District Building in Washington, D.C., where they pleaded not guilty to contempt of Congress charges, February 9, 1948. From left, front row: Herbert Biberman, attorney Martin Popper, attorney Robert W. Kenny, Albert Maltz, and Lester Cole. Middle row: Dalton Trumbo, John Lawson, Alvah Bessie, and Samuel Ornitz. Back row: Ring Lardner Jr., Edward Dmytryk, and Adrian Scott.

Among Trumbo's papers, Ryskind found a poem entitled "Korean Christmas" that blames America and Christianity for killing Korean children:

Have we hurt you, little boy?
Ah … we have
We've hurt you terribly
We've killed you
Hear, then, little corpse … it had to be
Poor consolation, yet it had to be
The Christian ethic was at stake
And western culture and the American way
And so, in the midst of pure and holy strife
We had to take your little eastern life.

All that Ryskind reveals in his groundbreaking book about Trumbo and the Hollywood Ten is lost on most of Hollywood today. The blacklist is reviled as if it still existed, though it vanished more than a half-century ago. It blinds many in the film industry to what motivated Trumbo and his fellow screenwriters. It was their adherence to communism and loyalty to the Soviet Union. Jack Valenti, when he was Hollywood's lobbyist in Washington, said a few flirted with communism. But real Communists in Hollywood? No.

In 1997, a gala called "Hollywood Remembers the Blacklist" was held at the Samuel Goldwyn Theatre in Beverly Hills. Its sponsors were listed as the American Federation of Television and Radio Artists, the Directors Guild of America, the Screen Actors Guild, and the Writers Guild of America, West. About 1,000 people attended, including Carl Reiner, Kevin Spacey, Billy Crystal, and John Lithgow. Trumbo's son Christopher, who produced a documentary in 2007 and a play about his father, was a speaker.

Having been blacklisted, Trumbo is treated as a hero, a liberal in a hurry. In *Trumbo*, he's courageous and witty. His anti-Communist enemies are villains. Bryan Cranston, the actor who plays him, says Trumbo was jailed for being a "socialist." Only in Hollywood could someone believe that. ♦

NEWSCOM

A Man After His Time

René Girard, 1923-2015.

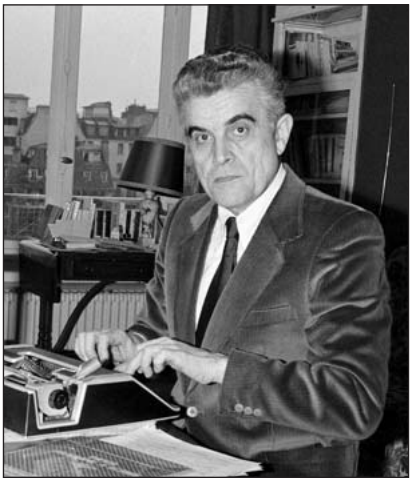
BY JOSEPH BOTTUM

There was a kind of grandeur about René Girard—a creator of grand theories, a thinker of grand thoughts. Born in France, he spent most of his career in the United States, before slipping away this month, age 91, at his home in California. But to read him, even to meet him, was to feel as though you'd been taken out of time, catapulted back into the presence of one of the capacious minds of the past.

Tall, with thick, expressive eyebrows and a great tousle of hair, René was like a figure out of the 1800s who had somehow been born a hundred years late, striding through the second half of the twentieth century without any concern that large claims about the human condition had fallen out of fashion. Without any concern that the great run of theorists, from Hegel to Freud, had dwindled away to almost nothing. Without any concern that the thought of late modernity had taken a hard, antifoundationalist turn into a kind of skeptical cynicism.

Girard followed his insights, step by step, into one last grand theory, one last grand set of thoughts. His sheer existence sometimes seemed an indictment of our suspicious, small-minded time. Living the life of the mind, René Girard was a great man in an age that had few such men.

I have to plead special circumstances: René Girard has influenced me more than any other thinker I've ever met, and I find his accounts of culture generally persuasive. For that matter, I found him personally charming beyond measure. The first time we threw a dinner party for him, my wife



René Girard in 1979

decided, in some fit of hubris, to make difficult soufflés for the Frenchman's visit. After dinner, he bent down from his great height, kissed her hand, and announced with a Maurice Chevalier twinkle, "It was superb, just as my mother would have made." I think my wife—and everyone else there—would have followed him out the door, if he had only asked.

After finishing an undergraduate history degree in Paris, Girard came to the United States in 1947 to do graduate work at Indiana University on the history of French-American relations. It was only a one-year fellowship, but he was invited by the university to stay and finish his doctorate, on condition that he teach a course in French literature. The topic caught his imagination, and a series of provocative essays on Gallic authors led to a successful academic career in comparative literature at Duke, Bryn Mawr, Johns Hopkins, SUNY Buffalo, and Stanford.

His first book, published in 1961, was a French study of novelistic forms, translated into English five years later with the title *Deceit, Desire, and the Novel*. It's hard to remember all the swirls and eddies of intellectual politics in those days, but, in Paris, the book was the beneficiary of a laudatory review by the influential Marxist critic Lucien Goldmann. It was, in French circles, the kind of review that makes a young critic's career—even if Goldmann praised the book mostly because Girard seemed to provide a way to read literature as a critique of bourgeois life, without the un-Marxist Freudian psychologizing that dominated literary criticism at the time.

The Marxists were right, at least, about Girard's rejection of Freud, even if they missed the religious impulse that Girard would later insist he was unpacking in all his work, ever since a breakthrough insight he had back in 1959. Reading figures from Flaubert to Dostoyevsky, *Deceit, Desire, and the Novel* points out that a series of triangular relations appears over and over in Western literature, especially in the competition of rivals over a love interest.

Our greatest literary artists tell us, in other words, that we learn what we want at least in part from what other people want. Freud had argued that human desire comes prepackaged in certain shapes: the Oedipal complex, the death wish, penis envy, and so on. But Girard insisted that literature teaches instead that desire is *mimetic*: If we want the mother, it's because the father wants her. If we want an unattainable love interest, it's because others have that interest. Our desires aren't packaged into predetermined forms; they're created in imitation of the desires of others. We catch desire like a disease.

From there, it was a small step into anthropology and the publication of Girard's second book, *Violence and the Sacred*, in 1972. The contagion of desire spreads through a culture, multiplying the number of antagonistic rivals, until only violence can resolve the situation. A careful reading of mythology, which Girard undertook in his 1982 study *The Scapegoat*, suggests that the

LAURENT MAOUS / GAMMA-RAPHO / GETTY

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sacrificial rituals of archaic religion are always born from, and reenact, primal murders—culture-founding deaths in which someone is singled out as both the blameworthy cause of and the sacrificial solution to the crisis of escalating cultural violence.

In 1978, Girard published *Things Hidden Since the Foundation of the World*, a strangely constructed book that addressed for the first time the Christianity that would become central to his later work. His early writing on literary structures had pulled him into anthropology, and that led him, in turn, to an investigation of the curious problem the Bible poses for cultural anthropologists.

Perhaps the easiest way to understand the biblical problem, as Girard perceived it, is to start with the ancient nonbiblical religions. Violent sacrifice—what Girard calls the "scapegoat mechanism"—is woven into all the ancient myths of cultural foundation. It's there, for example, in the primal murders reenacted with the human sacrifices the Carthaginians offered to their god Baal, and the children burned to death by the Ammonites for their god Moloch. This theme of sacred violence is written in the myths of ancient Rome, a city founded when Romulus murders his brother Remus, just as it appears in the deaths that follow in the wake of Oedipus in the mythological history of Thebes.

Add it all up, and the role of scapegoating violence in archaic religion seems clear enough: All cultures fear the breakdown of society into universal violence, an escalation of the cycles of revenge into all-out civil war. And against such culture-destroying violence, the ancient myths offer the solution of a different violence, a culture-preserving violence: not the war of *all against all*, but the war of *all against one*—a sacrificial violence in which a single sacred figure is identified as the source of the cultural contagion and murdered or expelled. Those who remain, with the relief and fellowship that follow peace, come to see that figure as the founder of a new culture.

The Bible, however, regularly suggests the innocence of the people accused of causing cultural contagion—identifying the object of the scapegoat mechanism as simply a victim of murder. In other words, if mythology demands that we see sacred violence as the solution to cultural breakdown, then the Bible is not mythological but *anti*mythological. If the root of religion is a stabilizing of society through sacrifice, then Christianity is not a religion but an *anti*religion.

As Girard increasingly came to see, Judeo-Christian insights into the scapegoat mechanism of myth suggest that biblical faith lies beyond the power of anthropological analysis to explain. Noting anthropologists' efforts, over the last hundred years, to fold the Bible into some general category of archaic religion, he would mock as intellectually inexcusable "the inability of the greatest minds in the modern world to grasp the difference between the Christian crib at

Christmas-time and the bestial monstrosities of mythological births."

To some extent, Girard fell out of critical favor in his later years, mostly because of his turn to theology. He would write—provocatively and presciently—about how the idea of victimhood, stripped of its Christianity, could itself become a device of cultural violence, with people mimetically competing for the status of victim. And in some of his last writings, he would suggest that through such dechristianized devices, the historical and intellectual triumphs of Christianity could themselves help bring about the apocalypse that is, he argued, a theme inextricably woven into the New Testament.

In 2005, Girard was elected to the Académie Française, and shortly after I received a letter from him, in his terrible handwriting. He had been put in a side room, dressed in the uniform of an embroidered frock coat, while awaiting his induction. And, exploring the room, he discovered stationery in the drawer of a writing desk.

So, he wrote, he asked himself who would appreciate a note on *académie* letterhead—and he settled on me. It was sweet and unexpected, somehow both comic and grand. It was a gesture of the kind that René alone, of all the people I've ever known, was capable. A gesture, I've always thought, a century out of its time. ♦

The Dayton Accords at 20

But there's little to celebrate.

BY STEPHEN SCHWARTZ

The Dayton accords, formally signed in December 1995, have reached their twentieth anniversary. Dayton is commonly portrayed as a "peace agreement" for war-torn Bosnia-Herzegovina and an outstanding achievement of Bill Clinton's administration. The accords were an achievement; the war ended. Yet close scrutiny reveals a shabby aftermath.

The Dayton negotiations halted combat between Bosnian Muslims (many of whom prefer to be identified as Bosniaks rather than by religion), Bosnian Serbs, and Bosnian Croats. The war began in the spring of 1992 and was mainly fought between Serb aggressors and Bosniak defenders, with the Croats ambivalent allies of the Bosniaks.

The country's people were victims of Serbia's effort to establish a "Serb Republic" within Bosnia-Herzegovina, after the latter was recognized as independent by the United Nations. At the time, census figures showed Bosniaks made up a plurality of the population, 43.5 percent, while Serbs accounted for 31.2 percent, and Croats 17.4 percent. The Serbian forces chose to correct demographic realities unfavorable to them by "ethnic cleansing," meaning mass murder, expulsion, and cultural vandalism. Numerous mosques, Catholic churches, libraries, and other historic structures were destroyed by Serbian troops.

The Bosniaks held out almost four years, with significant disadvantages, particularly in heavy weaponry. At least 60,000 Bosniak and Croat soldiers and civilians were killed, with losses of some 25,000 on the Serbian side. The military imbalance was aggravated by a weapons embargo imposed by the United Nations on the poorly equipped Bosniaks and Croatians and the well-armed Serbs. The number of refugees and internally displaced people rose to 2.6 million—out of a prewar population of 4 million Bosnians.

The Serbian assault was planned outside Bosnia-Herzegovina, by Serbian president Slobodan Milosevic in Belgrade, with the assent of Croatian president Franjo Tudjman. This continued even as Serbia waged war against Croatia beginning early in 1991. Slovenia and Croatia had by then departed the Yugoslav state, which had begun to disintegrate with the unraveling of communism in Europe. Serbia struck Slovenia first, but the fighting lasted only 10 days and took fewer than a hundred lives. Since Slovenia had no common border with Serbia, it is questionable whether Belgrade was ever serious about holding onto it.

The Croatian war was different—longer, crueler, and more destructive. Croatians inside and outside Bosnia were divided. Many supported an opportunistic deal with Serbia to partition Bosnia-Herzegovina, while others mounted a Bosniak-Croat common defense against Milosevic and his Bosnian agents.

In the global media, a "peace conference" was viewed as urgent after the massacre of 8,000 Bosniak men and boys by Serbs at Srebrenica in occupied eastern Bosnia in July 1995. The Bosniaks had been promised protection by the United Nations, but Dutch troops handed them over to the Serbs. A flurry of diplomacy led by U.S. special envoy Richard Holbrooke led to the Dayton accords, signed by Milosevic, Tudjman, and Bosnian president Alija Izetbegovic—underlining the fact that the Bosnian war was a product of foreign interference rather than internal struggle. Instead of peace, Dayton imposed a truce—or, in the phrase that has come into vogue since last year's Russian invasion of Ukraine, a "frozen conflict."

Dayton came about just as combined Croat and Bosniak forces were beginning to rout the Serbian occupiers from northern Bosnia. Nevertheless, the accords rewarded the Serbs for their onslaught on Bosnia-Herzegovina—and richly so. Less than a third of Bosnia's inhabitants, the

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Serbs were granted 49 percent of its territory. This corresponded roughly to the areas the Serbs had seized, ethnically purged, and reorganized as a "Republic of Serbs" (RS.)

Under Dayton, Bosnia-Herzegovina consists of two distinct entities—the RS and a "Federation of Bosnia-Herzegovina" (FBIH). This federation groups areas where Bosniaks and Croats successfully defended their communities against the Serb raiders, an informal Croatian "third entity" that existed before Dayton, and the "neutral" district of Brcko, in northeast Bosnia, which borders and is jointly administered by both the RS and Croatia.

Dayton thus produced a patchwork rather than restoring Bosnia's unit within borders that were essentially stable from the 18th century till 1992. Bosnia today has three flags, three educational curricula, three police forces, and two systems of postage and customs. The Bosnian presidency comprises rotating Bosniak, Serbian, and Croatian members.

Dayton established that Bosniaks, Serbs, and Croats are the constituent nations of the country, with others, including children of mixed marriages, excluded from high positions. This discriminatory principle was challenged in 2006 by Dervo Sejdic and Jakob Finci, the first a Bosnian Roma and the second a Bosnian Sephardic Jew. Finci, who also represents the Jewish community on the Bosnian Interreligious Council, served as Bosnian ambassador to Switzerland. In 2009 the European Court for Human Rights found in favor of Sejdic and Finci, but no action to apply its decision has been taken in Bosnia-Herzegovina, which remains politically segregated.

All significant decisions about Bosnia-Herzegovina are made in the Office of the High Representative. The high representative—a functionary of the European Union—is currently Valentin Inzko, an Austrian of Slovene background. Bosnia-Herzegovina is now an effective colony of Brussels.

These policies have been disastrous for Bosnians. According to the CIA *World Factbook*, Bosnia-Herzegovina had an unemployment rate of 43.6 percent in 2014, although the "actual rate is lower as many technically unemployed persons work in the gray economy."

Perhaps, but many Bosnians believe the rate of joblessness is actually as high as 60 percent, reflecting the sluggishness of the private sector. Numerous Bosnians supplement their income from work, pensions, or payments from a diminished social safety net by relying on relatives who work abroad or farm. The CIA *World Factbook* sums up this grim picture: "Bosnia has a transitional economy with limited market reforms. The economy relies heavily on the export of metals, energy, textiles and furniture as well as on remittances and foreign aid. A highly decentralized government hampers economic policy coordination and reform, while excessive bureaucracy and a segmented market discourage foreign investment."

A protest against unemployment and corruption in Sarajevo on February 17, 2014

In the capital, Sarajevo, tensions are palpable. The Bosnian Serb president is Milorad Dodik, whose party, the Alliance of Independent Social Democrats, flaunts the slogan "Dayton forever!" This is understandable, since Dayton gave the Serb militants so much. On October 18, Dodik told an interviewer that "today you couldn't find one person in RS who does not think it inevitable that one day RS and Serbia will be the same in state-legal and political terms."

Behind this renewed Serbian determination, three factors are at work. RS leaders use nationalist baiting of the Bosnian Federation to quell discontent in the RS and promote an artificial Serb unity. Second, on October 29, Aleksandar Vucic, prime minister of Serbia proper, met in Moscow with Vladimir Putin. The Russian assured him of further support for what Vucic called Serbia's "liberty-loving spirit." Finally, Serbia began negotiations for full membership in the EU last year—an option that appears impossible for a partitioned Bosnia-Herzegovina, although the latter did enter the Schengen zone for visa-free travel in 2010.

To add to its woes, Bosnia is suffering a brain drain, reflecting both the high quality of its educational system, inherited from its pre-1918 Habsburg rulers, and the hopelessness of its graduates. Bosnian Croats have the option of taking Croatian citizenship and enjoying the advantages of membership in the EU, to which Croatia acceded in 2013. According to political scientist Florian Bieber, writing in 2011, "hundreds of thousands of citizens of Bosnia-Herzegovina [held] Croatian citizenship as a result of their ethnic Croat identity," and Dodik and other prominent figures in the RS had applied for passports as citizens of Serbia proper. Only the Bosniaks have no legal path to Europe.

The Dayton accords halted the Bosnian bloodshed, but beyond that they failed. Throughout the war, Republican leaders in America called for intervention to assist the Bosniaks and Croats against the Serbs—at the very least, for a lifting of the U.N. arms embargo. Sen. Robert Dole of Kansas was among the most active in this advocacy. In Britain, Margaret Thatcher supported Bosnia even after she left office; the headline on her piece in the *New York Times* of August 6, 1992, was "Stop the Excuses. Help Bosnia Now."

Dayton did not dissuade Milosevic from repeating his atrocities in Kosovo in 1998-99. Only heavy NATO bombing stopped him. Dayton was far from a shining achievement. As the presidential contenders clash over foreign policy, its dismal legacy should be remembered. ♦

NEWSCOM

America and Britain, BFF?

We need to rekindle this relationship.

BY JEFFREY GEDMIN

At the end of World War II, a gifted young British expert on Russia named Thomas Brimelow—later ambassador to Poland, but at the time reporting from Moscow—ventured that what the Soviet Union respected most about Great Britain was "our ability to collect friends." Indeed, having allies in this world matters if you want to advance your agenda. Of the many things a new American president will need to do in 2017, one is to begin repairing America's relations with our key allies. Start with the United Kingdom.

There's no shortage of concerned chatter about the state of affairs. *Foreign Policy* speaks of the "decline" in U.S.-U.K. ties; the *Telegraph* says the "special relationship hangs by a thread." *National Review* contends that should the post of prime minister land in the hands of Labour's new leader, Jeremy Corbyn—the 66-year-old socialist who describes Hamas as "friends" and advocates renationalization of key industries—we'd have a final nail in the coffin. Even the staid *Financial Times* opines that the special relationship has ceased being very special.

In point of fact, the historical record of our strategic love affair with the British has hardly been without its bumps. Yes, Ronald Reagan and Margaret Thatcher got along famously. "Your problems will be ours," proclaimed the Iron Lady in her first meeting with Reagan as president in 1981. Before that, John F. Kennedy and Harold Macmillan became friends. Jimmy Carter and James Callaghan worked well together. Bill Clinton and George W. Bush both enjoyed closed ties to Tony Blair. It was Winston Churchill (whose mother was American) who coined the term "special relationship," first in 1944, but then pushing the expression into the mainstream two years later in his famous 1946 Iron Curtain speech in Fulton, Missouri. As wartime prime minister, Churchill once informed Charles de Gaulle, "[E]ach time I must choose between you and Roosevelt, I shall choose Roosevelt."

These were the lovely moments. Between the two world wars, though, there had been naval rivalry and British accusations that the United States had ruined the League of Nations (the Senate refused to ratify the league's covenant after the Paris Peace Conference in 1919). After World War II, there was Dwight D. Eisenhower's opposition to British military operations in Suez, which resulted in British humiliation and the resignation of Prime Minister Anthony Eden in January 1957. There was Lyndon Johnson's intense dislike of Harold Wilson, whose government declined to commit troops to Vietnam (according to the American ambassador to the Court of St. James, Wilson feared being seen at home as "a mere satellite" of the United States).

Then, too, add to the list of sore spots Ted Heath, the conservative prime minister who followed Wilson (1970-74). An ardent advocate of British integration into Europe, he was at best lukewarm about the special relationship. Heath had once declined the post of ambassador to the United States.

So it hasn't been all roses. But what's different now?

For one thing, context. As the United States has signaled retreat during two terms of Barack Obama, our adversaries have advanced: China in East Asia, Russia in Eastern Europe (and now Syria), and ISIS and Iran in the Middle East. And as world order unravels—arguably more so than at any other time in the last 60 years—it's crucial that we make sure the West becomes strong again at its core. That's NATO and the transatlantic partnership. And it's hard to imagine getting any of this back into shape without Britain strong and solidly committed to the alliance, especially at this moment. True, Germany is important. It's Europe's largest economy, and Angela Merkel has been formidable in standing up to Vladimir Putin over Ukraine. But Merkel's chancellorship may soon be in serious trouble, in the wake of a very unpopular Greek bailout and as the country's (and the European Union's) migration crisis deepens. The EU as a whole is likely to be looking inward for the foreseeable future, with Germany reverting to trade and cautious diplomacy as the

GARY LOCKE

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mainstays of Berlin's foreign policy.

Which brings us back to Britain, the current problem, and solutions. The principal problem of recent years in U.S.-U.K. ties has not been any particular antipathy by our president toward the British. Of the widely discussed controversy over Obama and the return of a Churchill bust, incidentally, I say give the president a break. Upon taking office in 2009, the Obama administration returned to the British government a bust of the British statesman that had been on loan—given by Blair to Bush—to the White House since July 2001. The White House residence has another Churchill bust, given to President Johnson in 1965. The decision to return the loaned sculpture, according to the White House curator, had been made before Obama arrived. Cries about Obama dissing the Brits over the Churchill bust were much ado about nothing.

Leave aside also our cold fish president's apparently stiff relationship with Prime Minister David Cameron. According to Sir Anthony Seldon and Peter Snowdon's recent biography of Cameron, the prime minister has found Obama detached and inaccessible, while 10 Downing Street staffers and the Foreign Office refer to our commander in chief as Spock, after the stoic Vulcan in Star Trek. Regrettably, one would be hardpressed to name a world leader—let alone an ally—with whom the president has forged close personal ties. There was Turkey's Islamist, authoritarian president Recep Tayyip Erdogan—for a while, anyway.

But the special relationship was never merely about close personal links between leaders. Nor was it simply about shared language and history (even if these things are of considerable importance). For decades, the special relationship rested on exceptionally close and practical cooperation between the United States and Britain in areas of nuclear weapons technology, intelligence sharing, military planning, and foreign and defense strategy. This fine-tuned collaboration was born of our alliance during World War II and continued through most of the Cold War.

Much has atrophied in recent years, and Britain itself hasn't helped. Cameron has cut defense and turned the United Kingdom inward. The referendum on Scottish independence and the upcoming 2016/2017 vote on whether the United Kingdom should stay in the EU absorb enormous amounts of political energy (as do the never-ending railings of Conservative backbenchers against Brussels). On Ukraine, Germany and France have led the so-called Minsk process. On Syria, the British prime minister decries Russian backing for the "butcher" Bashar al-Assad, without explaining what Britain, the United States, and NATO ought to do about it.

All this, while our president stumbles in and out of alliance matters like a barely interested bystander. In this sense, the president is less like Spock and more like Mr. Magoo. Well-pedigreed, to be sure—the old cartoon character was an alumnus of Rutgers—the shortsighted, oblivious Magoo walked through life missing nearly everything, while stubbornly refusing to admit the problems he had gotten himself into.

To the point, on mismanaging the special relationship, Obama's failings have been chiefly threefold.

First, "leadership from behind"—much like leadership by consensus—is an oxymoron if ever there was one. In the administration's view, an integrated, stable, and prosperous EU was to become a strong strategic partner of the United States. That was the theory. But the EU is not there yet. President Obama has steadfastly refused to accept that this is the real-world state of affairs—and that therefore the United States itself will have to lead—in large part because he seems ideologically wedded to the idea that American power and influence generally do more harm than good.

Second, the president's dim view of America's role in the world seems to blur his thinking about power and purpose generally. When asked early in his first term whether he believed in American exceptionalism, the president couldn't resist adding that Greeks think their country is exceptional, too. During a March 2012 trip by Cameron to Washington, Obama fawned over our ties to Britain: "Through the grand sweep of history, through all its twists and turns . . . we stand together and we work together and we bleed together." But the year before, in Paris, the president had announced, "We don't have a stronger friend and stronger ally than Nicolas Sarkozy and the French people." In the Obama worldview, everybody's exceptional, all partnerships are strategic and special. Put another way: The president's words seem often not to add up to very much.

Third, the president gets an F for "the vision thing." Whittling down America's role says nothing about the kind of world we want to live in. This summer, Obama scolded Cameron, insisting the prime minister find a way to ensure Britain's spending on defense does not fall below the NATO goal of at least 2 percent of GDP. But for what? For this or that ad hoc task? Upping the bombing of ISIS targets in Syria does not a strategy make. Why should the British—or anyone else in the alliance, for that matter—spend more on defense if these resources are not backing a larger concept we believe in and which we've properly explained and sold to our publics? In 2017, a new American president must establish a renewed vision for the alliance, from which strategies can be developed, serious conversations about resource allocations can evolve, and an appreciation can once again be established for what America and Britain can do together.

The Foreign Office Kremlinologist Thomas Brimelow—who thought a good deal about Soviet threats of the time, the importance of allies, and British power and purpose—went on to become one of the United Kingdom's most respected diplomats. In the context of working specifically with Brimelow, Henry Kissinger once noted that "there was no other government which we would have dealt with so openly, exchanged ideas so freely, or in effect permitted to participate in our own deliberations."

There's no need to idealize. There's plenty that sets us apart. But what a serious strategic blunder it would be if we didn't work to rekindle and keep a friendship like this. ♦

Judging Roberts

The Chief Justice of the United States, ten years in

By Adam J. White

Is John Roberts a good judge? Ten years ago, President Bush appointed him chief justice of the United States. His anniversary, coinciding with the Supreme Court's reconvening last month, naturally caused lawyers, scholars, and politicians to reflect upon his legacy on the Supreme Court.

And all the more so in light of his performance in the waning days of the Court's previous term, when Roberts issued two of his most controversial decisions. In *King* v. *Burwell*, he surprised many by rescuing the Obamacare health insurance exchanges through what many would call a strained statutory interpretation. The next day, in *Obergefell* v. *Hodges*, he penned perhaps the most emphatic dissenting opinion of his career, calling the five-justice majority's constitutionalization of same-sex marriage rights "an act of will, not legal judgment," with "no basis in the Constitution."

Roberts prefers to avoid "legacy" talk. "I don't think it's terribly fruitful to try to think about that," he said in a 2012 forum at Rice University. The school's president, David Leebron, had asked him, "after your time on the Court, how would you like historians to remember your leadership of the Court and what it represented?"

When Roberts eventually answered, he put it simply. "I would like people to think that I was a good judge," he told Leebron, his former *Harvard Law Review* colleague. "Nothing more or less than that."

So has Roberts been a good judge? After a decade on the Court, there are many who would say he falls short—even far short—of that goal. Despite his efficient management of the Court's work (especially at the increasingly cacophonous oral arguments), his skill as a writer of concise yet literary judicial opinions, and his professed goal of promoting judicial "self-restraint," he stirs criticism from both sides of the political aisle.

But debate over how the political left and right see Roberts's work on the Court has overshadowed a much more interesting and difficult question: Through what lenses does Roberts see his *own* work on the Court? When Roberts asks himself whether he is a "good judge," against what rubric would he measure his efforts?

This is no easy question, especially because Roberts eschews any particular judicial methodology against which his work might be measured. His conservative brethren share at least some commitment to "originalism" or "textualism," a methodology focused on ascertaining the original meaning of the Constitution and other laws. Granted, justices Antonin Scalia, Clarence Thomas, and Samuel Alito differ in the extent to which they temper originalist theory with prudential judgment, such as considerations of legislative history and judicial precedent. Justice Thomas is the Court's purest and most reliable originalist. Justice Scalia has long drawn at least a slight contrast with Thomas, calling himself a "fainthearted originalist." And Justice Alito, open to still more methodological flexibility, once told the *American Spectator* that he considers himself "a practical originalist." But by placing themselves on that spectrum, the three justices provide at least one frame of reference for evaluating their work, a common starting point from which to discuss their own particular nuances.

Roberts, by contrast, does not call himself an "originalist" at all. "Like most people," he told senators at his Supreme Court confirmation hearing, "I resist the labels." At a previous confirmation hearing, for his 2003 appointment to the U.S. Court of Appeals for the D.C. Circuit, he told senators, "I don't have an overarching, guiding way of reading the Constitution. I think different approaches are appropriate in different types of constitutional provisions."

He explained this even more bluntly in his 2012 discussion at Rice:

> I do not have an overarching judicial philosophy. Maybe at the end of my time on the Court, somebody will look back and say, "This was his philosophy." . . . I have certain ideas about how you should approach a particular problem. Obviously you begin with the text of the Constitution. I put a lot of weight on what the Founding Fathers were trying to accomplish. . . . But it's not a categorical view about what you can look at or can't look at. I mean I sort of approach each case trying to draw on as much of the precedent and other sources as I can.

In acknowledging that future scholars might try to ascertain the principles guiding his work, Roberts comes full-circle. For as a history student at Harvard College, he ventured precisely the same approach to one of America's greatest statesmen and Supreme Court advocates.

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In his 1976 senior essay, titled "The Utopian Conservative," Roberts argued that although Daniel Webster's career seemingly was marked by inconsistencies, his "thought was essentially consistent, founded on the solid bed-rock of a world view which remained constant despite the vicissitudes of politics." But, Roberts explained, to uncover Webster's bedrock would require some digging: "His thought is not set out in any single work or group of works, but rather must be culled from a wide reading of his public addresses, speeches in Congress, legal arguments, diplomatic papers, and miscellaneous writings. The context of each work must be considered for its effects on the ideas presented."

Roberts requires similar treatment. For if one reviews not just his judicial opinions on the Supreme Court and D.C. Circuit, but also his confirmation hearings, his scattered writings, and the speeches he has given, then a handful of common themes emerge. They are not hard-and-fast rules for deciding individual cases. They do not explain his entire body of work. And they certainly are not without tensions or contradictions. But they do seem to highlight at least some of the themes that Roberts has grappled with throughout his career and are stated best not as answers but as questions: What is the federal government's role in America? What is the Supreme Court's role in the federal government? And what is the chief justice's role on the Supreme Court?

Barack Obama and John Roberts, January 21, 2013

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THE FEDERAL GOVERNMENT AND 'WE THE PEOPLE'

After his appointment to the Supreme Court, Roberts waited several months before making any public addresses. And when he finally gave his first lecture, his choices of venue and content were significant.

In March 2006, at Nancy Reagan's invitation, he delivered the Reagan Presidential Library's annual Reagan Lecture. He ascribed his participation to Mrs. Reagan's charm: Seated next to her at a state dinner for Prince Charles at the White House in November 2005, he initially attempted to decline her invitation. But "by the time we were finishing the entrees, we were just nailing down the specific date."

His acceptance of this particular invitation surely was more than accidental, for it gave the new chief an opportunity to highlight and reiterate his roots in the Reagan administration. "If there was going to be an exception to my strict policy [of not speaking publicly so early in his time on the Court], it would be, of course, to come here for the Reagan Lecture."

The substance of Roberts's remarks was no less instructive than the venue. He did not invoke Reagan's criticism of the federal government—say, his inaugural observation that, "in this present crisis, government is not the solution to our problem; government is the problem." Rather, Roberts stressed Reagan's focus on the Constitution's opening words, "We the People":

> [T]here was a particular catchphrase that he used often in his speeches. He used it often enough that when you review them it also comes out as a signature. . . . "We the People." It was in his first inaugural address, it was in his farewell, he built one whole speech around it in between, and it's often there. He liked the phrase "We the People" to make the point that our country was formed not by a family or a clan, not by governmental institutions, but by We the People.

As it happens, "We the People" seems to be Roberts's signature line, too. Over the years he has returned to it for a variety of purposes.

In his Rice University forum, he chose "We the People" as his favorite part of the Constitution, because it showed that "this was going to be a new government formed directly by the people—not a confederation of the states, each with its own different agenda and perspective"—which "set the tone for . . . the whole enterprise that followed." And, he added, Chief Justice John Marshall vindicated that bedrock principle of "We the People" in his seminal efforts to forge a unified nation under the national government. (Indeed, Marshall found himself invoking "We the People" in his public campaign to defend the Supreme Court against its critics in the aftermath of the Court's decision in *McCulloch* v. *Maryland*, which had stirred great criticism by endorsing a broad conception of the national government's power.)

The notion of national government as the embodiment and agent, not enemy, of "We the People" was one of Roberts's themes long before he became a judge. It is at the heart of his original Harvard paper on Daniel Webster, where he wrote that "the Constitution, argued Webster, was not a compact between states but rather 'emanated immediately from the people,' resulting in a government 'made for the people, made by the people, and answerable to the people.'" According to the young Roberts, Webster's national government was nothing less than "the permanent instrument of the people."

Decades later, at the Senate confirmation hearing for his appointment to the D.C. Circuit, Roberts returned to the theme of "We the People," this time in reference not to Reagan, Webster, or Marshall, but Marshall's fellow nationalist

Justice Joseph Story. In a written response to Sen. Herb Kohl's worries that Roberts would prefer the states to the federal government, Roberts quoted Justice Story's explanation, in *Martin* v. *Hunter's Lessee* (1816), that "the Constitution of the United States was ordained and established not by the states in their sovereign capacities, but emphatically, as the preamble of the Constitution declares, by 'the people of the United States,'" such that Americans had "invest[ed] the general government with all the powers which they might deem proper and necessary," making the federal government the "paramount and supreme authority." The national authority had been "tested under fire and confirmed during the Civil War," Roberts added, "and reaffirmed in the Constitution's Civil War amendments."

In such emphatic endorsements of federal power, one finds Roberts standing apart from conservatives who prize the states over the federal government, and who prefer reducing federal power to reaffirming it. For Roberts, the federal government is not the people's enemy—it is their instrument.

Had this thematic backdrop been more evident in his two confirmation hearings, Roberts's endorsement of broad federal power might have attracted more attention. In his D.C. Circuit confirmation, responding to Senator Edward Kennedy's suggestion that Roberts would construe federal power narrowly, he invoked Marshall's *McCulloch* decision for the proposition that "Congress's lawmaking authority," though subject to the Constitution's other provisions, is "very broad."

And at his Supreme Court confirmation, Roberts was all the more emphatic. He pushed back against the notion that he would aggressively continue the recent trend of Supreme Court decisions asserting the commerce clause as a meaningful limit on the scope of federal authority—namely, *U.S.* v. *Lopez* (1995) and *U.S.* v. *Morrison* (2000), in which the Rehnquist Court declared unconstitutional the Gun-Free School Zones Act and the Violence Against Women Act. He declared that those two decisions, which conservatives lauded as landmarks of the Rehnquist Court's jurisprudential reinvigoration of constitutional federalism, were only "part of a 218-year history of decisions applying the commerce clause." In "decision after decision," Roberts urged, the Supreme Court had previously recognized the Constitution as vesting the federal government with "a broad grant of power," giving Congress "the authority to determine when issues affecting interstate commerce merit legislative response at the federal level."

Of course, in his time on the Court, Roberts has voted to strike down Congress's laws on federalism grounds. But he has never come close to resembling the states-rights caricature that his critics sketched of him in 2005. Instead, his tendency in cases implicating federalism has been either to preserve Congress's authority by searching for alternative constitutional provisions that would justify it or, when he does strike down a law on federalism grounds, to do so in a way that recognizes Congress's ability to pursue the same ends by other means.

The clearest (and most controversial) example of this was his decisive opinion in *NFIB* v. *Sebelius* (2012), affirming the constitutionality of Obamacare's individual mandate. In the first step of his analysis, Roberts held that the individual mandate could not be sustained under the Constitution's commerce clause, because the mandate does not "regulate" preexisting interstate commerce. "The Framers gave Congress the power to *regulate* commerce, not to *compel* it," he wrote, "and for over 200 years both our decisions and Congress's actions have reflected this understanding." Furthermore, he added, the mandate could not be sustained under Congress's constitutional power to "make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers." But then Roberts famously (or infamously) took one step further and considered alternative grounds for sustaining the mandate: Congress's power to tax. Far from relishing an opportunity to limit federal power, Roberts stressed that "every reasonable construction must be resorted to, in order to save a statute from unconstitutionality."

The uproar sparked by Roberts's decision in *NFIB* obscured a crucial fact about the chief justice: His approach in *NFIB* was the *very same approach* that he had proposed nine years earlier, as a D.C. Circuit judge. Indeed, he had urged this approach in the very opinion that liberals seized upon as evidence of his purported states-rights ideology.

Rancho Viejo, LLC v. *Norton* (2003) involved the question whether the Endangered Species Act empowered the Fish & Wildlife Service to block a California housing development that would have affected the arroyo toad. A three-judge panel of the D.C. Circuit affirmed the government's action, holding that it did not exceed Congress's power; later, Judge Roberts dissented from his colleagues' decision not to have the entire court rehear the case. At his Supreme Court confirmation hearing, Roberts's dissent drew notice not just for his amusing description of the "hapless toad that, for reasons of its own, lives its entire life in California," but also for his suggestion that the agency's action might (or might not) have exceeded the limits of the commerce clause. Yet Roberts's critics overlooked his further suggestion that if the agency's primary justification failed to pass constitutional muster, then the court would need "to consider *alternative grounds for sustaining* application of the Act that may be more consistent with Supreme Court precedent" [emphasis added].

Roberts stressed this point at his Supreme Court

confirmation hearing, arguing that his opinion in *Rancho Viejo* reflected his view that "if there's another basis on which to evaluate" the challenged application of the act, then "we should focus on those other alternative grounds and see if we could base and uphold the act on those." Democrats, trying to paint him as an antifederal ideologue, put too little credence in those words. Republicans, still years away from Obama's tidal wave of regulation and executive power, missed them, too.

His other opinions, including some of his most controversial ones, reflect his broad conception of federal power. For even when striking down laws on federalism grounds, he tends not to rule categorically that Congress cannot regulate a certain subject matter; rather, he tends to find fault in the particular *way* that Congress has asserted power. In the last part of *NFIB* v. *Sebelius*, for example, Roberts and six other justices held that Obamacare's expansion of Medicaid went far beyond the sort of financial inducement allowable under the Constitution, because the act's threat to strip all Medicaid funding from states that did not expand their program was more than a mere incentive allowed under the Court's precedents —it was a "gun to the head" of those states. But Roberts took care not to foreclose Medicaid expansion altogether: Nothing "precludes Congress from" paying states to expand Medicaid, he stressed.

More recently, in *Shelby County* v. *Holder* (2013), where the Supreme Court struck down Congress's 2006 reauthorization of the Voting Rights Act's "preclearance" provision limiting certain states' ability to redraw voting district lines, Roberts's majority opinion held that Congress's disparate treatment of certain states violated the "fundamental principle of equal sovereignty" among the states. But he stressed that Congress's true failure was in basing its 2006 reauthorization on a 40-year-old factual record. Had Congress singled out certain states for extra "preclearance" obligations for a reason that "makes sense in light of *current* conditions," then its action might pass constitutional muster.

Similarly, in *Medellín* v. *Texas* (2008), Roberts's opinion for the Court held that the president could not force states to overturn the convictions of foreign nationals who had not been apprised of their rights under the Vienna Convention Treaty. (Today the case is perhaps better known for effectively launching the political career of Texas's then-solicitor general, Ted Cruz.) But he took care not to hold that the federal government could *never* place such an imposition on the states—which had been one of Texas's arguments. Rather, Roberts's majority nullified the federal government's demand because it had come from the *president* rather than *Congress*. If Congress had implemented this aspect of international law with domestic legislation, Roberts stressed, then the case would have been different.

The distinctions that Roberts drew in *Medellín*, between Congress and the executive branch highlight a crucial nuance in his thinking, regarding the authority of Congress, the president, and the administrative state. At the time of his Supreme Court nomination, many presumed that the former executive branch lawyer would be "overly deferential to the executive branch" (as Senator Dick Durbin put it). One year later, Jeffrey Toobin wrote that Roberts, "true to his White House past," had "consistently voted to uphold the prerogatives of the executive, especially the military, against the other branches." But the passage of just a few years has highlighted precisely the opposite tendency: namely, that Roberts's relatively accommodating view of Congress's power contrasts with his more skeptical eye toward the executive branch, especially the administrative state.

Roberts told senators repeatedly at his confirmation hearing that his support of executive power while serving in the executive branch was a poor indicator of how he might view cases from the bench. In the Reagan administration he had been "a lawyer for the executive branch, not a judge who would be considering the issue in an entirely different light."

Skeptics were wrong to doubt this. In the Supreme Court's latest term, for example, when the Court affirmed the president's power to disregard Congress's statutory requirement that he issue passports to Jerusalem-born Americans with Israel listed as the place of birth, Roberts dissented. "For our first 225 years, no President prevailed when contradicting a statute in the field of foreign affairs," he wrote. "[O]ur precedents have never accepted such a sweeping understanding of executive power," a "perilous step . . . of allowing the President to defy an Act of Congress in the field of foreign affairs." And to those who quoted (as executive branch lawyers often do) the words of John Marshall (while still a congressman) that the president is the "sole organ" of our nation in foreign affairs, Roberts offered a starkly different Marshall quotation: "I confess the first bias of my mind was very strong in favour of . . . the executive," Marshall wrote three years after his arrival on the Court. "But I have been convinced that I was mistaken."

Even more striking is the series of opinions that Roberts has written on the administrative state—criticizing Congress and the president for making agencies too free from democratic accountability, and the courts for deferring too much to agencies' legal interpretations.

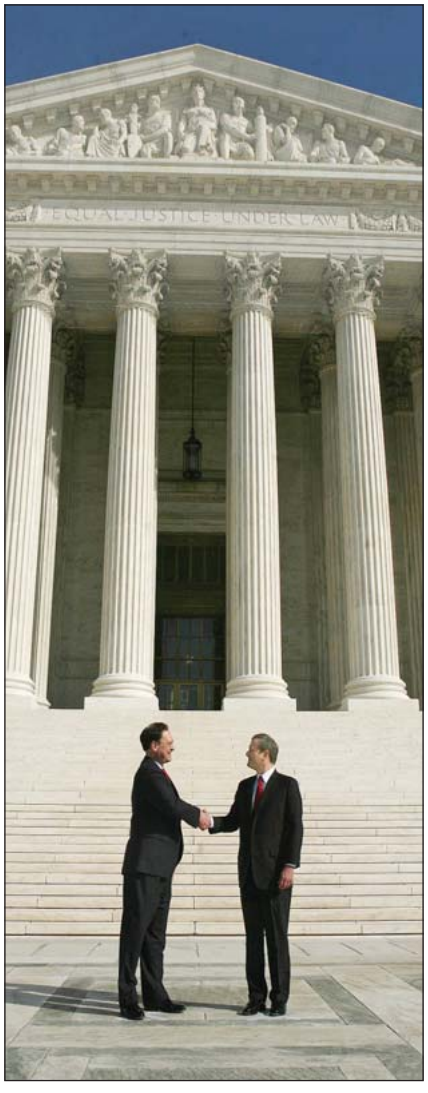
In *Free Enterprise Fund* v. *Public Company Accounting Oversight Board* (2010), Roberts wrote the Court's opinion striking down part of the Sarbanes-Oxley Act. The act had made the new board of accounting regulators extraordinarily free from democratic accountability—effectively independent from its nominal overseer, the Securities and Exchange

Commission, which in turn was effectively independent from the president. The Supreme Court had affirmed one such layer of "independence" 70 years earlier; but when Sarbanes-Oxley tried to double that independence, Roberts would not allow it.

"This novel structure does not merely add to the Board's independence," he wrote for the Court, "but transforms it." In so doing, Sarbanes-Oxley exacerbated the already dangerously antirepublican nature of the modern administrative state. "One can have a government that functions without being ruled by functionaries, and a government that benefits from expertise without being ruled by experts," he wrote. "Our Constitution was adopted to enable the people to govern themselves, through their elected leaders. The growth of the Executive Branch, which now wields vast power and touches almost every aspect of daily life, heightens the concern that it may slip from the Executive's control, and thus from that of the people."

He returned to these republican themes three years later. In *City of Arlington* v. *FCC* (2013), he dissented from the Court's conclusion that the deference federal courts give to agencies' statutory interpretations should apply even when the agency is interpreting the statute defining its own jurisdiction. Citing Madison's warning against the "accumulation of all powers, legislative, executive, and judiciary, in the same hands," Roberts urged that the accumulation of such power in regulatory agencies is now "a central feature of modern American government." Madison and his fellow Framers "could hardly have envisioned today's 'vast and varied federal bureaucracy' and the authority administrative agencies now hold over our economic, social, and political activities."

The "danger posed by the growing administrative state cannot be dismissed," he warned. His warnings failed to convince a majority of the Court in *City of Arlington*, but Roberts succeeded in making it part of a majority opinion just two years later. This success was overshadowed, however, by the fact that it appeared in one of his most controversial decisions: the Court's affirming of the Obama administration's health insurance subsidies in *King* v. *Burwell*.



Roberts, right, welcomes Samuel Alito, February 16, 2006.

In *King*, Roberts and the majority affirmed the administration's argument that a statute allowing subsidies for insurance bought on exchanges "established by the State" also covered exchanges established by the federal Department of Health and Human Services. But before reaching that conclusion, Roberts and the majority held that the Court itself must interpret the statute, affording *no* deference to the views of the IRS, the agency that had promulgated the challenged regulation. Such deference is inappropriate, the Court held, when the statute at issue governs not a matter of marginal importance but "a question of deep 'economic and political significance.'" Though Roberts and his colleagues ultimately ruled in favor of the administration on this particular regulatory program, they did so only after reining in the doctrine of judicial deference, thereby reinvigorating the judicial branch's review of agencies' massive regulatory programs in the future.

Reviewing this aspect of *King*, President Obama's former regulatory czar, Cass Sunstein, compared Roberts's work to that of Chief Justice Marshall in *Marbury* v. *Madison*, affirming a particular action by President Jefferson while at the same time expanding the courts' power by entrenching the practice of judicial review. "Roberts's impressive opinion today was not quite that dramatic, but it is a masterwork of indirection," Sunstein writes. Though seen by most "as a final vindication of Obamacare," Roberts's opinion "is also a strong assertion of the court's, and not the executive branch's, ultimate power to say what the law is."

His approach in *King* may draw comparisons to Marshall, but on these separation-of-powers issues Roberts might be better compared to another of the great justices. Robert Jackson is remembered for his key opinion in *Youngstown Sheet & Tube Co.* v. *Sawyer* (1952), in which he asserted Congress's predominance over the president, rejecting President Truman's attempt to take over the U.S. steel industry during the Korean War. At the time of the case, the administration cited Jackson's own work as FDR's attorney general, defending a seemingly similar

DENNIS BRACK / BLOOMBERG / GETTY

World War II-era takeover of an aviation company. In a footnote, Jackson distinguished FDR's seizure from Truman's, but he also rejected the notion that his judicial view should echo his earlier views from the Justice Department: "I should not bind present judicial judgment by earlier partisan activity."

A half-century later, when Democratic senators cited John Roberts's work in the Reagan administration as evidence of how he would act as chief justice, Roberts pointed to Jackson's example in *Youngstown*. "[H]ere is someone whose job it was to promote and defend an expansive view of executive power as attorney general, which he did very effectively," Roberts explained, "and then when he went on the Court . . . he took an entirely different view of a lot of issues, in one famous case even disagreeing with one of his own prior opinions. . . . And that's, again, one reason many admire him, including myself."

Halfway through his answer, Senator Patrick Leahy interrupted him: "Are you sending us a message?" The hearing transcript then reads, "[Laughter.]" Except, as we now see, Roberts was serious.

THE SUPREME COURT IN THE FEDERAL GOVERNMENT

Roberts's view of Congress and the president also informs the second major theme of his work: the place of the federal courts, and especially the Supreme Court, in our constitutional system.

He is often criticized, especially by conservatives, for being too political—for letting concerns about political backlash affect his legal judgment, especially in the two Obamacare cases. One cannot know the private reasons he harbors for any decision, so it is impossible to say with any certainty whether such concerns affected his judgment in those or other cases. But reviewing his past statements, one finds throughout a consistent theme. Yes, Roberts is concerned about the Court's interaction with politics, but in a broad, long-run sense: If the Court becomes too embroiled in political disputes, it will undermine the American people's willingness to respect judicial independence, and hence will undermine the rule of law.

This, too, was a point he pressed in his 2003 nomination to the D.C. Circuit. "My own judicial philosophy begins with an appreciation of the limited role of a judge in our system of divided powers," he wrote. Deciding cases requires legal acumen and the ability to weigh competing arguments, but also "an essential humility grounded in the properly limited role of an undemocratic judiciary in a democratic republic." While judges are independent of the people, "they should be ever mindful that they are insulated from democratic pressures precisely because the Framers expected them to be discerning the law, not shaping policy."

In other words, "judges need to recognize that judicial independence is not an end in itself," Roberts said in a 2006 speech. "Judges are insulated from political pressures precisely because they're not supposed to be making political decisions, but deciding cases according to the rule of law."

But the task is slightly more complicated than that. Judicial independence requires not only that the courts bind themselves with law and precedent limiting judges' discretion, but also that the people *recognize* the courts as respecting their proper limits. Reflecting in 2010 on the long history of conflicts between presidents and the Supreme Court, Roberts suggested that "it's the Court's actions," from Jefferson's day to FDR's and onward, "to demonstrate to the public that it was doing its level best to try to interpret the Constitution according to their lights, that . . . have established the Court in a position where people generally accept the notion that it should be independent."

As chief justice, Roberts speaks often on this need for judicial "self-restraint," but it is not a view that he adopted only after joining the Court. The memoranda that he drafted in the early 1980s, in President Reagan's White House counsel's office and Justice Department, make the same arguments. In a 1985 memorandum to White House counsel Fred Fielding, Roberts criticized then-chief justice Burger's year-end report on the state of the federal judiciary (a report that Roberts himself now publishes every New Year's Eve) for suggesting that the Court was overworked. "The fault lies with the Justices themselves, who unnecessarily take too many cases. . . . So long as the Court views itself as ultimately responsible for governing all aspects of our society, it will, understandably, be overworked."

And in a 1985 memorandum that he drafted for Fielding, Roberts stressed why calls for judicial self-restraint do not "attack" the judiciary but rather benefit it. Quoting Justice Jackson, he wrote, "It is precisely because I value the role the court performs in the peaceful ordering of our society that I deprecate the ill-starred adventures of the judiciary that have recurringly jeopardized its essential usefulness. . . . *By impairing its own prestige through risking it in the field of policy, it may impair its ability to defend our liberties*." Or, as an unsigned "Draft Article on Judicial Restraint," found in Roberts's early-1980s Justice Department files, stressed, "the greatest threat to judicial independence occurs when the courts . . . engag[e] in policymaking committed to the elected branches or the states. When courts fail to exercise self-restraint and instead enter the political realms reserved to the elected branches, they subject themselves to the political pressure endemic to that arena and invite popular attack."

As chief justice, Roberts does not often speak of the risk of public backlash against the Court, but the theme has appeared in some of his writings and speeches. In his first "Year-End Report on the Federal Judiciary," penned just

months after he became chief justice, he noted that "a strong and independent judiciary is not something that, once established, maintains itself. It is instead a trust that every generation is called upon to preserve, and the values it secures can be lost as readily through neglect as direct attack."

And Roberts seems to worry that the nation's increasingly intense political climate might, if judges are not careful, begin to affect the courts' own work. When asked last year, at the University of Nebraska, about the challenges facing the judiciary today, Roberts pointed to one problem "in particular that is causing a lot of concern, and it has to do with the other branches of government. They are not getting along very well these days among themselves. It's a period of real partisan rancor that I think impedes their ability to carry out their functions, and I don't want it to spill over and affect us." Justices do not function as Democrats and Republicans, he noted, "but if you are an intelligent layperson looking at what's going on, and you see for example the confirmation process," in which justices are now confirmed by narrow partisan votes, "you think, well, this must be a political entity, because they're putting people on or rejecting them on partisan political lines."

"And so I'm worried about people having that perception," he concluded, "because it's not an accurate one about how we do our work, and it's important for us to make that as clear as we can to the public."

'It's a period of real partisan rancor . . . and I don't want it to spill over and affect us.'
–John Roberts

The most immediate way to accomplish this, Roberts noted in his 2014 forum at Rice, is through the Court's issuance of written opinions, a practice that "ensures that I'm not engaged in political activity but engaged in legal activity—or at least imposes a check on me. If there's a judge or a justice who wants to be a politician, he or she still has to explain what they've done, and the explanation starts to look pretty weak. That is a very valuable check on the process."

This concern is found at the heart of several of Roberts's opinions, trying to prevent the judiciary from being politicized—or politicizing itself. In *Williams-Yulee* v. *Florida Bar* (2015), Roberts distinguished the First Amendment's protection of political speech in legislative or executive elections, which Roberts supports, from political speech in campaigns for *judicial* office. "Judges are not politicians," he wrote in his opinion for the Court, "even when they come to the bench by way of the ballot." States may select judges through elections rather than appointments, but "the role of judges differs from the role of politicians," and thus the states have greater justification in limiting financial contributions that create even the mere appearance of judicial partiality. Because the judiciary's authority "depends in large measure on the public's willingness to respect and follow its decisions . . . justice must satisfy the appearance of justice."

Roberts's related concerns about self-restraint, and its long-run role in the preservation of judicial independence, are found also in his dissenting opinions criticizing the Court for intervening too aggressively in policy disputes with insufficient legal basis. In *Boumediene* v. *Bush* (2008), where a five-justice majority struck down the Detainee Treatment Act's limits on federal court jurisdiction over habeas corpus petitions from Guantánamo Bay detainees, Roberts criticized his colleagues' "roving search for constitutionally problematic scenarios," which far exceeded the limits of the "delicate power of pronouncing an Act of Congress unconstitutional." Similarly, in *Massachusetts* v. *EPA* (2007), in which a five-justice majority rejected the Bush EPA's conclusion that the agency lacked power to regulate greenhouse gas emissions, Roberts wrote in dissent that environmental activists "[a]pparently dissatisfied with the pace of progress on this issue in the elected branches" had "come to the courts" instead. The Court's decision to recognize the plaintiffs' legal standing to bring such a case "has caused us to transgress 'the proper—and properly limited—role of the courts in a democratic society.'"

But Roberts's call for judicial self-restraint is heard most clearly in recent disputes over the claimed constitutional right of same-sex marriage. In *Hollingsworth* v. *Perry* (2013), proponents of California's successful ballot initiative preserving traditional marriage law in that state attempted to defend the law against a constitutional challenge by same-sex couples. The proponents needed to defend that law, since California's elected leaders refused to, after losing the case at the initial trial stage. Chief Justice Roberts, writing for the Court, held that the proponents could not defend the law in court because they lacked standing—they lacked a sufficient personal stake in the dispute. The requirement to show standing "serves to prevent the judicial process from being used to usurp the powers of the political branches," he wrote, "keeping the Judiciary's power within its proper constitutional sphere." As in *Massachusetts* v. *EPA*, it "ensures that the Federal Judiciary respects 'the proper—and properly limited—role of the courts in a democratic society.'"

Two years later, when the national debate over same-sex marriage returned to the Court in *Obergefell* v. *Hodges* (2015), Roberts denounced the majority's creation of this constitutional right, because the Court made no attempt to root the law in constitutional text, the nation's history, or anything else more substantial than simply the five-justice majority's own "extravagant conception of judicial supremacy," reaching a decision that "not only overlooks our country's history and tradition but actively repudiates it." Connecting his

argument to the points that the majority opinion's author, Justice Anthony Kennedy, had made in a prior judicial-campaign-speech case, and in terms that could have been drawn from Roberts's memos in the Reagan White House, the chief stressed that "the legitimacy of this Court ultimately rests 'upon the respect accorded to its judgments,'" a respect that "flows from the perception—and reality—that we exercise humility and restraint in deciding cases according to the Constitution and the law."

Roberts's desire for the Court to be (and appear) nonpolitical is laudable. But at a certain point, this desire begins to resemble that of his fellow Hoosier, Mitch Daniels, calling on conservatives to support a "truce" in the culture wars. No matter how the Court conducts itself, legislatures will pass political laws; presidents and governors will enforce political regulations; litigants will file lawsuits challenging them or defending against them. (And judges, appointed politically, will decide them.) This is hardly a new development—Tocqueville noted 180 years ago that "there is almost no political question in the United States that is not resolved sooner or later into a judicial question." If Roberts's effort to exercise judicial self-restraint leads him to calibrate (or be seen as calibrating) his judgment in light of the political environment around him, he will, ironically, seem political.

THE CHIEF JUSTICE IN THE SUPREME COURT

John Roberts is not Chief Justice of the Supreme Court. He is, in the statutory words, "Chief Justice of the United States." Is this a distinction without a difference? Is the chief justice simply "the first among equals" on the nine-justice Court, as it is often said? Or do the chief justice's responsibilities and role go further?

By his own admission, Chief Justice Roberts arrived on the Court keenly attuned to the chief's unique role on the Court. When asked by legal lexicographer Bryan Garner, in early 2007, what sorts of books he was reading, Roberts answered, "I've been reading a lot of biographies of chief justices and learning a lot about them."

It shows, in speeches replete with lessons he has learned from his predecessors. (He'll offer another such speech in New York later this month, on Chief Justice Charles Evans Hughes.) Noting that portraits of four of the greatest chief justices—John Jay, John Marshall, William Howard Taft, and Charles Evans Hughes—occupy places of honor in the Court's two ceremonial conference rooms, Roberts said in 2007, "they all seem to be looking down at me with surprise." And "as they are looking down upon me," he added, "I am looking up to them."

He explained in 2007 the lessons he draws from them. From Jay, the need for the Court to maintain the public's confidence and respect. From Marshall, the importance of forging the justices' own disparate voices into a truly institutional voice. From Taft, who is responsible for giving the Court a building of its own, the importance of establishing the Court's independence. And from Hughes, the importance of preserving that independence against FDR's court-packing plan.

He says also that he learned from Roger Taney, author of *Dred Scott*'s pro-slavery opinion (and thus the Court's most infamous chief justice), the dangers of trying to use the Court's power to go beyond the limits of individual cases and decide national debates singlehandedly, an overreach that in Taney's case exacerbated matters disastrously. Asked which of his predecessors he'd like to join for dinner, he chose Taney—"[I'd] like to have a conversation with him before he did that, and tell him with of course the benefit of hindsight that it's just not going to work."

But the example that Roberts espouses the most proudly is that of his own mentor and immediate predecessor, William Rehnquist, for whom Roberts clerked on the Supreme Court before President Reagan promoted Rehnquist to the chief justice's seat.

Roberts's succession of Rehnquist is one of the most poignant stories in the Court's history. The two originally were to serve together on the bench, with Roberts nominated to replace the retiring justice Sandra Day O'Connor. But when the ailing Rehnquist passed away just weeks later, President Bush renominated Roberts to be the next chief—announcing his choice the day before Roberts helped to carry Rehnquist's casket ("plain unvarnished pine," Roberts later wrote) up the Court's marble steps to its Great Hall.

Roberts speaks often on the lessons he draws from Rehnquist. "I have faced the challenges of filling the office that he left vacant," Roberts remarked in 2009. "As I look back on him as my predecessor, my respect for him continues to grow."

As it happens, Rehnquist himself arrived at the Court with at least some notion of how a chief justice ought to manage it. In a 1954 letter to Justice Robert Jackson, for whom he had clerked a few years earlier, Rehnquist criticized liberal acclaim for the newly appointed chief justice, Earl Warren. "I cannot help choking every time I hear the line peddled by, among others, *Time* magazine, to the effect that 'what the court really needs is not so much a lawyer as an administrator and conciliator.' What the court really needs is a Chief Justice"—requiring experience in the lower courts and "the ability to think and write about law."

In Rehnquist's first decade on the Court, serving as an associate justice, he seemed to fit such a template, often writing solo dissents (which earned him the nickname "the Lone Ranger") trying to advance a conservative jurisprudence on a strongly liberal Court. But once elevated to the chief justice's seat by President Reagan, Rehnquist underwent a marked transition, adopting a more conciliatory

approach with an eye to the Court's broader institutional role in the government. "I think there's no doubt that he changed, as associate justice and chief," Roberts told the *Atlantic*'s Jeffrey Rosen in 2007; "he became naturally more concerned about the function of the institution."

Roberts, following the example of Rehnquist and also Marshall, takes a similarly institutional view that he might not have taken as an associate justice. "The chief justice has a particular obligation to achieve consensus consistent with everyone's individual oath to uphold the Constitution," he told senators at his confirmation hearing, "and that would certainly be a priority for me if I were confirmed."

He has maintained that view on the Court, explaining from time to time in speeches his view that (as he put it at Rice) "the broader agreement you can get on the Court, the better," because it instills greater public confidence that the decision is correct. "And the way you get to broader agreement is to have a narrower decision." He added that "I happen to think that's a good thing, that our decisions reach as narrowly as possible, rather than the justices trying to write broadly to cover all sorts of situations that they might not have anticipated or thought about carefully enough."

On the question how far a justice should go to achieve compromise, Roberts has been at least somewhat ambiguous. On the one hand, he takes care to stress that compromise involves justices forgoing larger points of disagreement in order to find narrower common ground. He made such a point in his separate opinion in the *Citizens United* (2010) campaign finance case. Rejecting the dissent's call for the majority to decide the case by endorsing nonconstitutional arguments that the dissenters themselves rejected, Roberts observed, "It should go without saying, however, that we cannot embrace a narrow ground of decision simply because it is narrow; it must also be right."

On the other hand, he admitted rather bluntly in his Supreme Court confirmation hearing that the need for a panel of judges to reach consensus dispenses with "the nuances of academic theory . . . fairly quickly, and judges take a more practical and pragmatic approach to trying to reach the best decision consistent with the rule of law."

In that sense, Roberts's ideal chief might resemble none more than the Daniel Webster of his Harvard essay: "a man of character, a disinterested, self-sacrificing man of wisdom who continually worked with others," who "did not fight in the thick of political battles, but rather raised himself above the conflict and stilled it through dispassionate compromise." Or, again, Rehnquist, who in writing opinions "had a keen sense of what issues were important, and what issues could be left for another day," Roberts said in a 2009 speech. "When I go back and study his opinions . . . I'm most impressed by what he chose not to say."

Such an approach is evident in many of the Roberts Court's decisions. In *Northwest Austin Municipal Utility District No. 1* v. *Holder* (2009), a case in which litigants called on the Court to strike down the Voting Rights Act's preclearance requirement as unconstitutional, Roberts assembled an eight-justice majority to decide the case in favor of the challengers but on nonconstitutional grounds. This deferred the more difficult constitutional question until 2013, when the aforementioned *Shelby County* case reached the Court, forcing the justices to divide sharply over the constitutional question, with the majority opinion quoting many of the principles that the *Northwest Austin* majority had agreed upon (to the *Shelby County* dissenters' palpable regret).

In *McCullen* v. *Coakley* (2014), when the Court struck down Massachusetts's prohibition against standing on sidewalks near abortion clinics, Roberts succeeded in amassing a majority that included even the Court's staunchest supporters of abortion rights, by deciding the case narrowly, holding that this particular prohibition was unconstitutionally burdensome but leaving the states free to adopt more narrowly tailored restrictions around abortion clinics.

Taking this approach is not without costs of its own, of course. By reaching a "narrow" decision, the Court leaves the public uncertain about how small changes in facts might change the Court's view of a constitutional issue. And deciding an issue narrowly in the first case leaves the door open for a subsequent Court, with new personnel, to effectively reverse a prior decision by drawing dubious distinctions.

THE CHIEF AND HIS CRITICS

While Chief Justice Roberts has not explicitly defined what makes for a "good judge," Chief Justice Rehnquist did. In a lecture at Louisiana State University in 1983, Rehnquist stressed "one or two virtues" that "seem to me to be more important than others for a judge to possess." First, "a judge's disposition should be about evenly balanced between sail and anchor. He cannot be anchored to the past mechanically by a line of precedents, but by the same token he ought not to be moved by each puff of novel doctrine which may be generated by one group of litigants or another." Second, "whether it be denominated 'common sense'" or something else, "the best judges undoubtedly have some sort of understanding of human nature and how the world works." Rehnquist surely would find that his successor and protégé embodies those virtues.

Roberts, in turn, has described what he thinks made Rehnquist great. In a 2006 speech at Middlebury College (later published in the *Vermont Law Review*), he described Rehnquist's impact on the Court and the law. While others might describe Rehnquist's legacy in terms of promoting structural principles of federalism and the separation of powers, Roberts saw that, "From my perspective, I see

his impact in broader terms." Rehnquist, he said, had refocused the justices, and the lawyers arguing before them, on the laws' actual *words*:

> [L]egal argument has become more rigorous and focused, and Chief Justice Rehnquist was the leading proponent of that change. . . . Any lawyer appearing before the Supreme Court when Chief Justice Rehnquist was on the bench, who made an argument about what Congress meant in a particular statute, was sure to get a question from the Chief, "You say that's what Congress *meant*. What did Congress *say*?" . . . Forty years ago, just before William Rehnquist went on the Court, legal arguments were more free-ranging, more free-wheeling. When he left the Court, they were more about law, as I think arguments in the Court should be.

Roberts's assessment rings true for Rehnquist—but it is oddly dissonant for himself. The main criticism of Roberts, at least from conservatives, is that Roberts's own proclamation of a consistent method for interpreting the law, and his expansive focus on legislative intent, seems to focus more on "what Congress *meant*" than on "what did Congress *say*?"

Indeed, Roberts seemed to endorse such an approach in his Supreme Court confirmation hearing. "I think when you folks legislate," he told the senators, "you do have something in mind in particular, and you put it into words, and you expect judges not to put in their own preferences, not to substitute their judgment for you, but to implement your view of what you are accomplishing in that statute." In a written answer to senators during his D.C. Circuit confirmation process, he quoted the classic line that in interpreting a statute, "we must not be guided by a single sentence or member of a sentence, but look to the provisions of the whole law, and to its object and policy."

Conservatives today would say that this focus on what Congress *meant*, on its "object and policy," over what Congress *said* reached its zenith in *King* v. *Burwell*, where Chief Justice Roberts, writing for the six-justice majority, concluded that when Obamacare allows the Obama administration to subsidize health insurance bought on exchanges "established by the State," such subsidies can also flow to exchanges established by the federal government. Such a holding has virtually nothing to do with what Congress said and everything to do with the justices' view of what Congress meant to say—or what it would have said if a broken legislative process hadn't sped the Affordable Care Act on its way, leaving Congress to pass the law before finding out what was in it, a final bill marred by what Roberts's opinion describes, gently, as "inartful drafting."

Roberts might respond by explaining, as he did in a 2004 opinion for the D.C. Circuit, that the court's job is to enforce a statute's plain language "where the disposition required by the text is not absurd"—and that it would have been absurd to assume that Congress wanted to allow the health insurance exchange subsidy mechanism to send Obamacare into a "death spiral."

Then again, conservatives might respond by reminding Roberts of his own argument, in a 1993 law review article, that "doctrines of judicial self-restraint" are indispensable precisely because they "compe[l] the other branches of government to do a better job in carrying out their responsibilities under the Constitution." Had the Court in *King* refused to save Nancy Pelosi, Harry Reid, and other congressional Democrats from themselves, future Congresses would be more likely to read laws before passing them.

This is the point, more than anything else, that leaves many conservatives extremely frustrated with Chief Justice Roberts. After three decades of promoting originalism or textualism as interpretive methodologies that anchor judicial decision-making in the written text of laws, Chief Justice Roberts decided one of the most significant cases of his tenure with overwhelming focus on Congress's purposes (as he saw them)—straining to justify his decision with an implausible reading of the law's text.

The left's most reliably partisan commentators have attempted to minimize conservative criticism of Roberts by arguing that his record is overwhelmingly conservative, in terms of the outcomes. Linda Greenhouse, longtime Supreme Court reporter for the *New York Times*, writes, "The attacks from the left are logical enough," but "the fire from the right" reflects merely the ever more aggressive demands that conservatives allegedly place on the Roberts Court. Jeffrey Toobin writes in the *New Yorker* that conservatives are up in arms over Roberts's failure to be "a partisan ideologue"—and that they should be grateful for Roberts's other decisions "gutt[ing] the Voting Rights Act," and for "*Citizens United* and all the other cases that undermined our system of regulating political campaigns." Their analysis (such as it is) tries very hard to avoid conservatives' actual objections to the chief justice's approach—namely, that it risks undoing at least some of the improvements in legal argument that Chief Justice Rehnquist achieved, and that Roberts himself has recognized.

For his thoughtful focus on the deeper institutional questions surrounding the Court, the chief justice deserves (and, from conservatives, receives) great credit. But his skills as a legal craftsman ultimately allow him to increase the range of options before the Court in any given case, which in turn increases, not decreases, the Court's role in American politics—the very opposite of what he hopes to achieve through judicial self-restraint. Thus he leaves many wondering what, exactly, his judicial methodology will ultimately produce.

John Roberts wants to be remembered as a good judge, "nothing more or less than that." We know what he said. But what did he mean? ♦

Anwar al-Awlaki and friend

Taking Careful Aim

The ironies of Obama's drone warfare. BY GABRIEL SCHOENFELD

In *Objective Troy* the *New York Times* national security correspondent Scott Shane tells two intertwined stories. One recounts the life path of Anwar al-Awlaki, the American-born imam killed in a CIA drone strike in Yemen in 2011. The second recounts Barack Obama's troubled love affair with the drone as an instrument of war, which is part of a larger story about the president's tortured attitude toward the use of American power in the world.

Objective Troy
A Terrorist, a President, and the Rise of the Drone
by Scott Shane
Tim Duggan, 416 pp., $28

Anwar al-Awlaki has to be counted as the greatest English-speaking pied piper in the history of radical Islam. His sermons and disquisitions, distributed first on CDs and later far more widely on social media, influenced—and continue, posthumously, to influence—scores of aspiring terrorists. The Boston Marathon bombers, the Fort Hood shooter, and the *Charlie Hebdo* gunmen in Paris all pointed to Awlaki's summons to violence as inspiration for their deeds. As Shane also makes plain, Awlaki's reach extended well beyond the ranks of such active jihadists.

> For every young Western Muslim who crossed the line and began plotting violence or traveled to Yemen or Pakistan to join al Qaeda, there were hundreds or thousands more . . . intrigued by the battle with the supposed enemies of Islam but too fearful or ambivalent to act. By sweeping huge numbers into that recruiting

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pool, Awlaki added new recruits to the small minority who would take the next step and join the battle.

Shane adduces case after case, like that of Roshonara Choudhry, a 21-year-old honor student who in 2010 stabbed a member of British Parliament, Stephen Timms, with a six-inch kitchen knife in retribution for his vote in support of the Iraq war. She had been listening, obsessively, to Awlaki's recordings for more than a hundred hours.

Drawing on exhaustive research and a wealth of interviews, Shane traces Awlaki's movements and intellectual evolution through various stations on his lethal path. Early childhood in the United States was followed by a spell, from age 7 to 18, in his parents' native Yemen. He then returned to the United States for a college degree in civil engineering, pursued with no distinction but punctuated by a visit with anti-Soviet mujahedeen in Afghanistan, and followed by a burgeoning career as an imam in various American locales.

Shane argues persuasively, and against what some U.S. government investigators continue strongly to suspect, that Awlaki was *not* in on the 9/11 plot, despite the fact that he had been in close touch with two of the hijackers who had worshipped at his San Diego mosque. In the late 1990s, Awlaki was already flirting with extremist ideas, but by September 11, 2001, was not yet fully under their spell, calling the attacks "horrible" in a private communication to his brother, a sentiment repeated in some public utterances.

Whatever the ultimate truth regarding Awlaki's involvement with the hijackers, 9/11 had the counterintuitive effect of bolstering his career. Beforehand, he was known among American Muslims as a charismatic preacher; afterward, he emerged as a highly visible presence in the mainstream media. A crisp native speaker with a reputation as a "moderate," Awlaki was sought out for appearances by the major television networks and was regularly quoted by leading newspapers as an authority on all things Islamic. If one were to summarize his outlook in a nutshell at that moment, it would be that Islamic terrorism is an understandable if regrettable reaction to even more regrettable American and Israeli aggression against the Muslim world.

With national prominence, and having by 2001 assumed a position in a well-attended Virginia mosque, Awlaki might have continued in the same direction, building on his success as a preacher-pundit. But Awlaki was leading a double life. Intermittent FBI surveillance had never been able to nail him for terrorist plotting, but the agents trailing Awlaki found something else. Even as he sermonized against the sin of *zina* (fornication) in his mosque, and especially castigating American television for broadcasting nudity and licentiousness across the globe, behind his wife's back, and on his modest salary, he had become habituated to engaging in *zina* with Washington-area prostitutes at up to $400 an hour.

Discovering that the FBI was in on his secret, and fearing that his world would collapse in disgrace, Awlaki left the United States, traveling first to England and then to Yemen. With his life in shambles, his disaffection ratcheted up a notch: He was now preaching hatred of infidels and, in particular, hatred of Americans for supposedly waging war on Islam, disseminating this incendiary message to a worldwide audience via the Internet. Affiliating with Al Qaeda in the Arabian Peninsula, Awlaki took an additional step that sealed his fate: He became actively involved in organizing terror plots. His most notorious escapade was assisting Umar Farouk Abdulmutallab, the underwear bomber, in his near-successful attempt, on Christmas Day 2009, to bring down an Airbus A330 over Detroit with 290 passengers on board.

With the evidence of his complicity in terror flowing in, Barack Obama gave a green light to a drone strike on "Objective Troy," the military's code name for Awlaki. After a fair amount of searching by the CIA, Awlaki turned up in the crosshairs of a Predator drone. His abrupt incineration in a vehicle traversing the Yemeni wilds earned him the dubious distinction of being the first American citizen tracked and killed by his own government, without trial, since the Civil War.

Scott Shane's account of how the Obama administration came to execute an American citizen in this fashion is a no less compelling story. As Shane demonstrates, the drone fit easily into President Obama's minimalist conception of the American role in the world, offering him (in Shane's words) "the middle ground he wanted between the wasteful big wars and doing nothing." Thus, even as Obama dismantled features of the Bush-Cheney counterterrorism machinery and withdrew forces from Iraq and Afghanistan, he made himself very much commander in chief of the drone warfare program, immersing himself in its details.

Those details are not pretty. Certainly, the drone is an "exquisite weapon" that allows one to be both "effective and moral," as General Michael Hayden explained to Shane in an interview. But war is war, and, inevitably, despite the drone's promised surgical precision, noncombatants still get caught in the death radius of its warhead.

Obama's first two strikes, both in Pakistan, were performed with flawless accuracy, but, nevertheless, seem to have dispatched a number of children along with their specified targets. A strike in Yemen in December 2009 successfully obliterated a top al Qaeda operative (and possibly as many as 13 of his associates) but also hit the tents of two Bedouin families, taking the lives of 41 civilians, with 9 women—5 of them pregnant—and 21 children among them. President Obama was getting a lesson in the horrendous difficulties and agonizing choices sometimes entailed in defending America.

Not that he consistently acknowledged those difficulties, or adopted a more charitable view of his predecessors, who had faced their own set of agonizing choices amid the terrifying

OPPOSITE: NEWSCOM

uncertainty following 9/11. Indeed, for this unremitting critic of George W. Bush and Dick Cheney, drone attacks were a subject fit for presidential mirth at the White House Correspondents' Association Dinner, and the decision to take the life of an American citizen by means of such an attack was, as Obama casually explained, "an easy one."

Much of the government's brief creating a legal roadmap to kill an American citizen with a drone strike remains secret. What is not secret is that it was written by two professors of law—David Barron of Harvard and Martin Lederman of Georgetown—who in previous years had both been strident critics of the Bush administration for doing exactly what they now found themselves doing in the Obama Justice Department: that is, claiming extraordinary constitutional power for the president to defy statutory restrictions on his war powers.

Obama, himself a former professor of constitutional law, came into office a severe critic of the alleged executive overreach of Bush and Cheney. But without the slightest acknowledgment that he was performing a pirouette, and never deigning to erect any sort of legal scaffolding rooted in constitutional principles, this self-declared progressive proceeded to exercise a measure of unilateral authority in national security that would make even the most ardent devotee of executive power shrink. With the Iran nuclear deal, for example, the president effectively maneuvered to sidestep the treaty-ratifying powers of the Senate on a matter of utmost gravity for the future of American security, dealing a blow to our constitutional architecture. And in waging war in Libya and against the Islamic State in Syria and Iraq, Obama has shredded the War Powers Act and accreted presidential war-making power to a breathtaking degree, setting precedents that the country—and certainly many liberals—may one day come to regret.

Not that those liberals are clamoring in protest. Indeed, in the face of Obama's imperial presidency, the silence of those who made careers out of vilifying John Yoo for supposedly adumbrating a theory of infinitely expandable executive power is particularly galling. And although it is certainly not Shane's direct intention, *Objective Troy* performs a public service in highlighting the gross disjunction between the words and deeds of a president who learned late in the day that with power comes responsibility and who, in the course of that still-incomplete education, continues to excoriate his predecessors while he makes a hash of American foreign policy.

As for Scott Shane, he strives for journalistic neutrality throughout. This is not to say that he withholds his opinions and judgments; indeed, he freely dispenses them, but for the most part also aims to ground them in the formidable body of evidence he has assembled. I found myself quarreling with some of his conclusions, but not the central ones. The story he tells of Anwar al-Awlaki's life and death is deeply instructive, as is his account of Barack Obama's decision-making. Anyone interested in understanding the allure of radical Islam, and thinking about ways to counter it both on and off the battlefield, would do well to study this work. ♦

B&A

Rule the Waves

A coterie of officers and British supremacy at sea.

BY JOSEPH F. CALLO

Nelson's Band of Brothers
Lives and Memorials
by Peter Hore
Naval Institute Press, 140 pp., $48.95

The Fleet Street journalist Tom Pocock was among the best recorders of Lord Nelson's heroic status.

> Valiant yet vulnerable, Nelson has fascinated for two centuries. He continues to be the subject of books, paintings, plays. . . . He can seem a contemporary and it requires no great leap of the imagination to think of him being interviewed on television.

The part of Pocock's characterization about seeing Nelson as a contemporary gives us pause, because Nelson is generally frozen in his own time by those who write or talk about him. Too often the drive is for additional minutiae, rather than an analysis that lifts him out of his own era.

Arguably the most significant long-term result of Nelson's decisive victory at Trafalgar (October 21, 1805) was the establishment of Great Britain's dominance at sea. That global dominance was a key factor in a tumultuous era that included the onset of the Industrial Revolution, the beginning of the industrialization of war, and the expansion of the concept of representative government. And it lasted for a hundred years. The agent for the century-long British supremacy at sea was the Royal Navy, and although Admiral Nelson was the inspiration, it was those around him and those who followed immediately who were the human capital of British sea power after Trafalgar.

Enter author and retired Royal Navy captain Peter Hore, who has created an unconventional book that gets beyond the overly familiar chronology of Nelson's life and leads us to expand our thinking about the naval officers who drove Britain's maritime ascendancy, and the institution that

Joseph F. Callo is the author of John Paul Jones: America's First Sea Warrior.

cultivated them. In his foreword, the former First Sea Lord Admiral Sir Jonathon Band describes the scope of the project: "This new volume comprehensively covers all those officers who commanded ships or squadrons of the fleets which fought under Nelson's tactical control at his three great sea battles." Then in the first chapter, Peter Hore adds a particularly thought-provoking point, an idea that quickly extends our perspective on Nelson:

> While hundreds of books have been written about him, there is comparatively little about most of his contemporaries, and yet it would be a mistake to isolate him from the system, which was the Royal Navy, the most sophisticated administrative enterprise and largest industrial complex in the world.

'The Death of Nelson' (1807) by Arthur William Devis

Hore's merging of Nelson's greatest achievements at sea with the backgrounds of the officers he led in his three most important actions challenges us to see Nelson in a broad context. This blends concise and well-crafted descriptions of Nelson's victories at the battles of the Nile, Copenhagen, and Trafalgar with 80 mini-biographies of the naval officers Nelson commanded in those engagements. Hore handles the writing of the battle descriptions adroitly; a variety of authors (including descendants of Nelson's band of brothers) provide the mini-bios. What emerges is an extensive series of portrayals that provoke thoughts, not only of Nelson, but of the assemblage of naval leaders that was an engine of global change.

Captain Thomas Foley is one of the standouts among those featured here. His performance at the Battle of the Nile is a particularly interesting example of how Nelson's relationships with those he led not only had an immediate effect in combat but also a significant ripple effect as well. Foley entered the Navy at age 13. As he advanced, he served in numerous global theaters and fought in limited engagements and large-scale battles. He reached the rank of post-captain in 1790, and he and his ship HMS *Goliath* joined Nelson in the Mediterranean in 1798. In August of that year, after a frantic search for the French fleet bearing Napoleon, Nelson came upon the major French warships in Aboukir Bay, just northeast of Alexandria, where Napoleon and his army had just disembarked.

It was somewhat unusual to initiate an attack in late afternoon, but Nelson immediately entered the bay in a single line-ahead formation. Foley, in *Goliath*, led the formation of 13 ships-of-the-line that Nelson commanded as it drove towards the French ships anchored along the shore. Nelson, as was usual at that time for the senior officer in such an action, was in the middle of the British line as it approached the French ships. Records suggest that neither Nelson nor Foley was very familiar with the anchorage.

Foley had the option of turning down the seaward side of the enemy ships or the landward side. In the latter case, there was a real danger—perhaps even a probability—of running aground. That would have been disastrous and in all likelihood would have changed the outcome of the battle—and delayed, or even prevented, the eventual demise of Napoleon as a global influence. On the other hand, getting some British ships between the French ships and the shore would create a huge tactical advantage for the British. The decision that Foley faced would bear directly on the battle's outcome—and the shape of history to come. It was a critical choice.

As usual, Nelson's captains were well briefed on the tactics he intended to use. He made it clear, for example, that he intended to concentrate initially on the front half of the French position. Thus, Foley expected no signal from his commander in chief, and he unhesitatingly turned down the landward side of the enemy ships. Foley was followed by four of his colleagues, who could see by his action that there was adequate room between the French fleet and shore for their passage. With Nelson's planning and Foley's decision, the British fleet quickly "doubled" the first half of the French line, enabling the British to destroy

their enemy piecemeal. The result was an unambiguous British victory.

Admiral Nelson reported the results of the action to his commander in chief in unequivocal terms: "Almighty God has blessed his Majesty's Arms in the late Battle by a great victory over the Fleet of the Enemy." As he viewed the debris-littered scene, he also hinted at the long-term implications of his success: "Victory is not a name strong enough for such a scene." And Nelson was right: The strategic result of his victory in the Battle of the Nile was that major French naval initiatives in the Mediterranean were thwarted, and Napoleon was eventually forced to abandon his objective of threatening Britain by attacking its trade, particularly trade with India.

As it turned out, Foley's on the spot, high-risk decision was essential to a major strategic power shift in Britain's direction. And Foley made that decision because he knew it would have been Nelson's choice if he had been on *Goliath*'s quarterdeck. Foley's action was consistent with Nelson's well-established combat doctrine: "The boldest measures are the safest." He also knew that Nelson would protect Foley's naval career if he ran aground. Foley's decision is generally mentioned in accounts of the Battle of the Nile, but seldom is the broad basis of that decision—its link to Nelson's combat doctrine, and its long-term influence on future concepts of military leadership—drawn out.

Thomas Masterman Hardy, who was with Nelson at the Nile, as well as Copenhagen and Trafalgar, is another intriguing example of the captains and junior admirals Nelson led into battle. Hardy was a seaman's seaman, born in Dorset in 1769 and present at all of Nelson's major fleet actions, including Trafalgar. He was on HMS *Victory*'s quarterdeck when Nelson was mortally wounded. (Moments before he was struck down by a musket shot, Nelson had commented to his flag captain: "This is too warm work to last, Hardy.") Hardy also visited and spoke with Nelson several times while Nelson was being treated with the other wounded, and was with him when Nelson spoke his last words—whispered by Nelson directly to his friend: "God bless you, Hardy."

Hardy's role in these dramatic events, however, is only half the story. The other half is Hardy's longevity and ongoing influence on the institution of the Royal Navy. He lived well into the 19th century, hauling down his admiral's flag in 1827. During the two decades after Trafalgar he had an opportunity to preach and practice the leadership principles he had absorbed from Nelson and that had become embedded—first in Nelson's band of brothers and then in their followers in the Royal Navy. Hardy was interested in the introduction of steam propulsion for warships and served long enough to see the United States Navy come of age in the War of 1812 and the advent of the Monroe Doctrine (1823). In 1830, he became first naval lord.

Nelson's Band of Brothers is an apt title for Peter Hore's unusual study. It is not so much about the heroics of the major naval actions of an era as it is about the naval professionals who were linked by understanding and mutual trust, and who gave focus and momentum to a century-long series of pivots in history. Nelson and his naval brothers were the founding fathers of British sea power and major factors in the radical economic and geopolitical changes of the 19th century. ♦

B&A

One Aryan Myth

An enigmatic tale of the prehistoric East.

BY DOMINIC GREEN

Sleepless and sweaty in the "great heats" of July 1840, Ralph Waldo Emerson reached for something sublime and sensual: "There was nothing for me but to read the *Vedas*, the bible of the tropics." The problem was that the "grand ethics" of Vedic mythology, and the "unfathomable power" of Vedic cosmology, were traduced by a fetish for sacrificial rites. A modern seeker had to sift "primeval inspiration" from "endless ceremonial nonsense."

This sentiment, like many an Emerson original, was already a Romantic commonplace; often, his breathless intuitions sprang whole from the head of Thomas Carlyle, like Athena from Zeus. The saving of living spirit from dead ritual was a common ideal of Enlightenment rationalists, Romantic irrationalists, and the British administrators of India who (as Warren Hastings explained in his preface to the *Bhagavad Gita*) translated India's sacred texts, the better to rule the natives. In the 1890s, Max Müller, doyen of Victorian Indology, summarized this Victorian consensus: Vedic wisdom was "indispensable" to "liberal education" and more "improving" than the "dates and deeds of many of the kings of Judah and Israel."

But only the hymns of the *Rig Veda* qualified. The later *Vedas* were a mess of "sacrificial formulas, charms, and incantations." The priestly commentaries and sacrificial manuals of the *Brahmanas* should be studied "as a physician studies the twaddle of idiots and the ravings of madmen."

Roberto Calasso began *Ardor* as

Dominic Green's next book,
The Religious Revolution,
is a history of modern spirituality.

Ardor
by Roberto Calasso
translated by Richard Dixon
Farrar, Straus & Giroux, 432 pp., $35

a commentary on one of those "ravings," the *Satapatha Brahmana*, but it grew into a lucid panorama of Vedic civilization. Calasso is a stylish dramatist of lost inner lives, one of those increasingly rare writers both erudite enough to comprehend the alien past and stylish enough to make it interesting. He revived the Hindu gods in *Ka*, and the equally lurid pantheon of European Romantics in *The Ruin of Kasch*. Miraculously, his *The Marriage of Cadmus and Harmony*, on the dead gods of Greece, became a bestseller. His studies of Kafka, Baudelaire, and Tiepolo are treasure chests of epigrammatic insight into modernity. Only George Steiner has foraged so broadly and fruitfully in the weed-choked fields of art and memory. Mysteriously, Calasso has done this without giving up his day job as publisher of Adelphi Editions in Milan.

Neurotics have obsessions; the religious have rituals; and artists have recurring themes. *Ardor* is the seventh in a sequence, an unfolding altarpiece that envelops the viewer. Calasso's themes are sacrifice, the act of violence at the heart of religion; and analogy, the evoking of the invisible by the visible. As Yeats wrote in "The Second Coming," the "blood-dimmed tide" of sacred murder, the oldest and crudest proof of faith, asserts that "some revelation is at hand." The ardor of the priest is the "passionate intensity" of the fanatic, slaughtering his enemy to ward off his own death; the destruction of the sacred portion evokes the powers of creation.

The *Vedas* are thematically perfect for Calasso, a reader of Sanskrit, but never before has he sailed so far back in time, and in such murky waters. *Veda* means "knowledge," but we know little about the origins of Vedic civilization and how it developed in northwestern India in the second millennium B.C. The priestly authors of the *Vedas* portray their forefathers as the *Arya*, the "noble" or "hospitable" conquerors. The Vedic gods, led by Indra, had an equally violent domestic life and were propitiated by animal sacrifices whose volume and complexity suggest that humans had only recently left the altar. In the *Asvamedha*, or "Horse Sacrifice," dozens of animals were dispatched under the king's gaze, and the queen ritually copulated with a dead horse under priestly supervision. The participants in these ritual exertions contacted the gods directly by ingesting a mind-altering brew called *Soma*. Later, the priests lost the recipe. It is never advisable to write sacred texts on tree bark.

Roberto Calasso (2011)

CORBIS / TONI GARRIGA

"We must seek the highest Romanticism in the Orient," Friedrich Schlegel wrote in 1800, expressing a wish as an order. For more than a century, European Indologists took the "Aryan" past at its priests' estimation. In the age of industrial cities, spiritual confusion, and democratic mobs, the chimerical Aryans seemed both Romantic and sublime: a race of aristocratic warriors untroubled by law, morality, and other restraints upon the Will, not bourgeois merchants, hobbled by the cash nexus and Christian ethics. "Blond beasts," as Nietzsche wrote, more wistfully than critically. Although Vedic civilization was younger than the Egyptian, Sumerian, and Hittite civilizations, and although many Vedic texts were little older than Greek or Hebrew ones, the 19th-century West adopted the Aryans as the original human civilization, and the original human race.

The disastrous influence of the Aryan romance on German foreign policy led to a shamed reassessment. In recent scholarship, the Aryans originate in the Asian steppes, the Bactria of the camels and ancient Greeks. Vedic religion arises from the interplay between the "Indo-Iranian" immigrants, some of them positively peaceable, and the Indian locals. The *Rig Veda* was written around 1500 B.C., while the Myceneans were eyeing Minoan Crete and the Hebrews sojourning in Egypt. The *Satapatha Brahmana* is at least 700 years younger. It dates from the 8th century B.C. and describes the rites of a settled, stratified urban people. Its priests were contemporaries of the prophet Elisha, who denounced Jehoash, king of Israel, for worshipping a golden calf; and Homer, who imagined the Achaean warriors sacrificing bulls on the shore at Ilium and Odysseus escaping death by refusing to eat the oxen of the sun.

By the 1960s, Vedic researchers were less likely to be sniffing for Aryan blood than to be searching for *Soma*. As Aldous Huxley had written in *Brave New World*, "Half a gram for a half holiday, a gram for a weekend, two grams for a trip to the gorgeous East." R. Gordon Wasson identified *Soma* with the *Amanita muscaria* mushroom, still popular with Siberian shamans. Robert Graves believed that "mushroom orgies" had inspired the Greek legend of Dionysus' invasion of Bactria. Terence McKenna, face down on the road of excess and far from the palace of wisdom, identified *Soma* with a mushroom that grows on cowpats and linked this to Hindu cow worship. Finally, the Russian archaeologist Viktor Sarianidi, discoverer of the Bactrian civilization, tested some temple vessels: *Soma* was the juice

of the *Ephedra* plant, a primitive amphetamine, with traces of cannabis and poppy seeds.

Calasso steps over the scholarly cowpats and speculative orgiasts. *Ardor* presents the world through the eyes of the knife-wielding priest, and of the goat tied to the pole. The sacrificial scene and its mentality float in a "living forest" of symbols, as in Baudelaire's *Correspondances*. Myth and ritual are a double act: The "metaphysical nitpicking" of procedure enacts the drama of salvation—or at least preservation. God is in these details, and there are an awful lot of them. At times, Calasso's ardor for his subject is overwhelming. The reader may feel less like a knowledgeable priest and more like a stupefied goat.

Nature, Emerson said, is the "first legislator." All its punishments are capital. There is defiance in Calasso's intense elaboration of Vedic sacrifice, his anatomy of sacred violence as "the microphysics of the mind," and his insistence that sacred beliefs and rites are a synecdoche for their entire society. In his final chapter, he jumps from ancient to modern times: The cool procedures of "secular" science mask our innate tendency towards "metaphysical nitpicking." Like "infidels who cannot resist using the family crest," Saturn and Apollo were "recruited" by NASA. Agni, the sacred fire of the *Vedas*, still bears death and mastery, as an Indian long-range missile. The "only form of sacrifice universally visible on television screens" is that of the Islamist suicide killer. And his rite of sacred death (Calasso reminds us) resembles the Roman rite of *devotio*, in which a designated soldier made his "vow to the gods of the underworld," then rushed into the enemy's ranks to spread the invisible "contagion" of fear.

"The great innovators," Proust wrote, "are the only true classics, and form a continuous series." Erudite and elaborate, baffling and brilliant, *Ardor* confirms Roberto Calasso as the foremost interpreter of the thought of Roberto Calasso. He has yet to be apotheosized as an adjective, but *Ardor* is another "Calassic." ♦

B&A

Founders' Beat

The artistic implications of Alexander's raptime band.

BY CAITRIN KEIPER & ADAM KEIPER

"How does a bastard, orphan, son of a whore and a Scotsman, dropped in the middle of a forgotten spot in the Caribbean by providence, impoverished, in squalor, grow up to be a hero and a scholar?" That is the first in a set of questions that *Hamilton*, this season's Broadway blockbuster, asks about individual excellence, American exceptionalism, and democratic memory.

Hamilton is the brainchild of Lin-Manuel Miranda, a composer, playwright, and polymath performer who, at 35, has already racked up an Emmy, a Grammy, some Tonys, and a MacArthur "genius" grant. A few years ago, he picked up for a little beach reading a copy of Ron Chernow's 800-page biography of Alexander Hamilton, whose tumultuous life and times suggested songs and scenes that Miranda ultimately assembled into a fully staged musical. *Hamilton* sold out months in advance, the cast recording has set sales records, and there is already talk of a film.

Miranda himself stars in the title role, depicting major episodes in Alexander Hamilton's life—from his childhood on the island of Nevis to his service in the revolution to his support for the new Constitution to his time as the first secretary of the Treasury—all the way to the infamous duel that killed him in his 50th year. These are interwoven with the lives of other Founders, including George Washington (Christopher Jackson as Hamilton's indispensable mentor, boss, and shield), Thomas Jefferson and James Madison (Daveed Diggs and Okieriete Onaodowan playing Hamilton's greatest political rivals on the national stage), and Aaron Burr (Leslie Odom Jr.) as Hamilton's frenemy and opponent in that fatal duel.

Hamilton
Music, Lyrics, and Book by Lin-Manuel Miranda
Richard Rodgers Theatre

Matters of statecraft and honor intersect with matters of the heart. The ladies' man Hamilton sets his sights on New York's most eligible bachelorettes, the glamorous Schuyler sisters. He courts and marries Eliza Schuyler (Phillipa Soo), but her older sister Angelica (Renée Elise Goldsberry) loves him, too. Historians have long read between the lines of the letters Angelica and Alexander exchanged; Miranda puts their flirtation, and feelings, center stage. Meanwhile, another relationship—a messy affair that leads to blackmail—is kept quiet for years until it finally blows up his political career.

Hamilton takes a handful of liberties with the factual record to simplify and dramatize the story, but evidently none that Chernow, a historical consultant for the show, couldn't live with. (The paperback edition of Chernow's *Alexander Hamilton* is sold alongside other swag at the Richard Rodgers Theatre, and Miranda has been known to exhort his social media followers to "get thee to Chernow.")

Hamilton has been deservedly praised for its innovative use of rap. The rapid-fire pacing and the live-fast/die-young ethos of hip hop culture gives *Hamilton* a drive that befits the circumstances of the new nation and its Founders. As Miranda put it in 2009, when he was just beginning work

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Adam Keiper is editor of the New Atlantis.

Christopher Jackson, Lin-Manuel Miranda, Anthony Ramos

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on the project, Alexander Hamilton "embodies hip-hop," from his chaotic childhood to his meteoric rise, and the way he "caught beef with every other Founding Father," clashing over ideas as well as reputations and personalities.

Moreover, the sheer wordiness of rap is a good match for the subject matter. According to an analysis by Leah Libresco for the website *FiveThirtyEight*, *Hamilton* stuffs up to an order of magnitude more words into the soundtrack than your standard musical. The torrent of clever verbosity—not since Cole Porter has a Broadway lyricist demonstrated such mastery of internal rhyme—is well suited to our Founders' lively exchanges of ideas and insults. Hamilton and Jefferson didn't really settle their cabinet disputes through rap battles, but one almost wishes they had.

Still, the label "hip-hop musical" does not do justice to *Hamilton*'s mashup of genres. Phillipa Soo's solos as Eliza Schuyler Hamilton, concerned with themes of love and family life, have a timeless Broadway feel. The adulterous liaison is given a steamy rhythm-and-blues treatment that makes the foot-tapping audience complicit in Hamilton's betrayal. Daveed Diggs's debonair Jefferson gets a jazzy entrance; a drinking song has a touch of reggae. George III, played in the cast recording (and until recently on the stage) by Jonathan Groff, sings a campy love-and-loss tune—"You'll Be Back"—worthy of Freddie Mercury.

The score is not only absurdly catchy, but rewards careful attention. Allusions to other stage productions—including *1776*, *South Pacific*, *The Pirates of Penzance*, and *The Last Five Years*—are tucked next to elements borrowed from Biggie Smalls and Eminem. The lyrics and motifs are layered with a complexity that recalls *Les Misérables*—a show that gets its own passing nod in *Hamilton* and shares with it any number of other similarities in composition, scope, and moral seriousness.

The recurring and compounding motifs contribute to a sense of foreshadowing in a story whose end we know before the first notes are sung. (A young Hamilton, desperate to make his mark, insists, "I'm not throwing away my shot!" Over the course of three duels he's involved with, he plays on the literal meaning of this phrase and ultimately turns against it in the last one, throwing away his shot on purpose while Aaron Burr fails to do the same.) This sense of destiny is reinforced by a writhing Greek chorus of backup singers. So, paradoxically, the lives of

Hamilton and his cohort are presented as all but predestined, even though *Hamilton* is all about inventing a new country in which a person's past does not define his future. And though the success of the Founders' democratic experiment may be easy to take for granted now, as if predestined itself, *Hamilton* reminds us how uncertain and contingent it was then.

Which brings us to the questions that animate the plot. Starting with its opening lines, the show asks how Alexander Hamilton could "rise up" and achieve what he did despite his social handicaps: illegitimacy, poverty, rootlessness. The answer, implicit throughout the show, is that there is something exceptional about his adopted nation—or rather, the nation that adopted him. In America, the miracle of a nobody becoming a somebody is an everyday occurrence. To underline this point, all the principal roles in the Broadway production (with the exception of King George) are played by nonwhite actors—a casting decision that sends the message that the ideals of the "dead white males" of the American Founding belong to everyone, and that the energy and aspirations of the immigrants attracted to those ideals is one of their liveliest expressions.

Hamilton ends by asking two questions: "Will they tell your story?" and "Who tells your story?" On the surface, these allude to the fact that Hamilton's political opponents outlived him. The dying Hamilton wonders whether he has built a lasting legacy, saying, "I wrote some notes at the beginning of a song someone will sing for me. America, you great unfinished symphony, you sent for me."

More deeply, however, these questions point to a central challenge of democratic politics: the need to remember and transmit the ideals that sustain our republic, even as future generations reshape what came before—continuing the symphony. If our democratic republic is to thrive, we must tell and retell the story of its Founding—the story that, in all its messy complexity, is itself one of our Founders' greatest gifts. ♦

B&A

Dark Victory

A scandal, a newspaper, an utterly riveting piece of entertainment. **BY JOHN PODHORETZ**

I went to see *Spotlight* out of a sense of dreary duty. The movie is being touted as an Oscar possibility and has received rapturous reviews, neither of which is any guarantee of quality or enjoyment. Quite the opposite, in fact: Last year's Oscar winner, *Birdman*, was similarly praised; I found it annoyingly pretentious and overdone. In addition, I've found the past work of its director and cowriter, Tom McCarthy, unsatisfying. His movies—*The Station Agent*, *The Visitor*, and *Win Win*—are intelligent and thoughtful, but they're fussy and careful and they never really come alive.

Spotlight
Directed by Tom McCarthy

To make matters worse, *Spotlight* sounded like the worst kind of activist-movie pap: an account of a brave group of reporters who expose a conspiracy by the Boston Archdiocese to bury information about sexually abusive priests. Having worked at newspapers myself on and off for 30 years, I feel about the often insanely false and wildly romanticized depictions on screen of the way newsrooms function, and the glamorized portraits of those who work in them, the way many people feel about nails upon a blackboard.

Finally, as I said in a recent piece, watching depictions of children in jeopardy or in pain on screen became almost unendurable after my first child was born 11 years ago.

So imagine my surprise when my dreary duty turned into something unexpectedly thrilling. Far from being homework, *Spotlight* is an utterly riveting piece of entertainment. More important, and more impressive, McCarthy and his cowriter Josh Singer have found a way to tell one of the most sordid and shocking tales of institutional corruption of our time without sensationalizing it, turning up the melodramatic heat, or being so direct in its depiction of the abuse that the film becomes agonizing to watch.

Instead of addressing its subject directly, *Spotlight* comes at the church sex scandal sideways. It features what is almost certainly the best portrayal of the day-to-day inner workings of a newspaper ever put on film. This is important, and not just for the enjoyment of people in the business. Even for those who have no reason to know how accurate its rendering really is, *Spotlight*'s offhandedly meticulous recreation of the feel and sound and style of a newsroom—and the way a team of reporters and editors puts together an investigative project—provide exactly the kind of authority a "based on actual events" movie of this sort needs. Most fact-based projects strike so false a tone that they seem to take place in an alternate reality, and seem more like pageants than true stories.

The year is 2001, which means that the *Boston Globe* has yet to undergo the Internet-driven evisceration that has since left it (like almost all newspapers) a shadow of its former self. The *Globe* of *Spotlight* is still a powerful and wealthy behemoth with a staff large enough that the paper has been able to set aside a team of three reporters and a full-time editor to do long-term, large-scale investigations over the course of many months.

A new editor, Martin Baron (Liev Schreiber), arrives—the first non-

John Podhoretz, editor of Commentary, *is* The Weekly Standard*'s movie critic.*

Rachel McAdams, Mark Ruffalo, Brian d'Arcy James, Michael Keaton, John Slattery

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Bostonian in the job. A quiet, shy, self-confident loner, Baron (now the editor of the *Washington Post*) asks his staff why no one has followed up one of the paper's opinion columns about an abusive priest. No one has a good answer; indeed, one of the more brilliant aspects of the portrayal of the *Globe* is that it subtly makes clear just how its market dominance has made the paper self-satisfied and sclerotic.

The job falls to the "Spotlight" team, under the management of lifelong Bostonian Walter "Robby" Robinson. He's played by Michael Keaton in a performance that will leave anyone who has ever worked at a newspaper in a state of shock. I don't know how Keaton has done it, but he is the eerie embodiment of an old-school type that populated urban newsrooms for most of the 20th century: a no-nonsense, no-emotions, no-airs, few-words, intense Catholic guy who has forgotten more about the city he covers than any newcomer will ever be able to learn. I don't know if this is true of Robinson himself—he was a foreign correspondent for many years—but there's never been a more accurate representation of a newspaperman.

Robby and his team set about tracking down abusive priests through the testimony of their victims. But after they find evidence against 13 of them and take their case to Baron, he demurs. What they have is important, he says, but it's not the story. The story is the system in which this was allowed to occur, in which priests guilty of felonious offenses escaped legal sanction and were transferred from parish to parish.

One of the reasons McCarthy's earlier work was unsatisfying is that, because he seemed to be so keen to be tasteful and avoid unnecessary drama, there was not nearly enough of interest in the plot or characters to carry the story along. Here, his good taste and reticence turn out to be exactly what the story requires.

The efforts made by the Archdiocese to stymie the Spotlight team—and by inference, to stymie previous efforts to illuminate the dark goings-on—are glancing, subtle, and haunting. They aren't menacing; they're soothing, with pleas to keep things in the family, to consider the good working order of the city, to ensure the church's good works are not interrupted. By this point, the number of priests involved has grown to 70, and the team has uncovered proof that the city's beloved Cardinal Law was part of the cover-up.

Mark Ruffalo and the Broadway actor Brian d'Arcy James play Robinson's fellow Boston lifers on the Spotlight team, while Rachel McAdams's character is an Ohio transplant with a grandmother from Southie. All three—Mark Rezendes, Matt Carroll, and Sacha Pfeiffer—were, we are told, raised Roman Catholic but have lapsed. Late in the movie, Rezendes tells Pfeiffer that he always thought he would go back, would become a churchgoer, but that the things he has seen and learned have now made that impossible.

It's the closest we get to an on-the-nose delivery of the film's message, but by this point, McCarthy has earned it. *Spotlight* is the best movie I've seen this year. ♦

"Obama finally has his own Facebook page"
—News item, November 9, 2015

Barack Obama

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Shakira

Michelle Obama

Barack Obama
Today at 10:12am •

Check out my sweet new trucker hat!!!

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