

the weekly

Standard



HILLARY VS. THE SANDERNISTAS

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February 15, 2016 • Volume 21, Number 22



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Hillary's Tangled Web

There has been a pretty consistent pattern to the Hillary Clinton email scandal. Every time the former secretary of state insists that the truth is all out, and it's no big deal, yet more damaging information emerges. Recently she and her surrogates have been dissembling so much they've barely had a chance to catch a breath between dishonest soundbites.

On January 29, the Associated Press reported that 22 Clinton emails on her insecure private server were at the highest levels of classification. (Classified information was also emailed to Clinton's pal, the oleaginous Sidney Blumenthal, on his AOL account. If you're going to help former aides scheme about war-profiteering, can't you at least pick one with the good sense to use Gmail?) The Clinton camp responded with the usual dismissals. "This is overclassification run amok. We adamantly [sic] oppose the complete blocking of the release of these emails," said Clinton press secretary Brian Fallon.

Naturally, a few days later on February 3, the *Washington Examiner* reported that seven more emails had been found to contain "top secret" information. And some of that information includes "classified sources, and they do reveal human assets," said Rep. Chris Stewart, a member of the House Intelligence Committee.

The *New York Post* is further reporting that this includes the names of CIA officers working overseas.

If these reports are true, we have to consider the possibility that the Clinton apparatus is engaged in an incredibly deceitful gambit, and



given the Clintons' storied arm's-length relationship to the truth, this is a pretty sturdy limb to climb out on. They know that the more sensitive the information is, the more unlikely it is this information is going to see the light of day. All they have to do is raise enough doubt among voters and skirt an indictment—a plan both Bill and Hillary Clinton have executed to perfection many, many times before.

Nonetheless, the Clintons, for all their connections, have thus far been

unable to stop the drip, drip of revelations about the email scandal, and it's damaging to Clinton's political fortunes, regardless of whether she faces legal consequences. (At a recent New Hampshire event, a man stood behind Marco Rubio wearing a "Hillary for Prison" T-shirt.)

So why is it that federal apparatchiks, normally so content to let Democratic scandals slide, are investigating this email scandal to the hilt? We don't discount the possibility that some members of the government still take pride in their country and respect the rule of law. However, a friend of THE SCRAPBOOK emails with another plausible explanation for why this is happening to Hillary Clinton:

If you were a former Marine captain who earned a Georgetown international relations Ph.D. and then spent 18 years in Foggy Bottom and had to ask friends and family to submit to proctological exams so you could get your security clearance and during her tenure the secretary ignored you in order to pay Sid Blumenthal with Russian uranium money so he could tell her to back the Libyan faction that was most likely to hire the mercenary company run by his other clients, just exactly how much do you have to care about abortion in order to say that the phone numbers of CIA assets in Iran's nuclear program that she asked Huma to "pls print" were not top secret? ♦

A Doll, at Any Size

Perhaps THE SCRAPBOOK is getting old—or, more likely, regards the subject matter as uncomfortably close to home. But we were alternately amused and horrified last week by a front-page photo in the *New York Post* depicting Mattel's new Curvy Barbie doll: "Meet new 'Fat Barbie,'" read the headline.

Fat? According to the *Post*, that seems to be the social-media consensus about this latest iteration

of 57-year-old Barbie. But take a look at that doll! Yes, Curvy Barbie might stand to lose a few pounds—at this time of year, who couldn't?—but if you crossed paths with Curvy Barbie in Legoland or chatted her up at a My Little Pony fair, would "fat" be the word you would choose to describe her? She looks like a chorus girl from *42nd Street*.



Yes, Barbie is only a doll, and girls who play with Barbies are surrounded by examples of real humans. Nor does THE SCRAPBOOK believe that anyone who ponders Barbie's wasp waist, elongated neck, giant eyes, tiny mouth, and disproportionate legs and bosom is likely to mistake her for anyone they know. Like Ingres's "Grande Odalisque," Barbie

TOP: CHIP SOMODEVILLA / GETTY

is a wondrous creature unknown to nature and not to be taken literally. Except, of course, when Curvy Barbie is derided as “fat.” ♦

Cluelessness at the ‘New York Times’

A memorable bit of health advice appeared in the February 3 *New York Times*: “Sexually active women who are not using birth control should refrain from alcohol to avoid the risk of giving birth to babies with fetal alcohol spectrum disorders, even if those women are not yet known to be pregnant, the Centers for Disease Control and Prevention has recommended. . . . *The report, which appeared to refer exclusively to heterosexual sex*, also said that three in four women who intend to get pregnant do not stop drinking alcohol when they stop using birth control [emphasis added].”

As a colleague of THE SCRAPBOOK points out, “Yes, *NYT*, that is the type of sex that can get women pregnant.” ♦

Traffic News

THE SCRAPBOOK’s commute is probably no worse than that of many of our readers who live in urban areas, which is to say that it’s almost never pleasant and is also highly unpredictable. President Obama’s appearance at the National Prayer Breakfast on February 4, for example, added a good 30 minutes to our morning drive, thanks to the Secret Service-imposed street closings that allowed his highness’s motorcade to make its way unimpeded from the White House to the Washington Hilton and home again. (We’re afraid we may have had a profane thought or two about the breakfast as we were mired in the gridlock.)

The twice-daily drive has been made somewhat more bearable in recent years by the advent of podcasting, not to mention the indispensable Waze app, which is always on the lookout for an alternative

route—one that will redirect the traveler out of the ninth circle of hell and into, say, the third or fourth.

Aware of THE SCRAPBOOK’s obsessive interest in the travails of commuting, our friends are kind enough to share articles on the latest research, one of which caught our eye this week. It was a report in the *London Times* urging the removal of “four out of every five traffic lights.”

Research by the Institute of Economic Affairs, the paper reports, finds that “a huge number of traffic lights, speed bumps, and cycle lanes have brought roads to a grinding halt.” The institute estimates that “delays of two minutes to the aver-

age journey cost the [U.K.] economy £16 billion a year.” We note, hopefully, that one of the report’s authors urges Greens to get on board the traffic-easing recommendations, noting that “all these traffic controls . . . actually increase pollution by delaying traffic and making car engines run less efficiently.”

THE SCRAPBOOK has not examined the research in-depth and so cannot unreservedly advocate the removal of 80 percent of all traffic lights. But we are intrigued enough to believe that an experimental trial may be in order to gather more data. Specifically, we intend to agitate for the removal of traffic lights along our



HEADS YOU LOSE, TAILS YOU LOSE.

own commute (the other lights can stay for now). We'll report back on the results if we are successful. ♦

Sentences We Didn't Finish

In a speech, Barack Obama, our most erudite president since Lincoln, inveighed against . . .” (Gene Weingarten, *Washington Post*, January 28, 2016). ♦

More Mansfield

In his weekly newsletter “Kristol Clear,” THE SCRAPBOOK’s boss alerts readers to “a two-part essay by Harvey Mansfield in the fine magazine *City Journal*. Mansfield’s topic is ‘Our Parties,’ with Part I on ‘The Democrats: how progress became drift,’ and

Part II on ‘The Republicans: party of virtue.’ And as an introduction to these challenging but very rewarding pieces, or as a tide-me-over until you have the leisure to read them, I’m happy to present a new conversation with Harvey Mansfield [available at conversationswithbillkristol.org]. In it, Mansfield considers our two major parties, the ideas behind them, and the qualities that often go with being a Democrat or a Republican. Mansfield argues that the Democrats are the ‘party of progress’—and that progressivism may be headed for a crisis. Mansfield calls the Republicans the ‘party of virtue’ and suggests the challenges that brings to the GOP”

THE SCRAPBOOK (naturally) seconds the boss’s enthusiasm and reminds readers who have not already done so that they can sign up (free!) for the “Kristol Clear” newsletter at weeklystandard.com/newsletter. ♦



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The Weekly Standard (ISSN 1083-3013), a division of Clarity Media Group, is published weekly (except the first week in January, third week in March, fourth week in June, and third week in August) at 1150 17th St., NW, Suite 505, Washington D.C. 20036. Periodicals postage paid at Washington, DC, and additional mailing offices. Postmaster: Send address changes to The Weekly Standard, P.O. Box 421203, Palm Coast, FL 32142-1203. For subscription customer service in the United States, call 1-800-274-7293. For new subscription orders, please call 1-800-274-7293. Subscribers: Please send new subscription orders and changes of address to The Weekly Standard, P.O. Box 421203, Palm Coast, FL 32142-1203. Please include your latest magazine mailing label. Allow 3 to 5 weeks for arrival of first copy and address changes. Canadian/foreign orders require additional postage and must be paid in full prior to commencement of service. Canadian/foreign subscribers may call 1-386-597-4378 for subscription inquiries. American Express, Visa/MasterCard payments accepted. Cover price, \$4.95. Back issues, \$4.95 (includes postage and handling). Send letters to the editor to The Weekly Standard, 1150 17th Street, N.W., Suite 505, Washington, DC 20036-4617. For a copy of The Weekly Standard Privacy Policy, visit www.weeklystandard.com or write to Customer Service, The Weekly Standard, 1150 17th St., NW, Suite 505, Washington, D.C. 20036. Copyright 2014, Clarity Media Group. All rights reserved. No material in The Weekly Standard may be reprinted without permission of the copyright owner. The Weekly Standard is a registered trademark of Clarity Media Group.



The Hand of Providence

He always seemed happy—at least to my 9-year-old self. At my Little League games, he had his photo taken with each team. At the grand opening of a bakery owned by my friend's mom, he showed up at the last minute to personally cut the ribbon. He'd tuck into plates of pasta on Federal Hill, the historically Italian section of my hometown of Providence, Rhode Island. Vincent Cianci—you probably know him as "Buddy"—who died late last month, appeared to relish his job as mayor of "America's greatest city" (at least that's how Providence was described in his campaign literature).

From 1975 to 1984, and again from 1991 to 2002, Cianci held the title long enough to be crowned "The Prince of Providence" by the biographer Mike Stanton. (He tried to regain the mayoralty in 2014, but lost resoundingly.) Or perhaps he just enjoyed the attention more than anything. After all, this was a man who slapped a photo of his smiling visage on jars of the "Mayor's Own Marinara" sauce, his ostensibly charitable foray into the culinary arts. (Total donated to the sauce's namesake scholarship fund between 2009 and 2012: \$0.)

It only occurred to me later in life how haunted the mayor must have been. In 1976, while a Republican (he later became an independent), Cianci gave a ballyhooed address to the GOP convention. There was serious talk of him being the first Italian American on a presidential ticket. *He could have been a contender.* But by the time I knew him, his career had long since peaked: He was the mayor of a fairly insignificant American city, population less than 200,000. Sure, Cianci still made regular appearances on *Imus in the Morning*, and his antics

ensured a steady stream of national news coverage, but that was as good as it was going to get.

That was all his fault. In 1983, Cianci viciously assaulted a man he suspected of being his wife's lover (there were lit cigarettes and a fire-place log involved). That felony conviction prompted his first fall from office. His second tenure as mayor ended in self-inflicted disgrace as well. Chronically unable to control



Mayor Buddy Cianci, November 20, 2000

his malevolent impulses, he ran a criminal enterprise out of City Hall: A federal RICO conviction sent him to prison for five years.

That stint in the slammer, even if it was a country club, took its toll on the man. The Buddy of my childhood was fat, loud, gregarious, and possessed of a full head of hair. (Okay, it was a wig.) When I last saw him in 2014, as he was mounting his failed bid at a comeback, Cianci was slight, bald, and frail. And his efforts at self-improvement were seemingly unsuccessful. Before he was sent up, Cianci vowed to use the time in captivity to learn Spanish and quit smoking. So I

asked him how his Spanish was. His only response was to laugh. A pack of Marlboros was lying in front of him on his desk. Cianci cussed a blue streak in our final interview and demanded I turn off my recorder so he could say some, er, impolitic things. When he lost that race—a defeat that some said would kill him—he returned to hosting both a radio and a television show.

For a few years now, people who have never lived in Providence have been telling me that my hometown is "cool." I still can't get used to this. (Be patient, beleaguered citizens of Allentown: It could eventually happen to you.) Cianci deserves credit for this: By helping to preserve Providence's historic stock of architecture and planning a beautiful riverfront park downtown, among other things, he helped turn a dying city around. During his second tenure, people began referring to Providence, not implausibly, as a "renaissance city."

But it's been sad to watch the twice-convicted felon get the Kim Il-sung treatment in the days after his death. Cianci lay in repose in Providence's splendid Second Empire City Hall (though there is no truth to the rumor, which I am hereby starting, that he'll receive the Full Lenin and be forever on display, embalmed). In fact, Cianci's body rested right in front of the very office . . . that he sold. Rhode Island's governor, meanwhile, pointedly said that the state house would not lower its flags in his memory, only to reverse course when angry friends of Buddy objected.

Cianci's campaign slogan in 1990, as he ran following the assault conviction, was "He Never Stopped Caring About Providence." If that's true, it's perverse: Like an abusive husband, he mistreated what he supposedly cared about most. But perhaps it's churlish to dwell on that now. Buddy Cianci was, after all, the man who sought to "Make Providence Great Again."

ETHAN EPSTEIN

A Careless Executive



Barack Obama in the Oval Office, April 2010

In few cases in its long history has the Supreme Court had occasion to interpret Article II, Section 3 of the Constitution, which provides that the president “shall take care that the laws be faithfully executed.” This year it may have another. We’ll know by the end of the Court’s term in June, just as the presidential race is heating up.

United States v. Texas is the case to watch. At issue is President Obama’s executive action on immigration known as DAPA (Deferred Action for Parents of Americans). Under DAPA, undocumented immigrants who satisfy certain conditions may live here for three years, a temporary reprieve from deportation, and obtain work permits. The conditions are that they have children who are either American citizens or lawful permanent residents and that they have been in the United States since January 2010.

DAPA was announced on November 20, 2014. Texas, joined by 25 states, then sued, their common concern being the significant costs the states would have to absorb should DAPA take effect and otherwise deportable illegal immigrants stay in the United States. The costs would include subsidies for temporary driver’s licenses and outlays for health care, education, and law enforcement.

On the legal issues, the lower courts agreed that DAPA failed to comply with the notice-and-comment requirements of the Administrative Procedures Act. They had no need to address constitutional matters.

Appealing the case to the Supreme Court, administration lawyers took care to urge the justices not to take up constitutional questions. But Texas solicitor general Scott Keller invited the Court to consider “Whether DAPA is contrary to law or violates the Constitution.” The Court took the question and tightened its focus. In granting the case last month, it directed the parties to “brief and argue . . . Whether the

Guidance violates the Take Care Clause of the Constitution.”

By its terms and in accord with its history, the take care clause imposes a duty on the president to faithfully enforce the law. That the Court has sought briefing and argument on whether DAPA violates the clause doesn’t mean, however, that the justices will decide the case on that basis. Nor must they: The Constitution gives Congress weapons—such as the power of the purse—that it can use to fight back politically against the executive in order to preserve its legislative prerogatives.

The Court may have directed the parties to brief and argue the take care question for a simple reason: to have a fuller picture of the controversy before it. In any case, responding to the question will afford Texas an opportunity to highlight the doctrine of “constitutional avoidance” as a reason for the Court to decide the case, as the lower courts did, on statutory grounds if it can.

Whatever the Court says about the Constitution in this case, if it says anything, our foundational law remains relevant to how the ordinary citizen thinks about DAPA and other policies effectively legislated by executive action. Consider that Article I of the Constitution begins this way: “All legislative powers herein granted shall be vested in a Congress of the United States . . .” All in a Congress, none in the executive. At one point Obama seemed to understand this, even in the context of immigration policy. On March 28, 2011, he said that “with respect to the notion that I can just suspend deportations through executive order, that’s just not the case, because there are laws on the books that Congress has passed.” Two years later, having suspended some deportations, Obama said that if he ordered any more, “I would be ignoring the law in a way that I think would be very difficult to defend legally.”

But that was then. Over the two terms of his presidency Obama has increasingly resorted to executive action of one form or another (executive order, presidential memorandum and directive, agency guidance) to make policy. He has governed using those instruments in a wide range of domestic policy contexts, including health care, drugs, and welfare, in addition to immigration. In foreign policy, too, most notably in effecting the Iran nuclear agreement and the rapprochement with Cuba. In every instance Obama has acted unilaterally—meaning Congress has not been involved. Lanhee J. Chen, a research fellow at the Hoover Institution, says that Obama’s use of executive action “to achieve his policy aims is without precedent in its disregard for the people’s elected representatives.”

Obama’s executive action presidency has produced an anti-constitutional rhetoric. The basic message is that Congress has failed to act, and “we can’t wait” or “I can’t wait” or “the world can’t wait” any longer to get the policy we want. The rhetoric rarely admits genuine policy and political dif-

ferences between the elective branches. And it invites Americans to believe that the president has power to legislate. As for the take care clause and the duty of a president to take care that the laws are faithfully executed, it says . . . nothing!

Most of the Republican presidential candidates have vowed to undo Obama’s executive action presidency in substantial part if not entirely. (Ted Cruz has even written a law review article unambiguously titled “The Obama Administration’s Unprecedented Lawlessness.”) The undoing can be accomplished by (ironically) executive order, with the stroke of a pen. It’s likely that not all of Obama’s executive actions are illegal or unconstitutional; on some (few) of them a new Republican president might agree and work with Congress to enact through the regular legislative process. Obviously, care would have to be taken in making those evaluations. But the task would be worth the effort, for it would be a big first step toward the constitutional presidency whose time, we hope, is coming soon.

—Terry Eastland

He’s Still Alive!

It’s been one scary horror movie. But now, at last, the happy ending. The slasher is dead. The aliens have been defeated. The flesh-eating zombies have been disposed of once and for all. The vampires will never suck blood again. You exhale. You relax. You heave a sigh of relief.

Big mistake! As even the most casual observer of cinematic conventions knows, this is the moment of maximum peril. The moment when, suddenly, the slasher’s not really dead. The aliens aren’t all gone. The zombies haven’t been disposed of. The vampires are stirring. They’re BACK!!!!

Donald Trump lost Iowa. But he’s far from politically dead and decisively defeated. Yet large parts of the Republican party and the conservative coalition remain as foolishly complacent as they were during his ascendancy. And some of the anti-Trump forces are now heaving sighs of relief and letting down their guard.

Don’t! It’s not as if he’s fallen all that far. Trump lost Iowa by 3 percentage points. As we write on February 4, he seems to be maintaining a comfortable lead in New Hampshire. And who’s doing much to persuade voters to abandon him? Not Chris Christie and Jeb Bush’s super-PAC, who are desperately and irresponsibly focusing their

attacks on Marco Rubio. Not elements of the Republican establishment, who agree with Jimmy Carter in preferring Trump to Ted Cruz.

And if Trump wins New Hampshire, what then? Winning New Hampshire after losing Iowa is a pretty good recipe for winning the nomination, as the examples of Ronald Reagan in 1980, George H.W. Bush in 1988, John McCain in 2008, and Mitt Romney in 2012 suggest. In fact, since the modern primary system really came into being in 1972, the eventual GOP nominee has always run first or second in New Hampshire. So it’s dispiriting that more of an effort isn’t being made to decisively knock Trump down and out.

Maybe the voters of New Hampshire will rise to the occasion on their own, deal Trump a death blow, and end the horror show. Or perhaps New Hampshire will be Trump’s last gasp, and the voters of subsequent states will decisively reject him. But complacency at this point is unwarranted and could be disastrous. And hope is not enough, either. Republicans and conservatives—elected officials, donors, activists, and citizens—are going to have to finish the job that the Republicans of Iowa so creditably began.

—William Kristol



The Email Saga

The more you know about the State Department, the worse Hillary's actions look. **BY JOHN R. BOLTON**

For alumni of U.S. national-security departments and agencies, Hillary Clinton's email saga is mind-numbing. The publicly available information makes clear she and her aides violated so many elementary security prohibitions that alumni are speechless. They wonder, had they done what she did, how quickly they would have lost their clearances and jobs and how extensive the criminal indictments against them would be.

By contrast, many who have never served in government or dealt with classified information see the affair as opaque, even overblown. Certainly Clinton has worked hard to foster that impression. Leaving political spin aside, and without delving into arcane legal analysis, which is it? What did Clinton and her entourage actually do day-to-day, and what does it mean? In hopes of making things a little clearer, herewith the observations of one State Department alumnus, who has pondered how he would look in an orange jumpsuit were he in Clinton's shoes.

State, like other national-security agencies, has both classified and unclassified ways for its employees, especially the most senior, to communicate. Clinton erred in two separate but often confused ways. First, she used private channels for official government business, and second, she used unclassified channels to send and receive classified information.

Her first error violates basic common sense, familiar to any private business: Business channels should be used for business purposes and personal channels for personal purposes. Obviously, there can be ambiguity

John R. Bolton, a senior fellow at the American Enterprise Institute, served as U.S. ambassador to the United Nations in 2005-06.

between business and personal communications, such as one spouse asking another, "When will you be home for dinner?" But in Clinton's case, there seems to be no ambiguity: She simply did not use government channels for her electronic communications. Her motive was almost certainly to put information she alone deemed personal beyond government access, which is impermissible even for the most junior clerk, let alone the secretary of state. Clinton's private email system by definition undercuts her defense that she complied with government record-keeping requirements because all her emails went to unclassified government accounts (such as her aides'). Without full access to her server, why should we believe Clinton didn't send emails to aides' private email addresses, thereby shielding them entirely from potential government retrieval?

Clinton's second error, using unclassified email systems—whether her private accounts or State's unclassified email system (through her aides)—to

transmit material that should have remained in classified channels, is the nub of the email issue. Clinton has asserted that what she did with her private channels was "allowed." Yet she has produced no evidence whatever of who did this "allowing" that was contrary to applicable statutes and express State Department regulations involving official business and information security.

Clinton clearly did not vigorously pursue normal State procedures to have her private email server legitimized. Had she somehow gotten the

necessary signoffs from the bureaucracy, she would have at least had cover from the current firestorm, and we would have heard about it long ago. Far more likely, she realized that, had she asked plainly, she would have been told plainly that her scheme was way out of bounds.

How should she have pursued standard approval procedures from department officials responsible for legal compliance and security requirements? She could have solicited an opinion from State's legal adviser, the department's general counsel. Either verbally or in writing, she could have described what she proposed to do and asked if it was acceptable. There is as yet no evidence that anyone contacted the legal adviser's office on this subject. Perhaps Harold Koh, legal adviser under Clinton (now back at Yale Law School), can inform the public debate by telling us whether he was ever aware of what Clinton was doing. Or the FBI could ask him directly. (There is no attorney-client privilege issue here; Koh's client was the U.S. government, not Clinton personally.)

Similarly, State's executive secretariat (charged with the critical bureaucratic task of managing paper flows and records of decisions by Clinton and other key officials) would have been utterly remiss if it were blind to Clinton's ignoring gov-



ernment communications channels, let alone security requirements. And other State offices like the Bureau of Diplomatic Security (charged among other things with the secretary's safety) and the Bureau of Information Resource Management had important equities at stake. Were they, or their boss, under secretary for management Patrick Kennedy, ever consulted or informed about Clinton's practices in whole or in part? And has the FBI talked with any of these people yet?

Clinton's next line of defense, as she stated January 31: "There is absolutely

no evidence that I sent or received any email marked classified.” Of course, using a private email account or even State’s unclassified email system and marking emails classified would be an immediate, incontrovertible admission that security requirements had been violated. The way to avoid creating such evidence is not typing “Secret” or the like in the emails. That gambit, however, cannot declassify information already classified or classifiable.

What exactly were Clinton’s aides doing that resulted in classified material being exchanged among them? Here, it helps to understand how classified information, especially highly sensitive material, is distributed within State. Some particularly sensitive intelligence is available only in hard copy. Scanning it into an unclassified email system would mean retaining the original classification markings, an exceedingly incriminating action, as explained above. Considerably more classified information is available electronically, but it cannot be transmitted from the classified to the unclassified system except by State Department technicians in very limited circumstances. For example, you cannot attach a classified document to an email on the classified system and send it to an AOL or Gmail account. One of the most fundamental protections for secure IT systems is that they are

way as containing classified material. She could forward an email to someone else, or send it back in reply. That’s why so many emails are now redacted. If the FBI is doing its job, it will interview the senders of those emails, asking them how they obtained the information they transmitted.

Most emails released to date were exchanged among Clinton’s close political circle at State, but some originated from career personnel. This is a particularly pernicious, if little-noticed, consequence of her disdain for proper security: dumbing-down security protections department-wide. State’s bureaucracy knows no higher career goal than getting face time with the secretary or otherwise getting their names before her. No Washington bureaucracy is cleverer in figuring out how to reach that objective. Very likely, some number of senior State careerists knew of Clinton’s private email and accordingly communicated much of what they wanted her to see in unclassified form, thereby breaching security. More fodder for the FBI.

But, Clinton pleads, she did not originate any emails with classified information. Even if true, Clinton, the queen bee of this scheme, unarguably understood the game. In one known instance, proving the

there, moreover, she signed a standard nondisclosure agreement that by its express terms defines classified information as “marked or unmarked . . . including oral communications.”

Clinton tries to minimize the seriousness of her error by arguing, as she did during the January 31 interview, that having hundreds of her emails wholly or partly redacted before release is nothing but “classification in retrospect.” This dodge is either deceitful or utterly uneducated. To argue, as Clin-



not connected to the Internet. When I was at State, for example, I had two computers behind my desk connected to completely separate classified and unclassified systems.

Given these obstacles to readily transferring classified materials into unclassified emails, what almost certainly happened is this: Clinton aides would read classified documents, either hard or electronic copies, and type the information, paraphrased or verbatim, they wanted to transmit into unclassified emails. They would then send them to Clinton, unflagged in any

point clearly, she instructed an aide to delete classification markings and send classified material on an unclassified fax. If this isn’t evidence of “specific intent” for prosecutors, nothing is. It is delusional to say that an experienced, well-briefed official wouldn’t have had a good and growing sense of what should be classified, whether the material originated with her or not. Clinton served for six years on the Senate Armed Services Committee, where she saw significant amounts of classified information. She was no babe in the woods when she came to State. Once

ton does, that information properly unclassified at the time she received it can grow more sensitive as time passes is so breathtaking it almost defies physical reality.

For the vast bulk of classified government documents, the potential damage from being leaked diminishes over time, largely for two reasons. First, time sensitivity is a significant factor in classification decisions. When, for example, a U.S. diplomat receives intelligence about negotiations in real time, the need to shield the information as highly classified

THOMAS FLUHARTY

may be very transitory. Even just days later, its value may have largely dissipated. Second, the passage of time almost invariably reduces the damage to the United States if the information gets into the wrong hands. Thus, immediately leaking sensitive information can be highly damaging, but leaking it a year later may only be embarrassing, while in five years there may be essentially no harm at all.

The situation is different, and much worse for Clinton, regarding intelligence gathered through sensitive sources and methods. While the significance of the content itself likely diminishes over time, the sensitivity of sources and methods can last decades or longer. Compromising these sources could put lives at risk and ruin billion-dollar collection systems. This is certainly true for “Special Access Program” (SAP) reports, recently prominent because even the State Department withheld 22 Clinton emails in their entirety because they contained SAP material.

State’s current leadership, however, is clearly trying to provide cover for Clinton by disputing classification decisions of other agencies. Bureaucrats often engage in such internecine warfare, but the operating principle has long been that the classifier of information retains control over its distribution and release. This principle rests on the common-sense notion that the agency originating or acquiring the information is best-positioned to decide how much protection it requires. State would feel the same way the intelligence community feels today about Clinton’s callous disregard for its judgments if, for instance, the Defense Department decided to declassify State reporting cables. Significantly, as Fox News’s Catherine Herridge has reported, the FBI is asking the originating agencies for their judgments, rather than relying on State’s *post facto* obstructionism.

Finally, Clinton is calling for all of her emails to be disclosed publicly. This is the most hollow, hypocritical ploy of all. She knows with certainty that the administration will not release them. The classification protections

are not Clinton’s to waive, any more than she could waive executive privilege on her emails with President Obama if he determined to keep them privileged. And we now know, despite earlier denials all around, that Obama and Clinton did indeed communicate through her private channels.

Clinton has many other points of vulnerability that have barely been noticed. For example, hostile intelligence services can remotely capture control of cell phones and other electronic devices with microphones and have them transmit back everything the microphones pick up, even when the devices are apparently turned off. This is why, on entering a secure classified information facility, people must leave their electronic

devices outside the room. This is also why senior U.S. officials are asked not to bring cell phones and laptops when they visit countries like Russia and China, because of the severe risk the equipment could be compromised during their trips. Yet for four years, Clinton and her top political staff apparently traveled worldwide with personal electronic gear such as cell phones and iPads, ignoring specific recommendations from State IT personnel not to do so.

We have just scratched the surface here of the irregularity of Clinton’s practices while at State. And that could be the FBI’s hardest job: how to find sufficient resources to investigate properly before the suspect becomes their boss. The race is on. ♦

An Awful Candidate

And she’s been getting worse.

BY JONATHAN V. LAST

New Hampshire

It was 11:30 P.M. on the night of the Iowa caucuses and Hillary Clinton had a decision to make. She was ahead of Bernie Sanders by less than 1 percent of the vote count and most of the precincts were in. But her lead was shrinking. If she waited much longer, her victory speech might turn into a concession. So instead of taking the risk, she chose a middle course: She went out before the cameras, even as Ted Cruz was giving his own valediction, to deliver a speech that was neither victorious nor conciliatory. It was ghastly.

With her former president husband standing behind her slack-jawed—his mouth hung weirdly agape throughout her remarks—nearly the entire six-and-a-half-minute affair was pitched at a shout. Clinton’s eyes bulged, the thumb of her closed fist jabbed the air

again and again. She proclaimed that she most certainly *was* a progressive and, as if to prove her bona fides, provided a list of rights that she pledged her sacred honor to defend.

“We have to be united against a Republican vision and candidates that would drive us apart and divide us,” she exhorted the crowd. It wasn’t just the logical dissonance of the line that was off-putting: a campaign whose placards proclaim “Fighting for Us” uniting against an opposition whose chief sin is divisiveness. The delivery was stilted. She emphasized the wrong words and lilted her voice upwards in midsentence as if asking a question, so that the line sounded like: “We have to be UNITED?—when it’s all said and DONE—we have to be UNITED? against a REPUBLICAN vision and candidates that would DRIVE us apart and divide us.”

It was the type of performance that brought home what an awful campaigner Clinton is. Or rather,

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has become. Because despite what you might think, she wasn't always this bad.

One of the common misperceptions about the 2008 campaign is that Hillary Clinton gacked the nomination like a kicker pushing a 30-yard field goal into the sidelines. This is not quite right. She made a critical miscalculation in not spending enough to organize several small-state caucuses. That hurt her dearly. But she also suffered from several factors beyond her control: the left's continuing rejection of the Iraq war, the media's complicity in keeping John Edwards viable until he could wound her in Iowa, and the total solidarity of African-American voters with Barack Obama. Because of these developments, the Democratic party establishment abandoned her at the first opportunity, taking with it super-delegates, endorsements, and a giant pile of money, all of which it eagerly transferred to Obama. And despite all of this, Clinton *still* won more Democratic primary votes than Obama did—only to find out that the party of Al Gore was suddenly obsessed with procedural technicalities and no longer cared about raw vote totals.

The fact that she was able to win more votes than Obama in the face of such adversity is testament to her political grit. Clinton began that race as a soft, liberal feminist. But when it became clear that this coalition was no longer enough to win the nomination, she went out and assembled a new one on the fly. Always remember: When Barack Obama mocked Americans who bitterly cling to their guns and religion, he was talking about Clinton's voters.

And not only was Clinton a reasonably good tactician, but as the campaign wore on she became a reasonably good candidate. She could never lay claim to her husband's charm or Obama's charisma. But she was feisty and tough. She could feign a reasonable degree of humility. Most important, she learned to play within her own abilities, never reaching for pitches she couldn't command. As a political talent, you probably would have put her in the same class as John Kerry or Mitt Romney.

I mean that as a compliment. Sort of.

But eight years is a long time and Clinton's fastball isn't what it used to be. In New Hampshire this week, her events are booked into Boys & Girls Clubs and high school cafeterias, rather than the big theaters, where Bernie Sanders plays to wild-eyed, adoring millennial mobs.

In the runup to showtime at a Clinton event, the campaign plays a 45-minute package of video clips of the candidate speaking. It seems as though about half of them feature her talking about "gay rights," and in the most politically aggressive sense possible. In one clip, she laments that there are places in America today where gay couples "can even be denied a wedding cake," suggesting that Clinton is on board with the most coercive Bake-Me-a-Cake! vision of gay rights.

She doesn't strictly *need* to be. Sanders is mostly challenging her on economic issues. But since Clinton is unwilling to enter a bidding war with Sanders on socialism—she thinks it's a terrible idea to offer free college tuition for everyone, and she insists that she will never raise taxes on the middle class—she seems to think she can counter him with identity politics. And guns.

If you've spent any time watching Hillary Clinton over the years, you may be surprised to learn that the subject she's most passionate about right now is not health care, or job creation, or foreign affairs, or feminism, or The Children, but gun control. This may have something to do with the fact that gun control is the only issue on which Clinton has been able to position herself firmly to Sanders's left.

Which is why at most campaign stops in New Hampshire, Clinton is introduced first by former astronaut Mark Kelly and then by Kelly's wife, Gabrielle Giffords, the former member of Congress from Arizona who was shot in the head in 2011 and suffered a traumatic brain injury. Kelly speaks movingly about Giffords's and Clinton's

ability to fight through adversity. Giffords, who has difficulty talking, then says a few words—no more than a handful of sentences—before introducing Clinton. And the candidate then opens her remarks by talking about gun control. This routine is repeated several times a day, across the state. It is as ghoulish as it is transparent.

In the stump speeches that follow, Clinton is every bit as terrible as she was on caucus night in Iowa. Her delivery alternates between quiet grimace and angry shout. And then there are her inflections and cadences.

The actor Christopher Walken famously takes scripts and removes all

the punctuation from his lines so that he can come at the dialogue in fresh, unexpected ways. Clinton seems to have done something similar. Talking about Republicans, for instance, she says, "They will RIP? away the progress we have made, SET? us back, and if they HAVE? their way, they will RETURN? to

trickle-down economics, which will MAKE? it even HARDER? [pause] to FIX? the problems that we still have to deal with from the Great Recession." Walken's strange line readings make his performances oddly memorable; Clinton's make hers vaguely unsettling.

And that's just the performance part. The stump speech itself is a formless hodgepodge. She hugs Obama, she name-checks Planned Parenthood, she talks about an unspecified plan to defeat ISIS. In extended haiku form, her speech is essentially this:

Guns.

You have to fight. People will knock you down.

You have to get back up.

And fight.

Obama. Obamacare. Bill Clinton. '90s. Republicans bad.

Green energy.

Raise taxes on the rich.

Guns.

You don't have to be part of the vast right-wing conspiracy to get the sense that Clinton's campaign is angry and



Stiff and tired

negative. Partly this impression comes from her affect. (“I’ve got so many things that infuriate me,” she volunteered at a rally in Derry.) Partly it comes from her vision of the future: When she says America must “stay on this hard path we have walked together” in the Obama years, it sounds more like a forced march than a grand adventure. But mostly it’s because of her continual reference to fighting, which recurs in nearly every section of every speech. She’s a “fighter.” It’s important to “Fight. Fight. Fight.” She’s “fighting for us.”

The only time Clinton doesn’t want to fight is when she talks about the Sanders single-payer health care plan. Here is her explanation for why single-payer is a bad idea: “He wants us to start all over. I think that would be a terrible mistake: to throw our country into a contentious debate over health care AGAIN?” Worthy of scorched-earth warfare: Planned Parenthood and gay wedding cakes. Not worthy of a big fight: universal health care. You

can see why the more liberal elements of the party aren’t in love.

On the stump, it’s striking how bereft Clinton is of both humor and joy. How can you have a speech that takes shots at Donald Trump and isn’t funny? Somehow, she does it. She’s against free college, she says, because “I will not pay for Donald Trump’s kids to go to college.” That’s her big laugh line; try the veal.

Even the grit of 2008 is gone, replaced with a rote weariness. For instance, the end of her speech—literally the last passage she gives to crowds before the music comes up—isn’t a promise or a call to action. It’s just a string of phrases: “The work of my life has been to lift up people—particularly kids—to help solve problems, to overcome obstacles, to lead with my heart, combined with my experience, my judgment, and my commitment and determination, to serve you, to win your support.” It is not difficult to imagine the many, many focus-group sessions that went into crafting

this litany of non sequiturs. And her political instincts, such as they were, seem to have deserted her altogether. Asked by Anderson Cooper at a town hall event about being paid \$675,000 in speaking fees by Goldman Sachs her response was—hand to God—“Well I don’t KNOW? That’s what they offered.”

The Hillary Clinton of 2008 was more vulnerable than she looked. The Hillary Clinton of 2016 is more vulnerable still. She has regressed as a candidate, and it’s already hurting her. Barring indictment, she’ll probably grind her way to the nomination. But already, the Iowa entrance poll numbers portend problems for her down the road. Among voters ages 17 to 29, Sanders beat her by an incredible 84 percent to 14 percent. Among voters 30 to 44, Sanders was *only* 21 points ahead. It takes a good candidate to turn out voters in the general election who were cool to them in the primaries.

And Hillary Clinton’s best days as a candidate are behind her. ♦

Poorly Developed Regulations Have Real Consequences

By Thomas J. Donohue

President and CEO
U.S. Chamber of Commerce

One of the major shortcomings in our regulatory system is that regulators too often fail to balance the costs and benefits of rules, which imposes a heavy toll on the economy and leads to all kinds of unintended consequences. Look no further than the U.S. brick industry, which is being hit with two new rules that, according to a recent study by the U.S. Chamber of Commerce, will do far more harm than good.

The Environmental Protection Agency’s (EPA’s) new Brick MACT rule imposes much stricter emissions limits on brick plants. EPA had previously set a tough standard in 2003 that required brick companies to invest millions in equipment to reduce their emissions by 95%. But environmental activists got a court to throw out the 2003 regulations, prompting EPA to start over. The agency gave brick plants no credit for the reductions they had

already achieved and assumed, without much data, that brickmakers could meet the new standard easily and fairly cheaply. But those assumptions were wrong. Now many plants will have to spend millions to remove existing controls and spend millions more to purchase and operate new equipment.

The annual industrywide costs of the Brick MACT rule could top \$100 million. Yet the regulation would reduce mercury by a mere 147 pounds a year for the entire industry—the equivalent of less than 0.0025% of the mercury, or dental amalgam, currently filling Americans’ cavities. The rule would reduce particulate matter by 170 tons a year. But when you consider that’s about 0.002% of the amount of particulate matter U.S. fast food restaurants emit every day, it’s clearly a drop in the bucket.

The Occupational Safety and Health Administration (OSHA) is also imposing a stricter silica dust emissions limit for brick plants. However, the new rule

ignores numerous studies that show brick manufacturing is not a primary cause of silica-related illness in factory workers. So the industry is being asked to shoulder a heavy burden to solve a problem it doesn’t have. As a result, even small brickmakers will face \$900,000 in up-front costs to install new equipment plus \$224,000 a year in additional operating costs.

There’s no question that we need regulations to keep our air clean and working conditions safe, but they must be based on demonstrated need, backed by good data, and ensure that the benefits outweigh the costs. Otherwise, they threaten to knock down entire industries, shutter small businesses, and kill jobs. And for what?

Read more about how brickmakers will be affected by new rules at uschamber.com/etra.



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The Real Shape of the Race

A populist and dueling conservatives.

BY STEPHEN F. HAYES

Des Moines, Iowa

The shorthand understanding of the likely three-man race for the Republican nomination goes something like this.

Donald Trump is the populist outside agitator, running on economic nationalism and against the entire political system. Ted Cruz is the anti-establishment crusader, running on sharp intellect, eager confrontation, and ideological purity. And Marco Rubio is the conventional candidate, running on optimism, easing our anxieties, and repairing old divisions.

Cruz and Trump are often lumped together as “outsiders” or “antiestablishment,” manifestations of the anger and frustration of the Republican base. Rubio, by contrast, is usually included in discussions of the “establishment lane” and grouped with John Kasich, Chris Christie, and Jeb Bush.

As with much conventional wisdom, there is some truth in these generalizations. And it’s clear that in some ways the campaigns themselves accept this framing. For six months, Cruz and Trump avoided criticizing each other on the assumption that their campaigns occupied overlapping chunks of the “antiestablishment” political space. When their de facto nonaggression pact ended, they quickly turned to attacking one another with the kind of vigor that candidates reserve for opponents who represent the largest obstacles to their victories. At the same time, most of the incoming fire Rubio has taken has come from the campaigns

and super-PACs of the candidates hoping to end up king of the “establishment” mountain.

Rubio looked ready to accomplish that objective when he finished an unexpectedly strong third place in Iowa, winning 23 percent of Republican caucusgoers—within 1 point of Trump and 4 of Cruz. His vote total was more than three times the com-



One of these is not like the others.

bined shares of Kasich, Christie, and Bush. Pundits immediately speculated that Rubio, with an expected infusion of cash, was in a position to overtake Trump and Cruz and glide to the Republican nomination. To Rubio detractors, this was cause for alarm.

The most direct warning came from Laura Ingraham, the talk radio host and bestselling author, whose analysis of the presidential race has been very friendly to Trump. Ingraham called for a return to the “strategic alliance” that defined the Cruz-Trump relationship until January. Cruz and Trump “placed first and second in Iowa,” she wrote. “But if they don’t now combine forces and put aside their rancor, they may each find themselves losing the nomination to the third-place finisher, Establishment favorite Florida Sen. Marco Rubio.” Rather

than attacking one another, she wrote, Cruz and Trump “should focus on the failures of the Rubio Establishment—like their support for the Trans Pacific Partnership, immigration amnesty and increasing the budget deficit.”

Some of these distinctions are not quite what they seem. Ted Cruz authored a *Wall Street Journal* op-ed with Paul Ryan in favor of Trade Promotion Authority, before opposing the TPP. Donald Trump expressed conditional support for “amnesty”—his word—as recently as 2013. And Trump opposes reforming entitlements, the driver of our debt crisis, while Rubio, running for Senate in Florida, campaigned on entitlement reform and then voted for budgets that included it.

Anticipating the kinds of presidencies we might expect from these candidates, it seems to me more accurate to look at the GOP nomination race as having three lanes, not two: a nonideological populist lane featuring Trump alone, a traditional Republican lane that includes the governors, and a movement conservative lane with Cruz and Rubio.

Trump is not a conservative. He’s an economic nationalist whose limited involvement in politics over the years has largely consisted of furthering his own interests by contributing to members of both political parties. His current policy positions often contradict those he’s publicly expressed in the past, and his governing philosophy, to the extent he has one, combines crony capitalism with government activism (eminent domain; ethanol; protectionism; universal, government-paid health care).

The governors mix some conservatism with the kind of go-along-get-along pragmatism that has so many GOP primary voters frustrated. Christie advocates broad entitlement reform, but expanded Medicaid in New Jersey; he supported Obama’s nomination of Supreme Court justice Sonia Sotomayor, defended Common Core, and backs Obama’s anti-due-process proposal to ban gun purchases for those on the federal government’s flawed terrorist watch list. Kasich also

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ANDREW BURTON / GETTY

expanded Medicaid, over the objections of many Ohio Republicans, and he frequently defends his decision by invoking God and suggesting that those who disagree with him are inadequate Christians. He's mocked elected officials whose decisions are guided by a philosophical commitment to limited government and proclaimed himself a proud pragmatist and an opponent of ideology. Bush, who implemented a series of successful conservative reforms as governor, has grown increasingly critical of the base of his party since leaving office in 2007. He famously suggested he would be a candidate willing to "lose the primary to win the general"—an announcement in advance that he'd risk running as a moderate in the GOP nominating contest to preserve his centrist appeal in a race against the Democratic nominee. All these candidates would fit comfortably on the list of establishment Republican nominees dating back to 1992: George H.W. Bush, Bob Dole, George W. Bush, John McCain, and Mitt Romney.

Rubio and Cruz are different. They are visceral and intellectual conservatives, first elected as explicitly and purposefully antiestablishment candidates. Rubio bucked the Florida party leadership to run for Senate in 2010, eventually defeating incumbent governor Charlie Crist, who was supported by the Washington GOP establishment, including the National Republican Senatorial Committee. Rubio won the backing of conservative movement groups set up to challenge the GOP establishment—various Tea Party organizations, the Club for Growth, and the Senate Conservatives Fund among them. He ran as an unapologetic conservative, campaigning on entitlement reform at a time the national party was advising candidates to avoid talking about entitlements at all cost.

Ted Cruz traveled a similar path two years later, challenging Texas lieutenant governor David Dewhurst. Like Rubio, Cruz won the backing of the Senate Conservatives Fund, Club for Growth, and Tea Party organizations. And like Rubio, Cruz ran against the establishment of

both political parties in Washington.

Has Rubio gone "establishment" during his time in Washington, as his detractors claim? His lifetime rating from the American Conservative Union is 98 out of 100. His current Heritage Action score is 94 percent—the Senate Republican average is 60 percent—with a lifetime score of 91 percent. As Jim Geraghty put it in an exhaustive account of Rubio's tenure in the Senate: "If Rubio really represents the new GOP 'establishment,' then the fight is over and the conservatives won. Despite infuriating many grassroots conservatives by pushing the failed Gang of Eight immigration-reform bill and advocating a path to legalization, Rubio has an indisputably conservative record as a senator."

Using these ratings as a guide, Cruz is slightly more conservative: 100 percent Heritage Action rating (98 percent lifetime) and 100 percent lifetime American Conservative Union score.

To be sure, Cruz and Rubio are running for president in very different ways—though both are familiar. Rubio is campaigning like Barack Obama did in 2008. He has chosen to emphasize optimism, unity, possibility, reform. He defends his decision to run as a young candidate by emphasizing the "urgency" of the problems facing the country, just as Obama cited Martin Luther King Jr.'s "fierce urgency of now" for his audacious first run for the presidency. There's a lot of tough criticism of Obama and Washington in Rubio's stump speech, but there's also a lot of "hope and change."

Cruz is running like Obama, too—Obama in 2012. He is campaigning as an unapologetic ideologue, seeking to motivate and energize conservatives unenthusiastic about recent Republican nominees. Cruz's campaign, like Obama's reelection effort, is based on the assumption that the contest this fall will be won by the candidate who best turns out the base of his or her party.

These distinct approaches in campaign style have doubtless added to the perception that Rubio is an "establishment" candidate and Cruz is "anti-establishment." But the real difference

between them isn't *whether* they would challenge the Republican establishment but *how*. Rubio's critique of the establishment is a temporal one, argues Heritage Action CEO Michael Needham. In Rubio's view, the ideas of the Republican establishment, stale and anachronistic, are badly in need of replacing. So Rubio champions policy innovation and creativity.

Cruz's critique of the GOP establishment is structural. Republican institutions in Washington have become so badly corrupted that trying to reform them isn't enough. Needham summarizes the Cruz view this way. "Real policy innovation requires not just putting forth fresh ideas; it requires attacking the flawed nature of the GOP establishment so that innovation can even be possible."

They're both right.

There are reasons a conservative voter might prefer Cruz to Rubio. Cruz has demonstrated a willingness to challenge the calcified structures of the establishment and to continue doing so despite scorn heaped on him not only from the *New York Times* but also from fellow Republicans. It's a necessary quality for a president who would serve as a disrupter of the broken status quo in Washington. Rubio may have it, and in his advocacy of entitlement reform we've seen hints of it. But with Cruz, we know.

There are reasons a conservative voter might prefer Rubio to Cruz. Rubio has a personal appeal—likability—Cruz lacks. When Cruz addresses voters, he's often self-indulgent and always melodramatic. He speaks as if he's there to bestow knowledge on the audience, and he's frequently the hero of his own story. Rubio is nearly the opposite. When he speaks, there's a genuine sense that he's in awe of the country and his place in it. His paeans to American greatness seem heartfelt even the twentieth time you've heard them. All of this would seem to make him more electable in the general election.

Regardless, if either Cruz or Rubio is sworn in on January 20, 2017, the country will have its most conservative president since Ronald Reagan. ♦

The View from 1787

What would Madison make of Donald Trump?

BY JAY COST

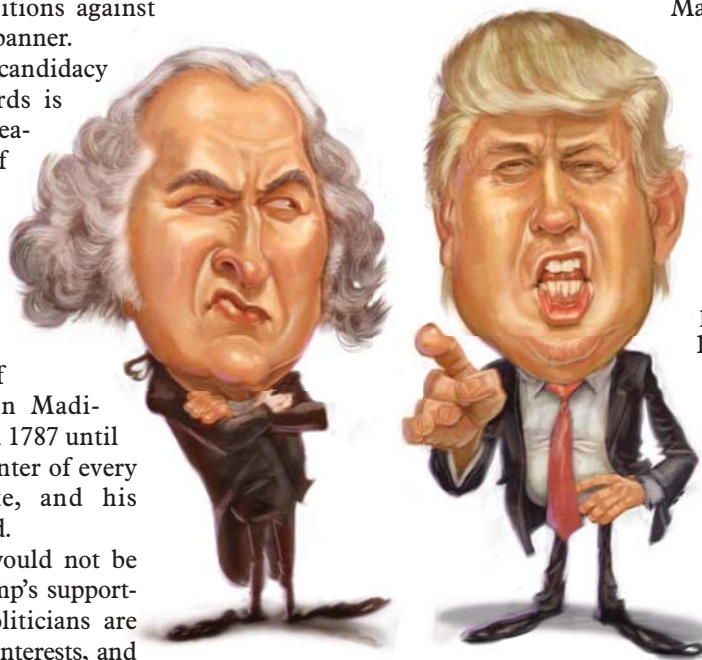
Donald Trump sits atop national polls for the Republican nomination, with supporters arguing he is precisely the person to fight special interests, return power to the people, and “make America great again.” If he were alive today, James Madison would surely disagree. The writings of the nation’s fourth president offer several strong admonitions against rallying to the Trump banner.

Judging the Trump candidacy by Madison’s standards is worthwhile, for two reasons. First, some of Trump’s biggest fans consider themselves constitutionalists—and nobody was more important in the design, ratification, and defense of the Constitution than Madison. For 30 years, from 1787 until 1817, he was at the center of every constitutional debate, and his views usually prevailed.

Second, Madison would not be unsympathetic to Trump’s supporters; they feel like politicians are unresponsive to their interests, and Madison had similar concerns. As he writes in “Vices of the Political System of the United States,” “Representative appointments are sought from 3 motives. 1. ambition. 2. personal interest. 3. public good. Unhappily the two first are proved by experience to be most prevalent.” This speaks directly to the anxieties of Trump backers—for here Madison worries about a government taken over by special interests,

who pursue their own agendas against the public good.

Madison thought something like this was happening in the 1790s. He was the first to fight the Hamiltonian system of public finance, which he believed granted unwarranted bounties to the moneyed class—and, much worse, a permanent position of power—at the expense of the pub-



lic at large. He and Thomas Jefferson worked tirelessly through the decade to cleanse the government of the factions that they thought had corrupted its republican character.

So Madison is an authority to be taken seriously by constitutional conservatives worried about the power of special interests. Trump claims to be the avatar of these voters. What would Madison think?

Regarding Trump’s character and background, Madison would not believe him fit for the highest office. The real estate mogul has few analogues

in the history of American politics, but a reasonable approximation is Andrew Jackson. The brash, temperamental populist finished first in the presidential balloting in 1824, ahead of John Quincy Adams, William H. Crawford, and Henry Clay. No candidate won an electoral majority, which meant that the House of Representatives was tasked with selecting a president from the top three finishers. Clay, having finished fourth, was excluded from the contest, but as speaker of the House he held the power to name the new president. On his way back to Washington from Kentucky, he visited Madison at Montpelier. Clay—long an admirer of Madison—inquired what the retired statesman thought he should do, and

Madison advised *not* picking Jackson. At Monticello, Jefferson gave Clay similar counsel.

Madison would have less regard for Trump. The mogul’s campaign is half populist crusade, half insult-comic shtick, but Madison thought that one virtue of representative government was its ability to *elevate* the political discourse. In *Federalist* 10 he writes that our system can “refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations.” Trump is the antithesis of these ideal

statesmen the Framers hoped would staff the government. Madison himself notes that “enlightened statesmen will not always be at the helm,” but this is hardly reason to select as president somebody as benighted as Trump.

Madison would, moreover, likely be unimpressed by Trump’s wealth. In the 1780s and ’90s, speculative activity had reached a frenzied state, and many a man had amassed himself a large fortune. Madison thought that this demonstrated neither virtue nor industry. In a debate at the Constitutional Convention over whether

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GARY LOCKE

certain offices should require their holders own property, Madison argued that holding property was “no certain evidence of real wealth. Many enjoyed them to a great extent who were more in debt than they were worth. The unjust laws of the States had proceeded more from this class of men, than any others. It had often happened that men who had acquired landed property on credit, got into the Legislatures with a view of promoting an unjust protection (against) their Creditors.” What might Madison think of the “real wealth” of Trump, who inherited a fortune from his father and whose companies have had to declare multiple bankruptcies?

Madison might be sympathetic to the populist anger that is spreading across the country, but he would probably instruct us to be mindful of the separation of government powers. So often, advocates for Trump complain about “the establishment,” in particular pointing fingers at the failure of congressional Republicans to follow through on their promises. Fair enough, but what exactly is the president supposed to do about that? As Madison argues in *Federalist* 51, our system of government gives “to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack.” That’s checks and balances in a nutshell: The president might want to influence Congress, but Congress often has the will and power to resist.

How then is somebody like Trump going to bring Congress back to decency? He can use moral suasion and endeavor to bring public pressure to bear. But this is a grossly inefficient approach. After all, Congress itself is an elective institution. If conservatives are so aghast at *congressional* misbehavior, why pour so much time and attention into *presidential* politics? Why not instead redouble efforts to fill the legislature with leaders who will put the public interest ahead of ambition and personal interests?

Separation of powers brings us back to the matter of Trump’s qualifications for office. People without political experience who run for president inevitably argue that what government needs is somebody with business acumen. But the premise of this claim is problematic, for government is quite unlike business. Employees and owners of a business are in a shared quest for profits, which they hope will grow every year. On the other hand, our constitutional system explicitly sets up interbranch rivalries that have no correspondence with the business world, and each branch competes for political power, which is of a fixed and finite

amount. The two realms are worlds apart, so what sense does it make to elect as president a businessman with no background in the peculiarities of our system?

In sum, conservatives certainly have good reasons to be frustrated by the status quo in American politics, but they would do well to take to heart the wisdom of the Father of the Constitution. Madison would appreciate how aggravated voters are—in the 1790s, he himself felt like the government was being hijacked by an interested faction—but he would never support for president a meanspirited, inexperienced demagogue such as Donald Trump. ♦

A Tale of Three Speeches

The most interesting part in Iowa came after the caucusing. **BY FRED BARNES**

Ted Cruz put on a show when he won the Iowa caucuses. The impression was that of a rookie football player dancing in the end zone after scoring a touchdown. In the NFL, teammates stop an exuberant player from celebrating too long and being penalized for unsportsmanlike conduct. The stage at his victory speech was full of Cruz backers, but nobody stopped him. He danced for 32 minutes.

The advice to rookies from football veterans is when you score, act like you’ve been in the end zone before. Cruz didn’t. He claimed the 28 percent of the Republican caucus vote he received sent a message to the world that “morning is coming.” Not quite. He likened himself to Ronald Reagan. But he was very un-Reagan.

Cruz relied almost entirely on applause lines. We know that

because he paused after every sentence, signaling the crowd to cheer. Did Reagan do that in his presidential campaigns? Not that I recall. He was calm, positive, and focused on the future.

What Cruz delivered was a stump speech. As such, it was effective in stirring the crowd, much as his speeches at campaign rallies are. Of the Republican candidates, Cruz is the best stump speaker. The problem was the speech didn’t fit the moment.

This was Cruz’s first chance to talk directly to a large national TV audience. He didn’t face the limitations of a debate or a press conference. He was on his own. To say he misunderstood the opportunity is putting it mildly.

He talked too long. It was late at night. Even Fox News cut out, when Cruz showed no signs of concluding. He thanked too many people. It was touching when he embraced his parents on stage. He thanked his mother for her unconditional love

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and said his father was his hero. Thanking “cousin Bebs” seemed unnecessary.

Speeches at critical moments are clues to a politician’s strengths and weaknesses. Cruz has many strengths. He’s very smart. Candidates are often either strong stump speakers or good campaign organizers. Cruz is both. And more than any other candidate, he has capitalized on the anger of the Republican grassroots over the lack of conservative victories in Washington.

But his speech last week reflected his weakness in reaching beyond his natural constituency. His message to voters in the New Hampshire primary was the same as his pitch in Iowa. Yet New Hampshire has far fewer conservatives and evangelicals than Iowa and many more moderates.

Even if Iowa provided evidence “the old Reagan coalition is coming back together,” as Cruz insisted, that does not mean it’s true for New Hampshire. And I doubt it’s congealing behind a single candidate. Besides, New Hampshire is a different state than it was in 1980 when Reagan won the primary on his way to the White House.

Unlike Cruz, Marco Rubio delivered few applause lines. He spoke for 12 minutes, which struck me as the appropriate length for a speech following the first of dozens of caucuses and primaries between now and early June. He glanced at notes, as Cruz did, and some of his speech seemed scripted. But he did several things that Cruz did not but should have.

He did not act like Iowa is the world, as Cruz did. True, Rubio finished third, while Cruz was first and thus had more basis for exaggeration. Rubio put his showing this way: “We have taken the first step, but an important step, toward winning this election.”

He focused on beating Hillary



Speeches: the good, the bad, and the momentarily-not-ugly

Clinton in the general election. Cruz stressed his success in thwarting a nebulous “Washington cartel.” Clinton, Rubio said, “can never be commander in chief. Because anyone who lies to the families of people who lost their lives in the service of this country can never be commander in chief of the United States.”

Rubio characterized the race as “not an ordinary election between two political parties. 2016 is a referendum on our identity as a nation and a people.” Who knows if Reagan, were he running today, would have said something like this about 2016? But he might have. And sounding like Reagan is nearly always a plus, given Reagan’s sense for what’s appropriate to say at a particular moment.

“In America,” Rubio said, “there are only two ways forward for us. We can either be a greater nation than we’ve ever been or we can be a great nation in decline.” He said “history” will decide if “we did what needed to be done.” Was this a bit pompous? Perhaps.

Trump gave a four-minute speech against type. He was gracious. He congratulated his opponents. When Cruz topped him in a poll in Iowa a few weeks ago, he said Iowans must be stupid. But when he actually lost to Cruz, he took the defeat in stride.

“We finished second and I want to tell you something,” Trump said. “I’m just honored, really honored.” He said he was “happy with the way everything worked out.” He said Iowans are “special.” Trump said he may buy a farm in Iowa.

The new Trump didn’t last even 24 hours. By the next day, he was denouncing Cruz for stealing the caucuses by sending a deceptive mailer to voters. The real Trump was back. He had thrown off the nice-guy packaging.

There are a few conclusions we might draw from the post-caucus speeches. Cruz needs to limit the applause lines. He didn’t steal Iowa from Trump, but he’d be wise to swipe some of Rubio’s message. Cruz doesn’t need to prove how conservative he is. He’s made that case. Rubio has the ability to inspire. But can he hold his own in the big southern primaries in March? I’m not sure. As for Trump, he’ll never change. ♦

IMAGES FROM TOP (ALL VIA GETTY); PETE MAROVICH; CHRISTOPHER FURLONG; JIM WATSON / AFP

Democracy 101

The closer you look, the more inspiring Iowa's caucuses are. **BY MICHAEL WARREN**

What is a Republican caucus in Iowa really like? On February 1, I went to Ames to find out.

One hundred eighty-nine Republicans filed into the sanctuary at St. Andrew's Lutheran Church, just a few blocks from the Iowa State campus, to consider each candidate a final time before casting their votes. Like those across the state, the caucus started promptly at 7:00 P.M.—well, maybe a minute or two after. Jeff Ortiz, co-chairman of the Story County GOP and chairman of the precinct's caucus, gave a little leeway to the last few voters signing in. Every caucusgoer must be registered as a Republican in Iowa, which a participant can do up until the caucus begins.

Turnout here reflected the trend throughout Iowa, with more Republicans voting than in 2012. Then, 143 people caucused, with Ron Paul winning the precinct and Mitt Romney the county overall. “The liberty movement was big here,” said Rick Sanders, the lone GOP member of the Story County board of supervisors, when I asked him what kind of Republicans live in Ames. Sanders, who supported Marco Rubio, added that the big turnout might bode well for Donald Trump.

Indeed, the first people I speak with, the Gerritsons, are exactly the type of voter Trump was courting. Brody and Candi, 45 and 44, had never caucused before, though they both voted for Mitt Romney in the 2012 general election. Brody is an electrician and Candi is a stay-at-home mom. They brought

Ames, Iowa

their 20-year-old son Ben, who works in construction. All three decided a month earlier they would caucus for Trump—he's the only candidate they even considered caucusing for. The Gerritsons found out where they could vote from Trump's Facebook page.

“I want a nonpolitician,” said Brody. “He'll follow through on shaking things up.”



GOP voters say the Pledge of Allegiance before the caucus at Precinct 70 in Des Moines, Iowa, February 1, 2016.

Josh Rolles and Lucas Walsh were also caucusing for the first time, but that's because they're first-time voters, too. Both are engineering students at Iowa State who never considered voting for Trump. Rolles, who supported Rubio, said any students thinking about supporting the New York businessman were turned off in September when Trump tweeted he was attending a football game at “Jack Truce Stadium.” (The Iowa State Cyclones play in Jack Truce Stadium.) Walsh was also considering Rubio, as well as Rand Paul, but ultimately decided on Jeb Bush for being the “most consistent” of the candidates.

Joe and Amanda Losee, 39 and 37, have each caucused once before: Joe for Alan Keyes in 2000 and Amanda for Barack Obama in 2008. A teacher, Amanda says her political

views have matured since then, and she'd decided to caucus for Christie. “I hate political ads,” she said. “But I haven't seen any from Christie.” She also liked his decision to veto funding for Planned Parenthood. Her husband Joe said before voting began he was choosing among Christie, Trump, and Rubio. After the caucus, Joe said he ended up with Christie, who seemed like “Trump-lite.”

Ortiz called the meeting to order and led a recitation of the Pledge of Allegiance. “Iowa is on the minds of the whole country and the whole world right now,” he said. It wasn't a boast but more an acknowledgment of the solemn duty these Iowans shared. Several people nodded their heads.

Next, each Republican candidate was given the opportunity to make one last pitch to the caucus through a surrogate. Some candidates had no one stand up for them at all. When Ortiz asked if anyone would like to speak on behalf of former Virginia governor Jim Gilmore, people looked at each other, as if to say, “Who is that?” When Ortiz asked the same question for Donald Trump, the room stayed silent. When it was clear Trump had no surrogate, most of the caucusgoers applauded. The Gerritsons, I noticed, did not. Can't blame them.

Other candidates had local supporters give planned speeches on their behalf. Each surrogate touted his candidate's merits—Ted Cruz's for his opposition to Obamacare, Rand Paul's for his reluctance to send troops into armed conflict—while also calling for Republican unity. “If we stand together we can win in November,” said Tim Lubinus, the Cruz surrogate.

One campaign, Jeb Bush's, sent a volunteer from Florida to make the case for her former governor. LeAnna Cumber went over her allotted three minutes to tout Bush's record responding to eight major hurricanes when he ran the state. A few people started checking their watches and phones, while the rest just stared ahead blankly. It's hard to say if the pitch worked—Bush got 10 measly votes here, but that

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was 5 percent of the caucus, better than his performance statewide.

When Ortiz asked if anyone would speak on Ben Carson's behalf, there was a long silence before a man in the middle of a pew stood up and gave a slight shrug. He hadn't planned on speaking, he said. He was just a local voter, but he wanted to say why he was supporting the retired neurosurgeon. "Dr. Carson's a very intelligent man," he said. "He has a lot of good ideas." The man shrugged his shoulders again. "I didn't see anyone talking on his behalf, so I wanted to say a few words for him," he repeated. The audience gave him a hearty round of applause. Carson, too, outperformed his statewide numbers in this precinct, earning 18 votes, or just under 10 percent.

The actual voting was straightforward. Every participant was given a colored slip of paper to cast a vote. After the speeches, the votes were gathered and counted by two volunteers. If their counts agreed, Ortiz recorded the candidate's tally into a PIN-protected app on his cell phone. Within minutes of the vote, the results were sent off to the state GOP and announced to the group.

Rubio earned the most votes, 51, with Cruz coming in closely behind at 46. The remnants of his father's movement in Ames gave Paul a decent 20 votes, putting the Kentucky senator ahead of Trump at 19. There were no objections or calls for a recount. The gathered Republicans filed back out, returning to their homes and their lives, having performed their civic duty with, as Ortiz said, "the world" watching.

It's fashionable in some circles—those that include journalists, retired political hacks, and the technocratic explainers over at *Vox.com*—to denounce the Iowa caucuses as an outdated, irrational relic. The caucuses are unrepresentative, both of Iowa voters and of Americans overall. They are prone to misreporting results. The premium they place on organization benefits and empowers interest groups, like the ethanol lobby, homeschoolers, and unions.

All that is undoubtedly true. It also

misses the point. I was surprised by how moving it was to witness such a simple exercise in republican self-government by a small community of citizens. The electoral systems in most states, with early voting and mail-in ballots, seem to prioritize convenience. These Iowans knew why they

were participating and cared enough to make the effort to hear and be heard. That makes the caucuses feel like a throwback to when democratic participation was seen less as a right to which we Americans are entitled but instead as a privilege to be respected and cherished. ♦

The Way We Were

Campus unrest provoked a very different response in 1970. BY JAMES PIERESON & NAOMI SCHAEFER RILEY

Another college president has caved. After months of protests at Ithaca College alleging campus leaders are indifferent to racism, President Tom Rochon announced in January he would be stepping down before the end of his contract.

"I recognize that colleges evolve through eras defined by new opportunities and challenges," he said in a written statement. "I believe it is best for IC to be led in the future by a president chosen by the board specifically to make a fresh start on these challenges, including those that became so apparent to us all last semester."

Those challenges included an offensive fraternity party (the theme was "Preps and Crooks") and a panel discussion on the future of the school in which a white man referred to a black woman as "savage" after she described herself as having a "savage hunger" to succeed. The frat party was canceled before it happened, and the wayward panelist apologized profusely for what he had stupidly meant

as a compliment. But the narrative had been established that the college is rife with racism. How, short of putting student activists in charge of the school, could the administration have made the protesters happy?

After four decades of capitulation to insurgents, the traditional ideals that made American universities great have been officially jettisoned.

If you want to see the beginning of the end in higher education, you might start with the Scranton Report. In 1970, Richard Nixon established the President's Commission on Campus Unrest, which came to be known by



Tom Rochon

the last name of its chairman, former Pennsylvania governor William Scranton. In the wake of the killings of four protesters at Kent State University in Ohio and two at Jackson State University in Mississippi, the administration thought it necessary to investigate campus unrest and offer guidance to universities and the public on what to do about it.

Contributors to the report ranged from the New Haven chief of police to the president of Howard University. They included traditional political scientists—professors such as Nathan Glazer and James Q. Wilson—as well

James Piereson is a senior fellow at the Manhattan Institute;

Naomi Schaefer Riley is a senior fellow at the Independent Women's Forum.

as student activists, including Joseph Rhodes (a Harvard junior fellow whose scholarship was devoted to the racism of imperial Britain). The commission heard testimony from people across the political spectrum in government and academia. The *Chronicle of Higher Education* thought it so important it reprinted the entire 419-page report.

Much has changed since Scranton was released. As one observer of the commission's proceedings, Suzanne Garment, recently reflected, "campus unrest of that time makes ours look like beanbag, with the contrast between grievances—from the Vietnam War to micro-aggressions—almost comic." Indeed, though today's protesters like to claim the mantle of the civil rights and antiwar movements of the 1960s, the truth is that college kids today have it pretty cushy: no danger of being drafted for them. And while they may believe that this country does not offer equal protection to racial minorities, the evidence on college campuses is pretty weak. There are no Halloween costumes or house parties that would make a campus in 2016 resemble the Jim Crow South.

Despite the seriousness of the problems back then—or perhaps because of it—the Scranton Report exudes a calm confidence, the sense that level-headed people from different sides of an issue can get together to investigate a problem and arrive at a solution. Of course, at that time people had a lot more faith in government commissions: Whether it was violence or the federal budget, there was nothing some smart guys in a room couldn't solve. After taking much testimony and talking it all over, the commission recommended offering more funding to black colleges and universities and more funding to increase, through recruitment, the presence of racial minorities at other institutions. They also suggested the appointment of administrators to negotiate between student radicals and college leaders.

But Scranton also reflected a long-gone consensus on what a university was for and who was in charge of it. "We call upon all members of the university to reaffirm that the

proper functions of the university are teaching and learning, research and scholarship," the authors wrote. The commission members' understanding of academic freedom was also a relic of another time. "Academic institutions must be free . . . from outside interference, and free from internal intimidation," they wrote. "The pursuit of knowledge cannot continue without the free exchange of ideas." Universities, they urged, "must remain politically neutral." And the commission quaintly advised students: "Heckling speakers is not only bad manners but is inimical to all the values that a university stands for." When dealing with law enforcement, students were encouraged to avoid "the use of obscenities and derogatory terms such as 'pigs' and 'honkies.'"

The Scranton Report was an effort to deal with campus unrest while upholding the traditional ideals of the university and at the same time mollifying the insurgents. Since that time those two forces—the traditional ideals and the new politics—have been living in tension on the campus, with periodic eruptions when a conservative ventures onto campus to give a speech

or when a naïve professor accidentally makes a statement at odds with the reigning race and gender orthodoxies.

The resolution of these disputes is always in favor of the protesters. Speakers are disinvited, faculty members reprimanded, dissenters denounced. And more recently it's college presidents who are being targeted. The result? No defenders of the traditional ideals are to be found at universities, and the insurgent groups can turn the campus upside down to demand more resources and respect any time they want.

In the end, the Scranton Commission recommended that President Nixon use his "moral leadership" to solve this problem. But Nixon refused. In his letter following the release of the report, the president said that responsibility for keeping the peace on campus "belongs strictly to the academic community." He was right—this was not a problem the federal government was ever going to solve—but the academic community failed miserably.

While campuses have not seen the kind of violence that they did in the '60s and '70s, they have remained in a state of turmoil for almost a half-century. It's clear who the winners are. ♦

The Rogue Regulator

The CFPB's unfair, deceptive, and abusive activities. **BY RONALD L. RUBIN**

The 2010 Dodd-Frank Act established the Consumer Financial Protection Bureau and authorized it to sue companies that commit "unfair, deceptive, or abusive acts or practices." Two staff reports and internal CFPB documents just released by congressional Republicans have exposed the new agency's attempt to circumvent the very law that created

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it through activities that epitomize these three types of violations.

A last-minute amendment to Dodd-Frank explicitly barred the CFPB from regulating or suing car dealers, who derive much of their revenue from lending. But Elizabeth Warren—whose advocacy for the consumer agency led to her becoming its first leader and then a United States senator—has never accepted this defeat. Nor have the lawyers she recruited to run the bureau, who launched a campaign to regulate car dealers shortly after the agency's birth.

Dealers negotiate and execute most car loans in their showrooms and then, in essence, sell the loans to banks and other finance companies—businesses regulated by the bureau. These “indirect lenders” compensate dealers with profits approximately equal to the value of any additional interest borrowers are expected to pay because their loans carry interest rates higher than the lender’s “buy rate” (the wholesale rate each lender calculates for a particular car sale). A risk-averse dealer won’t finalize a loan without at least one finance company’s guaranteed offer to acquire it at an acceptable buy rate.

The CFPB’s not-so-secret wish is to eliminate dealers’ incentive to negotiate higher interest rates with their customers—to “protect consumers” by preventing finance companies from paying dealers more than a small flat fee for each car loan. But lacking authority to regulate dealers, the bureau can only accomplish this by pressuring almost all indirect lenders to voluntarily adopt flat-fee compensation; otherwise, dealers will just assign their loans to financiers who pay what the loans are worth.

Upending firmly established industry practices and eliminating a major source of profit for car dealers has proven difficult, even for the powerful new agency. Faced with a steep uphill battle, the CFPB employed its most potent weapon—the race card. The bureau correctly calculated that financiers would go to great lengths to avoid the toxic publicity that accompanies even the most baseless discrimination lawsuit.

But the auto finance process has evolved dramatically since the last successful class action racial-discrimination lawsuits against indirect lenders. Such allegations are now, in fact, almost completely baseless. In the old days, dealers typically had relationships with a few indirect lenders with whom they often consulted while finalizing car loans. The Internet changed all that.

Beginning in 2001, Internet platforms such as DealerTrack and RouteOne allowed dealers to submit data to dozens of finance companies. These dealer management system (DMS) platforms operate a bit like online

auction sites; dealers post legally permitted information—credit score, down payment, and car price, but not the buyer’s race or age—and invite financiers to submit a buy rate and other offer terms for each loan.

The competition created by widespread use of the DMS platforms benefits consumers by lowering the wholesale price of capital available to dealers for loans. Dealers typically obtain a satisfactory guaranteed offer through a DMS platform before finalizing each car loan, and then return to the platforms to solicit better offers. This process has greatly reduced or eliminated preloan interaction between dealers and the finance companies that actually purchase any loan.

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Without meaningful preloan collaboration, indirect lenders cannot be said to “participate in the credit decision,” the legal prerequisite for being a creditor that can be held liable for any dealer discrimination against borrowers. Therefore, CFPB enforcement actions against today’s indirect lenders would be both legally dubious and tremendously unfair.

But fair treatment of financial service providers is not the mission of the CFPB, a consumer advocacy organization masquerading as a federal regulator. In March 2013, the bureau bypassed the administrative rulemaking process by issuing “guidance” that contained the thinly veiled threat of expensive discrimination lawsuits against finance companies that continued to “allow” dealers the “discretion” to negotiate retail interest rates with their own customers. The industry brushed off the guidance’s advice to

adopt fixed pricing; the CFPB sought to make good on its threat.

The problem for the bureau was that indirect auto lenders don’t meet car buyers and have no information about their race, gender, age, or other protected classifications. In internal memoranda, CFPB lawyers admitted to having almost no evidence that finance companies discriminated or that lenders knew of any dealer discrimination. Therefore, to sue them the bureau had to invoke the “disparate impact” legal doctrine, which allows discrimination to be proven by statistics alone.

But the CFPB itself didn’t know car buyers’ race or ethnicity, because it is illegal for dealers to collect or keep such records. To overcome this obstacle, the bureau hired a pro-plaintiff consulting firm to create a proxy methodology—a probability model that guesses borrowers’ races and ethnicities from their last names and addresses—with the scientific-sounding name “Bayesian Improved Surname Geocoding.”

The CFPB was, and continues to be, deceptive about its proxy methodology’s precision. In internal memoranda, agency lawyers described the model as “less accurate in identifying the race/ethnicity of particular individuals” than other available methods. To prevent independent analysis of the model, the CFPB refused, for almost two years, to reveal its mathematical formulas and testing data. Finally, under pressure from the Department of Justice, the CFPB released some, but not all, details of the methodology.

Not surprisingly, respected experts quickly labeled the methodology conceptually flawed and subject to significant bias and estimation error. Simple common sense dictates that race and ethnicity can’t be determined with reasonable accuracy through addresses and surnames alone, especially for African Americans, whose last names are barely distinguishable from those of white consumers.

And race guessing was just the most obvious of many fatal flaws in the CFPB’s statistical evidence. An equally disqualifying defect was that the only way to determine discrimination is to compare all of a particular dealer’s

loans. Analysis of indirect lenders' portfolios—which contain selections of loans made by dozens of dealers across the country—is virtually meaningless.

Furthermore, simple comparison of interest rates is insufficient because credit scores are key in determining loan interest rates, and average credit scores vary among racial groups. To get around this obstacle, the CFPB adopted the old class-action plaintiffs' strategy of comparing the average spread between the buy rates and interest rates of loans to whites and minority groups. However, this spread, which the bureau inaccurately calls "dealer markup," is affected by many race-neutral factors, including geography and used-versus-new car sales. The CFPB's most prominent statistics consultant told the bureau it should control for these race-neutral variables during disparate impact analysis. The bureau rejected his advice, which would have erased most of the already small racial disparities in its data.

The legal and statistical defects in the CFPB's allegations were so obvious that every indirect lender under investigation initially declined its settlement offers. Fortunately for the agency, it had a perfect target for an otherwise unwinnable lawsuit. Ally Financial Inc. had an application pending with the Federal Reserve to change its status from bank holding company to financial holding company. If the Fed did not approve the change by December 23, 2013, Ally would have to divest its large insurance and used-car remarketing operations.

In conferences with their Fed and Federal Deposit Insurance Corporation counterparts, CFPB attorneys confirmed that the FDIC could downgrade Ally's safety and soundness rating if the bureau accused Ally of discrimination, and that the Fed would deny Ally's application based on such an FDIC downgrade. It just so happened that the director of the CFPB, Richard Cordray, was also a member of the FDIC's five-man board of directors.

Thus, Cordray could first approve his CFPB lawyers' allegations that Ally had discriminated. Then, as an FDIC director, he could use those

allegations to justify voting for a reduction in Ally's safety and soundness rating, thereby guaranteeing Fed denial of the company's application. In other words, Cordray could almost singlehandedly block Ally from obtaining financial holding company status, which would compel his potential litigation adversary to divest two of its most important businesses.

Despite the CFPB's powerful leverage, Ally refused to adopt flat-fee compensation, informing the bureau that "to do so would be 'corporate suicide'" because dealers would simply offer their loans to its competitors. As punishment, the bureau's lawyers forced Ally to pay the maximum they believed the company could afford, \$98 million.



Elizabeth Warren

In congressional testimony last September, Cordray unapologetically admitted he had used Ally's pending Fed application to force the company to settle with the CFPB, saying, "I didn't create the leverage. I didn't set that up."

But Cordray and his lawyers did create their leverage. They targeted Ally specifically because of its pending Fed application, manufactured seriously flawed statistical evidence of discrimination, concocted a dubious legal theory, and threatened litigation the bureau could not win fairly. They contrived a bogus lawsuit with a built-in regulatory roadblock to ensure its success.

The Dodd-Frank Act defines an abusive act or practice as one that "takes unreasonable advantage of . . . the inability of the consumer to protect [his or her] interests." The CFPB

clearly took unreasonable advantage of Ally's regulatory vulnerability, the paradigm of an abusive act. A less euphemistic description of the bureau's behavior would be extortion.

The huge settlement scared a few other lenders into resolving similar accusations for much smaller sums, but it created an unusual problem. The bureau claimed that Ally had caused \$80 million of harm to 235,000 minority consumers, but in truth this made-up figure represented Ally's cost of avoiding rejection by the Fed. Now, to sustain its fiction, the CFPB had to pay out this restitution. Finding actual minority borrowers who could have suffered \$80 million in discrimination harm was quite a challenge.

And so a year and a half after the settlement, none of the alleged victims had been contacted. Finally, over objections from the Department of Justice, the CFPB sent letters to 201,212 borrowers that the bureau's race-guessing model labeled as having a higher probability of being minorities. They were informed of the settlement and told in bold letters, "To receive your payment, you do not need to do anything."

The CFPB sent out an additional 218,457 letters to borrowers for whom the model assigned lower probabilities of being minorities, telling them they could receive a check just by returning a simple form claiming to be a member of a protected race—without even specifying which race. These forms didn't require sworn affirmations or even include warnings against fraud. The CFPB's plan was to verify Ally's alleged consumer harm by knowingly paying millions of dollars in discrimination restitution to white car buyers.

The revelations of the CFPB's unfair, deceptive, and abusive activities have created such outrage that a bill to stop the bureau's assault on auto lenders easily passed in the House, with significant Democratic support. In the Senate the legislation may survive Elizabeth Warren's fervent opposition. The episode could even result in the CFPB being restructured as a bipartisan commission, exposing the regulator's operations to some much-needed sunlight. ♦

Sandernistas on the March

Grab your popcorn and enjoy the show



BY SHAWN MACOMBER

So now that the Democratic party is well and truly feeling the Bern, how should those of us who identify not as democratic socialists nor oligarchs nor oligarch-enablers feel about those lighter-shade-of-Mao “Bernie 2016” yard signs reddening up the landscape?

The perhaps counterintuitive answer is . . . thrilled. Ecstatic, even. The Sandernistas on the march will be more fun to watch than a crossover season of *Girls* and *The Walking Dead*—if, that is, one could still stomach watching Lena Dunham now that she’s thrown in her lot with that pantsuited Goldman Sachs subsidiary who portrays Hillary Clinton on various debate stages and social media accounts.

Skeptical? Allow me to relate a single line from *Outsider in the House*, Sanders’s memoir of his 1996 congressional campaign: “I’m not sure how many of them actually heard my fourteen-second speech about the dangers of Newt Gingrich, given when I stepped out of my tiger costume.”

Sanders is describing his collaboration with the Bread and Puppet Domestic Resurrection Circus, “a political company whose accomplished theatrical productions are,” the then-congressman assured us, “truly radical”—radical enough to induce a sitting congressman to hold up the hind quarters of a tiger costume, anyway. “It’s better than being a horse’s ass,” Sanders writes, though whether he speaks from experience is not immediately clear.

Sure, the tiger-costume anecdote is a bit rich coming from the same guy who a few pages before slagged freshman Republicans who slept in their offices to save taxpayer cash back in ’95 as “total nuts” making “some kind of weird political statement.” But Sanders’s tale takes an

even more absurdist turn as he recounts his address to the all-volunteer Mississquoi Valley Emergency Rescue Service later that same day. “Person after person,” Sanders notes, “talked about the trauma of seeing people die and the joy of saving people’s lives.” The contrast “from radical theatrics to community-based service,” he allows, “was striking.” Indeed. But “the differences strike me as more superficial than deep,” Sanders inexplicably feels compelled to add, as “both the rescue workers and the drama troupe are focused on . . . giving of themselves to build community.”

Even if he isn’t plotting to replace America’s first-responders with a puppeteer corps, Bernie Sanders is clearly delusional enough to be president. But is he delusional in the *appropriate* way?

Many of his erstwhile ideological allies are not so sure. Former congressman Barney Frank of Massachusetts, for example, snarked to *National Journal*, “I don’t understand what [Sanders] running for president would do other than frankly show that his viewpoint is not the majority viewpoint.” In a scathing *Salon* piece, writer Charles Davis averred that while, yes, Sanders “tosses rhetorical Molotovs at America’s 21st-century robber barons like few other national politicians,” he’s also “rather non-threatening, his politics reformist, not revolutionary—more old-school liberal than Leninist.” And in an open letter delivered to the *Burlington Free Press* on the day Sanders announced his presidential intentions in 2014, Ralph Nader declared the Vermont senator’s run unsafe at any speed, deriding him as “a Lone Ranger, unable even to form a core progressive force within the Senate,” “aloof,” and a narcissistic fearmonger using his office to cash in:

You do communicate in one way—repeatedly, intensely, and expressing alarm. Along with others deemed to be on the right mailing lists, I receive many of your fundraising letters to help Bernie get reelected. Your letters are full of

Shawn Macomber is a writer in New Jersey.

SCOTT OLSON / GETTY

warnings about the right-wing, corporate interests out to defeat you—a shoo-in for reelection. Quick send a check to ward off the Huns. In the two years before your election the letters flow with predictable regularity, recounting your record and the perils confronting your election. Once you are comfortably and predictably re-elected, Bernie returns to the Lone Ranger mode.

Alas, the charge of “insufficient Leninism” is not the campaign-killer it once was. The Sandernistas don’t care about realpolitik lectures from ex-congressmen or the bitter ravings of the man whose 2000 campaign on the Green party ticket robbed the nation of four-to-eight glorious years of prime-time PowerPoint presentations from President Gore.

Credit where credit is due: Sanders may have found success in his current contest primarily by marrying a Trump-like demagogic hatred of the “right” bogeymen to six or seven *Complete Idiot’s Guide to the New Deal* sound-bites, but he has a Capra-esque political origin story.

Here is a man who seriously flirted with gadfly status throughout several losing early-to-mid-seventies campaigns under the Liberty Union party banner—U.S. Senate (1972, 1974), governor of Vermont (1972, 1976). After this he “retired” to build a small business before an old friend convinced him to make an independent run for mayor of Burlington—this despite the fact that, as he writes in *Outsider in the House*, “I knew very little about Burlington city government. I had attended two Board of Aldermen meetings in my life—and had fallen asleep at one of them. They were boring. When the campaign began, I hadn’t a clue where Ward 1 was, or the political difference between Wards 4 and 2.”

In a three-way race our political somnambulist won by *ten votes*. Recounting the glory in *Outsider in the House* Sanders treats modesty as if it were some distasteful reactionary idea Hayek cooked up:

Hysteria reigned. The establishment was in total shock. . . .

I became a celebrity of sorts. . . .

Phil Donahue invited me to be on his show for a full hour. I declined, choosing not to be the spokesman for the American socialist movement. I did accept NBC’s offer to fly Jane and me to Chicago for a ten-minute Donahue interview on the “Today Show.” And there was Canadian television, and the BBC. Somebody told me that I was even broadcast on Chinese radio.

Garry Trudeau of *Doonesbury* fame came to Burlington and we had breakfast together. This was just after the Socialist Party and François Mitterrand had taken power in France. Not long after a *Doonesbury* cartoon appeared

that read, “As goes Burlington, so goes France.” And then there were T-shirts with several variations on “The People’s Republic of Burlington.”

There were other heady days to come, visiting Daniel Ortega in Nicaragua to commemorate the seventh anniversary of the Sandinista Revolution (“I was—believe it or not—the highest ranking American official present”) and Cuba (“I had hoped to meet with Castro, but that didn’t work out”) and jetting off to the Soviet Union to simultaneously “finalize our sister-city relationship” with Yaroslavl and celebrate his marriage. “Trust me,” Sanders writes. “It was a very strange honeymoon.”

When Sanders walked away from the office after four terms, however, civilian life offered little allure. “Unlike some former elected officials, I was not flooded with invitations to prestigious institutions,” he writes. “Actually, I didn’t get *any* job offers. My particular skills, it seems, were not too marketable.”

Though Sanders eventually landed a gig at Harvard University’s Kennedy School of Government, he ultimately chose to become a corporeal illustration of Eric Hoffer’s maxim: “A man is likely to mind his own business when it is worth minding. When it is not, he takes his mind off his own meaningless affairs by minding other people’s business.”

After briefly considering another run for governor—“A ‘Sanders for Governor’ campaign would create a great deal of excitement, bring together the various elements of the progressive coalition, sharply raise political consciousness in the state”—Sanders settled on a congressional campaign against Republican Peter Smith in 1988 . . . and lost.

In the 1990 rematch, however, he won *big* and went on to serve in the House of Representatives for the next 16 years, until Senator Jim Jeffords retired in 2006. Sanders skated into the vacant seat. In 2012 the democratic socialist won reelection as an “independent” with an imposing 71 percent of the vote.

While Sanders is probably the most successful Vermont export since Ben & Jerry sold out to Unilever and almost certainly the most accomplished ex-producer of radical media, like, *ever*, to label the man the vanguard of a political revolution would be wildly inaccurate.

First, Sanders’s vanity and the idiosyncrasies of the Vermont electorate aside, his essential elements aren’t anything you can’t find on the periodic table of the mainstream

To label Sanders the vanguard of a political revolution would be wildly inaccurate. For one thing, his essential elements aren’t anything you can’t find on the periodic table of the mainstream left.

left. Indeed, in 2005 then-Democratic National Committee chair Howard Dean laughed off both Sanders's independence and socialist pretensions: "Bernie can call himself anything he wants—he is basically a liberal Democrat. . . . The bottom line is that Bernie Sanders votes with the Democrats 98 percent of the time." *But, but, but . . .* "I almost always vote with Democrats because, of the choices available to me, their position is usually better than the Republicans," Sanders writes in *Outsider in the House*. "That's the reality I live with in Congress."

Of course. That's the reality *everyone* lives with in Congress. All factions are forced to compromise; the nation has not yet been reduced to the sort of monoculture progressives



Bernie whips up the faithful in Manassas, Virginia, September 14, 2014.

claim to abhor yet keep working to coerce into existence. If a partisan distaste for congressional legislation is what defines one as "independent," there are approximately 318 million independents in the United States. And if the primary obstacle to Sanders's agenda is *reality* . . . well, good luck cobbling together a veto-proof majority to banish that.

Second, while Sanders is a colorful and entertaining proponent of standard-issue liberalism, he will not unite the working class for one simple reason: Like many self-styled progressives, Sanders exalts blue-collar Americans as noble savages when they subscribe to his hoary economic program, but denigrates and sometimes outright dehumanizes those who oppose or question it in any substantial way.

An example: *Outsider in the House* distills the Contract With America-era Republican agenda as a "vicious assault on working people and the poor, orchestrated at the behest of the most affluent and powerful people in America"; an attempt to "exploit . . . anxieties, to divide working people and set them at each other's throats, to blind working people to the fact that instead of justice they are getting scraps from the rich man's table." They do this because "Poor people are a good target. . . . Exhausted by an increasingly difficult struggle for survival, they are not organized and can't fight back. Seventy percent of welfare recipients are

children, a constituency that cannot vote and has few civil rights. . . . It's like shooting fish in a barrel."

Setting aside the uncharitable take on the motives of the Republicans' classist apocalyptic death cult and its desire for child sacrifice, Sanders's psychoanalysis of those who fail to accept the saving gospel of government into their sinners' hearts is not laudatory or respectful: "Blind" and anxious, because they possess neither the intellect nor discernment to fend off the siren song "orchestrations" of the affluent and powerful, easy targets "set . . . at each other's throats" without any more prompting than feral dogs.

A working person simply cannot have a legitimate difference of opinion with Bernie Sanders—you either buy his insights into the nefarious machinations of capitalism or you're a mesmerized dupe.

Naturally, this worldview is extraordinarily alluring and enlivening to those already within the Sandernista feedback loop. People who flatter themselves impervious to brand advertising are, after all, the easiest to market to—a superiority complex to exploit is a helluva foot in the door. But outside the circle of those inclined to agree with Sanders, the *Stop being weak, stupid and/or evil* approach to

persuasion will be about as effective at organizing a cross-partisan super-coalition as Ted Cruz deciding to go to college campuses to rail against sociology majors' brains being turned into tapioca by smarty-pants professors.

This inability to hide his disdain for a working person contrary enough to resist the Bernie Party Programme has made Sanders a poor political prognosticator in the past. "How could it be that a guy like George Bush is getting more than 6 percent of the vote?" Sanders asked in a program entitled "Socialist and Communist Perspectives on the 2004 Presidential Race" recorded shortly before that election. "This guy is a fringe candidate. If you look at his positions issue by issue the idea that any working person in America would be voting for this guy is absolutely insane."

Insanity, that year, took 44 percent of the working-class vote—and the election.

But, some readers might fret, now that Sanders is so close to the big prize, won't he become more pragmatic in his approach? After all, he used to treat flying commercial like some kind of revolutionary sacrament; isn't he kicking back in charter planes now?

It will not happen. The Sanders campaign is a cult of personality masquerading as an earnest attempt to further the class struggle. And Sanders appears constitutionally

PAUL J. RICHARDS / AFP / GETTY

incapable of seriously considering or engaging opposing points of view.

Take the following passage from Simon van Zuylen-Wood's remarkable profile in *National Journal*:

Sanders himself, when I bring up [Elizabeth] Warren's infamous claim that she "laid much of the foundation" for the Occupy movement, amusedly raises his eyebrows and coughs four times in succession—"ahem, hem, hem, hem"—to remind me who came first.

Sanders might as well have banged on the table and said—*me, me, me, me!*

Further: When van Zuylen-Wood suggests that Sanders's "vision for a new progressive base of old white guys runs somewhat counter to the conventional wisdom," the senator snaps that he won 71 percent of the vote in Vermont, "a working-class state," then moves to shut down his questioner: "So I'm glad you raised that, because your analysis is incorrect. And I'm right and everybody else is wrong. Clear about that?"

If Sanders can't be gracious in sharing credit with his closest ideological ally in the Senate, or accept minor push-back from a friendly reporter, what are the chances he'll humor the average working- or middle-class American who instinctively distrusts his vague promises of class vengeance?

Even if Sanders *wanted* to reach out, he does not possess the vocabulary to do so. He tells van Zuylen-Wood he gets his news mostly from Bill Moyers, Ed Schultz, Rachel Maddow, and the *Nation*. ("Those outlets' highly ideological approach to journalism," van Zuylen-Wood writes, "makes them more, not less, credible in Sanders's opinion.") Likewise, in his much-ballyhooed eight-plus-hour filibuster against the bipartisan (and awful) 2010 budget deal—later published under the self-effacing title *The Speech: A Historic Filibuster on Corporate Greed and the Decline of Our Middle Class*—one of the sources Sanders cites most frequently—aside from himself, of course—is "a very good book by a friend of mine named Arianna Huffington."

It's a blind spot that paves the way for hypocrisy on a grand scale. Sanders—who decries "sanctimonious breast-beating," sheds crocodile tears over "the tenor of national politics," and frets over bad-faith actors with "nothing real to say . . . dividing this country in a horrendous way"—shows no self-awareness as he recounts "commiserating" with Bill Clinton "about the savage attacks he had been receiving from the media." He asks the then-president to "think about the very serious problem of corporate control of the media and what, if anything, could be done about it." Then, in the very same book, he writes the following: "John Boehner, chairman of the House Republican Conference, threatened to kill himself if a minimum wage increase was passed. He didn't. Where is Republican honor when you really need it?"

Further, when Sanders loses the legislative argument on the first Iraq war, he attacks the "servile" media for abetting the "more or less totalitarian system" that was "kicking into effect." When the coverage of a powerful Democratic party figurehead is less than flattering, the problem quickly transforms into a *lack* of servility to power and the need for federal bureaucrats to bring the critics to heel.

Contrast the above with Sanders's account in *Outsider in the House* of a 1995 "anti-Contract [with America]" press conference in the House Radio-Television Gallery organized by the Progressive Caucus: "We notified the media and waited. That day, the room was so mobbed with reporters and TV cameras we had to fight our way in. They had come to hear some of the first voices of opposition against the Republican agenda in the Capitol." And here's his assessment of the impact of his 2010 budget filibuster, from *The Speech*:

According to the *New York Times*, my speech was the most Twittered event in the world on that day. There were front-page stories in newspapers around the country, and the speech was covered widely in the international media. The number of people who signed up as friends on my Facebook page doubled the previous total in one day, and visits to my website went sky-high. Some journalists even claimed that Obama held an unscheduled, impromptu press conference with former President Bill Clinton, who defended the tax deal, in order to divert media attention away from what I was doing on the Senate floor.

Bernie is a very important man with an impressive social media presence—if he does say so himself—and the media understand that when he is on the march the revolution must be televised.

A pattern is developing . . .

Turn the camera on Bernie—*Good media; must praise!*

Turn the camera away from Bernie—*Bad media; must regulate!*

In 1996, a Vermont television station refused to run advocacy ads from a coalition of Bernie Sanders's opponents. He writes about his reaction:

From a civil liberties point of view, I have mixed feelings about this because groups advocating causes and positions are denied access to the airwaves, even when they are prepared to pay the going ad rates. For the moment, however, I must confess that "intellectual consistency" is taking a backseat to political reality. I'm delighted that corporate America cannot flood the largest station in the state with negative ads against me. I do not call up WCAX protesting their policy.

Isn't it about time we had a president who isn't afraid to put the phrase *intellectual consistency* in scare quotes? The type of public servant willing to put civil liberties in the backseat behind political expedience?

What's sauce for the plutocratic goose is most definitely not sauce for Sanders. ♦

The Young and Restless

Senators in a hurry

BY NOEMIE EMERY

A good-looking young senator, short on experience, is seeking the White House, after what critics say are too few years served in the job he is holding, too few accomplishments in it, and altogether too little of the experience, tempering, grooming, and seasoning they think that a president needs. He is in his early-to-mid-forties, about 10 years less than the age at which most men seek that office, and creates resentment and anger in the generation he is trying to shoulder aside. On the plus side, he is highly articulate and keenly aware of the nature of words and their power. He still has his hair, most of it still its original color (though this will change quickly if he becomes president), and he tends to be trim and vigorous where his opponents are rumpled or wrinkled, thick in the middle, and/or baggy-eyed. These among other things annoy his opponents, who quickly indict him for presumption and arrogance, as well as for jumping the queue.

In 1960 he was John Kennedy, in 2008 he was Barack Obama, and in 2016 he is Ted Cruz and Marco Rubio (though Cruz looks and seems older)—forming a set of the young and the hungry who annoyed their peers in the august upper chamber by running for president while still in their forties and while in the Senate for less than eight years. All were religious and/or ethnic minorities, all were impatient and restless by nature, and none fit the mold of a Senate insider. And Obama and Kennedy are two of only five men to be elected president whose last public job was senator, and the only ones elected *while* in the Senate, other than Warren G. Harding back in 1920. This seems a strange score for our greatest deliberative body, and what seems even stranger is that the people who manage to make this transition (a) don't seem to like the Senate,

(b) are not its leaders, and (c) haven't been in it for long.

Why is this true of an institution one might have thought would be a seedbed of national leaders? Are there similarities in these men that set them apart from their colleagues? Why are the newbies the few who can make it? Are there things about the Senate that blight men's ambitions? And if so, what might these things be?

With his exotic background, messianic appeal, and symbolic resonance as the first president to belong to a race that had once been enslaved in this country, Obama seems to be

one of a kind, but the lines that unite the other men seem much more convincingly real. Kennedy and Rubio went into politics young, winning their seats in the House and state legislature at age 29, and jumped to the Senate while still in their thirties, in long-shot races against established favorites that they were widely expected to lose: Rubio beating Florida governor Charlie Crist (who would go on to lose elections as a Democrat and independent, too); Kennedy beating Henry Cabot



Kennedy accepts his nomination, July 13, 1960.

Lodge Jr., whose father had beaten Kennedy's grandfather in a Senate race 40 years earlier, and whose son would lose a Senate race to Kennedy's brother in 1962. Kennedy won with the aid of tea parties, featuring his mother (the daughter of a local political legend) and three of his sisters; Rubio won with the help of the Tea Party, the ad hoc grassroots organization that arose in reaction to Obama's massive expansion of government in 2009-2010. Both made their names in speeches on foreign policy matters, but once in the Senate, they were not happy long. "He's very frustrated with the fact that the Senate doesn't do anything," one of Rubio's donors said, which is in fact a fairly old story, as it is exactly what Kennedy told his friend Charles Bartlett, among many others, about the rules, the procedures, and the manifold courtesies that made it so difficult for anything whatsoever to get done. "In a 1960 tape recording, explaining why he was running for president, he said that the life of a legislator was much less satisfying than that of a chief executive," writes JFK's biographer Robert Dallek. "Senators and congressmen could work on something for two years and have

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it turned aside by a president in . . . one stroke of a pen.”

Starting their runs, they were resented by colleagues a decade or two older, in Rubio’s case by his ex-mentor Jeb Bush; in Kennedy’s, Adlai Stevenson, the party’s failed two-time standard-bearer, and Majority Leader Lyndon B. Johnson, a workhorse who was nine years his senior, but after much strife would become his vice president. Johnson condescendingly called Kennedy “Johnny Boy,” “Sonny Boy,” and a “nice attractive young man.” “Good news—Jack’s pediatricians have given him a clean bill of health,” he told a Republican congressman, and went so far as to ridicule the size of his feet, telling a journalist Kennedy was a “scrawny little fellow with rickets. Have you seen his ankles? They’re about so round.” Playing the LBJ role, Chris Christie (who was elected just one year before him) referred to Rubio as the “boy in the bubble,” implying both youth and a sheltered experience, while Jeb Bush said both Cruz and Rubio lacked the “life experience” needed to lead.

All were assailed for votes missed during time spent campaigning, Bush complaining to Rubio that as a Florida resident he had been shortchanged on constituent services by his wandering senator, and Johnson missing no opportunity to blame his younger rival for wasting time “kissing babies” while he was back in D.C. passing bills. Johnson told crowds at rallies that he had voted on 45 roll calls on a civil rights bill, while Kennedy had missed 34 of them. “Six days and nights we had 24-hour sessions. Lyndon Johnson answered every one of the 50 quorum calls,” he told one large audience. “Some men who would be president answered none.”

Kennedy parried the blows by deflecting them deftly and letting resourcefulness speak for itself. When Harry Truman said the times required a leader with greater maturity, Kennedy answered that Truman’s age standards would have kept Jefferson from writing the Declaration of Independence (that happened when Jefferson was 33), Washington from commanding the army (he was 42 when commissioned), and James Madison from fathering the Constitution (he was 36 in 1787). When Johnson challenged him to a debate in a hall packed with his backers and then hit him with a recital of his missed votes in Congress, Kennedy smiled and killed him with kindness, lavishing praise on his “wonderful record,” asked for his help if he should become president, and then won the hostile crowd over completely by saying that Johnson “had made some general references to perhaps the shortcomings of other presidential candidates, but as he was not specific, I assume he was talking about some of the other candidates and not about me.”

At the notorious CNBC debate in November, Jeb Bush “tried to take out his onetime protégé, Marco Rubio, with a graceless attack on Rubio’s Senate attendance record,” wrote Fox News’s Chris Stirewalt. “But Rubio proved to be the new master . . . telling Bush, ‘Someone has convinced you

that attacking me is going to help you. It’s not.’” Likewise, Obama in 2008 turned Hillary Clinton’s long record against her, selling himself as a new face—so new he hadn’t yet had the chance to do anything. This got him elected twice as the Hope and Change candidate. But the disastrous Obama presidency is now being used by other and older Republicans as part of their case against Rubio, pressing the point that electing a good-looking fresh face has worked out badly and should not be repeated. But the cause of the problems afflicting our president may turn out to be something else.

If youth is the problem, it hasn’t been historically, as we have had presidents younger than Obama who did not leave chaos behind. Theodore Roosevelt, who was just 42 in 1901 when he succeeded the murdered William McKinley, became an iconic world leader. Kennedy, the youngest president ever elected, was 43, four years younger than Obama was when he took office, and he too became an iconic figure and left behind a booming economy and a stable world order (by today’s standards). The difference was not in their ages but in their temperaments, their political leanings, and the way they reacted to their errors when they committed them, and to the disappointments and failures that came their way.

John Kennedy was a pragmatic moderate close to the center of national politics, who was wary of moving too far from that center; Obama proved to be an ideologue on the fringe of the electable spectrum, who would not be averse to forcing his views on the public when it did not seem to see things his way. Kennedy acknowledged mistakes and tried to correct them, while the idea that he makes any mistakes whatsoever is foreign to Obama’s worldview. And since Obama does not think he makes them, he in fact makes the same mistakes over and over and always finds some other person or party on whom to cast blame. JFK and TR were children of privilege who nonetheless had been tested by the time they became president, having been ill as small children, been ravaged by grief while still in their twenties by multiple losses within their own families, and been toughened up by World War II and the Badlands, in which lessons in survival were learned. A fatherless child from a broken family, Obama had an unsettled childhood, but from college on enjoyed a glide upwards, in which he was largely unchallenged, and often acclaimed as divinely inspired. JFK and TR had been tempered by life and expected bad things to happen. Obama reacted badly when tested, becoming resentful and petulant, and always passing the bill for his disasters on to something or somebody else.

Obama’s problem isn’t his youth, and it isn’t lack of experience, as he’s had seven years of it now and learned nothing from it. Theodore Roosevelt was effective at age 42 (as was Ronald Reagan in his mid-seventies), while men in their prime have been unsuccessful as presidents. Age, at either end, does not seem the problem. Judgment and character do.

But for the young, old, and middling, the Senate is a bad place from which to try running for president, and most of those who tried have failed. History shows the Senate far down on the list as a cradle of presidents. Vice presidents lead the way, with 14 having become president (8 on the death of an incumbent), as have 9 governors (most of them sitting) and a varied assortment of public officials who had never before faced voters. The early republic had many vice presidents, cabinet members such as James Madison and John Quincy Adams, and military figures, such as generals Washington and Jackson. With Grover Cleveland in 1884, the governors start, and run through William McKinley, Theodore Roosevelt, Woodrow Wilson, Franklin Roosevelt, Jimmy Carter, Ronald Reagan, Bill Clinton, and the younger George Bush. In the 19th century, Benjamin Harrison and Andrew Jackson were elected as retired senators. And of course three sitting ones won in 1920, 1960, and 2008, none of them having served very long in that body or been one of its leaders. Men became president who had *been* in the Senate, but most had acquired a patina of executive experience as vice presidents afterwards: Truman and Johnson succeeding presidents who had died in office and Richard M. Nixon, who lost his first bid to succeed Dwight Eisenhower in 1960 and struggled to achieve his ambition, eight years after the fact.

Just how hard is it to run and to win from the Senate? During the years Obama and Kennedy were active in politics, the following people, some of them giants, would run from the Senate and fail: Robert Taft, Hubert Humphrey, Lyndon Johnson, Barry Goldwater, George McGovern, Gary Hart, Howard Baker, Robert Dole, Edward Kennedy, former first lady Hillary Clinton, John Kerry, and John McCain. In addition, Al Gore, Walter Mondale, and Humphrey were all former senators who became vice president and who would fail in their efforts to win the great prize for themselves. Many of these had served three or more terms (Dole was in his fifth term in his last run for president) and were regarded as greats in that great institution.

In fact, it is precisely those people who love the Senate the most, understand it the best, and are able play it like a musical instrument who make the worst showings when running for president. Few loved the Senate more than Bob Dole and Ted Kennedy, and few ever campaigned less effectively on a national platform, Dole spinning his wheels in 1996 against ex-governor Clinton and Kennedy, a heavy favorite in national polls in 1979 before his announcement, within weeks blowing a lead he would never regain. Some people say that senators fail because they have cast too many votes that are then used against them, some say they speak too much of a legislative process that confuses most voters,

but the best guess seems to be that there are differences between the executive and legislative branches that make it possible for them to succeed on one stage, but not both.

Ted Kennedy loved the Senate from the first day he saw it and spent nearly 50 blissful years in it, a fate that would have driven his older two brothers insane. Picking a seat to run for in 1946, brother Jack chose the House and then Senate because he wanted to help shape the post World War II order, but the pace and the rules of Congress annoyed him, as well as did having his impact diluted as only one of 100 (or 435) votes. He ran for the Senate more to study foreign relations than to pass legislation, and when he began running for president in 1959 immediately after he won reelection, the credential he offered was not his record in Congress, but his recognized knowledge of foreign affairs.

Sometime after he had become president, Kennedy began speaking his ruminations on life into a Dictaphone, and his ambition was one of the things he addressed. “How does a politician continually raise his sights, leave a job that required complete satisfaction at one time for a higher position? Part of the reason lies in the normal desire to move ahead. Perhaps a more important part lies in the recognition that a greater opportunity to determine the direction in which the nation will go lies in higher office.” On February 3, Rush Limbaugh recounted a phone call he had with Rubio two days earlier, in which the senator told him “how frustrating it is to be in the Senate, saying ‘I’m not staying there. I’m out. . . . The place is just not built for somebody who wants to move as quickly as I do.’” And Limbaugh added, “Cruz . . . told me the same thing.”

An executive temperament trapped in the Senate because of his focus on international issues, he felt driven to seek at the first opportunity the one job in the world that fulfilled his ambitions: executive power in foreign affairs. Obama and Rubio seem to have felt or be feeling a similar urgency, and though Obama’s goal—to “fundamentally transform” the American nation—lost much of its prior support when people found out what he meant by it, it certainly sounded inspiring at the time he said it, and it made for a winning campaign.

What seems to win presidential elections are big ideas and clear visions, which don’t seem too often to come out of the Senate, at least of the leadership, which goes more for details and deals. The sad fact is that the senators who run effective presidential campaigns tend to be those who don’t much like the Senate and wish to depart it as quickly as possible. The more that senators love the Senate and fulfill its ideals, the more likely they are to be forced to stay in it. When it comes to senators seeking promotion, the young and the restless prevail.



Rubio in Iowa,
October 31, 2015

GAGE SKIDMORE



Ben Bernanke at an open meeting of the Federal Reserve Board (2013)

Money Manager

When the chairman stood on the burning deck. BY ANDREW STUTTAFORD

In *The Courage to Act*, former Federal Reserve chairman Ben Bernanke reveals, a little unexpectedly, that he can tell a taut tale well, and in a manner accessible to someone who wouldn't know a CDO from an Alt-A mortgage. After a likable autobiographical beginning, the book is centered on the Fed's response to the financial crisis that started to unfold just over a year after Bernanke took office in 2006. Bernanke was right to see that catastrophe threatened to engulf more than Wall Street, and he was right to see that, in the much-mocked phrase, *something* had to be done.

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The Courage to Act
A Memoir of a Crisis and Its Aftermath
 by Ben S. Bernanke
 Norton, 624 pp., \$35

It's easy to criticize the technical aspects of bailouts based on Depression-era powers usable in "unusual and exigent circumstances" and put together with "chewing gum and baling wire." But that misses the point. Financial panics feed on themselves. What mattered about the rescue packages was not their structure but what they symbolized: Money, a lot of money, was available, and the mechanisms were in place to dole it out. With confidence gone and liquidity evaporating, that was what markets needed to know.

Not left nor right nor center rejoiced in what was widely characterized as a helping hand for the rich, but there were more explicitly ideological objections to the bailouts, too, most notably from congressional Republicans. They ranged from the nutty—TARP as "Bolshevism," a label that would have surprised Lenin—to a more intellectually coherent insistence on greater respect for the disciplines of *laissez faire*.

But to argue against the interventionism of 2008-09 on the grounds that markets are best left to sort themselves out was (as the ebbing Bush administration also appreciated) to succumb to a form of fundamentalism with no connection to political reality. From Greece to Spain to France to Italy, economic stagnation, or worse, has shaken

ANDREW HARRER / GETTY

the European Union's political order to a degree largely unimaginable a decade or so ago. And not in a way that bodes well for free enterprise.

Over here, the maelstrom on Wall Street did its bit to propel Barack Obama into the White House. The feebleness of the economic recovery that followed has played its part in the rise of Donald Trump and Bernie Sanders. To maintain that America's political center would have held in the event of a collapse in the banking system—empty ATMs and all the rest—is absurd.

As it was, the mayhem triggered by the implosion of Lehman Brothers offered a taste of a larger calamity dodged. Bernanke would have preferred to help out Lehman, too—both the Fed and an essentially helpless Treasury understood that its failure would be an “epic disaster.” But the law, he writes, stood in the way: Lehman Brothers was in such bad shape that it wasn't eligible for the emergency financing deployed elsewhere. It's been suggested that this was merely a convenient excuse. Bernanke himself admits that the Fed was reaching the limits of the politically and financially feasible. Market conditions were such that any assessment of Lehman's underlying strength (and eligibility for aid) was more art than science, leaving some wiggle room had the Fed been prepared to take it.

Nevertheless, I'm inclined to believe Bernanke's insistence—his version of events, unsurprisingly, is more or less in line with what Tim Geithner and Hank Paulson have to say in *their* memoirs—that the law counted. In an age of technocratic excess, that's cause for mild patriotic celebration. In marked contrast to the lawlessness that scarred the defense of the eurozone, the Americans stuck by the rules.

But any celebration is tempered by the knowledge that the Fed's emergency powers have been rewritten in the wake of the Dodd-Frank Act to exclude lending to specific institutions (“broad-based” lending is still permitted), a right Bernanke claims to have been “happy to lose.” This change was cheered on by the likes of Elizabeth

Warren; the Republican chairman of the House Financial Services Committee, fretting about moral hazard, thought that it did not go far enough. As it is, this restriction will almost certainly make it impossible for the Fed to give the sort of support it gave to smooth J.P. Morgan's takeover of Bear Stearns, let alone to AIG. And that'll be fine—until it's not.

When it comes to moral hazard, Bernanke notes that “no firm would willingly seek Bear's fate.” It wasn't insouciance over risk that brought so much ruin, but the failure to understand it.

Drawing the correct line between the necessary independence of the Fed and necessary democratic accountability is (as Bernanke clearly appreciated) not straightforward, particularly during a financial rescue operation when the maintenance of market confidence—and thus, often, secrecy—is of the essence. A couple of years after the bailouts, it emerged that the emergency financing extended to Wall Street's finest was much larger than realized. Congress would not have taken the news well had it known this at the time.

Given the seriousness of the situation—and the fact that the Federal Reserve had to do most of the heavy lifting—Bernanke likely found an acceptable balance between the needs of finance and the demands of Capitol Hill. But occasionally some of his comments (“even the risk of a once-in-a-century economic and financial catastrophe wasn't enough for many members of Congress to rise above ideology and short-run political concerns”) betray the impatience of the technocrat with democracy's rougher edges.

There are hints, too, of technocratic bias in Bernanke's analysis of the causes of the crisis. He's unwilling to let interest rate policy take much of the blame and, to be fair, he makes a decent case why it shouldn't. He does admit that the Fed was slow to notice the problems that were developing and slow to fully grasp their significance. He acknowledges that a ludicrously

fragmented regulatory system had failed to keep up with rapidly evolving capital markets. But in the end, private sector culprits—including subprime lunacy, the bewilderingly intricate interconnectedness of the modern financial system, and good old-fashioned panic—dominate his perp walk.

Hyman Minsky, the economist who, decades ago, warned that a prolonged period of financial stability could lead to dangerous investor complacency, gets the shout-out he deserves. But did the widespread perception—boosted by heavy, if misdirected, regulation—that markets *were* well regulated reinforce that overconfidence? There is also the inconvenient fact that capital adequacy rules strongly encouraged banks to favor mortgage lending and, critically, the purchase of mortgage-backed securities—so long as the latter were rated Triple A by the rating agencies that were, themselves, given a privileged position by regulators.

Triple A! What could go wrong?

Bernanke also has little to say on the way that postcrisis regulation has hit the willingness of banks to lend. That's ironic, given his belief that shrunken credit flows made the Great Depression worse; doubly so, as reining in the banks has probably canceled out no small part of the boost that the ultra-low interest rates generated by quantitative easing (QE) were meant to bring.

Bernanke recalls that after QE1 and QE2, he had concluded that the Fed's securities purchases had been “effective” but “not enough, on their own, to achieve an adequate pace of economic growth and job creation.” QE3 came next. That began to taper off toward the end of his tenure, by which time Bernanke believed that the economy was in considerably healthier shape.

It was impossible, he concedes, to know how much of the recovery was due to the Fed's work, but Bernanke is convinced that “unconventional monetary policies” promoted growth and reduced the risk of deflation. That could be true. But there may eventually be a harsh price to pay for choosing to put the laws of economics to one side for so long. Years in which interest

rates—the cost of money—have been so disconnected from market forces have left a trail of mispriced investment and unwise borrowing that is likely to end up in a nasty bust. What will an already overstretched Fed be able to do then?

Bernanke was not given the benefit of the doubt that Alan Greenspan—the “Maestro”—enjoyed. Tough times will do that. His immediate response to the crisis infuriated many. The measures he took in the years that followed were greeted with another round of

jeers by many and crossed fingers by more. Even those who profited from the stock market recovery built on his cheap money seemed suspicious of their friend at the Fed.

Only a few brave contrarians have called Ben Bernanke a maestro. His historical reputation will probably be all the better for that. By detailing what he did and why he did it, this book won't hurt it, either. In the end, the consequences of his grand gamble will count for more. And we still don't really know what those will be. ♦

BCA

Detective Fiction

The hard-boiled stories behind the mythology.

BY BENJAMIN WELTON

Conjure up the private detective. For those familiar with the novels of Dashiell Hammett and Raymond Chandler as well as the noir films of the 1940s and '50s, this is easy magic. Tucked underneath a fedora, the archetypal P.I. chain-smokes cigarettes, goes nowhere without his trenchcoat, and prefers to walk the dark streets as a lonely man—described frequently as a sort of knight errant. His goals are easy: truth, justice, and a shot of whiskey. Sure, plenty of girls (“dames” in trade vernacular) come along, but they never stay. The American P.I. is just the Western cowboy in the big city, and we all know that cowboys are better off riding alone.

Given the private eye's place in American mythology, it's hard to believe that the whole thing is an invention. That's John Walton's assertion in this deconstruction of the private detective myth. Rather than dashing outsiders with strict moral codes, Walton shows that America's private eyes were mostly “men, all white, in their 30s and 40s, mostly married, often with children.”

Benjamin Welton is a writer in Boston.

The Legendary Detective
The Private Eye in Fact and Fiction
by John Walton
Chicago, 232 pp., \$25

A large majority had prior law enforcement experience, with some even being veterans or other experienced hands in the rougher socially acceptable trades. In Walton's words, private eye operatives in America were “from the righteous working class.”

This did not stop the anti-P.I. crowd from calling them disreputable. After all, small-time and big-time private companies made money breaking up strikes and hiring out criminals for replacement labor. *The Legendary Detective* cites innumerable investigations that proved many detective agencies were given to less-than-legal practices during the labor wars that plagued America before and after World War I.

Walton's research takes these findings one step further. He argues that labor espionage—everything from anti-union agitation to company-versus-company spying—was the real meat and potatoes of the trade until the 1930s wave of federal reforms forever altered indus-

trial relations. Investigating crimes and apprehending criminals were far down on the private detective's to-do list. Private eyes never slept because, in Walton's rendering, they were up to no good.

Readers might have reason to suspect the author's bias and motivations here, yet it would be unwise to discard *The Legendary Detective* as mere agitprop. Walton shows that private detectives of yesteryear were capable of ugly tactics, from political subterfuge to warrantless surveillance on citizens. And although they occasionally produced operatives like Frank Geyer, the Pinkerton man who helped capture a serial killer named H.H. Holmes, or Charles Siringo, the cowboy-cum-lawman who ended his life as a reformer speaking out against P.I. excesses, the Pinkertons, the Burns detective agency, and other independent enterprises mostly produced hard-bitten workers who provided dubious services to corporations that wanted to get organized labor out of their hair.

How this reality became romanticized fiction is another matter. In order to break away from the genteel fantasies of Arthur Conan Doyle and Agatha Christie, American pulp magazine writers of the midcentury sought to appeal to working and middle-class male readers by hammering out tough-talking crime stories about equally tough-talking private detectives. The first to do this was Carroll John Daly, who created Race Williams, a private eye who consciously walked the middle path between cop and criminal. Daly was followed by Dashiell Hammett, a former Pinkerton operative.

Yet as much as these stories merely represented working for a payday, Walton sees them as products of an intentional synthesis. Digesting the complex American world of the early 20th century, hardboiled writers created a private detective figure who was “an amalgam [of] the criminal associate, labor spy, strikebreaker, leg breaker, jury tamperer, frame-up artist, braggart, entrepreneur, advocate, and reformer.” The American private investigator of fiction is still two-faced, with conflicting instincts that oscillate between lightness and darkness. But that's how it usually is with creatures tasked with doing society's dirty work. ♦

Pride Before Fall

Reflections on the lessons of (military) history.

BY EDWIN M. YODER JR.



Alistair Horne

In the classical Greek scheme of things, hubris—overweening pride—was a lurking trap for headstrong humans, not least such extraordinary figures as King Oedipus. Along with nemesis, its personified enforcer, hubris was a chronic susceptibility of the human temperament woven into the cosmic order.

Alistair Horne adopts this familiar myth as title and theme of his latest inquiry into the history of 20th-century warfare. Readers know him as a specialist whose masterworks include a definitive trilogy on French military fortunes and a biography of Harold Macmillan. Horne's treatment of the Algerian war, *A Savage War of Peace* (1977), has enjoyed a recent revival among professional warriors concerned with intractable struggles in

Edwin M. Yoder Jr. is the author, most recently, of *Vacancy: A Judicial Misadventure.*

Hubris
*The Tragedy of War
in the Twentieth Century*
by Alistair Horne
Harper, 400 pp., \$28.99

North Africa and the Middle East. That book's paradoxical title is pertinent to asymmetrical wars that defy conventional great-power might, and among the episodes Horne treats in *Hubris* are the Japanese catastrophe at Midway after Pearl Harbor (the end of the battleship era); General Douglas MacArthur's misadventure as supreme commander in Korea; and the French attempt to salvage imperial control over Indochina, ending at Dien Bien Phu—a grim curtain-raiser for the American agony in Vietnam.

Horne writes with authority and eloquence. His study of both Dien Bien Phu and the French war for Algeria draw upon his earlier work

on the siege of Verdun. (Bernard Fall called Dien Bien Phu “Verdun ... [in] a tropical setting.”) In Indochina, hubris loomed fatefully in the French confidence that the North Vietnamese general Vo Nguyen Giap and his peasant army could not drag heavy artillery pieces into the heights overlooking their base, nor implant them in hillside dugouts to make them safe against bombing and artillery.

How does Horne adjust an ancient mythic idea to complex episodes of modern war? He does so by exposing, in detail, forms of overreach, misconception, and forgetfulness that lead to catastrophic reversals known to the Greeks as *peripeteia*. Many of these encounters are familiar, with the exception of a little-known clash between Russian and Japanese armies in the Mongolian borderlands. The ensuing naval counterpart was the Battle of the Tsushima Straits, the second instance in which the Japanese destroyed a landlubbing Russian fleet. The Japanese Navy came into its own as a world power at Tsushima, but with a legacy of dangerous overconfidence.

Accompanying the victorious admiral in a chivalrous visit to his hospitalized Russian rival was a young officer, Isoroku Yamamoto, who would later become prophet of carrier warfare and planner of Pearl Harbor. The later strategic decision of the 1930s to “go south” in quest of land and resources brought Japan into collision with the United States, the patron of Chinese territorial integrity and guardian of the Open Door policy. The fateful attempt to cripple American naval power in the Pacific brought a permanent reversal months later at Midway. There, the Japanese lost four aircraft carriers. Horne shows that Yamamoto's overreach at Pearl Harbor consisted, in significant part, of excessive complexity, including a simultaneous assault on a strategically valueless Aleutian island. *Peripeteia*, indeed.

Continuing in the Asian theater, Horne also offers a probing account of Douglas MacArthur's firing in Korea. MacArthur, a 20th-century military giant, was lured by his more-than-ample ego into a clash with his commander in

DAVID LEVENSON / GETTY

chief, Harry Truman, (an artillery captain in France when MacArthur was emerging as the most decorated officer in that brief but costly intervention). Horne's balanced analysis of MacArthur's sensational sacking is the finest in a fine study. He notes that, under the controlling National Security Council memorandum, MacArthur could not be sure of the length of his leash. He read it as authorizing him, after the brilliant landing at Inchon behind North Korean lines, to push his forces up to the Chinese border on the Yalu River, notwithstanding warnings that the maneuver would trip a Chinese intervention. When refused sanction, and with an implicit command to halt at the 32nd parallel, he dispatched an insubordinate letter that was read on the floor of the House of Representatives challenging presidential command with an oracular admonition

that "there is no substitute for victory."

Hubris is a richly instructive historical reminder that merits attentive reading, especially in Washington. But in conclusion, a memory: Some years ago I was one of a small party touring the Antietam battlefield with Alistair Horne and other friends. One, a devoted student of our Civil War, maintained a running commentary on the features of the battle terrain, not realizing that the polite and attentive but silent Englishman in our midst was a distinguished military historian. He learned about that later in the day when shown a shelf containing Horne's renowned trilogy on the French Army. The modest silence at Antietam was characteristic of the Alistair Horne I have known for four decades. That modesty parallels his magisterial grasp of the role of inflated egos that lead nations into military ruin. ♦

have dealt with the 17th century and beyond, Brooks now turns her gaze far back. David lived about 3,000 years ago; to create a recognizable world and credible speech patterns for ancient characters is not easy. There are very few biblical novels that work, since they contend both with the entrenched narrative of the Bible itself and the alchemical requirement to make the reshaped characters live in the mind. To write a decent biblical novel requires research—full disclosure: Brooks writes very kindly about my biography of David in her acknowledgments—and, as Robertson Davies said was essential in a writer, "the wand of the enchanter."

Brooks succeeds here by fashioning a compelling narrative voice in the prophet Nathan. In the Bible itself, Nathan plays a key role in the Bathsheba saga and the succession at the end of David's life. The book of Samuel does not state that Nathan was present at the events he narrates in Brooks's account, or even knew the people he quotes. But Nathan is a reasonable choice to see the many sides of David: lover, warrior, poet, musician, murderer, penitent, leader, father, son, king. The king's protean personality comes through in the biblical story. Brooks tries to flesh it out, with the inevitable loss of the Bible's cryptic power but with a gain of fully orchestrated scenes that, in the Bible, are single notes. When describing Amnon's rape of Tamar, for example, Brooks forces the reader to encounter the full depravity and cruelty of the event.

She also takes stands on some controversial issues in interpretation and aligns them with her overall presentation. In his dying days, both Nathan and Bathsheba "remind" David of his promise to make Solomon king. Was such a promise ever given? The text is unclear. In Brooks's reading, all the parties concerned know it was not but conspire in the useful fiction because Solomon is David's choice. Were Jonathan and David lovers? The Bible is ambiguous, but here they are lovers and their relationship is a widely acknowledged secret.

Brooks gives Nathan the power of prophetic foresight, calling attention



Book of David

The biblical framework for a novel of redemption.

BY DAVID J. WOLPE

The Hebrew Bible is shaped by two extended portraits, of Moses and David. Of the two stories, Moses' is better known, but the narrative of David is more psychologically complex and dramatically vivid. As they divide the great mountains (Sinai and Zion) and two dominant terrains (desert and land) between them, Moses and David represent, respectively, the giving of the law and the attaining of ultimate redemption through the line of the Messiah.

The story of David is less familiar, partly due to its placement in the book of Samuel instead of the Pentateuch. David's story is intricate, incident-packed, and follows several different strands. Fascinating in all its parts,

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The Secret Chord

by Geraldine Brooks
Viking, 320 pp., \$27.95

it requires some thought and time to weave it together. In some ways, therefore, David's life is ripe for a novel. Skillful novels unfurl complicated stories and run a strong narrative line through them, helping the reader to understand their shape. Novels can also alter or supplement the original to help the reader understand its essential shape. Here, in Geraldine Brooks's skillful and eloquent account of the life of David, rather than hint at the apparent hostility David's brothers bear him, she has one of them accuse him of bestiality. There is no warrant for this in the biblical text, but it certainly does fix the animosity in the reader's mind.

A novelist whose historical fictions

to the position of both narrator and reader—who, after all, will know the major turns of the story being told. One of the striking characteristics of David's life is his serious and often respectful engagement with other characters, both men and women. Brooks provides important characters, such as Abigail and Michal as well as Bathsheba, an even greater voice than the Bible affords them. The challenge in writing about David is to portray a man both lovable and brutal. The biblical tale is unvarnished: The same David who wipes out entire villages to protect himself weeps

uncontrollably when his rebellious son is killed and writes pious songs to God. Such titanic inconsistencies are not permitted in fiction, only in life.

The Secret Chord is not biblical backstory in the manner of Anita Diamant's *The Red Tent* or a modern allegory like Zora Neale Hurston's *Moses*. It is, rather, an adept and knowing recounting of the Hebrew Bible's most gripping, contradictory, and (along with Moses) consequential character, the man who wrote imperishable poetry, created a unified Israel, and whose line leads to the Messiah. ♦

BCA

Founders-in-Arms

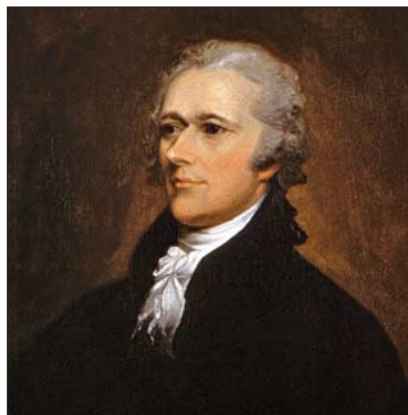
Two very different men with the same ideas.

BY EDWARD ACHORN

George Washington firmly believed that the “hand of Providence” was “conspicuous” in the miracle of American independence—secured by a ragged army, more than once on the brink of annihilation, against the greatest military power on earth. Certainly, astonishing fortune seemed to attend the Americans—perhaps no more so than in Washington's improbable relationship with Alexander Hamilton. Their alliance uncannily blended the strengths of both men into a vital force that launched America and changed the world.

“Indeed, no other founding collaboration was as important to achieving victory and nationhood as Washington and Hamilton's,” Stephen F. Knott and Tony Williams argue persuasively in this feisty new account. For 25 years, Washington and Hamilton worked together, an odd couple if there ever was one: Washington, the wealthy Southern landowner given to prudence,

Edward Achorn, editorial page editor of the Providence Journal, is the author of Fifty-nine in '84 and The Summer of Beer and Whiskey.



Alexander Hamilton

Washington and Hamilton
The Alliance That Forged America
by Stephen F. Knott and Tony Williams
Sourcebooks, 352 pp., \$24.99

steely resolve, and a profound clarity of vision; Hamilton, “a bastard brat of a Scotch pedlar” in John Adams's memorable phrase, a hotheaded immigrant from the West Indies who brought to the table philosophical depth, administrative genius, and a remarkable facility for detail.

Their relationship, the authors argue,

has been underplayed by historians who have offered a “caricatured account” of the new nation's early years, in portraying Thomas Jefferson, James Madison, and their party as “champions of the people,” while dismissing Washington, Hamilton, and the Federalists as the “forces of privilege and authoritarianism.” In fact, the general and the bastard were dedicated to creating a strong nation—conceived in, and dedicated to, liberty—that could sustain itself and prosper. The world is fortunate that they succeeded.

Their collaboration is in many ways the story of the founding. Hamilton, having distinguished himself as commander of an artillery company during the Revolutionary War, found his way onto the staff of the commanding general of the Continental Army. The young man's passionate devotion to the patriot cause, clear writing, and keen intelligence quickly made him one of Washington's most trusted aides. Desperately seeking help for their starving army from a Continental Congress that could not yet obtain it from the states, both men became ardent believers in a strong national government.

Not that they saw everything alike: The two had a falling out during the war over an explosion of temper by Washington, and Hamilton nursed his wounded pride long after the incident. After the war, Hamilton supported a show of force by the military to pressure Congress into heeding its will. Washington, insisting that civilian authority must be predominant, tamped down the cabal and later underscored the message by voluntarily giving up his military powers rather than become dictator.

“If he does that,” George III had predicted, “he will be the greatest man in the world.”

Yet Hamilton repeatedly worked with Washington in seeking a stronger union. He urged Washington to attend the Constitutional Convention, putting the essential stamp of America's beau ideal on the effort to replace the Articles of Confederation with a powerful national authority. Washington understood and heeded Hamilton's urgings that he become

the first president, which was crucial to establishing the new nation and setting an example of strong executive leadership within a system of divided power among three branches.

Hamilton also worked with Washington to promote manufacturing, “multiply the objects of enterprise,” and “stimulate the activity of the human mind”—in other words, as the authors put it, “to unleash the entrepreneurial talents of the American people.” Thomas Jefferson, believing that liberty was best sustained by farmers, feared a thriving market economy would introduce European-style corruption—and, ultimately, monarchy—to America.

Indeed, Jefferson’s approval of the revolutionary bloodbath in France, and his hatred of Great Britain, also set him at odds with Washington and Hamilton, “who had personally experienced the impact of violence,” the authors note, and “were far less taken with juvenile notions of the positive effects of bloodshed and upheaval.” Knott and Williams compare Hamilton’s upbringing in a lawless Caribbean simmering with violence with Jefferson’s earliest memory of being carried on a pillow by a slave.

One was shaped by fragility of life and the constant struggle for mere survival, the other by the infinite possibilities of a carefree life built on the toil of others.

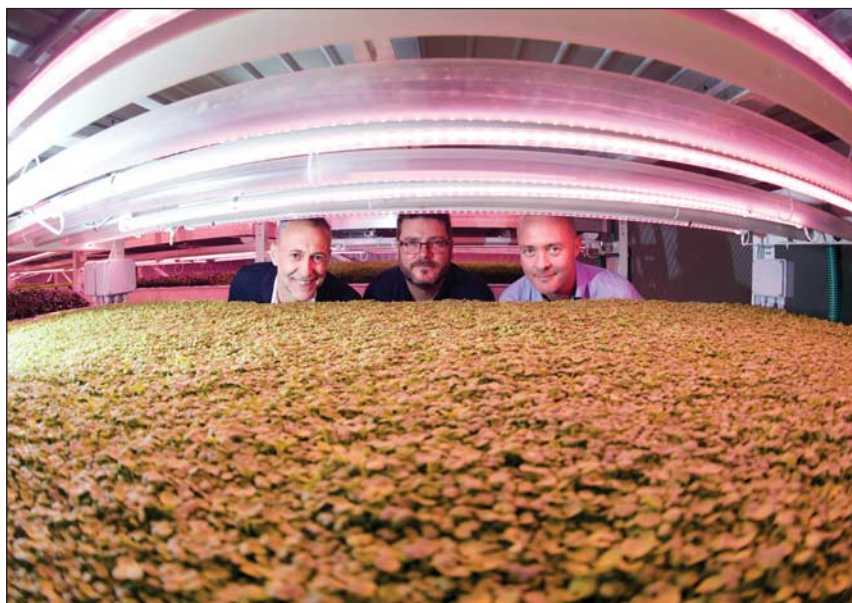
Such observations, sprinkled through the text, run the danger of presenting key figures—notably John Adams—as the kind of caricatures the authors find other historians peddling. Yet there is much good sense in the authors’ concluding opinion, that Americans would do well to rediscover the role that the team of Washington and Hamilton played in creating “a strong union that decades and then centuries later helped defeat fascism and communism, explored the universe, produced endless scientific and technological breakthroughs, and perhaps most importantly abolished slavery and Jim Crow, thereby securing the blessings of liberty for all of their fellow citizens.” ♦

BCA

Underground London

The subterranean life of Britain’s capital.

BY SARA LODGE



Michel Roux Jr., Richard Ballard, and Steven Dring of Growing Underground (2015)

London

The elevator is one of the terrifying old-fashioned kind with a metal latticework that clanks across, through which you can see the shaft as you sink below street level into the cavernous unknown. The red and yellow treads of now-unused stairways spiral past like the double helix of subterranean DNA.

There are only two of us in the elevator; both of us wear lab coats, hairnets, and blue plastic bags over our shoes. Down we go, 14 floors below the Northern Line into the heart of Clapham, a London borough south of the Thames. I am on a mission to discover some of the city’s oldest and newest attractions. And it turns out that the place where

Sara Lodge, a senior lecturer in English at the University of St Andrews, is the author of Thomas Hood and Nineteenth-Century Poetry: Work, Play, and Politics.

London’s buried history meets its emergent future is here: deep underground.

Fans whirl hypnotically in the arched tunnel we reach, and the pink light and white fixtures conjure science-fiction adventures. We turn into a room with trolleys as far as the eye can see on which rest white plastic trays, like bunks in a submarine. Each tray sprouts a fuzz of dark green leaves. When I am invited to try a leaf no bigger than my thumbnail, it tastes peppery. This is arugula. Next to it are garden cress, cilantro, and baby spinach. We are in a plant nursery that just happens to be hundreds of feet under Clapham High Street.

This is a part of the underground network that was designed but never used for metro trains. In World War II it served as an air-raid shelter; 8,000 exhausted Londoners huddled down here as German bombs burst overhead. Until recently, these tunnels were moribund, but now they have taken on a new life as London’s first underground farm.

REX FEATURES/AP

Salad is grown hydroponically under LED lights on a spongy base of wood pulp: There is no soil. An economical filtration unit recycles the water and cleans it with ultraviolet light.

Once, such garage growing was the preserve of marijuana dealers; now, it is being tried in London as a solution to the problem of feeding 8.6 million residents in a congested metropolis.

“There are no seasons down here,” Steven Dring, co-owner of Growing Underground, explains to me. “So, theoretically, you can grow anything at any time.”

“Subterranean strawberries?” I tease.

“Well, you’d need underground bees. But it’s not impossible. There are so many advantages to growing here.”

Under my hairnet, I raise an eyebrow.

“Up there,” he continues, “the average house price is £500,000. Down here, nobody wants the space. It’s practically pest-free. We can harvest vegetables that are in restaurants within four hours. And it’s a closed system: efficient and carbon neutral.”

“What’s the catch?”

“Horticulturalists mostly want to dig earth in the open air. But we’ve found great employees who like this environment.”

I can see why. The tunnels are tranquil, even meditative, in their stark geometry. There is something sublime about the infinitely repeating curvature of arches that stretch for miles, where the air itself is still as a library. There may come a time, I ponder, when it is quite normal to see fields of sunflowers in places that have never seen the sun.

Other long-abandoned parts of the London underground network are increasingly catching the eye of developers. Transport for London, the nonprofit company that runs the city’s public transport, last summer invited the public to propose new uses for Down Street Station in Mayfair. It may become a gallery or an exhibition space. Meanwhile, Aldwych Station, just off the Strand, which is no longer used for transporting Londoners physically, is enjoying a second career transporting them imaginatively: It is used as a movie location. Intrepid tourists can also take a tour of the premises.

Built by the controversial American financier Charles Tyson Yerkes and opened in 1907, Aldwych retains its smart terra cotta brick frontage and a ticket hall with characteristic moss-green and cream tiling. There is a wooden-floored elevator with a bench in it for tired Edwardians to rest on; you can even buy your ticket in the elevator. A “modesty room” in the ladies’ toilet provides mirrors for adjusting your dress. You can imagine women here with wasp waists, parasols, and hats that looked like a fight between a bouquet and a parrot.

London built the world’s first underground railway in 1863, and the “tube,” as it quickly became known, shaped the perception of modern life. Dickens used it; Jack the Ripper may have traveled on it to commit his murders. The earliest trains had first-class carriages with carpets and mirrors. But soon this was abandoned and all classes of Londoners were jolted along together.

As we descend the 130 stairs into Aldwych, I am surprised by the dry, musty air. Over 12 million gallons of water are pumped out of the tube network each day, but the smell here is like dry leaves rather than a damp well. We reach a tunnel where the walls are plastered in replica 1940s posters advertising Addington’s Digestive Biscuits and Capital Relish, “London’s Favourite Sauce.” Wartime scenes were shot at Aldwych for *Atonement*, and more recently for *The Woman in Black 2*. Our guide points out the tunnel where paintings from the National Gallery and the Elgin Marbles were hidden during the wars, alongside china from Buckingham Palace.

In another tunnel, there are genuine posters from the 1970s, including one promoting the European Union: “Do you know how much farmers will benefit if we join the Common Market?” Everyone in our tour group laughs: Later this year, Britain will hold a referendum on whether to leave the European Union. What goes around comes around.

The tracks in this tunnel are not live, so people are permitted to jump onto the

rails and many do, taking selfies of their exploits. Debbie, who works for Transport for London, tells me that she used to hate jumpers—those 80 or so people every year who attempt suicide by throwing themselves on the line. Londoners, famous for their wry and dry attitude to life, are mordant about jumpers because they delay the daily commute. Debbie says that she used to wish there were a separate station for the suicidal so that they could accomplish their goal without holding up traffic. “But you can’t be too angry,” she observes without a hint of irony, “because when you come to think about it, if you’re going to commit suicide, you’re not in a very good state of mind, are you?”

Londoners’ huge, if grudging, affection for the Underground is much greater than most New Yorkers’ love for the subway or Washingtonians’ for the metro. This may be because, for 150 years, it has been so central to everyone’s life: It brings the capital together as dinners bring families together. Or perhaps it is because sheltering here during the Blitz saved so many lives. Some people even choose to host parties in Aldwych’s abandoned ticket hall.

If you wish to dine underground in London, may I recommend the hidden cellars of Berry Brothers and Rudd, an emporium of fine wine near St James’s Palace? They have recently converted some of the cellarage used to keep 100,000 bottles beneath the premises; and in these modern lairs, worthy of a tasteful Bond villain, you can learn about wine and enjoy a subterranean bacchanal. The shop has been trading since 1698, at first selling tea, coffee, and spices. Its proximity to the royal court assisted in gaining it the patronage of the titled and wealthy. Indeed, its ancient wood-paneled rooms give it the feel of a stately home. A set of gigantic coffee scales, capacious enough to weigh customers themselves (a service the shop once provided), wink at the eminent wine bottles, which stand on individual podia as if about to receive medals.

Upstairs is a room where a Texas legation assembled in the 1840s to cement the international standing of their republic. In a corner, a framed

letter from 1912 regrets the loss of a shipment of Berry Brothers wines aboard the *Titanic*. There is a huge vase of lilies on the counter, and the staff includes eight Masters of Wine, whose immaculately pressed navy suits and discreet manner of gliding about are reminiscent of senior diplomats.

It gives me a thrill like that of a child stealing behind a stage curtain to pass through one of the well-hidden doors that conceal stairways leading down to the cellars. Dream of a wine and it is probably here. In the dusty lattice of bottles, in the regions not on public view, I spot claret from legendary vintages: Chateau Latour 1945, 1947, and 1961. The oldest wine is a Madeira from 1790—but this isn't drunk. They do, however, still drink the 1834 Tokay Essencia, a Hungarian dessert wine that Berry Brothers was the first to import. My guide explains that clarets from the 1870s still have an intense and evocative taste, reminiscent of dried figs and dates. He recently drank a Sercial Madeira from 1803.

It is an extraordinary thing to drink a wine that John Adams or Jane Austen might have quaffed, the nearest thing we have to transfusing history directly into our veins.

These antique wines are not for sale; they are “out of circulation” and shared with special clients. Ordinary mortals can attend a tasting of modern wines. I chose a wine-and-cheese event, which introduced some unusual partnerships. We tried a creamy French Chaource with a New Zealand Pinot Noir, but also with a Japanese sake. There followed Shropshire Blue cheese with a white Châteauneuf-du-Pape from the Rhône, then with a sweet honey-and-apricot Tokay. In each case, the pairing brought out something different in the constituents: The delicate perfume of sake may never have been designed to meet lush French cheese, but the effect is pleasing, like eating ice cream in a fresh sea breeze.

At Berry Brothers you can see how all of rich London's history is condensed into 26 feet of clay soil. In the ladies' washrooms, a glass panel in the floor shows a vertiginous drop



Mark Stevenson, Grace Carter, and Hayden Wood in *Alice's Adventures Underground* (2015)

down to a medieval well. There are Tudor beams and bricks from Henry VIII's tennis court and a tunnel to St James's Palace that remains blocked up. (Who knows what dropped jewels may lie in these ancient passageways?) Central London stands above cultural ley-lines that follow the invisible tracks made by men and beasts thousands of years ago.

On my final underground London odyssey, I followed in the footsteps of Alice in Wonderland and was presented with magical containers that read “Eat Me!” and “Drink Me!” I was in the vaults under Waterloo station, a performance space specializing in promenade and immersive theater. This past year, to celebrate 150 years since the publication of Lewis Carroll's classic, they staged *Alice's Adventures Underground* (Carroll's original title), leading groups of audience

members through a warren of elaborate and dreamlike sets.

We were instructed to wear red or black and became playing cards in Wonderland, part of the investigation into who stole the Red Queen's tarts. We drank tea with the March Hare and the Mad Hatter, journeyed through a monstrous nursery in which Tweedledum and Tweedledee were flying, and heard the Mock Turtle's musical underwater lament. Afterwards, one could relax with a cocktail in the Wonderland Bar, play flamingo croquet, and get lost in a maze with a dodo. Fully booked for weeks on end, the show demonstrates that London's appetite for underground adventure shows no sign of diminishing.

In a crowded city on a small island, it's useful to have a gateway to the imagination. Moving on down is definitely on its way up.

◆ REX FEATURES/AP



World on the Brink

The time-honored trend toward hell in a handbasket.

BY JOE QUEENAN

For as long as I can remember, harbingers of doom, naysayers, outcasts at life's rich feast, and garden-variety curmudgeons have been saying that the world is going to hell in a handbasket. Or words to that effect. Politicians and religious leaders are particularly fond of this admonition. According to them, the world is going to hell in a handbasket today, it went to hell in a handbasket yesterday, and it will almost certainly go to hell in a handbasket tomorrow. As long as there is a world, there will always be a handbasket for it to go to hell in.

For such is the human condition.

Keeping track of global cataclysms has been a habit of mine since high school, when I wrote my honors thesis, "The Four Horsemen of the Apocalypse: Friend or Foe?" According to my detailed records, over the course of my own lifetime, the world first began to go to hell in a handbasket when the threat of nuclear war loomed over us all in the fifties. It continued to go to hell in a handbasket during the Cuban missile crisis, and when the Kennedys and Martin Luther King Jr. and Malcolm X were assassinated. In those dark times, it was *really* going to hell in a handbasket. Things got so bad that it looked like the world may have been going to hell in several handbaskets simultaneously. Things were that far out of control.

The world—or at least parts of it—continued to go to hell in a handbasket as I grew to manhood. It was going to hell in a handbasket during the Vietnam war, the Days of Rage, Watergate, the dire, dreary, just plain dread-

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Jimmy Carter (1977)

ful Jimmy Carter years, Iran-contra, the Gulf war, the Iraq war, 9/11, and, most recently, the Great Recession. The world sometimes goes to hell in a handbasket several times in the same decade. For these are times that try the hearts of men.

Recently, going back over my notes, I realized that the hell-in-a-handbasket theory was ever so slightly flawed. Although the world appeared to be going to hell in a handbasket in the sixties and seventies and eighties, and as recently as 2008 when the global economy imploded, it did not go in the end to hell in a handbasket—or in any other kind of basket. It only looked like it was going to hell in a handbasket. But then cooler heads prevailed, and the world dodged a bullet. And a handbasket.

Purists will argue that the reason the world did not go to hell in a handbasket was because our leaders recognized that Armageddon was nigh and took appropriate measures to avert disaster. This is what happened in the 1940s when the civilized nations of the world, plus the Soviet Union, joined forces to wipe out the Nazis and extinguish the Empire of the Sun. I think that there is something to be said for this theory: The world was going to hell in a handbasket, people saw that the handbasket

was based in Berlin and Tokyo, and sensible steps were taken to avert disaster. But it does not alter the fact that in none of the above instances, stretching all the way back to the mid-'50s, did the world ultimately go to hell in a handbasket. It may have looked like it was going to hell in a handbasket, but it never actually arrived in hell. Those who warned us that the world was going to hell in a handbasket, whatever their reasons for doing so, were crying wolf.

The hell-in-a-handbasket theory ties in directly with politicians' oft-heard vow that, if elected, they will make America great again. This implies that there was a moment when America ceased to be great. When was this? When did America stop being envied? When did America stop being the place everyone else wanted to move to? When did America stop being the greatest nation the world has ever known? If there was a moment in my lifetime when America stopped being great, I must have been out of the room. Troubled, yes. Imperiled, yes. Confused, yes. But less than great? Don't remember that one.

Obviously, there are times when America is greater than at other times. It was greater under Lincoln than it was under Grant; it was greater under FDR than it was under Hoover. But not for one moment since its inception has America ever ceased to be great. It's like saying, "I want to make the Beatles great again. I want to restore the Frank Sinatra catalogue to its former greatness. If elected, I promise to make Paris a great city again." Promising to restore America to its former greatness is like promising to restore motherhood to its former greatness. Motherhood never stopped being great. Everyone knows that.

In the end, this leads us back to the dubious theory that the world is going to hell in a handbasket. This is simply not true. Greece may be going to hell in a handbasket. Syria may be going to hell in a handbasket. Iraq, Darfur, Egypt, and maybe even Russia look like they are going to hell in a handbasket. In other words, *parts of the world* may be going to hell in a handbasket. But the rest of the world is doing just fine.

You can look it up. ♦

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"The latest batch of emails spans a wide array of subjects, including policy on North Korea and Haiti and Guantánamo. Some appear to have been delayed in the review process because they involved key players in other parts of the government. . . . Many are so heavily redacted the subject of the exchanges can't be determined."

—Politico, January 29, 2016

PARODY

RELEASE IN PART
B4, 1.4(a), C1, 1.4(d), D7

From: H <hrod17@clintonemail.com>
Sent: Wednesday, September 12, 2012 1:18 AM
To: [REDACTED] hussein.[REDACTED]@whitehouse.gov
Subject: Bring it on, [REDACTED]!

Dear Mr. [REDACTED]:

[REDACTED] bin [REDACTED]
[REDACTED] frozen in carbonite.
[REDACTED]
[REDACTED]. Good riddance!

Meanwhile, [REDACTED]
[REDACTED]
[REDACTED] hexafluoride
[REDACTED]
[REDACTED] 16,428 centrifuges. Are you
kidding me?

[REDACTED]
[REDACTED] Fort Marcy Park
[REDACTED]!"

And of course [REDACTED]'s love child
[REDACTED]
[REDACTED]
Jenny Craig lasagna " [REDACTED] ."
[REDACTED] ankles [REDACTED]
[REDACTED] Monica Dead or alive.

-H