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OUR VORACIOUS EXECUTIVE BRANCH

BY CHRISTOPHER DEMUTH SR.

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COVER BY DAVE CLEGG

College for Convicts

Washington wants more ex-cons—oops, we’re not supposed to use that term anymore—to go to college. Schools as varied as Columbia University, Arizona State, and Nyack College are among dozens of institutions that have signed on to the White House’s “Fair Chance Higher Education Pledge.” The idea is to make college accessible to those who, having committed crimes, have “paid their debt to society,” as President Barack Obama rather unoriginally puts it.

The pledge is part of the administration’s broader effort to ratchet back the numbers of incarcerated young minorities and to reduce the long-term consequences of a felony record for those who do go to prison (or, in the White House’s wonderful euphemism, those “who have been impacted by the criminal justice system”).

THE SCRAPBOOK sympathizes with the goal of reintegrating into society those who have been punished and made amends, making it possible for them to, as the president says, “earn their second chance.” But in practice, the “education pledge” entails having colleges turn a blind eye to possible threats on campus. Schools signing the pledge promise to determine “whether criminal

justice-related questions are necessary to make an informed admission decision.” In other words, colleges are agreeing not to ask prospective students about their arrest records.

How odd, at a time when so many students are complaining that they



don’t feel safe on campus—micro-aggressions, eek!—that schools should be compromising real issues of safety. Should schools really toss aside a basic gauge of whether a prospective student will be a danger to his or her classmates? By all means, make room for those who have learned from

youthful mistakes. Reward those who have demonstrated they’ve put crime behind them. But you can’t make those kinds of thoughtful determinations by declaring your school is uninterested in, and won’t inquire into, the criminal records of applicants.

Let’s say, hypothetically, that next year a young man named Brock Turner applies to various universities around the country. He might even choose specifically to apply to Boston University, the City University of New York, and schools in the University of California system—institutions that have all signed the Obama administration’s pledge. Is it really of no interest to the assorted admissions offices that Turner has a criminal record? Because Turner’s record is no mere teenage marijuana-possession bust: He is the former Stanford swimmer convicted of sexually assaulting an unconscious woman. Turner has proved that he is a threat to those around him. But by the time he sends out his applications, he will have served his notoriously lenient sentence. And lenient or no, he will have officially “paid his debt to society.” So which university would like to stand up and offer him a place, willfully ignorant of his crime?

What, no takers? No one eager to let him earn his second chance? ♦

Redrawing the Map

One of the big arguments for Donald Trump’s prospects as the GOP nominee is that he would “redraw the map.” Trump’s appeal with blue-collar voters is allegedly such that he could ensure victories in rustbelt states such as Ohio and Pennsylvania that have eluded Republican candidates in recent elections. Trump has also been banking on his appeal in his home state of New York and has repeatedly argued he can carry the Empire State in the general election.

If Democrats fail to win New York, a viable path to 270 electoral votes would indeed be difficult for their candidate to find.

Well, Trump’s been the presumptive nominee for a few weeks now, and polling results suggest he really has gone a long way toward redrawing the map. His performance has been so bad that some of the biggest Republican strongholds in the country are backing away from him. A recent poll of Utah found Trump garnering 29 percent of the vote, Hillary Clinton at 26 percent, liber-

tarian Gary Johnson at 16 percent, and—this is telling—“other” tied for the lead at 29 percent. The poll has a margin of error of plus or minus 2.5 percent, so Trump is basically tied with Clinton in a state that hasn’t voted for a Democratic presidential candidate in over 50 years. A June 10 poll of Kansas—another state that hasn’t gone Democratic since 1964—found Hillary beating Trump by seven points. And this in spite of the fact that 44 percent of the poll’s respondents said they were Republican, as opposed to 28 percent being

WEEKLY STANDARD ILLUSTRATION: ORIGINAL, BIGSTOCKPHOTO

self-identified Democrats. Nonetheless, Trump has hired a pollster to work full-time on winning New York, even though this is a vainglorious waste of resources directed at an unwinnable state.

National polling data is possibly even more disastrous. A Bloomberg poll last week found Trump losing to Hillary by 12 points. In a head-to-head matchup without Gary Johnson, Trump loses to Hillary by 18 points. Keep in mind that Reagan's landslide victory in 1984 was by just 9 points, so by THE SCRAPBOOK's rough calculations we can expect Hillary Clinton to carry 98 states.

In fact, Trump has failed to break 40 percent support in the last six national polls. (The latest Reuters poll has his support at an oh-the-humanity 32 percent.) Examining the crosstabs of these polls also offers no obscure data points that can be teased out to paint a rosier picture. The latest *Washington Post* poll shows that 53 percent of blue-collar white voters have an unfavorable opinion of him. If blue-collar whites don't like Trump, who, exactly, is supposed to emerge from the woodwork to vault him to victory?

Meanwhile, Hillary Clinton has launched a huge national ad buy pummeling Trump and is busy campaigning in swing states. The Trump campaign can't afford a national ad campaign to counter it, so they're stuck holding rallies in Republican strongholds such as Texas and Georgia so they can piggyback campaign events onto fundraisers. Then again, Georgia is also another red state in danger of flipping because of Trump. The fundraising isn't going well, either. According to a recent report in *Politico*, Trump promised RNC chairman Reince Priebus he would call 24 GOP donors. He called three and stopped.

We know it's still (relatively) early, events happen, things change, and polls are often unreliable. But this is thus far overwhelming evidence of an underwhelming campaign, and nothing about Trump's performance of late inspires confidence he can right the

ship. At a recent rally, Trump went on a tirade against GOP leaders who had been critical of him. "This is too tough to do it alone," he said. "But . . . I think I'm going to be forced to." At the rate he's going, Trump will be going it alone—right into the voting booth. ♦

Must Reading

After decades of decline in the rate of violent crime, last year saw it spike and then some. In big cities across the country, murders were up 17 percent. And that masks how bad it is in some particularly traumatized urban areas—parts of Chicago, for instance, have become killing

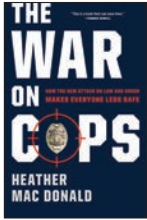
fields. Scholar Heather Mac Donald has made a compelling case that the explosion in crime can be tied to what she calls the "Ferguson effect," in which the police, afraid of being accused of racism or abuse, have become hesitant. Their paralysis in turn allows criminals to become bold.

There has been no hesitation from Mac Donald, who has reported on and analyzed the distressing phenomenon in publications including *City Journal*, the *Wall Street Journal*, and THE WEEKLY STANDARD and has done so in the face of withering criticism from left-wing groups such as the Black Lives Matter movement. Mac Donald has courageously followed where her research and the



RANDY

data have led her, which is to the conclusion that the great threat to young black lives is not abusive policing but violent criminals assaulting and intimidating members of their own neighborhoods and communities. By weakening the police presence that had kept those criminals somewhat in check, Black Lives Matter has only succeeded in putting black lives at greater risk.



This is one of the core conclusions of Mac Donald's new collection of essays, *The War on Cops*, which not only diagnoses the recent crime epidemic but also prescribes cures, including careful but vigorous law enforcement. THE SCRAPBOOK congratulates Mac Donald on her important work, on her focus on improving the lives of minorities and the poor who suffer from lawlessness around them, and on her unwillingness to be bullied by leftists who would like to shut her up.

Let's hope *The War on Cops* is widely read and that its recommendations are given a chance to improve the lives not only of the much-beleaguered police but of the long-suffering citizens who need police protection the most. ♦

Sentences We Didn't Finish

‘Omar Mateen shattered the tenuous, hard-fought sense of personal safety that many gay, lesbian, bisexual and transgender Americans have begun to feel as the movement for equality has made significant gains in recent years. His bullets and the blood he left behind that early morning were a reminder that in many corners of the country, gay and transgender people are still regarded as sinners and second-class citizens who should be scorned. While the precise motivation for the rampage remains unclear . . .’ (the *New York Times* Editorial Board, June 15). ♦

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The End of Times

I've never liked feeling stereotypical. Which is why I would like you to know that this story does not involve a vanilla latte. As bland, generic—dare I say, basic?—as my tale might otherwise be, some lines cannot be crossed. Despite being the premier Starbucks drink of choice for women in their 20s, that particular cup of sugar syrup with a hint of espresso is not my cup of tea, so to speak. Judge me not for the sins of my age cohort; they know not what they do.

Stereotypes exist for a reason, though. Sometimes, the more you try to avoid them, the more you become one. And, aside from the coffee, this is a story of truly millennial terror.

Friday morning I sat down at my kitchen table to finish a piece of writing. I had tea, laptop, and, as I came to find out, no Internet. Which really shouldn't have been a problem since the piece I needed to finish didn't require any research.

Except.

I had saved my working draft in Google Docs. Opening it would require Internet access, which I did not have.

This is the first of several “excepts.” Which is to say that chance plays a starring role. Winston Churchill wrote in praise of “the decisive part which accident and chance play at every moment,” allowing for individual agency and valor. Skimming over the experience of my own small weekend, chance merely played gatekeeper to irony. Such is life.

I bent to the router at my feet and began the ritual of WiFi CPR. How is it that routers have stood athwart the flood of technological innovation yelling stop for at least 10 years? We have iPhones and Apple Watches and I'm typing on a keyboard without wires,

but like an infant, the router can only signal that something is wrong, without telling what. At least it doesn't cry. It just blinks regularly at me in a fashion that, I realized, after the desperation set in, reminds me of an EKG.

Unlike crying children and ER patients, there seems to be only one way to fix WiFi problems. It's so disarmingly simple that anyone can



do it. Just turn it off and on. And then wait. Which seems to be the technology equivalent of take two aspirin and call in the morning. In truth, I wouldn't be overly bothered by this. There were no looming deadlines to be met. I have books made of paper and music to listen to and could stand to disconnect for a weekend. But it wasn't just about me.

I confess. I'm a millennial. I run a website. And so, I really do need to get online, at least for a few minutes. Not a problem. For something as quick as a blog post I can just open up a WiFi hotspot on my phone and use that to get my computer online.

Except. With an utterly quotidian ping, an automated text message appeared to inform me several times that it was (a) free and (b) the end of all—the data, that is. The family data

well had run dry and would not reset for another four days, roughly when the Internet repairman could come. For four days I would be stranded on a digital desert island, completely disconnected from the ceaseless flow of the information superhighway.

This is what is known as a First World problem, a life inconvenience so minor you don't feel justified complaining about it—except when it gets annoying, and you do anyway.

In the meantime, I must forage in pursuit of Internet. As I pack my bag and grab my keys, bound for

overpriced coffee and free WiFi, or \$3 WiFi and free coffee, it all seems so typically millennial.

But not me. I'm well rounded and have wide interests. Don't judge me, I'm different from all the others. I'm not trapped in a digital world. So I tell myself as I take a seat, open up the next silver MacBook, log on to Starbucks WiFi, and start writing.

It might have been the most millennial weekend of my life. And yet, prior to the spontaneous rebranding of the former Gen Y a few years ago, millennial was associated with millenarianism, a belief in a blessed period of 1,000 years that would end with the Second Coming. Perhaps it was a millennial weekend—but only in a sense.

ERIN MUNDAHL

Cut the Thread

“Trust me, he’s only hanging on by a thread.”

“Patience, my friend, patience . . . we need just one more episode.”

“My colleagues are close to the breaking point.”

This is what one hears—this is what I’ve heard—in recent days from Republican senators, congressmen, and other assorted big shots, when they’re asked if they’re ready to abandon the Trump Train. After Donald Trump’s mind-boggling assault on Judge Gonzalo Curiel, after his childish response to Orlando (one that risked discrediting legitimate critiques of Obama’s antiterrorism policy), after his casual slander of soldiers who served in Iraq . . . serious Republicans have given up defending Trump. One no longer hears about how party unity is sacrosanct. One no longer is lectured about the glorious prospects the interlocutor has for influencing Trump. One no longer is treated to learned but irrelevant disquisitions about the grievances of those long-suffering Trump voters who, it turns out, have been living lives of quiet desperation across America, and whose seduction by a con man isn’t, apparently, to be challenged or rebuked.

What one hears now are expressions of dismay and sighs of resignation, accompanied sometimes by short lectures about the competing pressures and manifold complexities of political reality. And what one hears are reminders from the pols and the pros that it’s misleadingly simple-minded to think that if someone is hanging by a thread, maybe you should just step up and cut it. After all, no political consultant worth his salt would ever suggest anything so crude. No way. Before even coming close to that daunting thread, we need more meetings! We need more polling! We need to wait for more evidence! We need to wait for more mistakes by Trump! We need to wait to see what others who are also waiting will do! We need to . . . wait, wait, wait.

Do we really? Trump’s ghastly performance over the last couple of weeks has revived the question of an open convention, where delegates would have it in their power, should they choose to exercise it, to nominate any eli-

gible citizen for consideration by the convention and to vote their conscience in a secret ballot. Meanwhile, the announcement of the Better for America group has given some organizational ballast to a possible independent campaign, with ballot access and signature gathering efforts about to get underway. Both an open convention and an independent candidacy are long shots. But they are far from hopeless.

But, you say, surely it’s doubtful either option ultimately would work.

Well, life is lived under the shadow of doubt.

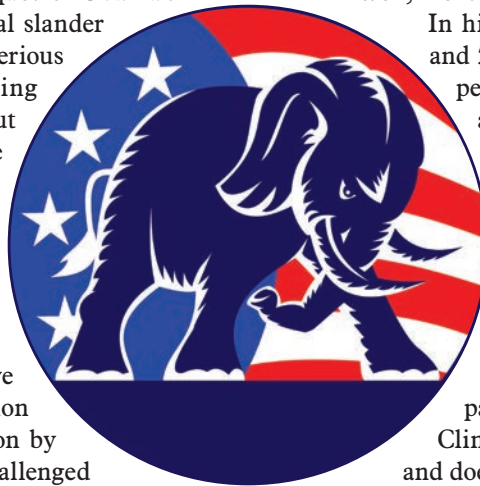
In his final letter, shortly before his death and 50 years after the Declaration of Independence, Thomas Jefferson reminisced about his fellow signers, “that host of worthies, who joined with us on that day, in the bold and doubtful election we were to make for our country.” The choices the signers of the Declaration made were truly “bold and doubtful.” On the other hand, the choice to mobilize against Trump, the choice to try to save the party and the country from Trump and Clinton—such a choice isn’t even doubtful and doesn’t really require much boldness.

Jefferson continued by remarking on “the consolatory fact, that our fellow citizens, after half a century of experience and prosperity, continue to approve the choice we made.” Surely if Paul Ryan or Mitch McConnell, if John McCain or Tom Cotton or Kelly Ayotte or Joni Ernst, if Chris Christie or Rudy Giuliani stepped forward to liberate themselves from the yoke of Trump, their fellow citizens would similarly approve the choice they would have made.

And we’re not talking about something difficult like launching a revolution. We’re talking about opening up a convention. We’re not talking about years of strife and struggle against the British. We’re talking about a five-month political campaign. We’re not talking about cutting a Gordian knot, which required the fortitude of Alexander the Great. We’re talking about cutting a thread.

So, leaders of the Grand Old Party, dig down deep, summon your courage, steel your nerve . . . and cut the thread.

—William Kristol



Obama's Go-to Diversion

‘**W**hy aren’t we talking this week about bringing this Congress together on an issue like making sure that individuals who are on the terrorist watch list can’t buy guns?’ Connecticut senator Chris Murphy asked that question shortly before he filibustered for gun control measures on June 15. A few days before, Omar Mateen, an ISIS gunman, had killed 49 people and wounded 53 more in a gay nightclub in Orlando.

Keeping guns from terrorists isn’t controversial, but how you go about keeping guns out of the hands of terrorists matters a great deal. Murphy was invoking a 2015 proposal by Senator Dianne Feinstein that amounted to a blanket ban on gun purchases for those on the terror watch list. Democrats unsuccessfully rallied around Feinstein’s amendment following the San Bernardino terror attack in December, and the problems with it are considerable.

For one, America’s terror watch lists are bloated and notoriously inaccurate. Everyone from Senator Ted Kennedy to *THE WEEKLY STANDARD*’s Stephen F. Hayes have found themselves on the “no fly” list—a 2007 audit by the Justice Department found over half the 71,000 names on the list may have been placed there erroneously. Further, the perceived threat from those on the watch list isn’t as big as it might appear. There are 1.1 million people on the most expansive watch list, and of those only 25,000 are U.S. citizens or legal permanent residents. It’s already the case that the FBI is alerted every time someone on the watch list attempts to buy a gun.

Still, many of those on this watch list have never been convicted of a crime and by denying them specifically enumerated rights, Feinstein’s proposal made a mockery of due process. Technically, those subject to Feinstein’s ban could challenge it in court, but her amendment went so far as to establish an unusual standard for burden of proof heavily stacked in favor of the government.

The GOP alternative to Feinstein’s proposal, on the other hand, was quite reasonable. The legislation, sponsored by Senator John Cornyn, would allow the federal government to delay the purchase of firearms for someone on the watch list up to 72 hours. The government could

use the delay to go before a judge and demonstrate probable cause for blocking the sale, a process very similar to obtaining a search warrant. The NRA supported this proposal—and so did two Senate Democrats. Nonetheless, Cornyn’s proposal needed 60 votes to pass and got only 55.

In spite of the December impasse, Feinstein has now approached Cornyn and the two are trying to forge a compromise. We hope a suitable one can be found so Democrats can agree to a proposal that doesn’t eviscerate the Fifth Amendment in the name of tweaking the Second. But if liberals once disdained secret government lists created by the Bush administration, they now seem to be embracing them: The latest word is Feinstein has expanded her proposal to cover anyone who’s been on the watch list at any point in the last five years.

While that gets hammered out, it’s worth saying a word or two about the inanity of the national gun conversation forced upon us after every tragedy. There’s little factual evidence that gun control measures are a pressing concern, much less a necessary response to terrorism. Omar Mateen wasn’t on the terror watch list, nor was San Bernardino killer Syed Farook. And while much has been made of the fact that Omar Mateen used a militaristic “assault rifle,” such guns operate no differently from a typical hunting rifle.

The rate of gun homicides has been cut in half over the last two decades. As of 2014, the FBI reports that six times as many people were killed with knives than rifles. And nearly three times as many people were killed in fist fights.

And yet, in his first statement after the Orlando attack President Obama invoked gun control, knowing full well that it would be divisive. For Obama, fighting domestic political opponents is preferable to explaining why the FBI failed—repeatedly—to adequately investigate Mateen or to otherwise take account of the fact that ISIS had inspired the worst terror attack on American soil since 9/11. Ever the opportunist, Hillary Clinton wasted little time endorsing the Feinstein plan. If she wants to argue that merely being under investigation by the FBI is cause enough to curtail someone’s rights, we have ideas about which of Clinton’s own rights should be restricted, starting with her eligibility for high office. Donald Trump avoided saying anything shortsighted about guns, but that might have been preferable to his actual first response upon hearing about 49 dead bodies, which was a tweet literally congratulating himself.

America has become a place where there are seemingly no causes more important than counterpunching political rivals and seeking tactical partisan advantage. Following a national tragedy, we should seek to strengthen our collective resolve, not lash out with well-rehearsed complaints



Feinstein and Cornyn

about our fellow citizens. America can survive terror attacks. It may not survive the inability of our political leadership to unite around solutions consistent with our constitutional values.

—Mark Hemingway

The President's Confusion

Barack Obama is confused. After 49 people were murdered last week in a gay nightclub in Orlando, in the most deadly Islamist attack on U.S. soil since 9/11, the president turned his wrath on domestic opponents.

Many Republicans argue that Obama should identify the ideology that has motivated so many terrorists to kill Americans. That list would include, among others, Osama bin Laden and the 9/11 hijackers, Nidal Hasan, the Tsarnaev brothers, Syed Rizwan Farook and Tashfeen Malik, and now Omar Mateen, whom a former colleague described as driven by hatred, especially of African Americans, Jews, women, and homosexuals.

The list of those who have turned their arms against Americans is a roster of radical losers, troubled and damaged by a host of factors that are bundled together with a barbaric interpretation of Islam that brooks no difference. Christians, Jews, gays and lesbians, even Muslims who do not observe their precise method of worship are ripe for the slaughter. “Radical Islam” is as good a name for it as any. Even Hillary Clinton now says she agrees.

But Obama won't have it. “There's no magic to the phrase ‘radical Islam,’” Obama snapped. “It's a political talking point. It's not a strategy.”

It's true, certainly, that the phrase is not an incantation that will cast a spell to keep Americans safe from those who would butcher them. And it's also true, as Obama says, that a phrase is not a strategy. However, strategy requires clarity, and the president is confused.

Obama said that using the label would displease Muslim allies. That's a strange concern given that they, too—from Saudi Arabia and Jordan, to Egypt and Turkey—are targeted by Islamist terror, and all are able to distinguish

between moderates and extremists. Moreover, Obama had no compunction about alienating America's Muslim allies when he called them “free riders” in a magazine interview two months ago.

We can't fall into the trap of painting all of Islam with a broad brush, said Obama. But no one is condemning an entire civilization for the actions of a few. Except of course for the president, who in the same interview said that unlike productive and innovative Asian, African, and Latin American societies, all Arab youth care about is how to kill Americans.

“If there's anyone out there who thinks we're confused about who our enemies are,” said Obama, “that would come as a surprise to the thousands of terrorists who we've taken off the battlefield.”

There are indeed lots of people who believe that the White House is confused about America's enemies. And it's not a coincidence that the confusion is a result of the White House's obfuscation regarding the word “radical.”

The administration has certainly killed lots of terrorists in places from Yemen to Afghanistan. But the White House also struck a nuclear arms deal with a state sponsor of terror, Iran, that has killed lots of Americans. How did that happen?

As Obama aide Ben Rhodes explained a few weeks ago in a *New York Times Magazine* profile, the administration fudged the distinction between moderates and radicals. Sure, the White House had been negotiating while the regime was under the management of radicals. But it was the election of the so-called moderate president Hassan Rouhani that

gave the administration political cover to take the negotiations public.

Former CIA director and defense secretary Leon Panetta explained to the *Times* that the Iranian regime has always been under the control of Supreme Leader Ali Khamenei and Quds Force commander Qassem Suleimani—i.e., not moderates, but radicals. But from Obama's perspective, it didn't matter.

“The purpose of the agreement is not to bet on the notion that Iran will moderate,” Obama said. “The purpose of the agreement is to prevent Iran from getting a nuclear weapon throughout the duration of the agreement.”

Yes, that's right. The president of the United States made a deal that recognized the right of radicals to enrich uranium, a deal that frees up billions of dollars for the murderers of Americans, a deal that, once expired, nearly guarantees a nuclear weapon for a regime staffed by thousands of Omar Mateens.

Americans think the president is confused because he is.

—Lee Smith



What might they have in common?

Jihadists Under Investigation

Omar Mateen was not the first to slip through the FBI's grasp. BY THOMAS JOSCELYN



A crime-scene investigator at Pulse nightclub, June 12; inset, James Comey

The system was blinking red for months prior to the June 12 terrorist attack in Orlando. Since early 2015, the FBI has repeatedly warned the American public that the threat of violent attacks is growing and that there are too many potential terrorists to track. Then Omar Mateen, a 29-year-old Muslim from Port St. Lucie, Florida, proved these warnings were anything but bluster. Using only firearms, Mateen killed 49 people and wounded dozens more at a popular gay nightclub.

The FBI's handling of Mateen will undoubtedly come under heavy scrutiny in the weeks ahead. FBI agents had investigated Mateen twice prior to the massacre at Pulse nightclub.

Thomas Joscelyn is a senior fellow at the Foundation for Defense of Democracies. He has served as a trainer for the FBI's counterterrorism division.

Both times the bureau found troubling information but decided he was not a first-order threat. That assessment proved to be wrong—fatally so. The public needs to know what, if anything, the FBI could have done to stop the Orlando shooter.

This is a crucial question, especially because Omar Mateen was not the first terrorist to slip through the cracks, and it is reasonable to fear he won't be the last.

On at least four occasions since 2009, a jihadist has successfully carried out an attack in the United States after being investigated by the FBI. The shooting at Fort Hood, Texas (November 2009), the Boston Marathon bombings (April 2013), and the San Bernardino assault (December 2015) were all executed by terrorists who had been on the FBI's radar. The Orlando massacre is the fourth such instance. In each case, there was at

least some incriminating information on the suspect, but the FBI determined it was not enough to prosecute or take other action.

During FBI director James Comey's press conference on June 13, the public learned some of what the FBI knew about Mateen before his night of terror. Mateen was first investigated in May 2013 after he made threatening comments to his coworkers. He was working as a security guard at a local courthouse at the time.

"First, he claimed family connections to al Qaeda," Comey explained. "He also said that he was a member of Hezbollah, which is a Shia terrorist organization that is a bitter enemy of the so-called Islamic State, ISIL." Comey pointed to this apparent discrepancy to suggest that Mateen's claims were not serious. But Mateen's boasting showed at the very least his fascination with two terrorist organizations that have in common a deep hatred of the West.

Comey also added this startling detail: Mateen "said he hoped that law enforcement would raid his apartment and assault his wife and child so that he could martyr himself." This should have been a major red flag—only someone on a dark path would fantasize about becoming a "martyr."

The first inquiry lasted 10 months and was then shuttered. But Mateen showed up on the FBI's radar again just months later. This time, in July 2014, the FBI learned that Mateen knew a young man who had become a suicide bomber for the Nusra Front, al Qaeda's branch in Syria. The FBI concluded that Mateen knew the bomber, Moner Mohammed Abu Salha, "casually from attending the same mosque in that area of Florida." According to Comey, the pair did not have "ties of any consequence." Perhaps that is true, but U.S. officials tell THE WEEKLY STANDARD that Mateen's ties to Abu Salha, who blew himself up in May 2014, are currently being reexamined.

During the second investigation, the FBI learned another disturbing detail about Mateen. One witness indicated he was worried about Mateen

IMAGES: NEWSCOM

“radicalizing,” because the future killer was watching videos of Anwar al-Awlaki, an al Qaeda cleric who preached the virtues of martyrdom. Comey attempted to dismiss this red flag, saying the witness dropped his concern because Mateen “later got married and had a child and got a job as a security guard.” But this shouldn’t have been enough to make authorities lose interest. Married men with children have carried out suicidal attacks in the name of jihad on countless occasions.

There are distinct parallels between the U.S. government’s handling of Mateen and its inquiries into three other notorious jihadists.

Major Nidal Malik Hasan, the Fort Hood terrorist, gave a presentation on his jihadist views to his Army colleagues at Walter Reed Medical Center and emailed Awlaki—the same cleric whose videos attracted Mateen—to ask about the permissibility of an American Muslim killing his fellow soldiers. It does not appear that Awlaki personally and directly blessed Hasan’s attack, but he did publicly advocate such slayings. The Defense Department ignored complaints from Hasan’s colleagues about the presentation, promoting him after the fact. The FBI concluded, implausibly, that Hasan’s emails to Awlaki were “consistent with research being conducted by Major Hasan in his position as a psychiatrist at the Walter Reed Medical Center.” Hasan’s correspondence with Awlaki had nothing to do with his research; it had everything to do with his desire to kill American soldiers. Hasan killed 13 people and wounded dozens more at Fort Hood on November 5, 2009.

Tamerlan Tsarnaev set off alarm bells more than two years prior to the Boston bombings. The Russian government suspected by that time, in early 2011, that Tsarnaev was already a jihadist in contact with one or more of his comrades in Dagestan. The FBI investigated but “did not find any terrorism activity, domestic or foreign, and those results were provided to the foreign government [Russia] in the summer of 2011.” The FBI says it requested more information

from Russia but none was forthcoming. Nevertheless, Tsarnaev traveled to Russia in early 2012 and may have met with jihadist rebels from Dagestan and Chechnya. He returned to the United States in July 2012 and began posting jihadist videos on his personal web pages—that is, he hardly concealed his sympathies. Yet the investigative trail was lost—three people were killed and more than 250 others wounded by the bombs set by Tamerlan and his younger brother on April 15, 2013.

The FBI discovered that Syed Rizwan Farook, who opened fire at a holiday party in San Bernardino, had “communicated with extremists, domestically and abroad,” a few

America’s homeland defenses are cracking. It is no longer the case that terrorists need to be experts in clandestine tradecraft to carry out successful attacks. The system is being overwhelmed by the sheer number of potential threats, which allows known or suspected jihadists freedom to operate.

years before the attack, according to the *New York Times*. Farook “had contacts with five people whom the FBI had investigated for possible terrorist activities,” including someone associated with Al Shabaab (al Qaeda’s branch in East Africa) and another linked to the Nusra Front. “In all five cases,” the *Times* reported, “the investigations were closed and no charges were filed.” Farook and his wife went on to kill 14 people in the Islamic State’s name on December 2, 2015. At the time, it was the deadliest U.S. attack carried out in the name of the so-called caliphate—that is, until Mateen’s spree in Orlando.

America’s homeland defenses are cracking. It is no longer the case that terrorists need to be experts

in clandestine tradecraft to carry out successful attacks. The system is being overwhelmed by the sheer number of potential threats, which allows known or suspected jihadists freedom to operate.

FBI director Comey himself has frequently warned that this was the case. “We have investigations of people in various stages of radicalizing in all 50 states,” Comey said in February 2015. “This isn’t a New York phenomenon or a Washington phenomenon. This is all 50 states and in ways that are very hard to see.” In October, Comey added that the FBI was actively investigating 900 men and women who may be on the path to jihad. Most of these suspects were thought to be inspired by the Islamic State.

And yet it was an Islamic State sympathizer who was not being actively investigated at the time, Omar Mateen, who would go on to commit the worst mass shooting in American history. Mateen was on the phone with a 911 operator multiple times during his assault. During one such call, he pledged allegiance to Abu Bakr al-Baghdadi, the head of the Islamic State. President Obama explained days later that Mateen “took in extremist information and propaganda over the Internet.” The president then cited the Islamic State’s repeated calls for sympathizers to carry out attacks in the West, adding that Mateen “absorbed some of that and during his killing spree . . . pledged allegiance to ISIL.”

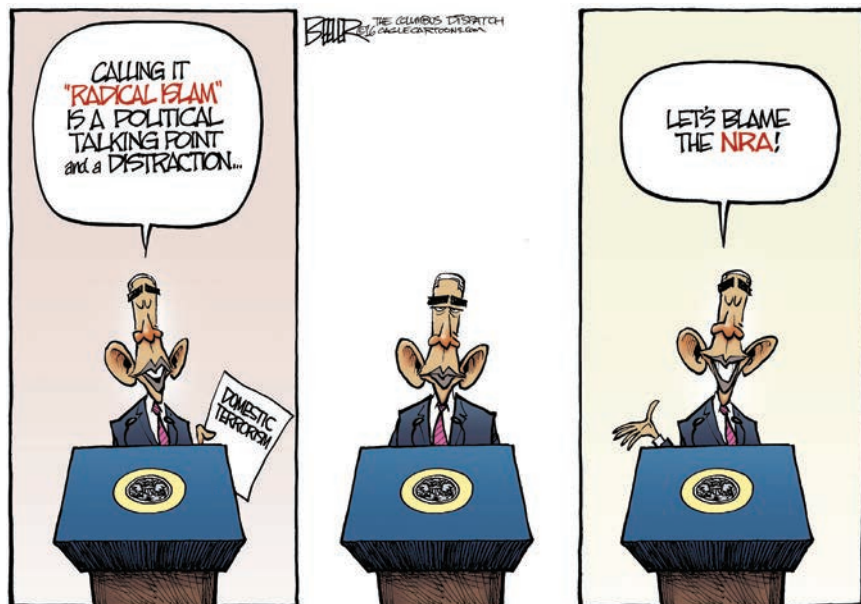
“Our work is very challenging,” Comey noted during his June 13 press conference. “We are looking for needles in a nationwide haystack, but we are also called . . . to figure out which pieces of hay might some day become needles. That is hard work. If we can find a way to do that better, we will.”

Comey is right that the FBI and other agencies face daunting challenges. They cannot be expected to stop every terrorist who threatens Americans. The FBI cannot be expected to bat a thousand. But even hitters who bat .300 try to improve their swing—that is, they “find a way to do that better.” ♦

Let's Talk About Something Else

Obama's aversion to discussing radical Islamists.

BY FRED BARNES



After the 9/11 attacks, politicians divided into two camps. The 9/12ers were the largest. They believed the world had changed and America faced a frightening new threat from Islamic terrorists. But there were plenty of 9/10ers. They were mostly liberals and Democrats who felt the world wasn't much different than it had been the day before the attacks. America was not in great peril. The 9/10ers downplayed the threat of Islamic jihadism.

It's been 15 years since the assaults on the World Trade Center and Pentagon. The 9/10 crowd has grown to dominate the Democratic party, the left, and the mainstream media. And it has a spokesman: President Barack Obama. He treats the killing of innocent Americans by radical Islamists as horrific but

not a cause for nationwide fear or anxiety. Obama is President 9/10.

He did all he could in the days after the Orlando massacre to diminish its significance. He insinuated the killer's embrace of Islamic State, the terrorist organization, was tenuous since it occurred "at the last minute." He downgraded the international terrorist threat. He claimed ISIL, as he refers to the Islamic State, is "on defense" and "under more pressure than ever before."

Obama characterized the killer, Omar Mateen, as merely a "homegrown extremist" and noted the absence of evidence the attack had been planned or ordered by ISIL. "That distinction is . . . irrelevant," Marc Thiessen wrote in the *Washington Post*. The leaders of the Islamic State have called on supporters around the world to carry out terrorist acts without waiting for direct

orders. What's more, they've specifically asked supporters for last-minute pledges of loyalty, such as the one Mateen gave.

After Mateen killed 49 people at a gay nightclub in Orlando, he was described by Obama as an unlikable loner. He "took in extremist information and propaganda over the Internet," the president said. "He appears to have been an angry, disturbed, unstable young man who became radicalized." Maybe so. Terrorist groups are full of such young men.

That was two days after the massacre. By then, it was public knowledge the killer had pledged allegiance to Islamic State, yelled "Allahu Akbar" during the attack, traveled twice to Saudi Arabia, befriended at a Florida mosque a man who became a suicide bomber in Syria, been reported to authorities for lauding terrorism, and been interviewed by the FBI.

Given all this, it's hard to imagine another president who would have responded as Obama has to the Orlando bloodbath. He started with formulaic words about the malevolence of the attack and what he was going to do about it. Then he changed the subject. That's his pattern.

Obama must like boilerplate because he delivers so much of it. "Over the coming days, we'll uncover why and how this happened, and we will go wherever the facts lead us," he said in his initial response, hours after the carnage ended. Then he declared Americans must "change" their feelings about gays. What did American feelings have to do with the terrorist attack? Nothing. Obama neglected to mention that homosexuality has been normalized in American life in recent years.

By the next day, it was clear the Orlando killer was a jihadist. But Obama was unrepentant. "I'm sure we will find that there are connections—regardless of the particular motivations of this killer—there are connections between this vicious, bankrupt ideology and general attitudes towards gays and lesbians," he insisted. "And unfortunately that's something that the LGBT

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NATE BEELER

community is subject to not just by ISIL but by a lot of groups that purport to speak on behalf of God around the world.”

The day after that, President 9/10 boasted about how well the fight against ISIL was going and raised two other subjects. One was gun control, the default position of Democrats when there’s an attack by an Islamic extremist or any mass killer. But what really angered Obama was criticism of his refusal to use the phrase “radical Islam” or to attach the word “Islamic” to anything having to do with terrorism. He said Republicans “tell us . . . we can’t beat ISIL unless we call them ‘radical Islamists.’”

That’s not quite the point Republicans are making. They say his avoidance of the phrase shows he doesn’t understand the nature of the terrorist enemy. And that undermines and limits the war on terrorism.

In defending himself, Obama said ISIL shouldn’t be seen as legitimately Islamic. Identifying it as a band of

Why does Obama downplay the seriousness of the terrorist threat? Why is he a 9/10 president? The answer is he fears the American people will overreact to an attack by Islamic jihadists and get America into trouble, perhaps into another war.

believers in “radical Islam” would imply they “are the true leaders of over a billion Muslims around the world who reject their crazy notions.”

My guess is Obama is sincere about this, just wrong. Why wouldn’t a peaceful Muslim appreciate being set apart from a terrorist Muslim? The phrase “Radical Islam” distinguishes between extremists and moderates,” David Harsanyi, a senior editor at the *Federalist*, wrote. “Other than allowing liberals to accuse anyone who brings up theological problems of being Islamophobic,

what other purpose does ignoring this distinction achieve? The president has yet to explain.”

That’s not all Obama hasn’t explained. Why does he downplay the seriousness of the terrorist threat? Why is he a 9/10 president? The answer is he fears the American people will overreact to an attack by Islamic jihadists and get America into trouble, perhaps into another war.

Nor has Obama explained why he and Democrats eagerly change the subject when terrorism is a hot topic. Last week, they began talking up gun control within hours of the Orlando attack. They elevated Donald Trump’s response to Orlando to top billing. And Obama turned his take on “radical Islam” into a big story. The media played along enthusiastically.

There’s no secret about what Obama and his allies are up to. It happens that terrorism is an issue that helps Republicans. It’s a 9/12 story. So the less a 9/10 president manages to talk about it, the better. ♦

Expanding the Path to Retirement Security

By Thomas J. Donohue

President and CEO
U.S. Chamber of Commerce

As we live longer, it is even more critical for Americans to focus on their financial futures, looking beyond day-to-day needs and planning for long-term security. To maximize their savings, Americans need to start early and stick with it. They must have access to good retirement plans and sound investment advice. But a new rule by the Department of Labor (DOL), which is well intended but poorly designed, threatens both. The so-called fiduciary rule could jeopardize the retirement security for millions of people by imposing new restrictions and unworkable requirements on financial advisors.

We have no disagreement with setting a clear standard to ensure that investors get good financial advice. Unfortunately, the DOL’s flawed rule will harm the very people it intends

to protect—small savers and small business retirement plan participants.

Instead of helping savers prepare for retirement, the rule will limit their options. The advisors to small business plans will be hit with extensive new requirements and restrictions, making it more challenging and expensive to serve their clients. These higher costs will be passed on to small businesses, leaving some companies no choice but to stop offering retirement plans. Some may stop serving small businesses altogether, resulting in fewer options for workers.

Moreover, the DOL rule includes a troubling provision that creates significant new legal risk for financial advisors, who will now face the threat of class action lawsuits challenging their every move. This will only encourage frivolous class action lawsuits and line the pockets of plaintiffs’ lawyers, while consumers get pennies on the dollar in settlement. Financial advisors will find it harder to help

small-dollar savers with the greatest need for retirement advice. And it gives another good reason to limit their retirement services—or completely eliminate them.

As a result of the regulation, more than 9 million U.S. households could see their retirement security wither away. The stakes are too high to let the rule stand. Earlier this month, the U.S. Chamber of Commerce joined forces with business allies and mounted a court challenge to the fiduciary rule. We believe that the DOL overstepped its authority and crafted a legally flawed rule that will restrict choice and access at a time when we need to make it easier, not harder, for people to save for the future.

By going to court, we hope we can reverse this course and ensure that hardworking Americans have an expanded path to long-term financial security.



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Down-Ballot Blues

Can Mark Kirk escape the Trump taint?

BY DENNIS BYRNE

Distant newsrooms have sent word to Chicago that Republican moderate Mark Kirk is dead meat in his bid to win a second term as Illinois's junior senator. He reliably tops newspaper lists of "Most Endangered GOP Senators in 2016."

The conventional wisdom is that, with Trump at the top of the ticket, Kirk will be one of many down-ballot Republicans sunk by the Donald. Thus do the Democrats win the Senate.

Not so fast.

At least in Illinois the question will be whom voters loathe less: the admittedly dreadful Trump or the assorted chiselers, payrollers, bounders, grifters, and ganefs who have run Illinois into the ground. The assorted so-and-sos being allies of Kirk's rival, Rep. Tammy Duckworth.

Illinois may be the single most corrupt and financially crippled state in the union. Could it be that Illinois voters will finally get fed up with disastrous Democratic rule? And might that anger spill over onto Duckworth?

Two years ago Illinois voters were so sick of the corruption and mismanagement that they elected a Republican governor, Bruce Rauner, who ran on a confrontational, reformist platform. Since then, Illinois has spiraled even deeper into political, economic, and social chaos. Rauner's reforms have been stymied by the speaker of the Illinois house of representatives, Michael Madigan, who's known not only for his support of organized labor, but for his skill in arranging property tax breaks for pals and campaign donors. The toll: two



Since he was first elected to the House in 2000, from a wealthy north suburban district, Kirk has worked to position himself as an independent in the mode of former Republican senator Charles Percy.

years without a state budget; pension debts of more than \$100 billion and counting; billions in unpaid bills; a Chicago school system near

bankruptcy; Chicago itself not far behind; higher taxes; crippled services; residents and businesses jumping ship; murderous gang warfare in Chicago neighborhoods.

Can Duckworth avoid getting tarred with these troubles? To keep clear of the wreckage she'll have to distance herself from Chicago mayor Rahm Emanuel. Which may be hard, given that his support is how she got her start.

Before he became mayor, before he served as Barack Obama's chief of staff, Emanuel was an ambitious congressman and chairman of the Democratic Congressional Campaign Committee. He spotted Duckworth as an appealing candidate—an Iraq war veteran who, while copiloting a Black Hawk helicopter, lost both her legs in combat. Emanuel pushed her to run for the U.S. House seat representing the conservative west Chicago suburbs. She came close to winning, losing that 2006 election by only a few thousand votes.

But in Illinois, losers don't fade away—they get jobs. Just weeks after the election, then-governor Rod Blagojevich appointed her director of the Illinois Department of Veterans' Affairs. Loyalty being the coin of the realm in Illinois politics, Duckworth returned the favor by endorsing the discredited and clownish Blagojevich's reelection bid even after his corruption had been exposed. He eventually was convicted for trying to sell the Senate seat vacated by president-elect Barack Obama.

Obama would find Duckworth a job in his Department of Veterans Affairs as assistant secretary for public and intergovernmental affairs. In other words, she was responsible for looking after the reputation of the department, a job that wasn't what one would call a screaming success. After a few years in Washington, she came back to Illinois to make another go at a congressional seat—this time, in a district favorable to Democrats, she won.

It's quite a résumé: protégée of Rahm Emanuel; associate of Rod Blagojevich; official in the most disdained and dysfunctional department

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THOMAS FLUHARTY

in the federal government. And she's supposed to challenge Illinois's dismal status quo?

Since he was first elected to the House in 2000, from a wealthy north suburban district noted for its limousine-liberal electorate, Kirk has worked to position himself as an independent in the mode of former Republican senator Charles Percy. A swing-district moderate who succeeded in winning, in 2010, a blue-state Senate seat, Kirk has been branded a RINO by hardline conservatives.

Duckworth's strategy is to paint and taint Kirk as a Trump supporter. Kirk was an early critic of Trump, both for the businessman's preposterous immigration policies and for his ridicule of Sen. John McCain's years as a POW. But Kirk had fallen in line after Trump secured the nomination. Then the presumptive GOP nominee accused the judge overseeing the Trump University class action lawsuit of bias because the judge is of Mexican descent. Duckworth blasted Kirk for not denouncing the billionaire and Kirk quickly reversed course, withdrawing his earlier backing for Trump. "I cannot and will not support my party's nominee for president," Kirk announced, "regardless of the political impact on my candidacy or the Republican Party."

Cynics will regard Kirk's reversal as a craven political move, necessitated by his supposedly dismal prospects. But according to Kirk's campaign manager, Kevin Artl, internal polling shows the race is neck and neck. Kirk has the advantage of speaking Spanish and polls better among Hispanics; Duckworth does better among African Americans. Artl notes that Kirk has always run as an underdog and has yet to lose an election.

Still, for all his efforts to distance himself from the top of the GOP ticket, Kirk may find it hard to shake Trump from around his neck. At the same time Duckworth is being dragged down by her associations with the disgraced Blagojevich and the hugely unpopular Emanuel.

We'll find out which of the albatrosses prove to be heavier. ♦

Listening to Victims

We're right to do so.

BY ERIN SHELEY

Rock Turner's victim's account of her experience of sexual assault on the Stanford campus is now justly famous. The statement, running to more than 7,000 words, was released to the media on June 3, the day after Turner received a six-month jail sentence and probation for his three felony convictions. Its fame is due in part to the somewhat arbitrary factors that make certain stories social media firestorms and in part to the victim's sheer eloquence. In a world where the most recent high-profile account of campus rape was an elaborate fabrication in the pages of *Rolling Stone*, the Stanford victim articulated the duration, complexity, and visceral truth of a kind of suffering that we often have a hard time categorizing, both legally and culturally.

While the cultural impact of this victim's words has been unmistakable, in its vivid description of the experience of a sexual assault victim, it would be a mistake to focus on those words only to stew in the emotions they elicit. We cannot ignore, as much of the media discussion seems to, that both the victim's account and a letter drafted by Turner's father to the sentencing judge serve a particular function in a criminal trial under our adversarial system. If we're going to get angry about rape, or, on the other hand, angry about the potential for false accusations of rape, it is crucial to understand the legal and constitutional function of such words in any prosecution, and especially in

the uniquely challenging context of a sexual assault trial.

The legal definition of rape has evolved across history and jurisdictions, and our current understanding of the crime is highly contested. Because the essence of a sexual assault charge, under the California Penal Code and most others, is that the defendant's touching was unwanted, proof of the victim's consent usually

provides a full defense. The question of what constitutes consent has been the legal issue at the core of our social debates about campus rape and "rape culture." A victim cannot be said to legally consent when she is drunk. Nor is the defendant's intoxication generally an excuse where it results in mistaken belief in consent. This complicates the scenario in which two

intoxicated parties, both acting outwardly as though they are consenting but neither deemed legally capable of doing so, engage in sexual activities. In those cases, is it fair to say a rape has occurred? If it has, is it fair to say the woman is always the victim?

That question, as central as it has been, is legally irrelevant to the Stanford case. In that case, two witnesses observed Turner assaulting a visibly unconscious victim (and chased him down when he fled). As many legal commentators have observed, this is a rare case where we are *not* faced with conflicting accounts of a sexual encounter that make it at least possible that both parties believe they are telling the truth. The Stanford assault is one of those rare cases, and its clarity sheds light on the foggier ones. The



Protest against Stanford case judge Aaron Persky, June 10

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term “rape culture” has become so pervasively bandied about by the left as a stand-in for any kind of male mistreatment of women (up to and including Ted Cruz awkwardly hugging his daughter during a photo op) that it has overwhelmed the already dangerously unstable lines the law must draw between guilt and innocence in sexual assault cases.

The Stanford victim’s narrative is thus particularly powerful due to the certainty of Turner’s guilt. And it should clarify for those who still, bafflingly, deny that, if campus sexual assault occurs in wide open public spaces, it certainly occurs with far greater frequency behind closed doors. But it would likewise be a mistake to conflate the universal harms suffered by rape victims, so well-articulated in the Stanford victim’s account, with universal certainty of each defendant’s guilt. We must strike a middle ground between misogynistic default skepticism of victim accounts and the wholesale rejection of the burden of proof requirement in rape cases.

Indeed, statements such as those written by the victim and by Turner’s father are not directly legally relevant until the sentencing phase, after a verdict. The sentencing process is free from most of the evidentiary rules governing the trial itself. A sentencing judge has broad discretion to consider all evidence provided by the convicted defendant, the prosecution, and the victim in arriving at a decision. In doing so, the judge is supposed to consider the several constitutionally recognized purposes of criminal punishment: the deterrence of crimes, the incapacitation of the specific defendant, and the principle of retribution, which mandates that crimes be punished with proportional severity. That last function has been said to have an “expressive” purpose—in giving a particular sentence the judge sends a message to the world about how far we, as a society, condemn a particular act.

These purposes are often in tension with one another. Turner’s judge seemed to be emphasizing the incapacitation function of sentencing: It seemed to him, probably accurately,

that Turner was unlikely to offend again. As a result, he sentenced him to only six months in jail (the prosecutors had asked for six years’ imprisonment). In doing so, he was remarkably cavalier about the need for retribution, and about the message being sent about the wrongness of Turner’s conduct.

The public outcry arose over the disconnect between this light sentence and the victim’s searing account of her experience, which should have informed the judge’s deliberations. Because victims do not have constitutionally recognized procedural rights, statutes (in this case, Section 679.02 of the California Penal Code) give them the opportunity to make what are called “victim impact statements” during sentencing. The majority of criminal law scholars oppose victim impact statements because of the raw emotion they inject into the sentencing process, which, the argument goes, is unfair to the criminal defendant, particularly in cases (such as this one) where the victim is unusually eloquent and therefore likely to incite a disproportionately heavy sentence. As Mark Joseph Stern put it in a *Slate* column, the Stanford victim’s statement “had no place in the courtroom,” and the liberals who extolled it are hypocritical given their usual concern for the due process rights of defendants.

While Stern is correct about the hypocrisy and inequity of supporting victim impact statements solely in sexual assault cases, the Stanford case perfectly exemplifies why such statements are so important to sentencing. A crime has a specific victim, but it is prosecuted as a public harm. It is the public, not the victim, made theoretically whole by the retribution. And it is the public in whose eyes the legitimacy of the justice system must be maintained through the expressive function of punishment. Yet, due precisely to the availability of victim narratives, the measure of the harm the public experiences after a crime is inherently tied to the experience of the victim. The Stanford victim captures this relationship well when she addresses herself to other victims: “I hope that by [my] speaking today, you absorbed a small

amount of light, a small knowing that you can’t be silenced, a small satisfaction that justice was served.”

Crimes *cause* emotion in the communities they disrupt due to the harms they do to victims, and the precise form of those harms becomes accessible when the victim can tell the court exactly what she tells the world outside of the court.

That said, the much-maligned letter written by Turner’s father in his defense belonged in the sentencing proceeding too. Christina Cauterucci, also writing for *Slate*, decries the letter as “[summing] up rape culture” and asserts that “Dan Turner defends his son with nearly every thin excuse his son’s victim demolishes in her letter.” But that’s exactly what the letter was supposed to be doing. The United States has an adversarial system of criminal justice, which operates on the assumption that justice is best served by both sides advocating energetically for their positions. Within that basic framework, a criminal defendant has a right, guaranteed in state trials by the Fourteenth Amendment, to present mitigating evidence at sentencing. Recognized forms of mitigating evidence include exactly the sorts of things the father mentioned—the impact of a sentence on the defendant and his family, the defendant’s other contributions to the community, and his overall character. So long as our adversarial system retains its current form, it’s both incoherent and destructive to criticize parties for operating within it, even when the only arguments they can make are, like Dan Turner’s, objectively weak.

At the end of the day, there is a place for well-warranted outrage at the inadequacy of Brock Turner’s sentence. There is also an important place for forcing ourselves to confront the nightmare of the victim’s experience, to which we have been given access. But for the punishment of sexual assault to be effective, just, and constitutional, these discussions must involve an understanding of the legal order in which they take place. Emotion should not be allowed to overwhelm the rule of law, but it can and should inform it. ♦

Pondering Harambe

Do we really care more about animals than about people? BY WESLEY J. SMITH

The killing of Harambe the gorilla at the Cincinnati Zoo last month was an unfortunate necessity, a lethal act required to save the life of an imminently endangered child. But listening to the public outpouring of grief and outrage—stoked by the media—one would think that the shooting of the animal was a heinous crime.

We saw the same kind of outrage when an American killed Cecil the lion in Zimbabwe last year. Unlike Harambe's, Cecil's death was anything but a necessity—he was lured out of a sanctuary to be shot by a trophy hunter. But the howling after the hunter stupidly posted on Facebook his photo taken with the dead lion caused some to worry that people care more about slain animals than they do slain people.

Adding fuel to that cultural concern, many commenters noted that while Americans mourned Harambe, scores of people were shot and some killed—including children—in the war zone that has become Chicago. Where was the grief over those deaths? Others noticed that American media poured far more effort and emotion into reporting on the dead gorilla than they did on ISIS's beheading of Christians in Libya last year—six times more coverage on major television networks, NewsBusters found. Pro-lifers, meanwhile, contrasted the outrage

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over Harambe with the ho-hum reaction of much of society to the million-plus abortions in the country each year.

What gives? Do most people *really* believe the deaths of a gorilla and lion matter more than the deaths of human beings?

I don't believe it. It is true that the terrible killings in Chicago have not emotionally resonated nationally in the same way as the animal deaths. But it may have something to do with Stalin's purported maxim that the death of an individual is a tragedy, while the death

of millions is a statistic. The media also haven't focused on the Chicago deaths with the same intensity of coverage as they did the drama of the dead gorilla (although the *New York Times* had a cover story on the Chicago victims).

Mass murders such as 9/11—and most

recently the Orlando atrocity—properly stoke a far greater outpouring of grief and anger than do the killings of any number of animals, no matter how gratuitous or inhumane their deaths might be. Individual homicides also sometimes cause viral outrage. There was widespread anger over the shooting death of Kate Steinle in San Francisco, for example. That may be because she was killed by an illegal alien—he claims it was an accident—at liberty, despite being a repeatedly deported felon, because of San Francisco's misbegotten sanctuary city policy. The media individualized her death—the photo showing a beautiful woman in her prime was ubiquitous—in a way they haven't the Chicago killings.

Emotions also run high when a dead individual was—or is perceived

to have been—a victim of discriminatory injustice. When Michael Brown, a young African-American man, was killed by a white police officer in Ferguson, Missouri, the fury sparked by the narrative (now known to be false) that he was surrendering with his hands up when shot led to riots—and the exponential growth of the Black Lives Matter movement.

Still, what explains the intensity of emotionalism over dead animals? Part of it, I think, is that we live in a time in which people “feel” more than they “think.” There is also the nature of the particular animals killed, which gets us back to the idea that the aesthetics involved in a killing can influence our emotional reaction to it. Harambe and Cecil were both magnificent creatures. Had either been, say, a warthog, I doubt we would have witnessed the same passionate outpouring. The emotional power of projected innocence may also explain the potent force that can be unleashed in the cases of animal deaths. Harambe was said to be protecting the child when shot.

Besides, Americans *love* animals. We coddle and coo over our cats and dogs as if they were human children. We place “Save the Whales” bumper stickers on our cars. We flock to national parks to catch fleeting glimpses of bear, elk, and antelope, remnants of the wild America that once was and yet still is. We fictionalize and anthropomorphize the animal world with movies like *Bambi* and *Babe*. We want our cheese to come from “happy cows.” For many of us, that sense of wonder about animals never leaves us, sparking anger and sadness when one is killed needlessly or wantonly.

This doesn't mean that those who feel an animal's death so deeply care less about humans who are killed. Or put another way, people don't seem relatively indifferent to the fate of Christian martyrs and murdered Chicagoans because they care about the the gorilla more. Rather, it is a defense mechanism. (Abortion is another story.) If we really let ourselves grieve for all the horrible and unjust human deaths that take place in the world every day, we would never get out of bed. ♦



Harambe in calmer times

Our Voracious Executive Branch

On the nature and causes of executive government

BY CHRISTOPHER DEMUTH SR.

American government has assumed a new form. The federal executive branch—the president, his political appointees, and the hundreds of agencies that report to them—has come to exercise lawmaking powers that were long the unquestioned preserve of Congress. For decades now, the executive has made law through “administrative rulemaking” under loose statutory standards such as “protect the public health.” More recently, it has moved to sheer declaration, independent of or contrary to statutory law; this includes Obama administration actions on immigration policy, Obamacare implementation, greenhouse gas regulation, restroom rules for transgendered persons, and other matters.

The transformation has weakened our constitutional inheritance of checks and balances. This is more than a matter of three branches moderating each other—they also perform distinct functions, with separate sources of political legitimacy. Making law requires choosing among the differing, often conflicting interests and values abroad in society. Since the rise of republican government in the 18th century, lawmaking has been the responsibility of legislatures whose members represent a nation’s diversity. Laws thus typically reflected negotiation and compromise and were practical (and, yes, often muddled) rather than ideological.

Executive lawmaking also involves compromise—the Environmental Protection Agency must navigate the positions of Exxon Mobil and the Sierra Club—but the terrain is much narrower and the destination more predictable. As a result, agencies often enact policies a legislature would not. EPA embarked on its greenhouse gas program in 2010 after a Democratic Congress declined to legislate one following

extended consideration. President Obama has justified this and other incursions precisely on grounds that Congress had failed to adopt the policies he sought.

The new dispensation also alters the nature of government. It fuses lawmaking to the classic executive functions of law enforcement and program administration, and to the president’s duties as head of state and national leader. The cumbersomeness of representative lawmaking and its separation from executive and presidential functions were important protections of limited government. Consolidated executive power is efficient and flexible. It makes law on the fly and metes out selective favors and punishments down to the level of the individual business firm, school, and Catholic order. The affected parties respond with increased political spending—going beyond conventional lobbying to continuously monitoring the agencies and adapting to their latest moves; they become agency “stakeholders.”

These dynamics have expanded the federal domain into innumerable matters previously decided by state and local governments and by private citizens, institutions, and markets. The federal executive has become, in essence, a unitary national government of nearly unlimited jurisdiction.

The presidency has consequently become an inherently powerful office. Richard Neustadt taught JFK and his successors that they had few formal powers and had to cultivate broad public and congressional support in order to accomplish their goals. No more. As political scientists Kenneth S. Lowande and Sidney M. Milkis have shown, presidents now deploy their lawmaking prerogatives for partisan purposes—to galvanize key party constituencies, even on behalf of broadly unpopular policies, and to spare congressional allies the inconvenience of having to vote on those policies. The practice has fueled the polarization of our politics, as we have seen in the agitated reactions to President Obama’s policy strokes on immigration, transgender locker rooms, and micromanagement of college dating behavior. It has also generated never-ending partisan campaigning to acquire the office’s immense powers, heavily financed and excitedly reported through every daily twist and turn,

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which in the current round has commandeered American politics for more than a year. Where the White House is concerned, “the permanent campaign” is no longer a metaphor.

Executive government has many influential proponents. Traditional progressives of the Woodrow Wilson school believe the complexities of modern society demand government by expert, neutral, flexible administrators in place of amateur, parochial, slow-moving legislators. Modern Democratic party progressives take a different tack: They see executive government as a potent device for mobilizing the powerful interest-groups (public-employee unions) and recondite causes (intersectional feminism) that have come to dominate their party.

The proponents also include several eminent law professors and political scientists who, whatever their progressive sympathies, believe Congress has become irredeemably dysfunctional—leaving us to make the most of executive government, which is at least functional. Recent academic books and articles valorize “the executive unbound,” disparage Congress as a “relic,” and propose that the president’s powers be strengthened further by constitutional amendment or outright seizure.

The opposing camp includes skeptics of comprehensive executive power such as myself. It finds its political voice in Tea Party advocates of the old-time Constitution and in members of Congress opposed to the president—today including Republican leaders Paul Ryan and Mitch McConnell and backbench institutionalists Mike Lee and Ben Sasse. But history seems to be on the side of the proponents. The Bush administration took many extralegal actions during and after the 2008 financial crisis, such as using TARP funds to bail out automobile manufacturers, which set the stage for the Obama administration’s actions in more normal times. Both Donald Trump and Hillary Clinton have expressed admiration for President Obama’s unilateral methods and vowed to follow his lead.



But how, exactly, did we arrive at this state of affairs? The conventional explanations are wrong: The executive state is not a realization of progressive political theories, nor is it a partisan enterprise or a response to a polarized, paralyzed Congress. It is instead an organic adaptation to the circumstances of modern life—affluence, widespread education, elevated sensibilities, and advanced information and communications technologies.

The Big Bang of executive government came in the early 1970s, following a quarter-century of unprecedented economic growth and a time when American government was still relatively nonpartisan and Congress was fully functional. Indeed, Congress was feverishly busy—chartering a fleet of new regulatory agencies and programs concerned with environmental protection, product and workplace safety and health, consumer protection, and personal finance. Soon after came an array of energy conservation programs. The civil rights agencies, established in the 1960s, began to expand

their portfolios—policing not only racial discrimination but also discrimination based on sex, age, and other personal characteristics, and requiring “affirmative action” to promote participation of these groups in the workplace, schools, and universities.

There had, of course, been many earlier regulatory programs in the Progressive and New Deal eras. But they had been concerned mainly with regimenting production in transportation, communications, power, and banking, typically at the expense of consumers. And, although they possessed wide discretion to promote “the public interest,” they exercised that discretion by adjudicating narrow issues involving one or a few firms—such as whether to renew a radio station’s license, or to permit an airline to add a new route over the objections of rivals.

The new agencies were radically different. Instead of cartelizing production, they promoted consumption and

consumerism and, more broadly, personal health, welfare, dignity, and lifestyle. Rather than managing self-contained commercial disputes, the new agencies were missionary and aspirational, pursuing open-ended objectives of strong interest to growing numbers of citizens.

And, critically, they operated not through case-by-case adjudication but rather “informal rulemaking.” The practice had barely existed before 1970. An agency, after public notice and comment—and free of live hearings with established standards of evidence—could issue rules covering entire economic sectors, specifying automobile design, food labels, manufacturing methods, employment practices, and much else, right down to the exact placement of railings in warehouses. The rules were typically highly detailed and prescriptive and often involved compliance costs and social benefits of scores or hundreds of millions of dollars. The new agencies were less like executive courts and more like executive legislatures. The old-line New Deal and Progressive agencies were impressed and shifted to informal rule-making themselves.

The post-1970 agencies and their methods were more than a response to the policy preferences of the affluent society. More fundamentally, they were a response to the more democratic politics that affluence had wrought. In the Progressive and New Deal eras, few people were interested in the kinds of issues that came to the fore in the 1970s—and, even if they had been, they would have been unable to organize and mobilize effectively on behalf of such issues. In those days, the national political agenda was controlled by civic, business (management and union), and party elites, who focused on their immediate economic interests and blocked competing, disruptive enthusiasms—especially anything involving hard-to-negotiate issues of ideology or values.

That all changed with the post-World War II growth of incomes, education, and leisure time, dramatic improvements in transportation and communications, and the emergence of national media. These developments ushered in a new era of widespread political participation and “activism” and sundered the old policy gatekeepers. Ralph Nader showed the way with his auto safety campaign in the mid-1960s, followed by the organizers of the first Earth Day in 1970.

The profusion of new policy causes pressing on Congress precipitated a rank-and-file revolt, led by northern liberal Democrats with the support of all manner of

Republicans, that greatly weakened the seniority system and the prerogatives of committee chairmen. The congressional reforms of the early 1970s cleared the way for a more individualistic, entrepreneurial, responsive form of legislating aligned to the political demands of the times. But the dismantling of agenda-setting hierarchies left Congress more unwieldy than ever and incapable of managing the numerous causes now clamoring for members’ attention. The solution was to hand the causes over to specialized, hierarchical agencies with broad or ambiguous rulemaking mandates that large legislative majorities could agree upon.

This was a landmark innovation in government.

Beginning in the 1970s, Congress delegated broad rulemaking powers, and the courts fashioned new doctrines of judicial deference to agency actions—while requiring, as a condition of that deference, that agencies demonstrate responsiveness to public comments and conscientious pursuit of their policy missions.

Business and professional groups responded with a flurry of litigation and legislative proposals seeking to harness rulemaking with traditional legal and constitutional restraints. But Congress and the courts rejected essentially all of them, and moved in a sharply different direction. Congress continued to delegate broad rulemaking powers—while enacting new requirements for agency “sunshine” and freedom-of-information and restrictions on nonpublic advisory meetings. The courts fashioned new doctrines of judicial deference to agency actions—while requiring, as a condition of that deference, that agencies demonstrate

responsiveness to public comments and conscientious pursuit of their policy missions.

The measures were highly complementary. They gave the executive extensive lawmaking discretion so long as agency procedures were transparent, participatory, and inclusive, and agency decisions were responsive and explained in elaborate detail. The upshot was a uniquely American fusion of executive management and democratic form, with its own political legitimacy and, in the decades to come, tremendous institutional momentum. It is a regime of ad hoc, nonelectoral, managed democracy.

Democratized executive lawmaking has been growing in scope and autonomy for more than 40 years now, mowing down a long succession of complaints about overregulation and unelected bureaucrats and proposals for legal and economic reform. Stupendous advances in information and communications technologies have enabled progressively narrower causes—on beyond clean air and safe products to animal welfare (count me in), bank overdraft charges, low-volume showers, supply-chain diversity, and

gluten-free foods—to achieve collective self-awareness, organize for action, and secure their own bureaus.

The same technologies have progressively increased the relative advantages of hierarchical agencies over legislative committees in monitoring and managing constituency groups and, more generally, in surveilling individual and group behavior. To executive officials, making policy by Internet postings and conference calls has come to seem natural. Congress has increasingly become a latter-day founder of freestanding special-purpose governments. In recent years, it has begun handing agencies not only law-making power but also authority to set and collect taxes and spend the revenues without congressional appropriations.

Our executive government is a far cry from classical progressivism. It is based not on expertise but on specialization. Expertise is mastery of an organized, independent body of knowledge that may contribute to solving practical problems. Specialization, in contrast, is mastery of the practicalities of the problems themselves. Expertise is central at a few agencies—biological sciences at the Food and Drug Administration, macroeconomics at the Federal Reserve—but only a few.

Most agencies are instead specialized in the politics, institutions, personalities, and histories of a field of action. Many of those fields, such as affirmative action and mandatory disclosure, involve nothing that could reasonably be called expertise (the programs require employers or producers to act in certain ways with the knowledge they have). Others, such as pollution control and product safety, involve engineering and other technical information, but the agencies are mainly consumers, not suppliers, of that information. Regulated firms and other parties provide them with, for example, technical assessments of the feasibility of automobile fuel efficiency standards or statistical regressions of chemical exposure and health effects. Often the information is conflicting or ambiguous. The agencies use it selectively, in conjunction with value judgments and political calculations. Outside the FDA and the Fed and a few other agencies, the actual decision-makers are generalists—political appointees who could as well be members of Congress, and civil servants who could as well be congressional staffers.

Legislators and judges understand all of this, so when they speak of agency expertise they are usually rationalizing decisions made on other grounds. In last year's decision in

King v. Burwell, the Supreme Court held that Obamacare tax subsidies could be offered on federal as well as state health insurance exchanges. Its opinion emphasized that the administration's decision to this effect had been made by the Internal Revenue Service—which “has no expertise in crafting health insurance policy” (unlike, presumably, the Department of Health and Human Services). That helped get the Court where it wanted to go—to deciding the question itself rather than deferring to the administration's decision—but it was pure fiction. Whether to extend subsidies to federal exchanges involved no expertise whatever. It was entirely a political question (with only one possible answer for the Obama administration), and the IRS and HHS were on the same political team.

The distinction between expertise and specialization is crucial for two reasons. First, expertise is supposed to be neutral and professional. It is envisioned as a superior

substitute for the messy clash of private interests in guiding public policy. But American regulatory agencies, as we have noted, are obliged to be messy—porous to outside influence, participatory, democratic. That guarantees they cannot be aloof and detached in the manner (so it is said) of French and German administrators.

Second, specialization is the opposite of detachment. It is a mechanism of engagement, efficiency, and growth.

Adam Smith emphasized the central role of the division of labor in promoting economic growth on the first page of *The Wealth of Nations*; the subsequent centuries of unprecedented growth are a history of ever-increasing specialization in knowledge and practice. The more recent growth of executive government is a testament to the power of specialization in political practice. The executive has eclipsed Congress precisely because of its superior capacity for growth. Specialized agencies can be multiplied essentially without limit, and each one is an efficient lawmaker because of its freedom from the legislature's need to achieve representative consensus.

Finally, the specialization of executive government is in political organization, and this is often at odds with the specialization that propels social prosperity. A common complaint about “one size fits all” regulation—uniform standards for almost anything that comes to the regulator's attention—is that it suppresses variety and innovation in production and ignores differences in personal preferences and local circumstances. These are the “complexities” of the modern economy that expertise is supposed to



Willing to defer: Supreme Court justices reunite in 1993.

accommodate! But for the politically specialized agency, suppressing diversity is frequently the whole point—to accommodate the ideological positions, membership needs, or corporate interests of members of their “stakeholder communities.”

The evolutionary, adaptive nature of executive government may suggest that the prospects are dim for controlling its future course. Yet in private life, affluence and technology—in the form of the automobile, television, birth-control pill, Internet, and mobile smartphone—have brought many serious problems along with their cornucopian benefits. Over time, we have learned to control the problems. True progressivism consists of realizing the benefits while limiting the harms of the growing powers that wealth and technology place in our hands. That should be our goal in the public sphere as well.

A possible opening lies in the excesses of the Obama administration, which have broken the mold of post-1970 regulation. Making national policy by decree violates the requirements of public notice, participation, and responsiveness that have legitimized executive lawmaking. The Obamacare and Dodd-Frank programs are making mock of their consumerist pretensions. Billed as providing “Affordable Care and Patient Protection” and “Wall Street Reform and Consumer Protection,” in practice both programs consist of active collaboration with large producers. They are throwbacks to New Deal industrial regimes and are degrading health insurance and banking services in ways that are increasingly conspicuous. The president’s imposition of New Deal utility controls on the Internet is even more jarringly anachronistic and is alienating sophisticated technologists.

The administration may be taking America to a further, darker stage of executive lawmaking—more authoritarian and syndicalist. But it may instead be provoking reactions that, once underway, could go beyond correcting individual abuses. The courts—and not only conservative judges and justices—are clearly rethinking many of their doctrines of deference to executive discretion, and their decisions could rouse Congress to broader responses:

■ The administration’s practice of skirting notice-and-comment rulemaking, in its actions on immigration,

transgender restrooms, and other matters, is being vigorously litigated. The cases are prompting Congress to consider banning now-common agency lawmaking by such devices as “guidance documents” and the notorious “Dear Colleague” letters from the Education Department’s Office for Civil Rights.

■ The Supreme Court recently issued its second unanimous decision in recent years rejecting the administration’s denial of hearings to citizens caught in its impossibly expansive definition of “waters of the United States.” This could embolden Congress to revisit the Clean Water Act and, even better, to guarantee citizens hearings before tribunals that are independent of prosecuting agencies.

tribunals that are independent of prosecuting agencies.

■ Another recent Supreme Court decision held that the EPA must take account of the costs as well as benefits of its pollution controls under a general “appropriate and necessary” statutory standard, and recent Court of Appeals decisions have applied similar reasoning to certain SEC rules. The decisions point the way to a general statutory requirement that agency benefit-cost assessments be subject to judicial review.

■ Strong legal and constitutional challenges are underway to key features of Obamacare, Dodd-Frank, and the EPA’s Clean Power Plan and have produced some promising preliminary decisions. Further successes would strengthen Congress’s hand in these momentous instances of executive unilateralism, and might even prompt a movement away from congressional over-delegation.

Measures such as these would be in the time-honored political tradition, going back to the Declaration of Independence and Magna Carta, of taking concrete abuses as the occasion for instigating broader reform. In seizing the opportunities as they arise, we should keep in mind that the ultimate goal is to correct the pathologies of concentrated executive power and to make our system of specialized, pertinacious lawmaking more representative, moderate, and respectful of the problem-solving strengths of private society. And that will take something more: a great reawakening in Congress itself that leads to more vigorous legislating and a more auspicious balance of the powers of making and administering our laws. ♦

The Obama administration may be taking America to a further, darker stage of executive lawmaking—more authoritarian and syndicalist. But it may instead be provoking reactions that, once underway, could go beyond correcting individual abuses. The courts—and not only conservative judges and justices—are clearly rethinking many of their doctrines of deference to executive discretion.

Under Russia's Shadow

The Baltic republics prepare for the worst

BY MAX BOOT

Tallinn, Estonia

In the 20th century, few nations suffered as much as the Baltic republics—Estonia, Latvia, and Lithuania. Their brief taste of freedom, made possible by the collapse of the Russian Empire in 1917-1918, was snuffed out in 1940 when Russian armies marched back in, this time under the banner of the commissars rather than the czars. When the German Army invaded the following year, many Balts saw them as liberators. But the cruel nature of Nazi rule soon became apparent. The Germans carried out genocide against the substantial Jewish population, a project in which some Balts unfortunately assisted. The return of the Red Army in 1944 brought no respite, with the Communists shipping tens of thousands of people to the Gulag. In all, more than a million people were killed in the Baltic states during World War II, representing nearly 20 percent of the prewar population of 5.4 million.

And of course the suffering did not end in 1945. For decades to come, the Balts were to be occupied by a totalitarian state whose will was enforced by the Red Army and the ever-pervasive secret police, the KGB (and its predecessors). Dissent was ruthlessly crushed. The economy was wrecked by collectivization. Religion was suppressed.

The Balts finally emerged from the Soviet prison in 1991, and in the quarter-century since, they have made nearly miraculous progress. All three countries are members of the European Union and NATO. They are all tolerant, liberal, free-market democracies that enjoy a standard

of living higher than Russia's in spite of the absence of any natural resources such as the oil fields that fuel the Russian economy. (Russia's per capita GDP is \$25,400; Estonia's is \$28,600.)

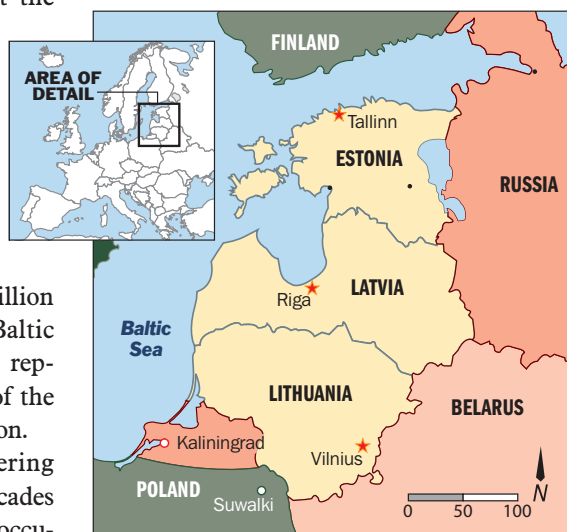
To walk around their capitals, Vilnius, Riga, and Tallinn, as I did in early June in between meetings organized by the Jamestown Foundation with local political and military leaders, is to experience clean, modern European cities full of delicious restaurants, upscale bars, and chic hotels. The inhabitants are polite, speak English, and revere the United States. Indeed, many of the Balts I met had attended American universities ranging from the U.S. Air Force

Academy to Georgetown. All three capitals have experienced a post-Communist building boom while also doing an impressive job of preserving their storybook Old Towns, which look as if they could have sprung from a Hollywood back lot. The only overt reminder of the grim past can be found in Museums of the Occupation, which chronicle the horrors inflicted upon these lands in the past century.

Yet the Baltic achievement remains as fragile as it is impressive. While Lithuania, Latvia, and Estonia in many ways feel like Denmark or the Netherlands, they can never forget that just across their

borders lies the Russia of Vladimir Putin. This is not the Stalinist state of cursed memory but nor is it the more liberal regime of Boris Yeltsin in the 1990s. Putin is an increasingly repressive dictator who, unlike his Communist predecessors, is not restrained by the need for unity in the Politburo. He runs Russia as his personal fiefdom, and it is a fiefdom that has been expanding under his rule. Putin has invaded Chechnya, Georgia, and Ukraine. He has illegally annexed Crimea—a forcible change of borders unknown in Europe since 1945—and he has sent his troops to prop up the murderous Assad regime in Syria.

Ever since Russia's invasion of Ukraine in 2014, the fear has been that the Baltics could be next. Given Putin's proclivity for posturing as a defender of supposedly oppressed



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ethnic Russians, Latvia and Estonia especially have reason to be nervous. They both have large Russian-speaking minorities—numbering more than 550,000 people in Latvia (28 percent of the population) and more than 320,000 in Estonia (25 percent). By contrast Lithuania has only 175,000 Russians—6 percent of the population. The good news is that most of these Russian-speakers know they are better off where they are than under Putin’s kleptocracy. The bad news is that local sentiments may not matter if Putin decides, as he did in eastern Ukraine, to manufacture an insurgency out of whole cloth.

Putin is making his intentions clear on a regular basis. His Russian-language TV channels broadcast a steady diet of propaganda into the Baltics, playing up Russian grievances and accusing the democratically elected leaders of those states of being fascists and Nazis—the same nonsense that was used to justify Russia’s invasion of Ukraine. Russia is also rumored to be providing funding to Russian political parties in Estonia and Latvia, and mysterious calls are circulating online to recognize “people’s republics” among the Russian minorities. NATO generals believe that we are already seeing “Phase One” of a Russian “hybrid war” against the Baltics, playing out primarily in the realm of information warfare and cyberwar for the time being.

If an actual shooting war breaks out, Putin will be ready. He has been expanding and enhancing his forces in the Western Military District of Russia. This area now has an estimated 65,000 Russian troops, 850 artillery pieces, 750 tanks, and 320 combat aircraft, all located just a few miles from the Baltic borders. The Balts have gotten used to no-notice “snap” exercises that involve tens of thousands of Russian troops maneuvering nearby—exercises that could easily be employed in the future as a pretext for an actual invasion.

Russia has also flexed its muscles in other ways. It has been sending submarines to violate Swedish territorial waters and aircraft to penetrate Baltic airspace. On April 11, two Russian SU-24 jets buzzed the destroyer USS *Donald Cook* in international waters in the Baltic Sea at an unsafe altitude of just 100 feet. Earlier, on September 5, 2014, Russia’s FSB security service kidnapped an Estonian intelligence officer on Estonian soil. He was then convicted of espionage and sentenced to 15 years in prison before being released last September in exchange for a Russian spy in Estonian custody. All of these events, seemingly unrelated, serve as a not-so-subtle warning from Putin that he is the master of the Baltic and can do what he likes there.

As part of this strategy, Putin has heavily militarized Kaliningrad, the former Prussian city of Königsberg, a Russian naval base which lies on the Baltic coast between Poland and Lithuania. It now hosts more troops (30,000) than all of

the Baltic states combined can deploy—and, more important, it also hosts advanced air defense systems (the S-300 and S-400), Kaliber antiship cruise missiles, and mobile surface-to-surface Iskander ballistic missiles. Western military strategists fret about the A2/AD (anti-access, area denial) threat posed by the Russian missiles. They could turn the Baltic Sea into a no-go zone for NATO warships and aircraft, allowing Putin to digest the Baltics at leisure.

The only land connection between the Baltics and other NATO countries is a 60-mile-wide corridor running from Poland to Lithuania. On one side is Kaliningrad, on the other Belarus, a nominally independent dictatorship that was once a Soviet republic and is still closely aligned with Russia. Belarus could find itself ripe for *Anschluss* if Putin wants another easy victory to buttress his popularity at home. But even if Belarus remains nominally independent,



Russian combat drills in Kaliningrad

Russian troops are likely to move freely over its territory. NATO generals now talk of the Suwalki Gap (Suwalki is a small Polish town at the midpoint of this land bridge) the way they talked during the Cold War about the Fulda Gap (the likely invasion route for the Red Army from East Germany into West Germany).

These geographic vulnerabilities are all the more worrisome because of plentiful evidence that Russian military capabilities have vastly advanced not just since the 1990s but also since the 2008 invasion of Georgia, which, although successful, revealed plenty of shortcomings among the low-quality conscript forces that Russia relied upon. Since then, Putin has been pouring large amounts of money into modernizing his military and converting it into a professional force. According to the Stockholm International Peace Research Institute, Russian defense spending in 2015 increased by 7.5 percent to reach \$66.4 billion. That makes Russia the largest military spender in Europe and one of the largest spenders on a per capita basis in the world—Moscow

spends 4.5 percent of GDP on defense, compared to 3.5 percent for the United States. Though Russia may lag far behind us in total spending (the United States has a defense budget of nearly \$600 billion), it has the luxury of focusing its forces on its frontiers, while we contend with multiple security threats around the world.

Russia's ongoing intervention in Syria has been used by Putin as a showcase for his new toys, such as the Kaliber cruise missiles that were fired by Russian warships in the Caspian Sea at targets a thousand miles away in Syria. "We're quite impressed with their capabilities," a Latvian security official told me. That's exactly the reaction that Putin wants.



Russian soldiers on parade in Kaliningrad, May 9, 2014

Beyond its conventional forces, Russia still possesses the world's second-largest nuclear arsenal, and its leaders have not been shy about threatening to use it. As a Polish think tank has noted:

In May 2014, [Dmitry] Rogozin [Russia's deputy prime minister], reacting to being barred from an over flight of Romanian territory, tweeted that the next time he "will fly on board" a Tu-160 strategic nuclear bomber. In August 2014, the vice speaker of the Russian Duma, Vladimir Zhirinovskiy, threatened nuclear use against NATO member states, declaring that "the Baltic States and Poland are doomed," and that they "will be wiped out" and "nothing will remain there." Earlier, in March 2014, another controversial figure, Rossiya 1 news channel television anchor Dmitry Kiselyov, vividly explained that Russia is the only country capable of turning the United States into "radio-active ashes."

Even in Soviet times, the Kremlin refrained from threatening to nuke its neighbors as bluntly as it is now doing.

But of course Russia doesn't need to employ its nuclear arsenal or even its tanks to bully and defeat its neighbors. The Ukrainian conflict showcased the "little green men," plainclothes Russian soldiers and intelligence operatives pretending to be indigenous rebels. This has given Russia

a degree of deniability in its aggression and has prompted anguished debate in NATO circles over what it would take to invoke Article V of the 1949 North Atlantic Treaty, which calls on NATO members to come to one another's defense when attacked.

In the face of this escalating Russian aggression, the Western response has been improving but remains inadequate. The Baltic republics themselves are boosting their defense budgets and increasing the size of their armed forces. Latvia's parliament voted unanimously this year to increase defense spending by 45 percent. "We are not free riders," a Latvian politician proudly told me, a reference to the accusation made by President Obama against America's European allies.

It sounds impressive—but Latvia is still spending only 1.4 percent of its GDP on defense, below the NATO guideline of 2 percent. Latvia and Lithuania will reach the 2 percent threshold in 2020; Estonia is already there and continues to expand its defense budget. For now the three Baltic states combined spend \$1.56 billion annually on defense—about what the Pentagon spends in a single day.

To say that the Baltic armed forces are tiny is an understatement: Together, they have fewer than 20,000 active-duty troops and 36,000 reservists. Lithuania is trying to boost its numbers by reinstating conscription, which Estonia already has instituted; Latvia continues to rely on all-volunteer forces. The Balts have no combat aircraft, no air defenses, and no tanks. Instead they are relying on niche capabilities, such as Javelin antitank missiles, to slow down invading Russian tanks.

There is more they can and should be doing. Consider the case of Israel, another state whose existence is threatened by its neighbors. It has 160,000 soldiers in its active-duty forces and 630,000 in the reserves, supported by one of the largest and most effective air forces in the world. Israel's defense budget is \$15.6 billion. Granted, Israel is larger and wealthier than the Baltic states: Its population is 8 million, compared with 6.2 million for the three Baltic republics, with a GDP of \$296 billion, compared with the Balts' \$90 billion. Israel also receives a lot more American aid—more than \$3 billion annually.

But there is no getting around the fact that Israel does more proportionally than the Balts do: The Jewish state spends 5.9 percent of its GDP on defense and keeps nearly 10 percent of its population in the reserves or in the regular forces. The comparable figures on spending and manpower for the Balts are less than 2 percent. Even Finland, which shares its own lengthy border with Russia, does more: With a population of 5.4 million, it has a standing army of 20,000 and reserves of more than 200,000 men.

IMAGES: NEWS.COM

The Balts need to spend more on defense, especially to expand their reserves. The most effective way forward would be to pool their efforts. Their failure to do more to coordinate their defense policies makes it impossible to achieve economies of scale that could come from procuring weapons systems jointly. Washington should press for more joint military procurement and operations among these three states. The Balts would be even better off if they could create a single, unified state or at least a single, unified military force, but that seems unlikely given the cultural and historical differences among them. The Lithuanians are Catholics with close ties to Poland; the Latvians and Estonians are Lutherans with closer ties to Sweden and Finland. All three states cherish their sovereignty, which was lost for so many decades.

In talking with Baltic leaders, a certain fatalism can creep in. They know there is no way their tiny countries can defeat Russia (population 142 million) in an all-out war, whether singly or jointly. “Even if we spend everything we have, we can never defend ourselves,” a Lithuanian leader glumly told me.

But simply having large pools of trained and armed reservists could help to deter Russian aggression. Putin prefers quick coups like the one he pulled off in Crimea, where the Ukrainian forces did not fire a shot. The last thing he wants is a prolonged guerrilla war in the marshes and forests of the Baltics, where Stalin faced armed resistance during the 1940s and early 1950s. If the Baltics can credibly threaten Putin with the prospect of Russian soldiers coming home in body bags, they are less likely to be invaded. Latvia is trying to do just that by making it illegal for its military commanders not to fight back if their country is invaded. There will be no repeat of 1940, the Balts vow, when they allowed the Red Army to walk in uncontested.

In the final analysis, however, the Balts are mainly right—their fate depends less on their own exertions than on those of their NATO allies. There is only so much they can do to stand up to the bear next door; if they are to survive, the United States and other NATO countries must contribute to their defense. That is now happening—albeit not yet at a sufficient level.

In Estonia, for example, I went with a delegation from the Jamestown Foundation to visit Amari Air Base, where NATO is undertaking an air policing mission. We found four Royal Air Force Eurofighter Typhoons, aircraft roughly equivalent to the F-15, based there as part of a rotation among NATO members. The fighters regularly scramble to investigate and ward off Russian military aircraft that operate near Baltic airspace with their transponders turned off.

There is also a company of U.S. soldiers—roughly 150—deployed in each of the Baltic republics and Poland. A NATO Very High Joint Readiness Task Force, equivalent

to a brigade, is supposed to be ready on short-notice to come to the aid of the Baltics, but NATO officials admit it does not have the capability to tangle with conventional Russian forces even if the ponderous North Atlantic Council could reach a decision to use it in time.

NATO troops now conduct regular exercises, such as Anakonda 16 in Poland this month, to deter the Russians, and American armored personnel carriers and tanks have been driving through Eastern European states on “dragoon rides” in a similar signal of resolve. If nothing else, U.S. forces are learning the lay of the land, something that will be of great value should a war ever break out.

The NATO Summit in Warsaw on July 8-9 is expected to approve the deployment of additional NATO battalions,



U.S. (left) and Polish soldiers (right) in a NATO exercise in Poland, June 7, 2016

one in each of the Baltic republics and Poland, for a total of 4,000 troops. But will they be real fighting units or multinational forces long on symbolism and short on combat effectiveness? Given NATO’s checkered track record, it is hard not to suspect the latter. If so, it will only place additional importance on what the U.S. does unilaterally.

As part of the European Reassurance Initiative, the Obama administration is planning to spend \$3.4 billion this fiscal year to fund more U.S. troop deployments and exercises in Europe. One additional U.S. Army armored brigade will regularly rotate through Europe, boosting the total number of U.S. Army brigades on the continent from two to three, and equipment sufficient to equip another armored brigade will be pre-positioned on the continent, probably in Germany.

That is better than nothing, but it is still insufficient to credibly deter Russian aggression. A RAND Corp. war game recently concluded that Russian forces could overrun the Baltics in as little as 36 hours, and U.S. commanders themselves admit they do not have the bare minimum of forces necessary to deter, much less defeat, the Russians.

What might a more serious response look like? Put at least one armored brigade in each Baltic country and Poland along with at least one Combat Aviation Brigade for the region. Then put in a division headquarters and a corps headquarters to coordinate these brigades and other forces in Europe. It is critical that a substantial number of these troops be American because, as the Balts remind anyone who will listen, the Russians respect American capability and willingness to fight far more than they do the Europeans.

That makes it all the more worrisome that the U.S. Army companies currently deployed in the Baltics might be withdrawn once the multinational NATO battalions arrive. Instead of drawing down the U.S. forward presence, Washington should be expanding it, and those troops should be backed with additional air defenses, aircraft, and ships. Should the worst happen, NATO forces must be able to fight through the A2/AD “bubble” around Kaliningrad to deliver the aid that the Balts would need in wartime. There is no reason NATO cannot permanently station substantial forces in the Baltics and other Eastern European states, as a careful reading of the 1997 NATO-Russia Founding Act shows.

To deter a Russian attack on the Baltics, the West should take other steps to demonstrate that aggression does not pay. At a minimum, the United States should send arms to the Ukrainians, who are still fighting Russian-backed forces in the east, and ramp up sanctions against Russia. The most effective move would be to kick the Russians out of the SWIFT system of interbank transfers and to freeze the funds held by Putin and his cronies in the West.

Simply to state the requirements is to suggest how unlikely they are to be realized in the current political climate, with the U.S. defense budget falling and U.S. commitments growing in East Asia and the Middle East. The talk in Europe is of when to lift sanctions on Russia, not how to double down. And the will of the West could become even more attenuated before long.

The Balts are nervously eyeing two elections: the British referendum on leaving the European Union, known as Brexit, on June 23, and the American presidential election on November 8. They are deathly afraid that Britain will leave the EU and that Donald Trump will win the presidency of the United States.

The mantra from the Balts I spoke to is that they want the United Kingdom to “lead, not leave” the European Union. They see the Brits as kindred spirits, because they are more market-oriented and more pro-American than the Germans and French. If the Brits leave the EU, the Balts fear Europe will veer off in a more protectionist and statist direction.

Beyond that, the Balts are keenly aware of the need for European unity in the face of the Russian threat. A

British exit from the EU could lead other countries to depart and might even lead to the collapse of the entire common European project. NATO would still survive, of course, but at the very least the British and other Europeans would be distracted with internal concerns—what kind of relationship should the U.K. have with the EU post-Brexit?—rather than focusing on the external threat from Russia. “The political spillover of Brexit would be terrible,” a politician in Lithuania told me.

A Trump victory in November would deal an even more severe blow to the future of the Baltics. An isolationist and a protectionist, Trump has spoken fondly of Vladimir Putin, a man with whom he imagines he could make great deals, while speaking harshly of America’s traditional allies. Trump has said that NATO is “obsolete” and has promised to withdraw U.S. troops from any countries that don’t pay enough for the privilege of being defended—which in his estimation includes pretty much every country where U.S. troops are currently deployed. “Why are we always paying the bills to protect other people?” Trump demands to know.

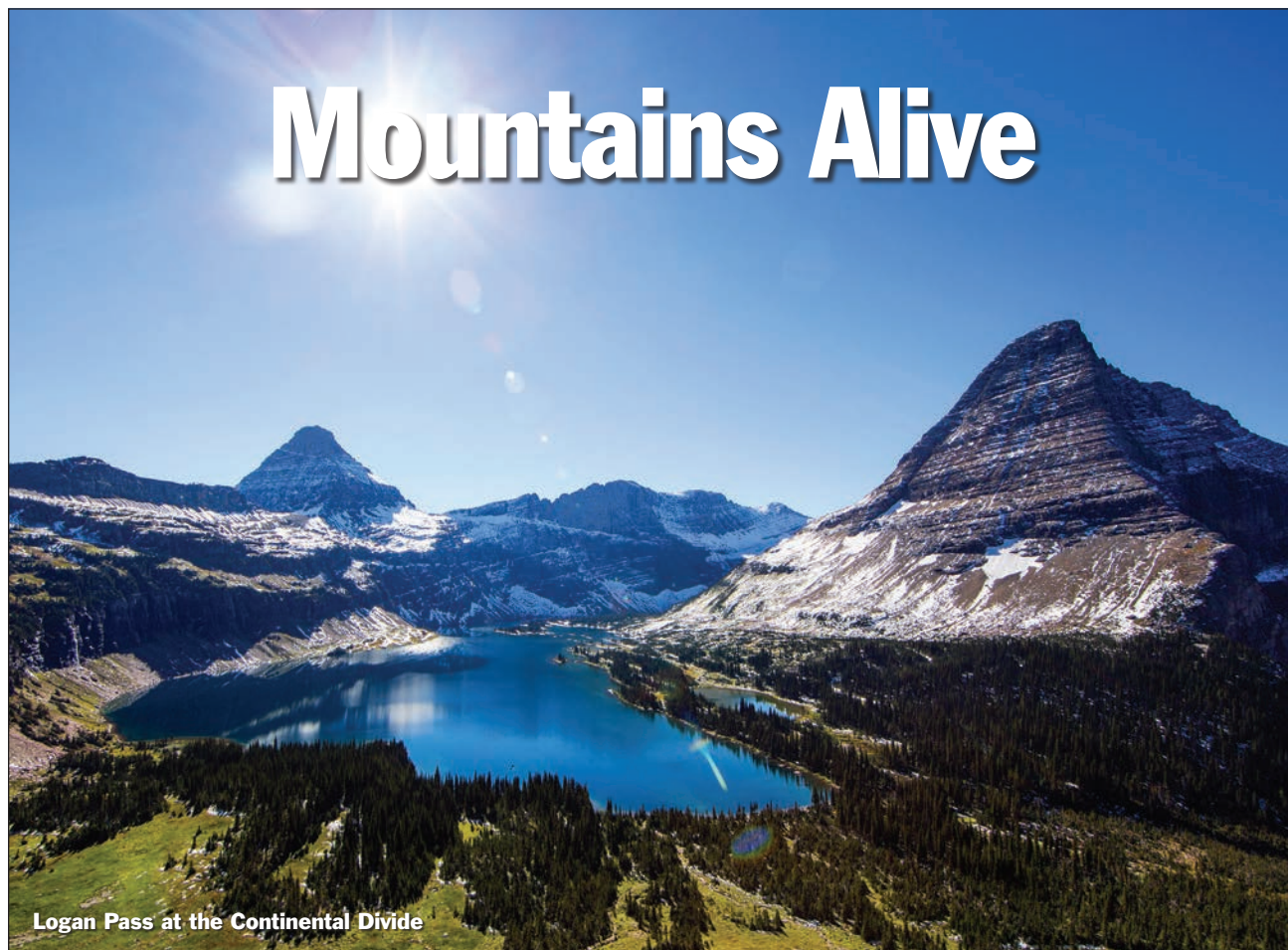
The answer is that we have seen what happens when we don’t. The isolationism of the 1930s led directly to World War II, a conflict that proved to be the second-most costly in American history. The rise of Nazi Germany, Imperial Japan, and Fascist Italy might have been avoided, and war averted, if Washington had made a concerted commitment to security in Europe and Asia after 1918. Learning its lesson, the Greatest Generation did not pull U.S. troops out after 1945. As a result, another world war was averted, liberty was expanded, the Soviet Union was contained, and the Cold War was ultimately won.

No doubt if Trump had heard of the Baltics (which all too many Americans confuse with the Balkans), he would demand to know why we should risk a single American soldier in order to preserve their freedom. Because we promised to do just that in 2004 when these states were admitted to NATO, and if NATO does not honor its commitments, it will be kaput. Indeed, that is precisely why Putin may be tempted to move into the Baltics: He knows that a successful incursion could lead to the end of the Atlantic Alliance.

Should collective security collapse, there is no reason to imagine that Putin would end his aggression in the Baltics. If history has shown anything, it is that dictators keep going until they are stopped. Russian domination of Eastern Europe, much less of Western Europe, is a risk that the United States cannot afford to run, given the economic and strategic importance of the continent. (Trade between the United States and EU in goods and services amounts to more than \$1 trillion a year.) It would be immoral as well as just plain stupid for the United States to abandon these close allies. But in order to protect them properly, the next president will need to do more than the current one has done. ♦



Mountains Alive



Logan Pass at the Continental Divide

At Glacier National Park

BY GEOFFREY NORMAN

The sign at the trailhead warns hikers that they are entering bear country. Which causes one to think, “Well, *of course* it is.” It would be impossible to imagine this country without bears—both grizzlies and the lesser, but still-formidable black bear. Nor could you imagine this country without wolves. They were gone for a while, but they are back now, north of the place where I am hiking but still inside the boundary of the park’s more than one million acres. Mountain lions are here, too.

No shortage of predators, then.

There are other, less dangerous but still-magnificent animals. Mountain goats and bighorn sheep. Wolverines. Elk. Moose. The country is as big and wild as it gets in the lower 48, so the big wild animals are here. And you don’t

need a printed sign to inform you of this fact. You sense it.

I did, at any rate, when I started out on my little hike—the point of which was not to get a look at a bear (though I wouldn’t have minded) but merely to get off the road and back into the country where, a ranger had told me, I would find a picturesque beaver pond and a lovely meadow with seasonal wildflowers just coming into bloom. A big animal would be a bonus. A moose, perhaps, hanging around the beaver pond.

But there is a larger purpose in visiting Glacier National Park and that is to experience and absorb country that, even in the epoch of reason and science, strikes one as sacred in the same way that it did the Blackfoot, Flathead, and other tribes, some of whom were here, on grounds sacred to them, 14,000 years ago. They had legends and names, like Rising Wolf, for the mountains, and when you study them today, you can understand in some dim way. It *does*, you think, suggest a wolf rousing himself for the hunt.

Hard to imagine, in fact, a place where the earth

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JORDAN SIEMENS / GETTY



At top, the park's angular peaks; below, a glacier decays.

itself could seem more alive and animated. Which can be accounted for by the park's name: Glacier. The monumental ice formations that moved through this place, as recently as 20,000 years ago, were great disrupters. They carved out these mountains, which do not look like the older, more rounded and gentle ones you find back east. The Appalachians look like they were formed by nature's hands working with clay. These mountains might have been carved with a chisel. They are angular, abrupt, and pointed. Also slightly fearsome.

Even if you are not inclined to spiritual, pantheistic meditations on the shape of the land, you will still be seduced by this place and the evidence of the geological

forces that made it. There are, to begin with, the glaciers themselves. There were more than 150 in 1850. Today there are 25, and in another couple of decades, they may all be gone.

You can still get close to some of the remaining glaciers and see the trail of scree that was ground and scoured out of rock by the tremendous pressure at the base of these massive formations of ice. And, of course, there are the glacier lakes with the unmistakable blue color. This is caused by the suspended glacial sediment, called "rock flour," that absorbs the other colors of the spectrum and brings up this striking hue.

The magnificence of this place—mountains, lakes, expansive plains—would have been hard for settlers pressing west to miss. And after the early attempts at mining and trapping, it inevitably became a "destination." The impulse to save it is credited to George Bird Grinnell, a celebrated explorer, naturalist, and writer. Also a very lucky man. He had accompanied George Armstrong Custer and his 7th Cavalry on their 1874 mission to the Black Hills but turned down the offer to join in the 1876 ride to the Little Big Horn.

Grinnell's efforts led to a formal designation of Glacier National Park in 1910, six years before the creation of the National Park Service. The Great Northern Railway then began building hotels and amenities, some of which have been preserved and are quite charming. Its status as a park has preserved this land, but that does not mean it is inaccessible. Anything but. You can see and "experience" much of it from your car, SUV, camper, or bicycle. In fact, the highlight of many visits is a drive across the waist of the park on something called the "Going to the Sun Road."

TOP: WERNER VAN STEEN / GETTY; BELOW: MARK CHERTKOW / GETTY



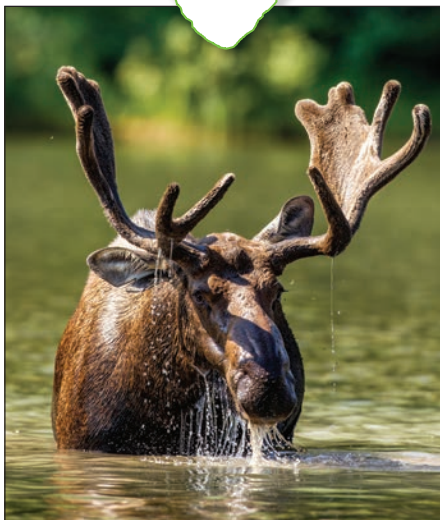
It was blasted and carved out of the hard earth back in the 1920s, and it has been a sort of destination drive ever since. There is a mountain of the same name along the way, but people who have made the drive say that under the right conditions you might actually feel like you are driving into the sun. I couldn't say, because the season was early and the road was not opened for its entire length when I was there. So I missed some of the spectacular views, the waterfalls, the vast stands of old-growth hemlock and cedar, and the white-knuckle drop-offs and harrowing curves.

The cleared road hadn't yet reached Logan Pass and the divide where some water runs down to the Gulf of Mexico and some to the Pacific. So I drove, instead, as far as I could go from either end of the road, and the views were sufficiently spectacular that I didn't feel sorry for myself. I would get to Logan Pass another day. For now, I went to an area known as Many Glacier and found a pull-out and a well-marked trail up the face of a relatively tame mountain. I'd been told I could get a look at some mountain goats here and, in fact, I did. They were some distance from me, and it didn't seem right to crowd them, especially since a sign along the side of the road asks visitors not to. Just seeing them was something.

There was a lot left to do and not enough time left to do it. The park is not just large and various but also inviting. There are streams to fish, rivers to raft, mountains to climb, lakes to kayak, trails to hike. John Muir, the cofounder of the Sierra Club, put it like this:

Give a month at least to the precious preserve. The time will not be taken from the sum of your life. Instead of shortening, it will indefinitely lengthen it and make you truly immortal.

Most of us don't have a month to spare. Immortality will just have to wait. But I did have the afternoon for hiking down that trail where I was reminded to be alert for bears. The walk gives a sense of the vitality of this place. This area had burned a year or so earlier. It was a great fire, covering thousand of acres. Fire did for this piece of the



A Glacier National Park local, above; below, bear-claw traces on a tree trunk



park what ice had done, centuries earlier. That is: transformed it.

The flames had killed lodgepole, Ponderosa pine, Douglas fir, and the scorched, dead trunks of the trees were still standing, sort of mournfully. But the meadow grasses—hard fescue, mountain brome, and beardless wheatgrass—had already come back where the ground had been burned black. The grass was green and thick and healthy. There were flowers blooming in the meadow that the ranger had told me about. Glacier lilies close to the burned spars and out in the open, blanket flower and lupine, yellow columbine and red paintbrush. And it was still early. In a few weeks this meadow would be carpeted with blooming flowers.

The ranger told me the fire had most likely been of “human origin”—as opposed to a lightning strike, that is. But these woods burn however the fires are started, and for a while—weeks or months—the land looks like it will never recover. But it does. And quickly. Things are never static here. The glaciers are ceaselessly grinding rock. The forests are burning, then greening. The rivers carving new channels and building new banks. When you are here, you sense with peculiar force that the earth is an organism.

I reached the beaver pond, and it was barren. No moose. Not even a beaver. I went on until I'd gone three miles, then turned around and went

back the way I had come. The light had changed, and everything looked different. More proof that this place is alive.

I was in that vague dreamy state that comes over you when you have walked a ways and are in a rhythm and something like a trance. Then a lodgepole branch snapped. Loud and close.

My first thought was “grizzly.” I went from dreamy to full alert.

But it was merely an elk. A small cow. She was 20 yards from me, more alarmed, even, than I.

So I departed Glacier National Park without having seen a bear or driving the whole 50 miles of Going to the Sun Road.

Next time . . . the full month.



Alexander the Great astride Bucephalus, Roman copy of a Greek original, first century B.C.

Expressions of Joy

The objects of the classical world, by way of Berlin. BY JAMES GARDNER

Few cultural experiences can match that moment when, for the first time, you approach the great Pergamon Altar in Berlin. Because it is famous, but not as famous as the Ara Pacis or the Elgin Marbles, many visitors will encounter it in complete ignorance that something so big or so imposing has survived the destruction of the ancient world.

Much of the original altar lives on in hundreds of sculptural and architectural fragments in the Pergamon Museum that was created specifi-

James Gardner's latest book is
Buenos Aires: The Biography of a City.

Pergamon and the Hellenistic Kingdoms of the Ancient World

Metropolitan Museum of Art
Through July 17

cally to house them. And although the architectural scaffolding—a stage set of sorts—is entirely modern, the experience is scarcely less powerful for that. At more than 100 feet across, the altar is so big that the awed visitor is apt to forget that it represents only the entrance of an ancient sanctuary that was originally far larger. However that may be, there are few other occasions when we feel so viscerally that we are standing in direct communion

with the living force of antiquity itself.

For now, the Pergamon is closed for renovations until 2019. But their loss is our gain, since a good deal of the monument, and much besides, has moved into the Metropolitan Museum as part of its new exhibition *Pergamon and the Hellenistic Kingdoms of the Ancient World*. This exhibition brings together Hellenistic art and the Roman art based on it—from Egypt, mainland Greece, and Italy, no less than from the ancient Aeolian kingdom of Pergamon in Asia Minor. And although the objects on view come from collections across Europe and the United States, most are from Berlin and most were excavated in Pergamon itself.

IMAGES: METROPOLITAN MUSEUM OF ART

The conquests of Alexander—from the Balkans to India and from Egypt to the Eurasian steppe—resulted in the entirely fortuitous spread of one form of Greek culture, the Athenian, and one form of Greek, the Attic dialect, across much of what Edward Gibbon described as “the fairest part of the earth and the most civilized portion of mankind.” Of the several dynasties that emerged from the cataclysmic breakup of Alexander’s empire at his death in 323 B.C., none was richer or more splendid than the kingdom of Pergamon. Built on a hillside acropolis 18 miles inland from the Mediterranean, it won the enduring gratitude of the civilized world through its decisive defeat of the Galatians, a horde of semi-barbarous Celts, at the Battle of the Caecus River in 241 B.C.

The victor of that battle was the third king of the Attalid dynasty, Attalus I Soter, the Savior, so named for his services to civilization. It was he who provided the sculptural decorations for the Temple of Athena in the goddess’s sanctuary on the acropolis of Pergamon. This temple contained the first of three great sculptural series in the ancient city, a series dedicated to that victory over the Galatians. As such, it can be read as a collective sigh of relief, an ecstatic explosion of joy, at the nation’s deliverance from so savage an enemy.

A number of the sculptures from the altar have survived, but many more, like the famous Dying Gaul, live on in expert Roman copies. Literally by the dozens, perhaps by the hundreds, these works were reproduced and disseminated among the wealthy villas of the Roman world. When these copies were disinterred centuries later, they revolutionized sculpture and painting. For it was these very works that revealed to the artists of those later generations how to draw incandescent pathos from the coldness of stone.

Eumenes II had the Great Altar of Pergamon built, containing two

massive sculptural programs. The larger of the two, the Gigantomachy, was a sequence of almost incalculable complexity that depicted the Olympian gods in pitched battle with the Titans who tried to storm heaven. The smaller cycle was devoted to the myth of Telephus, the son of Hercules and the mythic founder of Pergamon.



The Tivoli General, Roman, late period, ca. 80–60 B.C.

Both cycles have been accounted for at the Met in an elaborate scenography that differs from that of the Pergamon Museum, even though it succeeds, with far less space at its disposal, in capturing something of the monumentality and splendor of the Berlin display.

The eye struggles to adjust to the vertiginous abundance and variety of wreathed, writhing, interlocking forms, to the muscularity and violence and grace with which the Olympians

dispatch the base-born sons of Earth. These sculptures were completed three centuries after the Elgin Marbles of the Parthenon, but they affected subsequent Western art far earlier and more fundamentally than would the sculptures of the Parthenon.

The koine Greek language that spread through the known world in the wake of Alexander’s armies established a clear, flexible, and graceful instrument of expression that survived past the end of antiquity to the ultimate destruction of the Byzantine state in 1453. In the same way, it was Pergamon, with all its oratory and drama, that bequeathed to Rome, and then to the Renaissance, the dominant language of Western sculpture down to the triumph of Modernism after World War I. Everything from the Roman fountains of Bernini to the figure of Mercury atop Grand Central Station, gazing down Park Avenue South, derives in large measure from the sculptures of Pergamon.

But by concentrating on these major sculptural monuments in the Met show, I hardly do justice to many of the more than 250 objects on view. Their somewhat promiscuous dispersal across the galleries in no way detracts from the great power and even greater beauty that emerge as the constants amid the vast variety of sizes, shapes, functions, and styles that define them. These objects range from diadems and armbands to coins, perfume bottles, and a glass bucket with a silver handle.

Acknowledging the achievement of Greece and Rome has become, by now, something between a reflex and a duty, and in neither case is it undertaken with any great thought or effort, much less joy. But to see even these lesser objects at the Met, with their persistent and unerring instinct for visual ravishment, compels us suddenly, and with renewed force, to understand why we still care so greatly for the ancient societies that produced them. ♦

Slough Saga

The world of Mick Herron is not your father's MI5.

BY ANN MARLOWE

It makes sense that Mick Herron's third novel about MI5 can be enjoyed without reading the others: Coming in at the middle of things is integral to his books. It's the condition of life, especially in a government bureaucracy. And the same could be said about intelligence gathering: It's what we all try to do, from birth onward. Maybe this is why spy novels resonate.

But this isn't your father's MI5. Herron describes an intelligence service that devotes most of its energies to infighting, when not mounting false flag operations that endanger Britons. Oh, if a terrorist crops up, these folks will deal with him; but that's a distraction from destroying competitors. It's a commonplace of the spook novel that our side is no better than theirs, but Herron's black comic message is even more demoralizing.

Luckily, it's delivered in dialogue worthy of Ivy Compton-Burnett, funny and heartbreaking, with the vocabulary of a Balliol English graduate.

Herron reminds us that today's crispest English dialogue is found in the office. This is something new; the English novel began in an era when people with the leisure to read novels did not work in today's sense. Those delicious exchanges in Austen, Thackeray, Trollope, and the like take place mainly in people's homes or country house parks. It's only recently that novelists have given the workplace its due; television got there first. And Herron is one of the poets of office conversation.

Real Tigers is even better than its predecessors in his "Slough House" series. It follows the same cast of characters,

Real Tigers
by Mick Herron
Soho Crime, 352 pp., \$26.95

minus one or two, as *Slow Horses* (2010) and *Dead Lions* (2013). They are MI5 agents who have messed up, exiled to Slough House, the nickname for an imaginary dilapidated building near the Barbican Theatre. In Herron's series, MI5's headquarters is called Regent's Park—although, since 1994, the real MI5 has worked out of Thames House on the unfashionable south bank of the river. The errant agents are meant to be ground down with meaningless paperwork so that they will resign, saving the service the possible legal trouble and publicity attendant upon firing them.

The nickname Slough House is said to come from the remoteness of the location from Regent's Park. There's also a running joke about Slough House agents being "slow horses," but slough—which refers to a marshy, low-lying area—is pronounced like "how" not "mow."

I suspect that "Slough House" may allude to the Slough of Despond in *The Pilgrim's Progress*, for the same reason that many of the Slough House agents use the phrase "Jesus wept" instead of the curses one might expect. "Jesus wept," of course, is the shortest verse in the King James Bible and describes Jesus' reaction to the death of Lazarus.

Slough House is purgatory and the agents spend much time figuring out why their colleagues are there—and little time figuring out why they made the mistakes that got them there. There's a compulsive gambler, a cocaine addict, a former alcoholic, a woman with an uncontrollable temper, a hate-filled, vindictive IT genius. Others made ter-

rible operational errors. There's one possibly "innocent" agent among them, River Cartwright. And then there's the boss, Jackson Lamb, whose name also has Christian echoes.

Lamb is one of the most memorable antiheroes of recent fiction: a fat, slovenly, compulsive eater and alcoholic whose flatulence is as legendary as his Cold War feats, whose wit is razor sharp, who can play both "Moscow rules" (hostile territory) and "London rules" (infighting). He may even have a conscience: We learned in *Slow Horses* that his disgust with the workings of MI5 led to his self-exile at Slough House.

The "slow horses" struggle to regain MI5 headquarters, though none of those exiled has returned. Regent's Park looks more like hell than heaven from anywhere but Slough House, and one of the underlying questions of the series is why anyone would want to work there in the first place. The First Desk, Dame Ingrid Tearney, is "a hobbit of a woman," dwarfish and bald due to a genetic condition, passive-aggressive, with "a bred-in-the-bone instinct for knowing how to needle, humiliate and frustrate her underlings." And her closest rival, Head of Ops "Lady Di" Diana Taverner, is a snake.

Real Tigers concerns dirty tricks played by Taverner, Tearney, and Peter Judd, a home secretary with prime ministerial aspirations. Judd evokes Boris Johnson—"He'd established a brand—'a loose cannon with a floppy fringe and a bicycle'"—and he seethes about having been turned down when he tried to join the service 20 years earlier, being "a narcissistic sociopath with family money, a power complex and a talent for bearing a grudge."

Mick Herron has sidestepped the inevitable question of how he knows so much about spies. His birth year isn't online and his Wikipedia entry is only in French. But better than any insider knowledge, he brings a fine-grained intelligence to bear on every detail he describes. These novels are a part of English literature, not only the genre of spy novels. ♦

Ann Marlowe is a writer in New York.

Philosopher and King

Richard Nixon and his Pat—Moynihan, that is.

BY BARTON SWAIM



Richard Nixon, Daniel Patrick Moynihan (1970)

Newly elected presidents, their staffs flush with optimism and bursting with fresh ideas, sometimes invite a member of the opposing party, or at least an adherent of an opposing ideology, to join the administration. Maybe it's a political gesture; maybe it's an expression of magnanimity or of confidence that what matters isn't ideology or party labels.

In any case, it usually ends badly. I think of David Gergen going to work for Bill Clinton in 1993 or John J. DiIulio joining the Bush administration in 2001. Both exited on less than amicable terms. And yet, when Daniel Patrick Moynihan joined the administration of Richard Nixon, somehow it worked.

The impetus behind Nixon's need for a Democrat on his staff was essentially political—he had only won a plural-

Barton Swaim is the author, most recently, of The Speechwriter: A Brief Education in Politics.

The Professor and the President

*Daniel Patrick Moynihan
in the Nixon White House*

by Stephen Hess

Brookings Institution, 155 pp., \$24

ity in 1968 and felt he needed to convey a disposition of receptivity to other viewpoints. It wasn't just a ploy, either. On domestic affairs, as Stephen Hess explains in this incisive first-person account of Moynihan's two-year odyssey in the Nixon White House, the new president didn't have much of an agenda at all. In 1962, when the former vice president was on the verge of losing the race for California governor to Pat Brown, Hess recalls asking Nixon if he thought he'd lose the race.

"Yes," he answered, "but at least I'll never have to talk about crap like dope addiction again." This was a man who, during his successful campaign for the presidency in 1968, said to a journalist, "I've always thought this country could run itself domestically without a

president. All you need is a competent cabinet to run the country at home. You need a president for foreign policy."

Moynihan was a liberal, yes; but he had made enemies on the left. Famously, as assistant secretary of labor in the Johnson administration, he had been the author of a study—*The Negro Family: The Case for National Action*, commonly known as the Moynihan Report—in which he concluded that generational poverty among black Americans was not, in the first instance, the result of an insufficiently munificent welfare system but, rather, a consequence of the black family's dissolution. He had been denounced by civil rights leaders and academics, and reproached by commentators and editorialists, for "blaming the victim."

Nixon's chief question, in any case, wasn't whether Moynihan was too liberal but whether "[we] could ... count on him to be loyal? I don't mean Republican. I mean—you know—one of us."

Stephen Hess had known both Nixon and Moynihan for several years, having worked for the Republican and alongside the Democrat in various capacities, and he was of course right to wonder whether they could function together profitably: Nixon the profane, cynical, and attitudinally conservative hardball politician; Moynihan, the urbane and idealistic liberal and fluent Harvard academic.

The president liked Pat, as he was known, immediately. He placed him at the head of the administration's Council for Urban Affairs, an entity created primarily, it seems, in order to help the president figure out what his policy on urban affairs should be. Immediately, Moynihan began sending the president long, discursive, almost literary memoranda that one might have assumed would irritate or bore Nixon.

"Whatever the urgency of the matters I bring before you," the first Moynihan memo begins,

I will be doing so in an essentially optimistic posture, which is to say that I will routinely assume that our problems are manageable if only we will manage them. This is the only

position possible for government. Yet, of course, it does not necessarily reflect reality. It may be that our problems are not manageable, or that we are not capable of summoning the effort required to respond effectively.

“Most staff memos to a president,” writes Hess, “are essentially politician-to-politician or expert-to-CEO. But Pat is writing to Nixon *intellectual-to-*

his boss’s conservative instincts, persuaded him to support a major (and moderately progressive) welfare proposal. The Family Assistance Plan, in essence, promised a guaranteed annual income to families with children. And although it was defeated in the Senate Finance Committee in 1970, a similar proposal, one based instead on Social Security income,

Moynihan bested Burns simply by his ability to discuss serious policy problems with charm and in intellectually engaging ways. Indeed, so decisively had Moynihan the intellectual earned the president’s respect that Nixon asked him for a list of 10 books any American president should have read. (It’s hard to criticize Moynihan’s choices, among them Robert Blake’s *Disraeli*, Lord Charnwood’s *Abraham Lincoln*—“for my money still the best volume on Lincoln”—and Duff Cooper’s *Talleyrand*.)

Hess admired Moynihan and still has great affection for his memory. Reading this valuable and frequently delightful account, however, I can’t help regretting Moynihan’s influence and wishing the boring economist Burns had found a way to counteract it. Alas, Burns found it harder and harder to get through the “Berlin Wall” of John Ehrlichman and H.R. Haldeman. At one point, as Burns unavailingly attempted to argue to Nixon that Moynihan’s welfare proposal was antithetical to the president’s philosophy, Ehrlichman responded: “Don’t you realize the president doesn’t have a philosophy?”

Ehrlichman was right, of course; but I wonder if the same could be said of Moynihan. For all his brilliance, and despite his admirable refusal to accept certain tired conventions on welfare policy, there was something muddled about his thinking on that issue. The Moynihan Report created an uproar because its author found, without looking for it, that cultural habits lay behind economic problems as much as (or more than) government policies, and that government policies aimed at solving economic problems were predestined to fail if they neglected to account for cultural habits.

“At the heart of the deterioration of the fabric of the Negro society,” Moynihan wrote, “is the deterioration of the Negro family. It is the fundamental source of the weakness of the Negro community.” He had concluded that culture, not government policy, determines outcomes. Policy can *affect* outcomes, but it is secondary and must account for culture. And in the case of postwar welfare policies that mostly



Urban Affairs Council, Moynihan second from right (1970)

intellectual, without a bit of patronizing. Nixon has never been treated this way before. He loves it!”

Ordinarily, I am not a fan of present-tense narration, but it makes sense here. It’s hard to read anything about Richard Nixon without thinking about it through the lens of Watergate, but Hess wants to tell the story of these two great men as he experienced it, not as a picture of what the White House was like before scandal swallowed it in 1973-74.

Pundits wrongly guessed that Moynihan would last no more than six months. When he finally left to return to Harvard in late 1970—he had agreed to work for Nixon for only two years—the president almost persuaded him to stay by offering him the United Nations ambassadorship—a position he would accept under President Ford. Not only did Moynihan outlast the predictions, however; he became one of Nixon’s trusted advisers and, despite

passed and was signed into law a few days before Nixon’s reelection in 1972.

Moynihan’s chief adversary in the White House, Hess recalls, was Arthur Burns. Nixon had made Burns chairman of the Federal Reserve in 1970, but during the administration’s first two years, Moynihan and Burns vied for Nixon’s attention on domestic matters. Burns was a conservative economist, Moynihan a liberal sociologist. The crucial difference, though, was simply this: “Burns is boring—a fact recognized by anyone who has to wait for his words to emerge as he pulls on his pipe,” and Moynihan was anything but boring. Indeed, his wit shines through almost every page of Hess’s chronicle. He remembers Moynihan telling a story about taking a cab ride to Brooklyn: “The cabbie looks down at a *Daily News* headline on the seat. ‘Look at that. Yute rape, yute murder, yute robbery. When my kid grows up he ain’t gonna be no yute!’”

disregarded cultural considerations, government policies had consistently worsened outcomes for black Americans: “The steady expansion of [welfare programs] ... can be taken as a measure of the steady disintegration of the Negro family structure over the past generation in the United States.”

Moynihan was right; his critics and accusers were wrong. And Moynihan was pursuing the same line of thought as he began working for Nixon. In one of his first memos to his new boss (included here) he summarized the essence of a lecture he’d read by the Harvard sociologist Paul Weaver.

His central point—an immensely disturbing one—is that the social system of American and British democracy that grew up in the eighteenth and nineteenth centuries was able to be exceedingly permissive with regard to public matters precisely because it could depend on its citizens to be quite disciplined with respect to private ones. He speaks of “private sub-systems of authority,” such as family, church, and local community, and political party, which regulated behavior, instilled motivation, etc., in such a way as to make it unnecessary for the State to intervene. . . . More and more it would appear these subsystems are breaking down in the immense city of New York. If this should continue, democracy would break down.

Once again: culture, not government policy, determines outcomes.

Over the years, Moynihan was not averse to telling the story of how he came to write the Moynihan Report, and how he was denounced by liberals after it was leaked. But how firmly did he grasp the implications of its central insight? In 1996, for instance, just before the Senate passed a welfare reform bill designed to reform or eliminate government welfare policies that encouraged dependency, Senator Moynihan (as he had become in 1977) denounced it in strident terms and expressed his disbelief that President Clinton intended to sign it. But the bill passed, Clinton endorsed it—and within a few years, child poverty rates and welfare case-loads declined significantly.

Reading anything by or about Daniel Patrick Moynihan, I find it impossible

to dislike him. Sure, he was full of himself—he could hardly write an essay or review without quoting one of his own pronouncements, and often more than one—but he could poke fun at himself, too. When asked at a cabinet meeting, in 1969, if he could prepare the outlines of a national urban policy, Moynihan replied: “I would be glad to undertake such a task, on the condition that—and I realize that one does not ordinarily

impose conditions on the president of the United States—on the condition that no one take it seriously.”

But there was something of the dilettante about Moynihan, too—a failure, or reluctance, to think through his own ideas and principles and their implications. He was a first-rate intellect and lucid writer. But in a position of political power, give me boring philosophical consistency any day. ♦

BCA

Casinos Royale

America is betting on gambling.

BY MICHAEL NELSON



Sands Casino, Bethlehem, Pennsylvania

In little more than a half-century, the United States has become a gambling nation. In 1963 a map of the country would have shown one state, Nevada, with legal casino gambling and no states with government-sponsored lotteries. It would have shown racetracks that were merely racetracks, not fronts for slot parlors.

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From Steel to Slots

Casino Capitalism in the Postindustrial City

by Chloe E. Taft

Harvard, 336 pp., \$39.95

Today’s map shows 19 states where commercial casinos—that is, casinos run by privately owned companies—are legal and 14 that allow racetracks to offer casino gambling at so-called racinos. It displays another 28 states with casinos owned by American Indian tribes. As for lotteries, the governments of 44 states and the District of Columbia now own and operate

them. The 49 states in which both lotteries and casinos were illegal in 1963 are now 2: Utah and Hawaii. With the partial exception of the tribal casinos, which were green-lighted by the Supreme Court in its 1987 *California v. Cabazon Band of Mission Indians* decision, this transformation occurred state by state, outside the gaze of the federal government and the national news media.

Pennsylvania was an early adopter

surrounded, or about to be, by even more states that, by then, had legalized casino or racino gambling, including Delaware, Maryland, Ohio, and West Virginia, as well as its familiar nemeses, New Jersey and New York. In both cases, the state authorized a new kind of gambling mostly because of peer pressure.

Pennsylvania is one of many states whose experience with gambling from 1963 to the present took the late politi-

norm no matter what state you lived in.

Walker didn't contemplate a less happy form of diffusion—nor had Justice Brandeis when he glowingly described states as “laboratories of democracy”—but it's the lesser form that has spurred much of the national map's spreading inkblot of legalized gambling. In the race to the bottom that transformed lotteries and casinos from nonexistent to normal features of American life, when one state legalized gambling to draw in bettors from its neighbors, the bordering states whose money began draining across state lines felt compelled to respond by legalizing gambling at home.

As Kansas governor John Carlin said when his state created a lottery, “Not having one when your neighbor has one is like tying one hand behind your back.”

In *From Steel to Slots*, Chloe E. Taft goes deep into Bethlehem, Pennsylvania's recent experience with casino gambling. Bethlehem, long famous as the headquarters of Bethlehem Steel, once the third-largest industrial company in the world, is 1 of up to 14 cities that the Pennsylvania legislature granted a casino, whether they wanted one or not. Not surprisingly, Bethlehem and nearly all of the other 11 cities that currently have casinos are located near one of the state's borders. Bethlehem, Taft points out, is closer to New York City than Atlantic City, as well as enjoying a direct pipeline to its casino by way of Interstate 78.

The Sands Casino Bethlehem is under the corporate wing of Sheldon Adelson, whose Las Vegas Sands Corporation (despite its name) does nearly 90 percent of its business in Macau and Singapore. Attuned by that experience to the love Asian (and Asian-American) gamblers have for games like midi baccarat and Pai Gow, the Sands Corporation created “a business plan for the Bethlehem casino [that] relies on busing in thousands of gamblers each day from New York's Chinatowns” and the city's New Jersey suburbs, where a large number of Asian Americans live.

Taft, a self-described “not-quite-outsider” in Bethlehem whose grand-



Inside the Sands

of lottery gambling; in 1972, it became the seventh state to create one. The state came to the casino game much later: in 2006, when the first legal slot machine parlors opened, and in 2010, when the legislature added table games like blackjack and craps to the casinos' menu of offerings.

The timing in both cases is easily explained: In 1972, Pennsylvania found itself bordered on the east and north by two states, New Jersey and New York, that adopted lotteries even earlier than it did. (Its southern neighbor, Maryland, was in the process of creating one.) In 2006, Pennsylvania was again

cal scientist Jack L. Walker's benign phrase—“the diffusion of innovation among the American states”—and warped it into something different: “race to the bottom.” Walker, in an influential 1969 *American Political Science Review* article, described the spread of innovative policies from one state to others as the product of an early adopter's example inspiring healthy imitation by additional states. In Walker's main example, Wisconsin enacted workers' compensation, other states came to regard it as a model for helping injured employees, and before you knew it, workers' comp was the

father worked at “the Steel” and who currently is a postdoc in Yale’s American Studies program, is wistful without being sentimental about what casino gambling has done to the city. The steel company closed its last Bethlehem factory in 1998 and declared bankruptcy three years later, leaving many employees without work and retirees with shriveled pensions and health care. In a sense, Taft argues, the casino took the Steel’s place as a “postindustrial factory” that “like Bethlehem Steel . . . reaps profits while providing jobs and benefits for hundreds of area residents and contributing significant tax revenues and charitable gifts to the community.”

One big difference, of course, is the old factory made steel and the new one, at its best, manufactures entertainment.

As with gamblers, some states are winners and others losers in the casino game. New Jersey, a winner for as long as Atlantic City offered the only site for legal gambling outside Nevada, has become a loser: Its bankrupt high-rise casinos line the boardwalk like so many bad teeth. Pennsylvania has done well—so far. Last year, its casinos employed about 17,000 workers and paid \$1.4 billion in taxes to help fund the state’s \$30 billion budget—more than the casinos in any other state, including Nevada. In that sense, the casinos in Pennsylvania and other states are far better than their lotteries, which build nothing, employ hardly anyone, and put government into the business not just of permitting gambling but also of sponsoring and profiting from it.

But the same casinos that import money into a state from out-of-state gamblers export the crime, addiction, and personal bankruptcies that some losers at the tables and machines take home with them. And as Atlantic City’s experience indicates, luck has a way of running out. Pennsylvania’s experience with casino gambling may yet become a cautionary tale: New York (three new casino resorts in the works) and New Jersey (proposed casinos in the northern part of the state) are coming after it. The race to the bottom goes to the swift. ♦

BCA

Richard for Laughs

The Royal Shakespeare Company reinvents the ill-fated monarch.

BY DAVID YEZZI

Only a very rude mechanical could have failed to notice that this past April marked the 400th anniversary of Shakespeare’s death. It has been a year of discoveries. In a private library on the Isle of Bute, a copy of a vamped First Folio came to light, along with the meaning of the word *vamped*. And in Brooklyn recently, the Royal Shakespeare Company unveiled to an American audience a new play by Shakespeare—*The Comedy of Richard II*. The play follows very nearly the better-known *Life and Death of King Richard II* but replaces Shakespeare’s fated poet-king with a vain incompetent, who appears to spend as much time at the hairdresser as he does ruling. The RSC’s newest production of *Richard II* debuted in Stratford-upon-Avon three years ago, part of a quartet of Shakespeare’s history plays. The RSC performed the four—*Richard II*, *Henry IV* (parts 1 and 2), and *Henry V*—this spring at the Brooklyn Academy of Music.

Richard II—which follows the deposition of the God-anointed king by his usurping cousin Henry Bolingbroke—was very serious business in its day. Shakespeare and his fellow company members in the Lord Chamberlain’s Men were paid to perform it just prior to the failed Essex uprising, and hundreds of offending lines were cut from one edition to the next. Regarding the threat of deposition, Elizabeth herself reportedly exclaimed, “I am Richard II, know ye not that?” Shakespeare and his fellows apparently escaped censure, and the play received a command

performance before the queen on the eve of Essex’s execution in 1601.

William Shakespeare, of course, can be riotously funny, but Gregory Doran (the RSC’s artistic director) and David Tennant (Richard) resorted to some special pleading in this regard, finding jokes where even Will Kemp, Shakespeare’s go-to clown, might have failed to find them—all, one imagines, in the service of jollying up the crowd of twentysomething *Harry Potter* and *Doctor Who* fans who packed the Brooklyn Academy of Music’s Harvey Theatre to see Tennant time-travel to medieval England.

This led to some odd moments. Tennant—whose animated, avian features and heavy-metal hairdo ably command the stage—managed laughs even during Richard’s serious moments, such as his famed “mirror speech.” Presented with the “flattering glass,” Richard mocks his fairweather friends before smashing it to the ground: “No deeper wrinkles yet?” he asks of his own careworn face. For Tennant, it was a moment to note how well his skin cream has been battling back the years.

Shakespeare’s popularity apparently knows no bounds, and not just in the English-speaking world (consider the throngs of Bollywood adaptations). *Richard II* proved particularly popular during Shakespeare’s lifetime, going into five quarto editions (while *Twelfth Night*, *Antony and Cleopatra*, *Macbeth*, and numerous others did not see print until the posthumous First Folio of 1623). But one gets the feeling that the RSC doesn’t fully trust Shakespeare’s common touch. There was so much mugging to the crowd, so many winking pauses (even from Oliver Ford Davies’s Duke of York), that the most necessary questions of the play went

David Yezzi’s latest book of poems is *Birds of the Air*.



Keith Osborn, David Tennant, Sam Marks

unconsidered: Will a crack open in the universe at the deposal of a monarch—and if it does not, what does that say about Richard as both a ruler and man? Richard’s metaphysical wit rivals John Donne’s in lines like “Ay, no; no, ay: for I must nothing be; / Therefore no, no, for I resign to thee,” where his juggling of assent and negation bear on his very existence.

Despite its designation as a tragedy in the quartos, *Richard II* lacks true tragic stature, except perhaps in his own mind. It’s a history play, the first in which Shakespeare introduced a new comic sense, which then blossoms in *Henry IV* and *V*. By playing every scene for laughs, Doran stole thunder from the truly funny scenes, such as the Duchess of York’s wild appeal to Bolingbroke in Act V. The proof that this Richard prefers camp to poetry comes just moments before his death in Pomfret Castle. Richard’s anguished rumination on his fate, in which he peoples his lonely prison with his thoughts, was dropped almost entirely from this production. One didn’t feel bad for Tennant’s Richard; he got too many laughs. Any Jack Falstaff could only hope to do as well.

Fortunately, Antony Sher was no ordinary Jack, but a Jack for the ages. Not only was he funny without cajoling, he was also fiery, mean, mendacious, ribald, cowardly, romantic,

cunning, adorable, and reprehensible. A reluctant Falstaff—too short, too thin, as he documents in *Year of the Fat Knight: The Falstaff Diaries*—Sher is known for brooders such as Macbeth, Leontes, and Shylock. But Falstaff (“As melancholy as a gib cat or a lugg’d bear”) has a dark side, too, and Sher effortlessly evinced tears as well as guffaws. His most affecting moment came in his brief liaison with Doll Tearsheet (a vibrant Emma King). After the lovely Doll planted a kiss on the fat knight’s gob, Falstaff managed a crushing insight: “I am old. I am old,” he confessed to himself and to us.

Sher’s sobs at their parting amplified the play’s themes of lost youth and severed ties. Part Two, by extension, became a sweetly sad tone poem on death and absent friends. As Shallow says to Silence, “Jesu, Jesu, the mad days that I have spent! and to see how many of my old acquaintance are dead!” To which Silence replies: “We shall all follow, cousin.” The final blow came with Hal’s denial of his old friend: “I know thee not, old man.”

Shakespeare’s earlier history plays contain comic moments, but the two parts of *Henry IV* reinvent the form, interweaving scenes of high seriousness with riotous bawdry. As Bolingbroke, now the remorseful King Henry, grapples with former friends who desire the crown, Hal, the Prince

of Wales (played with vigor and wit by Alex Hassell), spends his days in a tavern avoiding the headaches at court. Hassell showed how Hal’s envy of the martial Hotspur, in part, fuels his renunciation of his dissolute past and his embrace of kingship. Hal’s reckoning with his father plays out first as comedy (with Falstaff as stand-in) then as stirring drama.

Performing the plays as a tetralogy drew out welcome resonances. “Depose me?” bellows Falstaff, as Hal hectors him for failing to portray King Henry convincingly. The line landed a shudder coming so soon after Richard’s downfall. Also, we see how the characters develop from play to play. When performed alone, *Henry V* often lacks any vestige of the bad-boy Hal. After his miraculous victories, Hassell’s Henry performed a rock-star slide at the French princess’s feet; it was the impish Hal in him who wins her heart.

One challenge of performing the Henriad in rep is that *Richard II* will not be made to conform in tone to the other three, nor should it. Bolingbroke invokes St. George at the beginning, as does Henry V toward the end of Shakespeare’s great paean to the Sceptered Isle. But what a lot has happened historically—and also stylistically—between the years of Richard’s misrule and the Siege of Harfleur. ♦

RICHARD TERMINÉ



Beautiful Losers

A new interpretation of the old Stiff Upper Lip.

BY ANDRE VAN LOON

It was a long time before they were overcome—before we finished them. When we did get to them, they all died in one place, together. They threw down their guns when their ammunition was done, and then commenced with their pistols, which they used as long as their ammunition lasted; and then they formed a line, shoulder to shoulder and back to back, and fought with their knives.

That is the Zulu leader Mhlokazulu recalling the Battle of Isandlwana, a disaster for the British during the early stages of the Anglo-Zulu War (1879). The British had split their forces, the larger part setting out to pursue the Zulu army to the south. When some 20,000 Zulu warriors attacked unexpectedly from the north, using their favorite tactic of encirclement, British superiority in weaponry and discipline was ultimately overwhelmed.

Facing certain death, these “last stand” soldiers fought with a grimly impressive tenacity. They exemplify heroism-in-defeat, an attitude to impending disaster in which many Britons continue to take a peculiar pride. The plucky loser, trying one’s best with a stiff upper lip: Part of being British is to relish setbacks, the more dramatic the better.

As George Orwell wrote: “There is no popular [English] poem about Trafalgar or Waterloo.... The most stirring battle-poem in English is about a brigade of cavalry which charged in the wrong direction.”

Heroic failure is a fascinating subject and can be studied from the time of Napoleon (Sir John Moore fighting for survival at Corunna), Victorian imperialism (the Light

Heroic Failure and the British

by Stephanie Barczewski
Yale, 280 pp., \$40

Brigade at Balaclava), the Great War, and World War II (Dunkirk). And at first sight, *Heroic Failure and the British* promises to be a scholarly and engrossing read. There is little doubt that Stephanie Barczewski has done her homework. She knows who’s who, including lesser-known politicians, officials, and military staff at home in Britain, who could decide to halt rescue operations; in what political or military context things happened; and what the consequences of disasters might have been. The author has an accessible yet polished style, and at times, her book can be almost unbearably moving.

And yet, *Heroic Failure* is infuriating. In brief, Barczewski contends that the British cynically used the concept of heroism-in-defeat to mask the “moral ambiguities” of their empire. It was better, the argument goes, to talk about one’s weaknesses than to admit that there was brutal colonial expansion, suppression, and wholesale extermination going on. The tragic heroism of valiant explorers, missionaries, and soldiers meant that the British public could sleep at night.

Put another way, *Heroic Failure* is a contemporary political attempt to rewrite the past. It should not be too much to ask an opponent of British imperialism to explain the foundations of her disagreement. Instead, we’re told that polar explorers Sir John Franklin and Robert Scott, for example, are to be discredited as serious explorers because they saw their attempts as means to further their prospects for promotion. And

what is wrong with seeking promotion? Moreover, to view catastrophic explorations in such myopic terms is to miss the beauty and terror these men must have experienced, not to mention the discoveries they made. To understate it, Barczewski lacks empathy, glibly condemning her subjects for cynicism, at worst, and a misguided faith in stiff upper lips, at best. She never allows for the possibility that her subjects might have believed in what they were doing.

A more subtle critique is that *Heroic Failure* does not really understand the British. Not quite saying what you mean; not always meaning what you say; not liking someone but being unfailingly polite while showing genuine affection for others by constant mockery: Britons can be highly skilled at hiding in plain sight. To Barczewski, the British celebration of defeat is perplexing: Why make such a big deal out of failures and “futile” heroism? This leads her to think that there’s a game going on, and the idea that heroic failure masked imperial bloodlust must have seemed inspired when she first thought of it.

Yet another way to look at heroic failure is that the British can derive a perverse pleasure out of cavalry charging the wrong way up a valley; highly trained, athletic explorers failing in the snow; an immaculate and eccentric General Gordon surrounded by thousands of foreign enemies yet not having the apparent sense to plead for his life or make a run for it.

Barczewski has written a reductionist view of the British Empire, in which centuries’ worth of global trade, slow and then fast colonialism, the export of British traditions and institutions, and millions of personal interactions are viewed as sinister, unwelcome intrusions into idyllic territories by an unfettered Great Britain. This is neither a persuasive nor thoughtful way of looking at the past, whatever your personal politics. So this is a compelling and sometimes deeply moving work that readers might well enjoy throwing across the room, before picking it up to continue after their distaste has receded. ♦

Andre van Loon is a writer in London.

GOP worries mount after Mungo sweep

GORILLA WINS IN CALIFORNIA

'Real outsider' garners 59 percent of vote

BY TUMULT KAREN Y

SAN DIEGO — Republican leaders who had hoped California's primary would stop, or at least slow, Mungo's march toward their party's 2020 presidential nomination suffered a major setback yesterday when the silverback gorilla swept the state, garnering 59 percent of the vote. His nearest rival, an acellular slime mold dubbed Stanley, received 23 percent. Kevin Sears, a state senator from Maine who is the leading human contender for the nomination, got 7 percent.

GOP leaders have tried desperately but ineffectually to derail Mungo's candidacy, which has captured the imagination of the party's base. What started out as a gag on Instagram last year quickly took on a life of its own, surprising even many Democrats who do not hold Republicans in high regard. But once veteran GOP operative Roger Stone filed a declaration of candidacy for the great ape—and once Michael Biggs, the billionaire CEO of Ektelon Drobotics, started a



NEWSCOM

Mungo meets media in San Diego.

pro-Mungo super-PAC—Mungo's outsized presence in the race could no longer be ignored.

Republican insiders have been caught flat-footed nevertheless by the big gorilla's meteoric rise in the polls—what many in the press have labeled his “Mungomentum.” One highly placed official within the RNC, who requested anonymity in order to speak more candidly, said everyone had assumed that the impeachment of President Trump and his involuntary commitment to an asylum for the criminally insane had dampened the public's appetite for political outsiders.

“We were all slow to grasp the appeal of a candidate who cannot stand upright, let alone read from a teleprompter,” the official said. “Or just read, period. Or even, ferchrissake, talk.” (Scientists who have studied Mungo would

dispute that last claim. According to the Columbus Zoo's website, Mungo has a vocabulary of more than 70 words.)

Yet if the establishment is bewildered, many voters are excited by what they see as Mungo's lack of artifice and his sometimes ostentatious disregard for the conventions of party politics. “F***ing awesome” is how Brandon Walker, a 37-year-old grocery delivery driver, describes what has become Mungo's most famous moment: when the silverback used his three-inch canines to rip out the throat of Jennifer Johnson, an aide to Texas senator Ted Cruz, at the Iowa State Fair earlier this year. “Mungo don't take no s***, know'm say'n?”

Efforts by his rivals to sow doubts about Mungo's qualifications for the nation's highest office have largely backfired. Nebraska senator Ben Sasse was forced to apologize after he circulated a Vine video of Mungo picking his nose and eating the results during what was supposed to be a town hall on national security.

Now leaders in the GOP are wondering whether to reconcile themselves to having, for the first time, a member of *Gorilla beringei graueri* instead of *Homo sapiens* at the top of the party's ticket, while also wondering if Mungo's Ohio residency could put the Buckeye State in play

SUNBELT CONTINUED ON A6