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CHRISTINE ROSEN on Millennials' love affair with socialism

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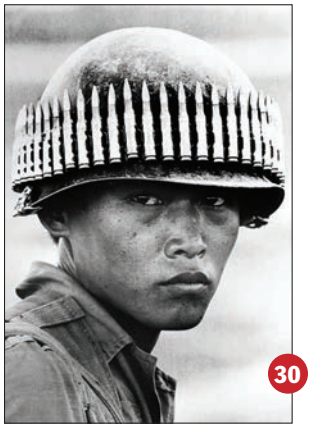

Books & Arts

COVER: DANIEL ROLAND / AFP / GETTY

The Thugs Win Another One

It was just a few weeks ago that The Scrapbook was goggling over new policies at Middlebury College regarding speakers appearing on the campus. Under the "Interim Procedures for Scheduling Events and Invited Speakers," potentially controversial invitees have to be cleared by the school's Threat Assessment and Management Team. If there is a "significant risk to the community" that the speaker will be met with violence, Middlebury will "consider canceling the event."

The Heckler's Veto is one thing, but this, as we noted at the time, is a Thug's Veto. And it is no isolated phenomenon: The Thug's Veto is now spreading through academia.

The most recent instance, in a nutshell: Last month a young associate professor of political science at Portland State University, Bruce Gilley, published an article, "The Case for Colonialism," at an academic journal, *Third World Quarterly*. In it, he dared to suggest that maybe colonialism wasn't all bad in all places. The sort of people who read *Third World*

ANTIFA THUG, WEEKLY STANDARD; IVANA, VENTURELLI / GETTY

Quarterly were very much not amused.

There was outrage. There were denunciations. Some half the journal's board resigned in protest. The article was subjected to withering criticism. Fair enough. But then came the death threats, not only against Gilley but against the editor of the magazine.

Third World Quarterly is one of many academic publications put out by publisher Taylor & Francis. The company issued a notice that Gilley's article was being "withdrawn at the request of the academic journal editor, and in agreement with the author of the essay." Was the withdrawal made for reasons of academic misconduct or malpractice? No, the notice made it clear that the paper had been accepted through the appropriate process of double-blind peer review and was otherwise "in line with the journal's editorial policy."

Taylor & Francis was blunt about the reason the article was withdrawn: The journal's editor became the object of "serious and credible threats of personal violence." The publisher caved and said so: "Taylor & Francis has a strong and supportive duty of care to all our academic editorial teams, and this is why we are withdrawing this essay."

Thugs everywhere have to be inspired and encouraged by this development. ♦

Who's on First?

Say what you will about her husband the president, The Scrapbook believes that First Lady Melania Trump is just fine. Gracious, charming, conscientious, and decorative, she has carried out her public duties with conspicuous aplomb.

Until, that is, one brief shining moment this past week. Donald Trump's first wife, Ivana, was being interviewed on television—she's just published a memoir entitled *Raising Trump*. She claimed that she possesses a "direct line" to the White House but doesn't use it because she wouldn't want to inspire jealousy in Melania Trump—although, as she added pointedly, "I'm basically first Trump wife, okay? I'm first lady."

Cat fight!

At this juncture, of course, the present Mrs. Trump had the choice either to ignore Ivana's silly and insensitive remarks or, in a slightly more genteel fashion than her husband, respond in kind. Regrettably, she chose a combination of the two: "Mrs. Trump has made the White House a home for [her son] Barron and the President," spokeswoman Stephanie Grisham declared. "She loves living in Washington, DC and is honored by her role as First Lady of the United States."

Then out came the stiletto:

> She plans to use her title and role to help children, not sell books. There is clearly no substance to this statement from an ex; this is, unfortunately, only attention-seeking and self-serving noise.

All true, in our opinion, but better left unsaid.

On the one hand, The Scrapbook regrets that Melania Trump

felt it necessary to respond to Ivana Trump in her husband's fashion. On the other hand, in a world where our commander in chief has two living ex-wives, such episodes are bound to occur from time to time—and Melania's annoyance, in this instance, is understandable. And it's not as though there are precedents she can fall back on for how to handle such things. After all, during the 1980s, Nancy Reagan did not have to contend with any claims from Jane Wyman that she was the real "First Lady of the United States." ♦

Land Shark

Austria is the latest of several European countries to ban the burka, the full covering worn by some Muslim women in public. Except that Austria didn't ban the burka per se—that would be religiously discriminatory. Instead, they simply made it against the law to wear anything in public that covers the face. As if to prove that the anti-face-covering law isn't just an anti-burka law in disguise, Austrian authorities have been policing costumes as well as the traditional Muslim coverings.

Caught up in the net, according to *Newsweek*, was the mascot for a recently opened electronics store in Vienna, McSHARK. A young man in a head-to-toe (or is that snout-to-tail?) shark costume was drumming up business on the sidewalk in front of the shop when police descended on him. According to the local paper *Heute*, the man at first refused to remove his shark head, telling officers "I'm just doing my job."

The police were just doing their jobs too, which entailed breaking out the citation-books.

"Our shark mascot received a fine from the Vienna police because of the new ban on face-coverings!" McSHARK said on its Facebook page. "Life is not easy!"

Say what you will about the absurdity of the edict, at least you won't find any Times-Square Elmos in Vienna. ♦

Bull Plucky

In March, a New York hedge fund installed a bronze *Fearless Girl* statue facing down Wall Street's famous statue of a charging bull. It was an instant sensation.

Feminists found it empowering and inspirational. Sen. Elizabeth Warren dropped by to take a photo with it. It was a public relations coup for the hedge fund, State Street Global Advisors, which reveled in the publicity and used it to bash companies that it claimed had a poor track record of naming women to their corporate boards. "We placed the 'Fearless Girl' there to be a partner to the bull, to represent the power of women," a State Street executive told the *Atlantic*.

Now it appears that State Street needed all the gender-friendly press it could muster. It turns out that if *Fearless Girl* had been a State Street executive instead of a bronze statue, the company would have paid her less than male colleagues. So much for girl power.

This month, the company reached a settlement with the Department of Labor over allegations that it discriminated against more than 300 female

SHARK, BIGSTOCK

'Fearless Girl,' desperate senator

employees: "The Labor Department alleged that women in senior leadership positions at Boston-based State Street received lower base salaries, bonus pay and total compensation since at least December 2010," Bloomberg News reported. The Labor Department also accused State Street of discriminating against 15 black vice presidents. The company agreed to pay a total of $5 million to the victims of its discrimination.

We're reminded of the old proverb: People who live in glass skyscrapers shouldn't be building purely symbolic statues. Something like that. ♦

When Chelsea Winced

The Scrapbook was dismayed but not surprised when, in the waning days of his presidency, Barack Obama commuted the sentence of Chelsea Manning. We have been equally dismayed and unsurprised at the desire of left-leaning institutions to treat Manning as some sort of folk hero. It is cold comfort that these attempts to rehabilitate Manning keep turning into embarrassments for champions of the one-time soldier, who was convicted of giving classified Defense Department documents to WikiLeaks.

Most recently, Manning made an appearance at the New Yorker Festival, where the venerable magazine hosts various discussions on current events for a paying audience. It did not go well. The *New Yorker*'s Larissa MacFarquhar asked how Manning felt about WikiLeaks's decision not to redact, in the documents Manning gave them, the real names of 900 Afghans who were helping the American military. "I'm not going to have this debate right now," Manning angrily retorted. According to a *Business Insider* reporter at the event:

> Her agitation seemed misplaced; no one had challenged her to a debate, and WikiLeaks was central to the story many had paid money to hear her tell. But she insisted, upon further questioning from MacFarquhar about how and why she decided on WikiLeaks, that she "hadn't had time to think about these questions." "I've just been fighting for my life over the past seven years," she said.

You know who else was fighting for their lives the last seven years? The hundreds of Afghans whose identities Manning outed to the Taliban. It would be interesting to have a few of them on a New Yorker Festival panel. ♦

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BPA WORLDWIDE

WARREN, VIA TWITTER

Sinfood

Samuel Johnson, about to tuck into a pork roast, is supposed to have said that the only thing that would make the food before him better is if he were a Jew. Stendhal, I years ago heard, said that the only thing wrong with ice cream was that it wasn't illegal. The question both these men raise is whether the ultimate spice in food, lending it a piquancy otherwise unavailable, is sin.

The first, the ultimately most sinful of all foods, of course, was that apple that the devious Edenic snake encouraged Eve to taste. How good the apple tasted we are not told. Did she even get to finish the damning thing? Imagine what that core would fetch today from the kind of ditzy collector who buys the old clothes of dead celebrities!

Jewish, I did not grow up in a kosher home. Some dietary laws, though, my mother did observe, more through cultural habit than piety. We had no pork of any kind—ham, bacon, sausages—in the house. Milk and meat were not generally mixed. My mother claimed that kosher chickens tasted better than any other and bought and cooked and served them exclusively. Shrimps, however, were also on offer *chez* Epstein, though as creatures that crawl along the earth (Leviticus 11:9), they are not kosher and known, as all non-kosher foods are, as *treyf*.

I ate my first pork in adolescence in the form of bacon-lettuce-tomato sandwiches, though so good is a well-made BLT that even the condiment of sin could not improve it. There ought to be statues raised, perhaps replacing those of Confederacy generals, to the unknown inventor of the BLT, who has brought more satisfaction into the world than the past 50 years of contemporary poetry.

One of the advantages of being a vegetarian, if you happen to be Jewish, is that you are automatically kosher at no extra charge. Isaac Bashevis Singer became vegetarian in midlife and, when asked if he did so for the sake of religion, replied, "No, I did it for the sake of the chickens." Would a vegetarian plowing into a Big Mac, or an orthodox Jew gobbling down a ham sandwich derive sinful pleasure in doing so? Somehow, I'm not sure why, it seems unlikely.

GARY HOVLAND

When the great cholesterol war was being fought, many foods were declared medically out of bounds and thereby sinful because thought dangerous. Perhaps the most punishing of the items on the list was eggs. I have a friend who in restaurants seemed always to be ordering egg-white omelettes, which tended to be a bit more expensive and a lot less tasty than the real thing. He was more than mildly ticked when suddenly, presto change-o, eggs were taken off the banned list. I, who followed the old ban against them, now try to eat an egg (hard-boiled) at least once a day, but at this rate may have to live well beyond 100 to make up for all the eggs I missed during the years of their having been banned.

Perhaps the largest collection of contemporary sinful foods are those declared, you should pardon the expression, "unsustainable" by the foodie division of progressives. Food is at the center of the new progressivism in its more extreme wing. Want to form a Tea Party of the left, it has been said, all one need do is troll the parking lot of Whole Foods. Want to break with a seriously progressive acquaintance, invite him over for a veal dish with perhaps chihuahua tartare as a starter.

Why does the notion of "eating healthy" sound so boring, dreary even? Perhaps, from original sin days onward, food requires just a touch of the sinful to raise it above mere fuel. At an advanced age in a perhaps too quiet life, eating sinful foods is, alas, just about all that is left to me in the way of risky behavior. Yet I may have reached the stage beyond which no foods any longer have sinful or even unhealthy significance.

I seem to have lost my taste for rare red meat, but my sweet tooth is sharp as ever. One of the favorites of the gods at least insofar as I do not seem to have to watch my weight, which does not change, I do not turn away from cheesecake and am up for a black cow if there is root beer and vanilla ice cream in the house. I order, two boxes at a time, dark-chocolate-covered peanut clusters from Oaks Candy Company in Oshkosh, Wisconsin; three or four nights a week, as a late-night snack, I fill an old-fashioned sundae glass with various exotic flavors of Talenti ice cream. What the hell! I figure, to play off the old blues song, I may be beautiful, but I'm gonna die some day, so hows 'bout a box of French macarons before I pass away?

Joseph Epstein

the weekly Standard

Blame It on the Gerrymander

American liberals dominate this country's cultural life. Universities, the news media, the entertainment industry, our cultural institutions—these are populated and run mainly, and in many cases exclusively, by liberals. What liberals, the vast majority of whom identify as Democrats, don't dominate are our political institutions. Republicans consistently win more local, state, and federal offices than their Democratic correlatives.

This is true for a very simple reason: Modern liberal ideology may appeal to half the electorate in raw numbers, but it doesn't appeal to many people at all outside densely populated metropolitan areas. In most places in America, people don't care for it. Democrats refuse to acknowledge this and convince themselves, instead, that the deck is stacked against them. And sometimes it is, if by the "deck" you mean the law and the Constitution. Democratic presidential candidates won the popular vote in 2000 and 2016 but didn't win in enough states to achieve electoral victory. This has been true in some state legislatures, where Republicans have won more seats in state elections where the Democrats won more votes. The large majorities of Democratic voters crammed into a few metropolitan districts are a political disadvantage.

In some states, Republicans have capitalized on their advantage by the timeworn means of gerrymandering. If you draw one district to include as many voters as possible from party A, you diminish party A's presence in several neighboring districts and thus make it more likely that party B—your party—will take more seats. Democrats have engaged in plenty of gerrymandering themselves over the years, as Jay Cost discusses elsewhere in these pages. But with liberals gravitating to more populated areas, the gerrymandering advantage today goes more often to Republicans.

Liberals, as is their wont, have taken to the courts with their complaint. But federal law places the authority to draw district lines with the states, and unless the clear purpose of the redrawing was to divide the electorate along racial lines, there's not much the courts are likely to do. Partisan gerrymandering is extremely difficult to prove beyond pointing out how funny a district looks on a map.

In 2016, a U.S. district court did rule, in *Gill* v. *Whitford*, that Wisconsin Republicans had drawn districts specifically in order to minimize Democratic victories. Wisconsin Republicans appealed the decision to the Supreme Court, which agreed to hear the case. Oral arguments took place on October 3 with a decision likely to come next June.

Plaintiffs in these cases usually argue that partisan redistricting has violated their First Amendment right of free assembly and their Fourteenth Amendment right of equal protection under the law. Drawing a connection between the shape of a legislative district and the rights of free assembly and equal protection requires the sort of mental gymnastics the Supreme Court's conservatives are generally unwilling to engage in. But in the 2004 case *Vieth* v. *Jubelirer*, Justice Anthony Kennedy, ruling with the majority that there had been no unconstitutional gerrymandering, explained that he did so only because there was no "clear, manageable, and politically neutral" standard for assessing the partisan fairness and thus constitutionality of a district's shape.

The Wisconsin plaintiffs have taken Kennedy's hint and are pitching their entire argument to him. A "clear, manageable, and politically neutral" standard, they say, has now been invented by a pair of political scientists named Eric McGhee and Nicholas Stephanopoulos. Their standard is the "efficiency gap." If we understand it correctly, this "gap" is the total number of "wasted votes," or votes cast for losing candidates, divided by the total number of votes cast in all other districts. If the difference is greater than 7 percent, the district lines have been drawn to generate an unfair advantage for one party.

Or something like that.

We're not sure of the merits of McGhee and Stephanopoulos's research, though it seems clear that it can't come close to accounting for the innumerable oddities of any election. It's often the case, for instance, that a party produces a terrible crop of candidates, and those candidates get wiped out for reasons that have little to do with demographics or the shape of districts. And what about candidates in uncontested or very poorly contested races? Or races in which third-party candidates proved competitive? McGhee and Stephanopoulos may in time account for these and related variables, but their sort of poli-sci theorizing—"sociological gobbledygook," as Chief Justice John Roberts unkindly termed it—doesn't belong anywhere near a courtroom.

Nobody defends gerrymandering. It is a common but despicable form of hardball politics. If any state party feels that strongly about it, they are free to turn it into a political issue. That almost never happens, though—chiefly, we suspect, because minority party officeholders themselves benefit from it. The gerrymandered seats of incumbents frequently become safe from competition. These are the

members of Congress and state legislatures who routinely win by 20 or 30 points. You won't hear any complaints about gerrymandering from *them*.

The plaintiff party and their champions in the media would like us to believe that *Gill* v. *Whitford* is about the "health of our democracy" or some such. With voters of both parties increasingly "disenfranchised" by districts that lean lopsidedly to one party or another, they argue, many could conclude that their votes don't matter and lose faith in our political system. They speak of partisan gerrymandering as if it's a foolproof method for locking in a majority for all time and breezily reference "computers" and "data analytics" to suggest that the practice will become more sophisticated in the future and our electorate in turn more polarized.

Rubbish.

Gerrymandering is no guarantee: Partisan redistricting is mostly guesswork on the part of people with outdated and incomplete data. Nobody understands why voters plump this way or that way in an election, and nobody can predict it with anything close to accuracy. Even after the election's over, claims by pollsters and consultants to understand what happened consist mainly of blind conjecture and pretentious balderdash. "Data analytics," remember, told Hillary Clinton's campaign she could count on Michigan, Wisconsin, and Pennsylvania.

Democrats undermine their electoral prospects in two major ways. They cluster in high-population districts, and they espouse unpopular views. They want the courts to fix the first problem, but they'd be better off working on the second.

—The Editors

The ~~Boy~~ Scouts

On October 1, the Boy Scouts of America (BSA) announced that it would accept girls into membership. Beginning next year, Cub Scout programs will admit girls, with the ultimate goal of allowing girls to progress to the rank of Eagle Scout.

You may be forgiven for thinking the BSA is sliding down a very slippery slope. In 2013, the organization voted to allow openly gay members but assured parents that admitting openly gay adults to supervisory roles "was not under consideration." That position was untenable—those openly gay scouts will grow up and wish to be scoutmasters. Would they be banned? Of course not. And so, in 2015, the Boy Scouts lifted the ban on openly gay adults. In January of this year, the BSA took the inevitable next step by allowing "transgender boys," whatever that term may signify, into its programs. Whereas previously the organization determined an applicant's sex by his birth certificate, it would now consider only the sex as marked on the application.

Any fool could see what would happen next. If sex or gender is a subjective concept, a social construct or arbitrary identifier, there is no reason the Boy Scouts shouldn't also admit girls.

Girl Scouts of the USA is deeply unhappy about this week's decision, but not owing to any residual cultural conservatism—the girls' organization has had its own travails with political correctness and began admitting "transgender girls" in 2011. No; the Girl Scouts just don't want anybody stealing their members. "We've had 105 years of supporting girls and a girl-only safe space," the Girl Scouts' chief customer officer (you read that right) told the *New York Times*. "So much of a girl's life is a life where she is in a coed environment."

So a girls-only organization that sees gender as fluid and alterable is angered that its boys-only counterpart will allow girls into its ranks. Such is our bizarro world of postmodernity. All distinctions are illusory, strictly a matter of one's own preference at the moment, but for some reason we go on obsessing and quarreling over them.

We are not ordinarily given to gloomy reflections on cultural decline. But earlier generations would have formed a new organization for the promotion of robust values among boys and girls. Ours simply threatens a lawsuit to force an already existing organization to look like the one we don't have the drive or the imagination to create.

The Boy Scouts is trying to preempt just such a lawsuit—a legal challenge that would force them to accept total coed integration. But surely they realize that the challenge will come in any case. The gender warriors will not be satisfied with anything less than the total obliteration of any distinction between boys and girls.

We sympathize with the Boy Scouts' plight, but we would have counseled them to stand their ground. The gender-warriors' position is an irrational one. Civilization was founded on the distinction between men and women. Modern American liberalism itself is premised on it: Already we see feminists recoiling from the insistence that femininity is nothing but a construct and bona fide progressives sickened by men passing themselves off as women in Olympic sporting events. The transgender movement will fizzle, a victim of its own incoherence.

Boy Scouts officers have put a brave face on this latest move—"It is time to make these outstanding leadership development programs available to girls," the BSA's board chairman said in a statement. But decisions like this never satisfy the unreasonable. What they do, alas, is give ordinary Americans the sinking feeling that their country is slowly being taken from them. They may just be right.

—The Editors

The 'Nudge' Nobelist

The dismal science of Richard Thaler.

BY ANDREW FERGUSON

We call it the Nobel prize in economics, but the Nobel that Richard Thaler won last week is technically a prize in "economic sciences," and that bit of self-puffery (*Oh, we're scientists now, are we?*) is fitting. Thaler is a pioneer of behavioral economics, the latest craze to sweep a trade not previously known for its runaway enthusiasms. The craze is scarcely the advance in human knowledge that its practitioners want it to be, but it is a tremendous leap forward in the pretensions to knowledge that an economist can't do without.

Thaler is a professor at the University of Chicago and the author of countless technical articles and books, as befits a Nobel laureate. He is also a charming writer for general audiences, funny and whimsical, gifts that have helped fuel the craze. Malcolm Gladwell, Jonah Lehrer, and other pop science writers feast on his work and then, like a momma budgie regurgitating for her chicks, present the reading public with a smooth, easily digestible bolus of behaviorism. Thanks to Thaler and his colleagues, many technical-sounding phrases have become popular with the upper classes in America and Europe: the endowment effect, risk aversion, confirmation bias, and so on.

Most of these, when they do describe something real, are just renamings of truisms known to every sensible person since we scratched our way out of the Serengeti. If you think people believe pretty much what they want to believe, a behaviorist will tell you they suffer from confirmation bias. If you believe that a bird in the hand is worth two in the bush, the behaviorist will spy an instance of loss aversion. Now anyone can sound like a Nobel laureate.

Richard Thaler celebrates.

All of these biases and effects and aversions (there are also *heuristics* and *functions*) have a binding theme: The view of human beings long held by neoclassical economists—that we are rational actors always acting in our own best interests—is hooey. To the contrary, Thaler says, the latest findings of cognitive, social, and behavioral psychology reveal our minds and hearts to be a bundle of misapprehensions. We don't know what we're doing half the time! And yet: There is a pattern to the mistakes humans make—the biases and effects are systematic and traceable. Science has proved we're stupid, but the good news is that we are predictably stupid.

It's good news to some of us, anyway, especially those in business and government who are in charge of manipulating the rest of us in our best interest. This is a reason why behavioral economics has become so popular. It seems most useful to a particular sort of person. It vastly expands what we think we know about how humans behave, and therefore it vastly enlarges the areas of life in which people can be effectively managed. That's the theory, anyway. The Nobel economics committee seemed particularly impressed that governments throughout the developed world have impaneled teams of behavioral economists to advise regulators as they set about the task of making us better people. Marketers like it too.

Another reason the fad of behavioral economics has been so quickly taken up has to do with that delicious word cited above: *science*. Behavioral economics is based on the findings of science. Everybody wants to be scientific nowadays. Oddly, though, this reliance on science may be behaviorism's undoing, for the science it relies on isn't from the physical sciences, where hypotheses aren't considered true until they have been submitted to repeated and rigorous replication, but the social sciences, which only ape the physical sciences without yielding any hard and provable truths.

The weakness of social science has become more obvious over the last decade. Even experimental psychologists have come to acknowledge that their discipline is "in crisis." For a long time now it has been an open secret that many of the key findings of social psychology—the building blocks upon which newer findings are based—are very likely not true, or true only under limited circumstances. Most famously, in 2015, a team of social psychologists tried to replicate the findings of 100 of the most influential experiments in their field; 61 failed.

This doesn't mean that the findings were necessarily false, only that they were much shakier than the experimenters had let on—and certainly not the solid ground upon which a parasitic discipline like behavioral economics could be confidently based. The methodology almost guarantees

SCOTT OLSON / GETTY

Andrew Ferguson is a senior editor at The Weekly Standard.

an epidemic of "false positives." Experiments in social psychology rarely take place in the real world, with ordinary people going about their business. They're conducted in highly artificial settings in university psychology labs, testing small numbers of students who are being paid or receiving credit for the privilege. Statistical sleight of hand is relatively easy and common. Replications are seldom attempted before the findings are published. Journals seek out and reward "positive" findings, the flashier the better, and experimental psychologists, under the mandate of publish or perish, are willing to conjure them up. The discipline itself is politically and culturally unitary, unsuited for skeptical self-policing, rendering the safeguard of "peer review" meaningless.

But skepticism only cramps the style of a behavioral economist like Thaler. He and a colleague collaborated a few years ago on a hugely popular manifesto called *Nudge*, counseling regulators and marketers in how to manipulate their marks. The authors swallowed whole—and blithely passed along—a smorgasbord of dubious social science. Phrases like "researchers have found" and "scientists discovered" recur with the innocence of a child reciting a catechism. *Nudge* includes a section on "priming," for example, a seminal concept in social psychology and behavioral economics. It is based on experiments that have now been largely debunked. Thaler's mentor, Daniel Kahneman, a psychologist who won a Nobel in economic sciences 15 years ago, included a chapter on priming in his bestseller, *Thinking, Fast and Slow*. A team of statisticians last winter examined the 12 studies Kahneman cites and discovered, according to their formula, that only one was likely to be replicable.

With its crippling intellectual defects, Thaler's craze is unlikely to have much impact on the course of daily life, but it may yet become a staple in the world of policy-making, where the stubborn repetition of ineffectual activity is almost a point of pride. Ineffectual, but still worrisome: Behavioral economics abandons the old idea of "rational actors" in favor of an idea more amenable to the authoritarian impulse.

The assumption that we are all acting consciously and rationally in our best interests may be unrealistic, even if useful for certain kinds of economic modeling. But it is indispensable for self-government. It is rooted in democratic deference, the respect we owe one another as citizens. It is a restraint on rulers. "Ultimately," the economist Brian Mannix wrote years ago, "we insist that our regulators start from a presumption of rationality for the same reason that we insist that our criminal courts start from a presumption of innocence: not because the assumption is necessarily true, but because a government that proceeds from the opposite assumption is inevitably tyrannical."

The slow but steady expansion of the managerial state, costumed in the illusions of social science—future generations, feeling cute, may call it the "Thaler Effect." ♦

MELINA MARA / WASHINGTON POST / GETTY

The Fractured GOP

Trump Republicans vs. McConnell Republicans.

BY FRED BARNES

The Republican party is divided into two groups these days. There's the Trump faction and its rival, the elected leaders, GOP officials, and rank-and-file antagonists of Trump. The split is not ideological. For the most part, the two sides agree on cutting taxes, killing Obamacare, and building up the military.

Mitch McConnell

But two differences stand out. The Trump group is by far the largest. Polls show the Republican grassroots overwhelmingly sticking with President Trump. And this side—the base—is eager for swift action on the agenda, including the border wall, favored by Trump. The other side appears to lack the same sense of urgency.

This isn't the most significant split among Republicans, but it's an important one. In recent weeks, friction between Republicans has increased sharply. And criticism of Senate majority leader Mitch McConnell from conservative Trump backers has spiked.

Last week, FreedomWorks, the Senate Conservatives Fund, and Tea Party Patriots released a nasty letter to McConnell, blaming him for the Senate's failure to repeal and replace Obamacare and demanding he resign. Another outfit, the Conservative Action Project, called on McConnell to speed up efforts to confirm Republican judges and administration officials.

Meanwhile, Steve Bannon, fired as White House strategist in August, has made McConnell his chief target. Bannon is recruiting candidates to challenge GOP senators seeking reelection in 2018 while insisting they promise to oppose McConnell as leader.

And the Judicial Crisis Network, which seeks to confirm conservative judges, prepared a TV ad calling on McConnell to get more conservatives confirmed by the Senate Judiciary Committee. The group backed off before airing the ad.

All this agitation is hardly sufficient to force McConnell to step down or even publicly acknowledge the attacks.

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But given the media, it's put the issue of Republican congressional leaders on the table. And the critics aren't alone.

Trump occasionally airs his displeasure with McConnell. After the Republican health-care bill failed in the Senate, he insisted in a tweet that McConnell should try a second time. That effort failed too. Though there's no evidence the president won over any GOP votes, he accepted no blame for either defeat.

Trump's chats with Senate Democrats about compromising didn't go anywhere either. Democrats simply want funds to bail out Obamacare, not repeal and replace it. Now Trump wants to try a third time next year, putting McConnell on the spot again.

But before then, McConnell and Republican leaders face a real threat. A budget resolution—it's already passed the House—will come to a vote in the Senate shortly. If all goes well, it would tee up Trump's number-one goal, tax reform, for a vote later this year.

Should the tax bill pass, the political status of McConnell and Republicans would improve, perhaps even soar. So would the prospects of holding the Senate in the 2018 miderm election. McConnell's enemies would be shamed. And Bannon's plan to turn Senate primaries into battlegrounds would probably be left in the dust.

But if tax reform fails—and there's a real possibility of this—it would produce a political explosion. McConnell and his allies would suffer. The fragile 52-48 majority might fall apart. And calls for McConnell to resign would multiply.

But McConnell isn't dead yet—quite the contrary. He's declared that confirmation of federal judges—conservative judges, that is—will be his top priority. He's promised Democratic tactics to delay or defeat a stream of confirmations will not work.

And there's a lot he can do to strengthen his position and that of Republicans. Both Trump and his budget director, former House member Mick Mulvaney, want McConnell to kill the filibuster on legislative votes, just as he did on Supreme Court nominations to win Neil Gorsuch's confirmation.

McConnell has balked at this, fearing what Democrats might achieve if they capture the Senate and propose a barrage of liberal legislation. Democrats will surely get rid of the filibuster once given the opportunity.

Republican strategist Jeffrey Bell says McConnell cannot thwart Democratic obstructionism without changing the rules in the Senate. "The American people aren't up for business as usual," Bell says. Nor is Trump.

McConnell is wary of eliminating the Senate rule that allows 30 hours of debate on nominations. But he won't let Democrats abuse it. And McConnell says he can find time for 30 hours for every judicial nomination if necessary.

But it's not necessary. Bell points out that the debates are shams. The nominee is often not discussed. Nor is the rule mentioned in the Constitution. It's merely a Senate contrivance that McConnell could abandon.

And then there are "blue slips," playthings that permit a senator to block a judicial nominee from his state. It's being abused currently by Democrat Al Franken in an effort to blackball the nomination of Minnesota supreme court justice David Stras to a federal appeals court. McConnell could crack down on this practice. It's not even a rule.

McConnell is certainly not afraid of taking a brave stand. In 2016, he decided that President Obama would not be allowed to fill a Supreme Court vacancy in his last year in office. Democrats screamed, but McConnell never gave in. And the empty seat, which had been Antonin Scalia's, was filled by Neil Gorsuch.

Years ago, economist Herb Stein authored what became known as Stein's Law. "If something cannot go on forever, it will stop," he said. It's time to stop all those rules and practices that are being exploited to keep conservatives off federal courts.

McConnell is the leader to do it. As a welcome side effect, his critics would be dumbfounded. Tactics to blackball conservative nominees would be barred. Justice would improve. And the split between the Trump wing and leadership wing would fade away. ♦

Keep It Simple . . .

No, H&R Block isn't worried about tax reform.

BY TONY MECIA

Jennifer MacMillan is a tax preparer. Her business ebbs and flows with the season. In the months before April 15, she talks with clients and pores over the records of their financial lives. She deciphers statements from their brokerages, determines how much they can claim for their home offices, and figures out how to allocate expenses on their rental properties.

The same is true in the weeks leading up to mid-October, the deadline for taxpayers who filed for extensions. From her office in Santa Barbara, Calif., in early October, she tells one client that he had made too much money last year to contribute to his Roth IRA. Another confesses to her that the way he depreciated some business equipment in previous years was all wrong, and he wonders if he could just fix it on his taxes sometime in the future. She laughs and tells him no—and that it needs to be corrected as soon as possible.

It's a busy pace, and MacMillan doesn't see any of it changing anytime soon—even as Republicans in Congress push a tax-reform plan they tout as a revolutionary step in simplifying the tax code. Speaker of the House Paul

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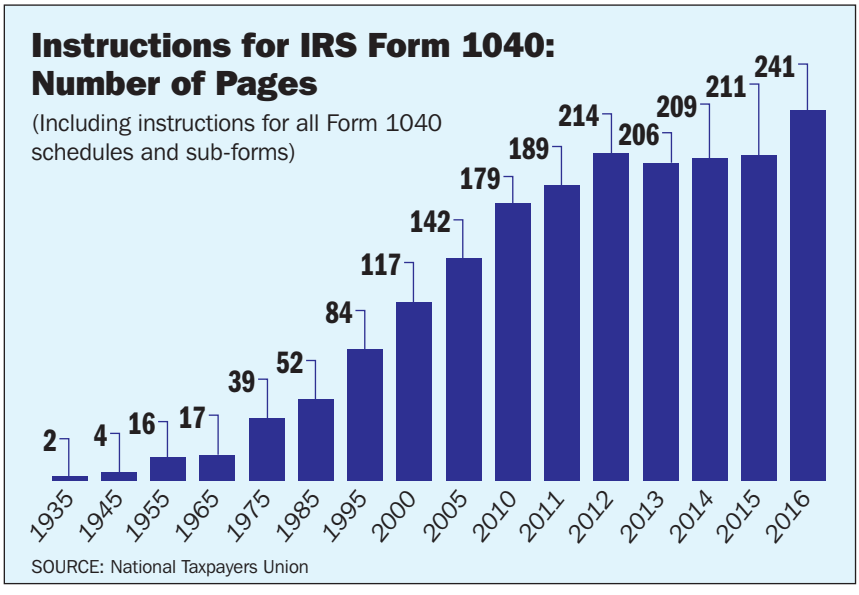
Ryan says the plan represents "radical simplification." The president said on October 11 that his tax plan would make the code so simple that "H&R Block will not like Donald Trump very much." MacMillan reports zero concern for her job security, echoing the tax-preparation industry as a whole.

"Even with all the changes they're talking about, it's still going to be really complex," she says.

The Republican tax plan, a nine-page manifesto released in late September, is being billed as a "unified framework," supported by the White House, Senate, and House of Representatives. There are many parts to it, including significant cuts to business taxes and reductions in the individual rates. It would eliminate most itemized deductions and kill the estate tax and the alternative minimum tax. It includes a number of features aimed at the middle class, such as increasing tax credits for children and the standard deduction.

Politically, the effort represents a make-or-break chance for Republicans to prove they can govern, following their repeated failures to agree on health care. Leaders are advertising the push for tax reform as a fulfillment of longtime conservative goals, such as reducing the power of the Internal Revenue Service, spurring economic growth, and, yes, making filing your taxes simpler. The plan claims eliminating deductions and increasing the standard deduction will make taxes easier for more people and allow "the vast majority of individuals and families to file their taxes on a form as simple as a postcard."

Yet tax preparers, who would presumably suffer if taxpayers no longer seek professional advice, aren't worried. MacMillan expects to prepare about 150 tax returns this year in the spring and fall—the typical tax form she files has one federal form plus eight schedules and one state form with three schedules. She doesn't see that changing. Her outlook suggests that the Republican tax overhaul might be less sweeping than our elected leaders suggest.



We all know that our taxes are too complicated. The IRS estimates that the average individual taxpayer spends 13 hours and $210 each year doing his taxes. The complexity only grows each year as Congress adds regulations to help working families or small businesses, to increase fairness, or just to raise money. At nearly 11,000 pages and four-million words, the U.S. tax code is seven times as long as *War and Peace*. The instructions for the IRS's 1040 form and associated schedules run 241 pages.

The chief sources of complexity will not disappear under the Republican plan. Deductions for mortgage interest and charitable giving will remain. Child tax credits will expand. People with rental income, capital gains, and side businesses will still report those details. There will still be rules governing saving for retirement and paying for education. Leaving alone these provisions and others is a nod to the reality that the tax code contains many popular provisions.

"Simplicity isn't the only guiding principle here," says Edward S. Karl, vice president of taxation with the American Institute of Certified Public Accountants. "The principles of good tax policy will often collide, and you have to balance them as best you can."

Tax professionals don't believe that tax simplification is really going to make taxes that much simpler for most people. Even taxpayers whose financial lives lack complexity might see little difference. Republicans say that nearly doubling the standard deduction will eliminate complexity for many families. But two-thirds of U.S. households already take the standard deduction.

Tax preparation is a big business. Roughly a third of Americans rely on tax software to prepare their returns. Less than 10 percent do them by hand. The remaining 60 percent or so hire a tax preparer.

H&R Block files about 12 million returns a year for U.S. taxpayers. Asked about the effect of tax reform on the company in an August earnings call, interim chief executive Thomas A. Gerke told analysts the tax code "could be simpler, but there's no scenario where it will be simple." He added: "Any time there's change, change equals uncertainty, uncertainty equals a desire for certainty that they're maximizing the refund, . . . taking advantage of a new credit or any change in the way the tax law works. So that can often and will materialize in desire for assistance." Investors seem unfazed about the prospects for the company's financial ruin, too: H&R Block's stock is up nearly 30 percent since March.

Intuit, which sells the tax preparation software TurboTax, is hoping to attract some of the 60 percent of people who pay tax preparers. Its chief

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executive, Brad D. Smith, told analysts this month: "Tax reform that we are big proponents of, that would be good for the country and good for our business, would be massive tax simplification. . . . If there is massive tax simplification, our hypothesis is it will drive a lot of people into the software category."

If there is any effect of tax reform on tax preparers, it is likely to be with people whose returns are the least complex, says Caleb Newquist, founding editor of Going Concern, a news website for accountants. For example, people who draw a salary, have no kids, no investments, and rent an apartment might now be able to handle their own returns.

"Returns where the IRS already has all the information and it's an approval process, those are the ones at most risk," he says. Those filers now tend to go to large companies with inexpensive tax preparers. Accountants, on the other hand, tend to handle more complex returns, Newquist says, and that should continue regardless of tax reform: "There is no CPA worth their salt that is worried about being out on the street."

"Pretty much what I hear from big firms, small firms, partners, and tax gurus is that usually, when they try to simplify it, it just seems that much more complex," says Rita Keller, a CPA management consultant in Dayton, Ohio. H&R Block's Gerke said something similar: "Every time we get into one of these reform processes, we can't resist adding to it as well." Keller says whatever tax plan emerges will represent an opportunity for accountants to work more closely with clients to understand the new law and to recommend money-saving changes.

Of course, any effect on tax preparers depends on a bill actually passing Congress. Republican leaders spent months developing a tax-reform outline. Now, they're trying to reach consensus on a wide array of thorny issues, including the deficit, the estate tax, and the deduction for state and local taxes—and deliver a bill to President Trump's desk by the end of the year. That effort isn't turning out to be so simple, either. ♦

Diplomats in Chief

When the White House and Foggy Bottom scuffle.

BY PHILIP TERZIAN

By the time you read this, it is entirely possible that Secretary of State Rex Tillerson will have resigned his office in despair and frustration. He finds himself, after all, at "the breaking point" (*New Yorker*) in relations with his mercurial boss, President Donald Trump. Meanwhile,

Tillerson and Trump

over at *PBS NewsHour* the other evening, Mark Shields and David Brooks, shaking their heads more in sorrow than anger, agreed that Tillerson's effectiveness as the nation's top diplomat is finished. Not long before, their broadcast colleagues at NBC had reported that Tillerson, in a Pentagon meeting in July, had referred to Trump as a "moron"—and Trump, in his signature manner, had taken note of this on Twitter.

To be sure, Tillerson hastily informed the press that he had "never considered leaving this post" and, as might be expected, he declined to address the "moron" issue: "I'm not going to deal with petty stuff like that," he said. So it fell to a State Department spokeswoman to explain that Tillerson "did not use that type of language to speak about the president"—which, like most attempts at clarification, merely affirmed suspicions.

Philip Terzian is a senior editor at The Weekly Standard.

For what it's worth, my own view is that it is theoretically possible that Tillerson expressed annoyance in such fashion in the company of colleagues, but unlikely: He surely would have known that such a story would leak, thereby alerting Trump's sensitive antennae. He would also know—or would have learned by now—that respectable people in Washington, including journalists, are not above distorting or inventing quotes and incidents for malicious purposes. Tillerson might regard such things as "petty stuff," but they can be lethal.

Part of the problem here is that both Trump and Tillerson come to their high offices with no previous experience in public life. This is by no means a disqualification and in some respects can be an asset; but the tribal rites and habits of political Washington are very different from the realms of New York real estate and the ExxonMobil boardroom. There's a learning curve. And historically, at any rate, most of the important secretaries of state in the 20th century were not business executives but lawyer-politicians with an interest in foreign affairs: Elihu Root, Charles Evans Hughes, Henry Stimson, Dean Acheson, John Foster Dulles. But not all of them: Cordell Hull was a Tennessee congressman with an abiding interest in free trade; Henry Kissinger was an academic and adviser to Nelson Rockefeller.

Washington being a political capital, however, the Texas oilman Tillerson is regarded, especially in the press, as an earnest novice—and as a onetime CEO accustomed to getting his way, destined to clash with a volatile president. There may be some element of truth in this—is there anyone in the administration who hasn't clashed with POTUS?—but there's local mythology as well. Harry Truman, a veteran pol

JIM WATSON / AFP / GETTY

and master of partisan condescension, was amused at the prospect of Dwight Eisenhower in the Oval Office.

> He'll sit here, and he'll say, "Do this! Do that!" *And nothing will happen.* Poor Ike—it won't be a bit like the Army. He'll find it very frustrating.

But of course the joke was on Truman. Having served in Panama, Washington, and Paris during the 1920s and '30s, supervised the Allied "crusade in Europe," been Army chief of staff, president of Columbia, and adviser to the newly unified Department of Defense, as well as first uniformed head of NATO, Ike arrived at the White House considerably more experienced, and probably wiser, than most presidents. Of course, Tillerson is not Eisenhower, but neither is he destined, by background or present circumstances, to fail.

Indeed, in order to assume that Tillerson faces an insurmountable challenge in working for Trump or has reached some breaking point, you would have to assume that Foggy Bottom-Pennsylvania Avenue relations are always harmonious, which they are not. The aforementioned Cordell Hull served longer than anyone else as secretary of state (11 years) and even won the Nobel Peace Prize (1945). But you need only wade through Hull's voluminous diaries or read the memoirs of sympathetic colleagues to grasp the seething anger and deep frustration he continually felt, coupled with periodic threats to quit, at Franklin Roosevelt's delight in being his own top diplomat. Not to mention the irritating presence of FDR's favorite, under secretary Sumner Welles, at Hull's elbow as his nominal subordinate.

In more recent times, as well, the postwar invention of the National Security Council has led to continuous discord and conflict. Younger readers might be surprised to learn, for example, that the secretary of state when Richard Nixon flew to China, signed the ABM and SALT I treaties with the Soviet Union, and withdrew American troops from Indochina was not Henry Kissinger but William Rogers, whose capacity for bureaucratic intrigue and guile across town was no match for Kissinger's in the White House. During my own brief, and inglorious, tenure (1978-79) as a speechwriter for Secretary of State Cyrus Vance, a shocking amount of departmental time and energy was wasted in an endless, and duel-to-the-death, rivalry between Vance and Jimmy Carter's skulking NSC director, Zbigniew Brzezinski.

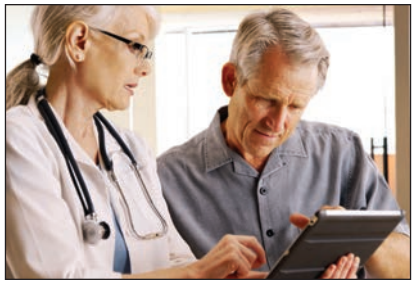
Tillerson's problems are not trivial, of course. Apart from Iran and the Middle East, Kim Jong-un, an unsteady Europe, fractured society, and hostile culture, his patron in the White House is our most impulsive commander in chief since Theodore Roosevelt. Yet even, perhaps especially, a businessman knows that the vagaries of politics and static of the media tend to exaggerate the gravity of the moment. Assuming that the secretary says what he means and did arrive in Washington with purposes in mind, their steady pursuit, and infinite patience, may yet produce dividends.♦

Rational Care

The 'death panels' may be the only part of Obamacare to die.

BY WESLEY J. SMITH

Obamacare "repeal and replace" may have failed this year, but that doesn't mean the Affordable Care Act can't be significantly defanged. For example, there is still time to excise the Independent Payment Advisory Board from the law before it is up and running.



'See? The IPAB Longevity-Value Matrix says it's just your time.'

IPAB's stated purpose is to contain Medicare costs, a laudable goal. But the powers granted to the presidentially appointed and confirmed commissioners subvert democratic accountability and violate our constitutional system of separation of powers. They could, one day, be weaponized to implement invidious medical discrimination mandates—e.g., health-care rationing.

Unlike members of most bureaucratic boards, IPAB commissioners do not have to comply with such typical administrative procedures as obtaining public comment. Rather, when projected Medicare expenses exceed a given amount—which has not yet happened since Obamacare's passage, hence its quiescence—IPAB is required to submit a cost-cutting proposal to Congress by the following January 15, which, in turn, *must* be introduced as enabling legislation *without change* by House and Senate majority leaders the same day it is received. By April 1, the relevant committees must complete their consideration of the legislation. Any committee that fails to meet that deadline will be discharged from further involvement in the matter. Congress is handcuffed from considering any legislation or amendment that does not meet the IPAB financial targets or that would repeal or change the fast-track process without a three-fifths majority (60 votes) of the Senate. Non-germane amendments are not permitted.

In its area of jurisdiction, IPAB is

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more powerful than the president, Congress, and the courts. If Congress does not pass the proposal before August 15—or if the president vetoes the proposal passed by Congress—the original IPAB recommendations *automatically go into effect*. And take note: Once enacted, the IPAB mandate is not subject to administrative or judicial review. This is *not* what the Founding Fathers had in mind.

At present, IPAB is precluded from changing Medicare benefits or revising eligibility standards—i.e., it cannot ration care. That leaves few means of reducing costs other than altering reimbursement formulas to doctors and hospitals. But these limitations should not make us sanguine, as they were politically necessary for IPAB to be included in the ACA. There is every reason to believe that IPAB was never intended to remain so constrained.

Not long after the ACA went into effect, President Obama called for the "strengthening" of IPAB's power, while former members of his administration urged that IPAB be given more authority. Christina D. Romer, the former chair of Obama's Council of Economic Advisers, argued in the July 21, 2012, *New York Times* that IPAB be allowed to "suggest"—which would really mean "impose," as the board's "suggestions" are quasi-mandates—"changes in benefits or in how Medicare services are provided." That sure smells like health-care rationing to me.

Steven Rattner, a counselor to the treasury secretary during the Obama years—and a frequent panelist these days on MSNBC's *Morning Joe*—more explicitly advocated granting IPAB the power to ration. In 2012, he took to the pages of the Gray Lady to declare, "We need death panels," lamenting that IPAB's inability to ration care was a "problem" requiring a remedy:

> Medicare needs to take a cue from Willie Sutton, who reportedly said he robbed banks because that's where the money was. The big money in Medicare is in . . . reducing the cost of treating people in the last year of life, which consumes a quarter of the program's budget.

And get this:

> No one wants to lose an aging parent. And with the price out of the equation, it's natural for patients and families to try for every treatment, regardless of expense or efficacy. But that imposes an enormous societal cost that few other nations have been willing to bear. Many countries whose health care systems are regularly extolled—including Canada, Australia and New Zealand—have systems for rationing care.

Extolled by technocrats like Rattner, perhaps. But I doubt many Americans want rationing.

Ezekiel Emanuel, one of the country's most influential bioethicists and a prime architect of Obamacare, wrote as far back as 1996 that health care "services provided to individuals who are irreversibly prevented from being or becoming participating citizens are not basic and should not be guaranteed. An obvious example is not guaranteeing health services to patients with dementia." This is a typical mindset among bioethicist "experts" who would likely be appointed to create IPAB's cost-cutting mandates.

IPAB's autocratic power makes it the perfect health-care rationing board, impervious to popular—and even elected officials'—objections. That is why it must be excised from the law regardless of the ultimate fate of Obamacare. The good news is that the administration generally supports IPAB's repeal. And a measure to do just that, the Protecting Seniors' Access to Health Care Act (HR 849) introduced by physician Phil Roe (R-Tenn.), has passed the Ways and Means Committee and enjoys bipartisan support, with some 265 cosponsors in the House—including 43 Democrats.

Let us hope that the bill soon makes it to the president's desk. The best time to slay a dragon is when it is still in its egg. ♦

Pyongyang PR

How Kim Jong-un plays the American media.

BY ETHAN EPSTEIN

The late North Korean tyrant Kim Jong-il had thousands of Hollywood movies in his personal collection, furnishing him with what he thought was a deep knowledge of a country he would never see. He was particularly fond, reportedly, of *The Godfather*—so much so that he ran his country like a Mafioso. His son and successor, Kim Jong-un—or someone in his coterie—has as impressive an understanding of the American media landscape as the elder Kim had of Francis Ford Coppola's oeuvre.

Since this spring, Kim's regime has invited several media organs to visit Pyongyang. It's no coincidence who's been let in—North Korea is the most repressive country on the planet, and it screens visitors with military precision. The regime has been shrewd in its choice of invitees: All are representatives of what the president would call "fake news," but what are more generally known as the legacy or establishment media. And as hobbled as these once-towering giants may be, they're still influential: Even if the president doesn't cotton to it, what they report matters, because it informs the opinions of elite policymakers as well as an educated, politically active segment of the public.

An early and frequent visitor has been CNN's Will Ripley. In May, Ripley, who has steadfastly refused to answer questions from this magazine about his reporting, uncritically

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quoted a North Korean who claimed the well-known fact that families of defectors are sent to labor camps is "100 percent evil paranoia." In the same interview, which CNN admits "was organized by the [North Korean] government," another North Korean said, "Our society is one big family with leader Kim Jong Un as the father." Scintillating stuff.

The regime was evidently pleased with what it saw: The non-Korean-speaking Ripley has been invited back to Pyongyang on several occasions—he's been there 15 times in all—and was even allowed to film a one-hour documentary there. ("Ripley speaks to a resident who has witnessed many of these missile launches and says it gives him 'great pride' when he sees a missile in the sky," the promotional material gushes.) Contrast that with the experience of Anna Fifield, a *Washington Post* correspondent and former *Financial Times* journalist with deep knowledge of Korea. She has reported critically from the country and even live-streamed an unauthorized video from Pyongyang on a visit there. She was denied a visa on her most recent attempt to enter North Korea.

Will Ripley's believe-it-or-not: We will never give up our nuclear program!

Ripley's reportage from North Korea has set the template for the dual messages the regime is sending through its American media emissaries. One: Life for North Koreans is good, and improving, thanks to the benevolence and wisdom of Kim Jong-un. And two: North Korea is a fearsome, nuclear-armed state, and the United States had better not mess with it. Not coincidentally, this coincides with Kim Jong-un's *Byungjin* policy: simultaneous economic and military development. (His father, by contrast, was widely understood to have lavished resources on the military while the civilian economy withered.) North Korea coverage these days is *Byungjin* in English.

Evan Osnos of the *New Yorker* also brought home *Byungjin*. Osnos is no Ripley—he's a terrific reporter who was long based in Beijing and has a real understanding of Asia. Like Ripley, he doesn't speak Korean, though.

Osnos visited North Korea this fall and, like the CNN correspondent, found a regime boastful of its military capabilities. "The United States is not the only country that can wage a preventive war," one foreign ministry official told him. Message received. Osnos also told of a capital city that appears in many ways to be thriving. "On the streets of Pyongyang, there are flashes of modernity, even style. Some women can be seen wearing stilettos and short skirts. . . . Now and then, I saw people hunched over cell phones." (Pyongyang, by the way, is a world apart from most of the rest of the North Korea, which remains desperately poor.)

The gold standard of *Byungjin* journalism was demonstrated this month by *New York Times* columnist Nick Kristof, who has just returned from North Korea. While still in the country, Kristof posted numerous photos on Instagram attesting to North Korea's economic progress under the Dauphin's leadership. A water park, an amusement park ride, and a tasty-looking pizza all made the grade—this in a country still suffering from grievous food shortages.

Kristof's subsequent column, published a few days after his return, told the other part of the North Korean story. "North Korea is galvanizing its people to expect a nuclear war with the United States. . . . This military mobilization is accompanied by the ubiquitous assumption that North Korea could not only survive a nuclear conflict, but also win it," he wrote. "'The situation on the Korean Peninsula is on the eve of the breakout of nuclear war,' Choe, the Foreign Ministry official, told me. 'We can survive' such a war, he added, and he and other officials said that it was not the right time for talks with the U.S."

Unfortunately, unlike Osnos and Ripley, Kristof is an opinion writer, and he came back advocating many—though not exclusively—positions that would surely please Pyongyang. He touts "talks without conditions," for instance, a longstanding goal of the regime.

The missives of Kristof and others are fulfilling another regime goal: *Byungjin* is what Pyongyang wants the world to see. But is it real? Is North Korea's military truly ferocious, or would it fold in the face of confrontation? Are North Koreans—even the few fortunate ones in Pyongyang—actually happy with Kim Jong-un's policies of nukes and circuses, or is there widespread discontent? Alas, *Byungjin* reporting brings us no closer to any insight on these deeply important questions.

But judged by its own standards, North Korea's press strategy is undoubtedly working—its message is clear and being amplified. Given that, we can probably await Pyongyang dispatches from Lawrence O'Donnell or Ruth Marcus in the coming days. Though of course, if the regime really wants to affect President Trump's thinking, it should probably invite the cast of *Fox & Friends* for a Pyongyang sojourn instead. ♦

On Capitalism and Its Discontents

The Millennials' love affair with socialism

By Christine Rosen

Oakland, Calif.

"I want to start by acknowledging the indigenous people of this land and honor them. Non-indigenous people are guests on this land."

It's a balmy evening in late July, and I'm in the audience for what I thought was a "Breathing Economic Democracy Teach-In" at the Museum of Capitalism. But our host, Ricardo S. Nuñez of the Sustainable Economies Law Center, is just setting the tone by reminding us all of our status as oppressors. Nuñez, an energetic young man with a hipster mustache, quickly pivots to the theme for the evening: "Imagining alternatives to existing capitalist society." He uses the word "awesome" a lot.

I had already received a thorough education in oppression by wandering the museum, a pop-up installation that occupied 13,000 square feet on the second floor of a warehouse-like space on Jack London Square for three months this summer. There were views of a marina bristling with sailboats on one side and a busy set of train tracks on the other.

The museum describes its mission as "establishing justice for the victims of capitalism and preventing its resurgence." It wants to "bring to light the vast number of individuals and communities around the globe who resisted capitalism and helped to develop alternatives to it, serving as an inspiration to future generations." Future generations will hopefully not judge the institution too harshly for partnering with those very same capitalists; the museum is part of a business consortium called the Jack London Improvement District. One of the Museum of Capitalism's founders, Timothy Furstnau, evidently thinks working with capitalist entities is itself a bold, ironic bit of performance art. In June, he told *CityLab*, "Oakland presents itself right now as a convenient, ready-made exhibit on a certain kind of accelerated development and moment in capitalism."

At the teach-in, although there is an admirable amount of racial, ethnic, and gender diversity among the assembled group of nearly 50 people, there is a surprising amount of homogeneity in age and appearance. The men wear tastefully distressed skinny jeans, fitted shirts, and funky glasses. The women are dressed pretty much like the men, except for one who arrives wearing a vintage-looking dress and toting a pair of old-fashioned roller skates. They are almost all in their 20s and early 30s. I'm likely the only person in the room without a tattoo. The main other candidate for this prize is a rumpled-looking man sitting in the corner who makes the mistake of trying to ask a follow-up question during the Q&A and is immediately silenced by our facilitator: "Let's only hear from people who haven't spoken."

A flock of Sandernistas hears its man in Brooklyn's Prospect Park, April 17, 2016.

SPENCER PLATT / GETTY

Christine Rosen is a senior editor of the New Atlantis *and a columnist for* Commentary *magazine.*

FREE STUFF

Capitalism has long been a bugbear of the young, and flirtations with socialism and communism are nothing new. Before World War I, radicals like John Reed, Max Eastman, and Randolph Bourne gathered in Greenwich Village and promoted alternatives to capitalism in such publications as the *Masses*. The counterculture of the 1960s took it as a given that capitalism was the enemy. But eventually, most anticapitalists come to terms with the free market. It is part of middle age. Max Eastman ended up with a well-paying gig at *Reader's Digest*. More recently, '60s counterculture enthusiasts John Mackey, the founder of Whole Foods, and Steve Jobs, of Apple, became hippie capitalists (and very rich).

Will Millennials (people born between 1980 and 1994) and their successors—the so-called iGen (1995 to 2012)—follow suit? Their skepticism of the free market seems more widespread than in previous generations. In 2016, Harvard University surveyed people between the ages of 18 and 29 and found that more than half (51 percent) did not support capitalism. They aren't averse to socialism, either. A 2015 Reason-Rupe poll found that 58 percent approved of socialism—up from a 2011 Pew poll that found 49 percent of young Americans had a positive view of it. The support for septuagenarian socialist Bernie Sanders among the young during the 2016 presidential election surprised many people over the age of 40, but as one young Sandernista wrote in *Time*: "When a disheveled old white dude comes along and says our society is rigged for the rich, perpetual warfare is not the answer, and people of color should not be slaughtered by the police—and then asks for our help and a few dollars to bring about a revolution—you're damn right we're going to stand with him."

It's not clear, however, that this generation knows what socialism actually is. Another Reason-Rupe survey noted a far lower level of support for state control of the economy than for socialism among the young (only 32 percent said a "government-managed economy" was a good thing), even though such control is one of the pillars of a socialist system.

Alec Dent, a 20-year-old junior at University of North Carolina, Chapel Hill, agrees. "I don't think my fellow young people really understand what socialism is. To most of us it's just an abstract concept, identified more with the 'lovable crazy uncle' image of Bernie Sanders than the tyranny of Stalin." He understands its appeal to his peers, however. "Socialism promises all these amazing things, like free education, free health care, and a living wage that Sanders's fans mistakenly believe could just be tacked onto American society, with everything else remaining exactly the same," he says. As comedian Bill Maher observed on HBO's *Real Time*, when kids today think of socialism, they don't think of Soviet-era repression but "of naked Danish people on a month-long paid vacation."

Millennials appear just as stymied by capitalism. Many of the younger folks I spoke to noted that they had been taught little about our political and economic system in either high school or college. Dent says his high school teachers never mentioned capitalism, but they did mention socialism. "It was presented as just another political system, an acceptable alternative to democracy," he recalls.

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Pop culture is happily tapping into this youthful anxiety: The makers of global cuteness juggernaut Hello Kitty recently introduced a new character, a female red panda with anger management issues named Aggretsuko, who, the *New York Times* reported, explores "the fallout of global capitalism." According to the *Times*, "In her narratives, she is the commodity, and the joy of the consumer has given way to the anxieties of the consumed." Another new character, Gudetama, a "gender-ambiguous egg yolk," also suffers capitalist angst; it mirrors "the people in modern society who despair amid economic hard times," according to the company.

So what do iGenners think capitalism should be? Something meaningful, judging by the labels they embrace to qualify the term. Something "sustainable" and "mindful" and "conscious" and "cooperative." If, as *The Communist Manifesto* argued, "the bourgeoisie cannot exist without constantly revolutionizing the instruments of production," a reasonable percentage of today's young people evidently cannot exist without rebranding capitalism.

In some ways it is reassuring to see capitalism remain a convenient foil for a new generation and to listen, as I did at the teach-in, to a Millennial labor activist urge us to imagine "a world where we don't have to sell our labor because so much is provided for us" and where anticapitalist activists are the one group likely to achieve full employment because everyone, everywhere is constantly being

"exploited." It is reassuring because their actions don't yet follow their words.

Before the teach-in I overheard two young women discussing the challenges of finding "work in the social justice community" and the low pay before exchanging tips about job listings and interview strategies. A large majority of the audience was checking their smartphones throughout the teach-in, suggesting that while they might ostentatiously reject capitalism, they have no intention of giving up the technology that represents its most accelerated and brutally efficient form. And for all of their rousing anticapitalist sentiments, their generational responses have thus far been more reactionary than revolutionary—Occupy Wall Street, campus sit-ins, hashtag activism. They clearly aren't pleased with capitalism, and they want something to ease the burden of their anxiety—and of their student loans. But what they really seem worried about is capitalism's future, not its wholesale elimination.

AFTER CAPITALISM

One of the conceits of the Museum of Capitalism's inaugural exhibition is that you are arriving from a point in the near future, after capitalism's end, to view the artifacts of a terrible era. A tone of smug knowingness pervades the space. Visitors are encouraged to see law enforcement, for example, as a scourge. The "Police Mindfulness Meditation Chamber" has you sit in near-darkness listening to a hypnotic loop of chants and music to soothe feelings of aggression, which the police are assumed to indulge. "Artist Packard Jennings cites being personally beaten by riot police as part of an Occupy Oakland march in 2012 as a key moment in the conception of this exhibit," the wall text reads. A nearby exhibit features the paper targets with an outline of a human torso that are used for target practice, although in this case, instead of bullet holes, they are stenciled with phrases like "the cops" and "there's no getting away with it." Other law-enforcement-themed exhibits equate prison labor with plantation slavery and feature police batons that have been "transformed into flutes."

There appears to be little thought given to the overall layout of the Museum of Capitalism; installations dot the large open space but there is no clear narrative structure and patrons wander aimlessly. There are some contradictory notes as well, such as the transparent acrylic cube marked as a donation box, complete with a securely fastened Master padlock to prevent theft. I struggle to tell if this is, like Duchamp's urinal, an ironic nod towards the commodification of art or if it is a real donations bin.

Hypocrisy looms in the gift shop, which sells bat guano fertilizer for a more sustainable gardening experience, Museum of Capitalism tote bags, and Karl Marx finger puppets. Nearby is a library of capitalist-themed books, including *Captured: People in Prison Drawing People Who Should Be*, which features sketches and paintings of people such as Rex Tillerson, Jamie Dimon, and the CEOs of Nestlé, BP, and McDonald's drawn by convicted murderers and other felons.

Then there are the restrooms. A museum staffer points me to them, earnestly apologizing for their "gendered nature." Therein you can help yourself to a 30-page pamphlet on the "Capitalist Bathroom Experience" in which public sanitation, one of the triumphs of modern engineering and public health, is yet another capitalist conspiracy against the little guy. Did you know that public sewer systems "increased the quality of life for the upper classes by removing bad smells and allowing them to make pleasurable boating excursions"? Or that "toilets and sewers made people healthy enough to produce profits"? And that "under capitalism defecation and urination were also sites of class struggle"?

Such clever posturing about economic revolution is much in evidence in the anticapitalist magazines and books flooding the market, many of which spend as much time policing their fellow lefties as they do debating their capitalist enemies. The *Jacobin* (endorsed by Chris Hayes *and* Noam Chomsky!) describes itself as "a leading voice of the American left." Yet a recent issue savaged California senator Kamala Harris and attacked Al Gore for "Learjet liberalism"—Democrats one would think they would consider fellow-travelers or at least likely allies.

There's a particular antipathy for "neoliberal warmonger" Thomas Friedman in the *Jacobin*. The review of his *Thank You For Being Late* noted that in its nearly 800 pages, "there is approximately one glimmer of hope: the point at which Friedman remarks that this is 'maybe my last book.'" A sampling of earlier pieces on Friedman finds the *Jacobin* equally unsparing: "In his latest column, Thomas Friedman reaches new heights of belligerence—and idiocy" and "Friedman has done a superb job of delegitimizing himself as a journalist by peddling an array of schizophrenic postulates against a solid backdrop of warmongering apologetics on behalf of empire and capital."

Recently, the magazine tweeted, "In the US and around the world today, political violence is the hallmark of the Right, not the Left," and a competing lefty magazine, the *Jacobist*, scoldingly tweeted back, "Do you guys know what a 'Jacobin' is?" Old wounds fester on the left. A recent article in the *Nation* about the resurgence of the Democratic Socialists of America took the time to complain, "The Socialist Party faded as a national force after Franklin Delano Roosevelt's New Deal stole many of its

ideas and much of its thunder." Publications such as *n+1* and the *New Inquiry* have found success in attacking capitalism to bring a younger audience into the socialist fold.

For all of this new and energetic organizing and activism and coming-togetherness, however, there exists a tension between those on the left who want to save capitalism and those who want to destroy it. Clinton Labor secretary Robert Reich is one of the former, arguing in his book *Saving Capitalism* (2015) that income inequality has grown too great and large corporations too powerful while necessary "centers of countervailing power" (unions, political parties) have deteriorated. His proposed solution is "an activist government that raises taxes on the wealthy, invests the proceeds in excellent schools and other means people need to get ahead, and redistributes to the needy." Sound familiar? Reich insists this isn't socialism but rather "capitalism for the many, not the few."

His message is not likely to resonate with denizens of the new youth anticapitalist movement; I doubt they will be wearing T-shirts with "End Upward Pre-Distributions Now!" emblazoned on them any time soon. As readers, they seem to prefer the gimlet eye of the *Jacobin*, which revels in mocking capitalism's extremes. In an article, "Laughing at Rich Kids," that celebrated the cancellation of the disastrously organized Fyre music festival, Alexander Billet drew a red line between himself and his wealthier peers, decrying "the cultural cachet of the young and obscenely affluent," with "their Instagram feeds . . . full of garish flaunting, of smug and petulant revelry in having what we don't." He suggested that nothing should "stop any of us from pointing and laughing. Heartily."

CATASTROPHE IS OPPORTUNITY

This triumphalist sensibility is evident throughout the Museum of Capitalism. Consider the "Bankrupt Banks" exhibit, which features large reproductions of the logos of failed financial institutions, from Merrill Lynch to Fannie Mae and Freddie Mac, hung from the rafters of the museum. "Originally designed to convey strength, authority, and confidence," the description notes, "these now defunct symbols become portraits of failed power structures." Similarly, "Abandoned Signs" features images of vacant storefronts, most of them once small shops on Main Streets, with the note, "There is a gaping disparity between the daily rhetoric of a capitalist society, and an honest assessment of the waste, repetition, redundancy, and inefficiencies of so much activity done in the name of business, productivity, and entrepreneurial freedom."

It's strange to see such gloating over business failure when, at the teach-in, I was taught to embrace independent businesses as a model of sustainable capitalism and opportunity. And yet, for many of the anticapitalist left's noisiest intellectuals, catastrophe *is* opportunity, because collapse and disorder highlight the need for capitalism's total destruction. Naomi Klein, something of an anticapitalist prophetess, has urged young radicals to embrace the findings of climate science as a way to speed the destruction of capitalism. Writing in the *New States-*

NICHOLAS KAMM / AFP / GETTY

Anticapitalist signs in Washington, D.C.'s Freedom Plaza, October 8, 2011

man in 2013, she argued that it "makes the ditching of that cruel system [capitalist growth] in favour of something new (and perhaps, with lots of work, better) no longer a matter of mere ideological preference but rather one of species-wide existential necessity."

On its website, the Sustainable Economic Law Center (cosponsor of the anticapitalism teach-in) illustrates its mission with an animated short film featuring "Lady Justice" pointing out how "Big Business" (portrayed as a block of large ugly buildings) targets "nice people in nice communities" and has "gone and gotten every one of them hooked on energy, food, water, goods, money, and jobs that come from outside of their communities." The narrator says, almost gleefully, "This is not going to be pretty." The animated short goes on to predict a near future where everything is "spiraling all out of control." A welcome development: The chaos will encourage "communities" (depicted as little stick-figure people holding plants) to create food and housing co-ops and community farms.

During the teach-in at the museum, I heard a lot of

Protesters in New York City's Zuccotti Park, October 18, 2011

pro-community buzzwords like "sharing," "resilience," and "capacity-building." When pressed for specifics about what such pleasant-sounding forms of capitalism would look like, however, the best definition one of the panelists could come up with was "openness, love, and compassion." Another responded by questioning the questioner: "What is it like to be free? What is it like to live in a world without prisons?" Rather than coming to a better understanding of "conscious capitalism," as the teach-in went on, I started to feel like I was trapped in a socialist version of a Successories motivational-merchandise store.

Among the panelists at the teach-in, only the representative from the Mandela Foods Cooperative in Oakland acknowledged some of the problems of creating a noncapitalist, "post-wage-slave economy," including cultivating "accountability when there's no boss." She also acknowledged that prices for food at the co-op were higher than in a regular grocery store. Because organic!

But the left is making inroads among younger people by speaking directly to their desire for greater justice in the economy. As Jean M. Twenge notes in her book *iGen*, numerous surveys show that the Millennial generation is interested in jobs that bring meaning to their lives, not just success. Socialism might not be good economic theory, but as history has shown, it is good at convincing the young of the moral necessity of its cause.

JACK LONDON'S IRON HEEL

Jack London Square has a plaque commemorating "Oakland's famed native son," the author of books such as *The Call of the Wild* and *Sea Wolf*. It also notes, "For a time he was politically involved in making socialist speeches."

London did more than make speeches; he was a committed radical, known as the "Boy Socialist of Oakland," and toured the country denouncing capitalism and urging labor strikes. He twice ran for mayor of Oakland on a socialist platform. His 1908 dystopian novel, *The Iron Heel*, pitted a courageous socialist movement against an evil capitalist power structure, "the vague and terrible loom of the Oligarchy," which eventually morphs into a crypto-fascist terror organization called the Iron Heel. Oakland is today booming thanks to the region's high-tech economy, and I wonder what London, who once described capitalism as a "monstrous beast," would think about the growing commodification of the city. He might have appreciated the paradox. Not far from the plaque that commemorates the novelist as a proletarian hero, you can tour the USS *Potomac*, which was Franklin Delano Roosevelt's yacht (dubbed "the floating White House") and which now hosts sunset cruises and wine and cheese tastings. Or you can stop by Forge and "enjoy fantastic views of the Oakland Estuary with your artisanal, wood-fired pizzas served in an industrial space with rustic accents."

A significant portion of today's young people seems to want capitalism itself to be a more artisanal experience, one that is focused on fairness and with a sense of purpose. But what experiences will drive this sense of purpose? Unlike Jack London, who worked as a war correspondent, sailor, Alaskan gold miner, salmon fisher, and longshoreman, today's Millennials are less likely than members of previous generations to have even had a summer job. No wonder that when he spoke at Harvard's commencement this spring, the world's wealthiest Millennial, Facebook founder Mark Zuckerberg, called for measuring meaning rather than GDP and said, "We should explore ideas like universal basic income to make sure everyone has a cushion to try new things."

Cushions sound a lot more pleasant than risk-taking, which is why such messages hold appeal for the younger generation. But for an economy to thrive, it needs people who are not only willing to work hard and plan for their futures, but also willing to hazard failure. Millennials struggle with risk, so much so that many colleges and universities are creating programs to teach "failure-deprived" students how to handle setbacks. It's not surprising why this is the case: A generation raised under Panopticon-like levels of parental surveillance, who

EMMANUEL DUNAND / AFP / GETTY

always got a trophy or ribbon for showing up, and whose educational experience, thanks to grade inflation, rarely included anything less than a B, can be forgiven for craving safety over swashbuckling business ventures. The new anticapitalist call for pursuing "well-being" rather than economic growth or GDP is both a far cry from the muscular socialism of Jack London and a departure from the more swaggering entrepreneurialism of older generations. It speaks to the Millennial's fear of failure.

Part of the reason for the surge of fascination with socialism is that younger people haven't experienced any of its negative side effects. As Alec Dent says of his peers, "They don't recognize that much of what they enjoy in life is a result of capitalism and would disappear if socialism were to be implemented. They haven't seen socialism's failures firsthand." When the polling director at Harvard asked follow-up questions of the young people who expressed unfavorable views of capitalism, many of them told him that their main problem with capitalism was that it was "unfair." Defending capitalism against this sensibility is a difficult but necessary challenge; merely repeating the same free market bromides while invoking the name of Ronald Reagan isn't enough to meet it.

REBOOTING CAPITALISM

One possible guide through this thicket hails from the home of Adam Smith and free market economics. Ruth Davidson is a Scottish Conservative politician and a proponent of capitalism. In a July article on the website Unherd.com, she diagnosed the ills that the young in particular are suffering in the global economy, including the rising costs of education and the challenge of finding affordable housing and reliable employment. Supporters of the free market, she went on, have to face some difficult moral and political questions. "Speaking as a Scot, and one that grew up just a few miles from Adam Smith's birthplace in Fife, it's worth returning to this particular 'father,'" she wrote. "Because Adam Smith wasn't just an economist, he was also a moral philosopher. And while his *An Inquiry into the Nature and Causes of the Wealth of Nations* might have dissected the nature of self-interest in trade as led by the invisible hand, he was also the author of a *Theory of Moral Sentiments*. He argued that far from being purely self-interested, we care about the well-being of others, for no reason beyond the simple pleasure we take from their evident happiness."

What this means, Davidson argues, is recognizing

that for an increasing number of young people in Europe and the United States, "It is not inequality that bites deepest, but injustice." She urges conservatives and free-marketers to acknowledge this. Her suggestions include improving the physical and digital infrastructure outside cities, upgrading education and training services to better reflect the increasingly automated economy, and moving to policies that "help to build" housing rather than "help to buy" it. "Capitalism has lifted billions out of poverty and made the world a better, safer, healthier, more comfortable place," she wrote. "It's not working for everyone, however, and some people are enriching themselves through the kind of restrictive practices that Adam Smith warned us about two centuries ago. Nationally and internationally, capitalism needs a reboot. Time to press Ctrl+Alt+Del."

And it is not just young people in the U.K. who are skeptical about capitalism. A September report from the Legatum Institute found that a majority of Britons holds "an unfavourable view of 'capitalism' as a concept, viewing it as 'greedy,' 'selfish' and 'corrupt.'" A majority hold a more favorable view of socialism than capitalism. Unlike in the United States, though, conservatives here are at least attempting to defend capitalism and the free market. It is a matter of political survival.

Prime Minister Theresa May's gaffe-filled keynote address at the recent Conservative party conference in Manchester dominated the news, but Tory leaders throughout engaged the issue of young people's skepticism of the free market. Speaking on October 2, Philip Hammond, the Chancellor of the Exchequer, noted the challenge. "A new generation is being tempted down a dangerous path," he said. "We have to explain why and how the market economy works and the role of competition as the consumer's friend." He was quick to acknowledge the "frustration of the young" and promised to open up "derelict land" for new housing and to increase funding for loan programs to help the young who see a real-estate market "rigged in favor of those already way up the ladder and against those trying to get on the bottom rung." The Tories recognize that they are in competition with politicians on the left who promote a vision of socialism as an endless buffet of free services with no economic repercussions.

The irony, UNC's Alec Dent tells me, is "The vast majority of Millennials support capitalism, but don't realize it." He cites their abiding love affair with smartphones and laptop computers, objects that capitalist enterprises have created and without which, he says, "Millennials would be truly lost." Dent thinks that his peers' desire to reconcile Bernie-style "benevolent socialism" with free-market capitalism is a "misguided attempt to get the best of both worlds."

His sister Julia, 24, agrees. When she was in college, she spent a semester living in Denmark and saw benevolent socialism firsthand. College students were demonstrating against reductions to their stipends, and their teachers were demonstrating over changes in their hours. "The teachers were so angry that they protested for weeks," she tells me, "which led to schools being shut down." It "showed me the cracks forming in the socialist system," she says, as did the observations of her host mother, who was one of the angry teachers but who also recognized "the effects of democratic socialism that people tend to overlook, like their extremely high tax rates or abuse of the health care system." Julia acknowledges the Danish system's achievements—"the lack of homelessness is something the United States should strive towards"—but understands that "the negatives are slowly starting to outweigh the positives, and it looks like the infrastructure of socialism may not be as strong as Millennials perceive it to be."

Survey data show that iGenners, contrasting with Millennials, are less concerned with the pursuit of "meaning" than they are the practical pursuit of money, and they have a more pragmatic approach to the workplace and their career options. But they are even more risk-averse than Millennials, a further challenge for the future of entrepreneurialism.

THE BATTLE OF IDEAS

Those who support free enterprise must acknowledge that a renewed battle of ideas is taking place between capitalism and socialism and that the socialist camp is winning the early skirmishes. As Matthew Elliott of the Legatum Institute notes, "It is clear that those of us who believe passionately in free enterprise need to up our game."

The founders of the Museum of Capitalism cited an observation from the political theorist Fredric Jameson as their inspiration: "It has become easier to imagine the end of the world than to imagine the end of capitalism." "Making capitalism a 'museum piece' is partly an effort to help us do just that," one of them said in an interview. But the observation simply is not true anymore. Many people on the left are now imagining the end of capitalism—or at least a pretty thorough evisceration of its core principles. And their message is finding receptive young ears. Capitalism has become a story about inequality for younger Americans, not one of opportunity. This is why the Museum of Capitalism could cite as its inspiration the musings of a tenured Marxist at Duke University rather than those of a businessman. ♦

Blinded by Science?

The Supreme Court should steer clear of judging partisan gerrymanders

By Jay Cost

Earlier this month, the Supreme Court heard oral arguments in *Gill* v. *Whitford*, a case in which University of Wisconsin professor William Whitford and a group of plaintiffs (all Democratic voters in the state) contend that the drawing up of Wisconsin's state legislative districts was an unconstitutional gerrymander.

The Supreme Court has intervened in gerrymandering complaints in the past, but those cases had to do with racial discrimination or malapportionment. That is, the Court has struck down legislative maps that distribute black voters in ways that minimize their electoral power. In the Wisconsin case, race and ethnicity are not at issue, at least not directly. The plaintiffs are asking the Court to invalidate district lines drawn by the state legislature in 2011 because those lines favor Republicans over Democrats.

Will he, or won't he? Kennedy in 2015

PETE MAROVICH / BLOOMBERG / GETTY

Based on the oral arguments, the case is another that divides the Court along ideological lines. The four conservative justices—Chief Justice John Roberts, Clarence Thomas, Samuel Alito, and Neil Gorsuch—seem skeptical that the Court should intervene in such matters. It is better, instead, to leave partisan gerrymanders to the political process. The liberals—Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor, and Elena Kagan—appear eager to involve the Court in the process. Once again, that leaves Justice Anthony Kennedy in the middle, the crucial fifth vote who will decide which way the Court swings.

Kennedy has previously expressed openness to the Court's involving itself in resolving partisan gerrymandering. In *Vieth* v. *Jubelirer* (2004), though the Court declined to rule on the constitutionality of Pennsylvania's congressional redistricting, Kennedy indicated that the justices might have a role to play if they could find a workable standard to apply.

This is what makes the Wisconsin case especially important. The plaintiffs claim to have put forward such a standard—based on a metric known as the "efficiency gap"—that, they argue, is a simple, intuitive, and broadly applicable tool to find the effects of a gerrymander.

However, the plaintiffs are wrong. The efficiency gap is an interesting but deeply problematic metric that should not be imposed by the judiciary. If Kennedy and the liberal justices were to adopt it as the centerpiece of a test to adjudicate partisan complaints about the drawing of political districts, it could have profound, unintended, and controversial consequences on legislatures throughout the country.

At first blush, the efficiency gap seems quite straightforward. The whole approach hinges on the concept of "wasted" votes. For instance, if a party gets 75 percent of the votes in state legislative contests but wins only 50 percent of the seats, then 25 percent of the vote has been "wasted," or cast in excess of the final seat totals the party won. Generally speaking, the efficiency gap is calculated by comparing votes to seats, and the plaintiffs are asking the Court to use it to decide whether district maps are presumptively valid or invalid. They claim that if the efficiency gap exceeds a certain threshold, then it is likely because the party in charge of drawing the district lines has cheated the opposition.

There are a number of problems with this. The most immediate concern is that the efficiency gap has simply not undergone sufficient peer review. First introduced by Eric McGhee of the Public Policy Institute of California in 2014, in an article for the *Legislative Studies Quarterly*, it is a relatively new tool for understanding gerrymanders. Given the glacial speed at which the social sciences operate, the efficiency-gap metric is still in its infancy. While McGhee's article is well argued and theoretically intriguing,

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the efficiency gap has simply not been put through its paces. Wendy K. Tam Cho, a professor of political science at the University of Illinois, has noted that to date, "its properties have not been rigorously explored." In a brief essay evaluating it, she concluded that while it is "simple to articulate and may seem intuitive," it is problematic. "A measure of partisan fairness," she asserted, "needs to be more nuanced, and cognizant of the partisan context."

The efficiency gap presents a number of technical problems that have not yet been worked out by scholars. Even its advocates do not think it should apply to smaller states—those with no more than seven or eight congressional districts—which means that should the Court adopt the efficiency gap as its standard, it will then have to find an additional metric for those states that works just as well.

There are computational issues, too. One of the biggest challenges is calculating the efficiency gap in the absence of sufficient data. For instance, when incumbents run unopposed, the efficiency gap will be hopelessly skewed. Strategies have been proposed that "impute" values in those cases—by, for instance, using presidential vote choices in a district where one party fails to field a candidate in a down-ticket race, to guess how a candidate from that party might have done. But these approaches are inevitably full of controversial assumptions. And again, there has been virtually no scholarly debate, let alone a consensus achieved, on how to handle situations like that.

Just how political do justices want to get?

There is even ambiguity on how to calculate the efficiency gap properly. Advocates for the measure have used different though related metrics, which produce different results. Relatedly, there is disagreement over what constitutes a partisan gerrymander even among the advocates of the metric. The final result of the efficiency gap is not a yes/no proposition. Instead, a researcher has to look at the result and interpret whether or not a gerrymander has occurred. There is no scholarly consensus on that, either, and once again even the experts for the plaintiffs disagree.

These technical problems are minor compared with some deeper limitations of the efficiency-gap concept. All else being equal, the efficiency gap as a measure of unfairness may make a lot of sense: A party's share of legislative seats should correspond to its share of votes. But in the real world of American politics, all else is usually *un*equal.

Consider the geographical clustering of party voters, a factor that has grown more pronounced in recent decades. Democrats tend to be heavily concentrated in large cities and college towns, while Republicans are broadly distributed around the outlying areas. This means that an effort to draw a neutral map premised on, say, the idea that districts should represent communities of interest, would very likely run afoul of the efficiency gap. Democratic votes would be "wasted" in urban districts while Republican votes would be more efficient.

This is compounded by the dictates of the 1982 amendments to the Voting Rights Act, which have been interpreted to mandate that minority voters be given their own districts wherever it is reasonably possible. This requirement increases the likelihood that Democrats are packed into minority-majority districts, which means that simply following the federal law could increase the efficiency gap and help create the impression of a partisan gerrymander.

Then there is the problem of how to account for so-called campaign effects, which include the advantages of incumbency, the presence or absence of scandal, campaign spending, voter turnout, national waves. All of these and more can have a huge influence on the votes-to-seats ratio in any given election. If that ratio is pushed too far in one direction or another, it will make the efficiency gap signal that a partisan gerrymander has occurred.

The result of these various problems is that judging district lines by the efficiency gap will produce an intolerably high number of false positives and false negatives. That is, the efficiency gap will sometimes conclude that honest maps are partisan gerrymanders and sometimes conclude that partisan gerrymanders are honest maps. In short, this is not a formula that justices should feel empowers them to make nationwide judgments on what is and is not an impermissible partisan gerrymander.

Consider the case of Illinois over the last decade. In 2002, Republicans controlled the state senate and governorship while Democrats controlled the state house. Since neither party had full authority, a bipartisan redistricting plan was hatched that protected incumbents of both parties. And yet, according to the efficiency gap, this redistricting was a Republican gerrymander. Fast forward to 2012. Democrats by that point had taken complete control

EVAN VUCCI / BLOOMBERG / GETTY

of the state government and put together one of the most aggressively partisan gerrymanders in the country. And yet, according to the efficiency gap, the map tilted just slightly toward the Democrats.

The reason for these errors has to do with the distribution of partisans in Illinois. Democrats are concentrated in Chicago while Republicans are spread more broadly across the state. So a neutral plan—such as the 2002 map—will inevitably look like a GOP gerrymander under an efficiency-gap analysis. On the other hand, an extreme Democratic gerrymander—such as was adopted in 2012—will look like a neutral plan. Not wanting to squander votes in their extremely liberal Chicago redoubts, Democratic legislators made sure to draw creatively shaped districts in the Chicago area that mixed urban and suburban areas to produce lots of reliably, but not overwhelmingly, Democratic seats.

Next, consider the state of Alabama, where the verdict rendered by the efficiency gap is even more bizarre. This is a state where the Voting Rights Act is enormously consequential. African Americans constitute about 30 percent of the state's population—that's substantial but still small enough that legislators given free rein could easily created a white majority in every congressional district. This is where the Voting Rights Act comes into play, to prevent such racially drawn maps from becoming law. But because the efficiency gap does not take this requirement into account, it gives a wrong sense of the partisan dynamics in Alabama.

Democrats held solid majorities in the Alabama legislature through the 1990s, but the lines they drew actually looked like a Republican gerrymander according to the efficiency gap—in every election cycle except 1994. The reason for the sudden shift had to do with campaign-related events on the ground that happened to disfavor Democrats that year. Democrats again controlled redistricting in the state in 2002 and were reasonably successful in drawing lines, but according to the efficiency gap it was once again a Republican gerrymander.

These examples get to the core theoretical problems of the efficiency gap as a standard of impermissible partisanship: It is a one-dimensional metric. Drawing fair district lines requires evaluating a lot of different variables. No doubt it is ideal for a party to get roughly the same share of seats as it does votes, but there are other factors at play as well. How about encouraging competitive races? How about guaranteed representation for historically underrepresented minorities? How about geographical compactness?

All of these other factors are ignored by the efficiency gap, which reduces fairness to a single votes-to-seats ratio. Such a standard would have enormous effects if the Court uses it to decide which maps are presumptively valid or invalid. If a state drew lines that promoted competitive races, and as a consequence its efficiency gap was too high, the burden of proof would be on the state to demonstrate that it had not gerrymandered. If, on the other hand, Democratic and Republican legislators craft a plan to protect incumbents, with a low efficiency gap, the burden of proof would be on advocates of good government to prove that it was a gerrymander. This is simply not the proper way to design a legal test.

And the examples of Illinois and Alabama further demonstrate that, contrary to the claims of the plaintiffs in *Gill* v. *Whitford*, identifying partisan gerrymanders remains a difficult and frankly subjective process. Worse than this, the efficiency gap is a kind of Trojan horse that threatens the uniquely American style of representative government. If the Court adopted the test as its standard, it would in effect be mandating a kind of proportional representation—similar to the systems of continental Europe. This has not been the American approach to legislatures, which instead are the meeting places of representatives from different constituencies, anchored by geography and communities of interest. Under an efficiency-gap standard, we would nominally retain such a system, but the Court would be requiring states to draw lines that effectively make us more like European parliaments.

One can, of course, argue that we should alter our system of representation in this way. Our approach to democracy may indeed be outdated. Maybe Europe has a better way. However, such changes are properly left to the people. If some state legislatures want to bind themselves in their redistricting efforts by some version of efficiency-gap analysis, more power to them. The Supreme Court, though, should not impose such a sweeping alteration by judicial fiat. Moreover, it should not pretend to be engaging in some neutral application of bulletproof social science findings.

To be certain, the efficiency gap is an interesting and useful metric. There is no doubt that it is measuring some of the political effects of gerrymandering. Judged alongside other metrics that have been offered to gauge gerrymandering, it is easily the best of the bunch. Its developers—Eric McGhee in particular—deserve credit for advancing the scholarly understanding of gerrymandering.

But the merits of the efficiency gap and its appeal to scholars are not the issues in this case. Instead, the question is whether the efficiency gap should acquire the force of law. The answer is no. The Court should not allow itself to be tempted into a sweeping change in our system of representation.

Justice Kennedy has long been looking for a workable standard to adjudicate claims of partisan gerrymandering. The efficiency gap, as ingenious as it may be, is simply not good enough. ♦

Wounded U.S. Marines ride atop a tank converted into an ambulance during the Tet Offensive in 1968.

JOHN OLSON / THE LIFE IMAGES COLLECTION / GETTY

The Bad War

Vietnam gets the Ken Burns treatment. BY STEPHEN J. MORRIS

For their latest collaboration, a 10-part documentary that premiered last month on PBS, filmmakers Ken Burns and Lynn Novick have chosen a subject from living memory. The Vietnam war was a defining event for a generation of Americans. It was also one of the most politically divisive wars in U.S. history. For many years, whenever policymakers contemplated the possibility of overseas interventions, commentators would invoke the so-called "lessons of Vietnam." Yet exactly what those lessons entail has been a matter of continuing dispute. More than 40 years after the war's conclusion there is still no consensus among historians on its origins, the wisdom of the American intervention, and the reasons it ended in failure for the United States.

Among boomer-generation journalists and academics the dominant perspective is that of the antiwar movement. Some hold to the views of the movement's radical or hard-left wing, which considered the war a product of America's iniquitous society and its inherently imperial foreign policy, while the country's Communist opponents were virtuous and popular resisters. Others hold to the views of the antiwar movement's liberal or moderate wing, which saw the war as a product of American policymakers' Cold War misunderstanding of the nature of anticolonialist movements, of which Communist revolutionaries were simply the most radical manifestation. Of course, not all historians accept these strains of thought—military historians, for example, with their focus on the war's military stories and lessons, tend not to—but the antiwar perspective predominates among historians of politics and diplomacy, and among the writers of accounts for popular audiences.

Now along come Burns and Novick, aiming to give the war the kind of myth-busting and myth-making treatment Burns has famously given baseball, jazz, the national parks, and the Civil War. His previous documentaries, some of which he made with Novick, have been broadcast repeatedly on PBS and shown in classrooms across the country. They

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have lastingly shaped the public understanding of their subjects. *The Vietnam War* is a massive undertaking—it cost some $30 million and clocks in at 18 hours—and its creators clearly hope it will offer the definitive look at the war.

This is not the first time PBS has attempted to tell the story of the war in a documentary series. Its previous effort was not a ringing success. *Vietnam: A Television History* first aired in 1983. As I wrote in the *Wall Street Journal* at the time, it was "the work of many different and distinguishable hands." Different producers were in charge of different episodes and the outcomes were tremendously varied. The efforts of Boston-based producer Austin Hoyt on LBJ's decision to go to war and on the Tet Offensive were models of objective journalism and professional artistry. Relying on interviews with former decision-makers, these episodes focused mostly on how American war policy had been made. Three other episodes produced by Elizabeth Deane were not bad given the state of historical knowledge at the time. But episodes by Boston-based producer Judith Vecchione and two by English producer Martin Smith were imbued with Communist party-line propaganda.

In my *Journal* article, I pointed out major factual errors in Vecchione's episodes—like the misattribution of the 1930 Yen Bai uprising to followers of Ho Chi Minh—that forced the producers to make changes to the narration for the subsequent release of the series on videotape. Overall, most episodes lacked objectivity to varying degrees and accepted the antiwar movement's assumption that the Vietnamese Communists were primarily nationalists. Vietnamese Communist functionaries, such as the editor of the army newspaper, Bui Tin, were interviewed for the series. But no South Vietnamese military veterans were interviewed and, significantly, no defectors from the Communist side were interviewed. A companion book by reporter Stanley Karnow had a more objective journalistic spirit, but its connection to the TV series was tenuous.

Like the old documentary, the new one comes with a companion book, but this time it is directly connected to the television program. Cowritten by Burns and another longtime collaborator, Geoffrey C. Ward, *The Vietnam War: An Intimate History* is an excellent supplement to the documentary: This large volume is lavishly illustrated with color photographs and strongly, though not exhaustively, researched, sometimes providing more factual detail than appears on the screen.

In promoting their new documentary, Burns and Novick have described it as an attempt to spur "reconciliation" on the war, bridging old divides in American public opinion. National reconciliation may be an admirable social project—but insofar as the documentary is a work of journalism and historical research, it must be judged by its accuracy in matters of fact and on the strength of its interpretations of cause and effect.

Compared to the 1983 PBS program, Burns and Novick's documentary is more a popular history, since it, in true Burns style, relies heavily on personal accounts of the war by those who actually fought it on both sides as well as Americans who opposed it. The documentarians elected not to interview surviving political decision-makers, which might have introduced *post hoc* explanations, but instead relied mostly on primary documents—written accounts and contemporaneous recordings of presidents and congressional leaders discussing their motives and judgments of the war. The oral histories from ordinary participants, complemented by Peter Coyote's narration, keep the viewer emotionally and intellectually invested in the story as it unfolds. And the video footage and still photographs used to illustrate the documentary are superb—a testament to the decade of work that went into the project. In particular, the footage selected for some of the battle scenes is so vivid and so well stitched together that the viewer may feel tension of the sort usually evoked by a Hollywood war movie rather than a documentary.

Burns and Novick describe their documentary as an attempt to spur 'reconciliation' on the war. That may be an admirable social project—but insofar as the documentary is a work of journalism and historical research, it must be judged by its accuracy and on the strength of its interpretations.

The filmmakers assembled a large number of interviewees with different viewpoints, including veterans of the U.S. armed forces, North Vietnamese citizens and Viet Cong soldiers, and American antiwar protesters. The inclusion of South Vietnamese non-Communists is a welcome innovation, since their voices have generally been excluded from previous documentaries about the war. Many of the oral accounts give long-overdue credit to the bravery and skill of the South Vietnamese soldiers.

Still, although Burns and Novick deserve credit for including different political viewpoints, their efforts in that direction should not be overstated. In an interview with *PBS NewsHour*, Burns said:

> We made sure there was room for everybody in our film. If you still think the—we should be fighting the Commies there still, you know, there's the representation of that in our film. If you believe that it was wrong from the very beginning, there are people that will represent that point of view. But, more importantly, all those shades of gray are able to coexist.

Burns's remark is an exaggeration: Watch the entire series and you will hear no suggestion from anyone that we should still be fighting the "Commies" in Vietnam. Among the 79 interviewees, there were several who thought that the United States should not have abandoned South Vietnam in 1975. To characterize their views the way Burns did is a disparaging misrepresentation, one that reveals a political bias.

Burns and Novick's documentary, like its 1983 predecessor, includes no interviews with Communist defectors. This is a pity, not least because the North Vietnamese and Viet Cong participants and witnesses who do appear on camera were interviewed in Vietnam, and therefore were under the watchful eye of pro-Communist local intermediaries. They were asked to talk about their personal feelings, but were presumably constrained from speaking too freely, lest they contradict the official government line on the politics of the war. Only one, the writer Bao Ninh, seemed to stray close to the edge of what was politically acceptable. ("In war, no one wins or loses," he says in the first episode.)

Yet numerous defectors from communism now live in the United States and France. Most notable is Colonel Bui Tin—a former government spokesman, editor of the army newspaper, and a friend of General Vo Nguyen Giap—who, as mentioned above, represented Hanoi's views in the 1983 television series. Since defecting in 1990 Bui Tin has written a revealing memoir and testified before Congress. He now lives outside Paris. Why was he not interviewed, along with other ex-revolutionaries who can now speak freely? One suspects that Thomas Vallely had something to do with it. Vallely—a U.S. Marine veteran, a close friend of John Kerry, and like Kerry a former activist in Vietnam Veterans Against the War—was a senior adviser to the series and helped the filmmakers arrange their interviews in Vietnam. Vallely maintains a strong personal interest in cordial relations with the Vietnamese government and presumably has no desire to rock the boat with Hanoi.

Lynn Novick and Ken Burns

Burns and Novick have claimed in promotional interviews that their work is not intended to provide answers but to raise questions. That's only half-correct: *The Vietnam War* does raise provocative questions but it cannot avoid offering answers. By the facts and events and interpretations that the filmmakers have included or omitted, they have provided some answers. And those answers discernibly tilt the documentary's analysis of the war toward the views of the antiwar movement.

One place we can detect the tilt is Burns and Novick's choice of American veterans to interview. In a survey of Vietnam veterans commissioned by the Veterans Administration in 1979, 90 percent of the respondents agreed with the statement "Looking back, I am glad I served my country," and two-thirds said they would serve again if asked. And even though the survey shows that veterans were deeply divided on the question of whether the United States should have ever gotten militarily involved in Vietnam, the proportion of veterans who believed getting involved was the right thing to do was significantly higher than among the general population. But among the documentary's prominent interviewees, such veterans are a minority; most are people who turned against the war. The filmmakers are pointed, and sometimes heavy-handed, in depicting when and why their interviewees became antiwar. And sometimes it's not even the veterans themselves whose turn against the war is highlighted. In one case, since Marine enlistee Mogie Crocker died in 1966, it's his interviewee sister whose antiwar turn is depicted. In another, it's the wife of POW interviewee Hal Kushner who became antiwar and supported George McGovern's peace campaign in 1972. This too was massively unrepresentative of the attitudes of most POWs' wives and families.

Some of the antiwar veterans are shown making absurd moral judgments on camera. For example, Karl Marlantes, a decorated Marine veteran, reads from a letter he wrote to his parents when he enlisted: "I will be taking part in one of the greatest crimes of our century." We can forgive Marlantes for this judgment—he was in his early 20s when he wrote those words—but the filmmakers, in choosing to include it, clearly want us to consider the American intervention in Vietnam alongside the 20th century's moral atrocities: the extermination of 6 million Jews and millions of others in the Holocaust, the murder of 10 million or more Russians under Stalin, the killing through famine of over 30 million during China's Great Leap Forward.

An equally absurd judgment comes from series adviser Merrill McPeak, a former fighter-bomber pilot who rose to become a general and by the 1990s was chief of staff of the U.S. Air Force. McPeak tells the filmmakers, "We were fighting on the wrong side"—a comment of such surpassing stupidity that he has since retracted it. It is a shame that more sensible veterans' opinions are not given equal time.

The tilt toward the antiwar movement's views can also be seen in the documentary's overemphasis on the activities of the protesters. The coverage is so disproportionate—they are given time in almost every episode as a kind of counterpoint to the war footage and the veterans' accounts—that the viewer is left with an inflated sense of the protesters' importance. In fact they had a minimal effect on public opinion, and what effect they did have mostly worked against their cause in the eyes of the American people (though they did unnerve Presidents Johnson and Nixon). The antiwar movement's one concrete accomplishment came only after American forces were already withdrawn from Vietnam, when the movement lobbied Congress to cut off aid to South Vietnam, resulting in a massive cutback. But this aspect of the antiwar movement's activities is not even covered in the documentary.

DIA DIPASUPIL / TRIBECA FILM FESTIVAL / GETTY

There are other ways, even more explicit, in which the documentary skews toward the views of the moderate or liberal wing of the antiwar movement. In its opening narration, reproduced in the companion book, the documentary offers this summary:

> America's involvement in Vietnam began in secrecy. It ended, thirty years later, in failure, witnessed by the entire world. It was begun in good faith by decent people out of fateful misunderstandings, American overconfidence, and cold war miscalculation.

What, in the view of the filmmakers, were those fateful misunderstandings and that Cold War miscalculation?

The five presidents in office during the years of the Vietnam conflict—Eisenhower, Kennedy, Johnson, Nixon, and Ford—subscribed to the "domino theory," which held that if Vietnam fell to the Communists, all of Southeast Asia would subsequently tumble into communism. The underlying assumption was that the Communist parties around the world, especially in Asia, were interconnected—all parts of a totalitarian ideological movement against the West and its allies. While the domino theory is mentioned in the documentary, the evidence that supported it is not discussed.

Burns and Novick have a different view of Vietnamese Communist motivations. Like the producers of the 1983 PBS series, they are certain that the North Vietnamese were primarily motivated by nationalism. This is particularly striking in the filmmakers' account of the life of Ho Chi Minh. They note that during his three decades in exile from Vietnam, he became a Communist in France—in fact, he was a founder of the French Communist party—and that he "was invited to Moscow to study [and] underwent training as a Soviet agent." However, they do not mention that for nearly two decades Ho was a functionary of the Communist International (Comintern). We are told that he was "dispatched to China to organize a cell of other Vietnamese exiles and help establish the Indochinese Communist party." But even while conceding his many years of Communist organizing, the filmmakers emphasize that Ho "was sometimes criticized for being a nationalist first, a Communist second" and that an unnamed friend of his stated that Ho cared for "only one thought, his country Vietnam."

This "nationalism first" analysis is a major theme of the documentary. If it were correct, then the U.S. decision to intervene against the Vietnamese Communists would indeed have been a tragic blunder. Mere Vietnamese nationalism was no threat to U.S. security, nor to the security of America's allies other than the French colonialists. The whole conflagration could never have been anything other than a futile waste of blood and treasure.

Yet the nationalist interpretation of Ho Chi Minh and his comrades does not stand up to scrutiny.

If Ho had thought only of Vietnam he would not have been able to fulfill his Comintern assignment from the late 1920s, which was to assist in the creation of Communist parties in several Southeast Asian countries. In fact, he undertook that assignment assiduously. Moreover, the Vietnamese Communists have always—down to this day—proclaimed their adherence to a Marxist-Leninist view of international affairs, a view that rejects nationalism as an ideology of the feudal and capitalist social classes. However, Lenin, and his Vietnamese disciples, recognized that nationalism could be of some instrumental value in the struggle against "imperialism." Hence the distinction between "bourgeois nationalism," which sees nationalism as a primary objective, and "revolutionary nationalism," which sees nationalism as a temporary expedient in the struggle against "imperialism."

BETTMANN / CORBIS / GETTY

The views of antiwar protesters and Vietnam veterans critical of the war are heavily represented in the documentary. Here, veterans carrying toy guns demonstrate near the U.S. Capitol.

What's more, the Vietnamese Communists embraced Stalinism, a particularly violent and totalitarian manifestation of Marxism-Leninism. This is quite bizarre given the fact that Ho Chi Minh was in Moscow again from 1934 to 1938, years of Stalinist terror. He witnessed the arrests and killings of many of his Bolshevik and Comintern comrades, including many fellow Vietnamese Communists—facts that the documentary omits to mention. Some 50 years ago the historian Bernard Fall, in his classic work *The Two Viet-Nams*, noted of Ho Chi Minh:

> That he himself was spared by the ever-suspicious Stalin is significant; perhaps as a practitioner rather than a theoretician of revolution, Ho was not considered dangerous by Stalin—or perhaps he was considered absolutely loyal.

Long after Stalin's 1953 death, and even after subsequent Soviet leaders and the leaders of Soviet satellite states in Eastern Europe had rejected Stalinist ideology and political practice, Ho and his comrades continued to celebrate the Soviet dictator and his foreign policy. Even a decade after Ho himself died, the Vietnamese Communists marked the centenary of Stalin's birth with a proclamation praising the dictator for having "waged a struggle against all expressions of opportunism—

Ho Chi Minh's commitment to global communism is downplayed in the documentary. Above, Ho enjoys dinner with fellow Communist leaders Nikita Khrushchev and Mao Zedong in 1959. Below, as World War II ended, some members of the U.S. Office of Strategic Services became inappropriately close with Ho and his comrades.

Trotskyism, rightist opportunism, bourgeois nationalism—in defense of the purity of Marxism-Leninism."

Further insight into the true motivations of Ho Chi Minh and his comrades can be found in his final testament, published by the Vietnamese Communists after his death in 1969. The document includes not a single word of praise for the great nationalist figures of Vietnamese history—not for the Trung sisters, who led an uprising against the Chinese in the first century; or for prince Tran Hung Dao, who defeated the Mongols in the 13th century; or for Le Loi, who led the revolt against the Ming invaders in the 15th century; or even for the emperor Gia Long, who unified the Vietnamese nation in the 19th century. Instead Ho wrote, "I therefore leave these few lines in anticipation of the day when I shall go and join the venerables Karl Marx, Lenin, and our other revolutionary elders."

The dedicated communism of Ho Chi Minh and his comrades means that nationalism was at most a secondary motivation for them. Once we understand this, we can better grasp what unfolded in 1945 in Hanoi—pivotal events that the documentary interprets misleadingly—and more clearly see the North Vietnamese regime for what it was.

In the last months of World War II, the Office of Strategic Services (OSS)—precursor to the CIA—parachuted operatives into northern Vietnam to establish local intelligence networks that could gather information on the Japanese and help rescue downed American flyers. The OSS made contact with Ho Chi Minh's small but well-organized Viet Minh forces and decided to arm and train them. Ho's men not only used these weapons to help the Americans, but also to fight their way into power in Hanoi in August 1945. All this the documentary gets right.

But the documentary omits the fact that the officer leading the OSS team, Archimedes Patti, went beyond his mandate from Washington and began interfering in Vietnamese politics in ways that benefited Ho and the Viet Minh. In particular, OSS officers appeared in public in the company of the Vietnamese Communists. These joint appearances gave ordinary Vietnamese the misimpression that the Viet Minh was the political force endorsed by the victorious Allies.

And Ho's cooperation with the OSS had another audience in mind as well. Although the Soviet Union would have been a natural ideological ally for Ho and his comrades, it was far away. But under President Franklin Roosevelt, the U.S. government had expressed anticolonial views, which gave Ho hope that the United States, which still had significant forces and resources in the region, might side with him. So he asked his OSS friends for the text of the American Declaration of Independence, and on September 2, 1945, with OSS onlookers nearby, Ho proclaimed Vietnam independent, quoting Jefferson's language. This was transparently a ploy to secure U.S. support for the new regime Ho was establishing, by making Americans believe that the two countries not only had common interests but shared values.

The documentary admits that Ho's efforts were "calculated," but even so does not treat them with sufficient skepticism; a viewer could easily come away from the scene believing that Ho was a Jeffersonian. The fact that Ho had to ask Patti for the language of the Declaration—a fact that undermines the notion that Ho and his adherents had even

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the slightest familiarity with American political values—goes unmentioned. Meanwhile, the filmmakers show Leslie Gelb, a former Pentagon official and later a *New York Times* journalist, paraphrasing the content of letters Ho sent to President Truman: "We believe in the same things you believe."

The sincerity of Ho's statement is belied by the actions soon taken by his right-hand man, Vo Nguyen Giap, in arresting and killing rival nationalists and even the rival Trotskyite leaders who were allied with the Viet Minh. The documentary briefly describes this "merciless purge" in which "hundreds were shot, drowned, buried alive" for the sake of "consolidating Communist control of the revolution." But it fails to point out how Gen. Giap's actions highlight Ho's obvious disingenuousness.

The documentary also has little to say about the actual structure of the Communist state that Ho and his comrades created in the regions they controlled. Nothing about the secret police organization, modeled on the Soviet and Chinese equivalents, that Giap created and originally commanded. Nothing on the Maoist-inspired institutions of party control of all aspects of people's lives. Contrast this with the documentary's extensive critical coverage of the much-less-repressive South Vietnamese government. Unlike the North, South Vietnam was never a totalitarian state. In fact, South Vietnam was never even a fully authoritarian state; there was always an organized political opposition, including opposition newspapers.

So why does the documentary offer no detailed account of totalitarian rule in the North? The narrator does mention in the first episode the "brutal land reforms" in North Vietnam. But this murderous event—arguably the greatest single atrocity against unarmed civilians in Vietnamese history—is dealt with in less than 30 seconds. It is diminished in its scope to "thousands of people dead," when some observers, such as historian Robert F. Turner, have suggested that 50,000 or perhaps more were killed in the China-guided terror campaign. The documentary offers no explanation for why the Communists carried out this campaign, especially given the fact that shortly thereafter the redistributed land was collectivized under state control. But any explanation would of course have to invoke political motives that would challenge the documentary's dominant depiction of Ho and his comrades as mere nationalists instead of ideological Communists.

The Vietnam War provides a reasonable account of much of the war before 1968. There are omissions, however. For example, the political and military situation in Laos and Cambodia, which directly relates to early U.S. military failure in Vietnam, is almost entirely absent from the documentary. And no mention is made of Kennedy's Laos neutrality agreement of 1962, which called upon the North Vietnamese to withdraw their forces from Laos and stop using the Ho Chi Minh trail yet had no enforcement provisions.

In addition, Burns and Novick do not outline in detail the failed ground military strategy that President Johnson and General William Westmoreland attempted—a war of attrition based upon a combination of search-and-destroy missions seeking out enemy forces in the jungles and bombing North Vietnam with considerable geographical restrictions so as not to incite Chinese or Soviet intervention. The filmmakers fail, too, to discuss the Combined Action Program, in which population centers were defended in partnership with locals, luring the enemy to fight on American terms—an alternative mode of counterinsur-

Above, in one of the most famous photographs of the war, Marine Gunnery Sgt. Jeremiah Purdie is shown reaching out to a wounded comrade. Below, a North Vietnamese Army officer leads an attack on South Vietnamese forces.

TOP: LARRY BURROWS / THE LIFE PICTURE COLLECTION / GETTY; BELOW, DOUG NIVEN / PBS

gency operations that the Marines tried with some success.

Adding to the chronicle of despair that the documentary constitutes is the failure to recognize the major successes by the American and South Vietnamese side in the later stages of the war. There were three major successes, which combined should have been decisive in determining the war's outcome.

The first was the Tet Offensive. The Communist leaders had thought that a surprise assault on the cities and towns of South Vietnam by Viet Cong guerrillas, undertaken during the Tet lunar New Year holiday in January 1968, would incite popular uprisings and the overthrow of the South Vietnamese government. But those uprisings never came. Instead, over a month of grueling fighting, the attacking Communist guerrilla forces were routed. Of the estimated 84,000 Viet Cong and North Vietnamese troops who took part in the Tet Offensive, we are told that "more than half—as many as 58,000 men and women, most of them Viet Cong—are thought to have been killed or wounded or captured." We are also told that the Tet Offensive turned U.S. public opinion further against the war, although the reality is more complicated. (Tet provoked a shift in elite opinion, but as historian David F. Schmitz has put it, it "did not cause a dramatic shift in [U.S.] public opinion.") However, the documentary does not examine the psychological effect of Tet *in South Vietnam*, where it made previously neutral or fence-sitting segments of the population commit themselves more to the South Vietnamese government cause.

The documentary does not examine the psychological effect of the Tet Offensive in South Vietnam, where it made previously neutral or fence-sitting segments of the population commit themselves more to the South Vietnamese government cause.

Second, the pacification program—the effort to "win hearts and minds" among the population and thereby defeat the Viet Cong—that had begun in 1959 and functioned haphazardly for several years was finally beginning to show signs of success by 1968. The pacification program was actually helped by Tet, since the southern Communist cadres who had surfaced in the campaign were able to be identified and either captured or killed. The expansion of the number of South Vietnamese troops and reconstitution of local village, district, and provincial armed forces brought new stability. And the U.S. focus on intelligence-gathering under the Phoenix program helped to suppress the Viet Cong infrastructure.

By late 1971, the Viet Cong was no longer a threat in the majority of South Vietnamese provinces, especially in the Mekong Delta. I witnessed this development firsthand: As a visitor to South Vietnam in early 1970 and again in early 1972, I could plainly see the difference in the security situation. I traveled through many provinces of South Vietnam in 1972, spending two days with a friend in the South Vietnamese government driving in a car with official license plates, another day in a taxi with Vietnamese locals. If the Viet Cong guerrilla forces had not been suppressed I would probably have been captured or killed. Burns and Novick had access to several expert witnesses to the pacification success—most notably their interviewees Stuart Herrington and Lewis Sorley—but apparently chose not to pursue this issue with them.

Third, Burns and Novick also do not fairly evaluate the Easter Offensive of 1972. In this campaign—the biggest military offensive of the war—the North Vietnamese launched most of their regular forces in a massive three-pronged attack against Quang Tri in the north, the central highlands in the northwest, and An Loc northwest of Saigon. Hanoi's objective was to seize the imperial capital at Hue and cause the collapse of the South Vietnamese army. None of these objectives was achieved, and the small amounts of territory the North Vietnamese were able to seize, notably the city of Quang Tri, were mostly recaptured by the South Vietnamese later in the year.

Burns and Novick are correct to point out that U.S. airpower was vital for South Vietnam's survival. But in focusing on the contributions of American bombers, the filmmakers miss the importance of the South Vietnamese army's willingness to fight for its country. And they fail to recognize that the massive losses the North Vietnamese suffered in the Easter Offensive forced them to substantially modify their negotiating position in Paris, making a peace agreement possible after four years of stalemate.

Why do Burns and Novick fail to acknowledge the military and political successes from after 1968? A partial explanation: They seem to have been strongly influenced by the prejudices of their senior adviser Thomas Vallely, who states glibly in the documentary:

> Nixon and Kissinger, they—their job is to clean up. The war's over. Nixon and Kissinger, when they come, they're, they're not going to win the war. So they develop a secret strategy: They surrender without saying they surrender. This is not a bad strategy. This is the only strategy.

Had Vallely been familiar with the transcripts of Nixon's White House tapes, he would have known that surrender was not Nixon and Kissinger's strategy. In a meeting of the National Security Council on February 2, 1972, the president told the assembled officials of his view of the war in Vietnam:

> Because there's one determination I've made: We're not going to lose out there. I determined that long ago. We wouldn't have gone into Cambodia, we wouldn't have gone into Laos, if we had not made that determination. If politics is what was motivating what we were doing, I would have declared, immediately after I took office in January of 1969, that the whole damn thing was the fault of Johnson and Kennedy, it was the "Democrats' War," and we're ending it like Eisenhower ended Korea, and we're getting the hell out, and let it go down the tube. We didn't do that. We didn't do it, because politically, whatever, it would have been wrong for the country, wrong

for the world, and so forth and so on, but having come this long way and come to this point, the United States is not going to lose. And that means we will do what is necessary.

Although surrender was not Nixon's strategy, it was the strategy of the antiwar movement, of which Vallely himself was an avid, activist member.

Burns and Novick were also influenced by their adviser Gregory Daddis, a gadfly military historian obsessed with trying to repudiate revisionist histories of the war that demonstrate American and South Vietnamese successes. But for those of us who saw Vietnam firsthand during the war years—Daddis, born in 1967, was too young to do so—the progress made in pacification and Vietnamization during Nixon's first term was clear and undeniable.

Sometimes it seems that Burns and Novick go out of their way to depict the South Vietnamese government as negatively as possible. Not only do they focus on its corruption—which was rampant and is a fair subject for exposure—but they also make a point of highlighting the supposed brutality of the regime. The classic episode, one that had a huge effect on the U.S. public, was the street execution of a Viet Cong prisoner by South Vietnamese police chief General Nguyen Ngoc Loan during the 1968 Tet Offensive. This execution was captured as a color moving picture by an NBC cameraman and as a black-and-white still photo by Eddie Adams of the Associated Press. Adams's photo became one of the best-known images from the war. It is a powerful image, and, reprinted as it often is with little explanation or context, it can be powerfully misleading.

Burns and Novick show the gory NBC footage. But they mention none of the circumstances surrounding the execution, other than that the man being shot was "a Viet Cong agent." A viewer unfamiliar with the story is likely to be left with the misimpression of a young man, perhaps roughed up by his enemies, about to be killed for no clear reason. The violence seems grotesque and gratuitous.

The companion book for the PBS series at least offers some of the relevant background:

> He was an NLF [Viet Cong] agent named Nguyen Van Lem and may have been the head of an assassination squad. (He had been found with a pistol adjacent to a hastily dug grave that held the bodies of seven South Vietnamese policemen and their families.)

The execution without trial by General Loan may still have been unjustified. But it obviously appears in a different light if one knows those circumstantial facts. ("Still photographs are the most powerful weapon in the world," Eddie Adams would later write about his Pulitzer-winning photo. "People believe them, but photographs do lie, even without manipulation. They are only half-truths.") By showing the execution without the background information, Burns and Novick are eliciting the same emotional response from American viewers today that was generated five decades ago by the unqualified television-video and newspaper-photo presentation of the image: How can we support a government that does things like that?

The Vietnam War *suggests that President Nixon secretly wanted surrender, but some of the war's most important successes came during his first term. Below, the misleading photo of Gen. Loan executing a Viet Cong assassin appeared on the front pages of many U.S. newspapers.*


"All the News That's Fit to Print"

The New York Times

LATE CITY EDITION

VOL. CXVII ...No. 40,186 NEW YORK, FRIDAY, FEBRUARY 2, 1968 10 CENTS

PRESIDENT ASKS PAY-PRICE CURBS AND RISE IN TAX

INFLATION FEARED

Economic Report Says Failure to Act Risks a 'Feverish Boom'

LINDSAY REDUCES OUTLAY OF FUNDS FOR NEW SCHOOLS

M'NAMARA SAYS SOVIET DOUBLED ITS ICBM'S IN '67

STREET CLASHES GO ON IN VIETNAM, FOE STILL HOLDS PARTS OF CITIES; JOHNSON PLEDGES NEVER TO YIELD

NIXON ANNOUNCES FOR PRESIDENCY

A RESOLUTE STAND

President Won't Halt Bombing—Predicts Khesanh Victory

ENEMY TOLL SOARS

Offensive Is Running 'Out of Steam,' Says Westmoreland

HOUSE, 383-4, VOTES HELP TO CONSUMERS

CITY U. WILL BUILD IN BROOKLYN SLUM

WESTERNER GETS CITY HEALTH POST

Hanoi Says Aim of Raids Is to Oust Saigon Regime

TOP: HULTON ARCHIVE / GETTY

atrocities? The Hue massacre—the cold-blooded execution by the Communists of at least 2,800 South Vietnamese civilians (the number may be considerably higher) during the Tet Offensive—is given some attention. But the film allows the North Vietnamese and Viet Cong witnesses to give their version of what happened rather than offering a more objective and thorough account by also interviewing victims' relatives, as producer Austin Hoyt did in a limited way in the 1983 television series.

No attention is paid to the Communist attack on thousands of civilians fleeing from Quang Tri Province during the Easter Offensive in 1972. Nor to the shelling of the civilians mixed in with retreating soldiers in the "convoy of tears" during the South Vietnamese rout of 1975. Nor to the Viet Cong's flamethrower extermination of approximately 300 Montagnard civilians at Dak Son in 1967. Nor to the attack on the refugee village of Duc Duc in 1971, in which 80 civilians died.

The Vietnamese Communists are not treated by the filmmakers as saints, as the radical wing of the antiwar movement always treated them—I am thinking, for example, of the late Tom Hayden and his former wife Jane Fonda, among thousands of others—which is perhaps why the hard-left reviews of the documentary have been so critical. But Burns and Novick are clearly more concerned with highlighting Communists' determination and prowess than their brutality.

The great history of the Vietnam war is still waiting to be written. The considerable research efforts and brilliant visual presentation of Burns and Novick (and Ward in the companion book) have captured most of the story of the Kennedy and Johnson years. But they have failed to do justice to the years 1968-73, and thus to the war as a whole.

Even more importantly, they have failed to grasp the nature of the enemy we were fighting. Ho Chi Minh's calculated plan to market himself and his Communist movement as primarily nationalist was effective both for naïve Vietnamese intellectuals and peasants and for naïve foreigners—even through to today. But Ho and his Communist comrades always considered themselves part of a world revolutionary movement, something much bigger than merely a revolution in Vietnam. They frequently referred to themselves as the outpost of socialism in Southeast Asia. (That is why after their victory in 1975, they provided captured American weapons to the Soviet Union for use in Communist insurrections in other nations, most notably in El Salvador in the 1980s.)

The problem is that it is difficult for most people who have never experienced one to grasp the nature of totalitarian movements based on an internationalist revolutionary ideology—and much easier psychologically to reduce it to the familiar, which is nationalism.

Five American presidents and most of their top advisers did not fall into this intellectual trap. But the producers of *The Vietnam War* did. After a century of experience of totalitarian movements and states, and more than 70 years of experience of Vietnamese communism, the time is long past for educated Westerners to be so duped. ♦

B&A

Masterful Monk

The centennial of the high priest of bebop.

BY COLIN FLEMING

Most of us think of jazz as a genre predicated on extemporization—the horn man breaking into an inspired chorus set apart from the rhythmic structure of the song, the pianist using an established chord progression for extended flights of improvisatory fancy.

But the real bedrock of jazz is not improvisation but composition. How songs are written matters immensely: The gifted improvisers can only indulge in their seemingly freeform creations if they have something solid at bottom on which to work. This is especially clear when we look at the music of Thelonious Monk.

Born 100 years ago this month, Monk is considered one of jazz's most influential songwriters. His best-known song, "'Round Midnight," is a relatively conventional ballad. But it is Monk's fractured, angular compositions—songs like "Straight, No Chaser" and "Green Chimneys," with their obsessive repetition of phrase fragments—that became one of the definitive sounds of modern jazz.

Monk has the rep of the eccentric, cerebral jazzer, with his singular internal wanderings—whatever went on in his unique mind—resulting in off-kilter songs with unpredictable beats and quirky rests. His music was uncanny but somehow still logical.

In his early 20s, Monk was a stride pianist, and a good one. This is a formative Monk even his fans don't consider very often, playing after-hours at Minton's Playhouse in Harlem. In those impromptu early-1940s sessions at Minton's there was an emphasis on blues, and it was the blues—albeit a curious strain of blues—that became Monk's foundation.

Bebop was underway during the war years, courtesy of Charlie Parker and Dizzy Gillespie, who unleashed themselves on records as soon as the musicians' recording strike ended in 1944. Monk took a little extra time to get going. But get going he did, cutting some sides for Blue Note in 1947 and 1948 that were later released as *Genius of Modern Music: Volume 1*. The album title was no idle boast. Monk had done something no bebopper had thought to do save as the occasional aside: slow down the medium's frantic rhythms, elongating some, compacting others, to bring in a tunefulness that could be surprisingly melodic.

Colin Fleming is the author of the forthcoming Buried on the Beaches: Cape Stories for Hooked Hearts and Driftwood Souls.

Thelonious Monk in 1964

GEORGES GALMICHE / INA / GETTY

Monk's Blue Note sessions produced a lot of songs that have always struck me as both standards and standards-in-reverse. Can something tailored to one person's way of compositional thinking be an evergreen for all? But this is one of the great paradoxes of Monk's music: When you hear something like "Epistrophy," "Misterioso," or "In Walked Bud," you are hearing something recognizably and particularly Monk's but also something embracingly universal. These pieces have a peculiar familiarity; they feel like music that had always been sounding in your head if you had only stopped to notice it.

Bud Powell—the Bud who "walked in"—was out one night with Monk in 1951 when the pair was arrested for possession of drugs (which belonged to Powell). Monk, unwilling to testify, lost his cabaret card. This meant he couldn't gig in New York City, usually a deathblow for a jazz career. But this setback forced him to make writing his chief outlet.

Monk's stint at Riverside Records from 1955 to 1961 resulted in more songs that toggled between the personal and the universal. He became someone who wrote—and rewrote—his songs within the context of each performance, even from take to take.

Songs like "Crepuscule with Nellie," from the Riverside years, pricked up the ears of John Coltrane, who sensed a new pathway. Coltrane at the time was part hard bopper, part hard thinker—hard bop often being about the nitty gritty of the blues rather than formulations of new kinds of music. "Crepuscule" feels both completely improvised and not improvised at all, and for Coltrane it represented the possibility of reconciling his two halves. He became Monk's acolyte.

Perhaps Monk's 70 or so compositions could have been 250 or more, but over the bulk of the 1960s he reworked a lot of what he had already written. He was celebrated as a personality, something like Louis Armstrong albeit with less crossover appeal. Maybe with that variety of lionizing, Monk felt less of an impulse to compose. Then again, when you listen to the 1960s version of Monk, you encounter steps to the side and recalibrations that are as different in their way from what came before as *A Portrait of the Artist as a Young Man* is from *Stephen Hero*. This was populist modernism.

Monk's final recorded efforts came in 1971. He was still relatively young and would live for another decade, dying at 64. But Monk always had a curious relationship with time, as anyone who has heard his songs, with their unique contortions, can attest. ♦

THE WHITE HOUSE
WASHINGTON

OFFICE OF THE PRESS SECRETARY

For Immediate Release
October 6, 2017

CRYPTIC REMARKS BY PRESIDENT TRUMP
AT SIGNING OF NATIONAL MANUFACTURING DAY PROCLAMATION

Oval Office / 2:05 P.M. EDT

THE PRESIDENT: Thank you very much. It's an honor to be here with the great men and women of American manufacturing. In a few moments, I will sign a presidential proclamation declaring today National Manufacturing Day. And it's a good day to do this since, you know, winter is coming.

From the founding of our nation, from Washington to Jefferson, from Jackson to McKinley, our nation has long understood that our strength as a country depends upon the strength of our domestic industry. And we will need strength because something wicked this way comes.

We're all better off when we make, buy, and sell more products made in the U.S.A. And that's what's happening in our country, and you see it. And I see dead people.

Today and in coming weeks, manufacturers in all 50 states will hold events to encourage more Americans to pursue a career in high tech and the high-tech world of modern manufacturing. Also, today I settled all family business so don't tell me that you're innocent.

We've also already created tens of thousands of new manufacturing jobs. Plants and companies are coming back into our country. They're coming back in and, perhaps, even more importantly, they don't want to leave anymore, because they know they're leaving a very good thing—because there is . . . another . . . Skywalker.

And if Congress acts on our historic tax cut, the largest in the history of our country, and also tax reform and that framework that we've put forward, it will be even more so. The Walrus was Paul.

And I will tell you, the receptivity to what we're proposing is fantastic. We're keeping our companies, and the companies are coming back in. And perhaps, most importantly, we're making our workers happy, and they love to work. Chaos is a ladder!

So I want to thank everybody for being here. Thank you very much, everybody. Thank you. What's the frequency, Kenneth?

END • 2:08 P.M. EDT