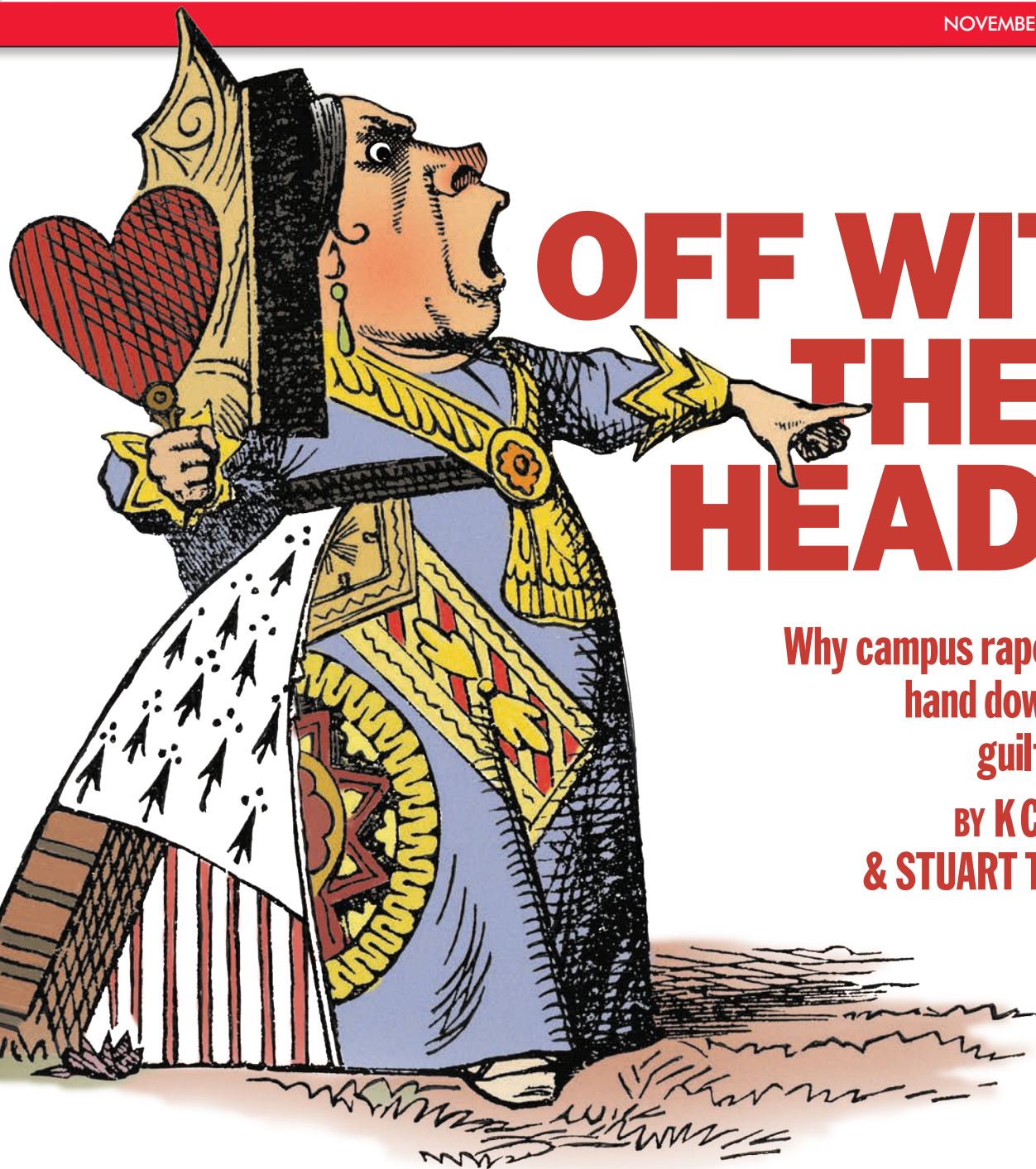


**SPINNING
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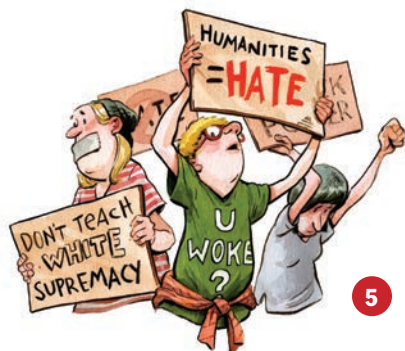
OFF WITH THEIR HEADS!

**Why campus rape tribunals
hand down so many
guilty verdicts**

**BY KC JOHNSON
& STUART TAYLOR JR.**

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Campaign Canoodling

Donna Brazile's new book, *Hacks*, is doing boffo box office. So much so that the day after the book's official release, Amazon was sold out of hardback copies.

By now you've no doubt heard some of the more scandalous details that have boosted sales. Such as: When Brazile took over as interim head of the Democratic National Committee during the summer of 2016, she discovered that the Democratic primary election had been rigged. A year before, the very broke DNC had made a desperate, corrupt deal with H. Rodham Moneybags. There was a contract, Brazile explains: In "exchange for raising money and investing in the DNC, Hillary would control the party's finances, strategy, and all the money raised."

Brazile learned all this after replacing Rep. Debbie Wasserman

Schultz, who was forced out of leading the DNC in no small part due to anger over the party's unfair treatment of Bernie Sanders. And with the Clinton campaign pulling the DNC's strings, there is good reason to believe that how Sanders was treated was no accident.



Randy Clintonistas? We don't want to know.

Much of the book is devoted to detailing how the Clinton campaign—like a baseball team convinced sabermetrics will win it the pennant—obsessed over data-driven vote-targeting. In a short but piquant detour, Brazile explains that she had an old-school campaign metric of her own—one that didn't bode well for Team Hillary. She writes that Democratic congressman Tony Coelho used to say about campaigns: "Are the kids ... having sex? Are they having fun? If not, let's create something to get that going, or otherwise we're not going to win." Brazile laments that by that measure, Hillary's New York-based campaign was doomed: "I didn't sense much fun or f—ing in Brooklyn."

THE SCRAPBOOK would wager this wasn't a problem on any of Bill Clinton's winning campaigns, where the candidate led by example. ♦

Art, All at Sea

It's always a source of delight when liberal pieties collide. Which is what happened last week in Laguna Beach, California, when Art had it out with the Environment—and Art lost. What made the contretemps doubly delicious was that the art in question had been promoted as an environmental statement.

The Laguna Art Museum was preparing for its annual "Art & Nature" festival, to consist of various exhibits and activities organized around "the theme of art's multi-faceted engagement with the natural world." Each year the festival features one "commissioned outdoor work of art." This year the work, *Seascape*, was to be one of those fanciful shticks for which modern art is so well known: Mexican artist Pablo Vargas Lugo proposed sticking a streetlight

on a buoy offshore. (Or, to be exact, "a buoy-like Styrofoam lookalike.")

The work was supposed to be one of a couple of ways the museum would be calling attention to the threat of—wait for it—global warming. The



The Seascape that wasn't (SCRAPBOOK rendering)

Laguna Beach Environmental Sustainability Committee, for example, helped to craft an "installation" on the city's Main Beach called *Rising Tides*. That work, according to museum executive director Malcolm Warner, "seeks to foster public con-

sciousness of rising sea levels due to climate change."

Seascape was also supposed to raise consciousness: "As a lonesome-looking streetlight out in the ocean," Warner said, "it's a deliberately surprising and memorable sight that symbolizes the inundation of our cities and highways with sea-level rise—a beacon showing the way we are headed unless we change course."

With all that self-congratulatory right-thinking going on, it's not a surprise that the museum failed to anticipate the full extent to which it might have an environmental problem itself.

Warner said the museum got the green light for the floating streetlight from the California Department of Fish and Wildlife and the U.S. Coast Guard. Permission was also secured, or so the museum thought, from the California Coastal Commission. If so,

TOP: DREW ANGERER / GETTY; BELOW: OCEAN / CHRISTOPHER

it was rescinded. The museum announced, the weekend of the festival, that the streetlight-buoy rig would “not be on view,” because the Coastal Commission had “directed the museum to hold off on installing the piece while some environmental issues and concerns are addressed.”

Too bad: The public will miss out on an opportunity to be poetically apprised of the dangers of sea-level rise. But at least they’ve been taught that one of the climates susceptible to change is the regulatory climate. ♦

It’s an Old Story

It’s possible Celino Villanueva Jaramillo is the world’s oldest man. Born in 1896, he is now 121 according to Chilean government records, making him four years older than the current Guinness World Record holder, the *Guardian* reports.

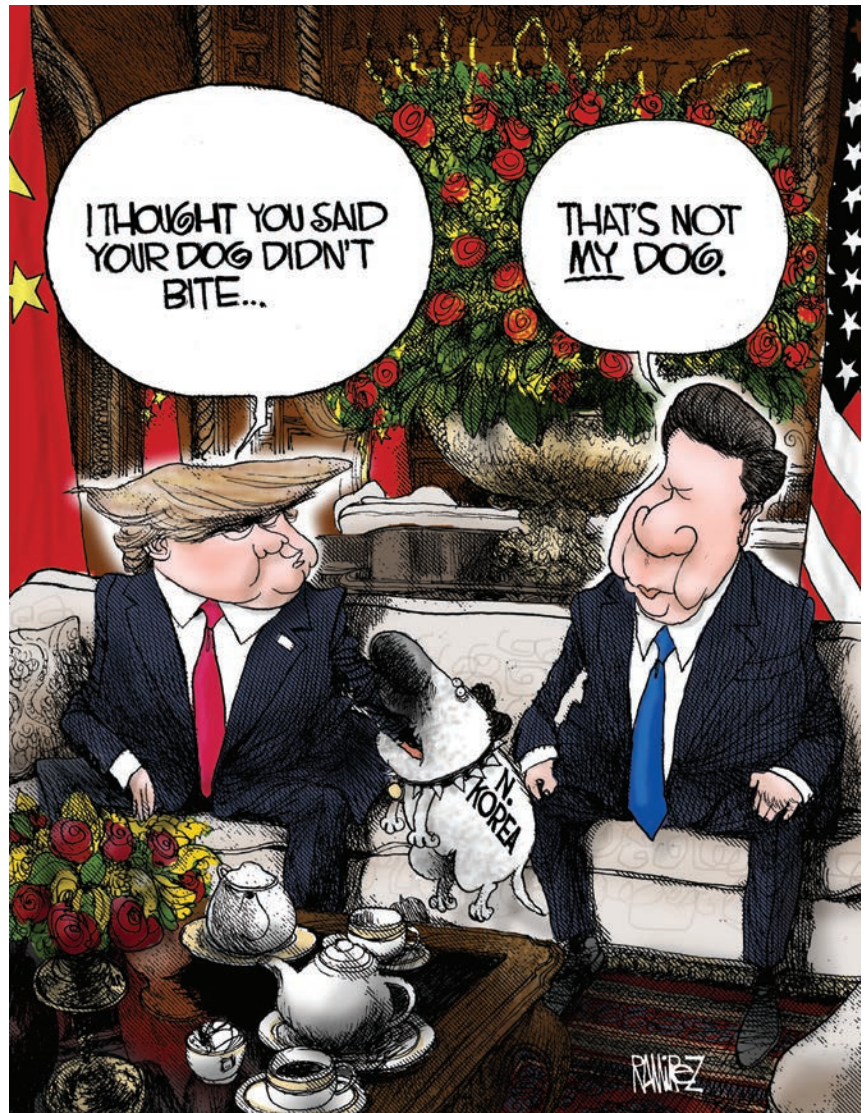
As of this writing, he is still living and in the care of Marta Ramírez, who first agreed to look after Jaramillo after his house burned down, leaving him penniless. She must have assumed it would be short-term, given that Jaramillo was then 99. That was over two decades ago.

So what is the secret to his longevity? Chilean officials have suggested he has state-run health care to thank. According to the *Guardian*, when the president and minister of social development visited Jaramillo a few years ago, they “told him he was a shining example of health and vitality ... and of the government’s commitment to Chile’s seniors.”

The wonders of government-pro-



One of those Cuban hospitals, at left, where they do more with less



vided health care are often pointed to in efforts to explain the large number of the extrasuperannuated in Cuba (when lifetimes of limited calories may be the more plausible reason). Cuba, of course, is a classic case of communism’s economic decrepitude and ineptitude. But faith in the greatness of Cuba’s (understaffed, ill-equipped) hospitals might as well be the left’s old-time religion.

It was with a gimlet eye we saw an article published last month by RAND Corporation researchers titled “Doing More with Less: Lessons from Cuba’s Health Care System.” The irony is that the RAND Corporation was once essential to the success of the United

States’ Cold War standoff with the Russkies. Instead of cheering regimes like Cuba’s, RAND researchers provided the Strangelovian intellectual firepower behind arguments a nuclear war was winnable (a doctrine that, however dubious, was necessary for deterrence to be credible).

Alas, RAND, which has long insisted on its nonideological centrism, isn’t quite the anti-Communist bulwark it once was. And if its sappy paean to Cuban medicine is any indication, it isn’t the home of megawatt brainiacs it once was either. THE SCRAPBOOK guesses it just goes to show: Live long enough and you’ll have seen everything. ♦

BELOW: THINKX



Un Chien Errant

You might think that a meeting of junior ministers at France's Élysée Palace is nothing to get excited about. But French president Emmanuel Macron's black labrador-griffon, Nemo, apparently found talk of inner-city investment a little too exciting late last month.

It seems that during the meeting, Nemo took the opportunity to relieve himself on one of the palace's ornamental fireplaces. We know this not because of a helpful Fusion GPS dossier, but because TV cameras happened to be there for a photo op.

The *Guardian* reports: "Nemo brought a whole new meaning to the term presidential leaks ... when he cocked his leg for a long and abundant wee against an ornamental fireplace in Macron's gilded office during a filmed meeting between the president and junior ministers." So much for French *savoir-faire*.

It's not known if Nemo was punished for his faux pas. But this being France, one wonders if there is palace intrigue. After all, Nemo is a recently acquired shelter dog who, as the BBC notes, "had been abandoned in Tulle, in the southern Corrèze region, the home base of Mr. Macron's predecessor, François Hollande." What a conspiracy it would be if the pup has been planted as part of a—*zut alors!*—dirty tricks campaign. ♦

Getting Religion

The *Washington Post* last week featured this arresting headline: "A breach of trust": A preschool, a

church and a change in mission."

For a moment, we imagined that a local church preschool had chosen to practice the contemporary form of inclusivity by excluding religion from its program. It was exactly the opposite: The Rev. Susan Brown, pastor of the Concord-St. Andrew's United Methodist Church in suburban Bethesda, Md., recently decided that, beginning next fall, the church's popular preschool "will incorporate age-appropriate Christian lessons in [its] daily activities." The church has operated its nursery school for the past five decades with what the *Post* calls "a secular approach . . . without including much, or anything, in the way of religious instruction." Some parents are unhappy—really unhappy—about the change.

While THE SCRAPBOOK believes that religious institutions have every right to include religion in their mission, we can understand the dissatisfaction of nonreligious moms and dads with the new curriculum. What we didn't expect was the virulence of their comments.

"Bridges have been burned," declared one distraught dad. Added another parent: "Complete disappointment, that was my first reaction. And then disgust."

THE SCRAPBOOK is prompted to point out that the great institutions of higher learning in early America nearly all had sectarian origins that, while now largely moot, seem to have done them no harm. The fact that Concord-St. Andrew's has chosen to embrace its reason for being seems to be a welcome development, the very opposite of a "breach of trust." ♦

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My Old School

I used to despise the relative obscurity of my alma mater, Reed College. The name of the Portland, Oregon, liberal arts school has spurred more than a few quizzical looks in Washington when I've mentioned it. "Reed? Where's that?" This has been a persistent source of chagrin and insecurity about my social status. A friend and former colleague knew how to play this masterfully: One day I received a call on my office line. When I picked up, he simply asked, "Is Reed even accredited?" And down the phone went.

Reed's anonymity is partly self-inflicted. Sure, the school of 1,400 has a stellar reputation among academics: It's second among all liberal arts colleges in Rhodes Scholarships awarded (32) and routinely ranks in the top five, percentage-wise, of college graduates who go on to earn doctorates. But Reed hides its light under a bushel. It refuses to participate in the *U.S. News* college ranking survey, for example. That's intellectually defensible, laudable even. The clickbait-before-clickbait-even-existed list actually penalizes intellectual rigor, dinging schools that graduate a lower percentage of students. Apparently it's bad that a school like Reed is tough to get through; the *U.S. News* scheme encourages schools to wave along even failing students in order to keep their graduation rates up. (Public school teachers' unions, famous for graduating students who can't even read, would surely love such a system.) But Reed's proud refusal to play the *U.S. News* game adds to those quizzical looks, not to mention idiots calling it "Weed College." And it hasn't escaped my notice that while Bill Gates and Mark Zuckerberg are invariably referred to in media reports as "Harvard dropouts," Steve Jobs, who went to Reed, is almost always simply a "college dropout."

But, it turns out, notoriety isn't always a good thing either. In recent months, a flurry of national publications have written about my old school, and what they've reported hasn't been good. A protest movement, dubbed Reedies Against Racism, has taken to disrupting lectures in Hum 110, the mandatory freshman humanities course that focuses on Ancient Greece, Rome, and the Bible. Reedies Against



Racism, which charges the course is "white supremacist," is inspired by Black Lives Matter; they apparently think the problem with rogue cops is that they've spent a bit too much time reading Aristotle and Plato.

Reed's administration, led by president John Kroger, has badly mishandled the protest movement. Kroger began by attempting to appease the mob; he moved up a scheduled decennial review of the Hum 110 curriculum and allowed silent protests in the classroom. Reedies Against Racism pocketed their gains and pushed for more: This fall, they disrupted Hum lectures so badly that they ended up canceled. Cue the cascade of pieces about Reed in the likes of the *Washington Post*, the *Atlantic*, and the *Economist*.

The pieces are generally fine, with a few caveats. Reading them is a bit like hearing your own voice recorded;

something seems . . . off. For example, the school is often referred to as "ultra liberal" or, in the words of the *Atlantic*, "the most liberal college in the country." This is nonsensical; the "most liberal college in the country" would never have a mandatory course like Hum 110. Nor does Reed offer majors in women's studies, ethnic studies, or any other disciplines that would mark it as truly "liberal" (though those subjects aren't ignored: Hum 110, for example, examines the role of women in the ancient world). Sure, the student body leans left—we're not talking about Brigham Young here—but that didn't stop a suspected reactionary like myself from being elected to the student senate. And, as mentioned, the most famous person to have attended Reed just happened to be one of the most successful entrepreneurs in modern history.

If you think I'm sounding a bit defensive here . . . you're probably right. Reed's a special place, and I'm proud to have attended. The only school to host a nuclear reactor manned by undergraduates also stages Renn Fayre every spring, a three-day bacchanalia of sex, drugs, and rock 'n' roll. (Though those on hallucinogens are kept away from the reactors during Renn Fayre, we all hope.) Reed has no NCAA sports teams yet does have mandatory PE (badminton FTW). That, indeed, is the tragedy of Reedies Against Racism: If they have their druthers, Reed will be just like every other liberal arts college in the country. Instead of Hum 110, there'll be ethnic studies around the clock and mandatory training in microaggressions. At that point, Reed might as well be done with it and execute a strategic merger with Brown University, a school that's bizarrely proud of how few demands it places on its students.

But hey—nobody ever asks if Brown is accredited.

ETHAN EPSTEIN

Honesty Is the Best Policy

The November 7 elections, in which Democrats took governorships in Virginia and New Jersey and most of the other closely contested offices, have been analyzed and debated in the way off-year races always are. The winners interpret their wins as a sign of imminent triumph; the losers make excuses.

What the overall outcome makes clear, however, is that Republicans up for election in 2018 face a dilemma. If they don't embrace Donald Trump and his brand of political disruption, they will dampen the enthusiasm of the Trump-friendly GOP base. If they embrace Trump's brand, they will alienate the nearly 6-in-10 Americans who disapprove of Trump's presidency. His base loves him and distrusts anyone who doesn't share its passion for the man and his works. But in poll after poll, a majority of Americans take the opposite view.

GOP primaries begin in just a few months. Republicans who keep their distance from Trump will invite challenges. But those who win by embracing Trump will have made themselves less attractive general-election candidates. There will be exceptions based on the makeup of districts and states, and, of course, a year is a long time in politics. Still, it's hard to see how the Republicans' dilemma will become any less perilous between now and Election Day 2018.

Trump boosters claim that the only answer is an unqualified embrace of the president and all that he brings. For evidence, they point to Ed Gillespie's failed gubernatorial run in Virginia. Gillespie began his campaign as a traditional Republican—he emphasized tax cuts, a more efficient use of transportation funding, education reform, etc. He started as the presumptive GOP nominee, but barely defeated a fervent Trump supporter named Corey Stewart in the primaries.

Gillespie began running a more aggressive campaign that made use of some of Trump's culture-inflected concerns, and sure enough his poll numbers rose. He stressed the need to deal with illegal immigration and criticized his opponent, Ralph Northam, for stances thought to be soft on gang crime. When Northam said he would lead an effort to remove Confederate monuments, Gillespie pounced. His campaign even sent out a flyer implicitly chiding NFL players for kneeling during the national anthem ("You'd never take a knee . . . so take a STAND on election day").

Even so, Gillespie was never the Trump-backing reactionary candidate many in the media portrayed him to be.

He is something of a wonk, and his campaign talks were frequently policy-heavy and rather dull. They were nothing like the rah-rah rallies of Trump clones like Kelli Ward of Arizona or the aforementioned Corey Stewart. Gillespie's remarks on immigration were hard-hitting but not extreme; and his criticisms of Northam's comments on Confederate monuments were legitimate—as Northam implicitly admitted by stepping back from his promise. Gillespie didn't run as a populist or a nationalist; he ran as a conservative Republican who wasn't tone-deaf to the concerns of suburban and rural Republicans who, rightly or wrongly, worry that their culture has changed too much and too fast.

Gillespie had very little to say about Trump himself, though. The president's aid to Gillespie was mainly confined to Twitter. Mike Pence came to Virginia in person, but not Trump.

The ambivalent approach didn't work—Gillespie lost to Northam by 9 points.

But gubernatorial elections remain local contests, and Gillespie had weaknesses of his own. He is not a prepossessing candidate and was easily outshone by Northam. Gillespie is from New Jersey, not Virginia. Democrats, animated with an anti-Trump zeal, should always have had the momentum in a bluish purple state like Virginia. That the race was as close as it was says as much about the Democrats' post-Hillary travails and incompetence as it does about Gillespie's supposed "model" of winning as a Republican.

For Trump and his supporters, though, the only reason Gillespie lost is that he didn't express sufficient love for the president. "Ed Gillespie worked hard," Trump tweeted after Northam's victory, "but did not embrace me or what I stand for." Trump loyalist and Fox News host Laura Ingraham took a similar line: "Maybe Gillespie wouldn't have won if President Trump campaigned with him, but trying to be half-in, half-out with Donald Trump was never going to work." If you can't decide what you think about Trump, Ingraham said, you're going to "turn out like Ed Gillespie: political roadkill."

It may be true, as the British socialist Aneurin Bevan once remarked, that those who stay in the middle of the road get run down. Anyone who thinks Republicans won't get run down if they just stick close to Trump is mistaken. According to the most recent Fox News poll, Trump's approval rating is 38 percent. His disapproval



is 57 percent. And 49 percent of those asked say they “strongly disapprove” of Trump’s job performance. And it’s not just Trump the man. Trump’s net disapproval rating is higher than his approval on issues like health care (-27), North Korea (-24), Iran (-21), taxes (-14), and, remarkably, the economy (-5). An unqualified embrace of Donald Trump is a strategy for losing.

If you distance yourself from Trump, you invite primary challenges. If you embrace Trump, you risk losing in the general election. How to handle the Trump factor in 2018, then?

We suggest honesty. Where Trump is right, praise him without ambiguity or equivocation. Where he is wrong, criticize him without apology. There is no formula for running a conservative campaign in the age of Trump. Denouncing him won’t win elections, and neither will mimicking his antics or lauding his leadership. Winning as a conservative will take what it’s always taken—sound arguments, cogently expressed by principled men and women.

Trump will be an issue in 2018, for sure. But despite what Trump and the media may think, he doesn’t have to be the *only* issue. ♦

Thoughts and Prayers

It’s impossible to know—and difficult even to contemplate—what sort of nihilistic depravity could drive a man to do what Devin Kelley did on the morning of November 5. Kelley killed 26 and injured at least 20 at the First Baptist Church of Sutherland Springs, Texas.

For the second time in a little over a month, Americans have been forced to contemplate man’s capacity for evil. Not “evil” in the literary sense; not some general badness that gives a movie or a book its dramatic tension. No; this was the sort of motiveless malice that points a rifle at recoiling innocents—at crying infants and small children—and pulls the trigger.

Americans prefer action to contemplation. The common response to any such horror is to wonder: What can we do, right now? Hence the rapid calls after an act of mass murder for changes in gun laws that wouldn’t have altered the outcome even if they had been in place beforehand. This is often little more than catharsis.

The cathartic response usually wants to know how the shooter acquired his guns. After the Las Vegas massacre, we learned that the killer, Stephen Paddock, had no criminal background. He purchased his guns legally, and nothing could have stopped him apart from an outright ban on and confiscation of all semi-automatic weapons. Congress

could ban the “bump stocks” Paddock used to make his semi-automatic weapons fire like machine guns, but no one believes such a ban will stop mass gun killings. Even a full-on gun ban, supposing such a thing were possible in America, wouldn’t stop a man like Stephen Paddock. There are around 300 million guns already in circulation in the United States. Men given to hellish designs will get their tools illegally if they need to.

In the case of Devin Kelley, the killer should have been barred from purchasing a weapon. Kelley had been court-martialed in the Air Force. He had battered his first wife and injured her young son—an offense for which he served a year in military prison. He had also been caught sneaking firearms onto Holloman Air Force Base in New Mexico, made death threats against superior officers, and been forcibly placed in a mental-health facility.

Somehow none of this history made it into the FBI’s National Instant Criminal Background Check System. The relevant office in the Air Force did not send the records to the FBI.

Had Kelley shown up in the NICS database, he would have been unable to purchase the guns he used in Sutherland Springs. The right law was in place, then, but the system failed because military bureaucrats didn’t do their jobs. Accordingly, Congress will now pass legislation to require them to do their jobs by transmitting criminal records to the FBI in a timely fashion.

A similar sort of failure came to light after Dylann Roof murdered nine worshipers at Mother Emanuel church in Charleston, South Carolina, in 2015. Roof had been arrested on a misdemeanor and admitted to possession of illegal drugs. This should have made him ineligible to buy a gun. The charge was incorrectly recorded, however, and the FBI official attempting to conduct the background check on Roof took longer than three days to track down the correct information. By then the sale had gone ahead. The three-day limit has been criticized by lawmakers and commentators, but the law was sound. No law can abolish human error and bureaucratic incompetence, and bureaucrats and regulations are no match for a soul gripped by depraved aspirations.

Each act of mass murder brings a similar debate over legislative proposals. Some of these proposals are defensible and right, but the debates are primarily therapeutic. They will save no one.

There are times when we must pass new laws, but passing laws, particularly ineffective ones, can give us the false sense that we’ve made ourselves more secure simply by doing something. Sometimes what’s called for isn’t action but thought. Or, depending on one’s tradition, prayer. And in the aftermath of an event like Sutherland Springs—in which a man committed acts that can hardly be put into words—perhaps we’d do better to reflect on the nature of human evil and consider the possibility that our culture has unloosed some dark mania that no law can stop. ♦

It Won't Be Easy This Time Either

The lessons of the 1986 tax reform.

BY TONY MECIA

Tax reform looked like it was in peril. Influential business groups, including real estate agents and homebuilders, opposed it. Lobbyists were working feverishly against it. Opinion polls showed the public was as unenthusiastic as many members of Congress.

That was 1986, the last time Congress drastically overhauled the tax code. But the same dynamics are at work today. And as Republicans labor to push a tax bill through Congress, they speak nostalgically of the events of 31 years ago.

House Ways and Means chairman Kevin Brady, in his opening comments at the markup of the Tax Cuts and Jobs Act on November 6, said the 1986 law “was the most sweeping overhaul in American history” and that today’s legislators face a similar challenge: “coming together to fix a tax code that has become just as broken, complex, and unfair as the one President Reagan and Congress overhauled in 1986.”

In Republican mythology, Reagan turned around an anemic economy and overcame Democratic resistance in Congress by taking his case for tax cuts to the American people. The Reagan cuts, the story goes, more than paid for themselves, since the strong economic growth that resulted led to increased government tax collections throughout the 1980s. That’s essentially true, but it is much more descriptive of Reagan’s 1981 tax cuts than the ’86 reform.

Like the current plan, the 1986 reform traces its roots to a presidential

campaign. In his 1984 State of the Union address, Reagan said he was directing his Treasury Department to devise a plan to “simplify the entire tax code so that all taxpayers, big and small, are treated more fairly.” While Treasury worked away on the details, Reagan campaigned on the prospect of lower, fairer taxes, casting them as an essential part of freedom and American prosperity.

Three weeks after blowing out Walter Mondale, Reagan received Treasury’s recommendations and passed them along for Congress to implement. The outlines are strikingly similar to those of the current plan: eliminate deductions (even popular ones), increase the individual standard deductions, slash corporate rates, and decrease the number of brackets. At the time, there were 16 brackets, and decreasing them to just 2 or 3 seemed so novel that some publications referred to it as a “modified flat tax.” One key difference: From the beginning, the 1986 plan was designed to be revenue-neutral; today’s plan envisions a net cost of \$1.5 trillion over 10 years.

Democrats controlled the House, while Republicans held the Senate. It is hard to imagine in this politically polarized time, but Democrats in the mid-1980s were open to a Republican tax plan. It is true few were enthusiastic about the bill, but nobody wanted to be blamed for its demise—least of all by a president who had just carried 49 states and had approval ratings above 60 percent.

The tax-reform effort benefited from leaders who advocated it forcefully. Reagan delivered a prime-time speech on tax reform in May 1985,

followed immediately not by the customary rebuttal, but by a televised statement of support from Rep. Dan Rostenkowski (D-Ill.), chairman of the House Ways and Means Committee.

The reform push would last nearly two years, with the bill almost failing a number of times. In the House, it nearly died in committee, but Rostenkowski started making deals and secured the votes. In the full House, a preliminary vote on tax reform failed when Republicans defected over not being able to vote on a proposal to change the taxation of federal pension benefits. Reagan interceded, and it passed on a second vote.

In the Senate, where Bob Packwood of Oregon headed the Finance Committee, prospects initially looked bleak, too, after Republicans proposed keeping many business tax breaks. But Packwood altered their approach—legend has it after two pitchers of beer with an aide at the Kelly’s Irish Times, a popular Capitol Hill watering hole. His proposal of lowering rates on business made eliminating tax breaks more palatable, and the bill prevailed.

Summarizing the tax bill’s odyssey through Congress, the *New York Times* said, “tax legislation came close to death more times than an alley cat.”

The bill that won approval called for just two tax brackets, with the top rate falling to 28 percent from 50 percent. In today’s parlance, that would be translated as a massive tax cut for the rich. Corporations, too, enjoyed rate cuts, from 46 percent down to 34 percent. In a move that helped poor and middle-income taxpayers, the bill raised the standard deduction and personal exemptions. To compensate for the lost revenue, the measure raised taxes on capital gains, closed deductions and loopholes, dramatically scaled back credits for business investment, and expanded the alternative minimum tax.

The Reagan administration estimated that 60 percent of taxpayers would receive a tax cut, while 20 percent would see an increase. In contrast, the current plan making its way through the House would cut

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taxes for 76 percent of taxpayers and raise taxes on just 7 percent, according to an analysis from the liberal Tax Policy Center.

The 1986 tax reform plan—the one that slashed tax rates of millionaires and billionaires and of big corporations—passed by big bipartisan margins. “You couldn’t tell what party anybody was in the discussion,” remembers Jeffery Trinca, legislative counsel to the National Association of Enrolled Agents and the tax aide to Sen. David Pryor (D-Ark.) back in 1986. “If you had timber in your district, you fought for timber. If you had poultry, you fought for poultry.”

The *New York Times* editorialized in favor of tax reform, praising the curtailment of using the tax code to create winners and losers: “Along with the direct benefits of cutting marginal tax rates, reform offers an opportunity to return to more open government decisions, openly arrived at.”

The bill attracted the votes of more than two-thirds of Democrats in each chamber—including a “yea” from a

young New York representative named Chuck Schumer. Today, Senate minority leader Schumer is a leading critic of tax reform, saying it is “little more than an across-the-board tax cut for America’s millionaires and billionaires.”

Reagan signed the bill into law in October 1986, calling it a triumph for risk-taking and innovation: “This tax bill is less a reform than a revolution. . . . The bill I’m signing today is not only an historic overhaul of our tax code and a sweeping victory for fairness, it’s also the best antipoverty bill, the best pro-family measure, and the best job-creation program ever to come out of the Congress.”

But tax reform wasn’t a winner for congressional Republicans. Just two weeks later, they lost five seats in the House and eight in the Senate, handing control of the upper chamber to the Democrats.

The stakes may be even higher this time around. If Republicans fail to pass a plan, they face the real prospect of going before voters in 2018 with no major legislative accomplishments.

The idea behind tax reform remains to simplify the code—clearing away the underbrush of provisions that reward certain expenditures with favorable tax treatment while, at the same time, lowering tax rates, so that most people pay close to or less than what they did before. This would make the tax code cleaner, more efficient, and less prone to abuse. But it can be a tough political slog, as many deductions sound helpful and compassionate, such as paying less in taxes if you have high medical expenses or student loans, suffer catastrophic losses from fire or natural disaster, or move somewhere for a new job. Tax reform can begin to push the government out of the incentives business.

Incentives will not disappear completely. In a nod to low- and middle-income taxpayers, the Republican plan increases the child tax credit and adds a new credit to help care for elderly parents. In a reversal from the 1986 law, which expanded the alternative minimum tax, the current version repeals it.

One criticism of the 1986 bill was that it did little to boost economic growth, because the tax changes related to the treatment of business investments were too punitive. An analysis by the Tax Foundation found that the 1986 reforms actually shrank the U.S. economy by 0.2 percent. The current bill heads in the opposite direction, speeding write-offs of capital expenditures. The White House Council on Economic Advisers forecasts that the

business changes would add more than 4 percent to long-term growth. The more growth the greater the odds that wages will rise.

In developing the current tax package, Republicans clearly studied and learned from the 1986 reform. But to get it through Congress, they'll need to do more than just refer to Ronald Reagan. They will need the same creative and persistent leadership Congress showed three decades ago. ♦

political winds at its back. Even without Republicans in full-on opposition, the bill would certainly have been controversial. With the GOP united, public support came almost entirely from partisan Democrats. Pew found 47-48 percent opposition to health care reform from October to December 2009, with support only in the 34-38 percent range.

But the states of New Jersey and Virginia hold especially noteworthy elections the year after a presidential election. In 2009, Republicans switched both states' governor's offices to their column—very possibly, or so many said, a harbinger of GOP gains in the midterm elections. But an even bigger shock came in January 2010 when Republican Scott Brown, running explicitly against Obamacare, won a special election in Massachusetts to fill the seat of the late Ted Kennedy. Brown's election deprived Democrats of their ability to overcome a GOP filibuster.

Republicans were keen to proclaim the demise of health care reform by popular demand—a reprise of the collapse of a similar effort in the first two years of the Clinton administration, the most recent period during which Democrats controlled the executive and legislative branches. Democrats, in the GOP view, should get the message and abandon their efforts—or else prepare to pay a very steep price in the next congressional election.

I don't think most Democrats really believed that pressing on with the reform effort even amid evident public resistance was actually going to cost them the House. But they quite rightly rejected the GOP's political advice to give up—or to drastically scale back their ambitions. Though perhaps in the worst possible way, they dragged their historic legislation across the finish line, and the president signed his biggest domestic achievement into law.

But suppose many or even most Democrats did think that passing

A Bucket List for the House GOP

Use your majority while you still can.

BY TOD LINDBERG

To those feverishly speculating, whether in glee or in terror, that the election results in Virginia and New Jersey portend loss of GOP control of the House of Representatives in midterm elections a year from now, I ask this question: What difference does that prospect make not as of January 2019 but between now and then? The analogy is imprecise, but if someone told you authoritatively you were going to be pushing up daisies 14 months from now, how would you handle the news? I think an answer many people would give would be: make the most of the time you have left.

For an example of how to go about doing that, one need look back no further than the first year of the Obama administration.

In 2009, the top priority for

President Obama and the Democratic party in Washington was to pass a health care reform bill. They were trying to do so on the strength of their possession of the White House



Is it too much to ask?

and strong majorities in the House and Senate. The 111th Congress opened with 60 Democratic senators, enough to defeat a filibuster and pass legislation without GOP votes—and indeed, on this topic, the GOP was providing none.

The incipient Affordable Care Act was hardly sailing with the

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ANDREW HARRER / BLOOMBERG / GETTY

Obamacare was going to cost them the House. Would they have been correct to conclude that abandoning or shrinking their efforts would save them from the “shellacking” (in Obama’s post facto assessment) that they ended up taking in November 2010, losing 63 House seats and 6 Senate seats?

There are a couple of ways to look at the question. One is that losing your House majority, like death, is the end of the world for you. Another is that losing your majority might, under certain circumstances, be worth it—perhaps in order to enact legislation your party had long regarded as no less than the unfinished business of FDR’s New Deal.

Say whatever else you will, the Democratic House majority of 2010 went out in style. The caucus successfully undertook an effort that made a lasting policy change. To see that, one need only look at the failure this year of the GOP House and Senate majorities’ self-styled effort to “repeal and replace” the legislation. That word “replace” was doing a lot of heavy lifting—it referred to policy changes introduced under Obamacare that they were unwilling simply to undo. Many Democrats these days openly embrace a “single-payer,” nationalized health care system. Obamacare was a step on the way to that goal—imperfect, to be sure, but setting in place changes not easy to reverse.

To the extent that the “repeal and

replace” effort failed because of GOP fear of the electoral consequences of anything they could put on the table—including the mildly deranged last-ditch attempt to solve the problem by throwing a bunch of money to the states with instructions to go figure something out—maybe a refreshing hypothesis about the state of political play is: What are you talking about? You’re already dead.

Consider the House majority gone. Consider an amazing opportunity to build your Senate majority to have gone up in smoke. Now what?

The last time Republicans were about to lose their House and Senate majorities was 2005-06. The wars in Iraq and Afghanistan were dragging on inconclusively, and the political danger for Republicans was palpable. Yet scraping through also seemed possible. Running for reelection in 2004, George W. Bush had campaigned on private accounts for Social Security. Congressional Republicans evinced little interest, and their other legislative efforts *in a period in which they controlled Congress and the White House* consisted mainly of flattering their social-issues constituency (contributing to an impression of the party that didn’t serve them well with other constituencies come the midterm). The world did little note nor long remember what they said there or what they did there.

House speaker Paul Ryan has

spoken on numerous occasions about his determination to have his conference ready for simultaneous GOP congressional and White House control so as not to squander the opportunity. His effort was evidently unsuccessful. It may even have been impossible. As all the votes to repeal Obamacare when there was no actual prospect of repealing Obamacare demonstrate, the problem is fundamentally different when you play for real stakes.

Or at least it is if you think you have a political future beyond the current moment. As it happens, I think the GOP would be better off politically going into the 2018 election having passed a tax cut than having tried and failed to pass one. But suppose it doesn’t really matter. Suppose it’s already over, the Democratic base having been well and truly energized in opposition to Donald Trump in a way that the GOP will never be able to energize its own base. It’s a midterm, after all; why does anyone think voters enthusiastic about Trump but casual in their general political engagement will turn out when he isn’t on the ballot?

So, as the Clash once asked, “When they kick at your front door / How you gonna come? / With your hands on your head / Or on the trigger of your gun?” Will the House GOP majority go down with a bang or a whimper?

The chance remains to set in place significant policy changes that Republicans believe would be good for the economy. I’m not sure whence came the impulse to create upheaval and chaos by eliminating the state and local income and property tax deductions, capping the mortgage interest deduction at \$500,000, flirting with capping 401(k) contributions at a lower level, and taxing university endowment income. The desire to punish blue things? But you can’t find a serious economist from either party who thinks the corporate tax rate is about right and that the United States benefits from trillions of dollars in corporate profits sitting overseas because the tax code makes it senseless to repatriate them.

How about fixing that on your way out of town? ♦

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The image shows a promotional graphic for a podcast. At the top left, there are two overlapping labels: "Podcast" and "Weekly Standard". Below them, the word "CONFAB" is written in large, bold, black, hand-drawn letters. To the right of "CONFAB" is a photograph of a white mug filled with coffee. To the right of the mug, the text "The story behind the stories. Join host Eric Felten each week at weeklystandard.com" is displayed in a clean, sans-serif font.

A Wave No One Saw Coming

The GOP wipeout in Virginia.

BY FRED BARNES

Ed Gillespie ran a perfect campaign for an election that didn't happen. Ralph Northam ran a sloppy campaign with the same election in mind. Northam won, no thanks to his own efforts, and will become governor of Virginia in January.

We all know politics is unfair, volatile, and often unpredictable. But Virginia was a special case. Pollsters, pundits, so-called political experts, and aides and advisers to Gillespie and Northam—in other words, everyone—thought the race between the two colorless candidates was neck-and-neck on Election Day.

Gillespie appeared to have been quite successful in avoiding being linked to President Trump. He managed this by pretending Trump didn't exist and thus giving no thought to the president's endorsement, which he got anyway.

He followed to a T the Republican playbook for winning in a Democratic state with a prosperous upper class and large minority and immigrant communities. He spent months establishing himself as nonideological and able to appeal to moderate, independent, and college-educated voters.

In the closing weeks, he took a tougher line and attacked Northam's support for sanctuary cities and restoration of voting rights to ex-felons. For this, the media said he was "Trumpian." He wasn't. The anti-crime ads were standard fare in campaigns.

Northam had been pulled to the left by his primary opponent Tom Perriello, a Bernie Sanders endorsee. Liberals were upset when they learned Northam

had voted twice for George W. Bush for president and had been approached by Republicans eager for him to switch parties. Northam eased their minds by attacking Trump furiously.



Gillespie concedes, November 7.

But later he drifted rightward. He flipped on sanctuary cities, saying he never liked them. And his campaign seemed to have no point except getting him elected. It was as if he expected the Virginia tradition of electing governors from the opposite party of the president to carry him to victory.

That tradition may have helped, but practically everything else the candidates did had no bearing on the outcome. An electorate with a chunk of voters waiting for a problem-solving, moderate-sounding Republican to fall in love with didn't materialize. That alone doomed Gillespie.

What did develop was a massive anti-Trump undertow leading to a wave election. Such elections, like stock market crashes, are unforeseen and startling. It meant a great deal of what Gillespie and Northam did in the campaign was meaningless. The effect on voters was nil. The media's impact was also negligible.

The exit poll found that one-third of voters were motivated by the opportunity to send a message to

Trump—and not a favorable one. This explains why a boring campaign produced a record turnout that swelled to 2.6 million from 2.2 million four years ago. Northam got more votes than a candidate for governor of Virginia ever had.

Democrats rode "a wave of liberal resentment toward President Trump while also promising rational governance to centrist swing voters," according to Paul Kane of the *Washington Post*.

Rational governance? I doubt that's what moderates had in mind in voting for Northam. Moderates are capable of disliking Trump too. And they surely found Northam, a former Army doctor and lieutenant governor for the past four years, more palatable than a liberal candidate. In the exit poll, 64 percent of voters who identified themselves as moderates voted for Northam.

"Throughout the course of the Virginia campaign, Northam was never beholden to the Democratic party's loudest, most liberal voices, as evidenced by his shift on sanctuary cities," Douglas Schoen, a Democratic pollster and consultant, noted.

Sean Trende of *Real Clear Politics* thinks the possibility of an anti-Trump wave should have been expected, given his loss in Virginia to Hillary Clinton by 5 percentage points in 2016 and low popularity today. Trende identified "unthinkability bias" as a cause for analysts' surprise. This was especially true in the case of the Democratic surge in state legislative races. The GOP's 66-34 seat majority in the House of Delegates was wiped out in a day.

Republicans now will argue over whether Gillespie should have embraced Trump and invited him to Virginia. But that's a losing proposition. That would have created a bigger wave.

Henry Olsen, writing in *City Journal*, says now that Virginia is solidly blue, "Republicans can win statewide only if they run campaigns that appeal to non-conservative, college-educated voters." But that's what Gillespie did.

The solution resides with Trump. It's simple: Mr. President, change your behavior. ♦

Fred Barnes is an executive editor at THE WEEKLY STANDARD.

RICKY CARIOTI / WASHINGTON POST / GETTY

The Great GOP Exodus

More than two dozen House members are retiring. How many more will follow? BY JOHN McCORMACK



Jeb Hensarling waves to the press in the lobby of Trump Tower, November 17, 2016.

With each passing week, more and more congressional Republicans are announcing their retirements. Their reasons are varied. Jason Chaffetz of Utah quit Congress to take a job as a Fox News commentator. Several members not seeking reelection, like South Dakota's Kristi Noem and Tennessee's Marsha Blackburn, are running for statewide office.

A few, like Florida's Ileana Ros-Lehtinen and Pennsylvania's Charlie Dent, have been frustrated with President Trump. But eight-term congressman Jeb Hensarling of Texas, who announced his retirement on October 31, says the Trump storyline is overblown. "There are some in the media who try to paint a narrative of retiring members having something to do

with the president," Hensarling tells me. "Although like many Republicans, I occasionally wish he would tweet a little less, I'm very excited about most aspects of the president's agenda."

So far, the number of House Republicans elected in 2016 who are not seeking reelection in 2018 has topped two dozen, more than 10 percent of the GOP caucus. Congressional Republicans worry that if the stream of retirements turns into a flood, it will increase the chances of a GOP wipeout in 2018. As much as voters say they dislike Washington, it's still harder to beat an incumbent than to win an open congressional seat.

Hensarling cites several factors that led to his retirement. Term limits would have forced him to step down as chairman of the Financial Services Committee, and at age 60 he believes he has one last career left in him. "I have a goal that many Americans share, and

that is: I'd like to work less hard, make more money, and spend more time with my family," he says. Another big factor is that the inability to get legislation passed by the House enacted into law is "exceedingly frustrating," says Hensarling, and that frustration is widely shared by colleagues.

Congress "in many respects has enfeebled itself," Hensarling says. "One way it has enfeebled itself is through the current practice of the filibuster rules in the Senate." The Senate's filibuster rules give 41 members the ability to block almost any piece of legislation, such as Hensarling's conservative reform of Dodd-Frank, the financial regulation law signed by President Obama in 2010. While some conservatives argue that the filibuster is worth keeping in order to prevent bad legislation from getting passed, Hensarling believes the greater threat is Congress's ceding power to an "unaccountable, unelected bureaucracy" in the executive branch.

And that's yet another reason why congressional Republicans are anxious to pass tax reform via the budget reconciliation process. That process is Congress's one opportunity each fiscal year to take up significant legislation that can't be filibustered. "Tax reform is a fairly existential issue," a senior GOP House campaign operative tells me. "In my experience, the single most important factor to deter retirements is: Are lawmakers legislating?" With the Senate's failure to use reconciliation to pass a bill partially repealing and replacing Obamacare before the end of the year, tax reform may be the congressional GOP's only shot at a big legislative victory before the 2018 elections.

Republicans are facing strong pressure from the outside to pass tax reform. "My donors are basically saying, 'Get it done or don't ever call me again,'" New York's Chris Collins told reporters on November 7. But even tax reform isn't a clear-cut political victory. While most middle-class taxpayers would be better off under the GOP plan, the bill's paring back and eliminating certain deductions makes it a mixed bag for upper-middle-class

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DREW ANGERER / GETTY

voters more likely to live in high-cost, high-tax districts won by Hillary Clinton. House Republicans hold a 24-seat majority, and 23 of them represent districts won by Clinton in 2016.

So far, only a few of the Republicans from Clinton-won districts have announced they will retire. Rep. Elise Stefanik of New York, who's in charge of candidate recruitment for the House GOP, notes that the party has already fielded strong candidates in several competitive districts. In Washington state, Republican Dave Reichert is retiring from a district won by Clinton, but the GOP hopes to replace him with Dino Rossi, a well-known state senator who nearly won the 2004 gubernatorial election in that deep-blue state.

Republicans also plan to go on offense in Democratic districts won by Trump. Stefanik points out that in a Minnesota district won by Trump, Republican candidate "Pete Stauber just outtraised incumbent Rick

Nolan. Pete Stauber has an incredible story—served in law enforcement, a hockey star, just dogged in how he's campaigning and getting around the district."

While retirements in strongly Republican districts will not likely put those seats in play for Democrats, the departure of so many incumbents can reshape Congress in significant ways. A majority of the House GOP conference was elected in 2010 or later, and the retirement of veteran legislators means there will be fewer Republicans with leadership experience and expertise, thereby increasing reliance on K Street lobbyists. Jeb Hensarling is a perfect example of the kind of damage retirements can do to the GOP. When John Boehner fell from power in 2015, there was talk that Hensarling was one of the few members respected enough to lead the fractious GOP caucus. Bob Goodlatte is another example. First elected in 1992, the

Virginia congressman and judiciary committee chairman announced his retirement on November 9.

It's too early to detect any sort of trend, but retirements from strongly Republican districts may also present the opportunity for more populist, Trumpian candidates to fill the ranks of the GOP. *Politico* reported on November 3 that *Breitbart News* chief Steve Bannon, Trump's former chief strategist who has vowed to wage a war on the Senate GOP, pledged in a meeting with Ohio congressman Steve Stivers, head of the House GOP's campaign committee, that he would not focus on primaries against House Republicans. In 2016, *Breitbart's* top GOP primary target was Paul Ryan, who defeated his Trumpist challenger by 70 points. But open seats in strongly Republican districts could be fertile ground for more populist candidates in 2018. "We haven't seen a surge of Bannon-type candidates in the House," says *Cook Political Report* House analyst David Wasserman. "That's not to say those types of candidates won't be successful in open seats."

Republicans are less likely to stick around if they think they're going to lose control of the House in 2018. A lot can change in 12 months, but polls asking voters if they prefer a Democratic- or Republican-majority House give Democrats nearly a 10-point advantage, according to the *Real Clear Politics* polling average. Presidential job approval often has a strong influence on midterm elections, and only 38 percent of voters approve of Trump's performance, according to the *RCP* average of polls, while 57 percent disapprove. And the Democratic sweep in Virginia last week underscored the fact that GOP control of the U.S. House of Representatives is precarious at best. "It's hard to see Democrats as anything other than narrow favorites for House control in this environment," says Wasserman. "The next month will tell us a lot more than the last. Republicans could be on the verge of an exodus in swing seats. But we don't know for sure today." ♦

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Why Not?

Against fatalism.

BY WILLIAM KRISTOL

I remember as a kid hearing John, Robert, and Teddy Kennedy all using in speeches various paraphrases of these lines from a play by George Bernard Shaw: “You see things; and you say ‘Why?’ But I dream things that never were; and I say ‘Why not?’”

The rhetorical question “Why not?” neatly fit the mood of 1960s liberalism. Even as a youth I was enough of a conservative to distrust it. If there were things that never were, I figured there was probably a reason for that. I also sensed that setting out this kind of utopian standard was dangerous to reasonable politics. So perhaps it’s a sign of hope triumphing over experience, of wishfulness replacing hard-headedness, that I find this quotation coming to mind today.

But what’s the alternative? Accepting that there is no escape from the political quandary in which we conservatives now find ourselves? Is that kind of resigned fatalism—what Tocqueville called a “sort of soft and idle terror that weakens and enervates hearts”—our fate? But isn’t this as false to the human experience, and especially to the American experience, as the other side of the same coin, a kind of wishful and deceptive utopianism?

Yes, it is true that there are some things that never were that really aren’t achievable, and that shouldn’t be pursued. But it’s also the case there are other things that don’t now exist that it’s not simply contrary to the nature of political reality to seek to achieve. One thinks of the founders

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of this republic, who in a hard-headed way did establish a successful regime that they claimed represented a “*novus ordo seclorum*”—a new order of things.

Are we incapable of achieving a new order of things in American poli-



tics? Are we stuck with the situation we face—a Republican party led by an irresponsible populist demagogue stoking grievances and dividing the country, and a Democratic party increasingly tending towards a progressivism indifferent to limited constitutional government at home and American leadership abroad?

Maybe. Political scientists will cite Duverger’s law, which shows that our electoral system tends strongly to two parties, to throw cold water on independent or third-party efforts. Everyone knows it’s been a half-century since a third-party or independent candidate won any electoral votes, and over a century since one made a real race of it at the presidential level. And historians will cite the experience of the last 50 years, in which primary opponents have failed to defeat sitting presidents, to throw cold water on the notion of depriving Trump of the GOP nomination in 2020. Pollsters will chime in to point out that Trump in fact has 80 percent or so approval among Republicans, and therefore will point out it’s likely

the Republican party will remain Trump’s party.

But are we really fated to sit by and watch a Donald Trump-Elizabeth Warren presidential contest in 2020 take us to new political lows? Can’t we as a self-governing people have the wit and the nerve to avert this outcome? The best way to get from a depressing here and now to a more uplifting there in the future is unclear. The odds are against us. But why not try?

This “Why not?” is, after all, a practical goal. It doesn’t require some sort of transformation of Americans’ souls.

It just requires some practical hard work informed by political imagination. It requires a dose of what was admirable about the old liberalism—a determination to change what can and should be changed, a conviction that we are in some important ways masters of our fate and captains of our destiny.

So why not either a restored Republican party or a new party of liberty—or perhaps “just” a one-off independent presidential candidate who can restore liberal constitutional democracy to a sound footing? Why not a revived conservatism—and also a vigorous and fresh new center? Why not, even, a liberalism that frees itself from progressivism and remembers that liberty comes first?

Isn’t this possible? Isn’t this a reasonable and achievable task to set ourselves for the next few years?

Why not? ◆

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BIGSTOCK

A Party Divided Against Itself . . .

Is pretty much business as usual in America.

BY PHILIP TERZIAN

I was in New England for a few days last week and found myself at breakfast one morning with a group of Armenian academics, born in Lebanon but now settled permanently in and around Boston. By any measure, they were a distinguished group—historians, physicians, political scientists—and for them, of course, the Big Story of the moment was the sudden resignation of the Lebanese prime minister, Saad Hariri.

On that subject I had nothing to tell them that they didn't already know. What they wanted from me, however, was some insight—any explanation, really—into what they considered the Big Story of American politics: division within the Republican party.

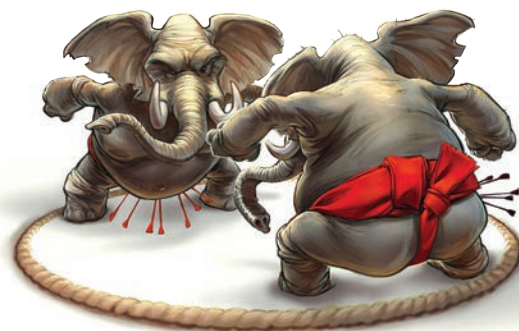
In four-and-a-half decades of writing on American politics, this was not the first time I had been asked that question. But the answer last week was my stock response: The Republican party is sorely divided, but how could it be otherwise? We are a nation of 325 million people, and there are two—count 'em, two—political parties of any significance. The interludes when unity prevails in the GOP are briefer than the long days of discord. For that matter, comparisons between Lebanese democracy and ours only dramatize the differences; fractious Lebanon, a nation of just 6 million torn by civil war, has (by my rough count) over 35 political parties loosely connected into rival alliances. What

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sort of “division” would you prefer?

So the Republican party has lately been shaken and to some degree destabilized by the rise of Donald Trump. But Trump's peculiar gift is to have shaken and stirred the Democrats as well. And therein lies a tale.

Most political journalism tends to be wishful thinking: Pundits see



what they want to see, exaggerate and minimize for effect, and generally relate what their audience wants to hear. Best of all, few readers hold writers to account. Since most political journalists in America tend to be “left-leaning”—to use the polite phraseology—inevitable differences in Republican ranks are not just magnified but, in my experience, almost exclusively noticed.

At the present time, there is no question that the Trump wing of the party—if it's a wing, and if it can be called Republican—has little good to say about conventional Republicans such as Mitch McConnell or Paul Ryan or George W. Bush. But to draw a more accurate picture of the national battle-lines you would need to ask an admirer of, say, Bernie Sanders or Elizabeth Warren what he thinks

about Debbie Wasserman Schultz or either Clinton. The Democratic party is united in its contempt for Trump, but the GOP was uniformly disdainful of Barack Obama. In politics, offense is easier than defense.

In fact, it is possible to argue that internal disunity—factions and tendencies within a single party—is far more commonplace, surely a more natural instinct, than harmony in American political history. This was certainly true in the 19th century, which featured (among other things) the demise of the Federalists, the rise and fall of the Whigs, a secession movement, and Civil War, and is equally true within living memory. Democrats look backward to the Roosevelt coalition, which dominated politics for two generations, with awe—and no wonder. Beginning in 1932, Franklin Roosevelt presided over a disparate alliance of Midwestern union members, rural Southern segregationists, and urban Catholics and Jews in the North, which only fell apart in the late 1960s.

But while the press tends to dwell on right-wing realignment—whatever happened to liberal Republicans? how dangerous is the Tea Party?—the left-wing version of the story is politely ignored. The Roosevelt coalition was finally broken by the election of Ronald Reagan in 1980, but Reagan's legislative triumphs in the subsequent decade were made possible by the shifting allegiance of Democrats, who still dominated the House. There are fewer liberal Republicans than there used to be, yet no one seems to wonder what became of conservative Democrats. When, in 2003, Howard Dean boasted that he represented the “Democratic wing of the Democratic party,” he was rebuking his own crowd, not the other side.

Indeed, the capture of the Republican party—the “party of Lincoln”—by its right wing has been a perennial story since the Eisenhower years because it fits a convenient, though

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largely fictitious, narrative. There is always a golden age of high-minded moderation and good behavior supplanted by subversive extremism. That was the explanation for Barry Goldwater's insurgency in 1964, for Richard Nixon's opportunism in 1968, and for Reagan's radicalism in 1980. Now, in the age of Trump, the press is pleased to look back respectfully at Reagan, Nixon, and Goldwater—and both Bushes, John McCain, Bob Dole, and Mitt Romney—but that was scarcely its perspective in their time.

So blinkered, in fact, is the folklore of the radical GOP that the modern evolution of the Democratic party has been lost in translation. Division, after all, takes many forms. The party that had prosecuted the Second World War, and laid the foundations for the anti-Soviet alliance, produced a presidential nominee, in 1972, whose clarion call was "Come Home, America." The party that enshrined colorblindness in law (1964) now busily divides the electorate by genetics. And instead of wondering why Southerners, or evangelicals, or blue-collar voters might be prompted to switch parties, Democrats choose to insult their beliefs and condemn their character.

None of this is meant to draw attention away from the obvious fractures in Republican ranks. The coalition that propelled Donald Trump into the White House may be a harbinger of the party's future, or it might have been a symptom of his opponent's weakness. Trump's success might be a premonition of national crisis, or it might be a reminder that leaders—FDR, Ike, Reagan, Clinton—count for more than we care to acknowledge in democracy.

Division within the Republican party, like division within the Democratic party, is neither unusual nor necessarily unhealthy. And there is such a thing as irony: The Goldwater conservatives who supplanted the Nixon-Ford liberals in the 1970s are among the louder voices decrying Trumpism. All of which is a reminder that unity bears a certain resemblance to complacency, and the only permanent condition of politics is impermanence. ♦

A History of Failure

Tax reform is much more difficult than tax cutting.

BY JAY COST



The good old days: The Tax Reform Act of 1986 gets signed into law, October 22, 1986.

Having failed to repeal and replace Obamacare, congressional Republicans have turned their attention to tax reform. Given the disappointing track record of the 115th Congress, a victory on taxes is a political must-win. However, the history of tax reform is mostly one of failure and suggests that the GOP has its work cut out for it.

Tax reform is different from tax cutting. Granted, any tax reform package is going to include a whole host of cuts, but there is more to it than that. Tax reform is also an effort to purge the tax code of wasteful, unfair, complicated, or counterproductive exemptions, allowances, or refunds. That means that some people will see tax increases.

If tax reform is deficit neutral, i.e.,

it neither adds to nor subtracts from the national debt, the benefits for the winners will be equal to the costs for the losers. Collectively speaking, deficit-neutral tax reform can still be a net benefit to society, as a simpler and more efficient tax code increases productivity and thus growth. The challenge, however, is overcoming the objections of the individual factions that are going to see their tax bills increased. History suggests just how difficult a task this is.

The push for tax reform started shortly after Congress stopped using the code solely as a source of revenue, and instead as a tool for economic and social engineering. The first major "engineered" tax law was the Tariff of 1816. One of its central purposes was to protect (mostly Northern) industries deemed essential to national security. However, within a decade, Southern

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planters, whose interests were harmed by industrial protection, were decrying the tariff as an unconstitutional breach of governmental authority.

Ever since then, there has been a cyclical pattern: Congress creates tax legislation designed for some defensible purpose (growing the economy, promoting homeownership, stimulating industry, etc.); over time, these laws accumulate, creating needless complexity and unfairness; Congress tries, and usually fails, to fix this problem of its own creation.

After the Civil War, the tariff became a massive logroll that ensnared capitalists, industrial workers, Midwestern farmers, and even Union veterans—largely for the maintenance of the Republican coalition between the Civil War and the Great Depression. The tariff regime was so corrupt and inequitable that progressive reformers successfully implemented an income tax, going so far as to get a new constitutional amendment ratified in 1913. Yet just as soon as Congress acquired

the power to tax income, it started playing the same old game. And the first calls for income-tax reform came in the 1920s.

All in all, income taxes were a modest source of revenue until World War II, when the government increased rates and created a broad base. That increased opportunities for tinkering with the tax code in all sorts of ways.

In particular, Congress likes to make use of “tax expenditures,” which are basically spending programs within the tax code via exemptions or credits for special groups. These can be need-based (for example, the earned-income tax credit), equity-based (the state and local tax deduction), group-based (excluding GI Bill benefits from taxation), generalized economic incentives (the treatment of capital gains), or specialized economic incentives (depletion allowances for the oil industry).

Whatever the merits of any particular exemption when it is first enacted, these credits tend to create problems

over time. They accumulate, making the schedule overly complex (which itself creates inequality, as wealthier individuals or firms can afford tax specialists who secure a lower effective rate). They become outmoded, as business practices or economic priorities change. They can also compound with other exemptions or credits, creating accidental tax havens.

The problem with fixing these issues is similar to the problem of cutting spending: Even if the sum total is bad for the country, somebody, somewhere, benefits from each particular item and usually has allies in government who are looking out for his interests.

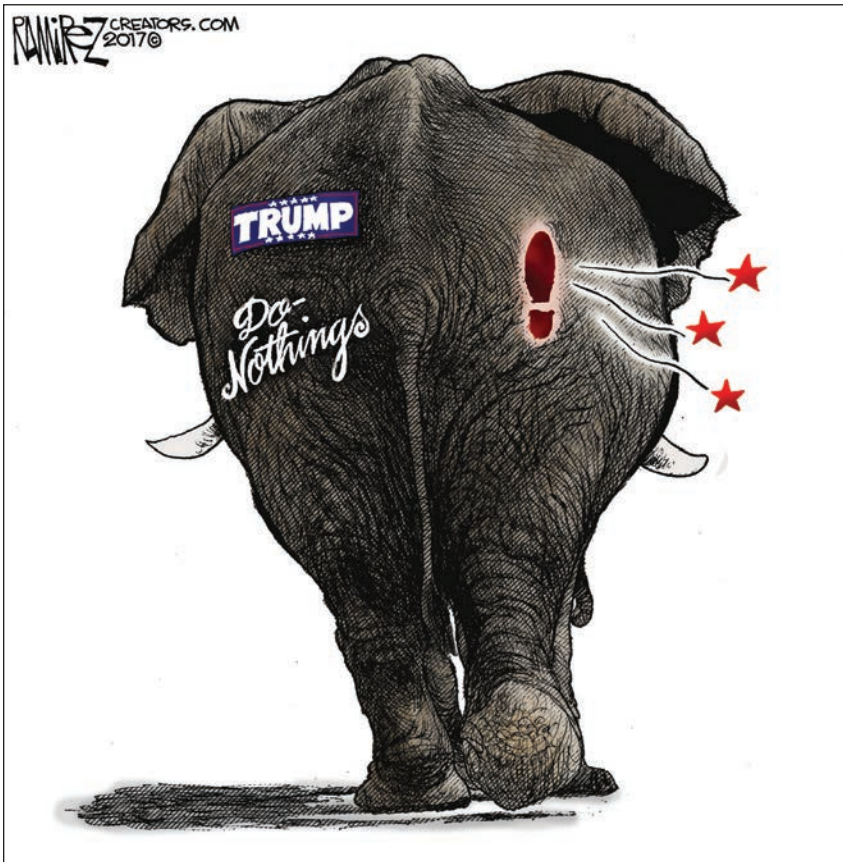
The Tax Reform Act of 1986 is the exception that proves the rule. Congress successfully streamlined the tax code that year, but it required an extremely rare confluence of factors.

First, the tax cuts of the early 1980s benefited some industries more than others. Changes made in 1981 interacted with some Kennedy-era laws to create opportunities for massive tax shelters, especially for capital-intensive firms like General Electric. This, in turn, created a coalition of “losers”—businesses that could not benefit from these shelters—who put pressure on Congress to create a more equitable playing field.

Second, the public had a heightened awareness of this inequity, thanks to the rapid increase in the budget deficit following the 1981 tax cuts. Many big corporations were paying little to nothing in income taxes, even as their stock prices rose. This rubbed many Americans the wrong way, putting pressure on government to reform the system.

Third, both parties were more or less committed to tax reform. Early in his presidency, Ronald Reagan had been opposed to closing tax loopholes, figuring this was the same as raising taxes. But, anticipating that Democrats were going to run on tax reform in the 1984 election, he shifted his views. By 1986, both sides were ready to deal.

And even then, the big reform could very well have fallen apart. Lobbyists



descended on Capitol Hill in an effort to secure privileges for their employers. As Jeff Birnbaum and Alan Murray recalled in *Showdown at Gucci Gulch*, their classic account of the 1986 tax reform, “The amount of time, money, and effort expended on tax lobbying throughout 1985 and 1986 was enough to overwhelm even the most cynical congressional observer.” Even though Congress did streamline the code, one analysis from the *Philadelphia Inquirer* found over 650 exemptions still in the law, mostly written in a legalistic way that hid the identity of the beneficiaries.

The political situation in 2017 is

less fortuitous than it was in 1986. There is no coalition of industry groups complaining about how they are being treated; there is little public clamor for fundamental reform; and there is no bipartisan agreement.

None of this is to say that tax reform cannot happen. Only that it is incredibly difficult. Our tax code is collectively inefficient and unfair, but each line in it was written for a reason. Each provision benefits some faction or company, which will fight tooth and nail to retain it. Overcoming this collective action dilemma has stymied generations of lawmakers. Why should this one be different? ♦

The FCC's Radio Sweetheart

A public station that runs ads? Don't try this unless you have powerful allies. **BY DAVID A. SCHWARZ**

Broadcasting from the heart of California's San Joaquin Valley, KUFW-FM offers a mix of regional Mexican and *ranchera* music, the sort popularized by Selena, Los Tigres del Norte, and Vicente Fernández (aka *El Rey de la Canción Ranchera*). And there are commercials—lots of them—advertising everything from auto body repair shops (“If your car is wrecked, no problem: Prestige Paint and Body Shop can do a professional job!”) to tombstone fabricators (“granite with pictures of your loved one that has gone to a better life!”). The only difference between KUFW and its competitors is that KUFW is licensed as an educational “public radio” station. It isn't supposed to run ads.

The FCC knows a lot about KUFW's revenue-generating activities. Over the last two decades, KUFW and its parent network, Radio

Campesina, have been admonished or fined five times by the FCC for airing advertisements “that were clearly aimed at inducing the purchase of goods or services from several for-profit entities,” as distinguished from the public service announcements that noncommercial stations can run. Five years ago, the inspector general for the Corporation for Public Broadcasting (which funds KUFW) found the station in material noncompliance with the CPB's grant terms. In April 2013, Radio Campesina agreed to repay nearly \$400,000 in CPB community service grants. The source of repayment? Future grants by the CPB.

It's pretty obvious why KUFW ran those advertisements. The revenues far outstrip the FCC's relatively small fines. But how does a “non-commercial” station escape with just a slap on the wrist after airing hundreds of commercials?

My client, Gerawan Farming, one of the largest family-owned agricultural

employers in the state of California, asked that question of the FCC four years ago when KUFW applied to renew its license.

Gerawan got interested in KUFW after its co-owner, Dan Gerawan, tuned in to an early morning broadcast called “*Despierta Ya Campesino*” or “Wake Up Now Farmworker.” The program bills itself as an exposé of the “intense abuse and mistreatment that farmworkers still suffer in the fields.” On December 21, 2012, that program featured an interview with the national vice president of the United Farm Workers of America (UFW), who discussed the opening of the UFW's “campaign” against Gerawan Farming.

That “campaign” began 20 years after the UFW was certified in 1992 as the exclusive bargaining representative of Gerawan's workers. After one preliminary bargaining session in early 1995, the UFW vanished. In the two decades that followed, the union did not contact Gerawan to negotiate a labor contract or file any grievances on behalf of its workers.

Two months before announcing its “campaign” on KUFW, the union resurfaced and demanded that Gerawan resume contract negotiations. Gerawan agreed, and asked the UFW to propose economic terms. It didn't. After staging a few surface “bargaining” sessions, the UFW invoked a forced contracting process under which the California Agricultural Labor Relations Board (ALRB) may draft and impose a contract on Gerawan and its workers. Gerawan and its employees challenged this UFW-sponsored law in court. Two years ago, a state appellate court (which noted the undisputed fact that Gerawan paid higher wages than any of its competitors) struck down the legislation as unconstitutional. The case is now before the California supreme court.

To date, the FCC has not taken any action to pull the plug on KUFW. Instead, in late July 2016, commission staffers fined the station \$12,500 and approved Radio Campesina's request to swap KUFW's public radio license for a license to operate as a for-profit station. The proposed swap remains pending

David A. Schwarz practices law in Los Angeles. His firm represents Gerawan Farming.

before the FCC. Meanwhile, KUFW continued to broadcast ads illegally (and profitably), a point acknowledged by the FCC but apparently overlooked by the CPB, which doled out nearly \$1.2 million to the station while KUFW's license was under review. (In its order imposing the fine, the FCC noted the station's "acknowledgment that it did—as Gerawan alleges—violate the law and rules governing underwriting announcements.")

How could Radio Campesina hope to turn its history of violations into the grant of another valuable commercial broadcast license? One clue might be in the name of the station and the president of the entity that owns KUFW. Paul Chavez—son of the famed labor leader Cesar Chavez who founded the UFW—is the president and chairman of the foundation that holds the FCC license for KUFW and 10 other stations, the Cesar Chavez Foundation. The foundation oversees one of the largest Spanish-language radio networks in the western United States. Its other nine stations are for-profit, commercial entities.

While the Chavez Foundation was acquiring radio stations and government-subsidized "farmworker" housing projects (including one located in San Francisco), the UFW apparently lost interest in organizing farmworkers. Today, the union has one-tenth the dues-paying members it attracted in its salad days in the late 1970s.

The collapse of UFW membership has not diminished its political clout. In 2015, Governor Jerry Brown signed off on a \$15 million package to keep the union's Robert F. Kennedy health insurance plan on life support. According to Miriam Pawel, the former *Los Angeles Times* investigative reporter and Chavez biographer, the RFK plan has fewer than 3,000 participants, and a good number of them aren't farmworkers at all: 10 percent of the plan's beneficiaries work for the UFW and its related entities, including Radio Campesina and the Chavez Foundation.

The UFW probably has stronger

ties to politicians than to the workers it claims to represent. Cesar Chavez's granddaughter was special assistant to the president and senior deputy director of public engagement in the Obama White House. Her father, Arturo Rodriguez, runs the UFW and sits on the Chavez Foundation board. Mr. Rodriguez hitched a ride in 2015 on Air Force One with another former community organizer, President Obama, and in 2016 bent candidate Hillary Clinton's ear in a private meeting in Fresno, where (according to



iViva Chavez!

campaign staff emails published by WikiLeaks) he asked Clinton to "help in the dispute" between the UFW and Gerawan Farming.

Jerry Brown's choice to head the ALRB told the *Los Angeles Times* earlier this year that the UFW has "absolutely no interest in organizing the unorganized" and spends most of its time in Sacramento lobbying for laws and regulations—or fighting off worker petitions to kick out the UFW. When he resigned from the ALRB in January 2017, William Gould IV told Brown that 99 percent of California's agricultural workers remain unorganized, and that the "dream statute" that created the ALRB four decades ago "is now irrelevant to farmworkers."

KUFW states that it has been "proudly broadcasting our founder's messages for two decades." One of Chavez's beliefs was his skepticism that any labor law could actually help farmworkers. Chavez initially did not support the California Agricultural Labor Relations Act. His trademark tactic was high-profile boycotts of table grapes and lettuce. According to

Brown, "Chavez repeatedly said that his boycott was a much better organizing tool because the law would always be captured by the powerful economic interest that control politics."

Chavez did not live long enough to see his union wield its political clout to exact retribution on growers. Case in point: Last year, the U.S. Court of Appeals in San Francisco upheld a constitutional challenge to recently enacted California wage and hour legislation that excluded three California farmers (including Gerawan) from the protections of that law in order "to procure the support of the UFW."

Ironically, it is Gerawan's workers—not the UFW—that heeded Chavez's message. They picketed, protested, and petitioned against an ALRB-imposed contract that would force them to hand over 3 percent of their paychecks to the UFW or lose their jobs. By Gerawan's estimate, 1,500 of its workers shut down harvesting in late September 2013 in one of the largest one-day farmworker strikes since the creation of the ALRB in 1975—probably the first time workers threw down their tools in protest *against* the UFW and the ALRB's refusal to hold a decertification election.

That protest is a vivid reminder of why unions, employers, and workers have a right to say what's on their minds. But what's not clear is why the public should pay for the UFW's megaphone, or why it is fair or legal to allow KUFW to masquerade as "public radio."

California congressmen Devin Nunes and David Valadao asked the FCC earlier this year why it hadn't put a stop to KUFW's illegal conduct and why KUFW ads such as the one it ran last year promoting a weekly "Sexy Leg and Macho Man contest with gift prizes" at the El Reventon Nightclub qualify as public service announcements.

So far, the only response from the FCC (other than a polite non-response from Ajit Pai, the new chairman) has been radio silence. ♦

The Title IX Training Travesty

Why campus rape tribunals hand down so many guilty verdicts

BY KC JOHNSON & STUART TAYLOR JR.

In November 2014, a female member of Brown University’s debate team had oral sex with a male colleague while they watched a movie. Eleven months later, she filed a complaint with Brown, accusing him of sexual assault.

Both parties in the case had credibility issues; he had violated a no-contact order, she had withheld from the university the bulk of their text messages. But the accused student possessed strong exculpatory evidence. He produced the full record of their communications, which included texts from the accuser to him discussing the encounter in a highly positive fashion and referencing a “plan” to have sex again. Further, a friend of the accuser, who saw her shortly after the incident, recalled her raving about her “really hot” experience.

Nonetheless, Brown’s disciplinary panel returned a guilty finding by 2-to-1. The decisive vote came from Besenia Rodriguez, the university’s associate dean for curriculum.

In subsequent court testimony after the accused sued Brown, Rodriguez admitted that she had not considered the accuser’s text messages or other post-incident behavior as having any bearing on the case. The reason, she said, was the hours of training that Brown had provided to prepare her to adjudicate the complaint—training required by the federal government. Rodriguez was specifically told that the impact of trauma on sexual-assault victims often causes them to

behave in counterintuitive ways, such as not being able to recount a consistent set of facts or choosing to communicate with (rather than to avoid) the alleged assailant. “I felt like it couldn’t—I couldn’t really put myself in her shoes to understand why she was representing it that way,” explained Rodriguez, “so best not to attempt to judge her behavior.”

But judging the accuser’s behavior, noted U.S. District Judge William Smith, “was precisely her job as a panel member: to interpret the evidence and make factual determinations about it.” He added, “It

appears what happened here was that a training presentation was given that resulted in at least one panelist completely disregarding an entire category of evidence”—evidence severely damaging to the accuser’s credibility.

Smith invalidated the university’s decision, noting, even apart from Rodriguez’s dereliction of duty, the overall process was far from equitable. The Brown official who designed the training Rodriguez received, Alana Sacks, did not respond to a request for comment.

Since 2011, the federal government has required all universities that receive federal money to provide “training or experience in handling complaints of sexual harassment and sexual violence” to adjudicators and investigators. Since

nothing in the experience of most academics prepares them to competently investigate an offense that’s a felony in all 50 states, it makes sense to train those who are assigned to investigate campus sexual-assault allegations. But the ideological regimes used on many campuses are designed more to stack the deck against accused students than to ensure a fair inquiry. The risk of injustice is enhanced by the fact that, to the best of our knowledge, no school discloses the contents of its training materials



Betsy DeVos speaks after reviewing Obama-era guidance to schools for compliance with Title IX, July 13.

KC Johnson and Stuart Taylor Jr. are the authors of The Campus Rape Frenzy: The Attack on Due Process at America’s Universities (2017).

to accused students before commencing the disciplinary process. The contrast between this training regime and the instructions given by judges to jurors in criminal trials—most obviously, that they should presume defendants innocent until proven guilty—is stark.

“In a criminal trial,” says former Baltimore state’s attorney Gregg L. Bernstein, “we ask jurors to use their common sense and apply their own life experiences to determining questions of credibility and guilt or innocence. We do not ‘train’ jurors at the expense of considering equally plausible factors as to why [an alleged] victim’s testimony might not be credible.” Bernstein, who during his term in office created a special unit to handle sexual-assault cases, believes a balance “can be struck in which the victim’s account is given credence and she is respected, while at the same time, the alleged assailant has the right to test the story. We should ask for no less when a person’s reputation can be altered for life by these types of [campus] allegations.”

The training mandate originated with the Obama administration’s 2011 “Dear Colleague” letter, which dictated campus procedures for sexual-assault allegations that dramatically increased the chances of guilty findings. Expanded guidance in 2014 from the Department of Education’s Office for Civil Rights ordered that the training include “the effects of trauma, including neurobiological change”—a phrase pregnant with hidden meaning. The Obama training requirements (without the “neurobiological change” part) were then formalized in a binding federal regulation in 2015.

While Secretary of Education Betsy DeVos has rescinded the 2011 and 2014 Obama commands, the 2015 regulation keeps most of the Obama training mandate in place. All the while, the secrecy of almost all the training materials has enabled them largely to escape public scrutiny.

“The biggest problem with these training materials,” says Justin Dillon, a Washington, D.C., lawyer who has defended dozens of students accused of sexual assault, “is that if the accuser comes in, contradicts herself and the evidence, all that gets explained away because of ‘trauma.’ Junk science like that makes it extraordinarily hard for students to defend themselves effectively. Schools cherry-pick studies without actually understanding anything about them; they just take this chicanery at face value. Students would need to first pay a lawyer, and then pay that lawyer to find a neuroscience expert who is both willing and qualified to take on this issue. And if you think lawyers are expensive, wait until you see how much experts charge.”

Middlebury College’s Title IX training urges adjudicators to ‘start by believing’ the accuser, while asking themselves whether the accused student is ‘who he said he is.’

Middlebury College’s training, for instance, urges adjudicators to “start by believing” the accuser, while asking themselves whether the accused student is “who he said he is.” The training materials twice feature a hypothetical campus rapist announcing: “I am going to have sex tonight. If it is consensual, fine. But, I am going to have sex tonight.”

The college further orders that in order to be “objective,” investigation reports must not use the word “alleged” before “victim” or “sexual assault” and must avoid passages such as “the victim’s account of the incident is not believable or credible to officers given her actions during and after the encounter with the suspect” or the “victim has inconsistencies with her story.”

The role of the investigative report is especially important at Middlebury because, like more and more schools, it

has abandoned disciplinary hearings on sexual-assault claims in favor of a single-investigator system. This was designed to shield the accuser from cross-examination, but also empowers a school-appointed official to serve as “detective, judge and jury,” in the words of Greg Lukianoff, president of the Foundation for Individual Rights in Education. In the specific system used at Middlebury, a college administrator renders the final decision based primarily on

a report prepared by the investigator. The accused student and his representatives have no opportunity to cross-examine the accuser or the investigator. The training’s restrictions on the content of the investigator’s report thus have a direct effect on the final outcome.

After we wrote about the Middlebury training, the firm that conducted it, Margolis Healy, removed the associated material from its website. The company did not respond to a request for comment.

Eric Rosenberg, an Ohio lawyer who has represented accused students in both state and federal lawsuits, says that the “systemic bias” in training materials extends to essentially “mandating adjudicators shield accusers from exculpatory evidence” as it might “re-victimize the victim.” A state or federal judge, Rosenberg explains, “would undoubtedly find [that any] jury pool members who promise not to re-victimize a party who alleges an injury should be stricken for cause.”

Beyond putting a thumb on the scale towards guilt, campus-training materials are permeated by highly debatable psychological theories, spawned in part by the Obama administration’s requirement of training about “neurobiological change.”

Emily Yoffe's blockbuster September article in the *Atlantic* on "The Bad Science Behind Campus Response to Sexual Assault" uncovered widespread use of a concept called "tonic immobility." Yoffe explored the pervasive influence of Rebecca Campbell, a Michigan State psychology professor, who claims that as many as half of all sexual-assault victims experience tonic immobility and that this condition, along with other neurological effects that occur during an assault, renders them unable either to resist or to recall the alleged attack accurately later. Campbell has done no empirical research on tonic immobility, and there is no clear evidence that the phenomenon—in which some prey animals go into a type of temporary paralysis when threatened—occurs in humans.

Training at Harvard Law School in 2014 borrowed heavily from Campbell's ideas about tonic immobility, according to an article by Harvard Law professor Janet Halley. She said the school provides its tribunals with "a sixth-grade level summary of selected neurobiological research," which claims that rape victims' trauma causes neurological changes, which can result in tonic immobility. This "can cause the victim to appear incoherent and to have emotional swings, memory fragmentation, and 'flat affect' [so that her statements] can be [m]isinterpreted as being cavalier about [the event] or lying." The Harvard training, Halley wrote, is "100% aimed to convince [disciplinary panels] to believe complainants, precisely *when* they seem unreliable and incoherent."

A still-pending case led U.S. District Judge John Padova to suggest that the University of Pennsylvania's training of campus adjudicators is so biased that it may violate Title IX by discriminating against males. In a September 13, preliminary ruling, Padova cited the university's training materials as a basis for rejecting Penn's motion to dismiss a Title IX claim in a lawsuit filed by a student the school had found guilty of sexual assault.

Penn used a training document, "Sexual Misconduct Complaint: 17 Tips for Student Discipline Adjudicators," disseminated by Legal Momentum, a women's advocacy group that has harshly assailed Betsy DeVos's efforts to make the handling of campus sexual-assault complaints more fair. The 17 "tips" about accusers include:

"The fact that a complainant recounts a sexual assault somewhat differently from one retelling to the next may reflect memory processes rather than inattentiveness or deceit." Legal Momentum provides no guidance on how adjudicators should identify "memory processes," "inattentiveness," or "deceit." The implication that inconsistencies are

irrelevant to assessing credibility is contrary both to our legal traditions and human experience.

"Victim behaviors during and after a sexual assault may appear counterintuitive to those unfamiliar with sexual assault." The Legal Momentum document goes on to offer examples suggesting that virtually any conduct or statement by an accuser—resisting or not resisting the alleged assaulter; subsequently contacting or subsequently avoiding the alleged assaulter; testifying emotionally or listlessly; recalling or not recalling events—is consistent with the guilt of the accused.

"False allegations of rape are not common" and "research places the [false rape report] rate in the general population between 2% and 10%." But this research defines "false" extremely restrictively and excludes a great many cases in which the accused is clearly not guilty of sexual assault and many more in which the available evidence leaves unclear the veracity of the accuser's account.

As for accused students, Penn's training material seems designed to sow skepticism about their claims of innocence. The "typical" campus rapist, according to the document, might possess many "apparent positive attributes such as talent, charm, and maturity [and] a deep commitment to community service." But such traits are "generally irrelevant." Campus rapists "[p]lan and premeditate their attacks,

using sophisticated strategies to groom their victims for attack and isolate them physically."

Bernstein, the former top Baltimore prosecutor, expressed concern that the Penn training did not meet the "standards" necessary for an "objective process" that could determine the truth of allegations. Most of the tips, he notes, "leave a clear presumption of guilt in the investigator or adjudicator's mind and provide a victim-centric explanation for otherwise inconclusive, inconsistent, and exculpatory testimony to the exclusion of other factors." Legal Momentum did not respond to a request for comment.

The training materials and practices that have surfaced from other institutions are equally one-sided.

George Mason's training plan contains a lengthy section instructing investigators and adjudicators to "avoid an implication of blaming a complainant," such as by holding "the belief or expressing an opinion that a person who is alleging sexual assault was in some way responsible, whether wholly or in part, for what happened." Testing an accuser's truthfulness by asking about her pre-incident behavior with the accused student or why she waited for months to file a report or why she did not go to the police

A still-pending case led U.S. District Judge John Padova to suggest that the University of Pennsylvania's training of campus adjudicators is so biased that it may violate Title IX by discriminating against males.

would all constitute blaming the victim. If even considering asking any such questions, the adjudicator is ordered by the training to adjourn the meeting and consult with fellow panelists before proceeding. There is no comparable caution regarding questions asked of accused students.

A University of Texas blueprint for sexual-assault investigations recommends reducing “the number of reports prepared by investigators,” so as to frustrate defense lawyers’ efforts to point out contradictions among an accuser’s statements. This recommendation belies any pretense that the university’s investigators are neutral fact-finders.

The training at Ohio State tells disciplinary panelists that as many as “57 percent” of college males “report perpetrating a form of sexual[ly] aggressive behavior,” among other points seemingly designed to prompt guilty findings. We are aware of no reliable study that makes such a statistical claim. The judge who cited the 57 percent did not say where Ohio State got it, and the school’s full training materials remain sealed.

Cooper Union’s training program describes a “typical” sexual-assault case as the work of a scheming predator: An upper class male who meets a freshman female at a party, accompanies her alone back to her room, and “pours ten shots out of a bottle he pulls out of his backpack” for her to drink. The accuser can later recall nothing, but believes that they had sex.

At SUNY-Plattsburgh, the school’s Title IX coordinator trains the members of sexual-assault hearing panels. In a recent appellate hearing in New York state court, it was revealed that she had misstated the university’s own definition of consent to make a guilty finding more likely, by ruling out “consent by conduct” to sex. SUNY’s lawyer conceded to the appellate judges that the coordinator’s explanations of Plattsburgh policy to the tribunal members were “admittedly confusing.”

The head of a Title IX disciplinary panel at the University of North Carolina, Charlotte, testified in federal court that his institution’s training prompted him to deny the accused student a chance to present friendly, post-incident text messages the accuser sent to him, even though they contradicted her claim that she had come to fear him after they had sex. The panel chair said that the training allowed the tribunal to consider only any messages that “directly answer[ed] the question of consent, to consent to sexual acts.” A federal judge called this exclusion of exculpatory

evidence “troubling” and denied the university’s motion for summary judgment.

Such training regimes are the norm across the country, according to four lawyers we talked to and to public statements by two others who have through lawsuits obtained the training materials adopted by many schools. The training materials used by the vast majority of colleges still remain secret.

The new regulations that Betsy DeVos has promised to issue regarding campus proceedings—probably next fall, after publishing proposed rules and considering public comments—will likely continue to require training of

consent or enjoyment. The presence of physiological arousal may contribute to a victim’s feelings of self blame.

14. False allegations of rape are not common.

One myth is that, out of revenge or other motives, women make numerous false allegations of sexual assault. Recent research at a major northeastern university suggests that, over a ten-year period, 5.9% of its cases involved false allegations.¹ Other reputable research places the rate in the general population between 2% and 10%.

15. The typical assailant is neither a brutal stranger nor a “good guy” who had a bit too much to drink one night. Rather he knows his victims, pre-

Part of a Title IX training document at Penn, referring to research that defines ‘false’ very restrictively and excludes many cases in which the accused is clearly innocent

some kind, which, at least for investigators, is sensible if it is done well.

Meanwhile, the training materials we have seen are flatly contrary to the Trump administration’s interim guidance for colleges on campus sexual-assault allegations, which provides that “training materials or investigative techniques and approaches that apply sex stereotypes or generalizations may violate Title IX.” DeVos has repeatedly called for colleges to make their processes fair to accused students as well as their accusers.

The time is ripe for some of the accused to file complaints with the Department of Education’s Office for Civil Rights challenging these training programs as violating Title IX’s prohibition on sex discrimination. Such complaints would encourage the Education Department to require that schools make public the contents of their training for sexual assault investigations and tribunals. The accused—many of whom have wrongly assumed that they would be treated fairly and the truth would set them free—would then know what they are up against. ♦

Spinning the bin Laden Documents

Ned Price isn't right

BY STEPHEN F. HAYES

Ned Price is not happy. The former CIA analyst and National Security Council official was at the center of the Obama administration's efforts to mislead the American people about the continuing threat from al Qaeda and its affiliates and about the rogue states whose support allowed it to regain its strength and expand. With the release on November 1 of 470,000 documents, images, videos, audio, and computer files captured during the raid on Osama bin Laden's compound in Abbottabad, Pakistan, the fact that the Obama administration politicized this intelligence became indisputable and the brazenness of its effort clear.

Those responsible are understandably nervous, and they're lashing out. Ned Price, now an NBC News analyst and a fellow at the New America Foundation, is leading the way. "The newly-released documents don't tell us anything we didn't already know," he tweeted almost as soon as the documents were released. The claim is absurd.

Did we know the contents of Osama bin Laden's 228-page handwritten journal? Did we know that he first spoke of striking America in the mid-1980s? Did we know he wanted to boycott American apples?

Did we know that bin Laden was surprised by the ferocity of the American response to 9/11 or that he had a subordinate translate Bob Woodward's book *Obama's Wars* so that he might better understand the new U.S. president? Did we know bin Laden's thoughts on the Arab Spring as it unfolded? Did we know bin Laden

sometimes issued statements based on his dreams?

Did we know, as Thomas Joscelyn put it in these pages last week, the extent to which bin Laden "remained an active manager of his far-flung network until his dying day, receiving updates from loyalists around the globe. Groups such as Al Qaeda in the Arabian Peninsula (AQAP), Al Qaeda in the Islamic Maghreb (AQIM), and al Shabaab in Somalia all sought and received his guidance"?

The U.S. intelligence community had released only 571 of the captured documents between May 2015 and January 2017. The nearly half-million documents just released by the CIA tell us countless things we did not know. We'd never heard bin Laden's own explanation for how he became a "committed" Muslim or that he credits a prominent Turkish Islamist for his theological evolution. We'd never seen the adult face of Hamza bin Laden—Osama's heir, whom al Qaeda is grooming for a senior leadership post.

We now have many more details of al Qaeda's support from Iran. We didn't know, for instance, that the Iranian regime, which had alternately harbored and detained Abu Musab al Zarqawi,

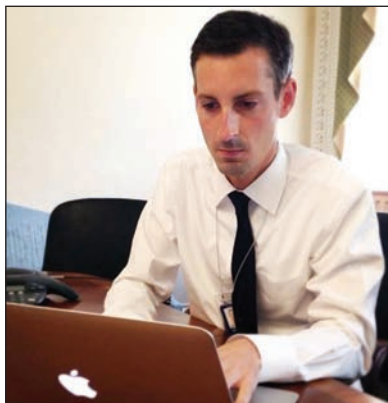
was supposedly surprised when the founder of Al Qaeda in Iraq chose to return to Iraq and fight upon his release.

We have new insights into the ties between the leadership of al Qaeda and the Afghan Taliban.

We even learned that bin Laden took in American pop culture as he condemned it and that someone in his compound had a copy of the popular "Charlie Bit My Finger" YouTube video downloaded on a computer.

We learned all this in just one week. Terrorism researchers and scholars will be studying this new information for years in order to gain a fuller understanding of bin Laden and al Qaeda.

Why would Ned Price say something so demonstrably false?

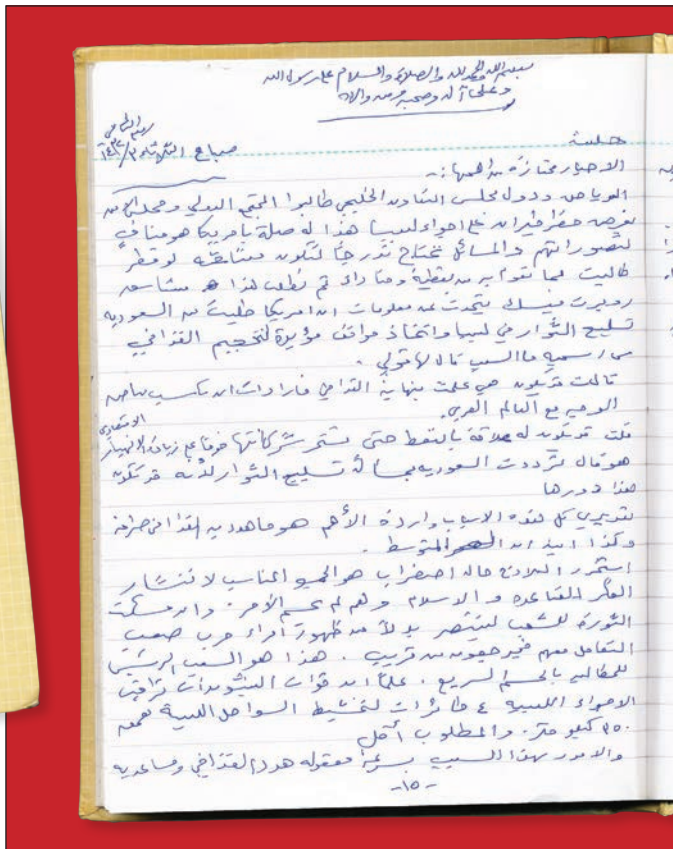


Ned Price in the White House, August 7, 2014

Stephen F. Hayes is editor in chief of THE WEEKLY STANDARD.



The cover and a page of Osama bin Laden's handwritten journal, recovered in Abbottabad



Because the other thing we learned by studying these newly released documents is that the narrative of bin Laden and al Qaeda carefully created by the Obama administration—that of an isolated, impotent jihadist leader detached from his deteriorating terror network and at odds with the regime in Iran—was deeply misleading.

Price sells himself as a disinterested intelligence professional and a partisan of only the truth. He made news at the outset of the Trump administration when he wrote an op-ed for the *Washington Post* announcing his resignation from the CIA. The headline: “I didn’t think I’d ever leave the CIA. But because of Trump, I quit.”

In the piece, Price described the importance of an impartial intelligence community, dedicated to providing unvarnished analyses to the country’s leading policymakers, and made a strong case that we ought to be concerned about Trump’s eagerness to set aside the concerns of U.S. intelligence professionals on Russian meddling in the 2016 election. And he denounced as inappropriate Trump’s comments at the CIA in the opening days of his administration:

Standing in front of a memorial to the CIA’s fallen officers, he seemed to be addressing the cameras and reporters in the room, rather than the agency personnel in front

of them, bragging about his inauguration crowd the previous day. Whether delusional or deceitful, these were not the remarks many of my colleagues and I wanted to hear from our new commander in chief.

Price wrote that intelligence professionals are “taught to tune out politics” and insisted that his decision to quit “had nothing to do with politics.” But he had left out an important detail. A little more than six months earlier, he had contributed \$5,000 in support of Hillary Clinton. The *Post* updated his op-ed with a clarification: “This column should have included a disclosure of donations made by author Edward Price in support of 2016 Democratic presidential nominee Hillary Clinton. In August, Price gave a total of \$5,000 to the Clinton campaign and the Democratic Party.”

For reporters who had dealt with Price in the three years he had been detailed to the NSC from the CIA, his politics came as no surprise. As NSC spokesman, Price worked at the center of the Obama administration’s national-security spin machine, a fact illuminated in the much-discussed 2016 profile of deputy national security adviser Ben Rhodes in the *New York Times Magazine*. Together, the two carefully cultivated an echo chamber of Obama loyalists in the media, who could be counted on

to amplify White House messaging, praise the president's initiatives, and defend him whenever necessary.

So it was business as usual for Price when the CIA released the Abbottabad documents, and he rapidly laid out a counternarrative on Twitter:

CIA released what it claims are the final public files from Bin Laden's lair. I'm all for transparency, but this isn't about that.

In January, [the director of national intelligence], which led the declassification effort, released what it said was the final tranche of Bin Laden files.

The DNI-led review was overseen by career intel officials, who concluded that, w[ith] the Jan[uary] files, all those of public interest were released.

But a funny thing happened when CIA Director Pompeo came into office. I'm told he re-launched a review of the files.

In doing so, he took officers away from important missions to pore—and re-pore—over the millions of documents.

How can we be sure this was a CIA effort? Unlike previous releases, today's files are hosted on CIA.gov, not the DNI site.

Why would he do that? It seems he's convinced the unreleased files would tie al-Qa'ida to Iran.

He said as much at the gathering of a conservative group, [the Foundation for Defense of Democracies], opposed to the Iran deal in September.

As luck would have it, CIA provided an advance copy of today's files to Long War Journal, this group's publication.

The ploy is transparent despite the fact that the newly-released documents don't tell us anything we didn't already know.

What's not as transparent are the motives of Pompeo, the administration's leading and most influential Iran hawk.

But these moves suggest he's reverting to the Bush administration's playbook: Emphasize terrorist ties as a rationale for regime change.

Price wrote this tweetstorm up as an article for the *Atlantic* several days later, but the incoherence remained. In one section, he allowed that “it’s impossible to discern Pompeo’s exact motives in this latest release,” only to declare a few sentences later that he, Ned Price, had managed the impossible and could see the CIA director’s exact motives. “Pompeo is playing politics with intelligence,” Price wrote, “using these files in a plot to bolster the case against Iran by reinvigorating the debate on its terrorist ties.”

For years, the Obama White House resisted calls to release the bin Laden documents. The self-proclaimed “most transparent administration in history” gave a series of convenient and self-contradictory reasons for its refusal to share the collection.

At times, we were told the documents couldn’t be released because the information was too sensitive and valuable to make public. At others, however, the administration asserted that there wasn’t much to the cache and what remained unreleased was mostly jihadist detritus that wouldn’t interest anyone.

Sometimes the explanations came from the intelligence agencies; sometimes they came from the National Security Council. In most cases, however, the answers were plainly coordinated. White House officials were copied on emails from the intelligence agencies and vice versa. Ned Price helped direct these efforts.

The January 2017 DNI release that Price holds up as definitive was called “Closing the Book on Bin Laden.” But it covered just 571 documents from the vast Abbottabad collection—a tiny fraction. The accompanying press release claimed that the newly released batch of documents “mirrors themes in previous releases,” among them bin Laden’s “hatred, suspicion of Iran.” It is true that this is what previous ODNI releases claimed. But it just isn’t true that this is what the Abbottabad documents show.

In one previously-released document, bin Laden credited Iran for serving as the “main artery” for the strengthening and growth of al Qaeda.

And a document released earlier this month—one we never would have seen if Price had gotten his way—expands on this earlier knowledge. This 19-page report, authored by a senior al Qaeda operative, says that the Iranian regime provided “Saudi brothers” in al Qaeda “everything they needed,” including “money, arms,” and “training in Hezbollah camps in Lebanon, in exchange for striking American interests in Saudi Arabia and the Gulf.” And a video made public as part of the latest release shows Hamza bin Laden reciting his wedding vows—alongside several senior al Qaeda operatives—in Iran.

In 2015, during the intense debate over the Iran nuclear deal, the government threat assessment on Iran largely elided the country’s role in supporting terrorism. Language that had appeared in previous threat assessments from the intelligence community was gone in the new version. A spokesman for the ODNI told us at the time that the changes had been made for reasons of space and were not an effort to downplay Iran’s support for terror.

But that is just what the White House team was trying to do.

Multiple U.S. Treasury Department designations cited a secret agreement between Iran and al Qaeda under which

the Iranian regime actively harbored al Qaeda's "core pipeline." A February 2012 designation reported that Iranian officials "facilitated the movement of al Qaeda operatives in Iran and provided them with documents, identification cards, and passports." An October 2012 designation reported: "Iran continues to allow al Qaeda to operate a core pipeline that moves al Qaeda money and fighters through Iran to support al-Qaeda activities in South Asia. This network also sends funding and fighters to Syria." A February 2014 Treasury designation singles out "a key Iran-based al Qaeda facilitator who supports al Qaeda's vital facilitation network in Iran, that operates there with the knowledge of Iranian authorities." Sources familiar with the intelligence on Iran have told us that much of the language characterizing the Iran-al Qaeda relationship in those designations comes from the Abbottabad documents.

There were tensions between Iran and al Qaeda, to be certain, including over Hamza's eventual detention in the country. And the documents—new and old—describe moments of frustration and mistrust between these two American enemies. Bin Laden did not want Iran to export

A video made public as part of the latest release shows Hamza bin Laden reciting his wedding vows—alongside several senior al Qaeda operatives—in Iran.

That's not what the previous assessment from the ODNI did. And background statements from "senior intelligence officials" and NSC spokesmen working under the supervision of Price gave the same misimpression. In the past, Obama officials dismissed Iran-al Qaeda cooperation as "baseless conspiracy theories" and claimed, "anyone who thinks Iran was or is in bed with al Qaeda doesn't know much about either." The CIA's release of the vast bulk of the Abbottabad documents reveals a much more complicated picture—and the degree to which such statements had been White House-driven spin.

No wonder Ned Price isn't happy. ♦

Clearing the Way for Energy Innovators

THOMAS J. DONOHUE

PRESIDENT AND CEO
U.S. CHAMBER OF COMMERCE

The regulatory rollback continues in Washington, and the latest victories come not a moment too soon for many American businesses. Two actions by Environmental Protection Agency (EPA) Administrator Scott Pruitt will help rein in Obama-era environmental rules that had hovered ominously over key U.S. industries, such as energy, for far too long.

The U.S. Chamber of Commerce applauded Administrator Pruitt's announcement that he would end the so-called sue and settle scheme, which allowed special interest groups to sue EPA in an attempt to force it to take action on their pet issues. Instead of fighting these lawsuits in the courts, EPA usually settled behind closed doors, allowing outside advocacy groups to take control of the agency's regulatory priorities. Activist organizations successfully used this tactic over a hundred times to force

certain outcomes without any public oversight or involvement.

While Administrator Pruitt's executive action immediately halts the sue and settle gambit, it's important that Congress also takes legislative action. Otherwise, future administrations could easily revive this abusive practice. That's why the Chamber has long pushed the Sunshine for Regulations and Regulatory Decrees and Settlements Act, which would help Congress reassert its control over federal regulatory actions. The House passed the bill last month, and the Chamber encourages the Senate to quickly follow suit.

In another welcome move, Administrator Pruitt announced a proposal to repeal the Clean Power Plan (CPP), which would have raised the cost of energy without regard to the impact on families and businesses. The Chamber fought back against the rule for years, including leading a lawsuit along with 28 states and 160 petitioners that resulted in the Supreme Court granting an unprecedented stay to

block its implementation.

Now that outright repeal is on the table, we stand ready to work with EPA and all stakeholders to come up with a durable and effective approach to reducing greenhouse gas emissions. Through private sector-led innovation, technology, and ingenuity, America's energy innovators can make all energy sources cleaner and more affordable.

These latest actions have been met with a sigh of relief from businesses large and small, and so have many other deregulatory efforts from the administration this year. The Chamber has long fought against harmful rules—and in favor of smart, balanced rules—for the simple reason that a heavy-handed regulatory approach fuels uncertainty, stalls hiring, and chokes growth. Now that the government is starting to get out of the way, businesses can focus on what they do best—creating jobs and growing the economy.



Learn more at
uschamber.com/abovethefold.



Goethe in the Roman Campagna (1787)
by the painter Johann Tischbein,
Goethe's roommate in Rome

The Noble Goethe

*'Germany's Shakespeare' and the heroism
of early democratic times.* BY ALGIS VALIUNAS

There have been very few Renaissance men since the Renaissance—and they weren't exactly thick on the ground even in their glory days. No modern figure is more worthy of that appellation than Johann Wolfgang von Goethe (1749-1832), who was not only the greatest German poet, playwright, autobiographer, and novelist (beside Thomas Mann), but also a painter at a time when that required ability and expertise, a statesman who effectively took over the administration of a small dukedom in his mid-twenties, and a scientist who made suggestive discover-

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Goethe
Life as a Work of Art
by Rüdiger Safranski
translated by David Dollenmayer
Liveright, 651 pp., \$35

ies in zoology and botany and mounted an audacious challenge to Newton's theory of optics. And Goethe was also a prime virile specimen who relished the pleasures of the body as well as those of the mind. His secretary Friedrich Riemer goggled in wonder at the physical grace and power of the middle-aged Goethe, a born athlete who had gained in muscle and finesse by extensive youthful practice: "One must see him, how strong and firm he stands on his

feet, with what bodily agility and sure step he moves. Early gymnastic training, dancing, fencing, skating, riding, even coursing and racing, had given him this mobility and suppleness; he could never make a false step on the worst path or be in danger of slipping or falling; easily and swiftly he passed over smooth ice, narrow foot-paths and bridges, and rocky steep."

Leonardo da Vinci proclaimed that it is easy to make oneself a universal man; after all, to do so required of him only to be born a singular genius and to devote all his energy to developing his preternatural mind, eye, and hand. With Goethe as well Nature was profligate in dispensing her manifold capacities and charms, but he would not indulge in

swaggering bravado about how easily he accomplished what he did. Despite his reputation for insufferable serenity, late in life he said that he had never known an interval of restful ease; his entire life had been one of striving, of unrelenting effort to cultivate his various talents and to harmonize the naturally discordant aspects of his character. Not that he was unaware of the great good fortune in his endowment; he would speak of the “inborn merit” that a natural aristocrat possesses and of his winning “the big prize” in the lottery of birth. But it took a lifetime’s hard work for that inborn merit to become the superior merit of extraordinary achievement.

What did it take for Goethe to become Goethe? What do his life and works mean for the rest of us? Rüdiger Safranski, the German biographer of Schiller, Schopenhauer, Nietzsche, and Heidegger, has ably confronted if not definitively answered these questions in *Goethe: Life as a Work of Art*. As remarkable as Goethe’s life was, Nietzsche said it was an event without consequences: While German intellectual historians refer to *die Goethezeit* (the Age of Goethe), he was not a world-historical individual in the Hegelian sense, one who embodied an epoch and who directed the course of human events as a Napoleon did. But Safranski for his part discerns abundant consequence in Goethe’s being “the exemplar of a life combining intellectual riches, creative power, and worldly wisdom. . . . It is the individual shape of this life that is endlessly fascinating. By no means was its course a foregone conclusion.”

In our hyper-egalitarian time, when identity politics compels persons of goodwill to think the thoughts prescribed for their caste, and the rough edges of individual difference abrade those too delicate to withstand the indignities caused by other people’s freedom, the man who devotes himself to discovering his true nature and living accordingly is a rarity, and an egregious one in the eyes of the multitude. That happens to be true even though our contemporary culture is rife with exhortations simply to be yourself; indeed, that pop-culture sales pitch stands today as necessary

and sufficient moral wisdom, while its exponents remain oblivious to the nearly insuperable obstacles to its serious realization that the cult of equality throws in its way.

How does one become himself—his best self—when democracy tends to make each of us more and more like everyone else? Goethe was fortunate not only in being born Goethe but also in living during the birth of the democratic era, that poignantly hopeful time when it seemed possible that ordinary men and women might be capable of genuine nobility, that freedom and equality might join forces to nurture the robust individuality of human beings at their highest reach. Those hopes have died very hard, leaking away in the lifeblood of the wounded left on the battlefield where freedom and equality, unable to be reconciled, have met in fateful collision. To speak today of personal nobility as democracy’s rightful aim would get you sneered at for unconscionable elitism or impossible dreaminess. Yet that is the very exaltation that Goethe wanted, not only for himself, but for everyone capable of overcoming his own flawed nature, an indifferent upbringing and education, and the tidal surge, already in Goethe’s day gathering all but irresistible momentum, toward universal mediocrity. Safranski does not quite reach such an understanding of Goethe’s significance, but this biography testifies to the singular glory that was Goethe’s life and suggests that with Goethe’s teaching as a guide the hope for democratic nobility might not yet be extinguished for good.

Goethe was born nearly dead, the umbilical cord a noose around his neck. He grew up in Frankfurt in commodious upper-middle-class surroundings; his maternal grandfather had been the imperial city’s mayor, and his father had come into a substantial inheritance and had purchased the lofty title of imperial counselor. The elder Goethe saw great promise in his only surviving son and provided him with a fine education; in his youth Goethe learned Italian, French, English, Latin, Greek, and some Hebrew, studied drawing and music, wrote poetry, and received

personal instruction from his father in geography, history, and law—the profession in which the father intended the son to follow him. Defying the patriarchal will on this count required bold resolution on the young man’s part, and Goethe knuckled under before he overcame, studying law at university rather than classics as he wanted to and practicing law for several years until literary success freed him from the paternal grasp—although as Safranski points out, his father helped support Goethe’s writing habit while they were working together. His first novel, *The Sorrows of Young Werther*, which appeared when he was 25, remains the most famous tale since *Romeo and Juliet* of lovelorn suicide, and as Safranski writes it is an object lesson in the perils of Romantic *tedium vitae*. The book made Goethe a European celebrity.

Bookish he certainly was from the beginning, but exploring the city excited him as much as reading did, as he writes in his autobiography, *Poetry and Truth*. To take in as much of the world as his mind could hold was a habit formed early: Everything interested the boy as it would the man, as he developed a taste for

observing the conditions of mankind in their manifold variety and naturalness, without regard to their importance or beauty. . . . We saw many thousand people amid their little domestic and secluded circumstances. From the ornamental and show gardens of the rich, to the orchards of the citizen, anxious about his necessities; from thence to the factories, bleaching-grounds, and similar establishments, even to the burying-grounds . . . we passed a varied, strange spectacle.

The earthly spectacle never wearied Goethe. Experience became his watchword. Although *Bildung* (self-development) was his foremost lifelong concern, obsession with one’s interior life repelled him. Late in life, in a passage Safranski cites, he declared suspect the philosopher’s imperative “Know thyself,” which tends to “entice [one] away from activity in the external world and into a false, inner contemplativeness. Man knows himself only to the extent that he knows the world, and

he becomes aware of the world only in himself and of himself in it." *Bildung* demanded that one come to know his true self by searching, probing, ransacking the vast world outside himself. For Goethe the project of self-development involved the intake on a heroic scale of other men's works, as well as a fruitful gregariousness; the import of reading, looking at paintings and sculptures, listening to music, and encountering men quite different from himself lay principally in learning what most closely implicated his own nature and enhanced his own energy and productiveness. Goethe was the paragon of encyclopedic cultivation, the most learned of the modern masters, immersing himself in the acquired wisdom and beauty of the ages, incorporating with the intention of embodying the best in art, philosophy, religion, history, statesmanship, and science, and transforming these accumulated riches into a treasure uniquely his own.

Nor was his knowledge limited to the best that had been thought and said. He was well-acquainted with the ordinary life of humanity as well, and if he was a latecomer to the sensual feast, which he first really enjoyed during his Italian journey of 1786-1788, he became an aficionado of the pleasures all men and women have in common. The Neapolitan whirling riot of delight captivated him: "Naples is a Paradise. Everyone lives in a kind of drunken abandon. I'm the same way. I hardly know myself. I seem a completely different person. Yesterday I thought: either you used to be mad, or you're mad now." The *Roman Elegies* recount the sexual adventures that meant at least as much to him as the magnificent ruins of the ancient city and the works of Michelangelo and Raphael: "We enjoy the delights of the genuine naked god, Amor, / And our rock-a-bye bed's rhythmic, melodious creak." On returning to staid and proper Weimar, where he resumed his duties as privy counselor to Karl August, the future Grand Duke of Saxe-Weimar-Eisenach, he met the 23-year-old Christiane Vulpius, and soon they were making love. She was a "girl of the people" who worked making artificial flowers. Goethe would father their

son and eventually marry her; the most notorious misalliance in literary history scandalized the ladies of the court, but Goethe knew what he needed and wanted where love was concerned and he did as he chose.

He did as he chose. And yet Thomas Mann, in the 1922 novella-length essay "Goethe and Tolstoy"—the finest critical essay I know—declares that the "pathos of renunciation" was the general motif of Goethe's career and very existence, "cast[ing] such a Christian shade upon the pagan, aristocratic, child-of-nature well-being of Goethe's life." Mann takes his cue, I believe, from Nietzsche's description in *The Case of Wagner* of the opera *Tannhäuser* as the drama of Goethe's struggle for his soul with the German populace, in which Wagner takes the side of the morally wholesome Christian nation; following Nietzsche, Mann rightly declares that "there were in Goethe possibilities of a greatness and growth wilder, ranker, more disruptive, more 'natural,' than those which his instinct for self-conquest allowed him to develop." Instead, the "civilizing work" of "moral culture" became his choice, his duty, and his burden. Thus the play *Iphigenia in Tauris* (1787), in which Orestes rescues his sister from long captivity by the Taurian king Thoas, ends with the triumph of civilized gentleness over barbaric fury, a woman's high-minded regard for truth over manly eagerness to fight and kill. And in the tragic drama *Torquato Tasso* (1790), the honored poet's impetuosity and importunity shatter against the noble man of action Antonio's adamant self-possession, and in the recoil from this disappointed bid to be regarded Antonio's equal in nobility Tasso makes an impossible, mad profession of love for the Princess d'Este that gets him banished from the court: The proprieties are sovereign, and not even acknowledged genius may dare to violate them.

But Mann to the contrary, Goethe's two greatest works, *Wilhelm Meister's Apprenticeship* and *Faust*, end in fulfillment rather than renunciation. Wilhelm Meister, who grew up in a

well-ordered and prosperous *bürgerlich* household not unlike Goethe's, is certain as the novel begins that he has found his vocation and his true love, in the theatrical life and in the arms of the beautiful actress Mariana. His childhood was vividly colored by his reading and enacting of chivalric romance, and his dream of the future is shaped by fictional heroes and heroines whose excellence he hopes to find somehow in the modern world. Wilhelm wants to live a noble life, but for instruction he has only these archaic and unreal characters, and he suffers from the delusion that in an actor's imagination and imitation he will come to embody genuine nobility. His first love does not work out as he hoped, the itinerant actor's lot proves distinctly seedy and money-grubbing, and the actual nobles he meets are as hopelessly flawed as the common run of humanity. By way of mischance and misfortune turned to heroic advantage, and erotic entanglements as knotty as the advanced moves in the *Kama Sutra*, Wilhelm comes into his rightful life, with the invaluable guidance of the Brotherhood of the Tower, a secret society of gifted and experienced men of practical wisdom who allow him to persist in error until he stumbles toward the truth: It is as though Sarastro and the priests and knights of his temple in *The Magic Flute* were set down in the moral landscape of *Tom Jones*, with Wilhelm clueless as Papageno but rewarded as generously as Prince Tamino. *Wilhelm Meister's Apprenticeship* is the most hopeful and joyous of great novels, in which an ordinary man's bewildered striving ends in a noble triumph.

There is nothing ordinary about Faust: He is the most remarkable literary hero since Prospero. The Faust legend dates from the early 16th century, and its most famous treatment before Goethe's was Christopher Marlowe's *Doctor Faustus* (ca. 1589). Goethe breaks decisively with the tradition: Although *Faust: A Tragedy* is the play's full title, it ends not with the customary damnation of the overreacher who made an imprudent deal with the devil but rather with his assumption into heaven. This although Faust has not

exactly conducted himself as a worthy Christian soul. With the assistance of his familiar demon Mephistopheles he not only corrupted the innocent beauty Gretchen, who was executed for murdering their infant son, he also killed her brother in a street brawl. But Faust does repent those trespasses, and in the estimation of Goethe's God, who as in the Book of Job bets the devil that his man will prove deserving of salvation, the hero epitomizes humanity at its fullest extension heavenward—for he is an indefatigable striver. Faust tells Mephistopheles that he wants to know the full measure of human experience, to feel the most agonizing suffering as well as the most exquisite pleasures. And he bets the devil that he will never rest content even with the utmost happiness: If he should ever tell the sweet moment to linger, his soul shall belong to hell. In fact Mephistopheles wins that wager; Faust is so bemused by his heroic land-reclamation operation—the triumph of the modern scientific project, which will create a new Eden—that he wants the moment of victory to last and last: “I savor now my striving's crown and sum.” But Mephistopheles botches his chance to consign Faust to perdition because *he* is meanwhile bemused by the fetching bottoms on the angelic host. So the angels beat the devil to the punch, and as they bear Faust's immortal essence to glory, they proclaim: “Whoever strives in ceaseless toil, / Him may we grant redemption.” Here is Goethe's profession of faith: Faust is saved because he has a soul like his creator's, and conventional notions of the Creator are ruled out of court. It was likely Faust whom Victor Hugo had in mind when he observed that the problem with Goethe was that he let his indifference to good and evil go to his head.

Goethe was never a driven God-seeker, but he did eventually find the only God he could believe in, after sorting his way through the various gods he considered impossible to worship.

Comfortable though his childhood was, he learned early that the reputedly benevolent Christian God was not to be trusted; news of the devastating Lisbon earthquake of 1755 loosed “the demon of terror . . . over the earth” and shattered the calm of the 6-year-old boy. A violent local hailstorm, which seriously damaged the Goethe house and



A bronze of Mephistopheles and Faust in Leipzig

brought the whole household literally to its knees “to conciliate the wrathful Deity” drove the lesson home. Yet these outbursts of divine malice or capriciousness did not distress him as much as the sheer wonder at Nature and Nature's God filled him with joy: He exulted always in “the beauty of the world, and the manifold blessings in which we participate while upon it.”

Ravished by beauty, thrilling to noble human possibilities, he found the doctrine of original sin repugnant; this was not a fallen world but the one God had intended it to be all along, which pre-Christian men, the Greeks of their golden age in particular, had once made the most congenial home by conjoining the various gifts with which nature

has endowed humanity to form a perfect whole. In the 1805 essay “Winckelmann and His Age,” Goethe writes, “Modern man often loses himself in the infinite before finally returning if possible to a limited point of reference. . . . The ancients, however, immediately felt completely at home within the pleasant boundaries of this beautiful world. Here

was their natural habitat, here was the setting for their activities and here the focal point of their passions.” So Goethe might seem to be a natural-born pagan, who found nothing in Christianity to recommend it—and indeed, he notoriously lumped together his distaste for “tobacco (the smoke), bedbugs and garlic and † [the Cross].”

However, in one of the last *Conversations with Goethe* (which Nietzsche called the best German book there is), his confidant and memorialist Johann Peter Eckermann records the following:

Yet I look upon all four Gospels as thoroughly genuine; for there is in them the reflection of a greatness which emanated from the person of Jesus, and which was of as divine a kind as ever was seen upon earth. If I am asked whether it is in my nature to pay Him devout reverence, I say—certainly! I bow before Him as the divine manifestation of the highest principle of morality.

Lest Christians be too pleased with this reverence, which in any case the attentive Christian reader will find not quite reverent enough, Goethe goes on to say in the very next sentence:

If I am asked whether it is in my nature to revere the Sun, I again say—certainly! For he is likewise a manifestation of the highest Being, and indeed the most powerful which we children of earth are allowed to behold.

And among the mere children of earth, Goethe declares in closing, there are those “noble beings . . . divinely endowed,” such as Mozart, Raphael, and Shakespeare, who transcend the limitations of “ordinary human nature.” In bringing forth men of this order,

and Goethe says there are others of comparable perfection who go unmentioned—one assumes he makes this omission in all humility—God continues His “plan of founding a nursery for a world of spirits upon this material basis. So He is now constantly active in higher natures to attract the lower ones.” Goethe’s God, then, is conceived in a spirit liberal and meritocratic: He fulfills the requirements for Christian morality, which is the democratic morality of universal compassion; natural beauty and power; appreciation for human individuality that doesn’t necessarily comply with religious orthodoxy; and recognition that some men are superior to others and that the very best men are to help nurture nobility in the lesser. Except for that last quality, he sounds like a deity well-suited to modern sensibilities.

And yet Goethe himself seems not so well-suited for our times. What is it that keeps him from being a modern cultural hero like, say, Jean-Jacques Rousseau, the other principal and many-sided genius of the early democratic era? The problem may be that Goethe is both too noble and too normal. To Goethe’s mind, there was nothing wrong with middle-class prosperity and peace, “that happy and easy condition”; the Rousseauian disdain for the selfish and fearful bourgeoisie held no appeal for him. Goethe’s genius encompassed the admirable virtues of common sense, which Rousseau saw as the nemesis of genius such as his own. For to Goethe common sense included the invaluable lesson of what he had in common with all men—“that, whatever comes to pass, he may consider that it happens to him as a man, and not as one specially fortunate or unfortunate.” Rousseau for his part understood his special good fortune as a man of genius to be his special misfortune as an outcast scorned by ordinary men, with whom he had almost nothing in common but mutual contempt.

From the consummate self-adoration and self-pity of Rousseau emerged the cult of the artist as a being apart from unworthy society and suffering numberless unjust miseries at its hands. From

Goethe no tradition to the contrary has developed—one of art “to make man contented with the world and his condition,” as Goethe told Eckermann poetry ought to do. This failure to produce a line of descendants is part of what Nietzsche means by an event without consequences. However, that Goethe has no rightful heirs—although Nietzsche himself was his most significant admirer and Thomas Mann his most eloquent one—is evidence not of sterility but rather of incommensurable vital force.

Rousseau has begotten epigones and imitators right and left because his combination of colossal arrogance and abject weakness is readily imitable; Goethe has not done so because his self-possession and his acceptance of the world as it is—his *amor fati*, or love of his fate, to use a Nietzschean term—are exceedingly hard to come by. The sight of unattainable human excellence can be dispiriting. It can also be just the right challenge to creatures made for noble striving. ♦



The Maestro in the Living Room

How Toscanini became the world’s most famous conductor. BY JOHN CHECK

“You are no good.” These were not the words Gregor Piatigorsky, a nervous performer, needed to hear as he warmed up before playing a concerto with the New York Philharmonic. The man who uttered them, the conductor Arturo Toscanini, then said, “I am no good.” The effect on Piatigorsky was immediate and lasting; writing about the incident some 30 years later, the cellist remembered wishing he had “died as a baby.” Nevertheless, he kept practicing, kept striving, hoping somehow, in the brief interval of time remaining, to change the maestro’s mind. “We *are* no good,” said Toscanini just before the two took the stage. “But the others,” he added, “are worse. Come on, *caro*, let’s go.”

For Toscanini (1867-1957), pursuing perfection was a matter of conscience. Here was the right way, the only way, of being a musician; any other was simply wrong. In this brilliant biography, Harvey Sachs delineates the guiding

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Toscanini
Musician of Conscience
by Harvey Sachs
Liveright, 923 pp., \$39.95

role of conscience in Toscanini’s life. Sachs writes from a position of unimpeachable authority: The present biography is his second of the conductor, whose letters he has also edited (2002) and about whom he has written a collection of essays (1991).

Mad for music as a boy, Toscanini enrolled in the conservatory in Parma, the town of his birth, at the age of 9. He practiced his instrument, the cello, diligently, but he spent just as much time listening to the practicing of his classmates. To become more conversant with the instruments of the orchestra, he taught himself the violin and double bass. As a pianist, he was fluent (if not exactly polished), and he could, at sight, reduce complex orchestral scores consisting of dozens of parts to make them playable within the compass of his two hands.

Toscanini was aided in assimilating music by his photographic memory.

During rehearsals as a young cellist, he was forever looking around him, much to the consternation of his conductor, who assumed he wasn't paying attention. But Toscanini had no need of the notes on the page; his mind had already absorbed them. He fixed his eye now on the conductor, studying the gestures he made, now on his fellow musicians, noting which gestures they responded to and which they ignored, alert all the while to what he might do differently and what he would do better. ("Formal study of conducting did not exist in those days," writes Sachs, and Toscanini learned his craft by observation.) He put to use what he learned once he gained the podium, and his wondrously retentive memory allowed him to conduct vast symphonies and operas without recourse to a score.

Success came to him while young, and one achievement led swiftly to another. He was chosen in 1898 to direct the reconstituted La Scala Opera, widely considered the best theater in Italy, if not the world. (One envious critic knocked him, though, for his "Luciferian arrogance.") He was lured away in 1908 by the New York Metropolitan Opera, whose board of directors spared no expense to improve the condition of the hall and the caliber of the musicianship. (His most vocal champion on the board was the financier and philanthropist Otto Kahn.) La Scala won him back for eight years, only to lose him again, this time to the New York Philharmonic. When in 1936 he resigned from the Philharmonic, it seemed that, as the *New York Times* put it, Toscanini had "ended last night his career as conductor in America." But then an NBC executive came up with an idea—"that the network could attempt to bring the world's most famous classical performing musician back to the United States under their company's aegis," Sachs writes. "Given NBC's huge and growing corporate resources, the network could afford to transform its already substantial, high-quality house orchestra into a first-rate symphonic radio orchestra." Toscanini's leadership of the NBC Symphony Orchestra made him, through the power of radio and then television, a household name. And his appearances



Toscanini conducting the NBC Symphony Orchestra, circa 1944

as a guest conductor of other orchestras were as numberless as the stars.

Outside music, the touchstone of Toscanini's conscience was liberty, and he believed its blessings should be enjoyed by all people, free from coercion, unimpeded by prejudice. He was an ardent philo-Semite. While recognizing the genius of Richard Wagner's art, he wasn't for a moment taken in by the composer's Jew-hatred. Wagner the man he considered a "*farabutto*"—meaning, according to Sachs, scoundrel, crook, or swindler. Toscanini also saw firsthand the anti-Semitism faced by Otto Kahn in the upper reaches of New York society; he could not fathom how the society that Kahn benefited so greatly with his largesse denied him the right to participate in it fully. At his own expense, Toscanini traveled in 1936 to Tel Aviv, where he proudly conducted the inaugural concerts of the Palestine (later the Israel Philharmonic) Orchestra.

A brave anti-Fascist, Toscanini ran afoul of the government of Mussolini. The more tightly Il Duce clamped down on the Italian people, the more Toscanini rebelled. Repeatedly Toscanini refused to conduct "Giovinezza," the Fascist party's anthem, before concerts where its playing was required. Once this caused him to be roughed up by a band of young Fascist thugs; after-

ward his hotel was descended upon by a mob of 200. Eventually, Mussolini arranged to have Toscanini's telephone conversations wiretapped and his activities watched. In 1938, Mussolini even ordered that Toscanini's passport be seized; it was restored only when it became clear that Il Duce's zeal for punishment was outweighed by his dislike for negative publicity from the United States and England. Toscanini immediately left his beloved Italy, not knowing whether he would ever return. Eight years passed, but return he did, after Mussolini was dead and the war was over, to direct the reopening of La Scala.

Toscanini continued to conduct until 1954, when he bade farewell to the NBC orchestra after a recording session in Carnegie Hall:

Toscanini then laid down his baton for what would prove to be the last time. The first opera that he had heard, before his fourth birthday, was *Un Ballo in Maschera*; the first opera that he had conducted, at the age of nineteen, was *Aida*; and the last music that he conducted was from those two works. The symmetry was perfect.

He died two-and-a-half years later at the age of 89.

For rendering so vivid an account of a life so crowded with achievement, Harvey Sachs—a conscientious biographer—deserves a hearty *bravo*. ♦

Continuing Mission

Star Trek: Discovery brings the storied franchise back to TV, and *The Orville* mocks it. BY ELI LEHRER



Sonequa Martin-Green plays Starfleet Lt. Cdr. Michael Burnham, lead character in the new CBS streaming-only series *Star Trek: Discovery*.

When the series *Enterprise* went off the air in 2005, the consensus was that the whole Star Trek enterprise (so to speak) was exhausted: The show's ratings were too low to keep it on the air and the franchise's two most recent movies were critical stinkers that fared poorly at the box office.

It seemed a feeble end for the storied franchise. *Star Trek*, the original series with William Shatner's Kirk and Leonard Nimoy's Spock, premiered on NBC in 1966. That show had a cult following by the time it was canceled in 1969, and thanks to several years of repeats in syndication its fan base grew and demanded more—and eventually got plenty of it: movies, several spin-off TV series totaling more than 600

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episodes, video games, comic books, and hundreds of novels. Even setting aside the most ardent Trekkers—the ones who attend conventions, collect actors' autographs, wear costumes, and speak Klingon—the franchise's cultural footprint over its first four decades was sizable. Star Trek contributed catchphrases to the American language, shaped our vision of the human future, and inspired generations of scientists and technologists.

By 2005, though, Trek was tired. While some fans and critics blamed the waning interest on weak stories, bad writing, and stiff acting in the franchise's later incarnations, changing social trends also played a part. Some of the things that made the original *Star Trek* extraordinary had over time become commonplace. A multiethnic cast was revolutionary in 1966 but has long been normal on TV (and in much of America; today, most large

cities and the nation's largest state lack any majority ethnicity). Some of the futuristic technology dreamed up for the show had found its way into reality. And, in contrast to grittier offerings like the reimagined *Battlestar Galactica*, perhaps the Trek franchise's general optimism was not well suited for the American mood in the years just after 9/11.

But you can't keep a good franchise down. After four years away from screens big and small, rebooted movies began coming out in 2009, with new actors playing Kirk, Spock, and the other characters from the original series. All three movies released so far have been successful at the box office.

And now along comes *Star Trek: Discovery*, the franchise's first TV show since *Enterprise* was canned a dozen years ago. The new series—the initial 15-episode season of which is being made available only via the CBS network's streaming service—focuses on Michael Burnham (Sonequa Martin-Green). Burnham is a human woman, but was raised on the planet Vulcan as the elder stepsister of original-series character Spock. She is the most flawed character to serve as the lead of any Star Trek series: While possessed of enormous intelligence and bravery, she is awkward, insubordinate, sullen, and headstrong. Viewers meet her as the first officer on the starship *Shenzhou* under Captain Philippa Georgiou (Michelle Yeoh). The show's first two episodes involve Burnham staging a mutiny that sparks war with the Klingons—a warrior race and frequent antagonist for Star Trek's heroes. By the end of the second episode, Burnham is sentenced to life in prison for this mutiny. But in the third episode she is sprung from prison by Gabriel Lorca (Jason Isaacs), captain of the starship *Discovery*, who uses special wartime powers to add her to his crew as a junior science specialist.

The new show offers plenty of what we might, more than a half-century into the franchise's history, confidently call traditional Trek. Major plot points involve the more-than-slightly-dubious science of a mushroom-powered teleportation system (really), an

alien that controls it, and the return of one of the franchise's more interesting villains and of a beloved supporting character. Notwithstanding what some reviewers have written, *Discovery* is not the first Star Trek show to depict important characters doing morally questionable things and not the first to imply that the "bad guys" may sometimes have sympathetic or even noble aims.

Discovery is best thought of as a Trek remix, with several tweaks to the franchise's formula of space adventure, social commentary, and progressive politics. The shift in focus from the top command officers to lower-ranking crewmembers, a rethinking of the Star Trek visual look, and more freedom for script writers (since streaming shows are not bound by FCC rules) are all slight but refreshing changes. And although *Discovery* is not the first Star Trek show with story arcs, it takes the continuing plotlines further—all but eliminating the "reset button" that ended episodes of earlier Trek series, which those shows needed since they were expected to go into syndication and would likely air out of order.

While *Discovery* does (slightly) shake up the Star Trek formula, with characters a little less perfect and more complicated than those featured on previous series, the stories and morals remain entirely recognizable—tales of bravery, exploration, overcoming barriers, and self-reinvention. Early on in the first episode, Burnham states what appears to be the show's major theme: "You do understand that being afraid of everything means you learn nothing. There's no opportunity to discover, to explore." It's a sentiment that's quintessentially American, and quintessentially Star Trek.

Two weeks before *Discovery* debuted, the Fox network aired the first episode of *The Orville*, a new science-fiction comedy. Understanding *The Orville* at all—much less appreciating its humor—requires as a prerequi-



Seth MacFarlane
in *The Orville*

site some knowledge of the Star Trek franchise's many tropes. It's clear that *The Orville's* creators, producers, and writers have intimate knowledge of and great affection for the franchise they are parodying. (In fact, some of them are Trek alumni.) And the idea of a comedy built along Star Trek's lines is certainly a worthy one,

not only because many of the best-loved Trek episodes are comic romps, but also because the 1999 gem of a film *Galaxy Quest*—centered on naïve aliens who come to believe that the cast members of a Trek-like show are real space adventurers—showed that a send-up of Star Trek could work.

The problem is that *The Orville* doesn't quite know what it wants to be. The show is created by, mostly written by, and stars Seth MacFarlane as Cap-

tain Ed Mercer. Mercer is assigned to command a starship alongside his cheating ex-wife Kelly Grayson (Adrienne Palicki). This is a promising conceit. But several episodes in, the show's direction remains unclear. At some moments, it seems like a sitcom-ish, character-driven version of Star Trek that takes its plots and ideas of space adventure more or less seriously. At others, as when characters "solve problems" by spouting streams of technobabble or have sex with space aliens, it's clearly mocking its source material. Apparently, MacFarlane hasn't really decided if he's producing a tribute or a parody; by trying to do both at once the show succeeds as neither.

Since *The Orville's* ratings have been good enough to earn it a second season, its makers may have the time to sort out what the show really is. So far, though, it has been good for just a few chuckles—and for a reminder of the cultural reach of the long-lived and prosperous franchise it parodies. ♦



Ursus Discursion

Outsmarting the average bear.

BY DAVID GUASPARI

The generic, everyday name is "bear can." The original model of the bear-resistant food container, pioneered by Garcia Machine Inc., is a black cylinder with countersunk lid, unsmashable, too large to be carried off in a bear's mouth, with a blank surface that offers no purchase for paws or claws. It guards mankind's proper role in the economy of nature, which is not to be a service provider in the nonprofit catering sector. I call it the Monolith.



A Garcia bear canister

Our pioneer forefathers, free to

discourage misbehaving animals by shooting them, needed no such help. But times change and it is no longer acceptable to defend beef jerky with deadly force. U.S. military doctrine—

as gleaned from remaindered Army survival manuals—has not been well adapted to these restricted rules of engagement. The manuals suggest securing food by dangling it from a rope looped over a branch. I trust that they have been updated, since the bears in our national parks long ago

acquired logical and literal grasp of the connection between the two ends of a rope when one is attached to goodies and the other stares them in the face.

David Guaspari is a writer in Ithaca, New York.

TOP: FOX

Published maladvice on protecting your food is usually accompanied by suggestions about what to do after a bear, inevitably, gets hold of it. These tend toward performance art: shooing it away by banging on pots and pans, yelling, making yourself “look big,” and other forms of suasion. You might as well ask Jimmy Carter to negotiate on your behalf. This can only delay the process of reaching closure by maturely accepting the bear’s good fortune. The bear will be cool. It will not be doing its endzone dance but will be patiently sifting through debris to lick up every edible smear. Best to admire the rippling of its flanks and remind yourself that you’re looking at muscle, not fat.

The root of the problem is not bears but people, people being people—slobs and fools, and known as such throughout the major woodlands. We are easy pickings, and that has changed the bears’ ecology.

There are ideas for changing it back. The Park Service has tried nonlethal harassment, but bears soon learned to distinguish rangers (especially in Smokey hats) from civilians legally obliged to submit to mugging as usual.

The alternative to reforming bears is outwitting them—child’s play, one might suppose, for a *sapiens* sort of species. Welcome to the world of Sun Tzu, of move and countermove in irregular warfare.

Our side introduced counterbalancing: Put both ends of the rope out of reach by connecting two equally heavy food bags with a short rope and dangling this assemblage from a high branch too small to support a bear’s weight. Getting it up there is a production. But don’t bother. A bear who has encountered a few of these will learn to rip the branch out of the tree or to nudge a cub along it: All bear children steal and vandalize at grade level. (Many products of the American school system are similarly capable, and fall down only on less congenial tasks like grade-level reading and writing.)

Our side, the *sapiens* side, responded with “bear wires.” Eliminate that pesky branch! String a rope (the meta-

phorical wire) between two trees at a height of 10 or 15 feet and hang the counterbalanced bags from that. This presents two problems: stringing the wire (inconvenient if you’re not carry-

The root of the problem is not bears but people, people being people—slobs and fools, and known as such throughout the major woodlands. We are easy pickings, and that has changed the bears’ ecology.



Unbearable

ing a ladder or driving a cherry-picker) and finding trees (impossible by definition above the tree line, where there might be fewer bears if they didn’t know that people would be providing meal service, with excellent views, above 10,000 feet).

At campsites within a few days’ walk of some popular trailheads, the Park Service installed permanent bear wires

made of steel cable. Bears learned to climb the supporting trees and shake the food bags off by bouncing on the cables. Our side, you’ll be glad to know, did not give up. We sheathed the support trees with unclimbable metal siding and added pulley systems to raise and lower the cables. This apparatus, available only in wilderness prepared by government advance men, will obsolesce when bears acquire acetylene torches and/or opposable thumbs.

The Monolith has changed the game. With food, toothpaste, and other smellables locked inside, a Monolith can be left on the ground at a safe distance from your sleeping self. A bear that attacks it will fail, lose interest, and eventually learn to ignore any Monolith it encounters. We, to whom God through Adam gave dominion over the earth and all creatures on it, can only hope to bore them.

The Monolith is bulky and heavy, adding nearly three pounds to six days’ worth of food. It also raises moral questions. Are we doing emotional damage to (technically) innocent forest creatures? Animals approach my Monolith to plunder but stay, I believe, to worship. And then I abscond with their God. What does it say about me that I dread to be parted from it? Would an ancient Israelite dump the Ark of the Covenant by the wayside when he left the trail to relieve himself?

Phileas Fogg journeyed around the world on an hour’s notice with a carpet bag, two shirts, and three pairs of socks. We don’t leave home without—for starters—Gore-Tex, polypro, PrimaLoft, Therm-a-rest, and fleece; freeze-dried food; free-standing tent; water filter or SteriPEN (which

purifies water with UV radiation); white gas stove and heat exchanger; GPS. If we feel alienated by technology should we eschew the Monolith and authenticate ourselves by returning to the ancient ways—i.e., to security theater? Of course, Phileas Fogg traveled light thanks to high-tech gear in its purest form: 20,000 pounds sterling. In cash. ♦

COURTESY OF BEARSPRAY.COM

Taking Wing

A coming-of-age tale that's clear-eyed yet charming.

BY JOHN PODHORETZ

We are living through the golden age of the cinema of Sacramento. Oh, you didn't know there was such a thing? There is. It's new. Very new. In 2015, the Sacramento radio station NOW 100.5 could find only eight movies filmed in part in Sacramento over the previous 30 years, and in all of them it was used as a stand-in for somewhere else. But the California capital has served as a key location in two of the best movies of 2017.

The city is the home of Ben Stiller's Brad, the protagonist of the terrific social comedy *Brad's Status*, which I reviewed here just a few weeks ago. And Sacramento circa 2002 is the setting for *Lady Bird*, a semiautobiographical film written and directed by the actress Greta Gerwig. In both movies, the city comes in for a lot of abuse. Middle-aged Brad feels as though he is mired in a backwater as his old friends prosper in New York and Washington and Hollywood and Hawaii. And Christine, a Catholic high schooler in search of an identity who has chosen to call herself Lady Bird, longs for an East Coast college campus to escape the chokingly narrow confines of her native town.

Christine and Brad are both wrong about Sacramento, as the movies make clear. Brad has a good life in Sacramento that fits and suits him. Christine has an epiphany after she gets her driver's license and sees the place through new eyes—a perspective she is desperate to share with her intensely critical mother Marion, whom she has a heartbreaking inability to satisfy.

As she tries on dresses for prom and

John Podhoretz, editor of Commentary, is THE WEEKLY STANDARD's movie critic.

Lady Bird
Directed by Greta Gerwig



Christine and her mother (Saoirse Ronan and Laurie Metcalf) shop for a prom dress.

Marion pooh-poohs each one, Christine is reduced to asking whether her mother even likes her. Marion, herself the daughter of an abusive alcoholic with no idea how to show affection to a daughter, declares she wants Christine to be the best version of herself she can be—which is like a dagger to the heart.

“You both have such strong personalities,” Christine's loving and ineffectual father says to her to soothe her rage and upset. Just as Brad finds himself envying the seemingly limitless future of his own son, so does Marion take out her anxieties about her own life's difficulties on her daughter. We see Marion showing kindness to almost everyone else in her life, so why are she and Christine like porcupines in a rumble?

When Marion accuses Christine of having no idea how much it's cost them to raise her, she demands to know the amount “because I'm going to grow up and make a lot of money

and pay you back so I never have to speak to you again.” To which Marion replies that she very much doubts Christine will ever be able to get a job good enough to do that.

The depiction of this fractious relationship is startlingly true and painfully aware, particularly as embodied by the luminous Saoirse Ronan (as Christine) and the definitive Laurie Metcalf (as Marion), and if that were the all of it, *Lady Bird* would still be one of the highlights of American moviemaking this year.

But it's more. *Lady Bird* tells the story of Christine's final year in high school, and it works as a kind of knowing gloss on John Hughes's 1986 girl-goes-to-prom classic *Pretty in Pink*. Molly Ringwald's Andie of *Pretty in Pink* is a poor kid who gazes longingly at the beautiful houses in her Chicago suburb; Christine and her friend walk home every day from their Catholic school through an affluent neighborhood so alluring to her that she later tells a new wealthy friend she lives in one of them and is humiliated when the truth comes out. But this is no Hughes movie; there are no villains here. Everybody is trying, struggling, just making do.

Christine dumps her lifelong friend to establish herself as the sidekick to the prettiest girl in school. Christine's father goes for a job at an Internet startup and finds himself competing for the position against his own son. The priest who stages the Sondheim musical in which Christine is cast plunges into despair when the high-school parents don't understand the show (it's *Merrily We Roll Along*, which almost nobody understands). The pretentious Howard Zinn-reading teenager who takes Christine's virginity is callous toward her but is living with a father dying of cancer. And Marion must cope with the fact that her combatant, her best beloved, is leaving her.

“I just wish I could live through something,” Christine laments at the beginning of the movie after listening to the books-on-tape version of *The Grapes of Wrath*. By the end of *Lady Bird*, she has, and so have we, and it's been wonderful. ♦

COURTESY OF A24

“And when the White House kitchen staff couldn’t match the satisfaction of a quarter pounder with cheese (no pickles, extra ketchup) and a fried apple pie, it was Schiller, bodyguard and Trump whisperer, who would head down New York Avenue to McDonald’s on a stealth fast food run.”
—Politico, November 6, 2017

PARODY



STATE DINNER

IN HONOR OF

HIS EXCELLENCY EMMANUEL MACRON
PRESIDENT OF THE FRENCH REPUBLIC

FIRST COURSE

SIX GOLDEN-FRIED NUGGETS OF TENDER,
JUICY WHITE-MEAT CHICKEN
SAUCE BARBECUE, SAUCE SWEET AND SOUR, MOUTARDE

SECOND COURSE

“FISH DELIGHT”
LIGHTLY BATTERED ALASKAN POLLOCK
BETWEEN TWO STEAMED SUGAR BUNS
FROMAGE AMÉRICAIN
SAUCE TARTARE

MAIN COURSE

“ROYALE WITH CHEESE”
ONE-FOURTH OF A POUND OF PURE AMERICAN BEEF
ON A BUN SEEDED WITH SESAMES
ONION SLICES, MELTED CHEESE,
EXTRA KETCHUP, SANS CORNICHON
POMMES FRITES

DESSERT

DEEP-FRIED TARTE AUX POMMES
VANILLA ICE CREAM SEAMLESSLY BLENDED
WITH OREO COOKIES À LA McFLURRY