

**DOUBLE JEOPARDY
AT YALE**
STUART TAYLOR JR.

the weekly

Standard

APRIL 2 / APRIL 9, 2018

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PARTY OF ONE

John Kasich eyes 2020

BY JOHN MCCORMACK

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Announcing: The Boxer Prize

In 2005, as readers may remember, Democratic senator Barbara Boxer published a novel, *A Time to Run*. The book was a flop, largely owing to its confusing plot, sick-makingly sentimental prose, and the obviously self-serving tone of the whole story. The story's protagonist, Ellen Fischer, is an idealistic and principled liberal who reluctantly runs for office and risks her career to stand up to the extreme right-wingers dominating Washington. We can't imagine who Ellen Fischer might have been based on. (The novel's failure didn't stop Sen. Boxer from following it up with another, *Blind Trust*, four years later. We confess we didn't read the second one.)

It occurs to THE SCRAPBOOK that this could very well be a genre in need of recognition: spectacularly bad novels whose righteous heroes are rather too obviously based on their famous authors. And if it's a genre of its own, it must deserve its own literary prize. We propose the creation of the Boxer Prize.

On the shortlist to be this year's Boxer laureate would surely be Sean Penn, for his debut novel *Bob Honey*



Who Just Do Stuff. This work is the outgrowth of an audiobook Penn made two years ago under the nom de plume “Pappy Pariah.” The protagonist, Bob Honey, doesn't immediately sound like the actor Sean Penn; he is a “man of many trades—sewage specialist, purveyor of pyrotechnics, contract killer for a mysterious government agency that pays in small bills.” Other facets of the character, however, suggest a kinship with his creator. In one passage, for instance,

Bob Honey meets with a drug lord who has just escaped from prison. In another passage, Penn—or, rather, Bob Honey—writes a letter to the president of the United States, cleverly termed “Mr. Landlord,” and the attitude sounds just a tad like a certain crude and outspokenly left-wing movie star:

Many wonderful American people in pain and rage elected you. Many Russians did, too. Your position is an asterisk accepted as literally as your alternative facts. Though the office will remain real, you never were nor will be. A million women so dwarfed your penis-edency [sic] on the streets of Washington and around the world on the day of your piddly inauguration. . . . You are not simply a president of impeachment, you are a man in need of an intervention. We are not simply a people in need of an intervention, we are a nation in need of an assassin. . . . Tweet me bitch, I dare you.

Bob Honey Who Just Do Stuff, published by Atria Books, will go on sale next week. The price is \$24. The cost, in terms of things you could do besides reading it, only you can determine. ♦

The Perils of Nomenclature

When companies change their names, it often means that the business wants to shed an old, negative image and replace it with something more in tune with modern sensibilities. Hence Philip Morris, the tobacco giant, gave itself the much less tobacco-y name Altria, and Kentucky Fried Chicken's new, updated name, KFC, conveniently avoids the word “fried.”

Oil companies, perhaps sensing that many people think of “oil” and “big oil” in negative terms, now want to use their names to suggest that they do more than sell oil. British Petroleum started the trend by changing its name



to the vaguer BP and giving itself a green logo shaped like a sunflower.

But it doesn't always work. Consider a couple of Scandinavian oil companies—sorry, a couple of Scandinavian wind and solar companies that also happen to drill for oil. This month, Norway's state-owned oil company, straightforwardly named Statoil, announced that it plans to change its name to Equinor, which company officials believe better emphasizes its commitment to clean energy and



other happy things that aren't oil. The new name, according to *Bloomberg News*, was “acquired from an Oslo veterinary practice specializing in horses” for an undisclosed sum. The vet, it turns out, offers “services from equine dentistry to castration.” The new name was widely derided by analysts and unions. And in Denmark, the new name of the state-owned oil company is Orsted. That name change was, however, a little more defensible. The old name of the company was Danish Oil and Natural Gas, or DONG. The name had become

TOP: DAVE MALAN

something of a distraction in English-speaking markets.

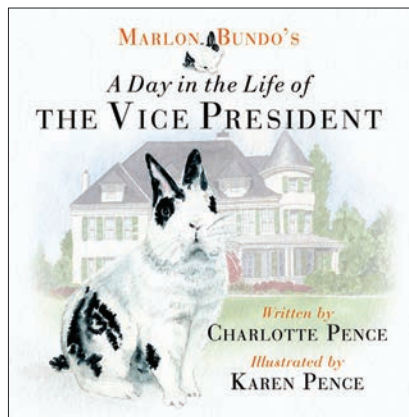
It's just another reminder that you can't be too careful when you name a large enterprise. We're told, though we weren't able to confirm, that when the Fayetteville, N.C., bus system was first proposed in 1976—it's now smartly called the Fayetteville Area System of Transit, or FAST—administrators suggested calling it Fayetteville Area Rapid Transit. ♦

A Very, Very Witty Book, We're Sure

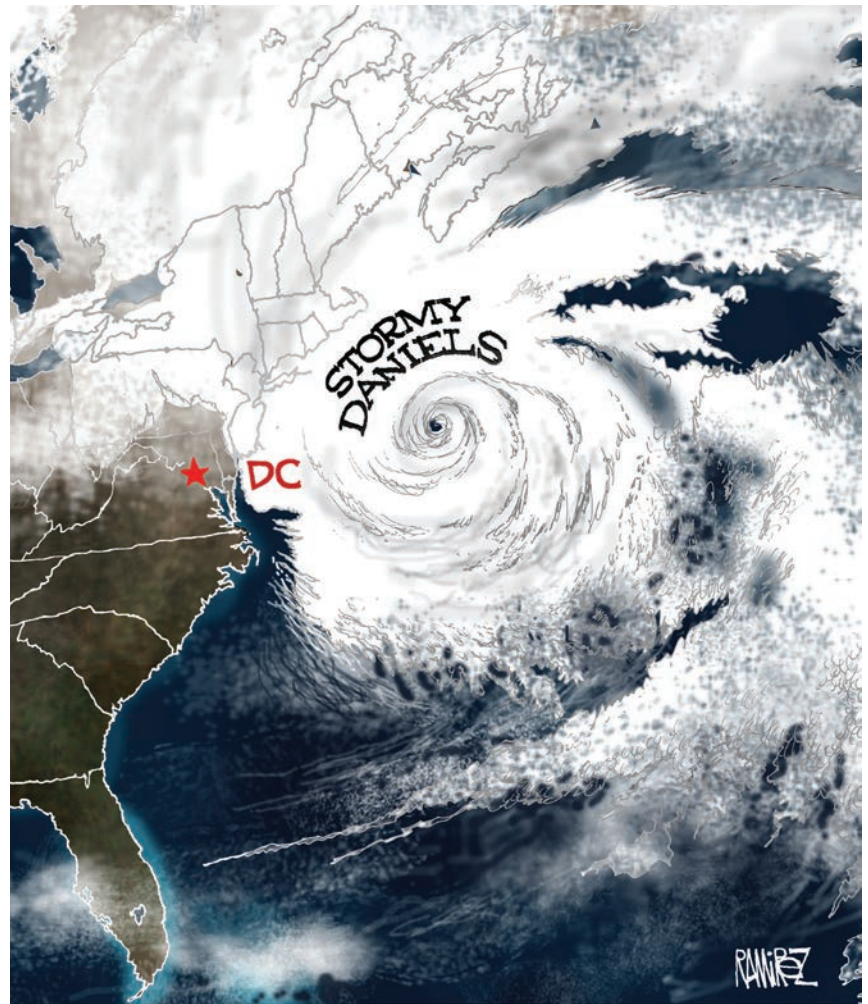
On March 18, the top-ranked Amazon item was a brand-new children's book titled *A Day in the Life of Marlon Bundo*. The book is credited to the late-night TV host John Oliver's show, *Last Week Tonight with John Oliver*, so we assume Oliver is the author. It's a "children's picture book about a Very Special boy bunny who falls in love with another boy bunny."

Readers may or may not be aware that Marlon Bundo is the name of a pet rabbit owned by Vice President Mike Pence and his family, and that Karen Pence and daughter Charlotte have just published a children's book titled *Marlon Bundo's Day in the Life of the Vice President*.

But Pence opposes same-sex marriage and has thus made himself repugnant to liberal entertainers and their fans. Barack Obama and Hillary Clinton opposed same-sex marriage, too, but unlike them Pence still holds to his view. His wife and daughter's



The Pence original: Accept no substitutes.



NOR' KEISTER

children's book is, therefore, in the minds of the vice president's critics, fair game for the razor-sharp wit and satirical genius of Team Oliver.

From the book description: "Meet Marlon Bundo, a lonely bunny who lives with his Grampa, the Vice President of the United States. But on this Very Special Day, Marlon's life is about to change forever. With its message of tolerance and advocacy, this charming children's book explores issues of same sex marriage and democracy. Sweet, funny, and beautifully illustrated, this book is dedicated to every bunny who has ever felt different."

THE SCRAPBOOK took just a peek inside the book. A typical line: "My Grampa is the Vice President. His

name is Mike Pence. But this story isn't going to be about him, because he isn't very fun. This story is about me, because I'm very, very fun."

We'll take their word for it. ♦

Anna Campbell, RIP

Many young people in the wealthy nations of Europe and North America, having been taught by their elders to equate morality with risk-free virtue-signaling, have plenty of strong opinions about injustice and oppression, but the will to do anything about it often seems lacking.

It wasn't so with Anna Campbell, a 26-year-old from Sussex, England. Campbell studied at Sheffield



A vigil honoring Anna Campbell in her hometown of Lewes

University but decided academic life wasn't for her, so she trained as a blacksmith and later as a plumber. She read about the struggle by Kurds in the Middle East to create an independent secular state—how the Kurds are fighting the governments of Turkey, Syria, and Iraq for independence, on one side, and fighting ISIS for survival, on the other.

So Campbell left England and traveled to Syria to join the women's unit of the U.S.-backed People's Protection Units, or YPG, the Kurdish militia. She learned to use high-powered weaponry and dyed her blonde hair black to look less obviously Western.

Campbell fought for a time in Syria in operations against ISIS, but when she heard about the Turkish offensive against the Kurdish city of Afrin, she begged her commanders to send her there. They relented. On March 15, a convoy she was traveling in was hit by a Turkish missile.

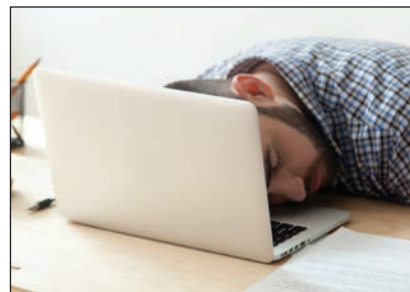
We would not counsel a son or daughter to leave everything behind to fight in a foreign militia's cause. Perhaps it was a foolish expedition. But it's impossible not to admire this young woman's will, her readiness to take a risk in a worthy aim, and her insistence on aligning her idealism with her actions.

"It seems a small thing," her father,

Dirk Campbell, told the *Guardian*, "but I remember when she was 11, she protected a bumblebee from being tormented by other kids at school. She did it with such strength of will that they ridiculed her. But she didn't care. She was absolutely single-minded when it came to what she believed in, and she believed what Turkey is doing is wrong."

Sentences We Didn't Finish

While many transgender artists have achieved significant success in music, including Teddy Geiger (who has written for One Direction and James Blunt) and Sophie (a recording artist who has produced songs for Madonna and Vince Staples), Ms. Petras's character falls closer than any before her to . . ." (Jim Farber, "Princess of Gross," *New York Times*, March 18).



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The Building Racket

If our scribblings here at THE WEEKLY STANDARD have, for the last two years, had a jittery, anxious quality, it might be because we haven't had a minute's calm. And I don't mean the mad whirlwind that is the Age of Trump. I refer to the daily slam-bang from the construction site next door.

It was fun at first, watching an iron menagerie of Jurassic demolition beasts destroy a building with their concrete-hammering snouts and steel-rending claws. Every other day would bring a fireworks display of showering sparks as the masked man with the acetylene torch did his thing. There was, as well, a certain pleasure in watching what had been the *Washington Post* headquarters being torn down. Once it was razed, you could see that the building had backed up to the rear of the Russian ambassador's residence. There were jokes about whether the wrecking crew had bulldozed the secret tunnel that allowed the *Post* editors to get their marching orders in person. But the joke turned out to be on us: Days of jackhammering turned into weeks and then months.

Nor was the noise over once that last load of rubble had been trucked out of the big dirt hole. After the deconstruction came the new construction, every stage of which has been announced with its own special drumming or thumping or banging or clanging. Which is why the workers' rig includes not just helmets and goggles, orange vests, steel-toed boots, and harnesses, but hearing protection (I guess I should be happy that someone is getting relief from the noise). But their earplugs are at odds with other safety measures, such as the relentless hurdy-gurdy of forklifts proclaiming they are backing up. For

the muffle-eared construction crews to be able to hear the warning bleats, it's not enough for the forklifts to beep, they have to shriek. Which they do, all day long.

We're not the only people suffering from construction clatter these days. The monumental architecture of the



capital remains timeless, but the modernist boxes of lobby-and-lawyerland have not aged well. Just about every block in downtown Washington has its own 1970s atrocity, the architectural equivalent of the maroon double-knit leisure suit worn with white belt and shoes. But instead of a full teardown it's often cheaper to gut the old embarrassments and strip away their façades, leaving bare skeletons of iron columns and reinforced-concrete slabs. Then the whole thing can be draped with a new sheath of glass in a fashionable hue, *et voilà!*—a fresh triumph of modernism is born. This architectural style is something we might call “ecdysiast”—buildings that shed their skin.

Alas, every one of these projects creates its own din. Walking to get a sandwich is like wandering into a symphony for power tools written by Charles Ives.

When the noise gets to be too much, I take refuge in writing from home. Or at least I used to.

My once-quiet neighborhood, out on the northwest corner of the District of Columbia, was mostly built about a century ago. The typical Palisades house, handsome in its working-class modesty, was made by Sears, or rather, Sears sold the plans and provided everything from pre-cut lumber to plumbing, windows, and shingles for a local contractor to assemble on site. Now many of the old charmers are being torn down to make room for flashy four-level mansions that hulk up against the property lines. (If I sound miffed, that's because I am. One of these monsters—its design based on the principle that if your neighbors can still see the sun, you didn't make it big enough—is going up next to my happy little 1927 house.)

With the space invasion has come yet another assault on the ears. No doubt home-building was noisy back in the day when carpenters hammered and sawed by hand, rabbeting the lintels and whatnot.

But now we listen all day to the explosive report of the pneumatic nail gun and the ear-searing skirling of the table saw. And don't forget the boom boxes. The crews working the site can't seem to settle on a soundtrack. When their workday begins at 7:30 we're sometimes treated to screaming '80s hair-bands, sometimes to ranchera music, and sometimes to a Twisted Sister/Pepe Aguilar mashup.

The D.C. building boom, whether it's new office space for lawyer-lobbyists or grand new houses with double-garages for their Range Rovers, tells you the swamp hasn't been drained. Such is Washington. I just wish they'd keep the racket down.

ERIC FELTEN

What to Do About Putin

We would have more respect for Vladimir Putin if he simply dispensed with his country's elections and declared himself president-for-life. This would spare us the idiotic burden of discussing the Russian state's sexennial public-relations stunts. Everybody inside and outside the country knows the March 18 elections were rigged. Nonetheless news outlets around the world felt obliged to report that Putin received 76 percent of the vote—a marked increase from the 64 percent he received in 2012!

A dictator's power comes from nowhere. It's based on force, and only on force. Putin is not a monarch who rules by orderly succession; he has received no religious or divine sanction and certainly doesn't rule by virtue of popular consent. He rules because his regime has power and the means to keep it. In the dictatorial worldview, there are only ruler and ruled. "The whole question is—who will defeat whom?" as Lenin observed. Or, as usually shortened: "Who, whom?"

But Putin knows it is far more effective, both in keeping domestic order and in international relations, to cover that severe reality with the soothing rhetoric of democracy. Hence the Russian elections. And hence all those totalitarian regimes calling themselves the "people's republic" of this or that.

If we look beyond the trappings of Russian democracy, what we see is an increasingly aggressive bully. Putin's regime has invaded or otherwise arrogated sovereign states; murdered and tried to murder its critics on foreign soil; flouted agreements around the globe; sabotaged the elections of free nations; carried out cyberwarfare against the U.S. government and its allies; and supplied some of the world's most sinister dictatorships—from Venezuela to Syria to North Korea—with military aid and money.

Despite what Trump's fiercest detractors claim, his administration has not been soft on Russia. It has imposed sanctions on an array of Russian tycoons and companies, including two Putin cronies. The State Department is supplying Ukraine with lethal weaponry to counter Russian incursions and sending antimissile systems to Poland—both contrary to the Kremlin's wishes. In February, the U.S. military struck a convoy of Russia-backed mercenaries in Syria. And on March 15, the Treasury Department announced sanctions on the individuals and entities indicted by special counsel Robert Mueller's grand jury; those indicted include Russia's two intelligence agencies.

The president's words, though, run counter to the actions of his administration. One could compile a long list

of Trump's favorable and even laudatory statements about the Kremlin autocrat. The most egregious of these rhetorical offenses came on March 20 when Trump congratulated Putin on his victory in a rigged election—this despite the fact that his briefing material for the call, according to reports, included the reminder "DO NOT CONGRATULATE."

White House spokeswoman Sarah Huckabee Sanders rationalized Trump's congratulatory call with a bit of moral nonchalance. "We don't get to dictate how other countries operate," she said. "What we do know is that Putin has been elected in their country, and that's not something that we can dictate to them, how they operate. We can only focus on the freeness and fairness of our elections." Trump didn't focus on the "freeness and fairness" of our elections, either, neglecting to raise the issue of Russia's interference in U.S. elections with Putin or its ongoing attempts to meddle in the 2018 election.

One could argue that the administration's actions are what counts. But the president himself doesn't believe that—if he did, he wouldn't post defensive tweets every time he's criticized for making nice with Putin; he would simply keep quiet and let Putin guess at his intentions. But Trump is not remaining quiet.

"I called President Putin of Russia to congratulate him on his election victory (in past, Obama called him also). The Fake News Media is crazed because they wanted me to excoriate him. They are wrong! Getting along with Russia (and others) is a good thing, not a bad thing," Trump tweeted on March 21. "They can help solve problems with North Korea, Syria, Ukraine, ISIS, Iran and even the coming Arms Race. Bush tried to get along, but didn't have the 'smarts.' Obama and Clinton tried, but didn't have the energy or chemistry (remember RESET). PEACE THROUGH STRENGTH!"

Russia could help solve many of these problems because Russia—by invading Ukraine, covering for Syria's chemical-weapons attacks, blocking for Iran in the U.N. Security Council—has a great deal of responsibility for them. To hope publicly that Russia will play a constructive role resolving problems created by your appeasement of Putin is like proudly announcing your own foolishness.

But Trump is Trump, so we can assume that his rhetorical genuflections to Putin will continue. All the more reason then to counterbalance them with policy and action. There are many more individuals and entities the Treasury Department can sanction. Oligarchs associated with Russia's defense ministry, and particularly those with connections to Syr-

ian president Bashar al-Assad and the war effort in eastern Ukraine, deserve a high place on the list of sanction targets.

Other, less conventional responses suggest themselves, too. The United States and its European allies might consider pressuring FIFA, the international soccer association that puts on the World Cup, to move this summer's event from Russia. The British foreign minister (who we are confident cares far more about soccer than the average American) has remarked that Putin will use the 2018 World Cup the way Hitler used the 1936 Olympics. He's right. Action should accompany such a view.

More is at stake here than international virtue-signaling. By meting out punishments to the Putin regime and to the dictator's friends and allies, the United States can weaken his position within his country. Some of Putin's wealthy backers, as Garry Kasparov argued in these pages recently, may deem sanctions too costly and flee the country altogether. Putin's opponents may gain more and bolder followers as the dictator's reckless power plays lead the country into isolation.

It's not a question of avoiding confrontation with Vladimir Putin. He has sought confrontation repeatedly. And so far, he's mostly gotten his way. Behind those blue expressionless eyes, he's smiling. ♦

Forced Speech

American liberals love the First Amendment's "freedom of speech" clause. They remember their brave forerunners—muckraking journalists, civil rights activists, religious and political dissidents—and venerate the constitutional right that enabled their eventual vindication. Yet it's striking how often today's most flagrant desecrations of free-speech rights are perpetrated not by right-wing rubes in Southern school districts but by highly educated and allegedly forward-thinking liberal elites.

Consider *NIFLA v. Becerra*, a case that came before the Supreme Court on March 20.

The National Institute of Family and Life Advocates (NIFLA), a pro-life group, brought the suit in response to a California law called the FACT Act. It requires pro-life pregnancy centers—organizations that exist to oppose and mitigate the effects of legalized abortion—to post notices that the state provides free and low-cost abortions. The notice reads as follows:

California has public programs that provide immediate free or low-cost access to comprehensive family planning services (including all FDA-approved methods of contraception), pre-natal care, and abortion for eligible women. To determine whether you qualify, contact the county social services at [phone number].

To any ordinary American, this is an instance of the state requiring citizens to make a political speech whose content they abominate. The Supreme Court has a long history of striking down laws that require objectionable speech. In *Wooley v. Maynard* (1977), for instance, the Court held that New Hampshire could not require drivers to display the state motto, "Live Free or Die," and in *Riley v. National Federation of the Blind* (1988), the Court rejected a North Carolina law requiring fundraisers to relay specific information to potential donors.

FACT, the law now at issue, further requires the centers to declare to pregnant women that the center is not licensed by the state of California. This is yet more required speech and almost certainly unconstitutional according to past High Court decisions. But it's also just nasty: The whole point of state licensing laws is to protect the public from negligent or fraudulent service providers. Does the state believe Californians need protection from crisis pregnancy centers?

Several of the Court's liberal justices—Elena Kagan, Stephen Breyer, Sonia Sotomayor—seemed during oral arguments to take a skeptical view of the California position, and this suggests that the law will almost certainly be declared unconstitutional. But that doesn't mean the issue is decided. What about state laws that require abortion providers to specify the health risks of abortion or explain alternatives to it? The Supreme Court's 1992 decision *Planned Parenthood v. Casey* famously upheld these "informed consent" laws, but aren't they the same as California's law requiring pregnancy centers to explain alternatives to adoption—namely abortion?

The justices seemed to indicate the answer is "No," but mainly because the California law was so manifestly written to target pro-life pregnancy centers. What if the law were more fairly written? The pro-life side will argue that the cases are completely different inasmuch as "informed consent" explanations take place before a serious medical procedure, and pregnancy centers don't offer medical procedures. We agree, but the Court won't answer that question in *NIFLA v. Becerra*.

The most extraordinary thing about *NIFLA v. Becerra* is the existence of the FACT Act in the first place. California lawmakers don't like pro-life pregnancy centers and sought a way to punish them. Why? Because frightened women sometimes wander into these welcoming places mistakenly believing them to be abortion clinics. Some leave with a brighter outlook and a determination not to abort their unborn child. Liberal California lawmakers would rather that didn't happen. Their remedy was to force pregnancy-center workers to parrot state-sponsored talking points about "free or low-cost" abortion.

If we could compel left-wing California lawmakers to recite their own follies, we'd be sorely tempted. But thank God for the First Amendment. ♦

ANDREW FERGUSON

Hurrah for the First Amendment, but . . .

It is a fact of history that we Americans believe all kinds of dumbass things. Different Americans believe different dumbass things at different times, but each of us must sooner or later fall for an urban myth, a lunatic philosophy, an obvious exaggeration, a prophecy of doom, or some other delusion. Speaking for my part, as a teenager I believed that Yoko Ono was an artist, and I was not alone. Even today some of us (I'm not naming names) think the French are right about Jerry Lewis, and still others believe all such madness is traceable to fluoridation of our water supply, like the effects of lead in ancient Rome.

Sometimes these mistaken beliefs are alarming; sometimes they look more alarming than they truly are. Earlier this month, a general hubbub arose when Gallup released a poll of college students showing, as the *Chronicle of Higher Education* put it, "they are more committed to free speech in the abstract than in reality." Overwhelmingly, students told Gallup's pollsters that they value free speech on campus and off. Yet when presented with particular examples of speech that has traditionally been protected by the Constitution—"hate speech" or ethnic slurs or other language meant to wound—large percentages favored the use of campus speech codes and a ban on inviting potentially offensive speakers. A headline in the *Washington Post* read: "College students support free speech—unless it offends them."

This news might seem disquieting. On the other hand, it isn't really news. In their ambivalence about free speech, college students are following a long and not terribly honorable tradition.

Last year, the pollster Karlyn Bowman and her team at the American Enterprise Institute looked into the history of our support for the right to free speech. They found a Gallup poll dating back to 1938, the very dawn of scientific polling. It showed that 96 percent of those responding—pretty



A 1938 Gallup poll showed that 96 percent of those responding believed in freedom of speech. Meanwhile, more than half insisted that Communists shouldn't be allowed to 'express their views.'

much everybody—said they believed in freedom of speech. Meanwhile, more than half of them insisted that Communists shouldn't be allowed to "express their views in [their] community." Another survey 16 years later showed the same overwhelming declarations of devotion to the First Amendment. Even so, 89 percent of respondents thought a Communist caught teaching in a college should be fired, and a majority thought books by Communists should be removed from the public library.

Communists don't seem so threatening as they did during the days of the Hitler-Stalin pact or the Cold War, and for the last decade polls have shown that we are happy to let them teach, talk, and haunt our public libraries to their hearts' content. Yet the pattern continues: We like free speech in theory, but lots of us get squirrely in

the face of particular kinds of speech.

The ambivalence spans generations. In 1997, before many of today's college students were born, one national poll showed that 75 percent of respondents said people should not be allowed "to say things in public that might be offensive to racial groups." Some evidence even suggests that young people today are less touchy than their parents. Not long ago Pew asked a large sample of Americans to choose between two statements: first, that "too many people are offended these days"; and second, that "people need to be more careful about the language they use to avoid offending others." Older people were more likely than young people to agree with the second statement; young people favored the first by a large majority.

So the kids are all right—or no worse than the rest of us, anyway. But this month's Gallup poll went a little deeper. The truly alarming finding received much less attention in press accounts. The pollsters asked the students this question: "If you had to choose, which do you think is more important—a diverse and inclusive society or protecting free speech rights?"

The first thing that strikes you about this question is that it's not a very good question. It is a "false choice," to use President Obama's favorite phrase. The two goals, a diverse society and one that protects free speech, ought to be perfectly compatible.

But are they? By 53 percent to 46, the students in the Gallup poll favored an inclusive society over one that guarantees the right to free speech. Even more disturbing, the groups most inclined to choose the inclusive society—black students, female students, and students who identify themselves as Democrats—were likewise the people most likely to favor speech codes and keeping

potentially offensive speakers from campus. Evidently they see a trade-off between the two values: As free speech declines, diversity flourishes.

The poll did not define what an inclusive society is, leaving the students' minds to caper in that vast, unmapped Shangri-La that the words *diversity* and *inclusion* are meant to embrace. A few things are clear, though. A foundational assumption of the dogma of diversity, as proselytized on college campuses, is that a community becomes stronger when its members don't have much in common. And further: When we dwell upon—indeed, fetishize—the superficial differences of sex, race, or ethnicity, we will be stronger still.

This is a dumbass idea. Yet it is seldom held up for examination or debate. It should be obvious that no multicultural paradise would be possible at all if its citizens weren't free to peaceably express their diverse views. Free speech is prior to diversity, as the philosophers say. It is a necessary condition of diversity, and probably diversity's greatest guarantor. To extol inclusion at the expense of speech is incoherent and unserious—a mere reflex of campus ideology in our era of discontent.

Unserious, yes, but not unprecedented. Let's look on the bright side: We're not hearing any crazy talk about Yoko Ono. ♦

COMMENT ♦ FRED BARNES

The decline and fall of Elizabeth Warren

The Trump era has been tough on Senator Elizabeth Warren (D-Mass.), and no one has been tougher on her than President Trump himself, with his references to her as “Pocahontas.”

With the nickname, the president is playing brass-knuckles politics to remind voters of her undocumented claim to Cherokee Indian heritage. To be politically correct, Warren says she is “part Native American” through her mother's side of the family.

Warren says she'll fight back against Trump. “I went to speak to Native American leaders, and I made a promise to them,” she said in a TV interview. “Every time President Trump wants to throw out some kind of racial slur, he wants to try to attack me, I'm going to try to use it as a chance to lift up their stories.”

That won't petrify Trump. He's clever, relentless, and enjoys verbal brawls. He usually prevails. And he doesn't mind taking gratuitous shots. At a recent rally in Pennsylvania, he advised the news media they'd face low TV ratings if he's not reelected in 2020. “Can you imagine covering Bernie or Pocahontas?” he said.

While Trump is an irritant to Warren, she has bigger problems. The most serious is what appears to be an openness by her party to lean a bit toward the center. This is not unusual before a midterm election. But Warren is bound to view it as a weakening of both her influence on Capitol Hill and her prospects of winning the Democratic presidential nomination in 2020.

That Democrats have the upper

hand in 2018 is undisputed (except by Trump), and they want to maximize their gains. They've held on tightly to liberal positions on immigration and social issues, but other policies adopted in the Obama years are no longer sacrosanct.

Politico headlined a recent story “Warren at war with fellow Dems.”



Guess what? She's a poor loser. She said the vote by the 16 defectors 'felt like a stab in the heart—not for me, but for all the homeowners who were cheated and the taxpayers who bailed out those banks.'

Indeed she is, and what's noteworthy is she's losing the most serious of the battles.

It involves a bipartisan measure to ease the sweeping banking regulations—the Dodd-Frank Act—passed after the 2008 financial crisis. Sixteen Democrats joined Republicans to push the new bill ahead. Warren, along with her left-wing allies, was furious.

And guess what? She's a poor loser. At the Congressional Progressive Caucus, she said the vote by the 16 defectors “felt like a stab in the heart—not for me, but for all the homeowners who were cheated and the taxpayers who bailed out those banks.”

That wasn't all. “It's so hard to

‘Suffer the flummoxed to come unto me’

Ask Matt Labash

at weeklystandard.com

fight against all the money and all the lobbying, so hard when we fight and lose,” she said. “But, yeah, it’s worse when some of our teammates don’t even show up for the fight.” That moderate Democrats might vote for deregulation to aid their reelection in Trump states didn’t appear to cross her mind.

But it’s not just Democrats who find themselves on Warren’s enemies list. Her pride and joy in the nation’s capital is the Consumer Financial Protection Bureau (CFPB). It was her idea, and it’s an extraordinary piece of work—an agency free from congressional accountability or significant oversight by anyone in Washington except the president, who only gets to name a new CFPB head once every five years.

When Richard Cordray, the first director, departed to run for governor of Ohio, White House budget director Mick Mulvaney stepped in as acting boss. As Warren saw her creation coming apart, Republicans rejoiced. She tweeted that Mulvaney would have to answer her queries or he’d be hauled before the Senate Banking Committee and made to testify under oath.

This episode was dubbed “Elizabeth Warren’s Boomerang” by the *Wall Street Journal*. Warren had forgotten that she’d constructed CFPB so it wouldn’t have to answer to Congress. Mulvaney was free to ignore her tweets. Under Cordray, the CFPB was anti-business. In Mulvaney’s hands, it’s not.

Nor was Warren’s vision of a new America reflected in Democrat Conor Lamb’s election to the House seat in Pennsylvania’s 18th District, which Trump won in 2016 by 20 percentage points. Lamb, 33, won by 627 votes, enough for him to be anointed as a model Democratic candidate.

An ex-Marine, Lamb is not a Warren acolyte. He will not be joining the Democratic “resistance,” which opposes everything associated with the president. “I will work with anyone to protect our people and bring good jobs here,” he says on his website.

He’s a centrist, pro-union, and lik-

able. Given these traits, Lamb was called a “Trump Democrat” by a few folks on the left. “Sounds like a Republican to me,” Trump said. Lamb’s district is in western Pennsylvania.

A candidate Trump likes won’t be Warren’s favorite. My assumption is Lamb won’t rush to sign up for Warren’s presidential campaign, or Bernie Sanders’s either. Warren is insis-

tent she won’t have one, though her speech last month to the National Congress of American Indians defending her claim to an Indian heritage suggested otherwise.

It’s not that political events since Trump entered the White House stand in the way of a Warren candidacy. But she’s hardly on a winning streak. She needs one. ♦

COMMENT ♦ PHILIP TERZIAN

It’s not easy being attorney general, and not just in this administration

I confess to a weakness for the attorney general, Jeff Sessions. I say this despite the fact that I disagree with him on various issues—civil-asset forfeiture, for example, and the opioid crisis. But as is often the case in politics, certain whimsical reasons recommend him. To my mind, his very name—Jefferson Beauregard Sessions III—is exactly the sort of moniker a senator from Alabama ought to have. And once upon a time, he turned Groucho Marx’s famous aphorism—“I don’t want to belong to any club that would accept me as a member”—on its head.

Let me explain. When I briefly lived and worked in Alabama, a very long time ago, Sessions had a good reputation as a federal prosecutor in Mobile, later burnished by his tenure during the Reagan-Bush years as U.S. attorney for the southern district of Alabama. Yet for reasons having more to do with partisan politics than personal qualification, he ran into difficulties when Ronald Reagan nominated him in 1986 to the U.S. District Court.

It’s difficult to remember now, but in those days Congress was still largely the Democratic branch of government: Democrats had controlled both houses of Congress—almost continuously and with prohibitive majorities—from the early 1930s until the mid-1990s and relished limiting the

powers and prerogatives of Republican presidents. Accordingly, as the South ceased to be solidly Democratic in the 1970s and ’80s, resentful Senate Democrats were especially hostile to presidential appointees who happened to be Southern Republicans. Sessions got caught in the crossfire.

After his District Court nomination failed in the Senate—an injustice followed, not long after, by the churlish rejection of Judge Robert Bork’s elevation to the Supreme Court—Sessions returned to his duties as U.S. attorney for the balance of the Reagan years and George H. W. Bush’s term as president. In 1994 he was elected attorney general of Alabama and then, two years later, joined the ranks of the very same World’s Greatest Deliberative Body that had disdained him a decade earlier.

There he remained until 13 months ago. Sessions was the first Republican senator to endorse Donald Trump in the primaries and as such was surely entitled to some reward when Trump beat Hillary Clinton. Yet I felt a certain pang on his behalf when, barely a week after the election, Sessions’s appointment as attorney general was announced. Not because of the near-constant uncertainty that must accompany any sinecure in the Trump administration—which, at the time, was not yet obvious—but because elec-

tion victories sometimes cause lapses of judgment in the political class.

To be sure, it is possible, even likely, that on the eve of his 70th birthday Sessions sought to cap his career in public service with a senior cabinet post. But as Rex Tillerson is the most recent to discover, appointees in the executive branch serve at the pleasure of presidents, and as attorney general, Jeff Sessions not only sacrificed a safe Senate seat but positioned himself squarely (and uncomfortably) in the middle of the Washington food fight over Trump-Russian “collusion” in the 2016 election.

By recusing himself from any federal inquiry into the matter, the new attorney general did the only thing he could responsibly do under the circumstances. But I have to assume that the fact that Sessions’s Senate seat is now held—even temporarily—by a Democrat, coupled with his chief’s periodic public rebukes, must inspire the occasional second thought.

For the fact is that the office of attorney general is not only uncomfortable in the Trump administration but a decidedly mixed blessing under most circumstances. Cabinet secretaries are instructed, by the Constitution, to carry out the laws of the land; but while politics and statutes are more successfully mixed in other departments, the balance is especially awkward when the laws pertain to the Law.



There’s a reason why John F. Kennedy appointed his startlingly unqualified 35-year-old younger brother/campaign manager Robert to head the Justice Department, and Richard Nixon tapped his law partner/campaign manager John Mitchell for the same purpose. When conflicts arise, it’s useful for the nation’s chief law-enforcement officer to be your friend.

Sometimes, in history, the combination runs smoothly: Attorney General Francis Biddle opposed the internment of Japanese-Americans after Pearl Harbor but acceded to

There’s a reason JFK appointed his brother and Richard Nixon his law partner. When conflicts arise, it’s useful for the chief law-enforcement officer to be your friend.

the judgment of the Roosevelt White House and the War Department. J. Howard McGrath was a loyal party man and convenient fixer—and was just as conveniently dropped when scandals imperiled President Truman. When President Eisenhower found himself in conflict with Joseph McCarthy, Attorney General Herbert Brownell revived the obso-

lete concept of executive privilege.

At other times, however, the alliance can be delicate. President Clinton was never especially comfortable with Janet Reno, the Miami prosecutor who rose from obscurity to become attorney general when Clinton’s first two choices for the post—Zoë Baird and Kimba Wood—fell by the wayside, and Reno evolved into a media heroine. By any measure, the president would have been entitled to end her tenure at the start of his second term; but by that time Clinton was so ensnared in official inquiries and scandal—a veritable Arkansas Laocoön—that Reno was immovable.

Which leads to the present uneasy Trump-Sessions alliance. It is possible—indeed, probable—that the president, a novice in government if not politics, has failed to comprehend the extent to which Sessions has a constitutional duty to perform, regardless of the CEO in the White House. It is equally possible that the periodic Twitter grenades lobbed down Pennsylvania Avenue—“DISGRACEFUL!”—are a peculiarly Trumpian means of letting off steam, a necessity for any president.

Still, Jeff Sessions’s recent response bears repeating:

As long as I am the attorney general, I will continue to discharge my duties with integrity and honor, and this department will continue to do its work in a fair and impartial manner according to the law and Constitution.

Nothing disgraceful about that. ♦

Worth Repeating from *WeeklyStandard.com*:

The newest member of Donald Trump’s legal team, Joseph diGenova, has lately been appearing on cable news to blast the Mueller investigation as part of a “brazen plot” to “frame” the president—revenge of the Swamp and the Deep State, if you will. But earlier this month diGenova was yukking it up with Washington’s elite journalists about the administration he

would soon be working for. And his future boss, President Trump, was there too.

‘At the white-tie Gridiron Club dinner on March 4, diGenova was one of the event’s “ringers”—non-members who are brought in to supplement the singing sketches that are part of the 133-year-old dinner’s program.’

—Michael Warren, *‘The Ringer’*

Still a Republican

The other day I signed an online petition sponsored by Republicans for the Rule of Law. It's addressed to Donald Trump: "Mr. President: Firing Robert Mueller would gravely damage the Presidency, the GOP and the country. Please don't do it." Since this is an effort to rally Republicans behind allowing the Mueller investigation to go forward, I was asked by the website, after signing the petition, to check a box: "I am a Republican."

I've got to acknowledge that I hesitated for a minute. Gordon Humphrey, the former Republican senator from New Hampshire and a staunch conservative, says that he no longer considers himself a Republican. George Will, surely the pre-eminent conservative columnist of his generation, is no longer a Republican. My friend Pete Wehner, a valued contributor to the conservative cause for three decades, a veteran of the Reagan and both Bush administrations, writes that he is now a man without a party. And I myself didn't vote for the Republican presidential candidate in 2016.

Furthermore, in just this past week, the Republican Congress has thrown together a \$1.3 trillion spending bill that's vulnerable to all the complaints Republicans have made over the years about how Democrats in Congress govern. And individual Republican members have continued to make fools of themselves. Rep. Claudia Tenney of New York, trying to defend HUD Secretary Ben Carson's purchase of a \$31,000 dining room set for his office, claimed that "somebody in the deep state" had ordered the table in order to set Carson up—even though Carson

acknowledged it was his wife's doing. More broadly, it's a plausible argument that it would be better for the country if Democrats won control of the House in 2018.

Still, I checked the "I am a Republican" box on the Republicans for the Rule of Law website.



For now at least I'm choosing not to get with the times or go with the times. I'm choosing not to leave the GOP. I'm choosing not to accept the Trumpification of the GOP as an irreversible fact.

Am I just a backward-looking conservative, refusing to face new realities? Perhaps. But one thing conservatism teaches is not to embrace new realities too quickly. Some of those new realities turn out to be transient; others prove harmful. Isn't conservatism in part about resisting so-called new realities when you sense they might be questionable, even as people lecture you that you've got to get with the times?

So for now at least I'm choosing not to get with the times or go with the times. I'm choosing not to leave the GOP. I'm choosing not to accept the Trumpification of the GOP as an irreversible fact.

It's not as if the Democratic party presents a particularly attractive alternative. It seems to be moving toward the left, not to the center. If it does so, and if the GOP stays cap-

tive to the charms of Donald Trump, then I can certainly imagine supporting an independent presidential candidate in 2020 against, say, a Republican ticket led by Donald Trump and a Democratic ticket led by Elizabeth Warren. But it would surely be better first to take a shot at reclaiming the Republican party. It's not just nostalgia for the good old days of Reagan and Bush and McCain and Romney that leads one to balk at giving up the Republican party to the forces of nativism, vulgar populism, and authoritarianism. It's also the fact that it would be bad for the country if one of our two major parties went in this direction.

And the Republican tradition is well worth defending. To have been right about the Cold War, right about the need to revive constitutionalism, right about resistance to "progressivism" in all of its illiberal modes—for a party that at its best embraced much of what was admirable about both classical liberalism and classical conservatism—is no small thing. And most Republican members of Congress remain alive to that tradition, even as they (temporarily?) succumb to the pressure to accommodate Donald Trump.

So for now, I—along with many others—prefer to fight rather than to switch.

Of course things could change. I remember Jeane Kirkpatrick writing a piece in 1979 on why she remained a Democrat. In fact, she stayed a Democrat when she joined Ronald Reagan's cabinet. She did not switch parties until 1984. By then the Reagan Republican party was one that was becoming increasingly hospitable to a Hubert Humphrey Democrat like Jeane Kirkpatrick. Are Reagan Republicans going to find an equally welcoming home in the Democratic party of the 2020s? I'm doubtful, though life is full of surprises.

In the meantime, the Republican party, it seems to me, is very much worth fighting for. Despite the current climate, the fight is not hopeless, and the stakes are high. So I still check the box: "I am a Republican." ♦

A Constructive Populism

Josh Hawley's star rises in Missouri.

BY ANDREW EGGER

Chesterfield, Mo.

It's a mild March evening at Stemme Farms just outside St. Louis, and Missouri attorney general Josh Hawley is holding forth in a corrugated metal barn. He's up on a makeshift stage, flanked by a huge green tractor and an oversized American flag. It's a fitting backdrop to the salt-of-the-earth pitch he's about to make. It's opening day of Hawley's campaign for the Senate, and he's delivered this speech in Kansas City and Springfield already. Thanks to daylight saving time, there's plenty of sun left for the St. Louis leg.

"We embark today on a great journey in service to a high calling," he says. "And there is only one way to do that: standing shoulder-to-shoulder with friends and fellow believers in the cause of liberty. I am honored to stand here with you."

The crowd eats it up. One man's shout is audible through the cheers: "Now that's the kind of language I'm looking for!"

It would be an understatement to say that 2018 has been a discouraging year for Missouri Republicans. Governor Eric Greitens, an ex-Navy SEAL who swaggered into office in 2016 promising to clean up corruption, is embroiled in a nasty scandal over an extramarital affair. He's accused of snapping a surreptitious nude

picture of his lover as an incentive for her to keep quiet about the affair, an act for which he now faces a felony invasion-of-privacy prosecution. The state party's response has been to suggest that the criminal charge against Greitens is a "political hit job" that can be traced back to money from

Democratic megadonor George Soros.

This helps to explain why the locals who pack into the barn today radiate such a strong sense of cheer, even relief. Hawley, 38, is the kind of guy they can get enthusiastic about.

Start with his résumé: Smart, good-looking, and charismatic, Hawley pairs small-town roots with impressive policy chops.

He grew up in Lexington, population 4,500, and was a standout student at Stanford en route to a law degree from Yale. He clerked for Chief Justice of the United States John Roberts and served as senior counsel to the Becket Fund for Religious Liberty, where he worked on such high-profile Supreme Court cases as *Burwell v. Hobby Lobby Stores, Inc.* and *Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission*. In 2011, he returned home to teach at the University of Missouri School of Law. In his first foray into politics, the 2016 attorney-general race, Hawley trounced Democrat Teresa Hensley with 61 percent of the vote. (He even outperformed Donald Trump, who collected 56 percent of the vote in Missouri.)



Josh Hawley

Senate Republicans, who are itching to oust two-term Democrat Claire McCaskill this year, pricked up their ears. After congresswoman Ann Wagner decided last year to defend her House seat rather than challenge McCaskill, state and national Republicans convinced Hawley to try his luck. It already looks like a tight race, with polls breaking for both candidates, generally within the margin of error.

So here Hawley is at the family-owned Stemme Farms, making the case that he knows and loves "the heartland way of life," a way that revolves around love of God and country and the dignity of work, that those values have made him the man he is today, and that it's high time someone carried those values into the lion's den of Washington, D.C.

In some ways it sounds like your garden-variety populist pitch, the kind that's all the rage in Republican circles this primary season. A Hawley skeptic might reasonably wonder how a Stanford- and Yale-educated constitutional law professor makes for an authentic populist. To which a Hawley supporter might point out that the Manhattan billionaire Donald Trump pulled it off.

But there's an important difference in the populism Hawley's hawking from the foreboding "American carnage" vision Trump sold during the 2016 presidential campaign. Hawley's populism is a constructive enterprise, a matter of reminding the "coastal elites" what's important and good about small-town America. In his speech, Hawley leans into the contrast as he speaks of his childhood in Lexington, "a working-class town full of hardworking people." He recalls his respect for a man named Norman Vialle, who owned and operated the local Maid-Rite diner and drive-in.

"Mr. Vialle wore an apron to work, and the work he did was hard—often thankless, I'm sure, and never glamorous. But I never knew a more gracious man," Hawley says. "And I saw in him what the Scripture means when it says that labor in the Lord is not in vain. Work performed with excellence and with honesty confers a dignity and

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WHITNEY CURTIS / GETTY

independence that no man can buy and no government can take away.”

When Hawley went away to college and law school, he goes on, he met many impressive people who were destined for high-flying public careers. “But I never met anybody whose work had more value than Mr. Vialle’s, and I never heard any call to service more profound than the one I saw modeled in the place I called home.”

This isn’t to say Hawley’s stump speech isn’t full of bombs when it comes to McCaskill. “Hollywood and Wall Street and the D.C. political establishment have worked together to rig a system that favors them, the wealthy and well-connected, while ignoring the rest of us,” he says in his speech. “And Claire McCaskill is their eager ally. More than that, she’s their icon.”

This last is a bit of a stretch: McCaskill’s nobody’s beau ideal of a progressive. Hawley justifies the claim by pointing to McCaskill’s substantial campaign contributions from Hollywood and the financial industry: “Those are the people that she works with,” adds Hawley’s press secretary Kelli Ford. “You don’t get the money unless you’re doing something to make them happy.” The simpler explanation is that McCaskill is a Democratic senator in an increasingly Republican state, and Democrats are keen to hold on to the seat in a closely divided Senate.

Despite Hawley’s populist streak, his relationship with President Trump has been complicated. After the release of the *Access Hollywood* tape during the 2016 campaign, which contained old audio of Trump bragging about sexually assaulting women, Hawley called the comments “shocking, repulsive, and utterly indefensible.” Then, last August, former senator John Danforth, one of Hawley’s mentors, wrote a blistering op-ed attacking Trump, saying that the Republican party “has been corrupted by this hateful man, and it is now in peril.” Trump allies and opponents alike pressed Hawley to embrace or denounce Danforth’s position. Judging discretion to be the better part of valor, Hawley did neither,

which seems to have worked out just fine. Last November, Trump casually endorsed Hawley during a tax-reform speech in St. Charles, and, on March 14, he flew to St. Louis for a Hawley fundraiser, calling him “a wonderful guy who’s running who knows what it’s all about.”

Hawley doesn’t style himself a Trumpian candidate precisely; rather, he speaks of Trump’s ascendancy as a sign that the times are changing, and conservatives need to change with them.

“We are at a generational turning point, and that’s true for us as conservatives,” he tells me. “The postwar politics that ran roughly from 1948 until 2001, that era’s over. We’ve been in a transitional time, and I think the election of President Trump has made this very clear, that the postwar era is finished. That’s not to say it’s bad, it’s just to say it’s done.”

According to Hawley strategist Brad Todd, Hawley and Trump represent “complementary” populist visions driven by concern for the interests of the middle class rather than those of large institutions. “In 10 or 15 years when you look back on this time in history, everyone’s going to say, ‘Oh, remember when the media sort of joked that populism was just a tool to get Trump elected?’” Todd says. “No, it turns out there was a real movement that became sort of the animating spirit of the conservative movement. I think that’s where we are.”

Hawley himself frames contemporary populist unease in constitutional terms.

“We’ve got a long tradition in our country that reaches back all the way to the founding, and even before, of understanding that one of our most fundamental rights is the right to self-government,” he says. “There’s a real sense in which we are not governed by our elected officials in this country. We’re governed by administrators who report to nobody. That is a big, big problem in this country constitutionally. And people know that—that’s why they’re concerned about the ‘deep state,’ that’s why they’re concerned about their voice not being heard.”

Stemme Farms sits just west of St. Louis, and it’s an astute locale for a rally: just far enough from the city to maintain the rural aesthetic, but still close enough to make it a reasonable trip for suburban Republicans.

And, for that matter, for local Democrats: Hawley’s event attracted a substantial cohort of protesters, who gathered across the road holding signs with slogans like “Ladder-Climbing Politician” and occasionally embarking on anti-Hawley chants. One ring-leader told me they were there to protest Hawley’s handling of the Greitens investigation: “He’s declined to seriously investigate his biggest donor.” (This was a misguided reference to Hawley’s office’s finding that Greitens’s staff had not violated Missouri laws in their use of a texting app called Confide; the Greitens investigation remains ongoing.)

McCaskill and the Democratic Senate Majority PAC are making similar criticisms, seeking to tie the attorney general to the beleaguered governor his office is investigating. One TV spot says that Hawley “proclaimed Greitens innocent” and ends by asking, “Is Josh Hawley bought and paid for?”

“That’s total nonsense,” Hawley tells me, “the idea that we softballed anything. Look, I’m a prosecutor. I’m proud of my record in the attorney general’s office,” he says. “We’ve already brought four major public corruption prosecutions in my first year in office. Those were all underway by last fall, including against members of my own party. I have an active investigation into the governor, so I don’t want to say too much more about that, currently pending, but I’ll just say: This is classic Senator McCaskill trying to change the subject from her own terrible record.”

The Greitens affair is a headache for Hawley and has the potential to hurt him in the general election. Today, though, the Republicans inside don’t seem too bothered by the party crashers across the street from Stemme Farms. “You know how important this is,” a man in a Vietnam cap tells his friend with relish. “There’s protesters out there.” ♦

Saying the Unsayable

Why Amy Wax's Penn Law colleagues revile her.

BY MARK BAUERLEIN

If you work for the companies that produce standardized tests, as I have done for many years (creating and evaluating exams in the area of English and reading), you will eventually identify a significant flaw in our nation's meritocratic system of higher education and in the highest-ranked schools that frequently trumpet their ratings. Standardized tests are a crucial component of the system; and yet, with implacable consistency, when test developers meet and review the results from past tests, the awkward moment arrives when they must address an uncomfortable fact: Without exception, whites and Asians score significantly higher than blacks and Hispanics on these tests. The gap is large, and it's persistent.

Test developers are never quite sure what to say. Nobody talks about the possibility that the tests are culturally biased, or that the students taking them might suffer from stereotype threat, or any of the many other popular rationalizations for the low scores. We accept the validity of the data. But we aren't comfortable with the group differences we have documented. America is an antidiscrimination nation, but our work as test-makers is highly discriminatory. That's what standardized tests are

supposed to do—carve out the differences among the strong, middling, and weak. A good test produces a good bell curve. It predicts how well a test-taker will do at the next level. If racial achievement gaps show up, well, that's because of the intentional sorting effect of the assessment.

Colleges rely on tests to do just that. But the process that identifies an applicant as Yale-worthy puts even the best African-American students in the second tier. You see the problem.

This is the proper context for understanding

the continued harassment of University of Pennsylvania law professor Amy Wax. Last year, with her coauthor, University of San Diego law professor Larry Alexander, Wax wrote an op-ed in the *Philadelphia Inquirer* arguing that social dysfunction in America is due, in part, to the decay of 1950s-era bourgeois values.

"All cultures are not equal," they wrote, thereby violating the sacred dogma of cultural relativism that prevails in academia. It didn't matter that

the behavioral norms they emphasized—work hard, don't have children out of wedlock, respect authority, eschew drugs and crime—are the ones applicants must follow if they hope to get into a selective university like the University of Pennsylvania and the ones that elite universities already enforce in their admissions process. Merely saying so is tantamount to putting other cultures down.

The fallout from the op-ed was immediate. Half of Wax's colleagues at the law school signed a public

letter that began, "We write to condemn recent statements our colleague Amy Wax . . . has made in popular media pieces." The letter didn't attempt to refute anything Wax had written—"We categorically reject Wax's claims," they wrote—it simply condemned her for writing it.

Now, Wax's critics are again incensed. A video interview Wax did last September with Glenn Loury on Bloggingheads.tv has surfaced in which Wax states, "I don't think I've ever seen a black graduate student in the top quarter of the class and rarely, rarely in the top half."

You can imagine the outrage. Penn alumni circulated a petition decrying "the false and slanderous nature of these statements." Like the earlier faculty letter, the petition offered no counterargument to what Wax had said or any evidence for the supposed slander of which Wax is accused. It was purely an expression of high indignation. As well, the dean of Penn law school removed Wax from teaching a course required of first-year students, stating, "These claims are false: black students have graduated in the top of the class at Penn Law." But he, too, failed to provide any data about student rankings and grades, claiming the school's confidentiality policies prevented it.

This isn't merely a disagreement over grades. If the dean is right, then Wax is facing a serious allegation: not that she merely said something inappropriate in public, but that she's an active bigot. Wax has taught the mandatory course for many years, which means she has graded a large percentage of the students who've been admitted to the law school. From her statements we may conclude that she has never put black students in the top quartile and only rarely in the upper half of her class. How can this be when, according to the dean, many black students place at the very top of the class by graduation time?

Professor Wax must be biased in her teaching. That's essentially the charge the dean makes in his letter, which says that black students "may legitimately question whether the inaccurate and belittling statements



Amy Wax

Mark Bauerlein is professor of English at Emory University.

GARY LOCKE

she has made may adversely affect their learning environment and career prospects.” A story in *Inside Higher Ed* quoted an education professor at Penn and self-described expert in minority-serving institutions who put it more bluntly, stating that students “should not have to be required to learn in a hostile environment.”

Is it possible that Wax has been discriminating against black students all these years? Consider that the grading of first-year exams is blind—professors have no idea of the names of students to whom they assign grades. They only find out who is who after the grades are sent in, when they receive a list of their students’ final grades by name. It’s nearly impossible to discriminate under that arrangement. Besides, if Wax’s grades were so out of line with other professors’ assessments, it’s unlikely to have gone unnoticed. Others would have commented on the gross discrepancy and raised concerns or lodged complaints. Wax has been teaching at Penn since 2001, and no formal allegations of racism have ever been made against her.

In other words, Penn has not opened an investigation into Wax’s grading practices, which suggests that no such grading discrepancies exist. In fact, the statements she made in the Bloggingheads.tv interview are quite close to the data we *do* have on law students nationally. The Law School Admissions Council has tracked LSAT scores by race for several years, producing one report that covers the years 2005-2012 and another that spans 2007-2014. The data in those reports show a wide and stable achievement gap between whites and Asians on the one hand and African Americans on the other. Mean scores for those groups differ consistently by 10 to 11 points.

Other charts in the reports show the percentage of students in each racial group who earned different standardized test scores. The report does not offer a granular breakdown of individual test scores by race or ethnicity. When I asked Lynda Reese, a psychometrician at the LSAT, for clarification about African-American

students’ scores, she responded that although there were African-American test-takers who scored “above the LSAT scaled scores of 171 and 170” (she did not say how many), they weren’t included in the graphs in the report because “they were dropped from the graphical display by the smoothing method employed due to the sparseness of data in that region of the score scale.” When I pressed her on this, asking if this meant that no African-American students scored above a 172, I did not receive a response. The key finding, then, is that far fewer African-American test-takers scored above 172 in 2014 compared with students of other races, while a number of whites and Asians scored in the mid- to upper-170s.

Penn is a highly selective law school, with a 2017 acceptance rate of only 17.6 percent, according to AdmissionsConsultants. The median LSAT score for entering Penn students last year was 169. This means that half the incoming class has higher LSAT scores than the top-scoring or most promising African-American students. In other words, the standardized test scores match Wax’s experience with her students. True, the LSAT is merely “predictive,” that is, it is a projection of how students will perform once they enter law school. But the Law School Admissions Council performs regular studies of the LSAT’s validity and finds that the LSAT is a better predictor of first-year achievement in law school than are undergraduate grades.

No one is happy about this. The existence of racial achievement gaps runs against the American egalitarian ideal. We want fair prospects and no race-based disadvantages. But the gaps persist despite various forms of social engineering over the years, including affirmative action in higher education. They are a constant embarrassment to selective colleges and universities, which not too long ago were convulsed by Black Lives Matter protests and student demands that left administrators feeling cornered and anxious.

Institutions such as Penn Law are liberal and diverse. They say so all the time. But they are also maniacally competitive. Despite frequent nods to diversity, administrators at these schools want to be super-selective, not inclusive, because being selective boosts their rankings. If a school admits students who can’t handle the work and drop out, a school’s graduation and retention rates go down, as does its all-important *U.S. News & World Report* ranking. *U.S. News* also factors in admissions test scores in its rankings. The higher the average ACT score for the Class of 2022, for example, the higher a school climbs the rankings ladder.

Achievement trumps diversity, even in the admissions office. The results might leave some professors and deans feeling nervous and guilt-ridden, but they all benefit from the prestige of working for a selective school. The 31,000 youths who applied for one of the 1,300 slots in Princeton’s freshman class next fall didn’t do so because, as Princeton’s admissions dean claims, successful applicants have a “diverse range of skills, ideas, backgrounds and beliefs.” They longed to be one of those happy, chosen few at the apex of the meritocratic food chain.

This is a taboo subject because of the profound liberal guilt that academics suffer over the very policies their own schools follow, such as requiring test scores in the admissions file. We are at the point now at which merely mentioning the failings of affirmative action is itself an act of racism. If only troublemakers such as Wax would keep quiet, the problem of the achievement gap could be papered over with voluminous talk about diversity, a new diversity course requirement, and a couple of minority hires every year. Just stop telling the truth. The ready and swift charge of racism lodged against Wax is a sign of desperation, not righteousness. That’s the real sin Professor Wax committed when she talked about her classroom experience. She shined a spotlight on the pretense at the heart of contemporary academic liberalism. ♦

Who Will Save Detroit's Schools?

The task is daunting.

BY INGRID JACQUES

Elijah Craft is a 6-foot-6-inch bear of a young man who loves playing football. Yet less than two years ago as a Detroit high school senior, he was afraid to travel more than a few blocks from home. And he was ashamed. He was 17 years old and could barely read at a first-grade level.

Everything changed for him in the fall of 2016 when he got focused reading help through one-on-one tutorials at his school. He went from the bottom of his class to graduating 25th, and he went on to college. His story nonetheless remains jarring. How can a student make it almost all the way through high school and not be able to read?

Beyond Basics, the nonprofit literacy organization that provided Craft with tutoring, estimates that 93 percent of the 50,000 children in the Detroit Public Schools Community District (DPSCD) are years behind their grade level in what they can read and comprehend. Many can't read at all. "This is a problem that has gone unaddressed for decades, impacting generations of people," says Pam Good, president and executive director of Beyond Basics. "Ninety percent of the kids in Detroit schools can't read the written word. It is a foreign language to them."

Dismal reading scores sparked a lawsuit on behalf of seven Detroit students in 2016, arguing that students

Detroit

are being denied their right of access to literacy. But a lawsuit alone is not going to solve this illiteracy epidemic.

Elijah Craft recently spoke at a literacy summit at the city's Mumford High School, and his message to the students in the auditorium was one from the heart. "I couldn't read, I couldn't do nothin'. I was in school and cheating on tests and everything. It didn't help me one bit," he said, sharing how learning to read changed his life. "It takes a lot of hard work and a lot of dedication to do anything you want to put yourself into."



Nikolai Vitti

Thousands of children in Detroit could use the kind of tutoring that Craft received, and estimates are that it would take about \$135 million to reach them all. (Michigan spends \$12 billion on K-12 public schools annually.) Beyond Basics currently works with about 500 students and can get them up to grade level in less than 12 weeks, but the program is at capacity.

Schools in large cities struggle all across the country. Yet Detroit is firmly at the bottom of the 27 urban districts measured by the National Assessment of Educational Progress, a federal standardized test. This test of reading and math skills is given every other year to fourth- and eighth-grade students. Since 2009, when the federal government began comparing the largest districts, Detroit students have consistently posted the lowest scores—often by a wide margin.

In 2015, only 6 percent of students in Detroit public schools were at or

above proficiency in fourth-grade reading. The average score for large districts is 27 percent.

Detroit's students don't fare any better on Michigan's own standardized test. In 2017, just 9.9 percent of third graders in Detroit scored at proficient levels in language arts. That means only 332 students out of the 3,361 students assessed met grade-level expectations, says Mary Grech, a data and policy analyst with the Education Trust-Midwest, an advocacy group based in Michigan that seeks to close achievement gaps for low-income and minority students.

Detroit's student population is 83 percent African-American and more than 50 percent live in poverty. In the last two decades, families who could leave for the suburbs did. Charter schools in Detroit have further skimmed off a large percentage of the more motivated students since the mid-1990s, when charters first opened in Michigan. More than half of Detroit's students today attend charter schools.

They are still behind their peers around the state, but they are doing better than their counterparts in the Detroit Public Schools Community District. A recent analysis found that charter-school students scored over 20 percent proficient on the state third-grade reading test—twice the score of the traditional public school students.

And charter schools do this with less money per student. Ben DeGrow, an education-policy expert at the Mackinac Center for Public Policy, has crunched the numbers, and in the 2016-17 school year, DPSCD spent about \$15,000 per student, when including all state, local, and federal funding. Detroit's charters spent about \$10,000.

It's clearly not just a funding problem.

After years of mismanagement and financial and academic failure, the state took control of the DPSCD in 2009. Over seven years, the state proved little better at running the troubled district, which edged closer and closer to bankruptcy. In 2016, the legislature stepped in and offered the DPSCD a

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LARRY A. PEJUN

\$617 million bailout and a return to local control. Last year, a newly elected school board chose Nikolai Vitti as superintendent.

Vitti comes from a large district in Jacksonville, Florida, that he helped transform into one of the better-performing urban districts in that state.

Tackling illiteracy is one of his first goals, and he's been going from school to school, ensuring that teachers and principals have the tools they need to both measure and address the reading deficiency. That includes implementing a new reading diagnostics test so teachers can identify the struggling students and making sure the district's curriculum aligns with state standards.

Vitti argues that years of shifting leadership and diminishing resources led the district to become increasingly isolated and take a "survivalist approach." And the schools alone can't be blamed for their students' shortfalls. The majority of the student population in Detroit falls below the poverty line. Students face tough home lives that make success at school difficult. Hunger and lack of clothing are often more pressing than academic achievement. Many kids in the city grow up in homes without a single book and with parents, often illiterate themselves, who lack the skills to read to their children.

Another pitfall is chronic absenteeism. The city's students rank among the highest in the country for skipping class. A 2016 report found nearly 60 percent of DPSCD's students missed at least 15 days of school.

Vitti is aware of all these factors. Looking to the future, he says he needs time to rebuild a broken system, but that he expects students to show real gains within three years. "We don't like to talk about the impact of poverty. You start to believe that students can't do it," he says. "But you have to believe that all children can learn and succeed. We can't make poverty an excuse for why the students can't do better."

The thousands of Detroit students who can't read are waiting for someone to believe in them. ♦

Good and Evil, Right and Wrong

School massacres and the conscience supply.

BY NATALIA DASHAN & DAVID GELERNTER

It's sad that following the massacre of their classmates, the students of Marjory Stoneman Douglas High School in Florida should immediately turn to government for action instead of to their own communities. The obvious question suggested by these crimes is:



Students evacuate in Parkland, Florida, February 14.

What's *wrong* with us? Do *I* know potential mass murderers who would kill if they had a weapon? How could we have failed to notice—and failed to demand action when our police and the FBI were too criminally negligent to take the necessary steps? If there's a pothole on your corner, you're not likely to tell yourself, as you go slamming through it every morning, month after month, "There's one problem I no longer need to worry about. After all, I've told the highway department!"

It's equally sad that gun-owners, conservatives, and libertarians, have failed so dramatically to explain their

beliefs to the broader community. What do "gun rights" actually mean? Why do we differ so sharply from the rest of the West on this issue? Because we are free men by no one's leave; we were born this way.

We need never prove that we *deserve* some right or other, whether or not it makes sense to the general population. If the community wants to take that right away, it better have a good reason. The burden of proof is on the taker-away, not the owner. The essence of American democracy shines through in our gun laws; they are beautiful, if we only took the trouble to explain them.

Of course if we *have* demonstrated to ourselves that we just can't control certain weapons, such as rapid-firing rifles that accept large magazines, then we had better stop selling them. If we can't keep them away from children and from evil or mentally ill adults, yes: Let's get rid of them. But we had better notice at the same time that our new limitation is a defeat for mutual trust and therefore democracy. Democracy *is* mutual trust. If we don't notice and ponder such defeats, we are mere disciplinarians who know how to punish bad children but can't see what's wrong with a family in which the children are always in need of punishment.

No child should have to ask his mother whether he is likely to die today at school. But no mother should wonder whether her child is apt to kill someone either. If the shadow of a doubt exists, we'd best have put the child in a place for the mentally or

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morally ill long ago. And the bigger question, the elephant in the room trumpeting constantly as we ignore him: Who rears our children nowadays? Where does a child get his conscience? Who supervises children day-to-day while they learn to be human beings?

Religion used to give parents a reason to discuss good and evil, right and wrong with their children. Religious schools used to help fill the gaps in a child's moral worldview. Yes, some children figure it all out for themselves—but many don't.

This used to be a religious country, and still is. But children learn less about religion than they used to. Does religion matter, in practical terms? What made Americans such a stubbornly religious people in the past?

Perhaps those old-timers agreed with the Founding Fathers that democracy is a delusion unless the population is religious; unless people can trust each other to treat serious things in a serious way. Some children show good moral judgment, generally because of their families. Some children don't. But if they are sent to religious school or Sunday school, they all stand a chance of learning to think things over from a moral viewpoint. Their families are the best places for such thinking. But their families might be too busy—might be exhausted getting a living; might be embarrassed and not know where to start; might feel incompetent to discuss the topic. Or they might not give a damn after all. In any case, Sunday school is better than nothing.

It's hard to find integrated statistics, but it's clear that over the long term, fewer children are going to Sunday school. *USA Today* reported in March of 2015: "From 2004 to 2010 . . . Sunday school attendance dropped nearly 40 percent among Evangelical Lutheran churches in America and almost 8 percent among Southern Baptist churches." A study by J. Clifford Tharp Jr., "Reflections on Southern Baptist Sunday School Enrollment," notes, "Since 1980 [through 2004] the enrollment trends for three of the age groups are down (Preschool, Children,

and Youth). The Adult area is the only segment with an increase over the time period." And so on.

We enthuse over the sanctity of human life—and every year, fewer children know what we are talking about. Sanctity? A recent Yale graduate (one of the very sharpest) wrote one of us, regarding sanctity: "If I hadn't read [some particular book], the concept would not have occurred to me and I would not have picked it up elsewhere." The whole idea, she says flatly, "is not in the zeitgeist of our culture."

The Cultural Revolution of 1945-70 left our public schools hollow and our Sunday schools looking and feeling ridiculous. We look back in regret. But this is no historical problem for academic debate; it's an event that happens every day, every year. We are in the replacement period, when persons of one sort die out and are replaced by a different sort. Those who were educated before the Cultural Revolution got a different kind of education from those who came after—an education focused (unlike today's) on duties as much as rights, in which Christianity and the Bible were seen to be the guiding stars they are, keeping America on course as it wanders through the cosmos. They were not in themselves topics for public school discussion, but neither were they avoided like the plague, as they seem to be nowadays.

Judaism and Christianity were (of course) discussed in religious schools; and they were in the air. After all this is a biblical republic, born out of the intensely biblical devotion of Puritan settlers in the North and Anglicans in the South. Everyone used to learn about the Pilgrims and the dangerous journey and murderous conditions they faced so they could practice their religion. Everyone used to learn about Lincoln's profound devotion to the Bible and hear for himself that Lincoln's greatest speeches are theological reflections, *sermons*, on this nation and its struggles. "With malice toward none, with charity for all, with firmness in the right as God gives us to see the right . . ." They heard for themselves that these American Founders

and heroes worshiped God and read the Bible.

But nowadays we send fewer and fewer children to Sunday school. And their weekday schools treat religion and the Bible as toxic substances to be avoided at all costs.

Children who used to grow up with Christianity and the Bible are not likely to read Aristotle or Kant instead. Too many grow up morally illiterate. Not true, some people say; they learn the law! But the law was never intended to supply Americans with a conscience. It doesn't, and it can't.

This nation needs either a religious revival (unlikely though not impossible) or a group of substitute moral codes on which we all (basically) agree. The Bible was the most important unifying force in American history: Puritans and Catholics, evangelicals and the poshest Episcopalians, trailer-park residents and mansion-dwellers, old WASP stock and Jewish immigrants from Poland, blacks and whites read the good book. But we have shrugged off the moral education of our children. What do we think will happen now?

Unless we are just as serious about fixing educational failures as we are about tightening gun control, we have taken one big step away from democracy towards the kind of intellectual-ocracy that many liberals seem to want. They work towards it by promoting the power of judges, of the press, of the schools and colleges. And most conservatives can't be bothered to oppose them. We're happy, and should be, when a Neil Gorsuch joins the Supreme Court, or some comparable hero steps onto a lower rung of the hierarchy. But we barely even bother to insist anymore that this nation is not supposed to be run by judges.

This is a biblical republic, and we need morally literate children. The moral blank of modern America, where Christianity has been deleted in much of the educational world and replaced by Ecology and other modern religions (but where are the Ten Commandments of Ecology?), is only one cause among many for the plague of murder we are suffering. But we are in no position to neglect it. ♦

Party of One

John Kasich, 'positive populist,' eyes 2020

By JOHN McCORMACK

New York

Ohio governor John Kasich is riding shotgun in a large black SUV that's rolling through midtown Manhattan when he pulls out his smartphone and assumes the role of disc jockey. First up is Lou Reed's "Perfect Day," a piano-based melody. "I think about my wife when I hear this," Kasich says. "Isn't that a beautiful song?" He then switches to something more upbeat. "Remember this one, Doug?" Kasich asks his political aide Doug Priebe, who traveled everywhere with Kasich during his 2016 presidential campaign. Doug is stumped. "Bowie!" Kasich exclaims before switching songs again halfway through David Bowie's "Starman."

"I've really recorded a lot of good stuff here. How about this one, Doug? Who's this?" Kasich asks, as the hand holding the smartphone bounces from side to side to the beat of the new song.

"This is your little boyfriend, Justin Bieber," Priebe replies. "Aren't you a Belieber?" As Bieber's late-2015 hit "Sorry" plays in the background, Kasich laughs and asks: "Did you see where Selena Gomez and Bieber are going to church now?"

When we get out of the SUV, I ask Kasich if his teenage daughters turned him on to Bieber. "No, that's what everybody wants to say: *His wife dresses him, and his daughters give him his music.* Sheesh!

"I find my own music and I dress myself."

It's not every day you meet a grown man, let alone a 65-year-old sitting governor, who admits to enjoying the music of a Canadian tween idol. But Kasich likes marching to his own tune. Barred by Ohio's term limits from seeking a third term as governor in 2018, he is increasingly open about the possibility of running for president in 2020 as an independent.

For the last few weeks, Kasich has mused in interviews

that we may be seeing "the end of a two-party system." The unspoken implication: He's just the guy to hurry that process along. Asked if he's going to run as an independent, Kasich tells me: "I honestly don't know. But we do have a political organization. We're not taking any options off the table, because we don't know what's going to happen tomorrow."

Like his taste in music, Kasich's politics and personality are an eclectic mix that has put him out of step with the Republican party: elements of conservatism, liberal-



Kasich on 'Late Night with Seth Meyers,' January 29

ism, and populism mixed together with an infatuation with bipartisanship and a strain of moralism that annoys many conservatives but earns him strange new respect from some liberals.

While Kasich and his team insist he's open to the possibility of running in a Republican primary, with or without Donald Trump in the race, his swing through New York has more the feel of an independent proto-presidential-campaign trip. Instead of jumping from coffeehouse to American Legion hall in New Hampshire, Kasich bounces from green room to green room in Manhattan for six on-camera interviews: MSNBC (twice), CNN, CNBC, and websites *Now This News* and *TheStreet.com*. Kasich attends a town hall at Stuyvesant High School; he was invited by a young 2016 campaign volunteer named Hugo Smith and

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his father (*BuzzFeed* editor in chief Ben Smith). Conspicuously absent from his schedule is any appearance on Fox News, where Kasich hosted his own show and filled in for Bill O'Reilly from 2001 to 2007.

Whenever Kasich has popped up on TV over the past year, he has tended to discuss issues that put him at odds with Republicans—gun control, a no-strings-attached bill to protect from deportation illegal immigrants who arrived as minors, his opposition to GOP legislation to partially repeal Obamacare, and an unapologetic defense of his decision to expand Medicaid in Ohio under Obamacare. “I think our audience agrees with me: You’re one of the good ones,” Bill Maher told Kasich during a 2017 appearance on Maher’s HBO show, a comment that was met with whoops and applause. “Look at that. That’s pretty good for a liberal California audience.”

During his March 12 appearance on MSNBC’s *All In with Chris Hayes*, Kasich touts his support for gun control, noting that he voted for the assault weapons ban back in 1994 (a minority position in the Republican party then, it is almost nonexistent within the congressional GOP now). When Hayes presses Kasich on the bills he backed expanding gun rights and the NRA’s support for Kasich in 2014—an endorsement scrubbed from Kasich’s website following the Parkland massacre—Kasich defends the legislation he signed: “Concealed carry is not what has led to this kind of problem.” In a hallway outside the studio afterwards, I ask Kasich if he misses hosting his own TV show. “No,” he replies. “I’m governor. I have a TV show. It’s called ‘Governor.’”

The next morning, in the green room at MSNBC, Kasich learns of Secretary of State Rex Tillerson’s firing, and he criticizes the chaos in the Trump administration during his hour on air. After the show, I ask him if he has any regrets about rebuffing a reported overture from Donald Trump Jr. to serve as his father’s vice president and missing the opportunity to influence the president from the inside. “There was never any chance I would do anything like that,” Kasich says. “I’m governor of Ohio, I have a big job. We just fundamentally disagree.” Trump Jr. has disputed the claim that he floated the VP offer to a top Kasich adviser: “You know the way I conduct myself,” he told CNN in 2016. “Do you really believe I would say, ‘[John Kasich] is in charge of foreign and domestic policy and [Donald Trump] will focus on making America great again?’ What am I, a meathead?”

Kasich is upfront about his estrangement from the Republican party under Trump. “I just don’t support the current agenda: the anti-immigrant, anti-trade, not worried about debt—I don’t like any of that. Is that temporary? I don’t know,” Kasich says. “I do think that partisanship has become a substitute for religion—I’m clinging to my party—you know? ‘I used to cling to my Presbyterianism,’ and now, you know, well, that’s sort of out the window, so now: *‘It’s my party!’*” The last three words drip with resentment as he mimics an angry partisan.

Twenty-one years ago, John Kasich was featured on the cover of this magazine under the headline: “It’s His Party.” Kasich “is running for president,” Andrew Ferguson reported in June 1997, and “no one

seems to think his running is a thoroughly ridiculous idea even though he is a relatively obscure congressman from Ohio. And the reason no one thinks it’s ridiculous is that John Kasich, more than any other Republican politician, more than Newt Gingrich even, occupies the center of gravity of the Republican party these days.” Times have changed.

Not only is the Ohio governor on the outs with the GOP, a Kasich 2020 presidential campaign would strike some as quixotic, if not ridiculous. So I turned to two of the best political analysts in the country, Henry Olsen of the

Ethics and Public Policy Center and Sean Trende of *Real Clear Politics*, to assess Kasich’s presidential prospects.

They agreed about Kasich’s chances of defeating Trump head-to-head in a GOP primary. “As of today, Kasich would have no shot,” says Olsen. “The lesson of 2016 is that you never put a zero-percent chance on anything, but pretty close,” says Trende.

They disagreed about Kasich’s odds in a Republican primary in which Trump, for whatever reason, wasn’t running. “In 2016, [Kasich] had very limited appeal. He appealed primarily to moderates who were educated,” says Olsen, but “if Kasich runs more as what he is—which is a garden-variety center-right politician—he could very well beat” Republicans running to the right in a Trump-less primary. “I don’t think he can win a Republican primary having been as what Republican voters will perceive as disloyal as Kasich has been,” says Trende.

But the two agreed that an independent bid could be serious under plausible circumstances. “Two major

As an independent candidate, “Kasich would need to think of himself as the American Emmanuel Macron,” says Henry Olsen of the Ethics and Public Policy Center: “I’m going to run as all flavors of center—from center-right to center-left—and it will be a genuine coalition.”

pre-requisites for a non-farcical Kasich campaign are Trump's job approval stays in the low 40s and Democrats nominate someone like [Bernie] Sanders," says Trende. "There's a bunch of weird questions" in this scenario, he adds. For example: "What happens in Connecticut? You can see Sanders getting the liberal and maybe the inner-city vote, and then Trump getting eastern Connecticut where he ran well last time and some of the areas outside of New Haven where the Italians moved, and then Kasich cleaning up in western Connecticut. Who wins that? I don't know."

"Kasich would need to think of himself as the American Emmanuel Macron," says Olsen. "I'm going to run as all flavors of center—from center-right to center-left—and it will be a genuine coalition.' That could win if there is somebody so far left that the center-left feels they have a better shot with an independent than with a Democrat. It all depends on what the establishment of the Democratic party wants to do."

So you may think a Kasich candidacy would be good or bad, but there's a decent chance it could matter. Even protest candidates (think of Pat Buchanan, Ross Perot, and Ralph Nader) can shape the dynamics of a race in important ways and potentially tip the election one way or the other.

There are of course all sorts of reasons why a third-party victory would be unlikely even in the best of circumstances. We live in a polarized country, and the Constitution militates toward a two-candidate race by requiring the winner to get a majority of Electoral College votes (or a majority of congressional delegations in the House in the absence of an Electoral College victor).

Then there's the lack of a party infrastructure and organization. When I ask Kasich how a third party would get off the ground, he says: "Rich people that say they've had enough and they're willing to put money into it—that's how it gets started." It's unclear whether Kasich met with any such rich people during his trip to New York, but there were a few hours in his schedule reserved for meetings about which his staff wouldn't provide any details.

"There are many donors and corporate executives who have grown tired of the chaotic clown car," Kasich's political strategist John Weaver tells me, without naming names. "I don't have a doubt that if there was a serious and real possibility, that there would be more than enough money to challenge the president early in either the primary or the independent line on ballots across the country."

Yet there are all kinds of difficult ideological and policy questions that would make it hard for a centrist coalition to hold. What kind of Supreme Court nominee could voters expect from a third-party president? Which sitting or former Supreme Court justice does Kasich find to be a model? He doesn't answer the question, pointing only to the "reasonable" judges he'd nominated to the Ohio supreme court. What does he think about Neil Gorsuch? "I think he's fine. I mean, I don't know that much about him," Kasich replies. He wouldn't simply outsource the decision to the Federalist Society, but says: "I'm gonna want to have a conservative. . . . I'm not gonna have some liberal. I don't agree with them."

Should *Roe v. Wade* be overturned? "I'm pro-life and, you know, I'm not in the Congress now, and we're moving probably more and more towards putting limits on the late-stage [abortions]. That's probably where we are right now," Kasich says. "I just don't know what will happen."

Would he like to see *Roe* overturned eventually? "I'm pro-life, so that's all I can tell you," he says. "Rape, incest, the life of the mother ought to be the exceptions. That's kind of where I come down."

As governor, Kasich signed bills defunding Planned Parenthood and banning late-term abortion and abortion targeting children with Down syndrome. But he doesn't want to talk about any of it. "Look, let me just explain," he says. "I have my positions on it, but there are other things I'd rather focus on and concentrate on. These are big hot-button wedge issues

that Billy Graham said he himself avoided. If he could avoid them, I can avoid talking about it as much. I don't want to be focused on things that automatically divide people. I say what I have to say about it. I do what I have to do, and that's the end of it."

There has actually always been a strong streak of moralism in John Kasich's rhetoric, just not about the issues that most concern social conservatives. In 1997, when he chaired the House Budget Committee, Kasich was known as a deficit hawk who had just inked a deal with Bill Clinton to balance the budget. The year before, Kasich helped lead the effort to reform welfare and was praised as one of the best communicators in the GOP. As Andrew Ferguson reported then in these pages:

On welfare reform he is particularly artful. "I once told this roomful of rich people," he told the roomful of rich people in Iowa, "Look, we didn't reform welfare for you." The



The way we were: June 16, 1997

Republicans looked disappointed, but only momentarily. “We did it for Joe. You know Joe? Maybe you’ve seen him when you forgot your briefcase one night and went back to your office on the 31st floor and there he was sweeping up and emptying the trash. And we did it for Carol, who’s pouring Starbucks coffee at the airport for just above minimum wage, and she’s wakin’ up at 6 A.M. to take her kids to day care, ‘cause her husband left her, and when she goes to work she parks in a parking lot that’s closer to *Mars* than it is to the terminal where she works.

“So I tell you, we didn’t reform welfare for rich people. We reformed it for Carol and Joe. Because it is immoral—it is a sin—to take money from Carol and from Joe and give it to people who don’t want to work.”



Kasich campaigning in Rockville, Maryland, April 25, 2016

Today, the issue for which Kasich is probably best known is his decision to expand Medicaid, the country’s biggest welfare program. But this is an example of Kasich moving with the Republican party, not against it. Mike Pence expanded Medicaid in Indiana. So did Republican governors in Michigan, Pennsylvania, and Iowa. Wisconsin’s Scott Walker was the only Rust-Belt Republican who didn’t.

What set Kasich apart from other Republicans on Medicaid was the argument he made. “Now, when you die and get to the meeting with Saint Peter, he’s probably not going to ask you much about what you did about keeping government small,” Kasich said in 2013. “But he is going to ask you what you did for the poor. You better have a good answer.” To fulfill the heavenly mandate, Kasich did an end-run around the full legislature and had Medicaid expansion approved by a panel controlled by the legislature’s leadership.

Rea Hederman of the free-market Buckeye Institute says that Medicaid expansion will be a long-term “fiscal drag on our state.” (The federal government picked

up the entire tab at first, but that drops to 90 percent.) But Hederman praised Kasich for cutting taxes, freezing green-energy mandates, and trying (but failing) to curb the power of public-employee unions. (Kasich signed a bill in 2011 that went further than legislation in Wisconsin to curtail public unions’ collective bargaining power, but it was repealed 62 percent to 38 percent in a referendum before it could take effect.)

Kasich suggests that there’s not much of a contradiction between what he was saying about welfare in the 1990s and what he’s saying about Medicaid now. He says work requirements for Medicaid are fine and that Medicaid and Medicare need to be reformed to balance the budget. But he’s vague on specifics. “I have no idea what Paul Ryan proposed” to reform Medicare, Kasich says. “If you just move from a fee-for-service to coordinated-care system as a default option, that would be a really good thing. . . . I don’t have a Medicare plan right in front of me. But we would dig in and say what works and what doesn’t, what’s acceptable and what isn’t.”

The common thread between Kasich’s case for cutting welfare in the 1990s and expanding welfare now is the moralism behind each argument. It’s this rhetoric, when aimed at other Republicans, along with his criticism of Trump, that makes Kasich anathema to so many GOP voters and leaders—not his ideological heresies. Trump himself, after all, campaigned on not

touching entitlements, called the House GOP bill to partially repeal Obamacare “mean,” and endorsed an assault weapons ban and a bill to protect “Dreamers” in various White House meetings (comments that were never acted upon). Kasich seems to recognize that they both color outside the lines when it comes to conservative dogma. “I understand Trump’s negative populism,” he says. But “I’m a positive populist. I’ve always been a populist.” His heterodoxy certainly seems to have worked to his political advantage in Ohio: He won a second term as governor by 31 points in 2014; four years earlier he squeaked by with a 2-point victory.

Kasich frequently talks about the need to restore certain moral values and civility. These goals are sometimes in tension, as demonstrated by the implication that those who opposed expanding Medicaid are immoral. “It was probably not right for me to do it because it put people off,” Kasich tells me, referring to the Saint Peter soundbite. “At the same time, I didn’t tell you to feel like I’m judging you. . . . But if I had thought it was going to be really offensive, I would not use that.”

ALEX WONG / GETTY

The breakdown of civil society and the need for a moral awakening were themes of Kasich's 2016 presidential campaign and remain so in his speeches today. But his rhetoric is closer to moralistic therapeutic deism than anything offered by the religious right. "One of the most important things in life is to like yourself," Kasich told high-school students during his townhall at Stuyvesant.

The first half of Kasich's 7,500-word final state of the state address, delivered on March 7 to the Ohio legislature, was a scattershot survey of theology, philosophy, and politics. "In uncertain times, we reflect, and I just want us to go back for a moment to those days when many of us were in college. Do you remember being in the dorm?" Kasich said. "Do you remember late at night when you would look at your friends and you would say, 'What's life all about? Why are we here? What is our purpose? What is my responsibility as a human being?'"

He then devoted a few words or a few sentences to (take a deep breath): Plato, Aristotle, Rousseau, Nietzsche, Camus, Kierkegaard, Locke, Augustine, Aquinas, Luther, Wilberforce, Bobby Kennedy, Martin Luther King, Dietrich Bonhoeffer, Natan Sharansky, Ronald Reagan, whistleblowers at Wells Fargo and the Department of Housing and Urban Development, and heroes from recent American tragedies in Houston, Puerto Rico, Las Vegas, and Parkland.

"We, human beings, created by the Lord, we're unique and we are made in our creator's image. That's what the theologians say, and I buy it," Kasich said. "When we're made in God's image, there's a natural pull to all of us to reflect the traits of our creator's character. Think about it. Because we know Him, we know what His character is. We know what His values are. And, folks, these are not these hot-button issues that we yell and scream at each other about. Those hot-button issues in many ways have driven the young away from these kinds of considerations."

The values Kasich wanted to talk about were not the rights to life, liberty, and the pursuit of happiness but the importance of love, humility, forgiveness, responsibility, and justice—values he'd acted upon by lowering the "number of people who are uninsured" and focusing on drug addiction, mental health, criminal justice and prison reform, human trafficking, and creating jobs. "Live a life a little bigger than ourselves," Kasich said. "And you know what it's all about is human connectedness, that we're connected to one another."

"I'm just calling for an awakening. I don't want you to

go thinking I'm trying to lead some crusade here or something like that," Kasich tells me over lunch in Manhattan. "When I talk about an awakening, I'm talking about sort of a movement of manners and respect. . . . I haven't studied them, but they have happened, right? They have happened throughout human history."

"How did Wilberforce do that [change social mores in Britain]? I don't know how," he says. But "the problem with talking about this awakening in religious terms is religion has been so discredited that the minute—if you start with that—it gets you nowhere."

That's not to say Kasich isn't interested in religion.

He's enthusiastic about dinner plans that evening in Manhattan with Fleming Rutledge, an 81-year-old Episcopal priest, author, and theologian. Most recently, he's been reading about Gnosticism, a Christian heresy, in one of Rutledge's books. "It's a non-flesh, non-body—it's kind of a metaphysical—is that the right, word, metaphysical?" he asks. "It's spirit-based," he says. "It's that the flesh and the body can do no good, so it's all about the spirit. It's been around forever—forever—and I think it's an evolving definition of what it means."

"It's one of the early parts of this book I'm reading. Man, I read some weird stuff."

The conversation circles back to Kasich's state of the state speech. "I made a speech, I talked about these virtues, and right away a newspaper article comes out and says, 'Well, is he really living up to them?'" Kasich says between bites of a caprese salad. "The answer is no! The reason nobody wants to talk about it is because the minute you talk about it somebody calls you a hypocrite."

Kasich's values rhetoric is unusual for a politician and may not appeal to conservatives who would like more social solidarity without feeling like they have to literally hug their neighbors. But it's just weird enough to convince you it's authentic and sincere. It's a message he seems intent on preaching in 2019 and 2020, one way or another.

When I ask him if he can imagine doing anything that would have as much of an impact as running for president, he replies: "You kiddin'? Look at—you ever watch YouTube? Look at the YouTube channels. Look at the ability of people to maintain an amazing voice using social media. And if you combine social media with traditional media, including radio or whatever, yeah, you can have a very big voice." ♦

Kasich's values rhetoric is unusual for a politician and may not appeal to conservatives who would like more social solidarity without feeling like they have to literally hug their neighbors. But it's just weird enough to convince you it's authentic and sincere.

Double Jeopardy at Yale

A criminal court cleared Saifullah Khan of the charge of raping a fellow undergraduate, but he's about to face a campus committee

BY STUART TAYLOR JR.

The March 7 acquittal by a New Haven jury of a suspended Yale student on charges of raping a classmate has been much lamented on campus and in the national media. But a review of the evidence shows that the trial was fair, the defense was ethical, and there was much more than a reasonable doubt about the accuser's claim that she was so drunk as to lack the capacity to consent.

The facts of this he-said, she-said case are that Saifullah Khan, a then-22-year-old Yale senior, and his accuser, also a senior, had Halloween dinner together at the dorm's dining hall on October 31, 2015, and crossed paths later that night—first at a drinking party and then at a Yale Symphony Orchestra concert—ultimately ending up in her room at 1:11 A.M. and having sexual intercourse.

The trial centered on the credibility of the accuser's testimony—which was halting, tearful, and contrary to proven facts on some points—and of her claim that she was so drunk that she could barely stand or walk, flitted in and out of consciousness, and awakened in her bed for just long enough to feel Khan on top of her and to try to push him off.

Khan, an Afghan who was recruited to an American prep school (Hotchkiss) and then to Yale because of his academic gifts, testified that the accuser did not seem at all intoxicated to him during the six hours they were in her room, flirted with him at the concert and on the walk back to the dorm, invited him into her room, and initiated both oral sex and, more than two hours later, full intercourse.

Stuart Taylor Jr. is coauthor, with KC Johnson, of The Campus Rape Frenzy: The Attack on Due Process at America's Universities.

Numerous Yale students, journalists, and champions of rape victims' rights have trashed the trial and especially the defense lawyer's cross-examination of the accuser as "every survivor's worst victim-blaming nightmare," in the words of Jess Davidson, interim director of the advocacy group End Rape on Campus.

The article reporting the verdict in the *New York Times*, which exhibited bias throughout its coverage of the trial,

disapproved of Khan's lawyers working "relentlessly to discredit the account of the woman. . . . They asked repeatedly how much she had to drink. . . . They showed off her Halloween costume, a black cat outfit, and asked her why she had not chosen a more modest one, such as 'Cinderella in a long flowing gown.'" *Time* called its piece "A Yale Student Accused Her Classmate of Rape. His Lawyers Asked What She Was Wearing and How Much She Drank." An online magazine for young women, *Refinery29*, ran its account of the trial under the headline "Jurors Bought Stale Victim Stereotypes—Just Like the Defense Hoped."

Yet defense lawyers are required to do their best to discredit accusers who are trying to put their clients behind bars—Khan faced a maximum prison

sentence of 46 years and deportation back to Afghanistan, where he believes he would have been executed, stoned, or lashed under the country's laws. And wasn't it part of the defense's duty to probe the accuser's claim that she had had so much to drink that she was losing consciousness several hours later? The lead defense lawyer, Norman Pattis, called the reaction "a form of mass hysteria."

His question about the costume that the accuser chose for her Halloween get-together with Khan spurred particular outrage among the accuser's advocates. "A misogynistic tactic that men habitually use to silence women . . . by blaming them for their own assaults," raged Amelia Nierenberg, a *Yale Daily News* columnist. Out of a variety of costumes



Saifullah Khan leaving court in New Haven, March 6

from a Yale storage closet, the woman had opted for the sexy cat, pairing a sequined black miniskirt with matching tube top and tail. In pointing this out, Pattis stressed that his purpose was not slut-shaming but spurring skepticism about the accuser's testimony that she was uninterested in Khan sexually and was afraid that he was stalking her and trying to get into her room.

In any event, the jurors appear to have paid little attention to the costume. They were far more interested in the grainy security videos that the prosecution made a focus of its case, claiming that they showed the accuser in such an inebriated state that she was stumbling, with her eyes closed and her left foot dragging behind her (as she testified), and needed Khan to hold her up while walking from the concert to her dorm. She emphasized that she was a dancer and did not normally walk that way.

The jurors had the videos replayed numerous times, and those who have spoken publicly saw nothing of what the prosecution suggested. "We looked at and we looked at and we looked at that video of them walking," one anonymous juror told the *New York Times*, but "we could not see her leg dragging. We could not see her eyes shut." Juror James Galullo told Alice B. Lloyd of this magazine: "We all agreed that she was walking hand-in-hand, arm-in-arm, smiling." Alternate juror Elise Wiener told Robby Soave of *Reason*: "She was strolling with him with a big grin."

This did not prevent news outlets, including the *New York Times* and the *Yale Daily News*, from repeating the prosecution's characterization of the videos. Both papers could have obtained and posted the footage to let readers judge for themselves. They chose not to do so.

Hours after the alleged rape, the accuser told a Yale health center nurse that she needed a Plan B morning-after pill due to having had consensual sex with a regular partner. At the trial, she explained that she was "too traumatized" to tell the nurse of the alleged assault.

After meeting later that day and the next day with several friends—including a former boyfriend who took her phone, dialed Yale's sexual-misconduct office, and handed the phone back to her—the initially irresolute accuser filed a complaint against Khan with the sexual-misconduct office and then went to the Yale police department.

The details of the process are unclear, but university officials, the university police, and the accuser decided to ask the New Haven state's attorney's office to prosecute Khan criminally rather than rely on the internal disciplinary process.

It is rare for the kind of sexual-misconduct accusations

that are typically filed by university students to be sent on to a public prosecutor. The only plausible explanations here are that Yale officials felt the accusations in this case (unlike in most) to be serious enough to qualify legally as sex crimes or that the accuser herself, as was her right, decided to press criminal charges.

Yale suspended Khan on an emergency basis on November 9, 2015, a week after the accuser reported him. It also threw the Afghan native, who had few connections in the United States, out on the street on very short notice.

Much of the national coverage of the case has suggested that the verdict was a miscarriage of justice, but that belies any review of the trial evidence, little or none of which would have been uncovered and considered in a Yale disciplinary proceeding.

At a time when the accuser testified she was concerned that Khan was becoming aggressive in pursuing her—and had tried to enter her dorm room uninvited and had responded angrily when she told him to leave—she was also sending playful texts to him sprinkled with smiling and giggling emoticons. She even texted him a Shakespeare poem, "From fairest creatures we desire increase," the first of the so-called "procreation sonnets."

The accuser's claim that after the two had met for Halloween dinner, Khan followed her into her entryway and tried to push his way into her room is almost impossible to reconcile with

Yale's electronic dorm card-key system. She swiped into her entryway at 6:47:31 P.M.; he swiped into his just seven seconds later. For her story to be accurate, he would have had to follow her into her entryway, try to push his way into her room while "I was trying to push him back," and then go off to his own entryway and swipe his card-key, all in seven seconds flat.

The timeline of the evening suggests it was unlikely that the accuser could have been completely incapacitated by alcohol at the time of the alleged rape as she claimed. By her own account, she had five drinks containing varying amounts of alcohol at the party. While friends testified that she was somewhat—one said extremely—intoxicated when she left the party for the concert, it appears clear from the testimony that she stopped drinking between 10:50 P.M. and 11:40 P.M. The timeline is complicated by the fact that clocks were turned back at 2 A.M. due to daylight savings time, but it seems the accuser had her last drink at least four-and-a-half hours before the alleged rape, which apparently occurred after a phone call that Khan placed at

Jurors had the videos replayed numerous times, and those who have spoken publicly saw nothing of what the prosecution suggested.

1:55 A.M. from the accuser's sofa to his longtime girlfriend in Maryland (a call that lasted 141 minutes).

The two have an open relationship, and the girlfriend testified that she already knew the accuser from a summer physics class at Yale. She and Khan both stated that he handed his phone to the accuser at one point and the two women spoke briefly. "I said, 'Hi,' and she said, 'Hi,'" the girlfriend told the court. She recalled the complainant used the girlfriend's name when saying "Hi" to her. She said this was the extent of their conversation, and that she and Khan then continued talking for another hour and a half. Khan testified that the accuser had already given him oral sex before the phone call and asked him to "come to bed" after it ended.

One friend, Josh Clapper, initially told university police that the accuser "did not seem intoxicated" at the concert, which came after her final drink. At trial, his recollection had changed and he, like other friends of the accuser, said she needed support walking.

The apparent passage of those four-and-a-half hours, during which the accuser said she vomited two or three times, casts doubt on her assertions such as "I tried to say 'stop' but I'm not sure if anything came out. I couldn't communicate because I was that inebriated."

The accuser testified "he was pinning my legs and arms so I couldn't move." But Pattis noted that in her 61-page statement to police, she had never suggested that Khan pinned her arms.

After the alleged rape, the accuser awakened with Khan in her bed and told him she was embarrassed and disgusted by her behavior, by his account. After he departed, leaving two condoms that bore his DNA in her room—not the sort of oversight one might expect from a man who feared he might be accused of rape—he sent her a text at 6:14 A.M. She texted back "LOL." Then Khan responded with a winking emoticon and she replied, "Go to sleep and this will stay between us that goes for you too."

Jurors also took notice when a prosecution expert witness had to admit that the DNA found in a swab of the accuser's anus the day after the alleged rape had come from a male other than Khan. This was particularly relevant as the accuser had told police that she had not had sex in six months. The news media completely ignored this crucial fact.

The accuser also claimed that she discovered after Khan left that he had taken her phone and used it to send messages declining her friends' invitations to meet up after the

concert. If true, this would be direct evidence that Khan was trying to isolate the accuser. But he denied taking or using her phone. This was a he-said, she-said standoff—and the jury clearly believed that he was the more credible witness.

What happens now? Saifullah Khan's lawyers have requested that Yale readmit him and allow him to complete his last semester as a cognitive-science major. There is also an online petition circulating that demands "that Yale University continue to follow the guidelines laid out by the Obama administration, and continue to uphold Saifullah Khan's suspension." It had nearly 50,000 signatures as this magazine went to press.

It seems most likely that Yale's University-Wide Committee on Sexual Misconduct (UWC) will employ a secretive campus proceeding to pass judgment on Khan with minimal due process, no speaking role for defense lawyers, no meaningful cross-examination of the accuser, and no transcript of the proceedings.

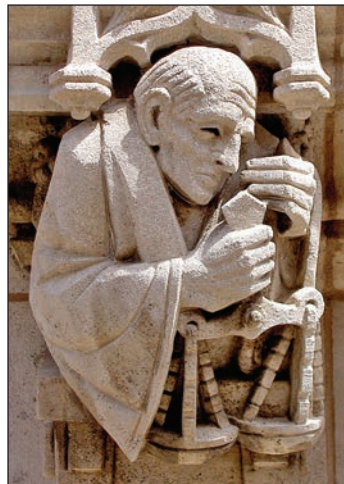
The UWC defines "sexual misconduct" as "a range of behaviors including sexual assault (which includes rape, groping and any other non-consensual sexual contact), sexual harassment, intimate partner violence, stalking, and any other conduct of a sexual nature that is non-consensual, or has the purpose or effect of threatening or intimidating a person or persons." The policy adds: "Much sexual misconduct includes non-consensual sexual contact, but this is not a necessary component. For example, threatening speech that is sufficiently

severe or pervasive to constitute sexual harassment will constitute sexual misconduct."

Any reasonable penalty would have to take account of the fact that Khan's education has already been derailed for two-and-a-half years by an unwarranted accusation and a criminal proceeding.

It can fairly be said that Khan was insensitive in having sex with a woman he did not know well a few hours after she had downed a lot of alcohol and vomited repeatedly and in placing a 141-minute phone call to his girlfriend in the accuser's presence, in between having oral sex and sexual intercourse with her. But by his account, the accuser was eager to have sex. And Yale's rules do not mention insensitivity or any other violation of its policy less damning than "sexual misconduct," a vaguely defined phrase that surely requires more than insensitivity and in many circles carries a connotation of sexual predation.

Some longtime observers of Yale's process consider it



*An ornamental judge and scales
from a Yale building*

possible—even probable—that despite the verdict of the criminal trial, the UWC will still find Khan responsible for “sexual misconduct” and expel him.

Indeed, his lawyers have appropriately called the UWC “a political entity draped in the presumption of guilt” that “rushed to judgment in this case” and that has more broadly “embarked upon a secretive Jacobin-style crusade in which complainants were pressured to come forward, procedural due process was ignored, and exculpatory evidence was casually and conveniently displaced.”

They have also pointed out that the chief of the Yale Police Department, Ronnell Higgins, recently told the *Yale Daily News* that his officers “are trained to ask the right questions . . . placing emphasis on a victim advocacy approach.” That sounds inconsistent with our legal culture’s hallowed presumption of innocence—which is nowhere mentioned in the UWC’s procedures. Not one of the sexual-misconduct complaints filed by female Yale students against males since the university’s current reporting system started in 2012 has been found to be false.

Asked by email for comment on the verdict and on what Yale might do now, Yale spokesman Tom Conroy responded: “It would not be appropriate for Yale to comment on the verdict in a criminal case, especially one that involved two Yale students. In regard to internal adjudications, Yale’s ability to comment on individual cases is limited by federal privacy law and Yale’s confidentiality policies. The University believes that confidentiality is critical to the integrity of our processes, and, for that reason, it does not confirm or deny that a specific allegation has come before the University-Wide Committee on Sexual Misconduct.”

Defending Yale’s overall handling of sexual-misconduct allegations, Conroy said that critics do “not take into account the process that Yale provides, which includes written and specific notice of the charges; the right to an adviser, who may be an attorney; the opportunity to present evidence and suggest witnesses; a written investigative report prepared by an impartial fact-finder; a hearing before a trained panel of members of the Yale community; the opportunity to submit questions through the panel to witnesses and the opposing party; a written panel report; the opportunity to respond in writing to the panel report; a written decision by a decision maker separate from the panel; the right to submit a written appeal to a second decision maker; and a written appeal decision.”

Judge José Cabranes, a U.S. circuit judge and Yale’s first general counsel, expressed another view in a devastating

2017 article in the *Yale Law & Policy Review*. While focusing mainly on threats to freedom of expression at Yale, he also assailed the university for its handling of sexual-misconduct accusations. “Today, as a matter of Yale University law, . . . in a sexual-misconduct proceeding, even for an allegation of non-criminal conduct,” there is, Cabranes wrote:

- No right to a public hearing, or even to a complete record of the private hearing;
- No right to have counsel speak on one’s behalf;
- No right to call friendly witnesses, much less confront and cross-examine adverse witnesses; and
- To top it all off, *no* assumption of innocence until proven guilty—merely a finding of wrongdoing that rests on a preponderance of the evidence (the lowest standard of proof known to American law).

Conroy did not mention these aspects of Yale’s process.

And while touting the “trained panelists” who pass judgment on accused students, he also failed to mention the fact that Yale (like many other universities) has taken great pains to keep secret the materials it uses to train them.

Why so secretive? As KC Johnson and I detailed in these pages last September, the training regimes are designed more to put a thumb on the scales toward guilt than to ensure a fair inquiry. The programs we were able to review were permeated with unsupported assertions about how false complaints are rare and that an accuser who contradicts her own prior accounts or established facts should be seen not as deceptive but

as a victim of “trauma.”

Cynthia Garrett, a lawyer who is co-president of Families Advocating for Campus Equality, a group supporting students who say they were falsely accused, sat through the whole Khan trial and spent much time giving moral support to the defendant. She came away from New Haven, she says, “with the disturbing realization that, as a whole, the Yale community is insular, dogmatic, and intolerant of diverse perspectives. It became apparent from my interactions with at least one *Yale Daily News* reporter that any who dare expose alternate viewpoints are quickly shamed into silence.”

Saifullah Khan himself is far more upbeat. I asked him about the trial, and he wrote, “As dark as this experience has been so far, the foundation of this democratic republic kept my beliefs strong. And as divided as this country may seem online, I have found love and hospitality at every corner of this country.” ♦

Some longtime observers of Yale’s process consider it possible or even probable that despite the verdict of the criminal trial, the school will still find Khan responsible for ‘sexual misconduct’ and expel him.

Murders Most Foul

Russia's poisonous aggression in the U.K.

BY DOMINIC GREEN

The poisoning of Russian defector Sergei Skripal and his daughter Yulia with one of the deadly Novichok series of nerve agents has plunged relations between Britain and Russia to their lowest level since Soviet times, sparking tit-for-tat diplomatic moves and a war of words. The crisis has raised talk of a “new Cold War.” It has also drawn attention to more than a decade of Russian assassinations in Britain, only one of which elicited a public response from the British government.

British investigators at first suspected that the poison had been inserted into Yulia Skripal's luggage before she



Sergei Skripal with daughter Yulia

flew from Moscow to London to visit her father. But on March 18, ABC News cited three intelligence officials' opinion that a “dust-like powdered form” of Novichok had been circulated through the air vents of Sergei Skripal's BMW.

The same day, foreign secretary Boris Johnson declared on BBC Television that Britain has proof that Russia has been “creating and stockpiling” Novichok over the “last 10 years” as part of a program “investigating the delivery of nerve agents for the purposes of assassination.”

Dominic Green is a frequent contributor to THE WEEKLY STANDARD. His books include The Double Life of Dr. Lopez: Spies, Shakespeare and the Plot to Poison Elizabeth I.

British prime minister Theresa May expelled 23 diplomats from the Russian Federation's London embassy, and Vladimir Putin responded in kind. Russian ministers and diplomats have, as in previous instances, issued smirking denials. Vladimir Chizkov, Russia's ambassador to the European Union, even suggested that the nerve agent came from Britain's secret defense laboratory at Porton Down, which is near Salisbury.

It's impossible to get hold of Novichok from anyone else,” Sir Malcolm Rifkind says. “Nobody else produces the stuff.” As Britain's defense secretary from 1992 to 1995, Rifkind was a close observer of the decommissioning of Soviet chemical and nuclear weapons. “Novichok was manufactured in Uzbekistan during the Soviet period as part of their chemical weapons program. That project was closed down in the early nineties after the end of the Cold War and the breakup of the Soviet Union. The question is: What happened to the stocks? They were supposed to have been destroyed, but I think we always assumed that the Russian government would have held on to some of them.”

Rifkind, speaking on the phone from his apartment near the Houses of Parliament, identifies three “possible hypotheses” that would explain the attempted murders of the Skripals. “The first possibility is that Putin directly ordered the assassination attempt. The second is that he didn't expressly authorize it but made it known that this was what he wanted, so that people who wanted to please him might do it. The third possibility is that elements in the FSB or the GRU might have been working with criminals.”

Labour's leader Jeremy Corbyn subscribes to this third possibility. To uproar in the House of Commons, some of it from his own party, Corbyn hypothesized a “loss of control,” linking “elements within the Russian state” to “mafia-like groups and oligarchic interests in London.”

“This is theoretically possible,” Rifkind allows, “but it misses the point. Putin, as an ex-KGB man, keeps a very tight grip on the agencies. He's not like Gorbachev or Yeltsin. The Russian intelligence agencies, the FSB and the GRU, have links to the Russian criminal underworld. They're not part of it, but they have links with it, and they

sometimes use it for their own objectives. So the hypothesis that Skripal was poisoned by Russian criminal elements, or the Russian mafia in the U.K., begs the question: Where did they get the stuff?"

I think we can be pretty certain that this comes from the highest level," says Tom Tugendhat, the Conservative parliamentarian who leads the Foreign Affairs Committee. "This is a weapon that can do enormous harm, and the Russian state is entirely aware of that. It's extremely unlikely that they would have let it fall into the wrong hands."

"The Russian government has form," Tugendhat says, pointing to recent history. We are talking on the phone, and the British police have just opened an inquiry into the death of Nikolai Glushkov, a Russian businessman who had received political asylum in the U.K. "It's not only Litvinenko, but also others."

In 2006, Alexander Litvinenko, an ex-FSB officer who had received asylum in Britain, was poisoned after highly radioactive polonium-210 was slipped into his tea at a meeting with ex-KGB officer and businessman Andrey Lugovoy. On his deathbed, Litvinenko dictated a letter accusing Putin of having ordered his killing. In May 2007, following a British police investigation into Litvinenko's death, Britain submitted a request for Lugovoy's extradition and expelled four diplomats from Russia's London embassy.

The Russian constitution forbids the extradition of Russian subjects. Putin further protected Lugovoy from extradition by placing him in the Duma, the Russian parliament, as the second-highest candidate on the list of Vladimir Zhirinovskiy's ultranationalist Liberal Democratic Party of Russia. In 2008, Lugovoy told *El País* that anyone "who has caused the Russian state serious damage . . . should be exterminated."

After Litvinenko's murder, Theresa May, then Britain's home secretary, wrote to his widow, Marina. "We will take every step to protect the UK and its people from such a crime ever being repeated," May said. But the killing of Russian spies and dissidents in Britain accelerated.

In June 2017, a *BuzzFeed* report claimed that U.S. agencies suspect 14 mysterious and sudden deaths on British soil to be assassinations by "Russia's secret services and powerful mafia groups." The cases include

the death in March 2013 of the anti-Putin oligarch Boris Berezovsky, who was found hanged in his mansion outside London, and eight men linked to Berezovsky, Litvinenko among them.

In 2007, Yuri Golubev, cofounder of Yukos oil corporation and an associate of Berezovsky, died of an apparent heart attack after flying to London from Moscow. In 2008, Berezovsky's friend and partner Badri Patarkatsishvili, a Georgian tycoon and opposition politician, died of an apparent heart attack at 52. In 2012, Alexander Perepilichnyy, an oligarch who had given Swiss prosecutors evidence of the defrauding of the Russian treasury by senior officials, dropped dead while jogging outside London at the age of 44. All these men had made fortunes in Russia in the 1990s

and then fallen out with Vladimir Putin after he won the Russian presidency in 2000.

In 2014, the Scottish businessman Scot Young, who had "fronted for Berezovsky in a series of deals," left a London apartment via a fourth-floor window, impaled himself on a spiked fence, and bled to death. Young had previously told police that he "believed he was going to be assassinated by gangsters and the Russia mafia." The police declared his death to be a suicide. Nikolai Glushkov, found asphyxiated in his home last week, was close to Berezovsky too.

British police concluded that only Litvinenko's death was foul play. The incompetence of the police and the sophistication of the methods of assassination are two possible explanations for this.

But there are other, less creditable possibilities. An ocean of money has flooded out of Russia since the Cold War, some of it in the hands of Vladimir Putin's enemies, some of it in the hands of his friends. Much of it has washed through London, where it has been laundered through shell companies and property investments.

A little of it has even pooled in the coffers of the Conservative party. In 2014, Lubov Chernukhin, the wife of ex-Aeroflot director Vladimir Chernukhin, was reported to have paid £160,000 at the Conservatives' summer ball for the privilege of playing tennis with David Cameron and Boris Johnson. Before Vladimir Chernukhin fell out with Putin in 2000, he was Putin's deputy finance minister.

Russian money turned London into the capital of the

One report claimed that U.S. agencies suspect 14 mysterious and sudden deaths on British soil to be assassinations by 'Russia's secret services and powerful mafia groups.' The cases include the death in March 2013 of the anti-Putin oligarch Boris Berezovsky, who was found hanged in his mansion outside London, and eight men linked to him.

global rich. It also exported the conflict between the ever-expanding regime of Vladimir Putin and anti-Putin oligarchs like Berezovsky. It was bad for the London property market and the stock exchange for Brits to get unduly involved in the Russians' private business—and dangerous, too. Meanwhile, the Conservative party under David Cameron and Theresa May called for sanctions against Putin while accepting donations from anti-Putin exiles.

Neither Labour nor Conservative governments wanted to stop the flow of funny money into the London markets. The clearer it became that Putin was determined to execute his enemies, regardless of where they lived, the riskier it became to confront him. The expulsion of diplomats after the Litvinenko killing did nothing to deter Putin; it might even have encouraged him. In that 2006 murder, he had commissioned an act of nuclear terrorism on British soil. Britain responded with a symbolic gesture. The killings continued, and Britain said nothing. As the body count rose, so did the cost of confronting Russia.

In 2012, Theresa May, then home secretary, successfully withheld material from the Perepilichnyy inquest on grounds of national security. The inquest failed to develop into a murder investigation. "It's so obvious that it's an assassination," Chris Phillips, the ex-head of Britain's National Counter-Terrorism Security Office, told *BuzzFeed* in June 2017. "There's no way it wasn't a hit. It's ridiculous."

Last week, Amber Rudd, Theresa May's home secretary, told a BBC reporter that "there will come a time" when the police and MI5 should reopen these cases.

It may be a while coming. Investigating the deaths of Putin's enemies will inevitably draw attention to the political donations of anti-Putin oligarchs in Britain. Since 2012, Lubov Chernukhin has donated £554,000 to the Conservatives. When Theresa May became prime minister in 2016, she promised to distance her party from Russian money. But since then, the Conservatives have accepted donations totaling £820,000 from the exiled oligarchs and their associates. In February, Lubov Chernukhin paid £30,000 for dinner and a private tour of Churchill's War Rooms with Gavin Williamson. He is Theresa May's defense secretary.

Look at those donations from Putin's point of view, and the British government does not look as neutral as its property market and its ask-no-questions financial sector might suggest. Look at the blind eye that the British government turned as Putin's enemies came to

sudden ends on its soil, and you can see why Putin might have felt that deploying a chemical weapon in a NATO state might be a novelty, but not one likely to provoke a crisis. But what is Putin's point of view?

"Putin has never reconciled himself to the loss of an empire," Malcolm Rifkind says. "He's on record as saying that the greatest geopolitical disaster in Russian history was the disintegration of the Soviet Union. By that, he meant the Russian empire, built up since Peter the Great."

The Western consensus on Russia is that Putin's domestic tyrannies and foreign aggressions are compensations for economic and demographic weakness. "Putin's not a master strategist," Rifkind says. "He's a superb tactician. He's not a Hitler, he's not looking to make wars. He's an opportunist."

Putin is also a judo black-belt. In 2008, he issued a DVD, *Let's Learn Judo with Vladimir Putin*. The *judoka* wins by throwing his opponent off balance and by turning his opponent's strength into a weakness. It was not Putin who caused the United States to lose its balance in the world; the rise of China, the decay of American institutions, and a general softening of the imperial waist

were enough. But Putin has exploited the United States' unsteadiness, just as he has exploited the uncertain stance of the European Union. Where the United States stepped back under President Barack Obama, Putin stepped forward, in the Middle East and in Europe.

Putin has turned the strengths of Western democracies—their trust in a rules-based international order and their wariness of conflict—into their weaknesses. When the European Union stepped towards Ukraine, Putin pivoted on a solid footing—Russia's historic claim to the Crimea—and flipped the European Union back to Brussels. Ukraine was also the weak point of the United States' regional strategy—it was in Eastern Europe but outside NATO. Putin has calibrated his aggressions to achieve tactical goals without reaching a threshold that would provoke aggressive countermoves.

"He knows, and it happens to be true, that neither America nor Britain nor France nor Germany would ever contemplate going to war with Russia over Georgia, or the Crimea, or the Donbass," observes Rifkind, who was Britain's foreign secretary from 1995 to 1997. "We've imposed sanctions and other measures to put pressure on him, but he calculates correctly that there would be no willingness to take his actions as a *casus belli*. They're not NATO members, we have no treaty obligations, and though we



Vladimir Putin



Theresa May

LEFT: MIKHAIL SVETLOV; RIGHT: JACK TAYLOR

wish these countries well and give them all sorts of diplomatic and economic aid, we're not going to war with Russia over them."

Putin has also used the Western democratic advantages of open debate and a free press to harm Western societies. Again, he is manipulating our weakness, rather than imposing Russia's strength. It was the failings of the European Union that fostered the nationalist movements that now threaten the E.U.'s future. Putin only sends money to the nationalists, to broaden and embitter the internal schisms in the E.U. states and block the development of the E.U. before it turns its economic edge over Russia into a political and military one.

"He's trying to undermine the ability of the West to act collectively," Tom Tugendhat says. "He's spreading 'fake news'—which is information warfare, and we should call it what it is. He's seeking to undermine the democratic process. We've seen it in France, in Germany, in the United States, and possibly"—before the Brexit referendum of 2016—"in the U.K. as well."

The tactics are the strategy: to keep the West on the back foot, to prevent it massing its focus, to set its energies against each other. Perhaps Putin did not expect the ferocity of Britain's response to the Skripal poisoning. Now, however, he will respond tactically, just as he has

reintegrated tactical nuclear weapons into the Russian Federation's military doctrine.

"We all need to update our Russia strategy," Tugendhat says. "We need to realize that Russia is now a hostile actor in the world and we need to be prepared to address the challenges that raises. We can't just pretend that Russia is just another peaceful country. It's not, I'm afraid; it's just not. Its actions over the last decade have been incredibly hostile, not just to the United States and the United Kingdom, but to our interests and allies. We must be prepared to defend those who ask for our support."

In 2017, after Putin had annexed the Crimea, NATO sent Enhanced Forward Presence battle groups to Poland and the Baltic states as a tripwire in case of Russian aggression. Britain's contingent is in Estonia. Tugendhat, a lieutenant-colonel in the British Army, served with American forces in Afghanistan's Helmand Province. He has a warning for Vladimir Putin: Don't send troops across the border, whether in uniform or, as in the invasion of Ukraine, without.

"They should be under no illusion that if they cross the border in Estonia, British troops will fight, and if they attack one British soldier, they are fighting NATO. There's no question about it: If they attack one NATO country, they are fighting NATO." ♦

As Election Looms, Business Optimism Soars

THOMAS J. DONOHUE
PRESIDENT AND CEO
U.S. CHAMBER OF COMMERCE

Pro-business members of Congress have an extraordinary story to tell as they turn their attention to the 2018 midterm elections. Hundreds of members of the U.S. House of Representatives and dozens of U.S. senators have fought tirelessly over the past 15 months to deliver legislative victories for Main Street businesses—and those efforts are paying off. Job creators throughout the country are now reporting a renewed sense of confidence in the future of our economy.

Following the first significant tax reform in 30 years and the most dramatic regulatory rollback in a generation, numerous indicators have shown a historic spike in economic confidence. For example, the quarterly *Small Business Index* conducted by MetLife and the U.S. Chamber of Commerce recorded its largest surge

ever in optimism in the first quarter of 2018. Further, a Gallup poll in January found small business optimism to be at an 11-year high, and the National Federation of Independent Business reported that small business leaders have the second-highest level of optimism in the 45-year history of its monthly survey.

It isn't just small businesses that have a positive outlook. The quarterly *RSM US Middle Market Business Index*, presented by RSM in partnership with the U.S. Chamber, found that midsize businesses in America are experiencing record-high levels of optimism. It also showed how that confidence is translating into measurable gains for employees. More than 60% of middle market leaders said they plan to raise wages over the next 180 days, while roughly half have already done so during the first quarter. An increasingly positive outlook will also lead to more jobs, with 58% of business leaders planning to increase hiring over the next 6 months.

Many factors, of course, contribute to this uptick in optimism. Yet pro-business members of Congress deserve a significant share of credit for rallying around pro-growth policies and passing them into law. Last week the Chamber recognized 297 members of Congress with the Spirit of Enterprise Award, which honors legislators from both parties with outstanding records of support on critical business issues. We encourage voters to look closely at these lawmakers' records of achievement when they go to the polls this year.

Sky-high optimism among business leaders is a major indicator that our country and our economy are moving in the right direction. The Chamber believes that the leaders in Congress who worked so hard to benefit our job creators not only deserve credit for their efforts, but they deserve a chance to return to Washington for another term to continue their hard work.



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The Pope's Mess

Five years into his papacy, assessing the Francis record.

BY STEPHEN P. WHITE

Pope Francis's pontificate did not begin with doctrinal controversy. It began with the appearance of an amiable Argentine on the balcony of St. Peter's and endearing stories about a pope who rides the bus and pays his own hotel bills. His papacy seemed to present an opportunity to draw together two competing visions of Catholicism's proper disposition toward the contemporary world. At the risk of oversimplifying, the first vision wants the church to be more open and democratic. The other has more traditional and hierarchical emphases. Each, at

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To Change the Church
Pope Francis and the Future of Catholicism
 by Ross Douthat
 Simon & Schuster, 234 pp., \$26

its best, represents a legitimate, orthodox vision of Catholicism. Each, at its worst, flirts with dissent, rupture, and even schism. Like brothers who sometimes quarrel, each tends to be wary of the other. As inadequate as the political terms "liberal" and "conservative" are to this purpose, they can work as shorthand: If Francis's immediate predecessors were more or less conservative, the newly elected pope appeared to be more or less a liberal, but well within the bounds of Catholic orthodoxy.

Five years later, these longstanding

divisions have not been resolved; in fact, they have become so aggravated that the worst version of each side is often on display. Ross Douthat, in his new book, *To Change the Church*, looks at Francis's pontificate, examining both the missed opportunities and the ongoing search for a new, stable synthesis. In even admitting the promise of this pontificate, Douthat is showing more good will and sense than many of the pope's critics do. And Douthat is certainly himself a critic, if a thoughtful and pious one. Regular readers of his *New York Times* column will not be surprised to learn that Douthat has written the most balanced and least polemical of the recent critiques of this pontificate. Pope Francis tends to elicit strong reactions from commentators,

ALESSANDRA BENEDETTI / CORBIS / GETTY

and Douthat offers if not a dispassionate assessment then at least one that takes seriously the limits of assessing the legacy of any pontificate after just five years.

To help his readers understand this papacy's initial promise and the controversies it has engendered, Douthat begins by walking them through the last few decades of Catholic history. In the years following the Second Vatican Council (1962-65), all manner of weirdness (and worse) wafted into the church—some of it revealing how fragile and vulnerable the church had already become by the time the council began. A manic spirit of experimentation and worldliness spread through the church, eventually exhausting itself in jaded cynicism. Seminaries emptied; religious orders imploded. Catholic catechesis and sacramental discipline entered a long slump. This was when the sexual abuse of minors by Catholic clergy was at its diabolical peak, although most of it wouldn't come to light for many years.

In 1978, Pope John Paul II was elected. He set about restoring order after a decade of dissolution. Like a trauma doctor presented with a critical case, the young pope set about stabilizing the patient. Bleeding was stanching, bones were set, splints and casts and braces were applied. It took decades, but by the time John Paul's successor, Pope Benedict XVI, abdicated in 2013, the patient appeared stable. There were crises, to be sure—the long-overdue reckoning on the sexual-abuse problem, notably—but the church had survived the worst of its internal injuries.

Sooner or later, splints and casts and braces have to come off. Limbs that haven't borne weight need strengthening and exercise. Joints that have grown stiff need to become flexible and limber again. If one is to become healthy, stability must sooner or later give way to a new stage of vulnerability. But if one proceeds too quickly and incautiously, old wounds can be reopened.

Enter Pope Francis. From the beginning, it was clear that his style was earthier, less formal, than that of his predecessors, especially the professorial Pope Benedict. That's part of Fran-

cis's charm. If the Argentine pope's politics have more of a Peronist flavor, it's also true that he is hardly the first bishop of Rome to warn against consumerism and the exploitation of creation or to remind the affluent of their obligations to the poor, the sick, the migrants. As Douthat points out, such remarks mostly seemed to threaten "a particularly American marriage of conservative Catholicism and free market ideology, which given the state of conservative politics in America perhaps deserved a period of papal challenge and self-critique." A pope with a moderately leftist view of the world might

The new pope knew that for the church to be what she must be, she couldn't spend all her efforts looking inward. An overly defensive church can easily forget that it has a mission.

not be such a bad thing after 35 years of relative conservatism. As the Italians say, "A fat pope follows a thin one."

Beneath all this, Pope Francis still clearly shared his predecessors' conviction that the church exists to preach the gospel to a world desperately in need of it. In other words, he knew that for the church to be what she must be, she couldn't spend all her efforts looking inward. Chronic dysfunction and corruption in the Vatican curia, new waves of sex-abuse scandals in Europe, and the long war of attrition between the church and secular culture—especially on issues like same-sex marriage and abortion—had left the Catholic church in a decidedly defensive posture. An overly defensive church can easily forget that it has a mission.

And so Pope Francis's early priorities reflected a refreshing reemphasis on the church's primary mission.

He wanted a church that is less self-referential, less closed in on itself; he wanted a church that leads with tenderness rather than judgment; he preferred a church that is "bruised, hurting, and dirty" from having been in the streets over a church that is "unhealthy from being confined and from clinging to its own security"; he wanted shepherds "who smell like their sheep"; he said he wanted a church "that is poor and for the poor." He envisioned the church as a field hospital, where those shattered by a "throwaway culture" can receive mercy's balm. In all of this, Pope Francis sought to move the church toward the very same goal his predecessors had desired: a "new evangelization" for the world and a "new springtime" for Catholicism.

The decisive shift in Francis's pontificate toward doctrinal brinksmanship arose, it seems, not out of deep ideological commitment to theological liberalism, but from his genuine fervor for bringing mercy and compassion to the fore. On the question of communion for the divorced and remarried, the pope looked to aging German theologians whose pastoral conclusions—if not the Hegelian theology used to reach those conclusions—enthralled him, ultimately convincing him to push the doctrinal envelope in ways very few of his predecessors ever have and in ways his most immediate predecessors had rejected outright. In doing so, Douthat writes, the pope threw away a golden opportunity

by wedding his economic populism instead to . . . the moral theology of the 1970s, making enemies of conservatives (African, American, and more) who might have been open to his social gospel, treating economic moralism not as a complement to personal moralism but as a substitute . . . and driving the church not toward synthesis but toward crisis.

The "marriage problem," as Douthat calls it, was the focus of two synods (large meetings of bishops) that convened in Rome in 2014 and 2015. The synods were supposed to highlight the more collegial, less hierarchical style of governance Pope Francis wished to exemplify, but they instead

became moments of intense controversy. Douthat covers the machinations and politicking at these synods in great detail, but what matters is that the pope and his handpicked managers went to great lengths to achieve the outcome they preferred: some version of the German proposal to allow communion for the divorced and remarried. In the end, they were frustrated, but the fight exposed and solidified the deep divisions between those opposed to such changes and those in favor.

It's difficult to overstate the importance of this disagreement for Francis's papacy and for the future of the church: Supporters of opening a new path to communion for the divorced and remarried claimed the matter was simply a question of "updating" and "reforming" church discipline in certain limited circumstances; opponents insisted that the proposed changes would create a rupture with the settled doctrine of the church. But the changes Francis and his allies hoped to institute stretched the limits of what is doctrinally possible, even for a pope. The question of communion for the divorced and remarried has profound implications for nearly every aspect of theology. Standing in the way of the permissive, pastoral approach Pope Francis seemed to favor are the explicit teachings of numerous popes and ecumenical councils, two millennia of Catholic Christianity, and, above all, the unambiguous words of Jesus himself: "Whoever divorces his wife and marries another commits adultery." When two baptized Catholics marry, nothing except death, not even the pope himself, can dissolve that union. And so long as you're married to one person, you can't go starting a new marriage with someone else. Adultery, like any other serious sin, precludes a Catholic from receiving communion until that sin is confessed and absolved.

The reformers insisted their proposals would not change any of that. But they could not explain how their plan—to permit people who, as far as the church was concerned, were not married to receive communion while still living together as husband and wife—did not contradict in practice

what the church clearly taught in principle. Something had to give: Christ's own words on the indissolubility of marriage and the nature of adultery; or St. Paul's teaching about the need to receive the Eucharist worthily, and thus not in a state of serious sin; or the church's perennial teaching that real repentance is required to receive absolution in confession; or her infallible teaching that the commandments are never impossible to keep, no matter how trying the circumstances.

In early 2016, Pope Francis published the longest papal document in history, an apostolic exhortation called

As the gaps in teaching and practice from diocese to diocese have widened, it has become clear that something more than the pope's wink-wink-nudge-nudge approach is required.

Amoris Laetitia, which in Douthat's words "yearned in the direction of changing the church's rules for communion ... its logic suggested that such a change was reasonable and desirable. Yet [Pope Francis] never said so directly." In the document, the most fraught and contentious question of the synods—the source of so much friction, drama, and division—was reduced to a single, studiously ambiguous footnote. When it came to the church's pastoral care for those in irregular marital situations, the pope noted, "In certain cases, this can include the help of the sacraments."

Which sacraments? Under which conditions? Was this a restatement of prior teaching or a reversal? The document didn't say. Pope Francis apparently settled on a do-what-I-mean-not-what-I-say approach. He may have hoped to leave the matter

ambiguous enough to prevent a doctrinal crisis while still allowing room for more permissive pastoral practices. And that approach might have succeeded, if not for the fact that different bishops around the world began interpreting the ambiguous footnote in radically different ways. Even those who praised the new teaching couldn't agree on just what was being taught. The sacramental discipline and moral teaching of the Catholic church began to divide along national and diocesan boundaries almost immediately.

In Poland, for example, the bishops reiterated existing teaching that the divorced and remarried could not receive communion. Other bishops, hoping to use the wiggle room created by *Amoris Laetitia* to push for far more radical changes, got straight to work. In Germany, where declining to pay the church tax gets you excommunicated and where pews are empty but coffers are overflowing, the bishops have pushed for opening communion to certain non-Catholics and have floated the idea of blessing same-sex partnerships.

In light of the more radical interpretations of the pope's teaching, more traditionalist prelates have made official requests for the pope to clarify just what it is supposed to mean. These requests have been ostentatiously ignored, and the inquirers treated like ecclesiastical pariahs. As the gaps in teaching and practice from diocese to diocese have widened, it has become clear that something more than the pope's wink-wink-nudge-nudge approach is required. The pope retroactively elevated to magisterial status a private letter he had written to the bishops of Buenos Aires praising them for their guidelines for interpreting and implementing *Amoris Laetitia* and claiming "no other interpretations are possible." This includes—presumably—the Argentine bishops' claim that in certain circumstances, it is "not feasible" to *not* commit adultery and that in such cases folks might be able to receive communion. The pope could not be less interested in explaining how this interpretation squares with the Council of Trent's teaching that following the commandments is never impossible.

So far, the debates over *Amoris*

Laetitia have involved mostly bishops, priests, and theologians; Pope Francis has left the defense of his ambiguous magisterium to a coterie of advisers and subordinates who enjoy the deference afforded them by their proximity to him. Meanwhile, the acrimony of the marriage debate seems to have surprised the pope and pushed him away from consensus-seeking and more solidly toward the reform-minded prelates who supported him through the synods and who are now eager to cement Francis's legacy, lest it all be washed away in the next conclave.

As Douthat notes, looking back at the last several years, "Francis's apologists knew very well that they weren't just defending simple pastoral flexibility against the rigor of conservatives. Flexibility they surely wanted, but there was also clearly a more revolutionary vision implied and waiting underneath." How far they will be able to press that revolution, and whether Pope Francis will eventually try to slow the revolution being waged in his name, remain open questions.

There is little sign that Catholics in the pews on Sunday—or *not* in the pews, as the case may be—are much concerned with the debates over *Amoris Laetitia*. But the stakes are too high and the interpretations of its teachings too diverse for the current situation to remain stable for long. The church can tolerate, and for a long time, a great deal of diversity in pastoral practice. But diversity *in principle*? Deep disagreement about the moral law, the sacraments, and the limits of doctrine itself? Divisions on issues so fundamental have a way of leading to deep and lasting damage to the unity and credibility of the church—to schism and worse. On this point, Douthat takes a pessimistic view:

The church has broken in the past, not once but many times, over tensions and issues that did not cut as deeply as the questions that undergird today's Catholic debates. Other communities have divided very recently over precisely the issues that the pope has pressed to the front of Catholic debates. And for good reason: Because these issues, while superficially "just"

about sexuality or church discipline, actually cut very deep—to the very bones of Christianity, the very words of Jesus Christ.

Toward the end of his book, Douthat turns to history and attempts some synthesizing of his own, trying to find some precedent for or analogue to the season of division in which the church finds itself. He focuses on two past controversies—between Athanasians and Arians in the 7th century and between Jansenists and Jesuits in the 17th—as templates for thinking about how the current crisis might resolve itself in the long term. Applying the lessons of these episodes, Douthat guides the



Ross Douthat

reader through various permutations, balancing one interpretive narrative with another and offering likely, or at least possible, scenarios.

To his credit, Douthat is willing to entertain the idea that he is simply wrong and that others—Pope Francis and his advisers—are right. The Spirit, after all, blows where it will. And for all the clarity of the pontificates of John Paul II and Benedict XVI, they didn't stem the rising tide of secularism or restore the confidence and vitality of the church in the West. Doctrinal clarity may be necessary to the church's mission, but it's hardly sufficient.

Douthat shows more confidence in his evaluation that while it may not play out in any of the ways he imagines,

the crisis precipitated by the recent synods and *Amoris Laetitia* is not going away anytime soon. Too much is at stake. In the meantime, Pope Francis's hopes for a genuinely outward-looking church, a church less turned in on itself, have likely diminished:

The theological crisis that [Pope Francis] set in motion has made Catholicism more self-referential, more inward-facing, more defined by its abstruse internal controversies and theological civil wars. The early images of the Francis era were missionary images, an iconography of faith-infused outreach. The later images have been images of division—warring clerics, a balked and angry pope, a church divided by regions and nationalities, a Catholic Christianity that cannot preach confidently because it cannot decide what it believes.

It's not really the case that Catholicism can't decide what it believes. In the end, the church is not merely a collection of ideas and doctrines—about this Pope Francis is surely right—and her faith is not in men, nor even popes, but in the One who said to the first pope: "You are Peter, and on this rock I will build my church, and the gates of hell will not prevail against it." Francis is Peter, for better or worse (most likely both). The same will be true of the next pope. If looking to history reminds us that crisis and schism are real dangers to the church, history is also a reminder, to Catholics anyway, of the old adage that the greatest proof for the truth of the Catholic church is that 2,000 years' worth of Catholics haven't managed to destroy it. The next conclave, the conclave that chooses Francis's successor, whenever it comes, will be important. But it will not be, to coin a term, a Flight 93 conclave.

Douthat concludes by pointing out that, at least for now, we have a bishop of Rome who has taken to heart his own advice: "*Hagan lo!* ... 'Make a Mess!' In that much he has succeeded." Douthat, for his part, has succeeded in helping make at least a little sense of that mess, in ways that are both disconcerting and, taking a long enough view, reassuring. His readers will be grateful. ♦

Maturing with Cole

The course of the great landscape painter's career.

BY JAMES GARDNER



Two of *The Course of Empire* paintings: *The Consummation* (top) and *Destruction* (both 1836)



One of the reasons most art writing is not worth reading—and there are several reasons—is the irritating habit of critics of personalizing their subject and make it all about them-

James Gardner is completing The Louvre: A History, to be published by Grove Atlantic in 2019.

selves. It goes without saying that this tendency is to be strenuously resisted, if not punished, but I am about to engage in a bit of it myself. For I feel I have a special relation to the subject of this article, Thomas Cole, the foremost American landscape painter of the first half of the 19th century and the focus of a new show at the Metropolitan Museum of Art.

Like most critics, I usually write on art that I have come to know as an adult. But I first encountered Cole's masterpiece, *The Course of Empire* series, when I was 7 years old. This series of five canvases (1833-1836), which is a major focus of the Met show, usually hangs in the New-York Historical Society, a few blocks from where I grew up on Manhattan's Upper West Side. And the central painting in the series, slightly larger than the others, is perhaps the first work of art I ever loved.

The Course of Empire charts the progress of an unspecified nation (although the United States is clearly intended) from its primitive inception to its glorious apogee and ultimate decline. Each painting depicts the same place (as indicated by the constant presence of a cliff in the background) but profoundly altered by each wave of human society that passes through. A different time of day appears in each work, from dawn as it rises over the first primordial landscape to the serene dusk that descends on the ruins of the final work, devastated by the barbarian invasions depicted in the preceding canvas.

I have been returning to these five paintings at various points throughout my life, and in the course of that encounter, my responses have changed many times. Nothing, it turns out, is more mutable than a painting. Each time we stand before it, the painting becomes, to some degree, a different work of art. My earliest response was perhaps the most interesting. Being at an age when one is apt to feel things with a greater vividness and force than is usually granted to adults, I thought that the central painting was the finest work of art I had ever seen. Of course, that may not have been far from the literal truth, since, like most 7-year-olds, I had not seen much. But I distinctly recall being astonished by what seemed, in the central painting, to be Cole's superhuman virtuosity in depicting the empire at its zenith. Here pure, radiant sunlight floods the pristine marble façades of Roman temples massed in almost inconceivable density. The multitudinous crowds rejoice, and the painting itself is a testament to joy.

In my twenties, however, when I knew a bit more about art, this painting appeared somewhat diminished. I still admired its hyperbolic happiness, but I was more aware of the dryness of the drawing and the sketchiness of the figures in the landscape. I far preferred the final painting in the cycle, whose majestic composition is dominated by a shattered column on the left, rising over a devastated landscape that has been reclaimed by nature. Revisiting that final painting in the context of the present exhibition, I was once again struck by the magisterial authority of its composition—the best that Cole ever devised—but I was also aware, for the first time, that the column in the foreground was drawn somewhat weakly, especially in the garbled rendering of its Corinthian capital.

Quite aside from this changefulness in our response to art, each exhibition seeks to alter, rather than simply to ratify, our sense of what we are seeing. It does this either by introducing us to new art or by offering a new perspective on art we already know. In the case of this exhibition, the curators present us with a reading of Thomas Cole that is radically contextualized. He is a creature, and a far-sighted critic, of the first phase of the Industrial Revolution. Born in the manufacturing town of Bolton le Moors in Lancashire, England, in 1801, Cole lived there until his father—after failing at various business ventures—moved the family to the United States in 1818. In this context, two of Cole’s most famous projects, the *Course of Empire* series and *The Oxbow* (also on view at the Met) can be seen as critiques of industrialism. Painted after one of several trips to England and the Continent—hence the title of the exhibition: *Thomas Cole’s Journey: Atlantic Crossings*—they are a response to the America that confronted him after several years abroad, an America that was governed by Andrew Jackson and had begun to turn away from the land itself. This was a matter of great concern to the artist. When, in 1825, he first encountered the Hudson River valley, with which he would be forever



Cole’s View of Florence from San Miniato (1837)

Thomas Cole’s Journey
Atlantic Crossings
Metropolitan Museum of Art
through May 13

after associated, he was immediately enchanted. “Nature,” he wrote, “has shed over *this* land beauty and magnificence, and although the character of its scenery may differ from the old world’s ... still it has features, and glorious ones, unknown to Europe.” But even in a work as serene as *The Oxbow*, a work that superficially seems to celebrate the land, the curators usefully draw our attention to a tiny detail in the distance: It looks like wisps of clouds, but is really smoke rising from fires that are deforesting the area in preparation for its development and exploitation.

The Met exhibition is also effective in framing its subject in the context of American, British, and continental art in the early 19th century. Artists like Turner and Constable, both included in the present show, influenced Cole through their responses to industrialization. Whereas Constable turned his back on it, Turner, like the Impressionists half a century later, could glimpse something of poetry and beauty in these modern intrusions. As for Thomas Cole, he took a different tack: He looked industrialization in the eye, then countered it, and finally retreated into the purity of nature.

Although the Metropolitan exhibition is not a retrospective, it manages to cover each period of Cole’s career with an abundance of contemporary documentation, including the artist’s notebooks and palettes. As a result, Cole emerges as a more interesting and varied artist than some of us may have appreciated. Even though he was largely self-taught, as were most American painters of his day, he had an early and instinctive grasp of the Grand Manner that most of his compatriots lacked. As he matured and as his voyages resulted in a deeper familiarity with the art of England, France, and Italy, the last traces of provincialism evaporated from his paintings. By his untimely death in 1848, he had mastered many of the most advanced lessons in the art of his time. It is true that his draftsmanship was never exemplary—as I now appreciate—and he could succumb to the pietistic moralizing of his *Voyage of Life* series, which is not included in the present show. At the same time, however, he could paint a work like *View of Florence from San Miniato* (1837), which is—to me at least—one of the revelations of the Met’s show. Marked by a supreme sense of competence and self-confidence, it possesses a subtler and more subdued quality than many of Cole’s other works. This quality not only is the fruit of full maturity, but it may also demand of the viewer an equal maturity to perceive it at all. ♦

Postmortem Power Struggle

Slapstick, satire, and terror in The Death of Stalin.

BY JOHN PODHORETZ

The *Death of Stalin* is a blacker-than-black comedy about the members of the Central Committee of the Communist Party of the Soviet Union

and how they jockey for power after the demise of Joseph Vissarionovich in 1953. The movie is sometimes gaspingly hilarious—and at all times audacious and original. It centers on a battle of wits and wills between Nikita Khrushchev (Steve Buscemi) and Lavrenti Beria (the British stage actor Simon Russell Beale).

Armando Iannucci, who cowrote and directed, is a Glaswegian of Italian descent best known for creating HBO's *Veep*. As in *Veep*, he sugarcoats nothing. Every Soviet leader we see here is a petty, craven mass murderer or an accessory to same. Iannucci triumphs by turning them all into objects of sport and ridicule without ever letting us forget how evil they are. When Khrushchev and Beria join their fellow monsters in trying to lift Stalin's inert mass off the floor of his office while desperately avoiding various forms of bodily discharge, we get uproarious slapstick that brings with it the startling sting of a real slap.

In one particularly inspired bit, the old ideologist Vyacheslav Molotov denounces the wife he thinks is dead for her counterrevolutionary activities and then, upon seeing her

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The Death of Stalin
Directed by Armando Iannucci



Above, a poster for *The Death of Stalin*, with pre-erasure Jeffrey Tambor in the middle. Below, a scene from the film.



and even despite knowing she's heard him, embraces her fondly and says he's missed her. Molotov is played with surreally brilliant comic timing by Michael Palin, one of the original Monty Python performers. Palin's presence reinforces the sense that *The Death of Stalin* is the best Python sketch never performed.

Indeed, I suspect Iannucci was

inspired to take on this project in part if not wholly by the hilarious Python episode in which Palin plays the clueless outdoorsman Mr. Pither, a nerdy cyclist who rolls mistakenly into Communist Russia and finds himself in front of the most incompetent firing squad ever assembled. "After a few moments I perceived a line of gentlemen with rifles. They were looking in my direction," Pither narrates. "I looked around but could not see the target." (His greatest concern is that the Mars Bar in his backpack not be damaged.)

I can't praise *The Death of Stalin* highly enough ... except that it gets really boring after a while. The movie runs a little over an hour and 40 minutes, but there are no stakes here. The only

way for any story to succeed is for it to take hold of you and make you care about the outcome. Since the movie posits that everyone we see is evil, by definition we're not going to care about who succeeds and who fails. That's morally sound on Iannucci's part, but strictly as a storytelling matter, it's self-defeating. After all, even in the midst of the lunatic silliness of the Python episode, you kind of felt sorry for Mr. Pither.

If you know what actually happened after the death of Stalin, the movie's divergence from reality is a bit annoying. It compresses a complex series of events that took place over nine months into a week's time, which was an effort on Iannucci's part to keep things moving propulsively. But it just makes them seem hurried.

And if you don't know what actually happened, the final outcome isn't at all affecting or interesting because you've already gotten the idea they should all drop dead. (I know this because I used to know what happened but I forgot until it came back to me about 20 minutes before the end credits, which meant I was in both camps.)

One genuinely discomfiting aspect of *The Death of Stalin* has nothing to do with what is onscreen, and it likely happened without Iannucci's involvement. In the movie, Jeffrey Tambor plays

Malenkov, who nominally takes charge of the Soviet Union after Stalin's passing. Tambor, of course, is the comic actor who found himself feted and lionized for playing the transgendered Maura on the celebrated Amazon show *Transparent*. He was fired after he was accused of sexually harassing two trans performers on the set (which he denies).

Before the accusations, the posters for *The Death of Stalin* featured Tambor

cheek by jowl with Buscemi, Beale, and Palin. After the accusations, Tambor disappeared from the poster—replaced by a secondary player. In other words, the advertising for a movie about the evils of Stalinism adapted a purge-era technique and literally erased an inconvenient person from an existing image. There's a degree of savage irony here that *The Death of Stalin* itself never even begins to approach. ♦

who has taken a vow: No man shall wed her who cannot answer three riddles—and those who fail shall be put to death. As our story starts, the body count stands at 25, though soon a new victim, the prince of Persia, is added to the tally, his head carried onstage and impaled on a pike. Just as the suitor is condemned, however, Calaf, the disguised prince of Tartary, catches a glimpse of Turandot and falls head-over-heels in love. Despite the protests of his deposed father Timur and Liù, a slave who has faithfully followed Timur due to her own semi-hidden love of Calaf, Calaf takes up the challenge of the three riddles.

In the second act, Calaf appears before the court and—wouldn't you know it—guesses the three riddles correctly. Turandot is devastated, for she had taken her radical vow in memory of an ancestor who was enslaved and murdered by a conquering prince. She begs her father, "You can't give me to him ... like a slave." The emperor, who seems relieved that the slaughter he has been forced to oversee is at an end, is inflexible: The same vow that made him an executioner will now make her a wife. But Calaf, feeling his oats, makes a counter-offer: If she can guess his name by morning, she can execute him. If not, she shall wed him.

Enraged and scared, Turandot has her soldiers toss the city, while the prince sings the famous, soaring "Nes-sun dorma" aria, boasting that they will never learn his secret. The soldiers come across his father and Liù, whom they torture. When the princess, impressed by the slave's resistance, demands to know why she holds out, Liù confesses her love for the prince. Then, fearing she will no longer be able to endure, she commits suicide. Timur mourns her and chastens the excited onlookers.

Then follows what is widely considered the least believable, most troubling part of the opera: Calaf, who has seen all of this and not stopped it, issues one or two lines of protest and then immediately goes back on the offensive. Only this time, he grabs Turandot roughly and kisses her. This somehow causes Turandot's icy heart

BCA

Taking Offense at the Opera

Turandot is musically irresistible, but can it survive today's cultural sensitivities? BY NICHOLAS M. GALLAGHER

When French president (then-candidate) Emmanuel Macron waxed lyrical about his passion for the composer Gioachino Rossini in spring 2017, the transatlantic chattering classes gushed in admiration (and made snide comparisons to Donald Trump). But when British foreign minister Boris Johnson was caught on a hot mic a few months later quoting Rudyard Kipling's imperial-era poem "Mandalay" on a trip to Myanmar, the reaction was swift, sharp, and negative. Not all cultural literacy, it seems, is created equal.

Seems like there's a straightforward rule at play here, right? We want a cultivated elite, but not a bigoted one. Know your culture, but stay away from the less-enlightened stuff—particularly if you're representing your country abroad. But on closer inspection, the division may not be so clear. While "Mandalay" has a disparaging reference to Buddha (the poem is written in the voice of a former enlisted soldier), Johnson didn't quote that bit. He had

just rung a temple bell, then said to a companion, "the temple bells, they say/Come you back, you English soldier.' Remember that?" Which seems like a natural enough invocation. Meanwhile, two of the compositions Macron namechecked are Rossini's *Maometto II* (about the Turkish sultan Mehmet II) and *Mosè in Egitto* (Moses in Egypt). Among the Italian composer's other works are *L'Italiana in Algeri* (The Italian Girl in Algiers), *Il turco in Italia*, *Semiramide*, and several others with similar East-meets-West themes. If you follow the late Edward Said, as many in the intellectual firmament still do, the very act of enjoying something like this partakes of and enables the oppression of the Eastern "other."

These thoughts were in my head as I watched the last of the great Italian operas, Giacomo Puccini's *Turandot*, at the Met this season. *Turandot* has been performed more than 300 times at the Met, and Franco Zeffirelli's ultra-lavish staging, which premiered in 1987, is one of the Met's staples. It is also, as my fellow millennials say, very "problematic."

Turandot is the story of the eponymous (and fictitious) princess of China

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Marcelo Álvarez as Calaf in Puccini's *Turandot* this season at the Metropolitan Opera

to melt, whereupon Calaf realizes he wants her to choose him freely, and so tells her his name, putting his life in her hands. Standing before the imperial throne again, Turandot declares she *does* know the stranger's name—it is “Love!” From torture to betrothal takes about 20 minutes.

Even for opera, this is fast work, and ever since its 1926 premiere, *Turandot* has been labeled a “flawed masterpiece.” In Puccini's defense, he died just before completing it (the last duet and final scene were finished by Franco Alfano), and it's impossible to say what revisions Puccini might have made before it premiered; on the other hand, it is clear the ending reflects his overall vision.

The key to all this, I think, is that it's not just an opera, it's also a fairytale. Puccini and his librettists adapted the story from plays by Schiller and 18th-century Venetian playwright Carlo Gozzi, who in turn got it from the 12th-century Persian poet Nizami's *Haft Peykar* (*Seven Beauties*), a collection of erotic and philosophical stories built from pre-Islamic tales. Therein lies the key to some of the unreality—fairytale characters are

archetypes—as well as some of the cruelty. Fairytales, pre-Disney, were as bloody as they were magical: In the original story of Cinderella, the stepsisters cut off parts of their feet in order to fit the slipper; the original Sleeping Beauty story involves a rape, spousal murder, and attempted cannibalism. And of course, fairytales are often cross-cultural: Nizami's original tale that became *Turandot* is told by a Slavic princess to her Persian husband.

Today, between the sexual politics and the cultural ones, *Turandot* feels something like opera in a minefield. How much of this is due to the opera and how much due to the production is an important question. On the one hand, the crowds of cowering peasants and scowling guards whipping them back, the half-naked headsman, the advisers with their exaggerated Fu Manchu facial hair are all part of this particular production. But it was Puccini, after all, who named Turandot's three ministers Ping, Pang, and Pong, characters whom a 1926 review labeled as “three prattlers who have escaped from a perverted dream of Gilbert and Sullivan.” It was Puccini too who added the Oriental tones to the music, which arise in both dramatic and comic moments

and which would be audible in even the most “cleaned-up” presentation.

Perhaps it's unsurprising, then, that squeamishness about *Turandot* is a bit of a cottage industry at this point. Every revival of the Met's *Turandot* for the last few years has prompted hand-wringing from critics over its sexual politics, cultural imperialism, or both. Recent productions by the Opera Company of Philadelphia and Lyric Opera of Chicago led to calls to mothball the whole opera.

But if worrying over *Turandot* is a cottage industry, *Turandot* is an industry, full stop. The Zeffirelli production, much like his production of *La Bohème*, remains a mainstay of the Met's repertoire. It's not hard to see why: The sets are visually stunning, particularly the second act's imperial throne room, and the public likes faithful productions far more than most critics ever will. Economically, these are the gold standard for opera productions, paying off 30 years after the initial investment—and helping to keep the Met open to experimentation in other areas. And the backlash that hit in 2012, when a modern *Tosca* displaced a Zeffirelli production, put the management on notice not to try to replace the classics.

IMAGES: MARTY SOHL / METROPOLITAN OPERA

Ultimately, it's Puccini who has put us in this bind; the music is simply too good not to stage.

Can the current state of affairs last? Is it possible for the great and the good to go on enjoying *Turandot* and the rest of the operatic repertoire while their children—figurative and literal—have been allowed to grow into would-be Thomas Cromwells, bent on self-righteous iconoclasm, even as the whole thing gets papered over with a little condescension and a lot of hypocrisy?

This isn't to say that *Turandot* in particular is going to be the target of our next lightning-strike cultural contretemps. It's to say that opera is a target-rich environment. Just in the main run of the repertoire alone, *Aida*, *Madama Butterfly*, *Die Zauberflöte*, *Die Entführung aus dem Serail*, *L'Italiana in Algeri*, *Otello*, *Carmen*, and *Il Trovatore*, among others, present "cultural imperialism" and "Orientalism"-style problems, while everything from *Don Giovanni* to *Caro/Pag* has questionable sexual politics. And don't even get me started on Wagner. If you took out everything that jars with modern sensibilities, you'd be left basically with *Don Carlo* and *La Bohème*, the latter of which is only acceptable because broad stereotypes of Paris don't offend us in the same way that broad stereotypes of Peking do.

Of course, nuanced reevaluation of the canon, through sensitive new productions, is possible—even desirable. But nuance is not our era's forte. In the millennials (of whom I am one), we have a giant demographic cohort, of increasing economic power, convinced that it knows The Truth about our horrible history and what must be done about it. Our enervated center-left cultural elite nurtured and tolerated these attitudes in universities. The resulting protests, which have escaped the bounds of the academy, have not been pretty.

Germans, in response to uncomfortable historical echoes in the texts of some operas, have adopted another

way: Starting at the post-WWII Bayreuth Wagner festivals, *Regietheater* ("director's theater") has allowed directors to stage operas in ways that fly against the text and are often absurdist or surrealist. But the Met is justly famous for the (nonpolitical) conservatism of its audience, and judging by the boos that greeted a recent production of *Siegfried* in Bayreuth, wherein humping crocodiles interrupted the main duet (yes, this was recently a



From earlier this season, Oksana Dyka in the title role of *Turandot*

thing), there'd probably be riots in Lincoln Square if *Regie* were attempted on a consistent basis.

The ideal approach is to trust that anyone cultured enough to see an opera, even for the first time, is probably sensible enough to get the difference between watching Puccini's Peking and going off to conquer China. There are signs that such distinction-making is possible. Notably, Aleksandrs Antonenko, who, in the first half of this season's run of *Turandot*, played Calaf in the traditional costume—which involves exaggerated, curved eyebrows—refused two years ago to wear blackface for a new production of *Otello*, suggesting some level of differentiation on his part. The *Otello* was a highly successful

reimagination of the opera, revealing different but not unfaithful subtleties from the usual version. Meanwhile, in China, where *Turandot* was banned until 1998 because of its depiction of the Chinese, the opera has achieved something of the status of a "national opera" and was performed at great public expense in conjunction with the 2008 Olympic games—but notably, it has also featured revisions that make it more dramatically believable while keeping the story arc intact.

You can see the room for middle ground here. Insofar as the Zeffirelli *Turandot* can be uncomfortable, it's often because the blocking is so wooden as to make the acting cartoonish. In 1987, the Met did not have its seat-back translations—these would not come in until 1995—and so the shows needed to be (literally) spectacular, while the acting could be of the just-face-the-audience-and-sing variety. Today, since you can follow the drama word-by-word, the lack of emotion in some scenes and rough blocking in others (particularly the final duet) produce jarring results. This could be fixed by a new, still somewhat faithful production or, though it isn't the done thing at the Met, reblocking within Zeffirelli's traditional set. (Why not make an exception for the master?)

Still, there is reason to worry. Short of a total departure from the story, it is difficult to imagine a restaging of *Turandot* that would not invite accusations of racism or sexism. Certainly, I can't see a production team not *fearing* such accusations. That will probably keep the Zeffirelli production with us indefinitely. As far as the production goes, that's not in and of itself the worst of worlds, but this kind of caution, when repeated, can lead to stagnation.

We have one consolation, those of us who think that the canon is better preserved with its faults than scrapped because of them: the transcendent music. It is hard to imagine *Turandot* being lost over the long term. But in the short-to-medium term, I am worried. ♦

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Elon Musk Says He's Formed a Media Company Called 'Thud' After Hiring Ex-Staffers of The Onion

By Todd Spangler | [@xpangler](#)

CREDIT: SUZANNE CORDEIRO/REX/SHUTTERSTOCK

Tech billionaire and futurist [Elon Musk](#) apparently wants to add a new gig to his multihyphenated resume: media mogul.

In a tweet early Wednesday, Musk posted simply "Thud!" He followed that later in the day with an explanation: "That's the name of my new intergalactic media empire, exclamation point optional."

Some wondered whether Musk was just be joking about the name. A rep for Musk confirmed "Thud" as the company's name (the preference is without the exclamation mark, he said) but otherwise declined to provide more information.

Musk has formed a stealth-mode media company after hiring former staffers of [The Onion](#), including editor-in-chief Cole Bolton and executive editor Ben Berkley, as first reported by [the Daily Beast](#). The two editors departed last fall over a disagreement with [The Onion's](#) owners, which include Univision.

"It's pretty obvious that comedy is the next frontier after electric vehicles, space exploration, and brain-computer interfaces," Musk said in a cheeky statement to the [Daily Beast](#). "Don't know how anyone's not seeing this."

Among his other activities, Musk heads electric-car company Tesla and rocket manufacturer and space-transport firm SpaceX.