the weekly Standard

THE KAVANAUGH NOMINATION
FRED BARNES • PETER J. BOYER
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THE TORY KINGMAKER

How backbencher Jacob Rees-Mogg came to hold the fate of Theresa May's government, the future of his party, and the outcome of Brexit in his hands

BY DOMINIC GREEN

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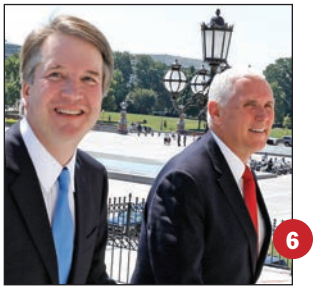

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COVER BY BRITT SPENCER

Area Doofus Makes Nuisance of Self

It's July. The news tends to be less momentous than at other times. The Scrapbook understands that. But the media's sudden fixation on individual acts of "protest" has us wishing for more stories about kids giving back to the community and celebrities saying dumb things.

The week of Independence Day was especially packed with stories about people making asses of themselves. In Huntsville, Ala., a man shouted "Womp, womp" as a priest delivered the invocation at a small gathering at a park gazebo to protest President Trump's policies along the U.S.-Mexico border. ("Womp, womp" is the dismissive sound made by the egregious Corey Lewandowski on Fox News when another commentator mentioned a girl with Down syndrome separated from her parents.) This lone counter-protester then brandished a gun, ensuring his instant arrest by nearby police officers.

A story about an idiot troublemaker would have worked well on a local alt-paper's police blotter page, but it strikes us as thin gruel for a full 800-word story in the *Washington Post*, complete with interviews and dramatic narrative storytelling ("All around [the priest], people were shaking, crying and getting up from the ground"). Coverage also appeared, among other places, in *Politico*, *Newsweek*, and the *New York Times*.

Then we were given extensive coverage in the *Post* and *USA Today* and on CNN and MSNBC of a mom, no doubt heeding the counsel of Rep. Maxine Waters to harass cabinet members, who confronted then-director of the EPA Scott Pruitt as he lunched at a Washington restaurant. Video of the encounter quickly went viral on social media. Initial reports described the woman, Kristin Mink, as a "school teacher," and so she is, but the fact that her employer is the very upmarket D.C. private school Sidwell Friends rather complicated the idea that her exploit was a spontaneous demand for justice from the hoi polloi. "[Pruitt's] scandals, I told him, would ultimately push him out," the woman wrote in an op-ed for the *Guardian*, after video of her stunt went viral, "but his real crime was the one he was committing against children like my son . . . "

On the Fourth itself, another lone demonstrator climbed onto the hem of the robe of the Statue of Liberty. The woman, Patricia Okoumou, refused to come down until "all the children are released," though after about three hours police nabbed her and took her away. Meanwhile, visitors who traveled great distances to see Lady Liberty on the Fourth of July were turned away, and cable and network news channels had reporters on location to cover this major news event. A week later The Scrapbook received an email press release urging Okoumou's sympathizers not to donate money to "false gofundme accounts attempting to raise money in her name," which suggests that the news media weren't the only ones trying to capitalize on her stunt.

We appreciate the challenge posed by slow news days. But surely there are more interesting things for enterprising journalists to cover—gas prices? restaurant sanitation ratings?—than what some nincompoops do to gain attention. ♦

If It Stops Moving . . .

One of the tragedies of American life, as we've had occasion to lament in these pages before, is the slow decline of local journalism. The Internet and social media seem to meet many people's need to stay connected to their communities, news organizations are widely reviled by a polarized public, and most owners of local newspapers can't seem to think of any way to make ends meet that doesn't include firing more reporters.

As if things couldn't get worse, the government of New Jersey has discovered a way to kill off local journalism for good—by subsidizing it.

Gov. Phil Murphy has just signed a bill that creates something called the Civic Information Consortium. The nonprofit organization, according to reports, will be charged with "strengthening local media" and "focus[ing] on civic engagement and projects that will

TOP: TWS ART; FIGURE, BIGSTOCK. BOTTOM: GARY LOCKE

meet the information needs of underserved New Jersey residents." This "consortium" will be a "collaboration" between several New Jersey colleges and universities, including Rutgers and the New Jersey Institute of Technology.

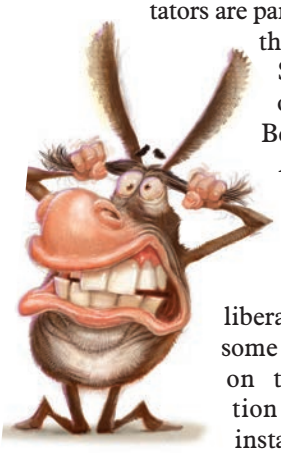
Experts in journalism (as distinct from actual journalists) often don't grasp the principle that independent journalism ceases to be independent the moment it takes money from the government it's supposed to monitor. Of course, the same principle applies equally to many other areas—academic freedom and state-funded higher education, for instance—but those of a liberal or progressive mindset persist in believing the things *they* dominate are somehow neutral and therefore deserving of government largesse.

We don't presume to know what will revive local journalism, though we suspect imaginative entrepreneurs will in due time figure out how to make local news coverage profitable again. We're pretty sure what won't achieve that end: a lot of academics using public money to "collaborate" with each other. ♦

CONFIRMATION

Whitewash This

With the retirement of Justice Anthony Kennedy and nomination of Brett Kavanaugh to take his place, liberal academics and commentators are panicked, so sure are they that a more conservative Supreme Court will overturn *Roe* v. *Wade*. Believing as we do that *Roe* was a moral and constitutional abomination, we can only hope they're right.


GARY LOCKE

In their agitation, liberals have come up with some pretty awful punditry on the subject of abortion and *Roe*. Take, for instance, a July 7 piece by Carol Sanger in the *New York Times*: "Reversing Roe Could Hurt the G.O.P." Sanger, a professor at Columbia Law School, suggests that conservatives enthused by the prospect of overturning *Roe* should be careful what they wish for. How's that? "Getting rid of *Roe*," she argues,

> would deprive the far [*sic*] right of one of its most crowd-pleasing, rabble-rousing, go-to issues. After all, there is plenty to dislike about abortion, if one is so inclined: the assumed sexual promiscuity of careless women and disobedient girls; the view that abortion is murder; and the power *Roe* gave to women by liberating them from their traditional place in the home. *Roe* bashing is a powerful source of solidarity; its absence would deprive Republican politicians and Fox News of the issue that stands at the ready to roil the political pot.
>
> This is especially true now that fewer targets are available for Republican moral outrage. It used to be that you could always count on anti-abortion and anti-gay hostilities to stoke the base. But gay people and certain gay rights have become more familiar. There is now a right to marry the adult partner of your choosing. To be sure, there has been a presidential full-court press aimed at replacing gays with immigrants as the new subverters of the American way. Yet the last few weeks have revealed that mistreatment of immigrant families can cause popular, religious and legislative blowback, including from conservatives.

The sheer nastiness of this critique is something to behold: Republicans only oppose abortion, she's saying, because they can raise money and

get votes from it. Has she pondered the possibility that some people may think unborn human lives deserve protection for the same reason born ones do? But leave that aside and consider her suggestion. She wants conservatives to do what liberals want—preserve *Roe* v. *Wade*—because it's in conservatives' interest to do so.

We're put in mind of Tom Sawyer, who famously persuaded his dimwitted friends to give him their treasures for the privilege of whitewashing a fence for him. The Scrapbook may not be very bright, but we're pretty sure that leaving *Roe* in place is what liberals want, not what conservatives want. We'll pass, Professor. But thanks all the same. ♦

Tomy! Tomi! Tomé!

The line between politics and entertainment grows blurrier with each passing hour. Consider: As the battle over President Trump's second Supreme Court nomination began to take shape, millions of conservatives in search of expert analysis tuned into . . . Tomi Lahren.

"Pressing for a Supreme Court decision to overturn *Roe* v. *Wade* would be a huge mistake," the 25-year-old pundit suggested. "We lose when we start tampering with social issues."

That last assertion is self-evidently preposterous, but we'll forgive the Fox News commentator on the grounds that she was three months old when Bill Clinton was elected in 1992. It would be terrific, though, if she would use her no doubt capable mind to

contemplate some of the nuances and complications of reforming our abortion laws in a way that makes the United States a more just and humane society. But we're not counting on that happening.

"I'm going to be honest with you," she said in a 2016 interview. "I'm not a reader. I don't like to read long books. I like to read news. So I couldn't tell you that there was a book that I read that changed my life. More so, I love to read news and I love to read commentary and I love to watch TV. I love to watch news. I'm a watcher and I'm a writer. A reader in the sense that I like to read news but I have a very short attention span, so sitting down with a book is very difficult for me." ♦

Sentences We Didn't Finish

'How will you cover 2018 without the repeat of the 2016 errors and continue on with what I have read as really strong journalism since 2017? . . .

"Thanks for this [question]. Our colleagues in Washington have done a terrific job covering the Trump presidency, the Mueller investigation and the extraordinary . . . " ("Your Politics Questions, Part 1," Patrick Healy, *New York Times*, July 8). ♦

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FIGURE: BIGSTOCK; HEAD, JOHN SCIULLI / POLITICON / GETTY

Work Is Job One

My children have all reached the age when it is possible for them to be paid to work. It's the usual kind of jobs that kids do. After snowstorms, my sons persuade neighbors to let them shovel their walks for whatever they're willing to pay. My daughter babysits.

Work is not a big part of their lives, however. And though I have hesitated to tell them the news, my wife and I agree that they need to work more than they currently do.

Hearing my father's stories about the jobs he held as a child, I think of how much harder he worked than I did. And when I think of how hard I worked as a teenager, it makes me think of how much less hard my children work.

That each generation works less hard than the last—is this progress? The question answers itself, but I have to say that I hated having to work as a kid.

It didn't make sense that I had to haul milk and soda and beer as a stockboy in a delicatessen. Or that I had to make sandwiches and man the kitchen when I became a clerk. Why work at all when there was homework I wouldn't get to, books I wouldn't find time to read, or sleep that I wouldn't have a chance to catch up on?

Of course, had I not been spending 12 or so hours a week working at the Douglaston Deli, I very well might have squandered every minute of that time on nothing so productive as homework or reading. But in my self-righteous imagination, that's where all that wasted time in the deli would have gone: to the perfection of my mind.

This notion was flimsy but not entirely unfounded. My sisters had brought home many literature anthologies from college that I made time with. For my AP exam, I wrote about *Death in Venice* by Thomas Mann, which I knew from an old paperback my father, while in the Navy, had lugged around the world in a book-filled suitcase. It was a strange mélange of literature that I explored as a teenager, from the essays of Francis Bacon to the absurdities of Franz Kafka, from old British poetry to Sylvia Plath, from Washington Irving to John Irving. I felt a curiosity about every book I came across. That it was written down, printed, and placed between covers was enough reason to get started. So long as someone had stuck it into a book, I felt honor-bound to find out why.

BRITT SPENCER

Catching me in my bedroom reading, my mother would say I was not being productive. I knew she was wrong. Reading had something to do with how I was going to spend my life—that seemed certain. Even if I were to become a pauper, I would be a book-loving pauper.

But in my house, everyone had to have a job as soon as that was practical. We were being taught to *work*. Not, mind you, how to work, but whether to work. And though I say whether, there was no "or not." The only option was to work.

We were taught to accept as inevitable, as an unquestionable fact, that our lives would be structured around the exchange of our labor for money. I could still become a pauper if I really wanted, but knowing that I ought to work, it became more natural to picture myself earning a living.

I did not appreciate this lesson until years later when I made a friend who had not learned it. The son of a very successful businessman, he had been raised with the assumption that he would grow up free to pursue his dreams, and that the money to carry him over the dry patches would already be in his bank account.

Then his father went bust, and my friend found himself waiting for his old man to recover. When that didn't happen, he continued to think a revival in their fortunes was just around the corner. It wasn't. Many times I suggested to my friend that he get a job, any job. People do it all the time, I said.

He was without money and without the will to earn it. One day he asked me what I thought of what had become of his life, and with some impatience I spoke at length about the lessons that his family's wealth had deprived him of—that people need to work, not just to survive, but, in most cases, to thrive.

I was too blunt, apparently. He stopped speaking to me.

All the time my kids hear that they ought to dream. True enough, but now I must tell them that they ought to work as well.

David Skinner

the weekly Standard

Judging Kavanaugh

As a presidential candidate, Donald Trump vowed to nominate federal judges "in the mold of" Antonin Scalia, and he has lived up to his word. Neil Gorsuch was a superior pick to replace the late Justice Scalia in 2017. And the nomination of Brett Kavanaugh to replace Anthony Kennedy on the Supreme Court is another.

Kavanaugh, 53, understands Washington better than most judges. After graduating from Yale and Yale Law and clerking for appeals court judges, he joined the office of Independent Counsel Ken Starr during the Clinton-Lewinsky investigation. He was one of the authors of the *Starr Report*—which, despite accusations to the contrary in 1998, was a fair, thorough, and nuanced work of analysis. Kavanaugh worked as an attorney for President George W. Bush and also as his White House staff secretary, one of the most demanding jobs in Washington.

Here he comes: Kavanaugh heads to the Senate with Mike Pence.

Bush nominated Kavanaugh to the Court of Appeals, D.C. Circuit, in 2003. He wasn't confirmed until 2006 thanks to the timeworn Democratic tactic of inventing reasons to object to sound Republicans. Senators Dick Durbin (D-Ill.) and Patrick Leahy (D-Vt.) accused Kavanaugh of having misled them over his role in the Bush administration's post-9/11 detention policy. He hadn't, but we expect to hear a great deal of recriminatory rhetoric on that score from Durbin and others in the coming weeks.

Kavanaugh resembles Scalia in two main senses: He is by all indications a textualist, meaning he interprets the law as it's written rather than as its authors supposedly intended; and he is an originalist, meaning he interprets the text in light of what its words meant when it was enacted into law. Although Kavanaugh clerked for retiring Justice Anthony Kennedy, famous for drawing extratextual distinctions and inventing special models of interpretation, the younger judge has a long record of relying on the simple text of the law.

Senate Democrats are certain to find every turn of phrase in Kavanuagh's extensive oeuvre that can reasonably—and unreasonably—be presented in an unfavorable light. Former Democratic majority leader Harry Reid having broken the tradition of allowing filibusters on judicial nominees, Democrats cannot alone stop Kavanaugh's confirmation. But the ferocity of their rhetoric will intensify in proportion to the powerlessness of their own position. We shudder to think what tendentious exegeses and slanderous charges they'll produce when the hearings begin.

Democrats learned something terrible from the fight over Robert Bork in 1987. Ted Kennedy and his ally Joe Biden defeated the nomination of a decent man and a distinguished jurist by the simple expedient of calling him a racist and a monster. As a reward they ended up with an intermittently amenable alternative: Anthony Kennedy. In the intervening three decades, the two Senate caucuses have become more and more prone to unreasonable opposition. Partly this is a result of the federal judiciary's arrogation of powers not intended for it, and partly it's a result of political polarization across the nation. In any case, by 2009, only 9 of 40 Republican senators voted to confirm Sonia Sotomayor to the High Court. A year later, only 5 of those 40 voted to confirm Solicitor General Elena Kagan—this despite the fact that Kagan was vastly superior to Sotomayor as a thinker and a scholar.

But at least some Republicans could bring themselves to vote for Barack Obama's nominees. One of those, Lindsey Graham of South Carolina, the reddest of red states, took ferocious criticism for his votes. Last year, only 3 of 49 Democrats could bring themselves to vote for the unquestionably qualified and thoughtful Neil Gorsuch, and not one of them was from a blue state.

In the contest of sheer unreasonable antipathy, Senate Democrats win decisively. Pennsylvania's Bob Casey announced his opposition to the nominee before President Trump even made his choice. One assumes such Democrats are only reflecting the irrational hatred of the interest groups that support them: The Women's March, for instance, mistakenly sent out a press release after the

YURI GRIPAS / BLOOMBERG / GETTY

announcement of Brett Kavanaugh reading, "In response to Donald Trump's nomination of XX to the Supreme Court." Cory Booker of New Jersey also suggested that it didn't matter who the nominee was: "I'm well on the record with saying that, before it was even Kavanaugh, that this is a very problematic constitutional moment for this country."

Academic qualifications, professional accomplishments, judicial philosophy, and personal character matter not at all in the face of crass political concerns. "Brett Kavanaugh has proven he cannot be trusted to defend a woman's right to choose," Rep. Nancy Pelosi (D-Calif.) announced, despite the fact that she won't be voting on the nomination. "Americans don't want Trump and Brett Kavanaugh's extreme anti-choice agenda," tweeted Rep. Sheila Jackson Lee (D-Tex.). Massachusetts senator Elizabeth Warren, similarly, announced that "there's a lot to dislike about Brett Kavanaugh's record—including his hostility toward consumers." As everyone knows, "hostility toward consumers" is a thing that should never be said about a judge.

Do Democrats not understand that a judge's duty is not to impose his political preference but to interpret the law, whether or not he happens to like the law? The better question is: Do they care?

Neither Judge Kavanaugh's words nor his achievements nor his character will give any fair-minded lawmaker, Democrat or Republican, reason to conclude that he is anything but a first-rate legal mind and a conspicuously qualified nominee. ♦

Trump Rattles NATO

President Donald Trump visited Brussels on July 10 as part of his three-nation European trip. There he offended our NATO allies and outraged both the American and European news media by excoriating the many alliance members who spend below the 2 percent of GDP they agreed to spend on defense in 2006.

Three points seem especially relevant in the wake of the headlines. First, Trump's rhetoric is foolish and unhelpful. His obsession with NATO spending commitments grows from his bizarre sense that the world's lone superpower is always and everywhere getting screwed. This victim

mentality reflects Trump's view of himself. The president spends much of his time complaining about the various forces he imagines are out to get him. And he talks about the country in the same way.

One day it's China; the next it's Mexico. If it's not the E.U., it's our Asian trading partners. It's the Democrats, the media, the FBI, his attorney general, the "deep state." And now, once again, it's NATO. Always the victim—the man and his country.

Second, despite the deep paranoia, Trump's criticisms are not entirely mistaken. Most NATO states maintain insufficient military forces. Russian expansionism is one of the constants of modern European history, and spending just 1 percent of GDP on defense—Belgium spends less than 1 percent; Germany, Denmark, and the Czech Republic a little more—is rash. Yet the president's suggestion that these countries raise their defense commitment to 4 percent of GDP is unrealistic. The United States itself only spends 3.5 percent of GDP on defense. Perhaps this is Trumpian diplomacy: gross overstatement in search of a favorable compromise.

At the NATO summit in Brussels

DURSUN AYDEMIR / ANADOLU AGENCY / GETTY

Europeans fairly complain that defense-spending-as-a-percentage-of-GDP is a crude metric for demonstrating commitment to NATO. Greece, for example, claims to spend 2.27 percent of its economy on defense, but this is laughable—the Greeks count pension benefits as military spending. On the other hand, Italy only spends 1.15 percent of its economy on defense and manages to superintend virtually the whole Mediterranean. Europeans are well aware that they shortchange their militaries. In February 2017, Defense Secretary James Mattis, echoing the president's earlier complaints, told NATO to raise military spending or the United States would be forced to "moderate its commitment to the alliance." Many of our European allies have done so, and Trump should take credit for it.

Third, and most important, Trump's rhetoric on NATO reveals yet again his deep misunderstanding of America's role in maintaining a rules-based global order. "The U.S. is paying for Europe's protection, then loses billions on Trade. Must pay 2% of GDP IMMEDIATELY, not by 2025," Trump tweeted on July 11.

The immediate point at issue was Germany's deal with the Russian state gas company, Gazprom, to build a pipeline across the Baltic Sea. The Nord Stream 2 pipeline would afford Russia enormous power over eastern Europe's energy supply, and there is visceral opposition from Poland and Hungary, which both have painful memories of Russian and German hegemony. "I think it's very sad," Trump said in Brussels, "when Germany makes a massive oil and gas deal with Russia where we're supposed to be guarding against Russia." "Germany, as far as I'm concerned, is captive to Russia because it's getting so much of its energy from Russia," he further told NATO secretary general Jens Stoltenberg. "We have to talk about the billions and billions of dollars that's being paid to the country we're supposed to be protecting you against."

Europe's diplomatic elite constantly downplay Russian aggression, in Ukraine and elsewhere, and warn against even rhetorical gestures at Russia's expense. Germany's president, Frank-Walter Steinmeier, recently said that Russia's attempt to murder former spy Sergei Skripal on British soil was a big deal, yes, but "we should be at least as worried about the galloping alienation between Russia and the West, the consequences of which stretch far beyond this case"—meaning, in other words, that it was no big deal at all.

But Trump, to put it generously, is himself an imperfect messenger here. In recent weeks, he has amplified Russian claims that it did not meddle in the 2016 U.S. elections, despite abundant public evidence to the contrary. And, just last week, he mocked those trying to warn him that Putin is a bad global actor. Trump dismissively declared, "Putin's fine. He's fine. We're all fine."

The West does need to be more cognizant of Russia's agenda, and NATO is key. The alliance is about far more than our "paying for Europe's protection." It was the most important mechanism for maintaining the postwar security and trade order that helped no one more than the United States. The long-term stability encouraged by the alliance produced tangible benefits worth far more than Trump's zero-sum calculus suggests—in collective defense savings, in trade, in foreign investment, in economic growth, and in deference to America's wishes on European matters large and small. NATO, however imperfectly, remains the bulwark against Russian expansionism, thwarting Putin's attempts to divide the West against itself and projecting strength and unity in transatlantic security.

The alliance needs reinvigoration and redefinition, yes. Article 5 of the North Atlantic Treaty speaks of an "armed attack," but in the present age an "armed attack" may not involve tanks and planes. Russia is busy mastering the arts of asymmetrical warfare—cyber warfare, attacks on electrical infrastructure, propaganda campaigns—and the treaty ought at least to attempt to contemplate these possibilities.

This is the problem with Trump's focus on his misguided sense of "fairness" in NATO defense spending. NATO needs U.S. leadership as it adapts to new threats and counters an increasingly belligerent Russia. Trump is only directing attention away from crucial priorities by whining about the "dues" owed by our most committed allies. ♦

ANDREW FERGUSON

Boola boola: the Yale Law School freakout

When President Trump announced last Monday that he had chosen Brett Kavanaugh to replace Anthony Kennedy, his little speech rang out like a starter pistol. Instantly every activist, party hack, and ideological main-chancer bolted from the blocks, issuing petitions and press releases and formal statements with astonishing speed and at maximum volume. This includes Kavanaugh's alma mater, Yale Law School, and a contingent of his fellow Yalies.

It took only an hour after Trump's announcement for the law school's flacks to announce the news that Trump had chosen one of their own: "President Donald Trump today nominated Brett M. Kavanaugh '90 . . ." etc., etc. The rest of the school's press release was a series of testimonials from acquaintances about Kavanaugh's overall magnificence. One professor called him "a terrific judge." Another said that "Kavanaugh commands wide and deep respect among scholars, lawyers, judges, and justices." A man with the impressive job title "John A. Garver Professor of Jurisprudence" summed up: "We are proud that he is our graduate."

We? Speak for yourself, Herr Professor. By the next day a collection of not-proud and indeed horrified Yalies had posted a rebuttal to the school's press release, with the title "Open Letter from Yale Law Students, Alumni, and Educators Regarding Brett Kavanaugh." They were, they wrote, "ashamed of our alma mater."

The letter, which is twice as long as the press release, is a masterpiece of pure scold. The signers criticize the "press release's focus on the nominee's professionalism, pedigree, and service to Yale Law School." What the hell, they ask, do professionalism and pedigree have to do with anything? Especially when "the true stakes of his nomination" are so high? Kavanaugh's nomination is an "emergency," they tell us, and the school's implicit embrace of him raises a "disturbing question: Is there nothing more important to Yale Law School than its proximity to power and prestige?"

LIKENESSES: DAVE CLEGG

A day after Kavanaugh's nomination, a collection of not-proud and indeed horrified fellow Yalies declared themselves 'ashamed of our alma mater.'

Disturbing or not, it's the kind of question that answers itself. And the answer is no sir, there is not—absolutely nothing whatsoever. The reason Yale Law School exists is to convey its "students, alumni, and educators" as close as possible to power and prestige. You can't charge $255,000 for a law degree unless you throw in a healthy portion of P&P. This is why all those people who signed the open letter went to Yale and not to Oklahoma City School of Law. Nothing against OKC. I'm sure it's terrific.

As of Wednesday afternoon, 297 students and alumni had signed the petition, which continues to collect signatures as a Google doc. One recent graduate named Alda Yuan, from the class of '18, thought the letter was so nice she signed it twice. A quick scan of the long list of signers raises disturbing questions, however. According to the website *Above the Law*, 52 percent of current Yale law students are men. Among alumni the percentage of men is even higher. And yet 55 percent of the signers are women. "Disparate impact" theory, which every signer of the letter doubtless subscribes to, tells us this imbalance on its face establishes that male alumni have been victimized by gender bias, perhaps unconscious, on the part of the female signers. Did they really think we wouldn't notice?

The letter itself is an anguished cry. The signers say that Kavanaugh, who otherwise looks like such a pleasant fellow, is a threat to "our safety and freedom." The word *safety* is deployed here not in its conventional sense but as cant. *Safety* or its lack is a subjective feeling that, once asserted, is entitled to override other objective considerations. (Hell hath no fury like a law student who feels unsafe.) *Freedom*, as the Yalies use it, means the freedom to have an abortion and the freedom to tell other people what to do, through government regulation and mandates. Thus Kavanaugh is not only a threat but an *existential threat*—of course that blockbuster phrase makes its mandatory appearance. You can't have an emergency without its being totally existential.

The most arresting sentence in the letter comes near the end: "People will die if he is confirmed." They will? Should it be necessary to point out to the Yale grads that people—in fact, everybody—will die even if Kavanaugh is not confirmed? Human mortality should be a settled issue by now. Perhaps the signers meant that *more* people will die if Kavanaugh is confirmed. But that can't be right: There can't be more people than everybody. Maybe they mean people will die in different ways if Kavanaugh is confirmed. It's hard to see how he'd manage to arrange this, even from the

Supreme Court, and anyway, dead is dead. Obviously these guys went to law school, not medical school.

But! Let me be clear, as President Obama liked to say. The Yale letter is not worthless. It serves as a kind of preview of the coming weeks, as the opposition to Kavanaugh's nomination unfolds. We can expect more anguished cries, more scolding. The closest the letter gets to making an argument is to offer tendentious summaries of some of Kavanaugh's opinions, as lawyer and judge. Soon these cases will be as familiar as a Beatles tune. There's the Obamacare contraception mandate that Kavanaugh opposed, the young immigrant whose abortion was postponed, his opposition to net neutrality on First Amendment grounds, his approval of prayer at "open public school events in brazen contravention of our country's separation of church and state."

"The list," they write, "goes on."

We can be sure of it. ♦

COMMENT ♦ TERRY EASTLAND

The long, long quest for a conservative High Court

So Brett Kavanaugh is now part of the story. Kavanaugh, from that part of the swamp known as Bethesda, Md., is President Trump's nominee for the seat vacated by retiring Justice Anthony Kennedy. If Kavanaugh is confirmed, and if, as advertised, he is a constitutionalist, the country will be closer to having a solidly conservative Supreme Court.

That has long been a goal of modern conservatism, which more than half a century ago developed a sharp critique of judicial liberalism. The liberal Warren Court (1953-1969) drew conservative objection, and in 1964, Republican presidential candidate Barry Goldwater attacked its school prayer, reapportionment, and criminal procedure decisions as exercises in "raw and naked power," writes Lucas Powe in *The Warren Court and American Politics*. Goldwater "moved the Court's results into two-party American politics." In other words, he made judicial selection an issue in presidential and Senate campaigns.

Goldwater, of course, was not elected president, but Republican presidents starting with Richard Nixon have had multiple opportunities to choose justices of the Supreme Court, and they have put on the Court no fewer than 13. Kavanaugh, who clerked for Kennedy 25 years ago, would be the 14th. Even so, the quest for a solidly conservative Court has proved elusive. At no point have a majority of justices been reliably conservative, not only in what they may say about judging but also in the actual exercise of judicial power. There have been missed opportunities.

If Kavanaugh is confirmed, and if, as advertised, he is a constitutionalist, the country will be closer to having a solidly conservative Supreme Court.

Notwithstanding campaign promises that he would appoint judicial conservatives, only one of the four jurists Nixon selected (Warren Burger, Harry Blackmun, Lewis Powell, and William Rehnquist) proved reliably conservative, and that was Rehnquist. Nor was John Paul Stevens, chosen in 1975 by President Gerald Ford, much of a judicial conservative. The Ford administration's attorney general characterized Stevens as "a moderate conservative" but court-watchers saw him as a liberal, someone whose views could "evolve," as they did, for example, on affirmative action.

The Burger Court (1969-1986) wound up compiling a record of judicial activism that rivaled that of the Warren Court: for example, the court approved busing as a remedy for segregation, created a constitutional right to abortion (this was *Roe* v. *Wade*), and effectively rewrote federal civil rights law to permit racial quotas in private employment.

In 1981, Ronald Reagan picked Sandra Day O'Connor to succeed Justice Potter Stewart. In O'Connor, Reagan chose a judicial conservative but not the best one available. Three candidates in particular, including Robert Bork, were better qualified by the traditional measures of ability and experience, and were exemplars of judicial conservatism. Reagan chose O'Connor because he had vowed during his presidential campaign to pick a woman (the first ever) for the Court. He stuck to that promise, but O'Connor's tenure on the Court came at some cost to constitutional liberty: in *Planned Parenthood* v. *Casey* (1992), when the Court had the chance to overrule *Roe*, a bad decision in so many ways, she affirmed the abortion right instead.

Because the Stewart vacancy occurred in the first year of Reagan's first term, and because he was likely to have additional vacancies to fill, the president could easily have chosen Bork for Stewart's seat, knowing that another seat might open which he could offer to O'Connor—or a different woman of stronger conservative credentials.

The quest for a reliably conservative court had not advanced far by the end of the Burger Court, in 1986, when Reagan nominated the indisputably conservative appellate judge Antonin Scalia, and the Senate confirmed him by a vote of 98 to 0. Republicans controlled the upper chamber. That

was not the case a year later, when Reagan nominated Bork, one of the great intellectuals in the law, to succeed Justice Lewis Powell. Mounting a vicious campaign against the nominee, the Democratic Senate had the numbers to prevail, and did so, 58 to 42. The lesson taught was the obvious one: that the optimal condition for confirmation is when the same party controls both the executive branch and the Senate, as the Republicans did from 1981 through 1986, and as they do today. If Bork had been confirmed, he almost surely would have had, with Scalia, a profound influence on the court's jurisprudence. As it was, Bork was not on the Court, and Democrats achieved a great victory (for them).

Reagan then turned to Anthony Kennedy, who was confirmed in February 1988. Kennedy was a federal appeals court judge with conservative credentials, though his were not on a par with Scalia's or Bork's. Reagan, who spoke often of his desire to appoint conservative judges, probably could not have done better than Kennedy, given the political circumstances.

During his 30 years on the Court, Kennedy proved consequential in a number of areas, including individual rights (religious liberty and free speech) and also constitutional structure (federalism and separation of powers). But Kennedy proved the most disappointing justice for conservatives. He wrote the anti-constitutionalist opinion that created a right to same-sex marriage, a matter properly left for the people of the states to decide. Also, like O'Connor, Kennedy declined to overrule *Roe* v. *Wade*.

In 1990, President George H.W. Bush picked federal appeals court judge David Souter to replace Justice William J. Brennan. Souter had been on the appeals court less than a year and written few opinions, none of which involved controversial matters such as the right of privacy, affirmative action, or separation of church and state. Nor had the jurist written much elsewhere, including in law reviews or other media.

Souter's substantive record was so thin that it could not be easily manipulated in a media campaign, had there been one, against his nomination. As for his judicial philosophy, there appeared to be so little of it as to cause worry in the Justice Department that he might move in almost any judicial direction. And there were alternatives to Souter: All of the others on the shortlist from which he was selected were regarded by the president's judicial selection team as having a more formidable record in the law. Somehow, though, Bush appointed Souter—another missed opportunity. Not incidentally, Souter, like O'Connor and Kennedy, voted in *Casey* to affirm *Roe*.

In spite of the addition to the Court since 2005 of three Republican-appointed justices—Chief Justice John Roberts and Justices Samuel Alito and Neil Gorsuch, each of whom is a judicial conservative—the Court has lacked a reliably conservative majority. Might Kavanaugh be the justice who finally creates that majority? Or do we have in the making another missed opportunity in the rugged terrain of judicial selection? ♦

COMMENT ♦ PETER J. BOYER

Another win for The List

Subtlety not being Donald Trump's customary approach to his job, his nomination of Brett Kavanaugh to the Supreme Court was a surprisingly artful political play.

For the many Trump supporters who delight in the president's thumb-in-the-eye approach, the Court vacancy was an opportunity for Trump to actually earn the prefab fulminations from Democrats, which were coming no matter whom he chose, by selecting a nominee that another Republican president might have deemed too risky. The option preferred by this group was Seventh Circuit Court of Appeals judge Amy Coney Barrett, whose presence on Trump's short list caused palpitations on both sides of the aisle. A nomination of Barrett—a devout Catholic, mother of seven, and a Notre Dame Law grad—promised a full-scale culture war of a confirmation process, whose passions would certainly have spilled over into the November elections.

Instead, Trump chose the safe route. He calculated that if he named a nominee of unassailably prodigious stature, he would thrill the party establishment and keep jumpy Republican senators in line, without too greatly disappointing his anti-establishment base. After all, Kavanaugh was on The List—that campaign compilation of prospective Trump appointees whose embrace of conservative values such as textualism, originalism, and judicial modesty was vouchsafed by both the Federalist Society and the Heritage Foundation.

The first part of that calculation has certainly proved true. Republican elites were "doing cartwheels over the selection," wrote Jim Geraghty at *National Review*. Kavanaugh enthusiasts cited the judge's schooling (Yale), his work in George W. Bush's White House, his tenure on the D.C. Circuit (the farm team for the High Court), his service on Ken Starr's Whitewater team, and the large volume of his legal writings, which have often been cited in Supreme Court opinions. And, there was the added virtue of Kavanaugh's personal benignity, evidenced in the autobiographical account he recited at his nomination ceremony—devoted husband and father of two girls, coach of a Catholic Youth Organization basketball team, and volunteer at charities for the homeless. He also cited the diversity of his law clerks, adding, "I am proud that a majority of my law clerks have been women." That personal detail may prove useful in keeping Republican senators Susan Collins and Lisa Murkowski on board.

Jeb Bush was pleased with the pick.

"Excellent choice for SCOTUS," Bush tweeted. "Judge Kavanaugh will be a strong defender of the Constitution."

But what about the Deplorables—the grassroots Trump supporters who have cheered Trump's disruption of institutional order and for whom a Yale degree and lifetime tenure as a Washington insider are not virtues, but blemishes?

"This was a very smart pick," says Steve Bannon, Trump's former chief strategist and an original Deplorable. Bannon says that when he's asked about the Kavanaugh selection, he replies, "Trust the process." By that, Bannon means trust The List, the culmination of the conservative legal community's long project to build a deep bench of bright young Constitutionalists.

Bannon notes that when other establishment Republicans, such as many in the national security and foreign relations communities, shunned candidate Trump, the Federalist Society and Heritage stepped up. Trump had had to scramble to put together a list of national security advisers, which brought such figures as George Papadopoulos and Carter Page—and, ultimately, Special Counsel Robert Mueller—into his circle. But the gold-standard names on the judicial list gave Trump leverage with skeptical voters as a candidate, and an invaluable resource as he's filled the federal judiciary with solid conservatives. In Trump's hands, The List has acquired an almost mystical status, a talisman against the Republican tendency toward unreliable court picks and Trump's own erratic inclinations.

On the subject of Brett Kavanaugh, Bannon sounds like an initiated member of the Republican establishment. "I'm all in," he tells me. "He gives the Court super intellectual firepower. With Gorsuch, Alito, and Kavanaugh, you're going to have a center of gravity for decades to come, regardless of whether Trump has another pick or not. They're going to form a conservative intellectual core that will have a profound effect on American life."

Other Trump supporters have been more muted in their approval of the Kavanaugh pick. On his Fox News program on the night of the selection, Sean Hannity explained Trump's rationale to his viewers. "President Trump, in many ways, has political aspects to this," Hannity said. "He had to thread a political needle. And by the way, he has to think about senators like Collins and Murkowski, and then on the other side, Senator Cruz of Texas and Rand Paul of Kentucky. In other words, pick a judge with a very narrow margin in the U.S. Senate who could also successfully maneuver through a confirmation hearing and garner the votes from a majority of senators."

That John Roberts is anyone's idea of a moderate squish is an indication of conservatives' past disappointments in Court justices, as well as their high expectations in the age of Trump.

On the day after Kavanaugh's selection, Rush Limbaugh hosted Vice President Mike Pence, who assured Limbaugh's listeners that "What you have in Judge Kavanaugh is a constitutional conservative." Limbaugh himself focused mostly on the unhinged response to the nomination by the political left.

Kurt Schlichter, the *Townhall* columnist and scourge of the Never-Trump right, tweeted his approval of the Kavanaugh pick. "We couldn't lose," he wrote, in an apparent reference to The List. "And with Kavanaugh, we haven't."

Not all of Schlichter's followers were onboard with his enthusiasm for Kavanaugh. "He will become the next wishy-washy middle of the road squish," one tweeted. Wrote another: "This pick SUCKS. If we wanted another Bushie swamp creature, we would have voted for Jeb! Kavanaugh is a Roberts-in-the-waiting."

That Chief Justice Roberts has become anyone's idea of a moderate squish is an indication of conservatives' past disappointments in Supreme Court justices, as well as their high expectations in the age of Trump.

Some conservative public figures have been openly critical of the choice of Kavanaugh, perhaps none more pointedly than former Pennsylvania senator and perennial presidential candidate Rick Santorum. "Donald Trump said he was going to energize the base with this pick," Santorum said during an appearance on CNN. "I don't think he did that . . . [Kavanaugh] is from Washington, he is the establishment pick, he is the Bush pick. . . . It just seems like Trump, in this case, just bowed to the elite in Washington. I think it's gonna rub a lot of people the wrong way."

Radio and television host Mark Levin focused on remarks Kavanaugh made while hearing an Obamacare case, in which he seemed to lay the ground for the Supreme Court's subsequent validation of the law. "You have to assume that Kavanaugh would have voted with Roberts on this, because they both came at it from exactly the same position," Levin said. "He is not Scalia. He is not Thomas. He is not Alito. And in this case, he wasn't even Kennedy. So, we'll see. The conservatives on the Judiciary Committee politely and legitimately need to pursue this. This is a big deal. It goes to the issue of textualism, and originalism."

Perhaps the most unusual criticism of Kavanaugh came from Fox News judicial analyst Andrew Napolitano, who seemed to tie Kavanaugh's tenure with the Starr inquiry to a conspiracy to cover up the suicide of Clinton White House deputy counsel Vincent Foster.

"You remember Vince Foster who killed himself in the White House," Napolitano asked on the channel's morning "Fox and Friends" show. "How did his body get from the White House to Fort Marcy Park? Who was the prosecutor in charge of figuring

out how his body got there? Who was the prosecutor that exonerated Hillary and the thugs that moved his body? A young Brett Kavanaugh. So that's going to come out."

Fortunately for Brett Kavanaugh, the universe of Vince Foster conspiratorialists is not likely to be determinative in his confirmation process. In Kavanaugh, Trump has forwarded a nominee who has won the endorsement of both Jeb Bush and Steve Bannon. That is a spectrum wide enough, presumably, to include everyone in the occasionally fractious Republican Senate conference. ♦

COMMENT ♦ BARTON SWAIM

Donald Trump and the return of prescriptivism

On June 3, at 6:13 P.M., President Trump was evidently in a bad mood. He had heard or read one too many times that he uses bad grammar and eccentric capitalization. He tweeted:

> After having written many best selling books, and somewhat priding myself on my ability to write, it should be noted that the Fake News constantly likes to pour over my tweets looking for a mistake. I capitalize certain words only for emphasis, not b/c they should be capitalized!

The wits and scolds on Twitter pounced: The word is "pore," not "pour." Got him again!

The Trump presidency has turned many things upside down, and the politics of grammar is one of those things. For several decades now, the practice of reproaching people for using bad grammar and poor spelling has been thought mean, inegalitarian, regressive. You see it in the common term for reproachful grammarians: Grammar Nazi.

It's true that a few "prescriptivists," those who take the view that most grammatical norms are there for a sound reason and should be adhered to most of the time, achieved wide popularity during these decades—I'm thinking of John Simon, Jacques Barzun, the slightly more forbearing William Safire, and two or three others. But there are few like these anymore, and the trend has long been toward the "descriptivist" attitude: The grammarian's job, if we must have grammarians, is merely to "describe" or analyze the language as scientists treat the phenomena of their fields, not to prescribe right and wrong uses. There is, after all, no divine or scientific arbiter of right and wrong in the use of language.

It's unwise to assign too much political significance to attitudes on grammar and usage, but it's fair to generalize that descriptivism has been commoner on the left and prescriptivism on the right. Academic linguists are universally in the descriptivist camp, and the descriptivist outlook is in some measure inspired by the desire for a society free of class prejudice and judgmentalism. "I am just as concerned about clarity, ambiguity, and intelligibility as anyone with a prescriptivist temperament," the linguist David Crystal writes in his book *How Language Works*. "But I am not so stupid as to think that we shall achieve any gain in clarity by avoiding split infinitives or not ending sentences with prepositions. And I am not so insensitive as to blame others who do not have the opportunity I have had to acquire an effective command of standard English." The remark nicely captures the way in which linguists caricature the prescriptivist attitude (I am not aware of any serious writer who argues that splitting infinitives and ending sentences with prepositions inhibits clarity) and the way in which liberal egalitarianism is bound up with descriptivism.

Prescriptivists, by contrast, write about language as amateurs; they are non-academics or at least non-linguists; they care about standards and customs and believe that educated people have a duty to preserve the best of them for the sake of clarity and felicity. They are, in the broadest sense, conservative.

I am not sure what academic linguists think about Donald Trump's unorthodox spellings and occasional bad grammar, but it is a frequent source of amusement to me that people who would in other circumstances incline to the more liberal descriptivist view are the quickest to deride Trump for the sort of mistakes their descriptivist instincts should have taught them aren't mistakes at all. Twitter is rife with this form of insta-prescriptivism. When Trump types *roll* instead of *role* or *loose* when he means *lose*, a hundred educated wits are there to point out the mistake. "There always playing politics," he tweeted about Democrats—he meant *they're* . . . "Her and Obama created this huge vacuum," he said of President Obama and Hillary Clinton—what a dolt . . . "No matter how good I do on something," he said of the *New York Times*, "they'll never write good."

So invested are these unlikely scolds in broadcasting the president's mistakes that a host of respectable media outlets—the *New York Times*, the *Washington Post*, CNN, CBS News, and many others—gave extensive attention to a retired South Carolina school teacher, Yvonne Mason, who marked up a form letter ostensibly from the president and sent it back to the White House with copious corrections in purple ink. She snapped a picture of her mark-up and posted it to her Facebook page, the image went viral, and it became a two- or three-day media sensation. Only there were few if any mis-

takes in the president's letter. Chiefly, Mason pointed out capitalizations that (as the *Times* allowed, to its credit) are mandated by the federal government's official style guide. The idea of a school teacher correcting Trump's oafish use of language was, however, too good to pass up.

All this put me in mind of a marvelous book published last year, *Struggling for Our Language* by Mark Halpern. The book is a series of essays on language and linguistics by a non-linguist who believes, correctly in my view, that human language doesn't lend itself to scientific study in anything like the way academic linguists think. And unlike most linguists and other credentialed experts on language, Halpern is a terrific writer.

It's his essay "What Is Prescriptivism?" that I find especially helpful. The piece is eccentric and funny and generous toward those with whom the author disagrees, and it is to my mind a peremptory defense of prescriptivism. Halpern contends that descriptivist grammarians write about prescriptivism with shocking ignorance and usually fail even to try to understand the prescriptivist viewpoint. Prescriptivists do not, *pace* Crystal, Steven Pinker, and others, fail to understand that language changes naturally. Nor is it relevant that some prescriptivists have advanced specious positions over the centuries (Dryden's hostility to stranded prepositions, Swift's lists of barbaric neologisms) or that some prescriptivists are censorious jackasses. Every significant belief has had misguided proponents.

The question is not whether language changes—no one denies this—but whether capable and influential writers can stimulate changes that enhance clarity and felicity in the language. And they can, as attested by anyone who's ever read a disapproving comment by an adept writer on an ill-advised usage (the use of *infer* to mean *imply*, say) and afterward abstained from that usage. "The efforts of Prescriptivists to guide (not stop) language change have sometimes failed, sometimes succeeded," Halpern writes. "Descriptivists often point to lists of complaints that Prescriptivists have made about particular usages, like Swift's lists, and count the survival of some of the complained-of usages as defeats for Prescriptivism, and proof that Prescriptivism is bound to fail, but never, to my knowledge, credit the disappearance of offending usages to the efforts of Prescriptivists."

Of course it's proper to prescribe good and denounce bad uses of language. That is how a vast and complicated language maintains its graceful shape when expressed by its best writers. Young writers learn to generate language fluently, not by writing however they want, but by heeding the prescriptions of older and more capable writers and fearing to do otherwise.

How strange that it took Donald Trump to remind our educated class of this plain truth. Our recent and probably unwitting converts to prescriptivism should learn to moderate their criticisms and not sound so much like clever show-offs and hypercritical schoolmarms. But their instincts are sound. ♦

Targeting Kavanaugh

Democrats will go after him by fair means or foul. Mostly foul. BY FRED BARNES

Democrats can be expected to offer overblown or even goofy objections to President Trump's nominees to the Supreme Court. But they've outdone themselves in the case of Brett Kavanaugh, a superbly qualified federal judge.

There are two factors that could affect the Kavanaugh nomination unfavorably, and Republicans might not see them coming. And no, a new twist on *Roe* v. *Wade* isn't one of them.

As a judge on the U.S. Court of Appeals for the D.C. Circuit, Kavanaugh proposed a compromise in a 2017 case involving a pregnant 17-year-old girl, an illegal immigrant, who wanted an abortion. Kavanaugh wouldn't have granted it immediately. His liberal colleagues overruled him.

The pro-abortion forces claim Kavanaugh's actions indicate he's ready and willing to toss *Roe* into the dead bin. But Democrats appear unsure they can convince enough people of this disaster. Which is why they've seized on the fate of Obamacare as their chief cudgel.

And so we turn to the two possible pitfalls—both long, long shots. The first is a lawsuit filed by 20 Republican state attorneys general in April, three months before Kavanaugh was nominated. It argues that Obamacare is unconstitutional because the fine it imposes for failing to buy health insurance was eliminated by last year's tax reform bill. And since Chief Justice John Roberts had based his vote to uphold Obamacare on the notion the fine was actually a tax, the health care program had lost its fifth vote. And besides, it had become unconstitutional.

That sounds a bit complicated. The nub of the maneuver is that the lawsuit could reach the Supreme Court. And its newest justice, Kavanaugh, would then be the fifth vote for getting rid of Obamacare. You can see where it's headed—if the Senate doesn't block his confirmation, you'll lose your health care. It's a stretch to think this might work, but Democrats believe they can get away with saying anything about health care. They think they own the issue.

Glum Democratic senators foretell the Kavanaugh apocalypse, July 10.

They follow up with further preposterous claims. Former Virginia governor Terry McAuliffe puts it this way: Kavanaugh's nomination "will threaten the lives of millions of Americans for decades to come and will morph our Supreme Court into a political arm of the right-wing Republican party."

This isn't a fringe character talking. McAuliffe, a pal of the Clintons, wants to be president and from all appearances is getting ready to run for the Democratic nomination in 2020.

Senator Kamala Harris (D-Calif.), who also is being touted as a 2020 candidate, upped the ante. Kavanaugh's nomination, she says, "presents an existential threat to the health of hundreds of millions of Americans." Rep. David Cicilline (D-R.I.) is a cooler head. He says tens of thousands "will die if this bill passes." He misunderstands one thing: It's a lawsuit, not a bill. But don't quibble. Democrats are on a roll.

There are two big flaws in their hyperbole. The prospects of the lawsuit's ending Obamacare are quite poor. And even if it did, America wouldn't sit still. A new health system would quickly be created, probably a better one than Obamacare.

The second long-shot attack involves GOP senators Susan Collins and Lisa Murkowski. It's dawned on Democrats that arguing Neil Gorsuch would be the fifth vote to kill *Roe* didn't work with them last year, and isn't likely to work against Kavanaugh now.

Collins and Murkowski voted for Gorsuch and seem a fair bet to back Kavanaugh too. The two senators did take a hike, though, when Republicans sought to "repeal and replace" Obamacare. And with their help, Republicans were thwarted. So why not try to peel them away from their party on Kavanaugh's confirmation, only with wild claims about health care?

Farfetched? For sure. But Democrats' chances of keeping Kavanaugh off the Supreme Court are mighty slim. It makes sense to swing for the fences. Democrats can get away with calling Republicans killers, labeling them racists, or causing an uproar. The press won't mind if they insinuate that Kavanaugh's a killer.

In the Trump years, Democrats have turned to tantrums and disruption. At the House hearing where FBI official Peter Strzok testified last week, Democratic members yelled "point of order" over and over when Strzok was in trouble. Republicans were blamed for letting things get boisterous.

ANDREW HARRER / BLOOMBERG / GETTY

Fred Barnes is an executive editor at THE WEEKLY STANDARD.

Just wait. If Democrat resisters are willing to pounce on Republicans as they leave a restaurant, imagine what they'll do at the Kavanaugh confirmation hearings. Remember Virginia senator Tim Kaine at the vice presidential debate in 2016? He interrupted Mike Pence every time Pence started to talk, and it wasn't because he was into a spirited exchange of views. Saul Alinsky would have been proud.

Chuck Grassley, chairman of the Senate Judiciary Committee, has made a deal with Democrat Dianne Feinstein to let Democrats look at tons of Kavanaugh documents. Will Democrats act in good faith and limit their demands? Of course not. They'll claim a need to see every piece of paper that crossed Kavanaugh's desk at every job he's held.

They want to delay the hearings as long as possible, past the first Monday in October, even past the midterm election. That's Democratic leader Chuck Schumer's idea of a clever tactic.

Grassley will get tough. He's already stopped Democrats from using "blue slips"—the traditional delaying tactic of home-state senators from the other party. If the Democrats try to slow-walk Kavanaugh, he'll crack down again. And Mitch McConnell will have his back. ♦

All Aboard the Trump Train

The GOP primary in Wisconsin is a contest of personalities, not policies. BY JOHN MCCORMACK

Neenah, Wisc.

Senate candidate Kevin Nicholson's opponents accuse him of being a young man in a hurry, and at the Independence Day parade on July 3, the charge is in a literal sense true. Dressed in blue jeans and a polo shirt with "USMC" emblazoned on it, Nicholson scrambles to shake hands along the route winding around Lake Winnebago. Occasionally, he has to jog to catch up to his campaign RV, which is adorned with red, white, and blue lights on the hood to resemble the flag and a picture of Nicholson and his family on the side along with his campaign slogan, "Send in the Marine."

The reactions from the crowd are as mixed as you'd expect in a state where politics are polarized. Some parade watchers thank Nicholson for his service; another refuses to take the campaign flyer until she's sure he's a Republican. At one point chants of "Baldwin! Baldwin! Baldwin!" erupt from a small group cheering on the incumbent senator: Democrat Tammy Baldwin.

Kevin Nicholson and Leah Vukmir

The GOP primary in Wisconsin pits Nicholson against state senator Leah Vukmir. It is a contest of personalities, not policies. Each candidate has a good story to tell. Nicholson grew up in a Democratic family and was national president of the College Democrats while at the University of Minnesota. "It's not just one moment. It happened over time," Nicholson tells me of his journey to the right. Nicholson says his turn to the GOP was aided by his college girlfriend (now wife) Jessie; his disillusionment with identity politics; a year he took off from school to figure things out while working on a ranch in Wyoming; and his experience as a Marine officer in Iraq and Afghanistan (where he earned the Bronze Star).

"In '07, I was in Anbar as a part of the Surge, and my platoon was seeing it shift from bad to good. I was furious with Barack Obama, Hillary Clinton, and Bill Richardson. Go back and look what they were saying about the Surge and how it wasn't working. It was working. I saw it with my own eyes," Nicholson tells me. "By saying the things they did, they were undercutting our support. And it made me angry. So I came back between my deployments: I donated to McCain, I went to rallies, put up lawn signs."

The August 14 primary remains a toss-up: a June Marquette University Law School poll found Nicholson leading Vukmir 37 percent to 32 percent, with 30 percent of voters undecided. While Nicholson is running as an outsider, Vukmir is emphasizing her own record as a conservative who has fought right alongside Governor Scott Walker for years. Vukmir was a nurse who got her start in politics as a "mom with a cause"—concerned with her children's school curriculum. She became an advocate for school choice and won a seat in the state assembly in 2002. She has racked up the endorsements of many Republicans in the state, including Speaker of the House Paul Ryan and Representatives Sean Duffy, Jim Sensenbrenner, and Glenn Grothman.

Neither Nicholson nor Vukmir can think of any policy differences between them. Nicholson, instead, focuses on telling me about their "dramatically different life experiences" and the fact that he's running from "outside the political system." Vukmir says: "The biggest difference is definitely that I have a proven track record as a conservative."

While it may be hard to detect a difference between the two candidates on policy now, Nicholson is under fire in super-PAC ads for his past liberal

LEFT: VIA YOUTUBE. RIGHT: VIA TWITTER

John McCormack is a senior writer at The Weekly Standard.

views. In a 2000 speech at the Democratic National Convention (and in an MSNBC appearance), Nicholson backed a right to abortion. He says he wrote the speech without any reference to abortion, but the DNC "inserted that line—a laundry list of Democrat platform issues, including comments on abortion." Jessie, "being more mature and intelligent than me, said: 'You don't believe that, don't read it.' I was a dumb kid who wanted to be on TV, and like a lot of young men who had never thought about this issue critically—by that issue I mean life, and the importance of protecting innocent life—and she was right, and I was wrong." Nicholson says seeing lives lost in war and having three children of his own helped him "understand I have a duty to protect innocent life."

During an interview at a café in the Milwaukee suburb of Brookfield, Vukmir says she is grateful for Nicholson's service to the country: "I'm a military mom myself. My son just finished Army Ranger School a few months ago." She doesn't question the story of his political evolution. But, she adds: "Even Ronald Reagan, who [Nicholson] uses in his ads and we all know was a Democrat—Ronald Reagan gave us 20 years in the conservative movement before he ran for one of the highest offices in the land. So I think that's a question that a lot of people are asking: Why are you running for this particular office?"

Nicholson's answer is essentially the same as Vukmir's: to advance a conservative agenda on judges, health care, deregulation, spending, and so on. He says it will take an outsider to beat Baldwin and "push back on leadership" in Washington. "If leadership's doing the right thing, heck, I'm the first guy there to support them any which way I can. If they're not, on things like multitrillion dollar omnibus bills dropped on people's desks with 48 hours notice, I'm the first guy pushing back," he says.

What is unlikely is that you'd see either candidate pushing back against Donald Trump if elected.

The president's steel and aluminum tariffs are opposed by Wisconsin's most prominent Republicans: Ryan, Walker, and Senator Ron Johnson. "If President Donald Trump wants to protect good-paying, family-supporting jobs here in Wisconsin, I respectfully ask that he reconsider tariffs on steel and aluminum," Walker said in March. But both Vukmir and Nicholson support Trump's tariffs as a negotiating tactic, and they both promise to eventually bring them back down.

"What the president is doing—clear as day, and anybody can see this—is saying, 'I don't like tariffs. You want to get rid of tariffs? I'm happy to move to free trade.' And we should. But that doesn't mean following through on the status quo," says Nicholson. "The goal is a world with no tariffs."

"I'm a free trader, but like the president I also believe in fair trade," says Vukmir. "We've got to give the president time to negotiate."

The Marquette poll found that Wisconsin voters, by a two-to-one margin, think the steel and aluminum tariffs will hurt the economy. "Twenty-nine percent think increased tariffs on steel and aluminum imports will improve the U.S. economy, while 55 percent think tariffs will hurt the economy," pollster Charles Franklin wrote on June 20. "On free-trade agreements in general, 51 percent think these agreements have been a good thing for the U.S. economy, while 28 percent think they have been bad for the economy." But Republican primary voters back the steel and aluminum tariffs 50 percent to 31 percent, and neither Nicholson nor Vukmir wants to get on the wrong side of Trump.

Both Nicholson and Vukmir declined to criticize Trump in July when he attacked Milwaukee-based Harley-Davidson—which had announced it was moving some production to Europe to avoid retaliatory tariffs. Tammy Baldwin, who has generally opposed free-trade deals, responded to the Harley move by calling on Trump to target China and not Europe. When I asked Vukmir and Nicholson if there was anything at all they'd criticize the president for, neither candidate had a negative word to say. "I think we can all sit around and argue stylistically what we'd do differently, but at the end of the day what he's doing is amassing an incredible record," says Nicholson. "Unlike many in the media, I'm not looking for ways to bring the president down," says Vukmir.

One of the flashpoints in the race has been Steve Bannon's endorsement of Nicholson. Both candidates had sought Bannon's endorsement last fall, but then Vukmir denounced Nicholson for not disavowing Bannon in January after he criticized Donald Trump Jr. for meeting with Russians who promised dirt on Hillary Clinton. "Certainly, had he endorsed me and then I found out about his comments and the way he brought our president down, I would have backed away from that immediately," Vukmir says.

According to Nicholson, "I sat down with Steve Bannon once in my life. We had a conversation for about 90 minutes, no different than you and I just had about trade, economics. We talked about immigration."

I asked both candidates if they were concerned about Bannon's efforts to promote the "alt-right," and both avoided the question, noting they were just trying to get as much support as possible. Bannon may have backed bigots like Paul Ryan's primary challenger Paul Nehlen and Alabama's Roy Moore, but he is after all a former chief strategist for President Trump.

Right now, the Wisconsin Senate race doesn't rank as competitive on anyone's list. The Wisconsin GOP has lost two strongly Republican state senate districts in special elections this year, and in the June poll, Baldwin led Nicholson 50 percent to 39 percent and Vukmir 49 percent to 40 percent. But those numbers could change.

Tammy Baldwin herself points out that Wisconsin was one of the states where the polls were off in 2016. On election day, Trump was trailing in the state by 6.5 points in the RealClearPolitics polling average. He won by 0.8 points. Scott Walker will be at the top of the ticket in November. He has a narrow lead over all the potential Democratic challengers, and there's a chance he could help sweep another Republican senator into office. ♦

Bernie Persists

Will he ever stop running?

BY ALICE B. LLOYD

Bernie Sanders is supposed to be introducing his campaign manager and most loyal staffer, Jeff Weaver. The Vermonter and unwavering Bernie shadow for 32 years has just published a book called *How Bernie Won*, a rehash of the 2016 Democratic primary with the socialist senator as revolutionary victor in the Democratic party's war of ideas. Its titular thesis was seemingly vindicated the night before: Alexandria Ocasio-Cortez and Ben Jealous, both Berniecrats, won upset victories in their primary races.

When Sanders arrives, the party erupts into cheers. "I've known this young man a long time," he says, grumbling his gratitude for Weaver as he reminisces about their first doomed campaign together. Before long, however, he slides into a version of his old stump speech—now with more than a little gloating thrown in.

"We won that one, too," he says of the 1986 campaign that Weaver joined. In fact, they won a meager 14 percent of the vote, but Sanders means "winning" in the philosophical, post-2016 sense of the word. "Three years ago, talking about Medicare for all was a crazy idea. Now I don't know what percentage of Democrats are running on the idea of Medicare for all," he says. About 60 percent of the Democratic primary candidates who've won so far this year support some version of Sanders's Medicare For All proposal, according to the Progressive Change Campaign Committee.

"Free college!"—another new standard for 2018's hopeful blue wave surfers—"All the ideas we talked about that were so radical and extreme are now mainstream!" Sanders says.

DAVE CLEGG

Rejecting corporate donors and taking only small donations—that has long been part of Sanders's platform too: "We try to make the campaign by the people and for the people. What do you see today?" A field crowded with copycats, that's what.

"What's not important is who wins governor of Virginia, or whatever," Sanders says. (He might have meant Maryland, where Jealous won his gubernatorial primary the night before with help from Our Revolution, a fundraising group that grew out of Sanders's campaign). What matters is Bernie's way of winning: "It's under the radar, grassroots," he reminds the audience. "We are in the business of transforming this country."

And Bernie Sanders's business model—the one that's made him the beloved socialist grandpa of the populist new left, and the bête noire of Hillary Clinton and the Democratic National Committee—may now be the Democratic party's best bet.

It's a model that hasn't changed much in nearly 50 years of public life. Old friends and former staffers describe Sanders as a restless demagogue who crafted a formula for a populist, socialist political campaign born of a 1970s-era sense of justice and pursued it relentlessly. For much of that formative decade, he ran stubbornly, some might say delusionally, as the perennial longshot candidate of the far-left Liberty Union party, netting single-digit percentages in Vermont Senate and governor's races until 1980, when he ran for mayor of Burlington as an Independent and won by just 10 votes. According to contemporaries from those days, city mayor was the first real job he ever held.

Huck Gutman, a lifelong Burlingtonian who served as then-congressman Sanders's chief of staff from 2006 to 2012, first met the candidate in the early 1970s. Back then, winning wasn't the point. "I don't think it ever occurred to me," Gutman says. But after winning mayoral, U.S. House, and U.S. Senate races and then becoming a serious contender in a presidential primary—all while running on the same set of ideas—Sanders's socialism hasn't softened. And his victories have deepened his long-held desire to retain control of his message and his movement's growing electoral gains. "The sense I always have of Bernie Sanders is that he's stayed the same," Gutman says, paraphrasing Lillian Hellman's letter to the House Committee on Un-American Activities in 1952. "He cannot and will not cut his conscience to fit this year's fashions."

Sanders isn't opposed to tailoring his message to suit contemporary communications media, however. During most of the 27 years he's served in Congress, Sanders has cultivated an audience whom he enthusiastically and directly educates in the ideology of the far left. As Gutman explains, Sanders's national call-in radio program, *Brunch with Bernie*, which first aired in 2003 as a vehicle to harness populist opposition to the invasion of Iraq, was "an hour out of his week to try to combat the domination of the

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airwaves by so-called conservatives." Even then, Sanders was ahead of Democrats, "none of whom really felt the need to go on talk radio."

Today, he hosts a streaming Facebook series, *The Bernie Sanders Show*, whose guests have included Bill Nye and Elizabeth Warren and where Sanders regurgitates talking points and discusses the news of the day through a socialist lens. Many episodes attract millions of viewers.

Sanders is less interested in a *Firing Line* format or a televised town hall-style debate. "He's not looking to create a public forum. I wouldn't say he's a pluralist," says Burlington journalist and longtime Sanders associate Greg Guma, who has known Sanders since his Liberty Union days and wrote *The People's Republic: Vermont and the Sanders Revolution*. After his mayoral election campaign in 1980, Sanders recruited Guma to help launch an early version of *The Bernie Sanders Show*: "He was concerned about how the media would treat him. 'I should have a spot on the nightly news,' he said." Mayor Sanders wanted to communicate his ideology directly to the people. He eventually got his way: For the last two years of his decade in city hall, Sanders hosted a public-access TV show, *Bernie Speaks With the Community*. His preferred communication style seemed "perilously close to a state media situation," Guma says. It also belied an arrogance and insecurity Guma knew to be typical of his friend Bernie.

Guma notes that Sanders's desire to speak to audiences unfiltered sounds a lot like the rationale President Trump now uses to justify his destructive Twitter habit. "Being in office convinced him more of the power of the individual in history as motive force," Guma says of Sanders. During a discussion in the late 1990s, when Guma challenged him for "selling out to the mainstream" after a photo-op of Sanders with the Clintons on the White House lawn, "he said he'd *realized* his power," Guma recalls. "You could call it hubris," he adds, "He has demagogic tendencies."

Sanders's everyman-socialist story, however tightly woven, has suffered snags. Two Sanders scions have recently risen to prominence in New England progressive politics: Sanders's stepdaughter, Carina Driscoll (whose mother, Jane, met Sanders just before he won the Burlington mayor's race and married him eight years later), lost her own bid for city hall this year. But Driscoll did win an endorsement from Our Revolution. Sanders's son Levi, a candidate for Congress in New Hampshire, did not get Our Revolution's backing, nor his father's. The decision, family friend Sandy Baird says, "Seems odd to me. I know why they backed Carina—she was the most progressive candidate in a three-way race. I don't know why they didn't take a position in favor of Levi."

A paternal endorsement would compromise Bernie's longstanding disdain for "dynasty politics." But it is Levi who was weaned on his father's stubborn principles. Father and son barely scraped by while Sanders ran for Senate and governor under the Liberty Union mantle in the lean 1970s. They eked out a life together in bohemian squalor, dependent on the kindness of neighbors in Burlington. (Levi's mother, Susan Campbell Mott, shared custody but wasn't a constant presence in the boy's life, according to friends who knew Bernie then.) Sanders "didn't have a *job* job," says then-neighbor and political ally Darcy Troville. Troville worked at IBM and attended the University of Vermont while his friend Bernie made a quasi-vocation out of running for office.

"We were all poor, but he didn't pay his utilities," Troville recalls. "His apartment was stark and dark. A lot of people said he was on welfare." He'd often stop by bearing gifts of food and sundries from other hippies for Bernie and Levi. When he wasn't campaigning for a single-digit slice of the statewide vote, Sanders was a freelancer: sometimes a writer, sometimes a carpenter, occasionally a cutter-and-paster of educational film strips about Eugene V. Debs.

Poverty informed the platform that eventually put him in power. "Taking from the one side of Burlington to give to the other, which was where we were," as Troville describes the ethos of the day, one that, for Bernie Sanders at least, never died. "Most people outgrow it. I don't think he has. You could turn the clock back—he was saying the same things." He was living them as well: Before his political career, Sanders never directly participated in the capitalist system his constituents and supporters primarily serve. And yet, "Now he's a millionaire," Troville marvels. "That's gotta change you, but he hasn't changed his message."

Sanders the unlikely socialist millionaire hasn't accrued his fortune without controversy, and his wealth may undermine his message were he to mount another presidential campaign. An FBI investigation of Jane Sanders's problematic money management as president of Burlington College—which closed in 2014 after her ambitious plan to transform the school from an affordable, local college into a destination for wealthy children of the suburbs failed utterly—hasn't damaged the family's fortunes. Sanders bought a third home in 2016, and he raked in more than $1 million two years in a row from sales of *Our Revolution* and its Grammy-nominated audiobook. The young adult version, *Bernie Sanders' Guide to Political Revolution*, was also a bestseller.

Baird, who taught at Burlington College until its closing, has known Bernie Sanders on both sides of prosperity. "He was a socialist, he was a hippie, he was a wreck. He had an apartment that was chaotic to put it mildly. He had a car held together with tape. He was a good single parent, but without much money. And all of a sudden he was mayor." Sanders's ascent to the presidency in 2020 would be no less shocking than his narrow 1980 win, she says. But of one thing she's convinced: "He's always been the same. Always."

"He's running for president," Guma assures me, when I ask about Bern-mentum for 2020, "he's a movement and the head of a personality cult." Jeff Weaver demurs when asked about Sanders's plans for 2020 but says that if Sanders runs, he's on board. A

Sanders staffer I met at Weaver's party is less circumspect, saying her money is on another Sanders presidential run. Guma agrees. "The establishment will put up various people, but he'll announce, no doubt," he says, adding that Jane Sanders is encouraging Bernie to run. "She's pushing him to do this." Yes, he would be the oldest presidential candidate in American history, and an unreconstructed socialist millionaire, "But why wouldn't he?" Guma says. "He's the presumptive front-runner."

In other words, *The Bernie Sanders Show* must go on. ♦

The Trade Routes Not Taken

There are better ways than tariffs to get concessions. BY TONY MECIA

In escalating tariffs, Donald Trump is treading a dangerous and high-stakes path. Tariffs lock out foreign competition, but they also punish consumers with higher prices, disrupt global supply chains, infuriate allies, and impair economic growth. To Trump, though, these are mere bumps in the road to the free-trade ideal that he outlined at the conclusion of the G7 meeting last month in Canada: "No tariffs, no barriers, that's the way it should be—and no subsidies."

Raising tariffs in order to eliminate them might sound like nonsense, yet it is a tactic that Trump is employing with increasing vigor. In the last few months, he has imposed tariffs on steel and aluminum, hit China with tariffs on a range of consumer and industrial products, and proposed new tariffs on foreign cars and automotive parts. High tariffs, the theory goes, will give Trump more leverage in negotiations. So far, though, the tariffs have led to retaliation, not concessions.

Trump's actions are evoking fears of a global trade war. The president's tariffs are often compared to the economically disastrous 1930 Smoot-Hawley tariffs, which nearly doubled the average U.S. tariff rate to 20 percent.

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Smoot and Hawley, trade-war losers

Most economists and historians believe Smoot-Hawley exacerbated the economic problems of the Great Depression—the bank collapses, the stock-market implosion, the restrictive monetary policies—while prompting other countries to retaliate and thereby slowing trade.

While often described as unprecedented, the Trump tariffs are just a more prominent and larger-scale version of trade disputes that have cropped up often over the years. A 1994 study from the Peterson Institute for International Economics looked at 72 cases of threatened U.S. trade sanctions from the 1970s to the early 1990s—including such riveting sagas as disputes with Europe over oilseeds and conflict with Japan over citrus and beef—and found that tariff threats succeeded less than half the time. They were more likely to succeed when the foreign country depended on the United States to buy its goods, the study found, a rare condition today.

"There have been times in the past, back to the Nixon administration, where the United States has sought one-sided trade concessions where we say we are going to get more trade and balance things out," says Mac Destler, a University of Maryland professor who studies American trade policy. "In those cases, we have sometimes gotten something, sometimes not."

Some of our trading partners have made proposals to try to avoid the new tariffs, but not always to the administration's satisfaction. China offered to buy more U.S. goods to stave off new tariffs. Germany proposed to scrap the E.U.'s 10 percent tariff on American autos in exchange for our dropping a 2.5 percent tax on European cars and holding off on Trump's threats to impose an added 25 percent duty. Argentina, Brazil, and South Korea successfully negotiated to avoid the steel tariffs by agreeing to limit their exports.

Yet for the threats to have power, some of these tariffs will have to be lasting, and as retaliatory measures increase, all sides will feel the economic pain. The Trump administration believes that other countries have more to lose and will be quicker to offer concessions. Proposed U.S. auto tariffs, for instance, could chop Canadian auto production in half and plunge the province of Ontario into recession, economists from the Canadian Imperial Bank of Commerce suggested in a July research note entitled "A Sword of Damocles." Yet there are consequences here, too. An analysis last month by the Tax Foundation predicted that if all the proposed tariffs and countertariffs were implemented, they would shave about half a point off U.S. growth and lead to the loss of more than 300,000 U.S. jobs—offsetting about a quarter of the gains from last year's tax cuts.

"The pain would be felt broadly," says Scott Lincicome, an international-trade lawyer and adjunct scholar at the free-market Cato

Institute. "They might hurt more, but we'd still have a gaping flesh wound." And although other countries might have more to lose, foreign leaders might be tempted to continue the trade fights because standing up to Trump is politically popular abroad.

The safer approach to opening markets for U.S. companies is to rely on the institutions and tools that have repeatedly reduced trade barriers over the last seven decades. It might be less headline-grabbing than tweeting about unfair trade deals and tariff threats, but the strategy has historically been effective. "Tariffs and tariff threats tend not to work, but there are tons of areas that are ripe for the picking that have been proven over the years to create reciprocal market opening," notes Lincicome.

In the last 100 years, worldwide barriers to trade have fallen dramatically, generally through negotiations under the auspices of the General Agreement on Tariffs and Trade and the World Trade Organization (WTO). In 1947, for instance, the average worldwide tariff was 22 percent. Today, most developed countries have average tariffs in the single digits, including the United States (1.6 percent), the E.U. (1.6 percent), Canada (0.8 percent), and China (3.5 percent). Other barriers have fallen, too, although every country retains some protectionist measures such as industry subsidies, high tariffs on certain goods, and laws restricting foreign companies in certain sectors.

"The first and best way to negotiate market access in the form of lower tariffs and lower non-tariff barriers is through a multilateral trade round under the auspices of the WTO," says Raj Bhala, a professor of international law at the University of Kansas. The current negotiations, known as the Doha Round, started in 2001 but have stalled.

The Trump administration could also seek smaller, less comprehensive wins by using the WTO framework to negotiate agreements in specific sectors of the economy. If Trump is concerned about unfair treatment of the auto industry, for example, then why not lead negotiations that drop barriers to trading in autos? That's what happened in 1996 with an agreement on information technology. More recently, the Obama administration tried but failed to reach a comprehensive agreement on environmental products. Could a president who considers himself a master negotiator pull it off? We don't know, says Bhala, as "the Trump administration has not even tried."

Then there's the possibility of reaching an agreement with a small group of countries. Here again, Trump doesn't seem interested. He pulled out of the Trans-Pacific Partnership soon after taking office. It would have reduced tariffs on some 18,000 products across 12 countries that together make up 40 percent of world trade.

Trump says he prefers direct, bilateral agreements. Yet since taking office, the Trump administration has concluded just one such deal, with South Korea. Announced in March, it made mostly minor revisions to existing trade regulations, and a review by the free-trade Heritage Foundation found that the agreement "advanced several Obama Administration-era policies that do nothing to expand the freedom to trade for Americans."

In negotiating free-trade deals, Trump still has plenty to offer our partners without placing the threat of higher tariffs on the table. The United States already imposes tariffs and other substantial trade-restricting barriers on a wide range of products and services—from cheese, butter, sugar, and canned tuna to carpets and numerous industrial products. Our laws restrict foreign airlines and shipping companies. There's also the $20 billion the government spends annually on agriculture subsidies—left largely intact in House and Senate versions of the recent farm bill. All of these are ammunition for negotiating better trade deals.

One of the biggest problems for American companies in recent years has been that China, with its government subsidies and forced technology transfers, has failed to protect intellectual property. The answer here is less likely to be tariffs than unified global opposition. At a Weekly Standard summit in May, Trump budget director Mick Mulvaney expressed regret that the administration has not done more to gain international support against such Chinese practices: "We simply have not done a fair enough job of rallying our allies to join us in this so it's the world against China."

Another option is singling out for sanctions Chinese companies that have benefited from illicitly obtained technology. Again, the Trump administration has not pressed on that. In a parallel move, though, it did punish Chinese telecom company ZTE for illegally trading with Iran and North Korea, but eased the penalties after the Chinese government protested. U.S. law already calls for foreign products developed with stolen intellectual property to be banned. There have been about 30 such cases filed this year, though the numbers are on the rise.

"What the Trump administration could do is single out those Chinese companies which are benefiting from that kind of technology acquisition and really make life difficult for them," says Gary Hufbauer, a senior fellow with the Peterson Institute for International Economics. "The Trump administration could work with allies to boycott those particular firms in various ways, denying them financing and banking relationships, and not allowing them to export. To me, that would be much more targeted and appropriate to the legitimate objections than what Trump is now talking about."

The 164-member WTO also has dispute-resolution panels. Trump likes to say that the WTO is "a catastrophe" and unfair to the United States, but those panels have ruled in favor of U.S. complaints 91 percent of the time. Pressing China on its violations and exposing it to the world as a trade scofflaw could be an effective tactic, especially since many of our allies share our concerns about Chinese policies. Instead, the Trump administration is blocking the appointment of new WTO judges, which could leave the panels unable to function by the end of the year.

The Trump administration has plenty of trade tools at its disposal—and most of them won't damage the economy. ♦

Jacob Rees-Mogg in front of the Houses of Parliament

Manners Maketh Man

Whether the end of (Theresa) May comes in July or September, Jacob Rees-Mogg will be Tory executioner and Tory kingmaker

By Dominic Green

London

"Thank you for coming," says Jacob Rees-Mogg, the Conservative backbencher whose soft hands now hold the fate of Theresa May, the outcome of Brexit, and the future of the Conservative party. We sit down at a table in his office in the Palace of Westminster. There are Georgian cartoons on the wall, a teakettle and cups at hand, and political knicknacks and stacks of books on the mantelpiece. Through the open Gothic Revival window, I can hear the distant wail of police sirens and a busker's bagpipes.

"Absolutely astonished you should want to speak to me," he says in a rarefied English accent from another age. "I can't think American readers would be in the least interested."

He knows perfectly well why I want to interview him, and why Americans might soon be very interested in him. In January, Rees-Mogg was elected to the chairmanship of the European Research Group (ERG), a single-issue forum for the Conservative party's Euroskeptics in Parliament. In February, the ERG sent Prime Minister Theresa May a letter signed by 62 backbenchers, exhorting her to stick to

BEN PRUCHNIE / GETTY

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the clean Brexit she promised in January 2017 in a speech at Lancaster House in London. It was becoming clear that May wants a much softer Brexit—or even some sort of Remain by other means.

Sixty-two is much higher than the magic number of 48. The Conservative party runs its parliamentary business through the 1922 Committee, which was, of course, founded in 1923. Under party rules, if 48 MPs send a letter of "no confidence" to the chairman of the 1922 Committee, he must call a leadership contest—even when the party leader is prime minister. The rebels have to time their attack carefully; they can only call one vote in any 12 months.

Rees-Mogg has never held cabinet office. He has existed on the right margins of parliamentary Conservatism since his election to the House of Commons in 2010. But his chairmanship of the ERG; his unremitting opposition to the E.U. and its machinations; his utter commitment to a total Brexit; and his remarkable popularity with the party rank and file add up to a veto over the May government's Brexit negotiations and, should Britain and the E.U. reach a deal in October, over parliamentary approval of it.

"We're likely to have a vote in about 20 minutes to half an hour, so I'll trot down and trot back again," he explains with the most considerate of drawls. "Just to warn you."

Rees-Mogg is famous for his good manners. Like his pinstriped double-breasted blue suits and his mannered accent, his courtesy is from another age. So is his way of life, whose dogged Victorian lavishness irritates some among the British public for the same reasons that it endears him to others: the six children with forenames like Anselm Charles Fitzwilliam, Alfred Wulfric Leyson Pius, and Sixtus Dominic Boniface; the hereditarily wealthy wife; the country pile, where the nursery is run by Rees-Mogg's own childhood nanny.

There is much of P.G. Wodehouse in Rees-Mogg. When he canvassed door to door in his first, unsuccessful attempt to win a seat in parliament, nanny came too. When the papers reported that he was driving around in a Bentley, he objected that it was only a Mercedes. A contemporary of Rees-Mogg's at Eton recalls how the pupils wagged him by humming the national anthem during class, so that young Jacob would jump out of his seat and stand to attention.

But there is more of the serious comedy of Evelyn Waugh. Rees-Mogg's anachronistic, almost theatrical overdressing; his posh, staunch, and fecund Catholicism, and his conviction that the old days and old ways were better all recall later Waugh. His constituency, North East Somerset, is in Waugh country.

Yet the man they call the Right Honourable Member for the Eighteenth Century is nobody's fool. He knows that Europe is the Achilles' heel of the Conservatives and of British politics in general. He knows that many among the Tory party membership want him as their next leader, that he has one of the highest recognition factors of any politician in the country, that his feelings about Brexit are closer to those of ordinary Britons than to those of the political and media elites, and that the party leaders fear him for these reasons. He is, of course, too polite to tell me any of this.

Rees-Mogg knows that many Tories want him as their next leader, that he has one of the highest recognition factors of any politician in the country, that his feelings about Brexit are closer to those of ordinary Britons than to those of the political and media elites, and that the party leaders fear him for these reasons. He is, of course, too polite to tell me any of this.

Theresa May's government is being stretched on a rack of its own devising, and Rees-Mogg and the Brexiteers are tightening the screws. In her Lancaster House speech, May committed Britain to "a new and equal partnership . . . not partial membership of the European Union, associate membership of the European Union, or anything that leaves us half-in, half-out." Britain, she promised, would not "seek to hold on to bits of membership as we leave." But in early May, the prime minister signaled that she wanted Britain to remain in a customs union with the E.U. after Brexit. By June, the Brexiteers had forced her to back down.

"It's a bit odd, really," Rees-Mogg says with strenuous understatement. "The government is nearly two years into the Brexit process, and it still hasn't worked out what it wants to negotiate with the European Union. It's still negotiating its customs plan internally, and I'm not sure this is very helpful. It would have been better if they'd had an idea much earlier on."

Rees-Mogg, 49, is the son of a former editor of the London *Times*, William Rees-Mogg. Legend has it that his father made young Jacob study a page of the encyclopedia per day and discuss its contents at dinner. I have met him once before, as an undergraduate, late at night by a kebab stand in Oxford. He was wearing a suit and tie

then, too. After Oxford, Rees-Mogg made millions as a founder of the investment firm Somerset Capital.

"I think with a negotiation you have to go in knowing what you want, knowing what your bottom line is, and knowing what you might accept if you're absolutely pushed," he says. "It's been 15 months since the triggering of Article 50 [which notified the E.U. of Britain's intent to leave], and two years since we voted to leave. Still not having established one of the key elements of the end state in your own mind seems to me an unusual position to be in."

For "odd" and "unusual," read "absurd" and "disgraceful." In her first year in office, Theresa May turned a parliamentary majority into a minority government through a mistimed and shoddily fought general election. After that, she retained power by setting Remainers and Brexiteers against each other in her cabinet. All the while, she made concession after concession in negotiations with the E.U., including a promise to pay £40 billion to the E.U.'s Multiannual Financial Framework during the exit period. In return, May has received . . . nothing.

"Do I know where they're going to end up?" Rees-Mogg asks, getting as close to anger as such a polite man can. "No. *They* don't know where they're going to end up."

The Right Honourable Member for the Eighteenth Century with five of the six Rees-Mogg children

MATT CARDY / GETTY

Brexit was never going to be easy. But it didn't have to be this hard. May's government has failed to order civil servants to prepare for the entirely plausible scenario in which the U.K. and the E.U. fail to reach a deal, and the U.K. crashes out of the E.U. in March 2019. This may have been a deliberate omission. For if there are no plans for "No Deal," then any deal remains the only alternative—even a Remain-by-stealth deal. Some Euroskeptics suspect that May, who endorsed Remain in the 2016 referendum, has wanted that all along.

Admittedly, the Remainers had always warned that Britain was so ensnared in the E.U.'s octopus-like tentacles that escape was impossible. But May has compounded complexity with ineptitude. Her self-serving lack of clarity has held together her divided cabinet and party, but at the expense of the nation and its trust in democracy. In June, her team failed to present proposals as previously agreed when they met with the E.U.'s chief negotiator, Michel Barnier, and his team in Brussels.

Last week, May finally showed her hand. The result was chaos, and the complete collapse of Britain's negotiating position. On Friday, July 6, she summoned her cabinet to Chequers, the prime minister's weekend retreat. After 12 hours of discussions, the cabinet emitted a "collective statement of intent" for the final stage of Brexit negotiations, which begins in October.

The negotiating positions announced include complete harmonization with present and future E.U. rules on the import and export of goods. The European Court of Justice would have a permanent role in arbitration in British courts. The U.K. and the E.U. would be a "combined customs' territory," in which the U.K. would apply E.U. tariffs and taxes to goods entering or exiting the E.U.

The Chequers statement reversed everything that May had promised in her Lancaster House speech. And it was just the opening gambit for the October negotiations. What will be left of Brexit once Barnier and the E.U. negotiators do what they have done at every meeting and demand concessions without giving anything in return? In that light, the Chequers statement was less a wish list than a prelude to total surrender and the undoing of the popular vote.

Some of the Brexiteers in the cabinet are reported to have objected. Boris Johnson, the foreign secretary whose charisma was crucial to the Vote Leave campaign in 2016, reached into his grab bag of quotations and opined that any Conservative who tried to sell May's faux-Brexit would be "polishing a turd." But Johnson, noting that May and the "turd-polishers" had the numbers, signed the Chequers statement. So did the minister for Brexit, David Davis.

Then they headed for the exits. It was Davis who resigned first, early on Monday morning, July 9. Johnson, having sulked in his tent over the weekend like Achilles, resigned at lunchtime. By the end of the day, it was rumored that Graham Brady, chairman of the 1922 Committee, had received the necessary 48 letters. But May was determined to tough it out.

"My God," a ministerial aide told me. "Who knows what's going to happen? It all depends on whether anyone else resigns this afternoon, and whether anyone hands in a letter this evening. My gut feeling is, she'll try to hang on. No one wants a general election. That's the biggest fear here. So if no one else goes soon she should make it through."

To deal or not to deal: Rees-Mogg at a Brexit event in London earlier this year

There were no major resignations on Monday night, though Rees-Mogg was on the BBC threatening May with a revolt of "50 to 100" MPs. But on Tuesday, two party vice-chairmen resigned—the first, it was rumored, of a slow drip of resignations coordinated by the ERG. Donald Trump, who arrived two days later, said that Britain was in "turmoil" and that it was "up to the people" of Britain to decide May's fate. But the Conservative MPs are more afraid of the people's wrath than of a bad deal with Brussels; they want to avoid a general election. And whether May stays or goes, Britain currently has no workable Brexit policy. That makes a "No Deal" Brexit much more likely. And all this vindicates Rees-Mogg. As the clock runs out on negotiations, his maximal Brexit becomes a fait accompli, and he its standard bearer.

Rees-Mogg kept his powder dry after the Davis and Johnson resignations. The Conservative Brexiteers have the numbers to pull down a Remainer prime minister if they time their attack correctly. But they don't have the numbers to install a Brexiteer as prime minister—at least, not yet.

If May can make it to the summer recess at the end of July, she will survive until September and probably until the opening of final Brexit negotiations in October. Her enemies will spend August plotting. They expect that Barnier, true to form, will ask for more concessions, and that May, true to form, will grant them. After that, the thinking goes, the Brexiteers will have a chance of winning a no-confidence vote, and the wider party might have reconciled itself to the need for a new leader. Rees-Mogg will be crucial to deciding when that moment comes, and the ERG's votes will be key to its outcome. Jacob Rees-Mogg, in this scenario, will be first executioner, then kingmaker.

A rippling, Pink Floyd-ish guitar chord sounds through a speaker in Rees-Mogg's office and down the corridors of the Palace of Westminster. I had half-expected that MPs would be called to vote by a handbell, rung by a man in breeches and perhaps a wig. The guitar chord evokes bad memories of Tony Blair, the guitar-strumming charmer who, like John Major before him and Gordon Brown and David Cameron after, allowed Britain to slide further into the maw of the E.U. because it was good for business.

The Brexit referendum of 2016 asserted the will of the people over their rulers, and the value of sovereignty over business. Despite the vote, the Remainers still make the argument for business over the democratic will of the people. But Rees-Mogg believes that Britain can get free from the legislative grip of the E.U. without damaging the British economy.

"We have £40 billion's worth of leverage," he notes. Money "which the European Union needs because it has very limited ability to borrow. How does [the E.U.] fund its committed projects in Romania and everywhere else if it doesn't have British money to spend? It could ask the Germans for more, but that's not going to be very popular. Or it could tell the other countries that they're getting less money, but that wouldn't be very popular. So we have a pretty strong position."

"We also have a £180 billion trade deficit with the European Union. So there are lots of regions within the E.U., or indeed individual countries, that are highly dependent on their trade with the U.K. Both sides have strengths in this negotiation. It seems to me a deal where

CHRIS J. RATCLIFFE / BLOOMBERG / GETTY

we say, 'You want our money, and we want a trade deal.' A pretty good deal could be done."

The problem to Rees-Mogg is not the hostility of Brussels; that is to be expected. The problem is the flawed British strategy, and the lack of confidence in its execution. "I think we have allowed the E.U. to set the terms of the negotiation much too much. This is not wisdom after the event; I'm saying it while it's going on at the same time. It was a huge mistake to allow the E.U. to set the timetable before we'd settled the trade. What are we buying for this money? At the moment: nothing. The money hardly gets talked about now. So we're giving them £40 billion for nothing."

The vaunted politeness makes the criticism all the more devastating. The truth hurts, but in an age of spin and fakery, it also pays dividends. Rees-Mogg is unaffected about his affectedness, and often more candid than a politician can afford to be. He is a social conservative and a Christian in a country without social conservative or Christian voting blocs, even among the Conservatives. The public likes his honesty, his willingness to be awkward, and his independence.

"I can't see the point in being in politics if you're not yourself," he says. "If you're simply interested in implementing other people's policies then you should become a civil servant. If you have ideas and some form of ideology, then it's exciting, because you can argue forward. If you've sorted it through, you probably have a pretty clear idea of how you could improve the condition of the people of the nation."

We are talking about Edmund Burke, the 1689 British bill of rights, and the American Constitution, when the guitar chord rings again, followed by an urgently tinkling bell. "Ah, that's the vote," he says, before resuming a reading from the bill of rights, which permitted only Protestants to bear arms.

"As a papist, I'd be a little bit worried," he jokes. "Now, I must go and vote, but I'll be back."

Rees-Mogg leaves me alone in his office. This is a breach of the House of Commons's security protocols, and of common sense too. Does he do this because he is a thinking person, a person of conscience, and trusts that others are too?

The Conservative membership, who decide the party's leadership contests, is considerably grayer, whiter, and righter than its MPs. Recent polls have Rees-Mogg as the members' choice for leader. By the spring, after he had started appearing every other Monday on an LBC radio phone-in show ("Ring Rees-Mogg"), he was the bookmakers' favorite too. The papers started talking about "Moggmania" and "Moggmentum."

LBC used to be a local station, the London Broadcasting Company. Its combination of angry callers and excellent traffic reports long made it the London cabbie's station of choice. Now digitized, LBC broadcasts all over Britain, and advertises its acronym as "Leading Britain's Conversation." Appearing on LBC, Rees-Mogg is talking across the divide between Remainer London and the Brexit-supporting masses outside the capital. He is also talking over the heads of his party's leadership.

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"We reflected the mood of the country when it came to Brexit," says Nick Ferrari, who hosts the morning show on LBC. The day before the 2016 referendum, he was appearing on a politics program with Boris Johnson's journalist sister, Rachel.

"Your brother's won this," he told her. "Britain's going to vote to leave."

"Well I've just spoken to him," she replied, "and he thinks they're just going to come up short. They haven't quite got enough."

"You're in London too much," Ferrari replied.

"And that's the divide," he tells me. "That's the reality. If you're in the London bubble, chances are you're going to be a Remainer. Once you're outside, you're across the divide."

We're sitting in the LBC studios in Leicester Square. Ferrari has just come off air after interviewing Rees-Mogg. On this morning's show, a woman from Medway in Kent—a working-class outcrop of Brexit voters, but inside the London commuter belt—rang and asked, "Why can't we have a prime minister that shows your passion?"

"There's a fair amount in Brexit of what powered Trump to the presidency, the feeling that the world has passed us by," Ferrari says. "I've asked Jacob whether he wants to be leader of the party. And of course he said, as every leader of the party once said, 'I don't have any ambition to be there.' Boris Johnson says the same, and he still wants to be leader."

"What appeals about Rees-Mogg to my listeners is what appeals most of the time about Boris Johnson, which is that they will answer a question honestly. And Jacob can currently do that, because he's not a cabinet minister. He's seen as being quite rebellious, but not necessarily an archrebel. He leads the ERG. So if he doesn't agree with a policy, he's in a glorious position that appeals to people."

Rees-Mogg's anachronistic persona accords with that independence. "I think it's also the way he dresses, the way he speaks," Ferrari says. "It's as if they've undone everything you learn in media training. And sometimes it works. You could say the same about Trump."

I mention meeting Rees-Mogg at a kebab stand as an undergraduate.

"He wasn't wearing a suit, was he?" Ferrari asks.

"Yes, he was."

"But he wasn't buying a kebab, was he?"

"Yes, he was. He's always had a populist streak."

Ferrari observes that Rees-Mogg has just returned from South Shields, a pro-Brexit postindustrial town in the northeast of England. "I know he's the son of an editor of the *Times* who became a lord. I know he's Eton and Oxford and all that. But I can tell you, he resonates better with our listeners in the North than their own politicians do."

Rees-Mogg is expert at playing the modern media game. Most politicians cultivate a persona and then come across as mediocre actors. But Rees-Mogg's persona *is* his character. That makes him unflappable, for his principles run deeper than the personae of his rivals and interviewers.

"I trust my electors," he says. "I see them in weekly meetings. I'm their advocate, I'm there to take up their case. I'm not there to decide whether they've got a good case or a bad case. And I think that if you trust people, they're more likely to trust you back. Also, I don't shy away from disagreeing with people. Of course, people like it when you share their views. But they'd rather know that they didn't share your views than have you wobbling about just for the sake of it. Trust in politics is important."

I ask him why he had left me alone in his office. "Until you mentioned it, it didn't occur to me."

For a man who dresses like Neville Chamberlain, Rees-Mogg is playing a modern game. He's broadcasting to the Brexit-voting provinces, but he's built a power base deep in Westminster. He's a rogue element in the parliamentary party, but he's also the party membership's choice.

Asked how he feels about being the people's choice, he laughs, mumbles his disavowals quietly and then emits a diversionary burst of Victoriana: "It's all quite jolly, but it's not serious. If people put money on the bookmakers, they'll lose their money as they usually do. You know what politics is like. I'm very aware that in a month, people might look at each other and say, 'Isn't he the chap who used to be Jacob Rees-Mogg?' LBC will cancel me and it'll all be over." "I am just a backbench Tory MP, one of many," he insists.

When it comes to Brexit, however, Rees-Mogg now represents just over half of the country, and at a time when Theresa May's government seems set on trying to overrule them. He may be a backbencher, but he is now singularly influential. On July 11, it was rumored that the ERG has given Theresa May an ultimatum: If she does not return to her Lancaster House positions within a week, the ERG will release the last letters to the 1922 Committee. In the coming weeks, Jacob Rees-Mogg's principles will meet the complexities of power politics.

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The resignations of David Davis and Boris Johnson are the death knell of Theresa May's government. Rees-Mogg's position as chair of the ERG, his standing among the party membership, and his remarkable cross-party public appeal make him the most powerful man in British politics today. No Tory can pull down Theresa May without Rees-Mogg's support. If the Brexiteers lack the votes to force one of their own into 10 Downing Street, neither can an alternative leader prosper without their endorsement.

Over the last three decades, three Conservative prime ministers—Thatcher, Major, and Cameron—have fallen over the question of Europe. May will be the fourth. The party cannot reunite without reconciliation between its Europhile majority and its sizable Euroskeptic minority. Rees-Mogg will be the key to that process, and he is relishing it.

He apologizes; there is only time for one more question.

"As a Catholic living in Somerset," I ask, "What's your favorite Evelyn Waugh novel?"

I'm expecting him to nominate *Brideshead Revisited* or the *Sword of Honour* trilogy, Waugh's late-period elegies for a lost world, or even the religious-historical *Helena*. Rees-Mogg mulls it over for a moment and then laughs. "*Scoop*," he announces. "It's got to be. For a moment I thought that was a difficult question. *Scoop*. It's such fun."

His reply surprises me at first. But then I remember that he is a journalist's son, playing a complex media-political game in a country that is coming apart at the seams. ♦

A Modest Proposal

Three lessons from Hayek that helped a conservative reformer understand that authority should be devolved.

By Andy Smarick

In 1945, the Austrian economist and public intellectual F.A. Hayek published an article on "The Use of Knowledge in Society." It was a response to those advocating for planned economies, but its lessons can be generalized. Hayek was making a profound argument: We must appreciate the limited ability of central authorities to collect and use information. Even if we could make a government agency that was lean, efficient, and staffed only with able and selfless professionals, he pointed out, it would still struggle to achieve its ambitions.

The roadblock isn't intentions; it's information. It is "a problem of the utilization of knowledge," Hayek wrote, "which is not given to anyone in its totality." No one can ever have all the information necessary, much less all of it smartly combined and analyzed, to make the right decisions. In his words, "the knowledge of the circumstances of which we must make use never exists in concentrated or integrated form but solely as the dispersed bits of incomplete and frequently contradictory knowledge which all the separate individuals possess." In other words, the countless minds thinking about, engaged in, and influenced by a policy matter will always know more in combination than any single body.

Hayek

I am not an economist and in no way qualified to analyze Hayek's views on the price system or business cycles. But I do know a little bit about policymaking. My views have been formed by work for six different government bodies over nearly 20 years—from a state legislature and Congress to the White House and Department of Education. What I glean from Hayek's article is a five-part test that should be used by government officials prior to acting:

- Are you certain you have the information necessary to act wisely?
- Who are the experts who could acquire all the relevant information and translate it into smart policy?
- Assuming such experts exist, how would you find them?
- Can all the relevant information spread across countless interested parties be translated into a form that can be used by a single authority?
- Since conditions on the ground change constantly, can the necessary information be rapidly and continuously sent by the field to the governing body?

In my experience, government bodies often decide *to act* and then use whatever information is available to decide *how to act*. For instance, during the education-accountability era, led by states in the 1980s and '90s then tightly embraced by Washington with the No Child Left Behind Act (2001), governments decided they wanted to hold schools accountable for results. They used reading and math test scores largely because that was the information that was available.

The "Hayek Test" suggests that government officials should first figure out what the right information consists of and then decide whether they are actually able to acquire enough of it. Only then should they decide on any action. In the case of education accountability, the federal government might've first asked, "What are all the things that we care about when it comes to school performance?" Then it would've asked, "Are we actually able to collect, analyze, and make use of all of that data for all of our schools?"

Hayek helps us recognize something that should be obvious: That it's much easier for small, local agencies to answer "yes" to such questions than large, faraway bodies. An entity that oversees three nearby schools is better able to respond to changing conditions than a central body overseeing 3,000 schools spread far and wide.

Usable information takes different forms based on

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the size of the government body. A small-town mayor can take a daily briefing from his director of transportation to understand exactly what's happening with traffic or road construction and know what citizens are experiencing. But if the Secretary of Transportation in Washington wants information on the status of each city's roads, she'd need a statistical analysis of available standardized data reflecting averages and themes and largely devoid of personal experience.

Understanding how these types of problems result from centralized economic planning, Hayek argued for free markets and the price system. There are analogous strategies for other policy domains. Federalism and localism push decisionmaking down—local police make most day-to-day law-enforcement decisions, not the Attorney General. Similarly, tradition allows us to use knowledge accumulated over generations instead of constantly gathering information from scratch. G.K. Chesterton astutely noted that tradition offers a vote to our predecessors—he called it "the democracy of the dead."

A sixth-grader takes a state math test in New York.

And in this regard, Hayek's article remains particularly salient for our policymakers. He argued that scientific knowledge—in this case, knowledge of general rules of human behavior—isn't everything. There is instead a "very important but unorganized knowledge" discovered and possessed in "particular circumstances of time and place." This kind of specific knowledge seldom lends itself to statistical form.

I was a young congressional aide when No Child Left Behind was under consideration and tried to convince my boss, a representative from Maryland, to vote in favor. I was convinced the test data generated by this legislation would revolutionize education. We'd have information from all 100,000 public schools on reading and math proficiency. We'd be able to quantify the performance of different student subgroups.

But the congressman was suspicious of the law's narrow focus on reading and math scores. He thought that those were poor indicators of school success. He didn't think this data would necessarily enable experts to improve schools and thought emphasizing standardized tests would obscure the invaluable knowledge that local practitioners possessed. He believed good educators continuously adapt to changing community conditions, student needs, and so on, and he believed a cumbersome federal framework would hinder such work. Obviously my boss didn't refer to what I'm calling the Hayek Test, but in hindsight, I see he was reasoning along those lines.

I haven't mentioned that he was a former high school teacher and well understood how much more knowledge local leaders have compared to those far away. And I was overestimating the ability of a central authority to choose the right measures, to collect the data, and to make use of them. He voted against the legislation. It became law, nonetheless, and his concerns were largely borne out.

If a government agency becomes convinced that conditions have deteriorated far enough, it will put aside the knowledge problem and act. The pre-No Child Left Behind era was considered troubling enough that it begot the No Child Left Behind Act. This was not entirely irrational, but we failed to recognize the knowledge problem and our good intentions went awry. This is not to say that all efforts to centralize decisionmaking are indefensible, but rather that policymakers too easily convince themselves that centralization, which means the acquisition of more power, is the right answer.

Hayek's 1944 book, *The Road to Serfdom*, is well known for its argument that grand state planning leads to an increasingly authoritarian state. One of its themes is the coercive power of the state. As society believes more and more that authorities have the knowledge to act ably, more decisions are made centrally, the state increases in power, and the process begins again. As a result, those wanting to influence society increasingly see the attraction of working for the state. As Hayek wrote, as "the state will alone decide who is to have what, the only power worth having will be a share in the exercise of this directing power."

The attraction is especially strong for those with technical expertise in some area of governing. As Hayek noted, "There is little question that almost every one of the technical ideals of our experts could be realized within a comparatively short time if to achieve them were made the sole aim of humanity." The potential of centralized government

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to bring about very specific ends creates "enthusiasts for planning."

Hayek recognized that there are two types of governing beliefs among state leaders. There are those who believe in "*central* direction and organization of all our activities according to some consciously constructed blueprint." The better approach, he thought, was the other, "that the holder of coercive power should confine himself in general to creating conditions under which the knowledge and initiative of individuals are given the best scope so that *they* can plan most successfully."

Now here is something to which every policymaker should aspire, using government authority to encourage non-government authority. The challenge, of course, is the policymaker's accepting the diminution of his own authority. If you are going to empower others, you must accept that those empowered will do things that you don't agree with and don't like. You must put the principle of devolving power above your personal policy preferences. In my experience, though, most people who seek positions of authority do so because they want things to go their way, not someone else's.

If you are going to empower others, you must accept that those empowered will do things that you don't agree with and don't like. In my experience, though, most people who seek positions of authority do so because they want things to go their way, not someone else's.

A decade ago, I was working at the White House, and the Bush administration was contemplating new regulations under the No Child Left Behind Act. One issue was whether to categorize a particular set of schools as low-performing, which would make them subject to intervention.

I was a strong supporter of this kind of tough accountability and wanted to aggressively identify and address failing schools. I was very firm in my views, and the trappings of White House employment do very little to encourage self-doubt. Back then everyone liked you when you worked at the White House. Everyone returned your calls. It was easy to feel smart and accomplished.

Sitting with my boss in his office in the West Wing, we considered using our authority to force the outcome that we liked. But in truth, it would've been a one-size-fits-all ruling from Washington. Did we know enough about the history of the schools that would be affected? No. Did we know how families and educators would react? No. Could we have made swift adjustments as facts on the ground changed? No.

In the end, we didn't do it. This was a turning point in my policymaking career. I was realizing that the conservative principle of decentralization, when combined with the dose of humility and judiciousness essential in public service, demanded a course of action foreign to reformers on both sides of the aisle: relinquishing power. Standing up as a conservative policymaker required standing down, and the best use of authority is enabling and invigorating others.

But in moments of actual governing, it is terribly tempting to reach a very different conclusion, and the pressure is there for conservatives not to go soft and give in to the status quo—to use the authority it was so hard to acquire. If you believe that you have identified the right answer and know you possess the power to make it happen, your instinct will be to act. You might consider it governmental malpractice *not* to act.

I saw this early this decade when I was involved in crafting legislation to overhaul teacher evaluation in New Jersey. Here, too, I thought that some districts were not subjecting educators to rigorous enough evaluation, meaning that there were students assigned to the classrooms of ineffective teachers. The bill gave the state government substantial authority—at the expense of principals and district administrators—and there were detailed rules on what percentage of the teacher's evaluation had to be based on student success and the consequences for educators deemed ineffective.

After the bill was passed, in the state's department of education we had internal debates about implementation. The biggest battle was over how swiftly and comprehensively to bring the law to life. Some thought that anything other than rapid statewide implementation was an invitation for local delay and mischief. But did we really know enough about each of New Jersey's 600 school districts, which assessments they used, what complicating provisions might be in their various union contracts? Didn't we need a pilot implementation plan? Everyone agreed that piloting—working with and learning from a few districts first—would broadcast uncertainty. It would encourage local differentiation and slow the pace of change. Interestingly—importantly—some of us thought these were assets, not problems. Others thought them a worst-case scenario.

The pro-pilot side won, and some of the expectations of both sides were realized. The pilot program did lead to differences in local implementation and course-corrections in overall policy. But it also revealed significant variation in the school districts and enabled the reforms to be better tailored to actual needs. It helped instill in practitioners

a sense of ownership of the work—that it was being done with them, not to them. The very uncertainty we broadcast enabled local success.

A few years later, I wrote an article advocating the training of what I called "school choice technocrats." These would be people who worked inside government to advance school choice. The term—"school choice technocrats"—was purposely paradoxical. School choice is the antithesis of state planning; it means *not* having the government run all schools and *not* having it decide where kids go to school. It means empowering families. But technocracy means governing by elite experts who use their knowledge and power to plan for others. The school choice technocrat, I hoped, would be an example of Hayek's vision of a government official who doesn't aim to control more and more but instead to foster citizens' knowledge and initiative.

When some area of public life isn't working, we needn't look for a central authority to solve things. Public officials can find creative policy tools that broadly distribute authority so individuals and communities can use their knowledge and preferences to plan for themselves. In *The Road to Serfdom*, Hayek offered a helpful binary—"planning *for* competition" instead of "planning *against* competition." This is governing with energy and purpose, but also with humility.

If *The Road to Serfdom* is a catalogue of the consequences of experts consciously dominating individuals, Hayek's follow-up, *The Counter-Revolution of Science* (1952), describes the dangers of overlooking or disregarding individuals. He was warning us against studying "wholes," namely big systems, to the exclusion of understanding their component parts. As Hayek noted, there is a major difference between observing individuals' actions as if through a telescope and understanding what things mean to individuals on the ground. The "expert" central administrator may have well-developed theories, massive data sets, and fascinating regressions, but these are often just the illusion of knowledge.

When politicians and policymakers lose sight of individuals, and their countless motives and their interactions with one another, we fail to grasp how complex and intertwined lives are. We can miss that people create—without any direction at all—systems, associations, and traditions that serve them well. It is easy to think that all of our social structures were the product of advanced planning and conscious design, when in fact they are organic and adaptive. The technocrat may dream of systems that are more rational, more intelligible, and more efficient, but those who understand the evolutionary nature of existing systems should also marvel at their natural wisdom, complexity, and robustness.

I've found the differences between these worldviews profound. Looking to the daily lives of individuals, I can't help but be humbled. I recognize how little I know about their activities, what they value and why, their goals and worries. I've found that it's all but impossible *not* to be struck by what Hayek called the "spontaneous" order that results from individuals leading their vastly different lives together.

It is like the passive voice in English, when a writer emphasizes what has been done and de-emphasizes who has done it. It's not that a single brilliant mind *created* a social practice; it's that a practice *was created* through an unplanned process. Consider the difference between a national agency designed by law to solve poverty and the thousands of locally developed food pantries, shelters, health clinics, treatment programs, and so on. Hayek cleverly got at this point by differentiating the terms "institution" and "formation." The former implies an actor—*someone instituted*. The latter highlights the upshot—*something was formed*.

Hayek suggests a light hand when it comes to governing. If we know only the smallest fraction about individuals and their associations, and if their unplanned interactions are generating such social benefits, we should show great care before meddling. I view this as the policy equivalent of the old saying, "Don't speak unless you can improve the silence." It is akin to the insightful formulation known as Chesterton's Fence: Never take down a fence until you are absolutely certain that you know why it was put up.

As Hayek noted, if we believe that all valuable institutions are the work of human planning, it's a short step to the view that we have complete power to refashion them. If we built the machine, then there's no harm in adjusting the knobs. Tinkering is just good engineering.

I was once on my way to becoming this kind of engineer. I'd gone to graduate school for policy. I was taught how monetary and fiscal policy can change the economy. I collected data and ran those fascinating regressions. I worked for a state legislature and Congress, where I learned to think in terms of laws and regulations. I was developing what Hayek called the "telescopic" view—comprehensive and from far away. But all the while, even as I was being pulled along by the hubristic impulses of the aspiring policy leader and the technocratic instructions from policy school, I was being followed around by countervailing lessons from the most formative, most humbling experience of my career: In 2006, I ran for the Maryland House of Delegates.

In campaigning, I knocked on over 10,000 doors. My district had farms, trailer parks, and public housing. It had middle-income townhouses and apartments, affluent suburban neighborhoods where houses had huge yards, densely populated row houses on tight city streets. I met government workers who played in cover bands in their spare time; entrepreneurs working at home in pajamas;

people taking care of sick family members. I met folks who loved their local schools and the local library; three times I was asked if I wanted to join the Knights of Columbus.

I noticed that a surprisingly high number of people who had a "beware of dog" sign had no dog. I noticed older women disproportionately looked at my left hand to see if I had a wedding band. I learned to know what to expect when I approached a house with an American flag and a Semper Fi sticker on a car's bumper. I was asked my views on abortion, the death penalty, and guns. But just as often I was asked about dredging, state policy on midwives, and that new speed bump the county put on the road just outside the neighborhood.

My experiences meeting so many different people, seeing so many different situations, were absolutely invaluable. They taught me the dangers of zooming out, of abstraction. I learned how people used rules of thumb, traditions, family, and voluntary associations to thrive. It was through retail politics, not graduate school, that I learned the difference between an "institution" and a "formation."

To this day, when I hear aspiring policymakers leaning heavily on empirical analyses, trusting in their own intellectual and moral powers to solve every problem, and believing that human institutions need to be designed, my response is simple: "Go knock on 10,000 doors."

If we know only the smallest fraction about individuals and their associations, and if their unplanned interactions are generating such social benefits, we should show great care before meddling. I view this as the policy equivalent of the old saying, 'Don't speak unless you can improve the silence.'

I entered public service thinking of myself as a "conservative reformer." What has remained constant over time is my belief in markets, in an enduring moral order, and in limits on government power. But what has shifted for me is where I put the emphasis in the term. I used to prioritize big, swift policy changes, whether with regard to schools, welfare, Social Security, or other domestic issues. I emphasized being a *reformer*.

But I've come to appreciate the risks of trusting that faraway government bodies know what reforms ought to be pushed, and how quickly. I increasingly emphasize the *conservative* part of "conservative reformer"—understanding the indispensability of humility, prudence, gradual change, existing institutions, and the empowerment of others. I have remained constant in my basic understanding of good government, but I've become more conscious of the mindset used to bring them to life.

Hayek understood all this long before I did. He deduced and explained the seductions of state authority, the dangers of technocratic exuberance, and the genius of evolved social formations—things I had to stumble upon while attending bureaucratic meetings and canvassing for votes in remote neighborhoods. He knew we can more readily trust individuals, communities, and the associations they form than anything created in Washington. He saw we could lean on philanthropy, nonprofits, and local governments instead of immediately turning our eyes to Washington. He hoped we would choose leaders who appreciate the limits of their own knowledge, the expanse of others' wisdom, and the value of pluralism—leaders who possess a deep-seated desire to elevate and activate their neighbors, who will act on their principles in the best interests of country rather than simply acquiring more and more authority. And such figures can contribute to legislation that answers pressing problems, as welfare reform did in 1996 and the Every Student Succeeds Act in 2015. Both explicitly pushed authority down and out.

For me, the domestic-policy reform that has best exemplified this approach in recent years is "chartering," the process that enabled charter schools to come about. The traditional policy approach to public education has been to have a single government body—the school district—own and operate all schools in an area. In some cities, this meant that one set of central-office experts made decisions related to hiring, contracts, purchasing, and much more for hundreds of schools. And in instances where that urban district was failing, the typical response was to centralize and give more power to the state or federal government.

Chartering went in the other direction. It empowered a vast array of community-based organizations to create different types of public schools. It empowered families to choose from among them. It was a policy that devolved authority. It appreciated the valuable differences among us. It allowed individuals and communities to plan for themselves. It helped create in America's cities high-performing, nimble, dynamic, responsive systems of schools.

Government can be modest if politicians and policymakers appreciate the limits of central agencies, the complexities of individuals' lives, and the spontaneous order around us. If public officials have as their North Star the empowerment of others, then government leadership can be meaningful, exhilarating, and inspiring. It can be deeply humble. ♦

The Battle of Pershing Park

What the fight to build a World War I memorial near the White House reveals about the state of civic art and architecture

BY CATESBY LEIGH

These days M. Paul Friedberg is looking like one lucky guy. A retired modernist landscape architect in his late 80s, he has only a few purportedly important projects to his credit, and his reputation rests largely on an innovative approach to playground design. A few years ago, Congress redesignated his derelict Pershing Park (1981), situated just east of the White House and Treasury Department along Pennsylvania Avenue, as a World War I memorial, authorizing the park's much-needed "enhancement" with "appropriate sculptural and other commemorative elements, including landscaping."

But it turns out the federal Commission of Fine Arts, which reviews such projects in the nation's capital, is determined to retain the essence of Friedberg's Pershing Park—especially qualities associated with its now-empty central pool and boxy, granite-clad fountain, which has been out of action for over a decade—even if doing so stands in the way of the creation of an appropriate war memorial.

So much for congressional intent.

Elevated above the din of street traffic by grass berms, heavily screened by trees and equipped, at its southeast corner, with commemorative mahogany granite slabs and a larger-than-life-size statue of General John J. Pershing, Friedberg's largely sunken park features unattractive lighting fixtures and a rather drab brownish hardscape. A domed steel-and-clear-plastic kiosk, where refreshments were once sold, stands near the shallow pool, abandoned. The park is situated on a trapezoidal, 1.75-acre site along Pennsylvania Avenue between 14th and 15th Streets. To the north lies the venerable Willard Hotel; to the west a handsome park focused on an equestrian statue of General William Tecumseh Sherman; to the south the White House Visitor Center, housed within the vast classical pile that is the Commerce Department building; and to the east, postmodern mandarin Robert Venturi's forlorn Freedom Plaza (1980), which, aside from a few months as a camping site for Occupy D.C. protesters in 2011-12, mainly serves as a skateboarder's resort.

HANNAH YOEST / THE WEEKLY STANDARD

You may never have laid eyes on Pershing Park, especially in light of its lamentable condition. But this is a precious chunk of real estate, occupying a strategic node on the nation's most important avenue. It is a fitting site for the long-overdue, appropriately monumental commemoration of a war that changed the course of Western civilization—a war in which 4.7 million Americans served and over 116,000 were killed. So far, however, the World War I memorial episode mainly provides fresh evidence of the disorientation and ineptitude of the authorities overseeing developments in Washington's civic realm. And the wrangling over the memorial offers a case study in the barriers the nation's cultural elites have placed in the way of clear thinking about the purposes as well as the aesthetics of public art and architecture.

Like Freedom Plaza, Pershing Park is a creation of the Pennsylvania Avenue Development Corporation. So is a third problematic landscape to the east, John Marshall Park (1982), a verdant yet remarkably desolate expanse

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Just east of the White House, views of Pershing Park today: Ugly tables, above, hunch near the empty pool, enclosed on two sides by granite steps and planters. At right, a skateboarder practices tricks near the statue of Gen. Pershing on the park's east side. Below, the pool and graffitied fountain box, which once doubled as a shed. At left, the refreshment stand, long abandoned, with its glazing of discolored plastic.

TOP AND MIDDLE: HANNAH YOEST / THE WEEKLY STANDARD; BELOW: JOE WEISHAAR

whose terraces descend to Pennsylvania Avenue from C Street. From 1972 to 1996, the PADC—a brainchild of Daniel Patrick Moynihan—reshaped the previously down-at-heel north side of the avenue facing the magnificent Federal Triangle complex and National Gallery of Art. Architecturally, the results ranged from the dismal modernism of the J.W. Marriott Hotel at National Place (1984) to the lively classicism of the hemicyclical Market Square complex (1989). Market Square's plaza, with its Navy Memorial, is easily the most successful public space the PADC created.

The PADC campaign, in short, was a very mixed bag. But whereas Freedom Plaza confounds the layout of the avenue, which might be better off without it, Pershing Park occupies a block created by Peter Charles L'Enfant's masterful plan of 1791 for the new capital. (That plan is itself inlaid at large scale

The central feature of the proposed World War I memorial is this narrative allegory in bronze by sculptor Sabin Howard . . .

on Freedom Plaza, which is bereft of the surrealistically large architectural models of the Capitol and White House as well as the pair of flattened pylons framing a vista of the Treasury Department building's south portico that Venturi intended. The vast plaza's only vertical elements are a couple of flagpoles.) The Pershing Park block was once occupied by residential and, later, commercial buildings, demolished after its acquisition by the federal government in 1928 to amplify views of the Commerce Department building, which was completed four years later. Since then the block has mostly served as a park, though temporary federal office buildings were erected there during World War II.

The World War I Centennial Commission, which is charged with building the World War I memorial, held a competition that yielded five more or less unpromising finalist designs in the summer of 2015. In preparing for the last round, architect Joseph Weishaar, a young Arkansas native, teamed up with veteran New York City sculptor Sabin Howard. In Weishaar's winning entry, announced in January 2016, Friedberg's square pool would be replaced by a grass mound enclosed on three sides by retaining walls bearing over 200 feet of narrative bas-relief and crowned by three figures in the round—an artillery crew preparing to fire a cannon.

This unconventional concept has fortunately undergone serious downsizing. (The design team now includes Philadelphia landscape architect David Rubin.) The grass mound is gone. What emerged instead is a stone wall, somewhat resembling an outdoor altar, that serves as a monumental armature for Howard's 38-figure bronze frieze—now modeled in deep rather than low relief—portraying a soldier's journey from home front through the torments of war and back again. The frieze runs across the wall's front. This sculpture wall would replace Friedberg's fountain box on the pool's western flank. (The box once doubled as a Zamboni garage because the pool became an ice rink in winter.) This sculpture wall is much broader than Friedberg's box but is likewise set in steps descending to the pool. It is, in other words, embedded in Friedberg's landscape. Water streams down the sides of the sculpture wall and is channeled into the pool, while new walkways running perpendicular to one another span the pool in front of the wall.

Howard's sculptural design offers not only an allegorical narrative that is very carefully thought out as a dynamic formal composition but also an exceptionally competent rendition of the realist sculptural vernacular that, since the 1980s, has given the nation's capital Frederick Hart's *Three Servicemen* at the Vietnam Veterans Memorial, Frank Gaylord's triangular formation of 19 soldiers at the Korean War Veterans Memorial, and Raymond Kaskey's reliefs depicting wartime scenes on the balustrades at the World War II Memorial. Howard's figure work is superior to what we see in those memorials, and it is certainly preferable to Robert Winthrop White's muddled Pershing statue (1983), the focus of the existing memorial, which was designed by the prominent modernist architect Wallace K. Harrison in consultation with Friedberg.

The seven-member Commission of Fine Arts, chaired by National Gallery of Art director Earl A. Powell III, approved the Weishaar-Howard sculpture-wall concept in May 2017, requesting only "further study" of its breadth (which has since been considerably reduced) and more information about the treatment of the architectural structure itself and the steps flanking it. At the same time, however, Fine Arts emphasized "the fundamental importance of the design's experiential character—including the visual, auditory, and tactile qualities of water—in making this park work successfully as a memorial." This qualified approval has turned out, perhaps unwittingly but no less outrageously, to be a classic bait-and-switch routine based on an arbitrary assessment of "experiential character." Fine Arts

SABIN HOWARD

. . . with 38 figures depicting a soldier's path from home to the crucible of the battlefield and back home again.

appears content to sink the Weishaar-Howard design because it considers retaining the "visual, auditory and tactile [!] qualities" of Friedberg's pool more important than civic commemoration. This is perverse.

The Fine Arts commission's wholly unjustified obstructionism poses a mortal threat to the entire memorial project, which relies on private fundraising and was originally scheduled for completion in time for the centennial of World War I's end, which falls in November.

The Centennial Commission has already gone too far in its efforts to accommodate Fine Arts. It has narrowed the breadth of the sculpture wall to what Howard says is the absolute minimum—56½ feet—whereby its figures can be endowed with an acceptably monumental scale of about 6½ feet apiece. Far more problematically, the Centennial Commission has abandoned its original "integrated" wall concept in favor of a "freestanding" option that reduces the wall to something like a stone-and-bronze billboard set not in but in front of the steps. This would allow an abundance of water to flow into the pool from the flattened wall's rear, thanks to the elimination of the U-shaped enclosure in back of the "integrated" wall that would have provided an overlook facing east. The "freestanding" design would diminish the monumental effect of the frieze's architectural setting merely to accommodate the Fine Arts commission's obsession with preserving the existing pool landscape as much as possible and its belated concern with the "perceived heaviness" of the integrated wall concept it approved last year. (Never mind that the District of Columbia's State Historic Preservation Office has determined that the integrated version of the wall would fit into Friedberg's landscape better than the freestanding version.)

But not even the freestanding approach was enough for Fine Arts. After its last meeting in May, it unctuously urged "an earnest reconsideration of the wall, sculpture and fountain beyond what has been presented," suggesting that the freestanding wall be flipped to face west—*away* from the pool. This recommendation is a preposterous bureaucratic tergiversation. Howard's relief has been modeled with the expectation that it would be elevated just over three feet above the walkways, so that visitors would approach it on a level plane and gradually proceed from general views to particular aspects of the composition. The flip recommended by Fine Arts would ruin this sequence: One would step *down* to the sculpture wall, and closer-range movement in front of Howard's relief would be constricted. More importantly, this recommendation would leave the pool, the existing park's central feature, and thus the memorial itself, devoid of an indispensable symbolic focus. The result would be not a World War I memorial but a disjointed park that happens to contain two memorials. (Fine Arts also has belatedly and unhelpfully suggested that the kiosk, which is situated just east of the pool, might serve as the site for a *circular* sculptural composition. This too would be completely incompatible with Howard's design.)

The location and orientation the Centennial Commission has proposed for Howard's relief seems to be the only one that makes sense. On the other hand, there is no question that the sculpture wall's water feature and the walkways require careful study. And the cluster of flagpoles the Centennial Commission has proposed does not appear to be the best use of the kiosk site. The kiosk might well be refurbished—starting with the replacement of its discolored plastic glazing with the glass Friedberg specified in his design—to serve more propitiously this time around as a refreshment stand as well as a visitor facility.

Fine Arts, alas, isn't the only problem. In 2016, months after the Weishaar-Howard design prevailed in the memorial competition, Pershing Park was determined eligible for the National Register of Historic Places in a report commissioned by the National

Park Service. This means the Centennial Commission could face litigation over the memorial, and a leading candidate for bringing suit would be the Washington-based Cultural Landscape Foundation, a 20-year-old organization founded and directed by Charles A. Birnbaum, a vocal opponent of the Centennial Commission's sculpture-wall concept. Birnbaum formulated guidelines for landscape preservation years ago as coordinator of the NPS's Cultural Landscape Initiative. In 2012, his foundation joined the Preservation Alliance of Minnesota in a successful suit to prevent demolition of Friedberg's Peavey Plaza in Minneapolis (1975), whose $10 million restoration is now underway. Birnbaum, also a journalist and visiting professor at Columbia University, is an exceptionally able cultural operator who, it should be noted, has gone to bat for traditional as well as modernist landscapes.

The NPS Pershing Park eligibility report simply regurgitates the defective logic that guided the Friedberg design. In an attempt to respond to the automobile traffic on three sides of his park—the fourth side, a stretch of Pennsylvania Avenue on the park's northern flank, is not heavily trafficked—Friedberg ran his grass berms, bedecked with rows of honey locusts, along its east, south, and west perimeters. The southern berm, the highest and longest of the three, is particularly unfortunate, creating an urban dead space for an entire city block—directly across the street from the White House Visitor Center, which receives tens of thousands of visitors monthly. Only on the north side, where Friedberg housed willow oaks in a diagonally zig-zagging array of square granite planters running parallel to the avenue, can his design be described as reasonably open for a downtown park. The planters are abutted by steps leading down to the poolside terrace with the kiosk, this terrace being agreeably paved in Belgian blocks arrayed in a fish-scale pattern. But from its western flank along 15th Street, facing the Sherman park, Friedberg's landscape presents an amorphous spectacle that is not terribly inviting. Long semicircular steel-mesh benches literally turn their backs to that street. He made no effort whatsoever to create an axial relationship between the two parks, as L'Enfant would not have failed to do.

Pershing Park's emphasis of spatial enclosure rather than openness to its urban setting is hardly conducive to a sense of security, and for many years the park's denizens have tended to be marginal characters. One might question the Fine Arts commission's assertion that the park's problems are "the direct result of inadequate maintenance." This is curiously reminiscent of the rationalization of the failure of Brutalist housing projects in this country and Europe as a simple matter of "inadequate maintenance." No doubt the inadequacy has been real in both cases, just as there can be no doubt the problems have run a whole lot deeper in both cases.

Rendering of architect Joe Weishaar's freestanding wall concept, with Sabin Howard's frieze facing the shallow pool

JOE WEISHAAR

Needless to say, the historic register eligibility report provides no perspective on these issues. It misses the elephant in the room—the anti-urban impact of the berms, especially the southern one—along with notable details like the obviously cramped and inadequate space allowed for reading the Pershing quotation extending across the back of the slab that serves as a backdrop to White's statue.

Pershing Park does appear to have exuded a measure of picturesque charm in its early days thanks largely to the alteration and supplementation of Friedberg's planting scheme by the landscape designers Oehme, van Sweden and Associates, whose lush and colorful array of plantings extended right down and even into the pool, where lily pads once flourished. (Friedberg's crape myrtles continue to add welcome splashes of color amidst the prevailing gloom.) Such a landscape, sans berms, might have served nicely as a garden for a museum, conservatory or other well-endowed institution, where scrupulous maintenance could be expected. This isn't a realistic prospect for a city park in Washington, including one under NPS jurisdiction as Pershing Park is. The NPS isn't exactly famous for quality maintenance of its D.C. parks that lie outside the hallowed confines of the National Mall.

Merely restoring Friedberg's existing landscape, which would be costly, would in all likelihood simply inaugurate another cycle of deterioration and obsolescence. The most promising way to preserve the existing park to a significant degree is to incorporate a powerful monument that can capture a much bigger share of the many millions of tourists who troop along Pennsylvania Avenue each year. Such a flow might well make the park more inviting to the public at large. A renovated kiosk refreshment stand and the Belgian-block terrace, equipped with attractive seating, could enhance the memorial's allure, not least for local office workers on lunch or coffee breaks. The memorial's $42 million price tag includes both renovation of the park and an endowment for its future upkeep as part of the memorial.

Fine Arts, alas, would appear to be deaf to such reasoning. Elizabeth K. Meyer, the commission's outspoken vice chair, is a conspicuous part of the problem. A professor of landscape architecture at the University of Virginia, she contributed to a 1999 primer on modernist landscape preservation edited by Birnbaum. Her scholarly pursuits have yielded essays with titles like "Slow Landscape: A New Erotics of Sustainability." Her online faculty profile commences thus: "Landscape architecture

is a socio-ecological spatial practice with its own vocabularies and theories, yet discourse about the designed landscape is hampered by reliance on interpretations by those outside our field." This is precisely the mentality that, beyond nurturing nonsensical productions like the historic register eligibility report for Pershing Park, produces pathologically insular, self-regarding cliques that look for ways to impose *their* "theories and vocabularies" on the public whether the public likes it or not. Historic preservation is one such vehicle. It has not only been hijacked but weaponized by a modernist apparat since emerging as a major cultural force in the wake of the unconscionable demolition of New York City's majestic Pennsylvania Station half a century ago.

Meyer, one of three modernist landscape architects serving on the Fine Arts commission (which is maybe three too many), outdid herself at the May hearing, lecturing the Centennial Commission and its designers in a manner more becoming a slightly unhinged schoolmarm than a professor at Mr. Jefferson's university. She upbraided them for their "stubbornness" for adhering to a design concept she and her colleagues approved last year—even though the Centennial Commission has literally, and regrettably, taken a big chunk out of that concept to address the Fine Arts commission's remarkably inane concerns. She declared that "arguing" about the sculpture wall's breadth "is not the solution," when it is Fine Arts that has repeatedly raised the issue. She called the integrated wall "a massive intrusion into the Friedberg park," even though monuments do tend to be massive and this project is not about "the Friedberg park," but rather creating an appropriate war memorial in line with the park's statutory redesignation. Meyer went so far as to criticize Howard personally for not being "as open creatively as you need to be to work in the public realm," as if she had been a model of open-mindedness during this sorry episode. On the other hand, Meyer did manage to offer Howard some advice straight out of the depths of the swamp: Sit still and pay attention so your project can reach a happy review-board conclusion like Frank Gehry's ludicrous theme-park scheme for a Dwight D. Eisenhower Memorial, with its humongous open-work stainless-steel billboard and kitschy sculpture.

It so happens Uncle Sam is footing the bill for Gehry's $150 million boondoggle, which would never be built if that weren't the case. The Centennial Commission is in a very different boat. Unlike the Eisenhower Memorial Commission, its membership does not include senators or representatives, and there can't be much of a veterans' lobby to support it when the last known veteran of World War I died in 2011. Completion of the World War I Memorial has now been pushed back to 2021, and continued resistance from Fine Arts (not to speak of a historic preservation lawsuit) could cause the project's donor support to dry up.

The Centennial Commission returns to Fine Arts on July 19. ♦

SUNSET BOULEVARD / CORBIS / GETTY

B&A

Remedial Bergman

On his centennial, introducing the great director to a new generation. **BY JOHN SIMON**

Ingmar Bergman (left) and his frequent cinematographer Sven Nykvist in the early 1980s

Near the beginning of my 1972 book *Ingmar Bergman Directs*, I wrote that "Ingmar Bergman is, in my most carefully considered opinion, the greatest filmmaker the world has seen so far." Forty-six years later, I stand by that judgment. Bergman made about 50 feature films, as well as many television and radio programs. He staged several operas and ballets, and directed—and sometimes wrote—many theater productions. He was the author of books both autobiographical and fictional, not to mention various articles and speeches. But neither quantity nor diversity matters as much as quality and originality, in which his works abound.

Many of Bergman's films received wide critical acclaim, and even his lesser achievements became objects of fascination and admiration during his lifetime. Whole new modes of filmmaking derived from Bergman, and the vast number of commentators on his works is very nearly equaled by those influenced by him, whether or not they know it. But the passage of time,

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the evolution of tastes, and our cultural emphasis on the new has meant that today's young American moviegoers are unfamiliar with the Swedish filmmaker's work. Even true cinephiles under the age of, say, 40 may never have seen one of his pictures. So Bergman's centenary—he was born on July 14, 1918—provides a good occasion to introduce his work to new generations of viewers, with a brief overview of his career and a few suggestions for films that could serve as points of entry.

Bergman's films often revel in extremes—sometimes intimate, sometimes harrowing—about almost-happy families or love affairs that break up. Consider his early film *Summer Interlude* (a title more accurately rendered *Summerplay*). In this 1951 movie, a ballerina, Marie, is rehearsing for a production of *Swan Lake* when she receives an old diary of hers. Reading it, she recollects a summer she spent years earlier as a teenager on a lovely island in the Stockholm archipelago. Henrik, her young lover that summer, dives into shallow water and dies of a broken neck in Marie's arms. Back in the present, Marie has a new lover, David, with whom she quarrels, but they make up and she dances the lead in the ballet. For quite a while, Bergman called this film, with its meditations on love and loss, his favorite.

The English titles inflicted on Bergman's films for commercial purposes sometimes distort and confuse. So *A Passion* becomes *The Passion of Anna*, even if it is more the passion of her lover Andreas and the implied passion is more Christ-like than physical. In America we got *The Naked Night* for what the British call *Sawdust and Tinsel* and the Swedish something like *The Clown's Evening*. This, from 1953, was Bergman's first true masterpiece. The story contrasts the ways of the circus with those of the theater, and contrasts strength (the circus owner and earthy ringmaster) with subtlety (the snotty actor and grandiose theater director).

At the center of the story are three women: the errant but loving wife of the clown; the solid but unexciting wife of the circus owner, who won't take him back after he leaves her; and the flamboyant equestrienne mistress of the circus owner who gets involved with the arrogant theater star and occasions a spectacular fight between the men on the sand of the arena. The way their relationships play out establishes the conflict between quasi-superior, condescending art and besieged but resisting reality.

The film is a fine example of Bergman's love for, or at least preoccupation with, women and their ways. It also shows that he was not just an expert teller of complex stories but a great stylist as well, able to bring psychological insight and highly telling detail into the plot.

Bergman is unequaled in his filming of the human face; he uses faces in eloquent, sometimes sublime, close-ups to tell much of his stories. This is one reason why conventional synopsis often doesn't suffice with Bergman's films.

Equally important in Bergman's oeuvre is the human face; he uses faces in eloquent, sometimes sublime, close-ups to tell much of the story. Thus in what is called in English *The Magician* but in Swedish *The Face*, we get a plot that largely concerns the importance of mask or disguise versus bare reality—their fraught interaction and troubled, troubling coexistence. We also get faces in confrontation, in marvelously probing close-up. The wonder of how faces matter, often in mirrors, always revelatory of the inner being, truly carries the story. This is why, unlike with the work of lesser filmmakers, conventional synopsis often doesn't suffice with Bergman's films.

Bergman's work profited immensely from his having at his disposal the actors and actresses of the Dramaten, Sweden's Royal Dramatic Theater. They were recurring cast members in his films, appearing in roles in which they were wonderfully diverse yet somehow also affectingly familiar. They are as good-looking as they are talented, often conveying story with searching expressions that mutely speak for themselves.

Consider the 1963 film that would eventually become Bergman's favorite, the only one that fulfilled everything he wanted to achieve, *Winter Light*. (In this case, the title change—from *The Communicants* in Swedish—was wise, since Lutheran ritual and practice are much less resonant in America.) The pale, exquisitely lighted wintry exteriors and interiors, and the chilling implied feelings, are all superbly shot by Sven Nykvist, Ingmar's final, and probably greatest, cinematographer.

This is one of Bergman's chamber films, with minimal cast. The widowed pastor Tomas suffers from both a bad flu and from personal coldness toward his parishioners, including his loving mistress, the schoolteacher Märta, whose solicitude merely irritates him. Tomas is conflicted by his memories in viewing old photographs of his dead wife and by his discovery of an old letter from Märta in which she declared her boundless love for him. He is unable to bring peace to a deeply depressed fisherman, Jonas, who commits suicide.

Tomas confronts Märta cruelly—yet he still asks her to accompany him on the drive to another, fairly distant church where it is his duty to hold a service again in the afternoon. On the way, they stop to tell Jonas's pregnant wife about his death and are impressed by her stalwartness. Before the service at the afternoon church, the hunchbacked sexton, Frövik, tells Tomas that he has realized from the Gospels that Christ's greatest torture, the real passion, was one he too has endured: that of not being understood by anyone, including God. The greatest agony is not being answered by man or God, the terrible understanding that no one has understood you. But God's silence must be endured.

The afternoon service is totally

In Summer Interlude *(1951), Marie (Maj-Britt Nilsson) recalls a teenage love affair with Henrik (Birger Malmsten).*

AF ARCHIVE / ALAMY

unattended and Tomas could skip it, but he doesn't; he celebrates with "Holy, holy, holy is the Lord of Hosts, the whole earth is full of His glory," while Märta, kneeling in a pew, prays for their future shared happiness.

The close-ups of Ingrid Thulin as Märta are among the most inspired ever put to film, thanks to the efforts of the director, cinematographer, and actress. The work is a moving tribute to the faith of Bergman's stern Lutheran minister father, particularly so because by that time the writer-director had given up the God and religion with which he had so long struggled.

Beyond his intense love of women and his unequaled filming of the face, it is worth making three further notes in passing. First, Bergman's identification with every single one of his characters and their distinctive psychological problems shines through his work. Second, also evident is his respect for other directors, such as Fellini and several earlier Swedish ones, from whom he was not ashamed to learn. Finally, even though music is used very sparingly in Bergman's films, it is worth mentioning that he loved classical music, from Bach to Bartók and beyond, and its influence can be detected in the way he directed—including his use of a sonata-like form and various musical devices.

The films I've described here should serve as a good entrée to Bergman's work. I have concentrated on less obvious films, though I have unstinting admiration for the more popular ones: *The Seventh Seal*, *Wild Strawberries* (which should be *The Strawberry Patch*), and that impeccable, profound comedy, *Smiles of a Summer Night*, to which the 1973 Sondheim musical *A Little Night Music* pays sincere but diminishing tribute.

I have also omitted discussions of *Persona*, *A Passion*, and *Scenes from a Marriage*, complex masterpieces requiring elaborate analysis. And I have bypassed films that I find less thrilling, such as *Hour of the Wolf*, *The Silence*, and *Cries and Whispers*, although even those contain admirable passages.

Excellent video versions of many of Bergman's movies—chiefly put out by the Criterion Collection—are readily available for purchase. And any questions you may have about him are handily dealt with in Birgitta Steene's magnificent, omniscient *Ingmar Bergman: A Reference Guide*. Filled with all kinds of rewarding insight, it clocks in at 1,150 pages, the sort of thing not elicited by most other filmmakers. Doesn't that in itself make a statement? ♦

B&A

Your Other Body

A thought experiment in how we relate to the world.

BY **B. D. McCLAY**

In her brief and rather notorious story "The Ones Who Walk Away from Omelas," Ursula K. Le Guin describes a beautiful, flourishing city that depends for its wealth and stability on the torture of a child. Everyone who lives in Omelas understands this cost, and some, unable to accept it, leave.

"Omelas" is a useful fable for understanding the ambient feeling of complicity we all have from time to time when we look out at the bewildering array of systems that (if we're lucky) bring us convenience and prosperity but often bring others misery. Indeed, it's not hard for me to rattle off a list of things that make my life slightly easier that make the lives of others substantially worse, right down to the computer I'm typing on. I remember that around 2010, when I read about the suicides taking place at factories making iPhones, I resolved that adopting new technologies probably wasn't worth the moral cost. But by 2012 I owned an iPhone and a few years later a MacBook Air—because it was inconvenient not to. So much for my high-mindedness.

Of course, if I insisted on writing everything on a typewriter—keeping a perfectly good machine out of a landfill and not sending more money to Apple than I already have—and conducting all business through the post office, that would inconvenience people and have all manner of negative effects too. Perhaps the only way fully to "walk away" is to go off the grid and adopt some sort of zero-waste, zero-footprint lifestyle. Yet even then what good would I have really done? I would have purified myself, which is perhaps all anyone can reasonably expect to do. Or maybe not—after all, working in a factory making iPhones might not be my idea of a dream career, but isn't it putting food on the table for the people who do it?

The Second Body
by Daisy Hildyard
Fitzcarraldo, 118 pp., $18

Thus "Omelas" says: You can individually "walk away" or you can accept that living in society comes with dirty hands. Faced with the dizzying degree of our interdependence, almost all of us accept the second option. Still, something about the story, this morality problem, bothers me. Why, of all the people who leave, have none of the ones who walked away from Omelas ever made the decision to carry off the child?

In her new nonfiction book *The Second Body*, Daisy Hildyard, a novelist with a background in the history of science, offers a fable of her own: Suppose everyone has two bodies, one being the body of his or her individual experience—*this* body, with its fingers, toes, interior life, and cheeseburger consumption—and the other being the body formed by the first body's global interactions—the cows and the farmers that bring the cheeseburger, the workers who make our clothes, the trees cut down to make our buildings and paper. "Every living thing," she writes,

> has two bodies these days—you are flying into the atmosphere and back down to the ground right now, but you can't feel it. You breathe something in, and what you breathe out is something else. . . . This second body is your own literal and physical biological existence—it is a version of you. It is not a concept, it is your own body. . . . Personally, I do not always find it easy to believe that I have two bodies.

Hildyard is committed to following where the second body will take her, but more often than not she reaches interesting dead ends. She interviews various people whose jobs involve nonhuman life—from a butcher to various scientists—and asks them questions about their work and how they think about living organisms. These conversations often conclude with her recognizing that she started in the wrong place, as when she tries to pry from a researcher some insight into genetics but instead is led to think about communication and imagination. Of another of her interviewees, Hildyard writes that "he spoke of learning as a process of realising his own mistakes." The same could be said of Hildyard's overall method in *The Second Body*.

Another way of understanding Hildyard's project is that she wants to find some way of describing human actions and their effects that involves individuals but isn't about them. She reads books on animal behavior and tries to apply the terms and categories of ethology to her friends. She also looks for patterns of behavior in literature. "When Hamlet, Macbeth and Lear die," she notes dryly, "in spite of their nobility, they act like animals: they repeat themselves increasingly until they make funny sounds."

Hildyard's approach can sometimes lead to conclusions that feel a bit precious. In 600 years, according to one of her interviewees, people won't really care if you were kind, if you helped others, fell in love, achieved your dreams or failed at them. The only legacy you'll leave that will really affect them is whether or not you drove a car. What you did with that car will hardly matter. This brings to mind an essay I once read that stated:

> "What will survive of us is love," wrote Philip Larkin. Wrong. What will survive of us is plastic.

Of course, when we look back 600 years, we are interested not just in the detritus but by the things people did. It is hard to imagine the same won't be true 600 years in the future. Then again, as somebody who sometimes is haunted by the idea of leaving in my wake a trail

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of plastic takeout containers, empty wine bottles, and angry chicken ghosts, I can't say I don't get it.

The real value of Hildyard's second body approach is in rendering humans natural organisms by making us slightly uncanny. This is achieved in a variety of ways, perhaps most powerfully when Hildyard thinks about the effect of a massive flood of her own home, imagining the ways in which her house has become something for water to fill and creatures to explore. When the water level falls sufficiently that she can move back in, she finds the house is still not quite *hers*, in part because the flood caused her to consider the degree to which her house wasn't entirely her own deliberate arrangement. (She imagines the teaspoons in their drawers slowly being picked up by the water and then pauses to note she has never consciously *bought* a teaspoon.)

Life-size statues made of debris by German artist HA Schult

Even without something as cataclysmic as a flood, this is still my own reaction when a living thing moves into my home uninvited. For a mouse, nothing in my apartment is what it is to me, except the food; my books and clothes and furniture are all just objects to be used, lived in, or hidden behind. The mouse doesn't even really recognize *me*, certainly not in the way that it recognizes my dog. Hildyard's second body approach, by incorporating everything human-caused that might have led a mouse into my apartment, helps me see the ways in which we are *parts of* environments and ecosystems, not simply the managers of them or parasitic on them.

On the other hand, Hildyard's second body often seems like a creation solely of our misdeeds and consumption, as if we are only interconnected via the ways we harm each other. The unavoidable implication is that it would be best if we each reduced our second body to the smallest body possible—something at odds with the themes of connection that run throughout the book. If putting a kettle on for tea is, as Hildyard says, an act of global significance, one would expect this to ripple out in ways good as well as bad.

It is interesting, too, that the person in her book who deals most directly with the animal world is a butcher and not (for instance) an animal trainer. Notably, pets and working animals are almost entirely absent from this book—someone recounts a dream of being a pet fox, and Hildyard makes a reference to hamsters, but that's it. Just as a mouse provokes me to see my home differently, so too does my dog, who doesn't understand why a couch is a place to sit but a coffee table isn't. Might our relationships with the animals closest to us—ancient relationships of work, play, and companionship in which humans and animals have adapted to one another—offer some sort of path forward? It's hard to say. But since Hildyard opens with an anecdote about caring for a sick, wild pigeon and makes clear that she wants to figure out how to have that sort of concrete relationship with the whole world, pets do seem like one path worth exploring.

This is not a plea for a feel-good book, one that imagines that every individual pursuing his or her individual fulfillment will somehow produce for the world a harmonious and successful whole without anyone ever planning this end. The reason environmental problems tend to induce such despair in conscientious people is precisely because they don't really bend much for individual virtue, and because the recommendations handed down often seem to be variations on "erase yourself": Have one fewer child, or none; don't drive a car, or travel. But I wonder if we can think about the world as something we are all responsible for without simply exalting our own guilt; if we can accept interdependence without believing it comes at the cost of striving for goodness.

Much like "Omelas," *The Second Body* pushes me to ask why we can only tell a story about how human connection with each other and with the rest of the world inevitably involves cruelty and exploitation; one in which moral ground can only be sought through individual purity. No one takes the child because it would mean the end of Omelas, and ending Omelas would introduce the people in that shining city to the idea of *guilt*. No one who walks away has the idea that perhaps an altogether different kind of city could be built. They simply want to extract themselves.

But of course, we don't really have the option of extracting ourselves. Even if you took up residence in a spaceship far away, the world would still be the world, and people would still be stuck working with and developing interdependence. And while Hildyard finds a beautiful image in the extreme interdependence of bacteria, which become "fatally dependent on their neighbours," on the human level, it's slightly harder to imagine what this might look like. (Not that we *really* understand what it looks like to bacteria either.)

Hildyard's notion of the second body is a dramatic way of making big, systemic problems concrete: Here's how you are involved, or might be involved, in each thing happening in the world, a kind of environmental Laplace's demon. Perhaps, as she suggests, there is nothing that happens that you aren't a part of. But if we are to see how we all need each other, we need a story that goes further than talking about how we harm each other. The idea of my second body is a useful provocation. But I wish it could have been more than that. ♦

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BY SEBASTIAN GORKA, OPINION CONTRIBUTOR — 07/03/18 02:05 PM EDT
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Donald Trump understands power.

When I served as his strategist, I never asked him if he had read Thucydides' "The History of the Peloponnesian War." But even if he hasn't, it doesn't matter, because he understands its main lesson utterly instinctually.

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