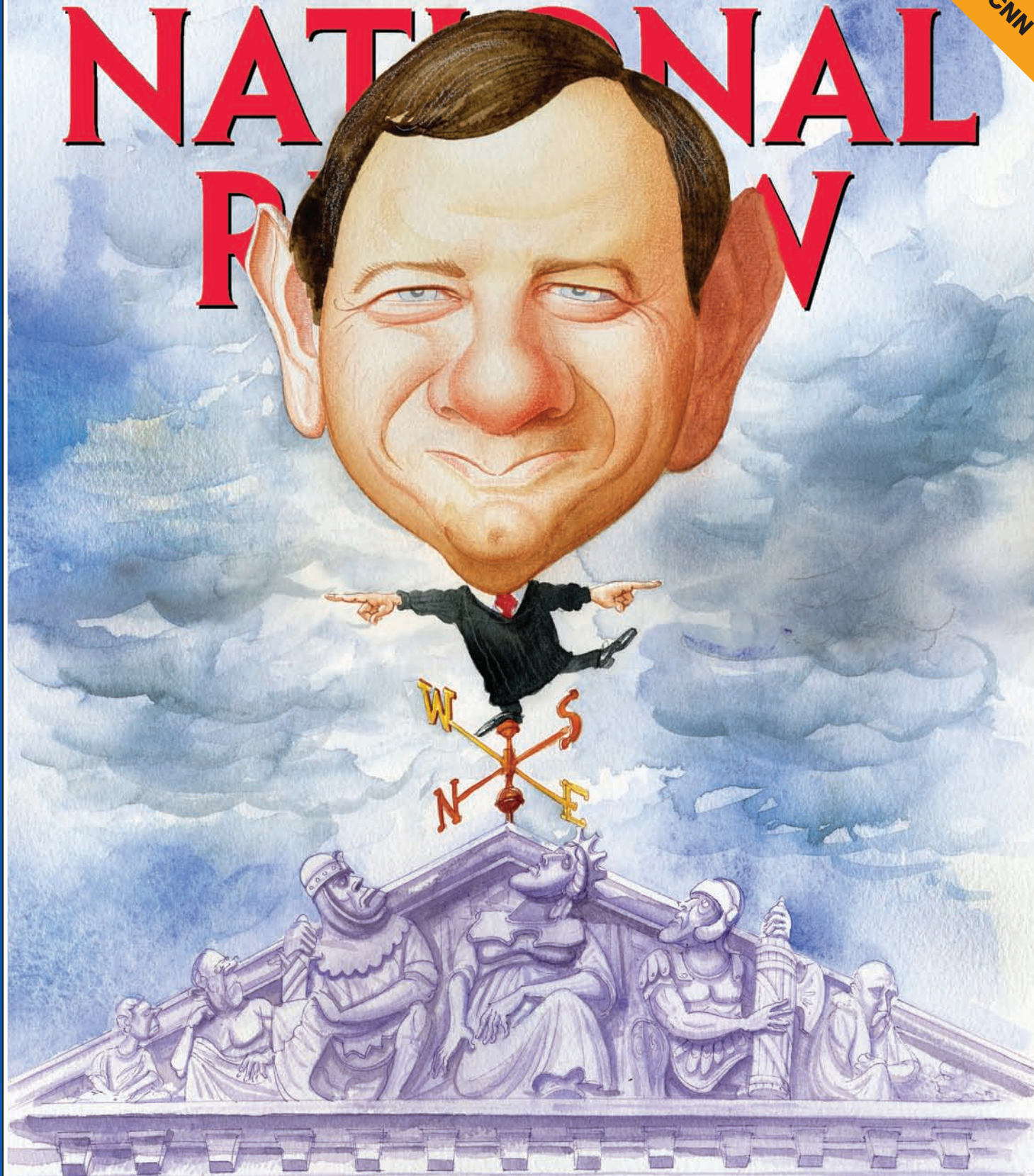


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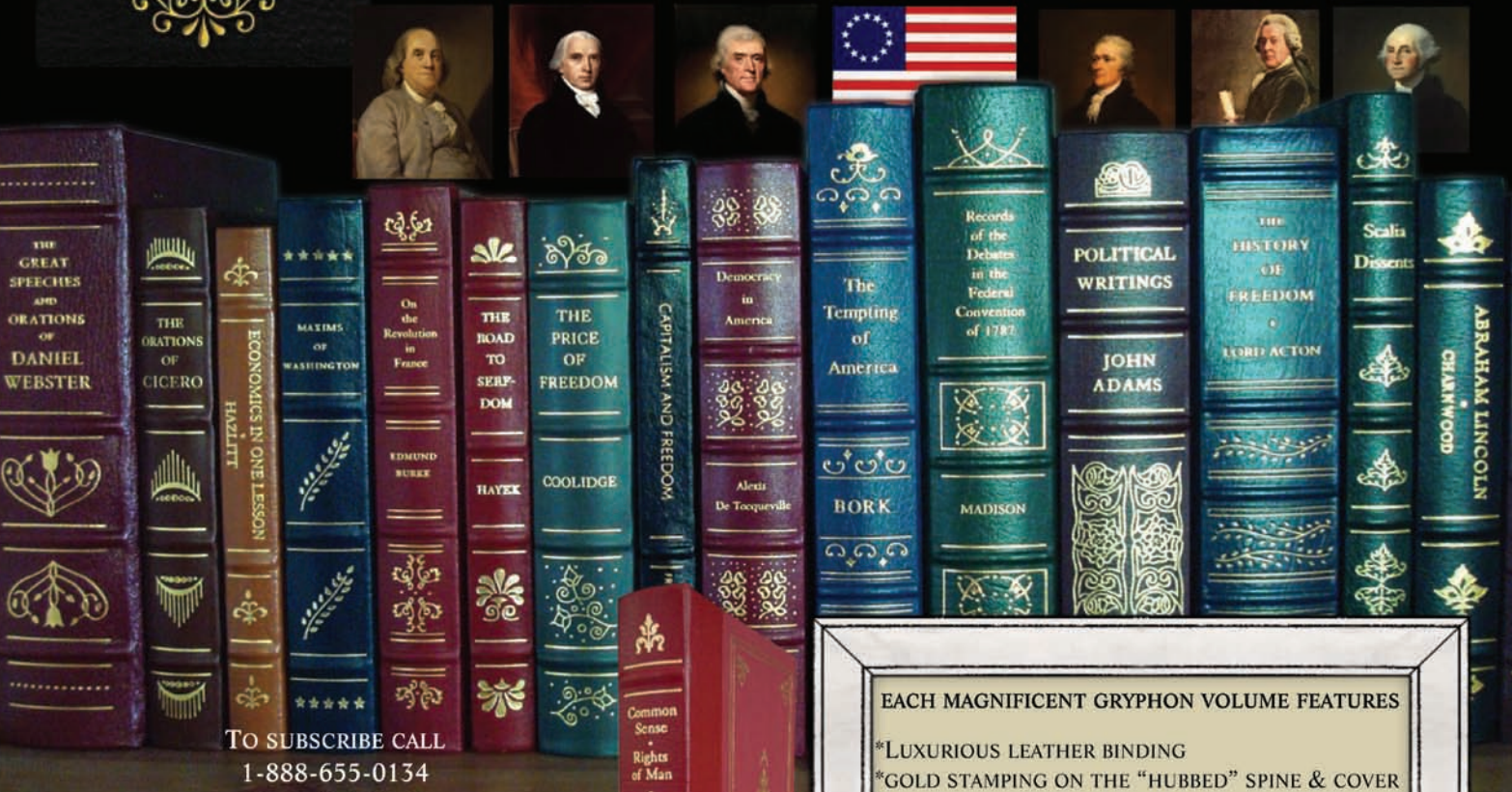


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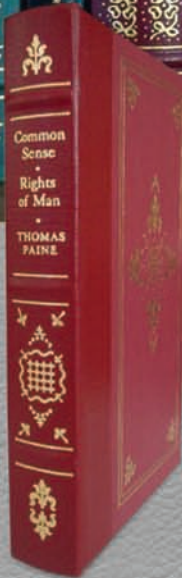
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The Supreme Court's ruling in *NFIB v. Sebelius* was disheartening. But despair is unwarranted. The negative consequences of the ruling for constitutional interpretation are actually quite limited, and there is much in it upon which to build. *Jonathan H. Adler & Nathaniel Stewart*



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Is Nominal-Income Targeting Effective?

In “Monetary Regime Change” (June 11), David Beckwith and Ramesh Ponnuru suggest that the Federal Reserve should adopt a target for nominal-income growth of 5 percent per annum. An imperfect but informative medical analogy would be trying to cure cancer by making your target some magical increase in life expectancy.

The past three years have demonstrated the futility of the recommended approach, since nominal-income targeting has been the implicit objective of Federal Reserve policy. The authors state, correctly, that nominal-GDP growth has averaged 5 percent per annum over the past quarter-century. However, the high level of variation in that statistic (a standard deviation of 2.1 percent) is far more revealing. Nominal-GDP growth plunged from 8.5 percent in the first quarter of 1989 to 2.8 percent in the second quarter of 1991, from 7.5 percent in the second quarter of 2000 to 2.4 percent in the fourth quarter of 2001, and from 6.6 percent in the second quarter of 2006 to -3.9 percent in the second quarter of 2009.

The levers of monetary policy are the administratively determined discount rate and the federal-funds rate. If these tools could achieve the Holy Grail of 5 percent nominal-GDP growth, the past three years of aggressive Fed policy would have succeeded. Total banking reserves have exploded by 79.9 percent, which has produced increases of 39.4 percent in the narrow M1 money supply, 17.8 percent in the broader M2, and 22.2 percent in paper currency in public circulation. Nominal-GDP growth has lagged not because of a penurious monetary policy but because of a nearly unprecedented drop in money velocity. The root causes of this are structural as well as secular, and they include some concerns that the authors mention.

As every conservative knows, “the fault, dear Brutus, is not in our stars, but in ourselves, that we are underlings.”

*Stephen Delos Wilson
Springfield, Tenn.*

THE AUTHORS REPLY: During the Great Moderation, central banks followed no explicit rule to stabilize nominal income. They nevertheless stabilized it better than they had done in the decades prior or have done during the recent economic crisis and weak recovery. To the extent they failed to stabilize it—as, Mr. Wilson reminds us, they failed in 1989–1990 and 2000–01—the results were bad. This history makes us think that central banks should adopt an explicit policy of stabilizing nominal income.

The money supply has indeed risen since the start of the crisis, but it has not risen as much as the demand for money balances. Contrary to Mr. Wilson’s supposition, central banks have influence over this demand. Had the market expected the Federal Reserve to expand supply to meet any rise in demand, demand would not have risen so far in the first place. We would thus probably have a lower money supply if the Fed had adopted a “looser” policy. Nominal-income targeting would work in large part by stabilizing the demand for money.

We agree that the economy has structural problems. In the National Federation of Independent Business’s survey of small businesses, however, the top complaint is not poor labor quality, bad tax laws, or onerous regulations. It’s lack of sales.

Letters may be submitted by e-mail to letters@nationalreview.com.

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The Week

■ At this rate, the population of Charlotte might actually drop during the Democratic convention.

■ Each month since mid-spring has brought another depressing jobs number. The economy gained 80,000 jobs, and the unemployment rate stayed at 8.2 percent. An Obama aide said that too much should not be read into one month's data. True: Too bad we have had so many more months than one. While the oddsmakers are still giving Obama the edge in the election, this ought to be a winnable race.

■ Governor Romney is doing pretty well even as a growing number of conservatives carp about his strategy. After winning the primaries, he consolidated Republican support faster than some people expected. He has raised a lot of money: more than Obama in June. Both of those developments testify to the continued enthusiasm of conservatives for Obama's ejection. Polls continue to show Romney behind, but only modestly. The carpers nonetheless have a point. The Romney campaign's message that Obama has failed is fine for now. At some point, though, Romney will have to make the case that he would do better. And not just on the economy: The public expects a president to be able to handle a wide range of issues. If Romney ever feels tempted to complacency, he should consider the examples of two other politicians from his state. Michael Dukakis and John Kerry had some pretty good months after wrapping up their nominations too.

■ The president can now cite empirical evidence that he has fulfilled at least half his pledge of "hope and change." Sixty-eight percent of likely voters, according to a poll by the *Hill* newspaper, believe that Barack Obama has "significantly changed America." Unfortunately, 56 percent of that group think he has altered America for the worse. Just 35 percent of them think he has changed the country for the better. Americans seem to feel better off when Barack Obama doesn't keep his promises than when he does.

■ President Obama must be defeated, says Roberto Mangabeira Unger, one of his former law professors and an informal adviser to his 2008 campaign. Unger thinks that the president "has failed to advance the progressive cause in the United States" and that he must lose his reelection bid in order for "the voice of democratic prophecy to speak once again in American life." With the buzzword "progressive," Unger establishes that he's attacking from the left, and with the phrase "democratic prophecy," he invites us to hear in his message whatever we want. Taking him up on that offer, we note that some of the chords Unger sounds are sadly agreeable to conservative ears. For example: Obama "has subordinated the broadening of economic and educational opportunity to the important but secondary issue of access to health care." Has Professor Unger been reading NATIONAL REVIEW?



■ Having trouble finding the perfect gift for your friends' upcoming wedding? Not to fear, the Obama reelection team has a grand idea. BarackObama.com has a new item, "the Obama event registry," which tells supporters, "Got a birthday, anniversary, or wedding coming up? Let your friends know how important this election is to you—register with Obama 2012, and ask for a donation in lieu of a gift. . . . It's a gift that we can all appreciate—and goes a lot further than a gravy bowl." "Not if you love gravy, it doesn't," Jimmy Kimmel chimed in. Sure, it's less practical than a new toaster, but just think of how many milliseconds of airtime the Obama campaign will be able to purchase thanks to your donation. Or better yet, buy the newlyweds comfortable shoes for walking to the unemployment office.

■ Two guests at a gay-pride reception at the Obama White House posted shots of themselves on Facebook, flipping the bird in front of Ronald Reagan's portrait. "F*** Reagan," explained flipper Matthew Hart. "Ronald Reagan has blood on his hands. The man was in the White House as AIDS exploded." This is the distilled infantilism of the Left: Actions have no consequences, except those of the government, which should be devoted to forestalling every emergency and immediately fulfilling every need. In the Gay Moment, gays must present themselves as the most victimized (Jim Crow and Let My People Go are so *Sixties*). Entitlement, fustian, undigested pain, and undirected rage: What charming friends the Obama White House has.

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■ Barack Obama managed to twice embarrass himself, first with a risibly xenophobic tirade against the Chinese on the subject of “outsourcing,” then by demonstrating that he does not know what the word “outsourcing” means. At issue is a *Washington Post* story, subsequently criticized by the newspaper’s ombudsman, that attempted to depict Mitt Romney and his Bain colleagues as scourges of the American worker, moving jobs overseas to low-wage hellholes as fast as their loafers could take them. The Romney camp pointed out that, among other things, the story failed to distinguish between “outsourcing”—contracting services to outside firms—and “offshoring”—shifting operations overseas. Obama scoffed that Romney was dodging the issue “by telling us that there was a difference between ‘outsourcing’ and ‘offshoring.’ Seriously. You can’t make that up.” But you wouldn’t have to make that up, since the words do not mean the same thing. Perhaps the president missed that day in commercial law at Harvard. Meanwhile, Bain seems to be guilty of exploiting low wages and inhumane working conditions by investing in such Third

Mexican gangs to purchase American guns and walk away with them. Everyone, that is, except *Fortune* magazine, which recently published the results of an intensive investigation. *Fortune*’s conclusion, based largely on off-the-record interviews: The Bureau of Alcohol, Tobacco, Firearms, and Explosives didn’t really let guns “walk”; what happened is that prosecutors, thanks to lax gun laws, weren’t able to give the go-ahead to seize the firearms. The story contradicts much of the available evidence. According to leaked e-mails, Justice Department officials explicitly discussed the number of guns that had “walked” during *Fast and Furious*, and the ATF asked at least one gun-store owner to continue making sales that made him uncomfortable. The *Fortune* narrative also can’t explain the Obama administration’s behavior: Last year, the Justice Department retracted a previous statement that there was no gun-walking, and the administration has been doing its best to impede a congressional investigation of *Fast and Furious*. Most recently, the president invoked executive privilege to keep some documents away from investigators. We’re still

Obama doesn’t seem to understand how business operates; unfortunately for him, **business knows** quite a bit about how Obama operates.

World misery pits as France, Ireland, and Australia, often for the purpose of helping firms increase their exports to those countries. Obama doesn’t seem to understand how business operates; unfortunately for him, business knows quite a bit about how Obama operates.

■ Incumbent and candidate Democratic politicians have started announcing in surprising numbers that they will skip the Democratic National Convention (some Republicans are eschewing their own convention, but far fewer). One congressman and one senator from West Virginia will be absent, as well as that state’s governor, Senator Claire McCaskill of Missouri, and five other sitting congressmen. Barack Obama’s halo has become a millstone.

■ The Catholic bishops of the United States held a “fortnight for freedom” starting with the feasts of martyrs Thomas More and John Fisher and ending with Independence Day. This schedule drew a line from the cross to the flag, reminding us that a great glory of our government is its protection of religious freedom. It reminded us, as well, that religious freedom is under threat in this election year. The president, as part of his reelection campaign, has decided that for the first time in American history employers should be forced to provide services they consider morally objectionable, such as abortion drugs. Even most religious employers are being ordered to comply. The bishops have said that Catholic charities should close their doors rather than obey. They are not telling anyone for whom to vote. They are forming consciences, and seeking to protect their right to do so.

■ There’s much debate about the details, but virtually everyone agrees that *Fast and Furious* was a deeply flawed operation in which U.S. law-enforcement agents deliberately allowed

waiting for a credible explanation of how *Fast and Furious* happened—but it did, indeed, happen.

■ In the U.S., Border Patrol agent Brian Terry has been the face of *Fast and Furious*—it was at the scene of Terry’s murder that two *Fast and Furious* guns were found, igniting the controversy. But as Deroy Murdock pointed out in a recent NRO column, we shouldn’t forget the victims south of the border, either. Mexico’s former attorney general estimates that 300 citizens have already been killed or injured by the roughly 2,000 guns that “walked.” Victims have included the brother of a Mexican state attorney general and three officers of the Mexican Federal Police. *Fast and Furious* guns were also tied to a plan to assassinate the police chief of Baja California. The operation’s guns will be turning up at Mexican crime scenes for years, and the American officials responsible should be held accountable.

■ Conservatives had mixed reactions to the Supreme Court’s decision on Arizona’s immigration law, depending on whether they considered its impact on immigration policy or on constitutional law. By affirming several portions of the Arizona statute, the Court enabled states to take effective action against illegal immigration. The provisions it nullified were comparatively unimportant. The Court went out of its way, however, to say that it reserved the right to revisit the law once it can see how it is being enforced. Worse, it invalidated parts of the law even though they were consistent with the Constitution and federal law, on the ground that they were inconsistent with the Obama administration’s stated preferences on how to enforce the immigration laws. As Justice Scalia commented in his own opinion, the Constitution would never have been ratified had the public of the 1790s conceived it would so neuter the states. The state of Arizona has been treated in

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the press as though it were a rogue state. All along, its offense has been showing too much respect for the rule of law. Neither the executive nor the judicial branch of the federal government is guilty of that.

■ The Supreme Court also decided that legislatures may not draw up criminal codes that require juvenile murderers to receive life sentences without the possibility of parole. So, for example, the legislature may not say that juvenile murderers may be tried as adults, say further that certain types of murderers convicted as adults must have life sentences, and thus require some juveniles to get those sentences. Although 28 states and the federal government have such legislative schemes, the Court ruled that they

amount to “cruel and unusual punishment” and violate the Constitution. The Court will still allow the nation’s judges and juries to issue life sentences without parole to juveniles—but it says that it expects such sentences to be “uncommon.” Another word for “uncommon” is, of course, “unusual,” just in case anyone doubts where this train is headed.

■ California, home of the little deuce coupe and the girl who’ll have fun, fun, fun ’til her daddy takes the T-Bird away, is the birthplace of car culture. Naturally, Governor Jerry Brown and state Democrats are proposing to spend some \$68 billion from the budget-busted state’s coffers to build a high-speed train connecting Los Angeles with San Francisco, apparently never

Business vs. Markets

A RECENT Associated Press headline brings intriguing news: “Conservatives make it rough for business.”

Donna Cassata reports that various business groups had a tougher-than-expected time renewing authorization for the corporatist carbuncle known as the Export-Import Bank. “Congress had reaffirmed the independent federal agency some two dozen times since its creation in 1934,” she writes. “But this year it took months of pleas, briefings and negotiations to overcome conservative opposition.”

So what is the Right’s latest ideological obsession? Has the Ex-Im been paying for lesbian birth control?

No, the conservatives are caught up in an even deeper dogmatic quagmire. Cassata explains: “They and their ideological leaders argue that the marketplace should dictate what businesses thrive and falter, not Washington.”

Sweet fancy Moses! What’s next? Will conservatives come out in favor of bears doing their bathroom business in the woods without government oversight? Will the market fundamentalists soon argue that children eat candy for the sweet, sweet taste? Is there no end to their ideological madness?

Sarcasm aside, the depressing—or encouraging—thing about Cassata’s report is that it is in fact *news*. For far, far, far too long, Republicans have preferred being pro-business to being pro-market. To be sure, they were always more ideologically constrained than the corporatists of the Democratic party, who, since the Progressive era, have seen nothing wrong with using big business as government-by-proxy. But that’s an awfully low bar. Saying you’re more capitalistic than

the Democrats is like saying you’re sexier than David Axelrod.

Conservatives—and especially libertarians, but also some leftists—have been building the case against corporatism for a very long time. But what has prompted this new aversion to it has less to do with the force of those arguments than with the power of example. President Obama is easily the most corporatist president since FDR. He bought a couple of car companies. His health-care law turns insurance companies into utilities. He increasingly speaks the language of economic nationalism used by the two Roosevelts.

It’s far too soon to tell if the opponents of “crony capitalism” will capture the commanding heights of the Republican party, never mind the country. After all, the Ex-Im Bank ultimately got its reauthorization. Still, the trend is encouraging.

What will be intriguing to watch is the way the mainstream media and establishment institutions respond to this growing philosophical consistency on the right. My very strong hunch is that they will decry it as another example of “polarization” and the end of compromise. The old bipartisan consensus around a bad idea will be seen through the gauzy lens of nostalgia, while the new partisan disagreement over a good idea will be greeted with fear. And the Democrats will of course take the position that they aren’t ideologically committed to corporatism, it’s just a coincidence that at this particular moment it makes enormous sense for Washington to dictate which businesses thrive or falter.

But it is always that particular moment for those who like dictating from Washington.

—JONAH GOLDBERG



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having heard of the Wright brothers and their newfangled aeroplanes. The Obama administration has offered more generous help funding a high-speed train in California, on the condition that the first segment connect Bakersfield and Madera. (Really.) California is setting itself up for an old-fashioned fiscal fiasco: The legislature has committed to the first \$4.6 billion in bonds, but voters in a November referendum are likely to reject the tax increase Governor Brown helped secure to pay for them, meaning that the state would be forced to make cuts in real services in order to fund a pointless train that replicates faster air travel and that will under the best-case scenario not carry a single passenger between L.A. and San Francisco for more than a decade. (We'd bet against on-time-and-under-budget in this case.) Liberals have a peculiar affection for trains that mirrors their cultural disdain for cars and the freewheeling culture associated with them: Central planners love a train because they get to tell you where to go. We hope Californians will do the same with this project.

■ David Blankenhorn was among the chroniclers of the wages of, as the title of a book of his called it, fatherless America. His concern for the future of the family led him to oppose same-sex marriage. He testified for the defense in the trial of Californians' right to codify the definition of marriage as the union of a man and a woman. In the *New York Times*, Blankenhorn announced that while he does not recant his views, he is quitting the fight. He cited the need for comity, the dignity of gay people, and the "emerging consensus" of "national elites" and "most younger Americans" as reasons for his "accepting" the redefinition of marriage. He expresses the hope, although he does not place a bet on it, that his withdrawal will enable him more effectively to make the case that people should marry before having children. None of these arguments really stand up. The triumph of same-sex marriage would lead not to comity, for example, but to new assaults on the rights of dissenters. We certainly share his hopes about illegitimacy, and wish they did not rest on the theory that young people can best be persuaded by elders who lack both a coherent argument and the courage of their convictions.

■ Bankers continue to be collectively committed to proving Willi Schlamm's axiom that the problem with capitalism is capitalists, with the latest being Barclays' attempts to manipulate interest rates to pad its book and bolster its position. Other banks also are under investigation. At issue is the abuse of the London Interbank Offered Rate (LIBOR), an index interest rate calculated from banks' estimates of what it would cost them to borrow from

another bank on any particular day. The LIBOR scandal is in fact two scandals: First, Barclays appears to have submitted false reports, and pressured others to do so, in order to improve its derivatives-trading profits from day to day. Second, Barclays appears to have lowballed its borrowing-cost estimates in order to appear to be in a stronger credit



position than it was. Communication between Barclays and its regulators suggests that the latter knew the bank was up to shenanigans; when a Barclays representative told a regulator, "We're clean, but we're dirty-clean, rather than clean-clean," the regulator's response was: "No one's clean-clean." As indeed it seems nobody is: Derivatives trading is a zero-sum game, and Barclays does not appear to have been alone in trying to manipulate the LIBOR for the benefit of its book. Regulators have known for years that banks were understating their borrowing costs in LIBOR estimates: During the crisis, banks on the verge of collapse were reporting lower rates than those that were flush with liquidity. Naughty bankers, feckless regulators: Little has changed since the financial crisis.

■ The power struggle currently in progress between the Egyptian army and the Muslim Brothers pits secular and Islamist values against one another with the Middle East at stake. The moves and countermoves are as carefully calculated as in chess. Mohammed Morsi is one of the more guarded Muslim Brothers, and recent elections gave him the presidency and a parliament with an Islamist majority. In self-protection, the army thereupon found fault with the election and closed the parliament. Morsi has summoned it to meet all the same. Both sides claim constitutional rights and are making plays to have the judiciary decide in their favor and then lay hands on the legislature and the executive. One or another of them will be checkmated. For reasons that are not clear, the United States is supporting the Muslim Brothers, representing Islamism as part of the transition to democracy. In this spirit of self-delusion, President Obama has invited President Morsi to visit in the fall—if by then the army has not hobbled him and a lot more Muslim Brothers, which right now seems the likely course.

■ Morsi thrilled fellow Islamists when, immediately upon being elected, he vowed to pressure the United States for the release of Omar Abdel Rahman. The "Blind Sheikh" is serving a life sentence for leading a terrorist war against the United States that included the 1993 World Trade Center bombing and a plot to bomb various New York City landmarks. He also schemed to murder now-ousted Egyptian president Hosni Mubarak. Rahman is the emir of the Islamic Group (IG), which orchestrated the 1981 assassination of Egyptian president Anwar Sadat and has been agitating for Rahman's release for almost 20 years—often in barbarous ways, such as the 1997 Luxor massacre, in which dozens of Western tourists were killed and leaflets demanding Rahman's release left behind. In the new Egypt, IG is one of the Salafist "political parties" in the Muslim Brotherhood's ruling coalition. Though its formal designation as a terrorist organization makes assisting IG a crime, the Obama administration recently issued one of its officials a visa to come to Washington for consultations. Is it any wonder that Morsi sees an opening here? Expect no action on Rahman before the U.S. election. Afterwards . . . ?

■ Kofi Annan had no chance at all of halting the civil war in Syria on behalf of the United Nations. He had nothing to offer Bashar Assad except stepping down, exile, probable arrest, and danger to his life. A proposal for a truce with the rebels amounted to an appeal to Assad's better nature, something that surely doesn't exist. Annan had six points to discuss with Assad, as though he

were one bureaucrat talking to another. Proposals for ceasefires coincided with reports of large-scale massacres. In the absence of leadership, the 300 blue-beret observers chose to stay in their hotels. The final disaster was Annan's visit to Tehran to discuss his peace plan with the very people determined to have civil war at all costs. Could anything be more ill-conceived, more designed to humiliate the United Nations? Why, yes: At this very moment Syria is in the running for a seat on the U.N. Human Rights Council.

■ Libya is the latest Arab country to have had an election, and it's gone surprisingly well considering what a complicated business it is to start life after Moammar Qaddafi. The vote has been for a National Congress of 200 seats, 80 of them for political parties, 120 for independents. This Congress or parliament will be drafting the constitution. That's all very well in theory, but in practice the country is fragmented, tribal, and potentially violent. The 150 or so political parties that have formed are little more than militias gathered around someone who wants power. Islam alone is common to all, so the election seemed likely to be another step in the triumphal march of the Muslim Brothers through the region. That this did not happen is due to Mahmoud Jibril, an American-educated political scientist from the University of Pittsburgh and a former prime minister in Libya. His skill was to unite as many as a third of the political parties into a coalition that became the majority, at the same time presenting himself as every bit as good a Muslim as his Islamist rivals. He favors sharia, or Islamic law, for instance, and made a point of being seen praying five times a day, as the faith requires. According to the small print, former prime ministers are not permitted to hold office again. Nobody knows who the 120 independent members of the future National Congress will be or how they will be selected. There's still plenty of room for trouble, but a good start has been made.

■ Mexicans elected Enrique Peña Nieto, a sleek and reticent 45-year-old, president. Peña Nieto, candidate of the Institutional Revolutionary Party (PRI), beat Andrés Manuel López Obrador to his left and Josefina Vázquez Mota to his right. PRI was the mummified corpse of the Mexican revolution, a corrupt oligarchy that perpetuated itself via rigged plebiscites for over 70 years until its grip was broken in 2000 by the National Action Party (PAN), which stood for economic and religious liberty (PRI was rigidly anti-clerical). PAN's economic promises were mostly unfulfilled, as Mexico continued to offload its poor and its problems northwards. What got much worse under two PAN presidents was drug violence, as northern Mexico became a Cormac McCarthy novel. Washington waits to see whether Peña Nieto will continue the war on the cartels; maybe we could help our troubled neighbor to the south, and ourselves, by reexamining our drug policies.

■ One perk of being president of China is that you don't get asked pesky questions by reporters. But Hu Jintao faced such a question when he visited Hong Kong, a "semiautonomous" city: Rex Hon of Hong Kong's *Apple Daily News* asked him a question about Tiananmen Square. Hu did not answer, and may not have heard. The journalist was held briefly afterward. According to Beijing's agreement with London, Hong Kong is supposed to have a degree of autonomy and freedom until 2047 (50 years after the "handover"). Ask your questions while you can!

■ Last year, the British government had Queen Elizabeth go to Ireland, making her the first monarch to visit that land since Irish independence in 1922. The queen, never putting a foot wrong, made a total success of it. This year, the government had her do something probably more difficult: shake the hand of Martin McGuinness. Who's he? He is the deputy first minister of Northern Ireland's provincial government. More important, he was a commander of the IRA—the group that, among other black deeds, blew up Louis Mountbatten as he was at leisure on his fishing boat. He was a beloved cousin of the queen. The IRA killed four others in that act, including two teenagers, one of them Mountbatten's grandson. There has since been peace in Northern Ireland: peace and reconciliation. Thirty years ago, George Will said there were two intractable problems in the world: the Arab-Israeli conflict and Northern Ireland. The latter problem appears to have been cracked. The queen smiled warmly, even gaily, as she met with McGuinness. The rest of us might as well smile too, or at least not object too strenuously—even as we would have understood if, with the other hand, the queen had held her nose.



■ In tiny Liechtenstein (pop. 36,000), Crown Prince Alois von und zu Liechtenstein said last year that if the citizens voted, in a referendum, to legalize abortion, he would veto the measure. Activists responded by scheduling a referendum on whether the crown prince should be stripped of his veto power. The vote was held on July 1, and the people spoke: Seventy-six percent voted to let the prince keep the veto power. The procedural mechanics of a political system are an open issue for debate, and have been for millennia. But more important than the procedures is the character of the people and the responsiveness of the government. It appears that in Liechtenstein, more than in many procedural democracies, there is government with the genuine consent of the governed.

■ Representative Barney Frank and his companion, Jim Ready, entered a "marriage." Officiating at the ceremony was Massachusetts governor Deval Patrick. Somewhere, former governors John Winthrop and James Michael Curley put aside their religious and, er, ethical differences, and asked: Wassup with that?

■ CNN anchor Anderson Cooper says he's gay. And America shrugs. As for his public silence on the subject up to now, Cooper explains that his job is to tell other people's stories, not his own. But this story is his. From the non-reaction to it, we might generalize about the acceptance of gay people in American society. In the past 40 years, we've made progress. Note, though, that social conservatives maintain a distinction in this regard. The ability to smile on gay people but not on homosexuality is an emotional and intellectual achievement. Not all are capable of it. Those who aren't cast aspersions on those who are. It's part of the culture war. Take sides, if you wish, and beware the combatant posing as a journalist, but spare the journalist who's there only to do his job, which is to tell other people's stories.

■ We join the world in mourning the death of Lonesome George, the Galapagos Islands tortoise who served as a quietly charismatic symbol for Ecuador's tourist industry. At age 100 or so, George was not particularly elderly; tortoises tend to be long-lived, which means his grandparents could have known Darwin personally. George was the last surviving member of the Pinta Island subspecies, and, like many aging bachelors, he was forever beset by matchmakers, who sought to hook him up with a female from a similar subspecies and thus carry on (at least halfway) the Pinta lineage. George responded with indifference, shunning most of the chelonian cuties proffered to him; his few successful couplings produced no fertile eggs. Once you get past 50, evidently, it isn't worth the effort, particularly when your beloved is protected by an impenetrable shell. (We know the feeling.) The dictionary defines tortoiseshell as "a horny substance," but what do they know? In any case, we hope Lonesome George is now settling in nicely in Tortoise Heaven—which cannot be much of an improvement on the Galapagos—and for his sake, we hope he has been given the option of declining the standard 72 virgins.

■ Thanks to the efforts of the North Dakota state government, supreme court, and state board of higher education—was anybody in North Dakota *not* involved in this?—as well as the NCAA and the Spirit Lake Committee for Understanding and Respect, another Native American–inspired mascot went the way of the buffalo. The University of North Dakota Fighting Sioux are no more. Even though the athletics logo was designed by an artist of Ojibwa ancestry and bestowed on the team at a Sioux pipe ceremony in 1969, the school faced sanctions from the NCAA and boycotts from some of its rivals, who held that the symbol was prejudicial and offensive. Many of the logo's supporters abandoned their last stand because of a simple cost-benefit analysis, though: Resolving the controversy cost taxpayers \$46,000, and carrying on would have been even more expensive. So North Dakotans voted to retire the symbol, and from this day forward, the Sioux shall fight no more.

■ Physicists finally seem to have found the Higgs particle, the existence of which their theories had long predicted. You may have read references to it as "the God particle." Physicist Leon Lederman originally wanted to call it "the goddamn particle" in a book, because it was so maddeningly elusive. His publishers made an amendment. The particle has no more theological significance than its peers; just better marketing.

■ Ease of living and the stupid Cyclops eye of media meteorologists have turned Americans into weather wimps. The wimpiest live in Washington, D.C., and environs. In a continental nation subject to hurricanes, tornadoes, droughts, floods, blizzards, and heat waves, the least jog out of the normal—a few flakes of snow, for instance—shuts the nation's capital down. Recent high winds—with a fancy Spanish name (*derecho*), like a cheap sports car—caused real havoc, but were treated like the end of the world. The wind's force multiplier was the local utility, Potomac Electric Power Company (Pepco), which was a day late and a dollar short in clean-up. There was ample power, though, for handwringing, some of it coming from conservatives (Farewell? A long farewell to all my greatness!). Here's a suggestion: Next time there is a spot of bad weather, could everybody just do his job, and suck it up?



■ Roger Federer has won his seventh Wimbledon. If he's not the best tennis player ever, he has few challengers. He is, indeed, one of the best athletes ever. Writers on both sides of the Atlantic have been quoting David Foster Wallace, the late American novelist: "Roger Federer is one of those rare, preternatural athletes who appear to be exempt, at least in part, from certain physical laws." He is "a type that one could call genius, or mutant, or

avatar. He is never hurried or off-balance. The approaching ball hangs, for him, a split-second longer than it ought to. . . . Like Ali, Jordan, Maradona, and Gretzky, he seems both less and more substantial than the men he faces. Particularly in the all-white that Wimbledon enjoys getting away with still requiring, he looks like what he may well (I think) be: a creature whose body is both flesh and, somehow, light." Pretentious claptrap, of the kind all too often written about sports—until you actually see Federer.

■ There are very few things on which all economists can agree. One of them is the greatness of Anna Jacobson Schwartz, an economist with the National Bureau of Economic Research and the co-author with Milton Friedman of *A Monetary History of the United States, 1867–1960*. Paul Krugman has called her "one of the world's greatest monetary scholars," and Ben Bernanke considers himself a disciple of both Friedman and Schwartz. She was considered the "high priestess of monetarism," and her work with Friedman rocked the economics profession. They demonstrated that the Federal Reserve's contractionary policies in the late 1920s and early 1930s turned what would have been a normal recession into the Great Depression, and they argued forcefully that growth in the money supply is a main cause of inflation. Both points, ridiculed when first presented, are now standard explanations that economists take for granted. Schwartz did not slow down in her later years, either. She was a fierce critic of Bernanke's handling of monetary policy, arguing that the cause of the present economic crisis was not a lack of liquidity, but a lack of information regarding which firms were truly solvent. Schwartz, who remained sharp well into her 90s, is survived by her four children, seven grandchildren, and six great-grandchildren. Another wonderful legacy. R.I.P.

■ Starting in the 1950s, Andy Griffith's career trajectory paralleled that of the South. His first national attention came with a comic monologue about a hillbilly preacher at a football game; he then played a series of cornpone roles on stage, screen, and television, most memorably as a deceptively folksy country singer in *A Face in the Crowd*. Griffith weathered the turbulent 1960s as Sheriff Andy Taylor, an island of calm and reason surrounded by zany white people in rural Mayberry, N.C., and two decades later he completed the Li'l Abner-to-Jeff Foxworthy transition with *Matlock*, in which he played a Harvard-educated lawyer living in the Atlanta suburbs. Most recently, he made a commercial promoting big-government health care on behalf of

America's first black president. Yet Griffith remained keenly aware of the difference between television and life, which was why he wisely turned down an offer to run for Senate against Jesse Helms in 1990. Dead at 86, R.I.P. (and R.F.D.).

■ Who better defined the tininess of late-20th-century Manhattan: Woody Allen or Nora Ephron? Since Allen discovered Europe in his old age, the answer has to be Ephron. She was a Jewish feminist liberal New Yorker, of a generation that equated all four terms. The last decades of her life were devoted to writing and directing movie fluff; the lines she wrote for Meg Ryan's deli scene in *When Harry Met Sally* ("Yes") made a splash at the time, but have been inundated by later rom-com raunch. Her essays, however, find a real vein of humor, within their postage-stamp dimensions. Dead at 71. R.I.P.

OBAMACARE

Chief Justice Roberts's Folly

THE paradox of the Obamacare decision is that a majority of the Supreme Court actually got the Constitution mostly right. The Commerce Clause—the part of the Constitution that grants Congress the authority to regulate commerce among the states—does not authorize the federal government to force Americans to buy health insurance. The Court, by a 5–4 margin, refused to join all the august legal experts who insisted that of course it granted that authorization, that only yahoos and Republican partisans could possibly doubt it. It then upheld Obamacare anyway, arguing that the mandate could be read to be merely a tax on not buying insurance.

What the Court has done is not so much to declare the mandate constitutional as to declare that it is not a mandate at all, any more than the mortgage-interest deduction in the tax code is a mandate to buy a house. Congress would almost surely have been within its constitutional powers to tax the uninsured more than the insured. Very few people doubt that it could, for example, create a tax credit for the purchase of insurance, which would have precisely that effect. But Obamacare, as written, does more than that. The law repeatedly speaks in terms of a "requirement" to buy insurance, it says that individuals "shall" buy it, and it levies a "penalty" on those who refuse. As the conservative dissent points out, these are the hallmarks of a "regulatory penalty, not a tax."

The law as written also cuts off all federal Medicaid funds for states that decline to expand the program in the ways the lawmakers sought. A majority of the Court, including two of the liberals, found this cut-off unconstitutionally coercive on the states. The Court's solution was not to invalidate the law or the Medicaid expansion, but to rule that only the extra federal funds devoted to the expansion could be cut off. As the dissenters rightly point out, this solution rewrites the law—and arbitrarily, since Congress could have avoided the constitutional problem in many other ways.

The dissent acknowledges that if an ambiguous law can be read in a way that renders it constitutional, it should be. It distinguishes, though, between construing a law charitably and rewriting it. The latter is what Chief Justice John Roberts has done. If Roberts believes that this tactic avoids damage to the Constitution because it does not stretch the Commerce Clause to justify a mandate, he is mistaken. The Constitution does not give the

Court the power to rewrite statutes, and Roberts and his colleagues have therefore done violence to it. If the law has been rendered less constitutionally obnoxious, the Court has rendered itself more so. Chief Justice Roberts cannot justly take pride in this legacy.

The Court has failed to do its duty. Conservatives should not follow its example—which is what they would do if they now gave up the fight against Obamacare. The law, as rewritten by judges, remains incompatible with the country's tradition of limited government, the future strength of our health-care system, and the nation's solvency. We are not among those who are convinced that we will be stuck with it forever if the next election goes wrong: The law is also so poorly structured that we think it may well unravel even if put fully into effect. But we would prefer not to take the risk.

It now falls to the Republicans, and especially to Mitt Romney, to make the case for the repeal of the law and for its replacement by something better than either it or the health-care policies that preceded it. Instead of trusting experts to use the federal government's purchasing power to drive efficiency throughout the health sector—the vain hope of Obamacare's Medicare-cutting board—they should replace Medicare with a new system in which individuals have incentives to get value for their dollar. Instead of having Washington establish a cartel for the insurance industry, they should give individuals tax credits and the ability to purchase insurance across state lines. Instead of further centralizing the health-care system, in short, they should give individuals more control over their insurance.

Opponents should take heart: The law remains unpopular. The task of Obamacare's opponents is now to expand and mobilize that public sentiment.





The Line That Held

Why the Commerce Clause ruling matters

BY JONATHAN H. ADLER & NATHANIEL STEWART

THE Supreme Court's ruling in *NFIB v. Sebelius* was disheartening, especially after overturning the mandate seemed within reach.

But despair is unwarranted. The negative consequences of the ruling for constitutional law are actually quite limited, and there is much in it upon which to build.

The constitutional battle was largely a defensive one. The primary challenge to the individual mandate was an effort to prevent further expansion of Congress's already-inflated authority under the Commerce Clause. From the New Deal to 1995, Congress exercised its commerce power without meaningful restraint. Only during the later years of the Rehnquist Court did the justices finally say "Enough," in *United States v. Lopez* (1995) and *Morrison v. United States* (2000). Yet even these decisions did not prevent the Court from upholding the federal government's authority to prohibit simple possession of medical marijuana apart from commercial activity, in *Gonzales v. Raich* (2005).

With the individual mandate, Congress tried to stretch beyond its well-established

authority to regulate "commerce," or even commercial "activity," and control an individual's decision to *abstain* from commerce or commercial activity. Prior Commerce Clause cases had hinged on whether Congress had the authority to regulate a given "class of activity," such as growing wheat (yes) or possessing a gun near a school (no). But regulating *inactivity* was something Congress had never done before.

Since a mandate to make purchases from a private company was unprecedented, the case did not require the Court to revisit its earlier Commerce Clause decisions. The challenge was a rear-guard action, not a frontal assault on existing doctrine. Nevertheless, the stakes were high. The federal government's theory of the Commerce Clause, if adopted by the Court, would have dealt a serious new blow to the principle that the federal government has limited and enumerated powers. In ruling that the mandate was unconstitutional, the Eleventh Circuit had concluded that the government's Commerce Clause theory would "obliterate the boundaries inherent in the system of enumerated congressional powers." A majority of the Supreme Court endorsed this view. Chief Justice Roberts wrote that the government's position "would open a new and potentially vast domain to congressional authority," warning that it would "fundamentally chang[e] the rela-

tion between the citizen and the Federal Government."

The conservative dissenters agreed with the chief justice on this point, observing that the Commerce Clause justification for the mandate "threatens [our constitutional order] because it gives such an expansive meaning to the Commerce Clause that *all* private conduct (including failure to act) becomes subject to federal control, effectively destroying the Constitution's division of governmental powers."

A majority of the Court also rejected the claim that the Necessary and Proper Clause could be used to accomplish what the commerce power alone could not. The Constitution vests Congress with the power "to make all Laws which shall be necessary and proper for carrying into Execution" its other powers, such as the power to regulate interstate commerce. The government argued that the mandate was necessary to offset the effects of the law's other insurance reforms, but neither the chief justice nor the conservative dissenters could accept this view.

Some now worry that the majority opinion closed one door only to open another—that, in upholding the mandate's penalty as a tax, Chief Justice Roberts provided Congress with a new and equally dangerous power. But Roberts did not identify a previously undiscovered power; rather, he shoehorned the mandate into a power Congress already had. Although the mandate was not drafted as a tax, he argued, it functions as one. Congress already imposes higher taxes on those who fail to act as the government wants, largely by granting credits and deductions to those who act as desired. For example, Americans pay more in taxes if they don't pay mortgage interest or give to charity.

But don't take just our word for it. If Roberts's opinion had recognized a new federal power, the conservative dissenters would have pointed this out. But they didn't, and their silence on this point is deafening. The dissenters were unconvinced that the particular mandate Congress enacted constituted a tax, but they didn't deny that a mandate of this sort could be structured in such a way as to fall within Congress's power to tax: "The issue is not whether Congress had the *power* to frame the minimum-coverage provision as a tax, but whether it *did* so."

The dissenters recognized that Congress could have employed any number of means to achieve its regulatory goal of

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reducing insurance premiums and helping insurers remain in business: “For instance, those who did not purchase insurance could be subjected to a surcharge when they do enter the health insurance system. Or they could be denied a full income tax credit given to those who do purchase the insurance.” A “surcharge” is of course a polite term for a tax. We agree with the dissenters that, in enacting Obamacare, Congress did not actually avail itself of its broad authority to tax, and we believe it should be forced to exercise the tax power openly and directly.

More significant than Roberts’s resort to the tax power was the Court’s embrace of justiciable limits on Congress’s so-called spending power—that is, its ability to impose conditions on the receipt of federal funds. In striking down Congress’s attempt to coerce states to accept a dramatic expansion of Medicaid, the Court restrained the spending power for the first time in over 60 years. In *South Dakota v. Dole* (1987), the Court had articulated limits on the conditions Congress could place on a state’s receipt of federal funds, but then failed to enforce them, and only one federal appellate court had ever found these limits meaningful. In *NFIB v. Sebelius*, however, seven justices rejected the notion that Congress has free rein to impose conditions on federal funds. Given how often Congress seeks to use the spending power, the Court’s decision may open a new front in the war to reinvigorate constitutional federalism, and occasion a reexamination of statutes from No Child Left Behind to the Clean Air Act.

As the dust settles, we may begin to see that the legal consequences of the Court’s decision are both more limited and more significant than they may have first appeared. The power to tax is strong, but nothing in the Court’s opinion fundamentally expands its inherent dangers. The Commerce Clause has been stretched beyond anything that the Founders would recognize, but this was not the case to snap it back into shape. It was, however, a case in which to hold the line, and the line was held. And finally, the Court’s spending-power holding creates important new opportunities for challenging federal encroachments.

The post–New Deal remnants of our original constitutional order were very much at stake in this case, and although the mandate survived, at least for today those remnants still remain. **NR**

By the Roots

The Supreme Court should overturn unsound precedents

BY RICHARD A. EPSTEIN
& MARIO LOYOLA

PRECEDENT is the glue that holds the American legal system together, giving both adaptability and predictability to the decisions of our courts. When a precedent is good, it’s great, but when it’s bad, its effects can be terrible. The real story of the Obamacare decision is that it was driven by flawed precedents that should have been modified long ago. To make matters worse, the Court’s decision created a new precedent that could do lasting damage to the Constitution if it is not reversed.

Those flawed precedents have a couple of things in common. First, they replace binary, categorical, yes/no decision rules with tests that rely on indeterminate sliding scales, leaving legislators and the public little guidance for the future. Second, they blur important limitations on the power of the federal government, thereby undermining the accountability and institutional competition that were the genius of the original constitutional scheme. In Obamacare, the Court not only missed an important opportunity to fix these problems, it entrenched them more deeply.

The individual insurance mandate was unprecedented. The federal government had never before claimed the power under the Commerce Clause to force individuals to purchase something merely because they were alive. A bare majority of the Court properly refused to uphold the mandate as an exercise of the federal power to regulate interstate commerce. The Framers might have wondered: How did we ever get here? The Constitution made it unequivocally clear that the federal government could not regulate the “purely internal commerce” (in the

Supreme Court’s phrase) of any state, a position to which the Court held adamantly for 150 years.

The distinction between local and national activities is a structural-design principle of our Constitution that was meant to set a proper boundary between the respective spheres of national and state governments. The Court sharpened that distinction in its 19th-century and early-20th-century Commerce Clause cases by insisting that Congress could regulate only those economic activities that involved transactions in interstate commerce. The myriad activities that had only an “indirect effect,” by altering the quantity of goods produced or the prices at which they were sold in local markets, were kept beyond the power of the federal government to regulate. Local contracts between you and your neighbor were no business of Washington, D.C.

In the course of the 1930s, all three branches of government lost sight of this clear categorical distinction. Many defenders of the new legal order claimed that the federal government had to regulate all aspects of an integrated economy. The fantastic economic expansion of the previous 150 years had not revealed any flaw in the earlier categories; nonetheless, in the New Deal period, the Supreme Court changed course by adopting a rule that allowed the federal government to regulate any activity with a “substantial effect” on interstate commerce. In the 1942 decision of *Wickard v. Filburn*, it reached the *reductio ad absurdum*: Congress could regulate the amount of wheat you produce for your own farm on your own land, because the purely household production of wheat affects its national market price and therefore has a substantial effect on interstate commerce. Nothing but the Court’s arbitrary application of an indeterminate new distinction (substantial vs. insubstantial) now stood in the way of Congress’s regulating even the most local conduct under the commerce power. Congress used that power not to increase the flow of goods and services in interstate commerce but to cartelize the entire agricultural sector (with regulations that last until the present day), and from that point, federal regulation of economic activity expanded with no end in sight.

Worse, while that federal regulatory expansion took precedence over contrary state regulation, it did not necessarily dis-

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place state regulation. Federal and state control of the economy would now substantially overlap, incentivizing government officials at the two levels to collude in blocking competition and granting special preferences for special interests. Preventing that collusion was the point of the old rule; facilitating it was the point of the new one, as Michael Greve shows in his masterly new book, *The Upside-Down Constitution*.

In deciding that the Obamacare mandate could not be sustained under the commerce power, the Supreme Court ruling by Chief Justice John Roberts reasserted that Congress can already regulate virtually all activity, and simply refused to extend that power into the realm of *inactivity*. But given the sweep of *Wickard*, the Court could easily have gone the other way: Hence, even this part of the Court's opinion was little more than the arbitrary application of a highly indeterminate standard.

nate sliding scale. The Court held that if a penalty was not particularly onerous, it might be considered a tax. This flew in the face of the obvious fact, and near-universal agreement, that the exaction associated with the individual mandate was a penalty, one meant to enforce a mandate that Chief Justice Roberts had just explained could not be sustained under any of the Constitution's enumerated powers. Who can now say what is a tax and what is a penalty? Only the Court, which will surely use the indeterminate rule to reach whatever result it wants.

This new precedent suffers from the same flaws as *Wickard*, as a matter both of logic and of constitutional principle. If the federal taxing power can be used to regulate any activity, no matter how local, and any *inactivity* (which is neither local nor national), the distinction between state and federal spheres of authority vanishes completely. The taxing power was the one area in which the Framers specifically

The great strength of federalism is that it allows the states to decide matters of local concern, leaving matters of national import to be decided by the nation as a whole. The purpose of that system was distinctly *not* to saddle the citizen with multiple governments exerting power over exactly the same range of activities; aside from the taxing power, the federal and state governments were meant to inhabit distinct spheres of authority. With that boundary further eroded, regulation-heavy states have a new way to eliminate the competitive advantage of regulation-light states, if they can form a congressional majority to subject the latter to new federal controls under the head of the taxing power. The effect, as with *Wickard*, will be to eliminate the discipline that accountability and regulatory competition impose on multiple governments in a federal structure when each is confined to its distinct sphere of authority.

The Court's ruling on Obamacare's

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Having refused to expand federal power under the Commerce Clause, however, the Court surprised everyone by devising a way to increase the sway of Congress under the taxing power. When, a century ago, Congress tried to use taxes as penalties to enforce compliance with mandates that were not constitutional under the Commerce Clause (or any other enumerated constitutional power), the Court nixed the attempt. Congress could not accomplish indirectly what it was prohibited from doing directly. Every law comprehends a penalty for disobedience; otherwise it is just a suggestion for good conduct. Hence the validity of any penalty must depend upon the validity of the mandate it's meant to enforce; even if it is in the form of a tax, a penalty cannot fall within Congress's power to levy taxes in order to provide for the "general Welfare of the United States."

This categorical distinction between a penalty and a "mere tax" held fast for generations—until last month, when the Court obliterated it. Once again, a clear distinction was replaced with an indetermi-

contemplated that federal and state governments would have concurrent powers. This was justified, because the national government could tax in order to provide benefits to the United States as a whole, not a given region or faction. That constraint, if honored, allows the two levels of government to inhabit separate spheres as envisioned in the scheme of enumerated federal powers. But if the federal government can now use the taxing power to enact regulations regardless of whether the other enumerated powers specifically authorize it to do so, the distinction between what is local and what is national finally disappears. Who benefits? Government, at all levels.



"Were the lemons grown locally?"

Medicaid expansion is of a piece with the rest of its handiwork. Obamacare requires that states expand their Medicaid programs from arrangements to help specific categories of poor people (pregnant women, the disabled, needy families, children) into a vast wealth-redistribution scheme for the bottom fifth of income earners. It threatens states with the loss of *all* federal Medicaid funds if they don't comply with the new mandates. That draconian penalty was too much for the Roberts Court: It ruled that the federal government could refuse the subsidies that Obamacare provides for the expansion itself, but could not cut off all Medicaid funds to states that refused to comply.

The Court affirmed that Congress may attach appropriate conditions to the receipt of federal funds by the states. But, it said, the conditions imposed in this case "cannot be justified on that basis. When . . . such conditions take the form of threats to terminate other significant independent grants, the conditions are properly viewed as a means of pressuring the

States to accept policy changes.” The ruling imposes a critical new limitation—a categorical limitation—on the federal power to coerce states through its spending programs. It could affect the constitutionality of a wide range of federal programs and constitutes a significant limitation on the once-controlling precedent, *South Dakota v. Dole* (1987).

In *Dole*, the Court ruled that Congress could penalize states that refused to raise their drinking age to 21 by taking away up to 5 percent of federal highway funds. Congress could not impose that restriction directly, because the 21st Amendment explicitly denied it the power to regulate intoxicating spirits within the several states, but the Court circumvented that limitation by allowing Congress to “encourage” states to adopt the federal drinking-age preference by imposing conditions on the receipt of federal highway funds. The Court cautioned that “in some circumstances the financial inducement offered by Congress might be so coercive as to pass the point at which pressure turns into compulsion,” without so much as hinting where that line should be drawn.

The distinction between “encouragement” and “compulsion” that is at the heart of *Dole*’s coercion doctrine is spurious. A coerced party always has a choice either to submit or to refuse, no matter how great the penalty; but whether the penalty is great or small, it constitutes coercion. Predictably, the practical result of the Court’s vague sliding-scale rule has been to eliminate constraints on the expansion of federal power. It is no surprise that, before the Medicaid expansion was struck down last month, every federal court that applied the “rule” of *Dole* found mere “encouragement,” no matter how severe or onerous the penalty.

The Obamacare ruling reversed course. Compared with the modest penalty in *Dole*, the threat of losing all federal Medicaid funding (more than 20 percent of the typical state’s budget) was “much more than relatively mild encouragement,” wrote Roberts: “It is a gun to the head.” Wherever the point is between encouragement and compulsion, the penalty for not complying with the Medicaid expansion was well beyond it. But we are still left to wonder: Where is that all-important point? The answer is: No-where. The point doesn’t exist, or rather, it exists wherever the Court may like to

place it. Once again, even this happy aspect of the Court’s opinion is cold comfort: Its arbitrary application of an indeterminate standard happened to go against the federal government this time, but it is not likely to do so in the future. The Court still has not recognized that conditional federal grants are coercive not by degrees but categorically. In all such cases, the federal government taxes money away from the residents of a state and offers to give it back only on condition that the state comply with federal preferences. Even under the Court’s ruling, states that refuse to expand their Medicaid programs will be massively subsidizing the Medicaid expansion of the other states. That is coercion, pure and simple.

For the Constitution’s structural framework of dual sovereignty, the continuing vitality of *Dole*’s imaginary sliding scale to distinguish between encouragement and coercion will continue to have serious consequences. No matter how many times the Court calls a spade “encouragement,” it is still a spade that can be used to coerce state governments into complying with the federal will. And the “federal will” is merely the will of a group of states that have banded together in a congressional cartel to force their internal policy choices on other states, in order to eliminate any competitive advantage the latter may gain from keeping their social programs lean. State regulatory competition—the whole point of the Constitution’s federal structure—is replaced by anti-competitive cartels that diminish self-government while increasing the pervasiveness of government itself.

Stability and consistency in precedent are the lodestones of the common law. But flawed constitutional decisions create cracks in our constitutional order, and when the Court hews to those precedents, the cracks become dangerous fissures.

Longstanding precedents don’t usually change on a dime. Important shifts in the Court’s doctrines are often glacial. From that standpoint, there is much in this opinion that a future Court could use to revise and eventually reverse the flawed precedents that weighed down the justices in the Obamacare case. Let’s hope it does so, for every year that goes by without any correction to those precedents erodes further still the Constitution’s guarantees against unlimited government power.

How Obamacare Harms The Poor

Where to begin?

BY AVIK ROY

THE story of Deamonte Driver illustrates how our health-care system leaves millions of Americans behind. Deamonte lived on the wrong side of the tracks, in Prince George’s County, Md. He was raised by a single mother. He spent his childhood in and out of homeless shelters. He was an African-American kid on welfare. Deamonte died at age twelve—not, however, in a drive-by shooting, or in a drug deal gone bad. He died of a toothache.

In January 2007, Deamonte told his mother, Alyce, that he had a headache. She took him to the hospital, where he was diagnosed with a severe dental abscess and given some medication. But the next day, his condition worsened. It turned out that the infection from his tooth had spread to his brain. He was taken to the hospital again and underwent emergency surgery. After a second surgery, he got better for a while, but then began to have seizures. Several weeks later, Deamonte was dead.

According to Ezra Klein, Deamonte Driver’s story shows us why it would be immoral to repeal Obamacare. “To repeal the bill without another solution for the Deamonte Drivers of the world? And to do it while barely mentioning them? We’re a better country than that. Or so I like to think.”

But Deamonte Driver died not because he was uninsured. Indeed, Deamonte Driver died because he *was* insured—by the government. Deamonte, it turns out, was on Medicaid.

Although Deamonte was insured, he never received routine dental care. It turns out that only 16 percent of Maryland dentists accept Medicaid patients. Fewer than one-sixth of Maryland kids on Medicaid

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have ever had a cavity filled. Deamonte's younger brother, DaShawn, had six rotted teeth, but it took dozens of calls before DaShawn could find one dentist who would see him. When the dentist concluded that DaShawn's teeth were beyond repair, and required extraction, it took another several months to find an oral surgeon who would see him.

Obamacare does not offer better health care to the Deamonte and DaShawn Drivers of the world. Under Obamacare, if Deamonte were alive today, he would still be stuck with the dysfunctional Medicaid coverage that he was stuck with before. In fact, according to the Congressional Budget Office, Obamacare will shove 17 million *more* Americans into Medicaid, the developed world's worst health-care system.

There are many problems with Obamacare. But the law's cruelest feature is what it will do to low-income Americans who are already struggling. Study after study shows that patients on Medicaid have far worse health outcomes than those with private insurance. The largest study of this type, conducted by the University of Virginia on nearly 1 million patients, found that surgical patients on Medicaid were 97 percent more likely to die in the hospital than those with private insurance, and 13 percent more likely to die than those with no insurance at all.

These results are not surprising. Medicaid pays doctors and hospitals, on average, about half of what private insurers pay. Most often, Medicaid pays less than what the care actually costs. As a result, doctors face the choice of caring for Medicaid patients—and going bankrupt—or shutting their doors to the poor and focusing instead on those with private insurance.

One survey has found that internists are 8.5 times more likely to reject Medicaid patients altogether than to reject those with private insurance. Another study found that children on Medicaid with serious conditions, such as uncontrolled asthma and broken forearms, had a 66 percent chance of being denied a doctor's appointment, as compared with 11 percent for kids with private insurance.

This is why it was so hard for Deamonte Driver to find doctors who would see him. Every American whom Obama care puts on Medicaid will face the same challenge.

And it's not a problem only with

Medicaid. According to the Medicare program's chief actuary, Richard Foster, within eight years Obamacare will bring Medicare's reimbursement levels *below* those of Medicaid. Imagine a nation of 77 million retired baby boomers, all of them having as much difficulty as Deamonte Driver in convincing doctors to see them. That is our future.

Not all health coverage is created equal. A plastic card in your wallet with the word "insurance" on it doesn't guarantee that you'll have access to the medical care you need, when you need it. And that is the fundamental problem with Obamacare: It expands coverage without any regard to the value, or the quality, of that coverage.

Over the last 15 years, the percentage of household income spent on health insurance has doubled, to 29 percent. As insurance gets more and more expensive, more American families have to accept less in take-home pay in order to maintain their coverage. Over the last decade and a half, the rising cost of health insurance has arguably done as much damage to middle-class prosperity as did the 2008 financial crisis. The ironically titled Affordable Care Act makes this problem much worse.

First, Obamacare forces Americans into costly, one-size-fits-all insurance plans that cover everything that government officials require. The law forces insurers to pay for routine services, such as contraception, and pass the extra costs along in the form of higher premiums. And it requires regulated health-care plans to provide insurance with a generous minimum "actuarial value"—the percentage of total average health-care costs that the plan covers—forcing plans to reduce their co-pays and deductibles, in exchange for higher premiums.

The law contains an excise tax on health-insurance premiums, which insurers will be forced to pass on to consumers. Former CBO director Douglas Holtz-Eakin has calculated that insurers will have to raise premiums by \$1.54 for every dollar they pay in excise tax.

Through a provision called "community rating," the law forces young people to pay significantly more for health insurance so as to subsidize those who are nearing retirement. Young people are much more likely to pay the \$695 penalty for going without insurance than to pay \$5,000 a year for insurance they don't

need. If they drop out and only sick people buy insurance, premiums go up, in a process known as "adverse selection."

Obamacare forces insurers to cover everyone, including those who are already sick. But because the law's individual mandate is weak, containing numerous exemptions, many people will have an incentive to wait until they are sick to buy insurance, and then drop their coverage once they've received the care they need. This problem could cause such severe adverse selection that many insurers would drop out of the market entirely.

Obamacare forces every company with more than 50 employees to offer comprehensive, government-approved health insurance to every worker, even part-time ones. Companies that don't will be slapped with a fine of \$2,000 per employee, regardless of insurance status, less the first 30 employees. What will this mean in practice? The cost of labor will rise, and hiring will correspondingly decline, particularly for the entry-level jobs that are most in reach of those who are unemployed today.

If you have a chronic disease such as diabetes, or if your daughter has multiple sclerosis, a prospective small employer will be especially reluctant to offer you a job, because Obamacare will leave that company with no flexibility in the kind of health coverage it can offer, thereby increasing its financial risk. Companies will also have little incentive to hire people from low-income households, because the mandate's penalties kick in only if at least one worker with an income of less than four times the federal poverty level receives subsidies through the law's exchanges. Instead, companies will seek to hire workers who have access to insurance through other family members.

In other words, the people who are struggling the most to gain economic and health security are the ones who will be most harmed by the law. Some will be signed up for Medicaid and consigned to a lifetime of poor health care. Some will gain access to the subsidized exchanges, but will find it harder to gain employment as a result. And those who already have insurance, and are being squeezed by ever-increasing premiums, will be squeezed even harder by the law's thoughtless blizzard of mandates and regulations.

We have four more months to change course.

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Your Complimentary Gavel Is in the Tote Bag!

And other advertisements for Supreme Court justices

BY ROB LONG

ROUGHLY 1,000 years ago, when Sunday-morning political talk shows were relevant, I used to enjoy watching *This Week with David Brinkley*. One thing about the show confused me, though—aside from the presence of ABC White House correspondent Sam Donaldson—and that was the commercials.

There were a lot of them for an agricultural-products company called Archer Daniels Midland—ADM for short—and during my early post-college years, when I watched *This Week* with religious devotion, it seemed like an unusual way for a company with no products in the stores to spend its money. It was a perplexing “media buy,” to use a term I regret having learned since that time. Why would a company spend so much money to advertise its unavailable wares to me?

It wasn't advertising to me, of course. ADM couldn't care less about me. Or you, probably. Its target audience was, maybe, the roughly 1,000 people—lawmakers, lobbyists, lawyers—on Capitol Hill who were busily making agriculture policy. The actual viewership of the television program—all of those political junkies across America in their pajamas and Sunday bed-head—was irrelevant. ADM knew that the 1,000 important movers were all watching the show, and that made its advertising decision very smart.

It's the same in Hollywood. Marketing is marketing. Because the Golden Globe Awards reliably influence the voters for the Academy Awards six weeks later, movie studios aggressively court the folks who hand out Golden Globes, who turn out to be a rather downscale and threadbare group called the Hollywood

Foreign Press Association. They're pampered and gifted and smothered in swag, in the hopes that they'll present a Golden Globe to this actor or that movie, which in turn will influence the Academy of Motion Picture Arts and Sciences—which *isn't* downscale or threadbare at all—which will in turn award an Oscar to this actor or that movie, which in turn, statistically, means millions more in ticket sales. So if a Serbian journalist living in a crappy studio apartment in some murderous part of town wants a leather satchel with the studio logo on it, *give it to him!*

a week or so ago, was thought to be a staunch conservative—to uphold the Affordable Care Act known as “Obamacare” on grounds that it was not dependent on a liberal reading of the Commerce Clause (which supporters of the act said it was) but instead was a tax (which supporters of the act said it wasn't) is that he was the target of some very specific, very focused marketing.

Which he was. In the weeks leading up to the decision, the tribal drums beat relentlessly. The Court, liberal commentators maintained, was in danger of being tarnished by a partisan decision. Liberal

The past six months of point-counterpoint was merely kabuki theater aimed at terrifying one man. **It worked.**

It's the same, apparently, when it comes to the Supreme Court. About the only believable explanation for the tortuously incomprehensible decision by Chief Justice John Roberts—who, until

editorialists—is there any other kind?—reminded their readers—but, really, they had only *one* reader in mind, ADM-style—that the legitimacy of the Court itself was what the Obamacare decision

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was really about. The past six months of point-counterpoint was merely kabuki theater aimed at terrifying one man.

It worked.

“When they come, they come at what you love,” says a wise Michael Corleone in the worst of the *Godfather* films, *The Godfather Part III*. But a piece of terrible dialogue in a terrible movie is a fitting way to illustrate what happened to Chief Justice John Roberts, who heard the code words beneath all of that target marketing—we’ll go after the Court itself; you’ll be the chief justice of a hobbled and disrespected institution. And if there’s one thing an unelected official wearing a black negligee for a living cannot abide, it’s being made to appear irrelevant.

The opening salvo, you’ll recall, came during Barack Obama’s State of the Union speech, when he called out the justices—most of whom were sitting in the front row—like hapless henchmen to a psychotic Bond villain. He let them know, and more important he let his supporters know, that the Court needed to be taken down a peg. That the traditional respect accorded these powerful folk was about to be pricked.

And in a way—and I know it’s a stretch—Obama did us all a favor, especially us conservatives. For too long we’ve struggled with the idea of fashioning a rock-solid conservative Court. For too long we’ve been disappointed when this or that “conservative” judge drifts leftward—“evolves,” to use the liberal reporter’s favorite term. Conservative judges “evolve” to the left; they “mature” to a liberal interpretation of government’s role; they “deepen their understanding” of the foggy possibilities etched into the Constitution.

We don’t have a phrase to describe a liberal judge who moves to the right, because that’s never happened.

So, lesson learned. If we want to reestablish a stricter reading of the Constitution, or shift the country permanently to the right, we’re not going to find allies on the bench unless we do some more effective media buying. We’re going to have to learn to target our marketing a little more ruthlessly. The Supreme Court, like congressional pork barrelers and Hollywood journalists, can be pushed and bullied and cajoled. Good to know. **NR**

A World of Labels

Moderate liberals’ and other interesting creatures

BY JAY NORDLINGER

THE *New York Times* can be amazing in its language. After the Supreme Court voted to uphold Obamacare, the paper said that Chief Justice Roberts had joined the Court’s four “moderate liberals” to form a majority. Roberts and the other Republican justices were “conservatives,” unqualified. That includes Justice Kennedy, who has long been a swing vote. But the Democratic justices—including President Obama’s picks, Sotomayor and Kagan, and Ginsburg, the former general counsel to the ACLU—were “moderate liberals.”

Earlier in the year, the *Times* had described George Zimmerman as a “white Hispanic.” He is the shooter in the Trayvon Martin case, Martin being the black teenager whose death is the subject of great and inflamed controversy. “White Hispanic” was a novelty. Bernard Goldberg and others asked, “If Zimmerman had done something heroic, would the *Times* have described him as a ‘white Hispanic,’ or a white anything?” And if he had been a victim?

Race is touchy in the Hispanic world, as it is most anywhere else. When Castro was hiding out in the Sierra Maestra, people in Spain referred to him as “the great white hope.” Cuba’s dictator, Batista, was mulatto. The next dictator would be of much paler hue.

By the way, why isn’t Justice Sotomayor a “white Hispanic,” in the *Times*’ eyes? The paper describes her as a “Hispanic,” plain and simple. Maybe there is some color chart at the *Times*, secret from the rest of us.

Most people, I imagine, like to think of themselves as “moderate,” or certainly not immoderate. An exception would be Barry Goldwater—who famously declared at his convention, “Extremism in the defense of liberty is no vice,” and “moderation in the pursuit of justice is no virtue.” Goldwater was a conservative, the author of *The Conscience of a Conservative*, no less. But he was also a clas-

sical liberal: a free-marketeer, a constitutionalist, an anti-statist.

The *Times* allows for “moderate liberals,” but the paper seems to have less room in its heart, and lexicon, for “moderate conservatives.” Are there such creatures? In some liberal minds, the only good conservative is a dead conservative. Goldwater, Reagan, and William F. Buckley Jr. were all portrayed as right-wing monsters, to varying degrees, when they were alive and kicking. Since then, they have enjoyed a much better press.

And consider the case of the Bush family. People used to say of 41, “Why does he have to be such an awful right-winger, unlike his nice moderate father?” (Senator Prescott Bush of Connecticut). In the 1988 debates, Bush had to defend himself against the charge that his father would be ashamed of him. “I think my dad would be pretty proud of me.” When 43 became president, people said, “Why does he have to be such an awful right-winger, unlike his nice moderate father?” And if one of 43’s twin daughters becomes president? Will she face the same treatment?

“Liberal” has been a contentious word in America since the early 1930s. The New Dealers called themselves liberals, causing others to say, “Hey, wait a minute: Aren’t you too keen on government expansion to be liberals?” In Europe, an older sense prevailed. The Nobel peace committee gave its prize to Cordell Hull, recently secretary of state, in 1945. The committee chairman, an economist of Norway’s Liberal party, praised Hull as “representative of all that is best in liberalism.” What he meant was that Hull was a lifelong foe of protectionism and friend of “free competition.”

Americans applied the word “liberal” to all manner of left-of-center people, as the 20th century wore on. Some of these people were quite far to the left. I can tell you that serious leftists, among others, resented this: the equation of liberalism and leftism. One day, a Marxist professor of mine sneered that Christopher Hitchens was a “liberal,” nothing more. That made an impression on me: the first time I had ever heard “liberal” as a pejorative from the left.

The memory of this professor (whom I loved) brings up another point: “Liberal” and “conservative” can be quite relative terms. She once chided a colleague of hers for being an arch-conservative. He said, “You have to remember, Barbara, that where I come from [a town in the South] they consider me a pinko.”

In this country, we don't have Liberal and Conservative parties, nationally, although others countries do. Our neighbor to the north, Canada, has Liberals and Conservatives. Britain has Conservatives, but they no longer have Liberals. (They now have Liberal Democrats.) Churchill belonged to the Liberal party from 1904 to 1924. At the end of his long, illustrious, and Conservative life, in the 1960s, he made a curious statement: "I'm a Liberal. *Always have been.*"

Down in Australia, the conservative party—the Reaganite or Thatcherite party—is the Liberal party. During the Bush 43 years, the Aussie prime minister, John Howard, was denounced as a fellow warmonger and right-winger of our Texas cowboy. Howard was, of course, the leader of the Liberals. In Europe, they often denounce Reagan-Thatcher types as "neoliberals"—which throws Americans off. Here at home, neoliberalism was associated with a journalist named Charlie Peters and his magazine, *The Washington*

Not wanting to be a bad guy, Jack Kemp called himself a "progressive conservative." That did not catch on. Bush 43 called himself a "compassionate conservative"—which prompted Phil Gramm to remark, "Freedom is compassionate."

In recent years, left-leaning Democrats have called themselves "progressives," rather than "liberals." "Progressive" is an old American word. We used to have Progressive parties, and Theodore Roosevelt, Robert La Follette, and Henry Wallace ran under their banners. "Progressive" is a self-flattering word, too: Your opponents are regressives. "Realist," in foreign policy, is another self-flattering word: Your opponents are unrealists.

We have one socialist in the Senate—self-declared socialist—and that is Bernie Sanders of Vermont (who caucuses with the Democrats). Some have called Obama a socialist, which provokes a furious reaction, including, crazily enough, charges of racism. The president is probably more a social democrat, but consider: If he were a

am strongly against the EU. I'm against regulationism and managerialism. I'm against activism of any sort." As for conservatism, he said, "I feel that, when other people and nations are veering from civilization, I would prefer to conserve." Me too. Although conservatives are obviously more than people who are against change. In my lifetime, the conservatives have been the reformers and the liberals have been the conservatives, so to speak: They have wanted to keep the New Deal and Great Society frozen.

Sometime in the mid-Nineties, I grumbled to Bill Kristol about being stuck with "conservative." He said, in essence, "Get over it. You have to accept labels as they are used and understood in your own time and place." In 1960, Hayek wrote an essay called "Why I Am Not a Conservative." Well, tough luck, Friedrich: Today you would for sure be a conservative or right-winger, whether you liked it or not. The world doesn't give you a choice.

Still, I have not entirely made peace with

The best thing Reagan ever did for me, I've long said, is give me something to call myself: a **Reaganite**. Neat, accurate, and, so far, understandable.

Monthly. These people were moderate liberals, in my opinion. "Neoconservatism" used to mean something: but, in the last decade, unreason and malice rendered it meaningless.

Ed Koch, the fabled New Yorker, has always called himself "a liberal with sanity." This must bother liberals who are, by implication, without sanity. Bush 41 once declared, "I'm a conservative, but I'm not a nut about it." This bothered those of us who are nuts about it.

In the 1980s, conservatives had liberals on the run, and not many Democrats would embrace the designation "liberal." In Florida, Connie Mack III (No. 4 is now in the House) ran for the Senate against a congressman named Buddy McKay. He beat him with the simple ad line, "Hey, Buddy, you're a liberal." Liberals, meanwhile, made the term "conservative" as black as they could. In the last stage of the Cold War, American hawks—Peace through Strength types—were conservatives, of course. But so, in the liberals' language, were hard-line Communists in the Soviet Union. Either way, the bad guys were conservatives, see?

Frenchman or Italian, would he not be in the Socialist party? In America, the Socialist party is negligible.

A few years ago, Andrew Sullivan, who is sometimes described as a conservative, called me "an apparatchik of the far right." Understand, I am for equality under the law, equality of opportunity, colorblindness, *E pluribus unum*, civil liberties, human rights—all that good stuff. If I'm far-right, what language is left over to describe the actual far right?

I must say that, when I left the Left behind forever, sometime in college, I was not quite comfortable with the word "conservative." I choked on it. In my environment, "conservative" meant bigot, ignoramus, plutocrat, war-lover, and other nice things. Jeane Kirkpatrick had a very hard time leaving the Democrats for the Republicans. She did so at the ripe age of 59. (Reagan was 51.) "I'd rather be a liberal," she said.

"What are you?" I once asked Robert Conquest, in so many words. "I'm an anti-extremist," he said. "And I'm for a law-and-liberty culture. Those are Orwell's words: law and liberty." He continued, "I

the standard terms. I especially balk at describing as "liberals" those who are plainly illiberal: supporters of speech codes, race preferences, abortion on demand . . .

The best thing Reagan ever did for me, I've long said, is give me something to call myself: a Reaganite. Neat, accurate, and, so far, understandable. I have sometimes described Obama as a "McGovernite"—but the meaning of that term fades in the national memory. A couple of years ago, some moderates founded a group they called "No Labels." Their slogan: "Not Left. Not Right. Forward." Not many people claim backwardness. In any event, labeling can be very useful, in part because normal conversation cries out for short-hands.

Before long, the *New York Times* may call Chief Justice Roberts a "moderate conservative," separating him from the villains who would have struck down Obamacare: the unqualified conservatives, so to speak. Today, I saw a headline over an Associated Press report: "More nuanced view of Roberts after health care law." Ah, there you go.

NR

This Isn't CNN

Twilight days of a once-mighty network

BY DANIEL FOSTER

OVER three months in the winter of 1991, the eminently fashionable French Theorist Jean Baudrillard—you can tell he's eminently fashionable because "Theorist" is capitalized and takes no modifier—wrote a series of articles about the Gulf War. The first, published in January as the average American was familiarizing herself with basic Kuwaiti history, was entitled "The Gulf War Will Not Take Place." The second came out in February, in the middle of the air campaign, and was called "The Gulf War: Is It Really Taking Place?" The third and last came in March, a month after hostilities had ended, and if you're quick on the uptake you'll guess, correctly, that it was called "The Gulf War Did Not Take Place."

The essays are a *mélange* of relentlessly provocative half-insights garbled by ponderous jargon and delivered by a narrator who seems to delight in his unreliability. Their upshot is that the Gulf War wasn't a "war" at all, that it was conducted from a technological remove and won in advance on computer screens. Representative sentence: "Since this war was won in advance, we will never know what it would have been like had it existed."

One major piece of evidence Baudrillard presents for his thesis is that what the world knew of the conflict was so abstracted and anesthetized that it might as well have been faked, reduced as it was to a handful of green-tinted videos of flak lazily across the Baghdad sky and nondescript bunkers exploding in the crosshairs of laser-guided munitions, all presented on continuous loop by CNN. These days, we're used to Fox News playing the *deus ex machina* in the darkest conspiracy theories of the Left. But in 1991 it must have really been something to accuse a cable news network of a feat so epic as redefining reality.

Yet, as a nostalgic James Earl Jones might intone, *that was CNN*. Launched on just under 2 million TV sets in June 1980, Ted Turner's baby was a slow developer,

spending its first decade working out the kinks, expanding its reach, buying up competitors, and doggedly investing in a far-flung reporting infrastructure that would let it cover every corner of the globe.

But by 1990 CNN was all grown up, and the war in the Persian Gulf would prove to be its coming-out party. So ubiquitous was CNN during those months that the other networks had to report off of its live feed during the bombing of Baghdad; that thus co-opted it reached *1 billion* TV sets worldwide; that both George H. W. Bush and Saddam Hussein tuned in for the latest images from the front lines; that, in one surreal moment that furnished a kernel of truth in Baudrillard's over-the-top analysis, a CNN camera crew broadcasting live from the Gulf approached a group of print reporters to interview them, only to find them huddled around a television—watching CNN.

In the years after, cable news would make the stern, gravelly voiced men delivering nightly half-hour briefings over your pork chops as obsolete as ticker tape. Political scientists would start analyzing "The CNN Effect," by which the network's

What is the network's official defense for **bottoming out**? Get this: There hasn't been much news this quarter.

saturation coverage actually shaped and accelerated the decision-making of world leaders. Even the mighty Tom Brokaw was forced to admit: "CNN used to be called the little network that could. It's no longer the little network."

O, but how far CNN has fallen from its days of slaying giants and inventing realities. To wit: Its ratings for the second quarter of 2012 are the worst they've been since before the Gulf War, and down 40 percent from a year ago. To be fair, all three major cable news networks saw year-over-year declines this quarter, but CNN fared far worse than either MSNBC or Fox, and now has fewer than a quarter of Fox's total viewers and a third of Fox's weeknight primetime viewers.

What is the network's official defense for bottoming out? Get this: There hasn't been much news this quarter. "As a news organization our ratings reflect the news environment much more so than [do those of] the other networks," the network informed the *New York Times*' Bill Carter.

"That said, we always want higher ratings but not at the expense of nonpartisan, quality journalism."

But it has been obvious for some time that CNN's troubles run much deeper, that it faces the problem that fells so many firms whose corner on a new market leads to early dominance: It is being out-competed and out-innovated.

The pressure is coming from two fronts. On the one side, global competitors and social media are increasingly preempting CNN's bread-and-butter international reporting. Gone are the days when the network was the first, last, and only word from Mogadishu to Kosovo. Now it has to fight for scoops not only with the likes of Al-Jazeera but with the likes of Sohaib Athar, the Pakistani IT consultant who live-blogged the bin Laden raid from his apartment in Abbottabad just a few blocks away. Both the stillborn Green Revolution in Iran and the stunted Arab Spring were conceived on Facebook, chronicled on Twitter, and memorialized on YouTube. Sure, CNN was still in Tahrir Square and on the streets of Benghazi. But this time it was redundant.

On the other side, there is broad agreement among the media smart set that CNN suffers mightily for its lack of opinion-driven analysis, and of the compelling personalities needed to deliver it. Contrast with Fox News and, to an adorably smaller extent, MSNBC. What one might call the Op-Ed Turn in cable news reflects both philosophical and practical considerations. Philosophically, it reflects a move away from the mid-20th-century news-media fiction that unacknowledged bias is the same as objectivity and toward a paradigm in which transparency in prejudice is *de rigueur*. Practically, it reflects the theory that when news is light, ideological sparring helps pass the time.

CNN instead passes the time by punctuating the hard news with the transparently tacky. Michael Massing, in a withering critique for the *Columbia Journalism Review*, catalogues some of the gems of this genre, from Piers Morgan's breathless four hours of live coverage of Whitney Houston's death to Erin Burnett's intrepid

reporting on bath salts and the cannibal threat. (As I write, a headline on CNN.com is “Clooney, Girlfriend Get Food Poisoning.”)

What little CNN can count as opinion-driven journalism retains the imprint of its cosmopolitan focus. The choice of voices like Fareed Zakaria to deliver its “analysis” seems premised on the idea that Americans are desperate to hear what the rest of the world thinks of American hegemony from within a framework that assumes American hegemony is at its end. This appeals to a certain devoted-reader-of-Thomas Friedman type, but there are precious few of them outside Turtle Bay and Embassy Row. CNN still hasn’t learned from the big domestic narratives that drove the rises of Fox News (e.g. Lewinsky) and MSNBC (e.g. the 2004 election) and that sustain them now that “war fatigue” has fully taken hold. It isn’t that CNN isn’t reporting on, say, the presidential election. It’s that it isn’t *adding* anything, and frequently resorts to gaffe obsession or holding the stopwatch as talking heads from competing campaigns regurgitate talking points.

There isn’t a single host on CNN who could hack it on MSNBC in its high-Baroque style. Watching Ed Schulz in a lather is like watching the compelling kook in your bowling league cry into his beer. At his best/worst, Olbermann recalled the tempestuous high-school debate partner who could either win you the round with his overwrought rhetorical flourishes or get you bounced out of the tournament for an unhinged tirade at the judges. Rachel Maddow is having so much fun mispending her Oxford education by flattering liberal pieties that it’s actually kind of hard to hate her.

And CNN has whom? Anderson “Phone It In” Cooper? David Gergen, whose motor seems to run on wistfulness? John King, the analyst for people who find vanilla ice cream presumptuous? The network’s most recent “big splash” hire is Anthony Bourdain, a food writer and travelogueur in the wannabe-Hunter Thompson mold. You can tell he’s tough because he sports an earring and T-shirts referencing punk bands that were controversial in the ’70s.

The most assertive thing on CNN is Wolf Blitzer’s beard. It’s as if an entire network gazed upon the morphing media landscape, turned to its audience, and with a straight face said: “The last twenty years did not take place.”

NR

Totalitarian Tasting Menu

North Korean dining in the Netberlands

BY ANTHONY DANIELS

THE Pyongyang Restaurant in Amsterdam, which serves Korean food in a North Korean ambience, is in a neighborhood of the city, a \$40–50 taxi ride from the historic center, that might from the architectural point of view be called Little Pyongyang. The difference between the domestic architecture of Communist totalitarianism and that of European social democracy is subtle rather than great, a matter more of the quality of the construction than of the design. While party rallies and martial music disturb the deadness of the one, drug trafficking and the young men’s struggle for control of the streets do the same in the other.

The Pyongyang Restaurant does not rely on passing trade, for it is difficult to find among the nearly featureless blocks, and indeed you could easily spend a few hours looking for it. Nor does it cater to the local unemployed, or proletarians of any description, for it offers two menus, one at \$65 and the other at \$100, not including drinks. The latter is nine courses, intermitted by karaoke, piano serenades, and dancing performed by the waitresses.

Our driver promised to pick us up later, for no driver would venture here at night, he said, to pick up people unknown to him. We were guided into the restaurant by telephone, and were told that the staff would come to meet us when we were near. In the event, it was not difficult to spot them: three young Korean women, their faces well made up and with determined smiles, dressed in voluminous nylon chiffon dresses of baby blue and pink and lemon yellow, all in cream stiletto shoes, among the grey concrete slabs.

“Welcome to our restaurant,” they chirped in high-pitched English.

They led us through a short corridor to a windowless room. The tables were set as in a normal restaurant, but the walls were

Mr. Daniels is the author of Utopias Elsewhere and other books.

covered in pictures. The only other guests of the evening—two of them—were about to leave. I quickly took in that there was not a single picture of either the Great or the Dear Leader, nor was there any political slogan, which for aficionados of things North Korean reduced slightly the authenticity of the place. The pictures were of the kitsch Sino-socialist-realism school, where schoolgirls in white socks and braids lie contemplating the landscape with a smile of eternal fulfilment as peonies flourish abundantly and tigers emerge from the woods. The only picture I saw of the Great Leader was on the lapel badge of the Dutch cofounder and manager of the Pyongyang Restaurant. Of him, more later. (The restaurant is officially a private venture but is run with extensive cooperation from the North Korean government.)

On one wall was a large, flat screen, relaying scenes of North Korean landscapes and of Pyongyang, city of eternal fireworks display but uncertain electricity supply. There were none of the vast parades of hundreds of thousands of North Koreans, including sleep-deprived children, that reduce humans to the level of soldier ants and are laid on to celebrate non-events such as the leader’s birthday. The manager had just enough insight to realize that the sight of such parades might put the average Westerner off his food and make him draw the most obvious inferences about the Democratic People’s Republic.

The food was copious and meticulously prepared. I am not a person of such tender liberal conscience that I cannot enjoy anything until the world be cleansed of injustice and suffering (nothing I have seen has ever put me off my food), yet there was a certain unpleasant irony about being informed that such-and-such a dish was a traditional delicacy of a country where ordinary people are often reduced to foraging for grass and herbs to stave off starvation.

The three waitresses smiled and smiled and smiled, emitted foreshortened peals of laughter, and danced, sang, and played the piano between courses for our entertainment. This had evidently been arranged by someone who knew that humans like to enjoy themselves but had never personally experienced enjoyment and therefore thought it could be planned like a train timetable, abjuring spontaneity as the worst of eventualities. There was an

automatism to their performance that, in the context, was wholly authentic.

Yet they were accomplished and intelligent young women. How one wanted to question them, to know about their lives both in Korea and in Holland! I have always been interested in the lives when they are not working of the people who serve me, for example the Bengali waiter in my local Indian restaurant: Where does he live, in what conditions, and what are his joys and sorrows, his hopes and fears? I am too tactful to ask, too fearful of seeming intrusive; how much greater were my inhibitions in the case of these young Korean women!

How were they selected for the extraordinary mission of serving in the first North Korean restaurant in the West? Did they volunteer or were they sent without choice in the matter? How high up in the

At the very least, it seemed clear to me that the location of the restaurant had been chosen for its resemblance to Pyongyang (the nearest possible in a Western country), the unattractiveness of the life in it, and its isolation from the multiple temptations, including those of freedom, of the city center. These advantages more than outweighed the commercial disadvantage: the discouragement of all but the most determined clientele. A North Korean restaurant is not, in any case, a commercial proposition, or intended as such. It is to promote the friendship of peoples, in the old-fashioned Communist sense of that term.

The founder and manager was a Dutchman in his forties who glowed with the satisfaction of the religious convert who has found the Truth. He was a Believer who wanted to persuade his fellow countrymen (and others in the Western world) that there

at last was the goose-stepping, rather than the peony-perpetually-in-bloom, side of the regime: rockets being driven along the broad streets of Pyongyang (the only traffic they ever witness, in fact, apart from parades of hundreds of thousands), the perfect formations of men-automata as far as the eye could see. Again from politeness I did not laugh when he showed me a picture of the tribune of the politburo with Kim Jong Il in the chair: a row of prune-like men, the majority military in Soviet-style caps several sizes too large for them, and weighed down by medals, and not a smile between them, only the visages of men sucking lemons.

“The Kims are only figureheads,” said the true believer. “The army is the real power.” And he pointed to the head of the army.

Then he proudly showed us his Friend-



Service and song at the Pyongyang Restaurant in Amsterdam

hierarchy were their families? Who were the hostages left behind against their defecting? Where did they live in Amsterdam, and how did they spend their free time, if any? How were they paid, and did they control their own money? Were they allowed to roam free? How often did they have to report to the North Korean embassy? What did they think of what they had seen? What, indeed, did they think of us, their customers?

Such questions would have caused embarrassment without resulting in illumination, and we refrained from asking them. Our delicacy prevented a confrontation and *objectively* (to use a Stalinist locution) served the ends of totalitarianism. We pretend to notice nothing, and they pretend to believe that we have noticed nothing. Thus a social virtue—politeness—comes to serve the ends of evil.

was more to North Korea than bellicose propaganda, the production of nuclear weapons, military parades, and mass starvation: that it was, in fact, some kind of paradise.

After the meal was over, he kindly agreed to show us his cultural center upstairs. The first two rooms were of non-political art, the same kitsch and sentimental pictures as in the restaurant, a kind of tasteless craft rather than art. But then he took us into his inner sanctum, where, he said, there was political art as well as literature. For he conceded that there were political aspects to North Korea, as there were to everywhere else.

Here he showed us his posters of angrily determined North Korean soldiers endlessly smashing imperialist aggression, as well as his collection of photographs, which, he said, came to him through Moscow. Here

ship Medal. One day he received a telephone call telling him he had better come to Pyongyang because he was being decorated, so he went. The medal was cheap even by the standards of the junk sold in African markets. We asked him whether it had been presented to him by any of the politburo. “Oh, no,” he said, with the kind of modesty of someone who truly believes in his insignificance by comparison with God.

There was literature for distribution in piles (no prizes for guessing the author). I was tempted by Kim Jong Il’s thoughts on opera—of which, of course, he was a great composer—but in the end I resisted.

On the way back we did not laugh as we had expected. It was tragic: tragic the fate of the young women, tragic the delusion of the Dutchman who found in Pyongyang the meaning of his life. **NR**



Russia's Choice

Will it establish democracy at last or let Vladimir Putin rule for life?

BY DAVID SATTER

ON the surface, Moscow has never looked more prosperous. High-end restaurants are full. Cyclists, strollers, and rollerbladers crowd Gorky Park. Newly built skyscrapers give the city a modern skyline, and streets are clogged with late-model Western cars. But there is a growing sense of unease. Against the background of plummeting oil prices and vast sums of money being urgently sent abroad, the capital is now the scene of feverish political activity. For the first time, Vladimir Putin's system of one-man rule appears unstable. No one knows whether it can survive or, if it doesn't, what will replace it.

After years when opposition demonstrations typically attracted no more than a few hundred, Moscow since December has witnessed at least six major demonstrations that have drawn crowds estimated at 50,000 to 100,000. Nothing like this has happened in Russia since the fall of the Soviet Union. The pro-

testers openly refer to Putin as a "thief," an explosive charge in a society where Putin is suspected of massive corruption but the accusation is typically not made publicly.

The country is now in a state of suspended animation. In a poll taken in December 2011, after the first demonstrations, by the Levada Center, a Moscow-based organization that conducts sociological research, 61 percent of Russians said they were sure that 2012 would not be a calm year and reported feelings of foreboding. This perception derives in part from a belief that the Putin regime will not leave the scene peacefully. According to Russian political analyst Lilya Shevtsova, "relinquishing political control could mean not only loss of assets but also of freedom or even life. Lights burned late in the Kremlin during the Arab Spring and conclusions were drawn: Lose your grip on power and you end up like Hosni Mubarak or Muammar Qadhafi."

The first event that led to the protests was Putin's decision to run for a third term as president. It exposed the presidency of Dmitri Medvedev in 2008–12 as a sham. Despite his pledges to fight corruption and his denunciations of "legal nihilism," Medvedev achieved only one thing during his tenure: He

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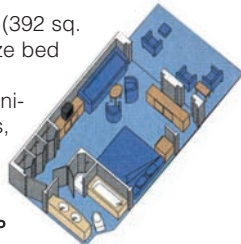
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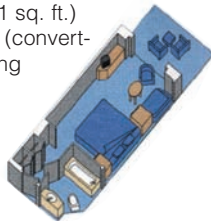
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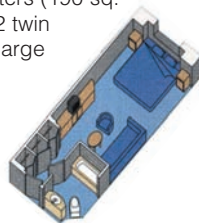
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extended the president's term in office to six years. When the parliamentary elections of December 4 were then blatantly falsified, Russians' patience broke. Thousands took to the streets.

The Putin regime now faces an opposition that consists of three parts. (There are also permitted opposition parties, but these are controlled by the Kremlin.) The liberals include former deputy prime minister Boris Nemtsov, the anti-corruption blogger Alexei Navalny, and the youth leader Ilya Yashin. They call for honest elections and the freeing of political prisoners. The socialists are organized into an umbrella group, the Left Front, headed by Sergei Udaltsov, a former aide of the Communist-party leader Gennady Zyuganov. They call for preserving the "best of the Soviet Union"—free education and medicine, nationalization of big business, and domination of the former Soviet republics. The nationalists consist of a few public organizations and thousands of street thugs. They call for the domination of Russia by ethnic Russians and for the expulsion of Central Asian and Caucasian migrants.

Putin's public attitude toward the protesters has been dismissive. He has said that their symbol, a white ribbon, resembles a condom. One of his aides has compared them to the White Brotherhood, a 1990s messianic sect in Russia and Ukraine that was responsible for a number of suicides.

Now, however, the authorities are beginning to resort to force.

On May 6, protesters en route to a lawful demonstration in Bolotny Square in central Moscow were stopped by a wall of heavily armed riot police. When the pressure of the crowd pushed the marchers against police lines, the police attacked with batons, and some demonstrators responded by throwing stones. In the resulting brawl, scores of demonstrators were beaten and 600 persons were detained. Twelve are now under arrest, and two others have been ordered not to travel.

On June 11, searches were carried out at the homes of opposition leaders, including Navalny, Yashin, Udaltsov, and Nemtsov. Their computers and flash drives were confiscated without being inventoried, which means they can now be doctored.

Putin has changed the law to include stiff fines for participating in unsanctioned rallies. The top fine was increased by a factor of 150, to 300,000 rubles (\$9,200). An average monthly salary in Russia is 24,000 rubles (\$740). At the same time, the monthly *Sovershenno Sekretno* reports, Putin has issued orders to investigate businessmen who have donated money to the opposition. They reportedly can expect tax audits and further investigations in the near future.

Putin almost certainly hopes that the challenge he faces can be contained, but attempts to suppress the demonstrations are likely to be ineffective. After twelve years of de facto one-man rule (including Medvedev's term as president), Putin's aspiration to rule for life is leading to political crisis, economic collapse, and the rise of nationalistic extremism, raising questions about whether the regime can survive.

The political crisis is the result of the regime's steady loss of legitimacy. Officially, Putin received 63.8 percent of the vote for president. A count carried out by Golos, a vote-monitoring organization, showed the true figure to be 50.75 percent. But even without falsification, the election was a sham. Potential challengers were eliminated in advance. The state bureaucracy was put at the disposal of the Putin campaign, and Putin monopolized television. The result is that the population does not take the results of the election seriously.

In an attempt to defuse the first mass protests, Medvedev introduced a number of reforms, but they were quickly emasculated. The most important of them is the direct election of governors. To run, however, a candidate must collect signatures from 5 to 10 percent of regional legislators, which, in jurisdictions where the parliaments are dominated by the pro-Kremlin United Russia party, is a serious obstacle for candidates of other parties. Medvedev also replaced many governors at the last minute. This means that for the next four or five years many regions, including some of the most independent-minded, will not hold elections for governors. In the end, only four governors out of 83 will be elected in the first gubernatorial elections, on October 14.

A new law gives legal status to opposition parties. But electoral coalitions are prohibited, so the new parties will not be able to create a unified opposition. On April 17, Medvedev signed a decree establishing Public Television of Russia, which was supposed to be independent of government control. The director general, however, will be appointed by Putin.

The regime's attempt to limit the freedoms that it reluctantly conceded is doubtless motivated by the realization that liberalization can be dangerous. Retrenchment, however, is unlikely to arrest the growth of the opposition. In recent years, the opposition staged protests over the regime's efforts to undermine, under various pretexts, the right of free assembly. The protests had limited success. But the regime's manipulation and bad faith in the matter of reforms to the electoral system could lead to protests on the fundamental issue of political freedom that are national in scope.

PUTIN'S determination not to share or surrender power is leading not only to a political crisis but, in a related development, to a seriously deteriorating economy. Despite a 4 percent rate of growth and \$540 billion in reserves, Russia suffers from massive capital flight, which this year is expected to reach at least \$70 billion. Russia's businessmen are moving their families out of the country and seeking foreign passports.

The reason is the absence of law. Putin is given credit in some quarters for rebuilding state institutions after many years under Yeltsin when they barely functioned and the country was dominated by gangsters. But Putin did not restore the rule of law. He merely made it possible for bureaucrats to replace gangsters as the primary agents of criminality.

In Russia today, the corruption market is appraised by the think tank Indem at more than \$300 billion annually, or a quarter of GDP. This puts Russia on a level with Cambodia and the Central African Republic. It is estimated that one-third of the cost of putting up a building in central Moscow is for construction and two-thirds is for bribes. Bribe-takers can usually keep only part of the bribe. The rest is shared with higher-ups to ensure the bribe-taker's protection. Thus bribery has become a system.

A further consequence of this corruption is the insecurity of property. Russian businessmen live in fear of "raiding." If under Yeltsin the preferred way of taking over property was often to arrange the murder of the owner, the pattern today is for the raiders, almost always state officials or their close relatives and friends, to appropriate property with the help of the organs of law enforcement.

A typical scheme is to place an infiltrator in a target company who will make prearranged charges of corruption, which are then investigated by law-enforcement officials in the pay of the raiders. If the possibility of being charged with a crime doesn't persuade an owner to hand over his enterprise, he can be arrested. While he awaits trial, a judge, also in the pay of the raiders, can issue an order allowing the raiders to assume the property. There are thousands of persons in pretrial detention who have wrongly been accused of crimes at the instigation of their competitors.

An example of how the system operates is the fate of Nikolai Maximov. Vladimir Lisin, a steel magnate, agreed to buy a majority stake in Maximov's company, the Maxi Group, but then refused to pay the agreed sum for the stake. He accused Maximov of transferring large sums out of the company to the account of his girlfriend. Lisin's group offered to settle the matter for \$100 million, but Maximov refused. Confident he would prevail in international arbitration, he demanded \$287 million that he said he was owed. He called a news conference at the Marriott Hotel in central Moscow on February 14, 2012, to describe how he was being pressured. Besides reporters, however, the attendees included armed men, who arrested Maximov.

An investigator asked him why he declined the offer of \$100 million. Maximov said that the investigator urged him to accept it and told him, "You won't like the people in jail. They aren't your type." He was then flown to a prison in Yekaterinburg. The following month, an international commercial-arbitration panel in Moscow ruled in Maximov's favor. With the ICAs ruling in hand, Maximov's lawyers appealed to courts in the Netherlands, Luxembourg, and Cyprus and succeeded in freezing the shares in six European steel mills of Lisin's company, Novolipetsk. In response, the police investigated Maximov for fraud. Lawyers for Novolipetsk had obtained rulings suggesting that Russian courts can claim jurisdiction even if in the parties' contract arbitration was specified as the means for settling disputes. They then argued that because Russian courts do not recognize the ruling of the arbitration panel, it was fraudulent for Maximov's lawyers to have presented the ruling of the international commercial-arbitration panel to foreign judges in the Netherlands and elsewhere.

BECAUSE of the extent of the corruption, the Russian economy is stagnant. In net terms, Russia is losing \$7 billion to \$8 billion of capital every month, equivalent to 5 percent of monthly GDP. Most businesses devote enormous time and attention to protecting themselves against raiding. This entails developing their connections to law enforcement. For fear, again, of being targeted by raiders, Russians are reluctant even to expand existing businesses.

Russia increasingly resembles a Third World economy. Crude oil and gas now account for 75 percent of the value of its exports. At the same time, two-thirds of Russian industry is uncompetitive, producing low-quality goods for the internal market and countries such as Iran. It is supported by the revenue from oil and gas. The state's deficit when the oil-and-gas sector is subtracted is now expected to be 12.7 percent of GDP.

To reverse this situation, Russia needs normal conditions for investment. Those are not possible without the rule of law. Trying to assure his reelection, Putin's government authorized \$161 bil-

lion in additional spending through 2018, including increased pensions and a freeze on gas prices. One of the purposes of this move is to help preserve the domestic peace. But the government now needs an oil price of \$150 a barrel over the next few years to meet its obligations. This may be unattainable. A crash in the oil price would plunge Russia into crisis immediately.

A final factor in Russia's growing internal crisis is an increase in ethnic tensions. Russia faces a terrorist threat from the North Caucasus, and in many cases Russians have responded to it with racism and xenophobia.

Putin became president in 2000 because of the second Chechen war, which was launched after four apartment blocks were blown up in Russia in September 1999 in attacks that were blamed on the Chechens. A fifth bomb did not explode, and those who placed it were arrested and turned out to be not Chechens but agents of the Federal Security Service (FSB). But this finding had little influence on the subsequent course of events.

The decision to launch a new war had far-reaching consequences. Russia managed to subdue the separatist revolt in Chechnya, but the rebellion spread to the rest of the North Caucasus and metamorphosed into an Islamic insurgency. In 2007, Doku Umarov, a veteran Chechen field commander who became head of the resistance, proclaimed himself the leader of an Islamic emirate embracing the entire North Caucasus.

The shift in ideology led to a greater emphasis on terrorism. Umarov took credit for the bombing in November 2009 of the Nevsky Express train between Moscow and St. Petersburg, in which 27 were killed. He also took credit for the suicide attacks in March 2010 on the Moscow metro, where 40 were killed and 95 injured, and for the suicide bombing in January 2011 at the Domodedovo airport, where 36 were killed and 160 wounded. Moscow became the only European capital to be hit by terrorists repeatedly.

Meanwhile, extreme nationalists, including neo-Nazis, gained strength within Russia. After Putin was elected president in 1999, he promised "to destroy the terrorists in their out-houses." Such statements, and the renewed pursuit of a war of extermination in Chechnya, led to a sharp rise in anti-Caucasian sentiment. Soon, popular support for discrimination against people from the Caucasus was at 55 percent, and it remains at that level to this day.

In 2006, a conflict between Russians and local Chechens in Kondopoga, a town of 35,000 in Karelia, the Russian region that borders Finland, led to anarchy, a pogrom against Chechens, and a takeover of the city by an enraged Russian crowd. At roughly the same time, 13 were killed and 47 injured when a bomb exploded in Moscow's Cherkizovsky Market, where many of the traders are from the Caucasus and Central Asia. By 2008, there were an estimated 30,000 aggressive and fascist-leaning nationalists in the five or six largest Russian cities. Even as the violence grew, the police remained indifferent, particularly to the killing of non-Russians.

Since then, the police have begun to act against nationalist extremists. They have carried out mass arrests, and the incidence of violent acts has sharply declined. In 2011 there were "only" 20 murders and 130 injuries that were ethnically motivated. The tension between Caucasians and Russian nationalists, however, continues to simmer just beneath the surface and could explode into violence at any time.

WHEN Putin announced in September that he would run for president again, Russians began calculating how old they would be when he finally left office in 2014, after two more terms. For most, the prospect was one of national stagnation and professional futility caused by the need to be part of a corrupt system. Some decided to vote with their feet. In the last three years, 1.25 million Russians have left Russia, and 40 percent between the ages of 18 and 24 would like to leave.

The key to Putin's success was a steadily expanding economy. Although Russians were aware of the corruption, Putin retained support because, during his two terms as president, the economy grew at an average rate of 7 percent a year, making it possible for ordinary Russians to experience a significant increase in their standard of living and for persons connected to the regime to benefit from the corruption in spectacular fashion.

Now Russian investment bankers are warning their clients of an approaching economic crisis that will be worse than the one in 2008. If it arrives, a protest movement in the capital could be reinforced by strikes in the industrial centers. After a certain point, at least a part of the elite would be liable to abandon the regime and ally themselves with the protesters.

It might be assumed that the Russian leadership, insofar as it is the beneficiary of massive corruption, has every incentive to stick together in the face of a powerful social movement that calls for its members to be held to account. This, however, is not necessarily the case. In a game without rules in which huge amounts of money are at stake, hatreds develop quickly and jealousy can lead to betrayal. Although based ultimately on personal ties to Putin, the Russian leadership can be divided into two factions—the liberals, who are considered slightly more Western-oriented, and the “siloviki” (the power bloc), which includes many former members of the security services. The former are led supposedly by Medvedev; the latter, by Igor Sechin, until recently Putin's deputy prime minister.

Over the years, hints about tensions between the factions have circulated. But the most striking evidence came with the discovery of the bodies of Konstantin Druzenko, an officer with the Federal Narcotics Control Service (FSKN), and Sergei Lomako, a former colleague of Druzenko's, in a St. Petersburg ditch on October 27, 2007.

The FSKN was reputedly aligned with the liberals. An FSKN spokesman said the two men were victims of poisoning. Their deaths happened in the context of a conflict—between the FSKN and the FSB—that became public after the arrest, on October 2, 2007, of General Alexander Bulbov, the head of the FSKN's operational department, on charges of bribery and illegal wiretapping. He had been leading the agency's investigation of a massive smuggling operation that was run by relatives of high-ranking officers of the FSB. “We nearly had a fight between two security agencies,” said a former security-service officer familiar with the circumstances surrounding the arrest of Bulbov and the other FSKN officers. “This time, the agents were able to keep their cool, and there was no gunfight. But if this battle continues, you can be sure they will start shooting at each other. And it would be difficult to stop.”

An end to the Putin regime would represent a turning point for Russia. It is often wrongly assumed in the West that Yeltsin was a democrat and that Putin suppressed the freedom that Yeltsin tried to create. In fact, it was the massive corruption of the Yeltsin entourage that led Yeltsin to engineer the elevation of Putin, a former KGB officer, as his successor. Putin's first official act was to

issue a preemptive pardon to Yeltsin, freeing him of responsibility for any crimes committed while in office. With the spectacular increase in oil prices, the scale of corruption in Russia did grow significantly after Putin took power, but the Yeltsin and Putin regimes are nonetheless inextricably linked.

The possible fall of the Putin regime raises the question of what is likely to succeed it. Neither the regime itself nor the opposition is giving this question serious thought. It sometimes seems as if the two sides share a desire not to look ahead. Putin has tried to appeal to Russians on the basis not of his plans for the future but rather of his claim to being the guarantor of “stability.” The opposition, in part because it is composed of disparate groups, has limited itself to calls for honest elections.

Removing Putin might be the easy part. There is agreement across many sectors of Russian society that he has to go. Only a segment of the opposition, however, has liberal-democratic values, and for those values to emerge victorious in any political struggle after Putin is gone, Russia must face the question of why Russia has failed to establish democracy in the past.

To the extent that the opposition has an issue beyond the call for honest elections, that issue is corruption. An attack on corruption is certainly necessary. But corruption is only a symptom of a deeper ill, which is disregard for the moral worth of the individual. It was the notion of the individual as raw material for the achievement of political ends that made possible the triumph of a Soviet regime that was ready to create “heaven on earth” at the cost of millions of lives. It was the same disregard for the value of the individual that led Yeltsin's “young reformers” to introduce capitalism without law and to build market institutions at the expense of the criminalization of the country.

To restore respect for the individual as the foundation for a new beginning, Russia must take an honest look at its past. It has failed to face the full truth about the crimes of the Communist regime. Under Putin, projects for commemoration of the victims of Communism were abandoned, and mass-burial sites were left unexplored. The only attempt to acknowledge the past in Lyubanskaya Square, the site of the buildings of state security, was the erection of a plaque honoring Yuri Andropov, the former Soviet leader and head of the KGB, on the wall of the present FSB building.

No attempt has been made to examine seriously the crimes of the post-Soviet period, either, including the 1993 shelling of the Russian parliament, the 1995 carpet-bombing of Grozny, and the murders and swindles that accompanied privatization of industry. In the case of Putin's period in high office, the crimes include the strange apartment bombings in 1999 that were used to justify the second Chechen war; the sacrifice of hundreds of hostages during both the 2002 Moscow Theater siege and the 2004 school siege in Beslan; the radiation poisoning of Alexander Litvinenko in London; and the unsolved murders of the journalists Anna Politkovskaya and Paul Klebnikov and the rights activist Natalya Estemirova.

Russia now stands on the verge of important events that may have significance not only for Russians but also for the West. There will be temptations toward radicalism as Russians, under the pressure of the battle with an authoritarian regime, are exposed to the political appeal of extreme ideologies. They can avoid these extremes and create a new basis for their country's future, but to do that and to take advantage of post-Soviet Russia's second chance at democracy, they will have to focus on the value of the individual and let truth be their guide.

NR

The Crime Reporting You Never Read

*If it doesn't bash the police,
it isn't fit to print*

BY HEATHER MAC DONALD

A CLUSTER of articles in the *New York Times* this June inadvertently highlighted the paradoxes of race, crime, and policing in New York and virtually every other large American city.

On Thursday, June 14, the paper reported on the manslaughter arraignment of a New York police officer who fatally shot an 18-year-old in the Bronx this February in the mistaken belief that the victim, Ramarley Graham, had a gun. Outside the courthouse, protesters chanted “NYPD, KKK, how many kids did you kill today?” An article on the next page followed up on a fatal shooting, one that did not involve police, at a Harlem basketball court in June. The 25-year-old victim, Ackeem Green, turned out to have been a member of the Youth Marines, a private organization dedicated to teaching inner-city teens discipline and keeping them off the streets.

The twin half-brothers of Ramarley Graham, the police-shooting victim, were the subject of an article on June 13. Hodean and Kadean Graham were being prosecuted for gang conspiracy, gun possession, and, in the case of Hodean, attempted murder. In August 2009, Hodean shot into a crowd of rival gangbangers on the street but hit no one, according to the indictment. A third Graham brother has also been indicted on attempted-murder charges. That same day, Metro columnist Jim Dwyer wrote enthusiastically about a coming protest against the NYPD’s controversial stop-and-frisk tactics, which seek to avert crime before it happens by encouraging officers in violent neighborhoods to question—and, when legal, to search—individuals engaged in suspicious behavior. Dwyer clearly agreed with Al Sharpton, who told him: “If you’re born white in the city, you’re a citizen. If you’re born black or Latino, you’re a suspect.” Finally, an article nearby described a campaign spearheaded by an anti-stop-and-frisk coalition to slap yet another layer of bureaucratic oversight on the New York Police Department through a new civilian inspector general’s office.

These five articles over two days embody the elite narrative about law enforcement—as well as the only occasionally glimpsed facts that undercut it. The narrative, expounded most influentially by the *Times*, portrays police officers as the greatest threat facing minorities today. Minority criminals are out of sight, out of mind. The trial protesters’ “NYPD, how many kids did you kill?” chant is only a slightly cruder version of this conceit. *Times* editorialists, columnists, and reporters have been relentlessly pushing the idea that the New York Police Department oppresses minority males with its stop-and-frisk

policy; the paper and other anti-cop activists have turned the shooting of Ramarley Graham into a symbol of the lethal consequences of such stops, even though Graham was not a stop-and-frisk subject.

As these stories and the surrounding issues play out, they will do so according to the following template:

First, while the trial of Officer Richard Haste, the cop who shot Ramarley Graham, will be accompanied by angry protest, no protesters will converge outside the trial of the person who killed Ackeem Green during a Sunday-afternoon basketball game, assuming the killer is found at all (as of mid-June, no witnesses had come forward to help the police). No one will chant “New York gangs, KKK, how many young men did you kill today?” in the defendant’s behalf. Al Sharpton will not show up demanding a conviction; to the contrary, the most prominent minority advocates will evince no interest in this garden-variety black-on-black murder. In the unlikely event that the *New York Times* covers the trial at all, it will not put the shooting in the context of other such homicides.

Second, the tactics of the officers in the Ramarley Graham shooting will be minutely dissected in the press and, more important, by the New York Police Department itself in its ongoing effort to further reduce the already minuscule rate at which officers shoot unarmed men. There will be no comparable scrutiny of the culture that spawned Ackeem Green’s killer or Ramarley Graham’s criminal brothers, who belonged to one of Central Harlem’s most ruthless gangs, the Goodfellas. (A jury convicted Hodean and Kadean Graham of conspiracy to possess guns in late June but acquitted them of the other charges; their attorney invoked Ramarley Graham in his opening statement, claiming that Ramarley’s death and the twins’ arrest represented an NYPD vendetta against the Graham family, before the judge sharply rebuked him.)

Third, no commentator on Officer Haste’s trial will compare the number of people killed by the NYPD with the number killed by thugs. For the record, the “KKK” NYPD in 2011 killed eight people, all of them threatening the officers’ lives with guns and other lethal weapons, in the course of 900,000 arrests and summonses and 23 million contacts with the public. Civilians killed 515 people, 463 of them black or Hispanic. Virtually all of the 463 minority victims were felled by other blacks and Hispanics. Unlike those 463 killings, the eight lethal police shootings occurred because the officers involved were trying to protect the public. In the case of the Ramarley Graham shooting, Bronx residents had complained to the police about drug activity at a local bodega, which they rightly understood as posing an ongoing threat of violence. In response to the community’s demands, the department had put the store under surveillance. Two (black) undercover officers observed Graham leaving the bodega and reported over the police radio that he had a gun. Officer Haste and two other narcotics officers followed him home and forcibly entered his second-floor apartment. They found Graham flushing marijuana down the toilet. When Graham turned to Haste, Haste shot him. There are multiple grounds for questioning the tactical decisions that led tragically to the death of an unarmed man, but none whatsoever for thinking that those decisions, however faulty, were made with nefarious intent.

Fourth, as the campaign against the NYPD’s stop-and-frisk

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policy mounts, incidents like the basketball-court killing of Ackeem Green and the Graham brothers' gang activities will be kept far offstage. The NYPD has taken 15 firearms, including semiautomatic pistols and rifles, from the Grahams' Goodfellas gang alone, an arsenal the gang used to dominate the area around Harlem's Lenox Avenue and 129th Street. It is in part to discourage thugs from carrying such weapons that the police stop and question people engaged in suspicious behavior. The cops' critics complain that the 680,000 police stops in 2011 netted "only" 780 guns (and another 7,000 or so knives)—supposedly proof that stops are not working. But the critics never say what the results of effective deterrence should look like, if not a much lower rate of illegal gun-carrying, which in New York has led to a huge drop in gun homicides over the last two decades. Members of some street crews have taken to stashing a "community gun" in a public location rather than risking getting stopped while carrying a firearm, according to suspects debriefed by the police. The Goodfellas stored their weapons beneath mailboxes and on rooftops; Harlem's 137th Street Crew paid girls to carry their guns for them.

Ideally, of course, a criminal would forswear firepower entirely, but the second-best solution is to induce him to keep his gun off his person, thus lessening the risk that a perceived slight will trigger a spur-of-the-moment shooting. Take off the pressure not to pack heat, and gun-carrying will ineluctably rise again. And if the cops do back away from proactive policing, they will be blamed for the rise in crime. In May 2010, an alumni party for a Queens middle school erupted in gunfire that killed one person and wounded six others. The aunt of the 20-year-old dead man complained to the *New York Times* that the police should have broken up the party earlier: "There should be more protection. You have a party that's going on until 2 or 3 in the morning. Why wasn't it stopped before?"

Contrary to *Times* editorialists, just because a stop did not net a gun or result in an arrest or summons does not mean that it was unconstitutional, or that the person stopped was not engaged in or preparing for a crime. (About 12 percent of stops result in arrests or summonses.) The behavior of someone who is casing a victim or burglary location may lawfully trigger a stop without his having evidence on his person to justify an arrest. Nevertheless, that stop may well deter a crime by signaling to its would-be perpetrator that he is being watched.

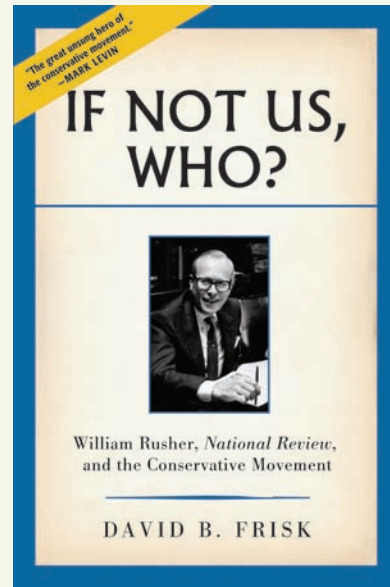
NYPD-bashers endlessly cite the racial demographics of stops as proof that the department is racist, but the Green murder and the Grahams' gang terrorism demonstrate why the NYPD's stop-and-frisk activity is concentrated in certain neighborhoods. Blacks constituted 53 percent of stop subjects in 2011, though they are only 23 percent of the city's population. Whites constituted 9 percent of stop subjects in 2011, though they are 35 percent of the city's population. But those stop rates reflect the incidence of crime. If residents of SoHo had to worry about getting shot during a Sunday-afternoon basketball game, NYPD officers would be heavily deployed in that Mecca of fabulousness as well, looking for gang activity.

ON Monday, June 18, the *New York Times* gave banner coverage to the anti-stop-and-frisk march that columnist Jim Dwyer had so eagerly anticipated. It said not a word about the bloodbath in the late-night and early-morning hours leading up to the march, in which ten people in Brooklyn, the Bronx, and Queens were shot, three fatally. Brownsville, Brooklyn, was a particularly violent location during that pre-march period. As reported by the *New York Daily News*, at 10:30 P.M. on Saturday, June 16, a 25-year-old man in the neighborhood was shot multiple times and died in the hospital; at midnight, two other people were shot in the legs; and at about 3:10 A.M., a car sprayed gunfire at a nearby barbecue. The victims of the barbecue drive-by included a 37-year-old woman who was shot in the torso and underwent surgery at a local hospital, as well as a 27-year-old man who was shot in the leg and a 31-year-old man who was shot in the wrist, both of whom were rushed to the same hospital. (Taxpayers, of course, subsidize the medical costs of such mayhem.)

Brownsville's 73rd police precinct happens to be a favored target of the anti-stop-and-frisk lobby because its stop rate is relatively high. Could such mindless violence be the cause of that stop rate? Of course it is, but the anti-cop brigades will never

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admit it. In fact, the per capita shooting rate in mostly black Brownsville is a remarkable 81 times higher than that in largely white and Asian Bay Ridge, Brooklyn. The difference in stop rates—15 times higher in Brownsville than in Bay Ridge—is modest by comparison.

Such disparities in criminal victimization mean that the police *cannot* target their resources at the neighborhoods that most need protection without producing racially disparate stop and arrest rates. Blacks are not just the most frequent victims of crime in New York; they are also its most frequent perpetrators. They commit about 80 percent of all shootings in the city, 70 percent of all robberies, and 66 percent of all violent crime, according to victim and witness reports to the police. Whites commit barely over 1 percent of all shootings, fewer than 5 percent of all robberies, and about 5 percent of all violent crime. Add Hispanic to black shootings, and you account for 98 percent of all gun violence in New York. Virtually every time the police are looking for a shooting suspect or trying to interrupt a retaliatory shooting, in other words, they are in minority neighborhoods, following up on descriptions of black and Hispanic perpetrators. It is not the cops who are responsible for such manpower allocations, but the criminals themselves.

No police department in the country comes close to the NYPD's record in lowering crime; the city's crime drop since the early 1990s—nearly 80 percent—has been twice as deep and has lasted twice as long as the national crime drop that began during that same period, even as the department has sharply reduced its use of force. Only the NYPD's proactive style of policing and its data-driven accountability system (known as Compstat), which is also under attack by the anti-cop crowd, explain the gap between New York's crime decline and the national average, as Franklin Zimring, a law professor at the University of California, Berkeley, argues in his recent book, *The City That Became Safe*. The primary beneficiaries of New York's policing revolution have been blacks and Hispanics. Thousands of minority lives have been saved that would have been snuffed out had New York City homicide rates remained at their early-1990s levels or even just tracked national trends. Thousands more residents of minority neighborhoods were liberated from the tyranny of fear. Stores and restaurants have returned to areas that the street drug trade had turned into commercial wastelands.

But though minorities have benefited most from New York's unparalleled public-safety success, they still remain the primary victims and perpetrators of crime. And that is a fact that their purported representatives staunchly refuse to acknowledge. It is a lot more gratifying and mediagenic to rail against phantom police racism and to militate for a new multi-million-dollar government bureaucracy to oversee an already highly regulated and accountable agency than to confront the hard realities of urban violence. A federal judge, presiding over a lawsuit against the NYPD's stop-and-frisk policies, is itching to put the department under federal control. Don't be surprised if the Holder Justice Department beats her to it and sends a flotilla of policing-clueless Washington attorneys to investigate the department in preparation for the eventual costly and crippling federal consent decree. But as long as the only connection in mainstream discourse between police activity and minority crime is an accidental proximity on the pages of a newspaper, such actions will be dangerously beside the point. **NR**

A Jeremiah For Everyone

Why Left and Right like Wendell Berry

BY JOHN J. MILLER

RIGHT after Wendell Berry took the stage at the John F. Kennedy Center on April 23, he thanked the National Endowment for the Humanities for its “courage” in letting him speak. He was there to deliver the Jefferson Lecture, the annual address that the NEH solemnly describes as “the highest honor the federal government bestows for distinguished intellectual and public achievement in the humanities.” Berry specifically praised the NEH for not demanding an advance copy of his text, a comment that provoked anxious laughter from the audience.

Then Berry—bald, bespectacled, wearing a dark suit and tie—spoke slowly, often gazing down at his notes. The man is not a gifted orator, but he writes well, and he held a crowd that included Supreme Court justice Samuel Alito for about an hour as he delivered a jeremiad on the ravages of the free market. “We live now in an economy that is not sustainable,” he said (in the longer, written version of his remarks). “No amount of fiddling with capitalism to regulate and humanize it, no pointless rhetoric on the virtues of capitalism or socialism, no billions or trillions spent on ‘defense’ of the ‘American dream,’ can for long disguise this failure. The evidences are everywhere.” He grumbled about pollution, species extinction, soil erosion, fossil-fuel depletion, “agribusiness executives,” “industrial pillage,” “the profitability of war.” Berry’s list of complaints seemed an almost inexhaustible natural resource. “Much has been consumed, much has been wasted, almost nothing has flourished,” he said. When Berry finished his lament, NEH chairman Jim Leach felt the need to lighten the mood with a joke: “The views of the speaker do not necessarily reflect the views of the United States government.”

Yet they do represent the views of many conservatives—or so it would appear, judging from the love that they’re showering on Berry. On July 20, Berry will receive the Russell Kirk Paideia Prize, named for the author of *The Conservative Mind* and awarded by the CiRCE Institute, which promotes Christian classical education, for “cultivating virtue and wisdom.” Last year, ISI Books, the imprint of the Intercollegiate Studies Institute, published *The Humane Vision of Wendell Berry*, a collection of essays that seek to illuminate, according to the dust jacket, the “profoundly conservative” ideas of its subject. And although the 2012 Jefferson Lecture was a product of the Obama administration, Berry was regularly a candidate for the same honor during the Bush years.

What’s going on here? Why has this market-bashing prophet of ecological doom won so many fans on the right? On June 17, I drove to Berry’s home in Port Royal, Ky., to find out. He welcomes visitors on Sundays. “There ought to be a day when



Wendell Berry in Henry County, Ky., in 2003

you don't work," he says. He's well known for these engagements, and for years admirers have made pilgrimages, seeking conversation or advice. On my visit, we sit on his front porch, discussing his life, his books, and his views on everything from farm policy to gay marriage.

The 77-year-old Berry lives in an old white house on a steep hillside above the Kentucky River, about 13 miles south of where it flows into the Ohio. He bought it in 1964 and moved in the next year, determined to live in Henry County, where he grew up and his family has deep roots. He had spent a period away, earning a degree at the University of Kentucky, taking a creative-writing course from Wallace Stegner at Stanford, traveling through Europe, and finally teaching at New York University. Yet he felt called to go home and stay put. Since his return, he has churned out essays, fiction, and poetry, in a rustic life of letters that many writers dream about but few dare to pursue. "This is my family's country, my own people's country," he says, in a border-state twang. "There was this idea that you couldn't live in a place like this and amount to anything. I'm not bragging. I may not have amounted to anything."

He's too modest—Berry has amounted to quite a lot. His poems are well regarded, and his novels and short stories, set in the fictional town of Port William, Ky., draw comparisons to William Faulkner's tales of Yoknapatawpha County. In the last three years, he has won a lifetime-achievement award from the Fellowship of Southern Writers as well as the National Humanities Medal, another federal accolade. Berry is perhaps best known for a long series of conversational essays in which he has expounded a set of views so paradoxical that he's almost impossible to categorize politically. He can sound at turns like an agrarian populist, an environmental radical, and a family-

values traditionalist. Even his most devoted fans aren't always sure what to make of this gun-owning pacifist, pessimistic man of faith, and 21st-century primitive.

In 1987, Berry wrote a short essay, "Why I Am Not Going to Buy a Computer." It first appeared in the obscure *New England Review & Bread Loaf Quarterly*. Then *Harper's* reprinted it, to acclaim and notoriety. Berry explained that he writes on paper with a pen or pencil and then gives the pages to his wife, who pecks out a typewritten document. He offered reasons for refusing to keep up with the times: He doubted that a newfangled machine would improve his writing, preferred to save his money, and so on. Yet he also believed that he was taking a stand: "I would hate to think that my work as a writer could not be done without direct dependence on strip-mined coal. How could I write conscientiously against the rape of nature if I were, in the act of writing, implicated in the rape?" He added that he writes during the day so he doesn't have to use electric light. This touched a nerve, even among coal-hating environmentalists. The responses poured in. One suggested, mockingly, that perhaps Berry thought the Sierra Club should quit printing its magazines and instead have its members pass around hand-copied manuscripts. Berry shot back: "This is what is wrong with the conservation movement. It has a clear conscience. The guilty are always other people, and the wrong is always somewhere else."

A quarter-century later, Berry still doesn't own a computer. "I'm not without sin," he says, meaning that he does in fact consume electricity. "This is original sin round two. We're all implicated, no matter how much we may oppose it, suffer from it, and regret it. We're all using more stuff up than we ought to." Yet he insists that he has never sent an e-mail or surfed the Internet. "I hear there are websites about my

work,” he confesses, with a touch of uncertainty because he has only heard about these things rather than seen them. (His publisher operates wendellberrybooks.com.) He also seems bewildered by anybody who would fuss over his throwback ways. “The basis of my resistance is not that I’m a crank, but that I’m satisfied,” he says. “I didn’t dislike the way I was doing it.”

This sentiment extends to his 117 acres of land. When Berry was younger, he farmed, keeping a big garden and raising hogs, poultry, and milk cows. “We had a fairly elaborate subsistence economy,” he says. He still has a small flock of sheep—throughout the afternoon, they bleat in the distance—and all the while he has shunned the conveniences of modern technology. He talks about needing to overhaul his John Deere horse-drawn mower and says that the only new piece of farm equipment he ever bought was an Amish-made manure spreader. Yet it would be wrong to brand Berry a technophobe: Last year, he started using three large solar panels, which he volunteers are worth about \$80,000. “These things don’t pollute,” he says, with obvious pride.

IN 1977, Berry put out *The Unsettling of America*, which may be his most influential book. As an attack on large-scale agriculture, it is very much in keeping with the themes of his Jefferson Lecture. Yet it’s more than an anti-corporate screed. Berry also defends the virtues of the small-holder farm, not as a unit of efficient production but rather as an essential component of a thriving culture that values strong communities and ecological stewardship. “The healthy farm sustains itself in the same way that a healthy tree does,” he wrote, “by belonging where it is, by maintaining a proper relationship to the ground.” Russell Kirk—a longtime NATIONAL REVIEW contributor who, like Berry, fled the academy for a rural homestead—discovered the Kentuckian around this time. “Berry is possessed of an intellect at once philosophic and poetic, and he writes most movingly,” wrote Kirk in a 1978 newspaper column. “Humane culture has no better friend today than he.” Kirk was probably the first prominent conservative to detect an undercurrent of conservatism in Berry’s work: suspicion of progress, support for local autonomy, and a preference for the old ways of doing things.

Berry certainly doesn’t view himself as a conservative, and he seems both puzzled and amused that his work would find favor with conservatives. “Mostly I’m a Democrat,” he says. “I’m a child of the New Deal. My family have always been Democrats.” Berry says he voted for Barack Obama in 2008 and plans to vote for him again this November. He has met Obama once, when the president awarded him the National Humanities Medal two years ago. Michael Pollan, the liberal foodie activist, thinks the connection may go deeper, citing Obama’s criticism of mainstream agriculture and its dependence on cheap oil: “I have no idea if Barack Obama has ever read Wendell Berry, but Berry’s thinking had found its ways to his lips,” Pollan wrote in the introduction to Berry’s 2009 book, *Bringing It to the Table*.

Since 1996, Berry and his wife have donated \$7,000 to federal candidates, all Kentucky Democrats with the exception of Dennis Kucinich, the left-wing congressman from Ohio and two-time presidential candidate. Asked if he has ever voted for

a Republican, Berry mentions John Sherman Cooper, a senator who was last elected in 1966. Despite this yellow-dog partisanship, Berry knows he doesn’t fit into ordinary political slots. “We’ve got two parties in this state that are absolutely dedicated to coal,” he says. “What we’re working for has not been adopted by any political side.” Last year, Berry and several others protested mountaintop-removal mining by occupying the outer office of Kentucky’s Democratic governor, Steve Beshear, for four days.

The main thing keeping liberals from a full-on swoon for Berry is sexual politics. “I’m pro-life, in lower-case letters,” says Berry, meaning that although he shares many principles with the pro-life movement, he won’t join it. (He once wrote an essay called “In Distrust of Movements,” in which he argued that political causes are often too narrowly specialized.) “Abortion for birth control is wrong,” he says. “That’s as far as I’m going to go. In some circumstances, I would justify it, as I would justify divorce in some circumstances, as the best of two unhappy choices.”

Like a few members of the dwindling band of pro-life liberals, Berry takes an expansive view of the issue, adding that he’s also against capital punishment and for a peaceful foreign policy. “What I’ve seen throughout my adult life is violence as a first resort: maximum force relentlessly applied,” he says. “Maybe the best response after 9/11 would have been to do nothing. But doing nothing was not a political option. Certainly it would not have been, at that time, a popular option.” He appears unfamiliar with the foreign-policy views of Senator Rand Paul, the Kentucky Republican who is no sword rattler, though he admits to voting for Paul’s opponent in 2010. “The liability in talking to me about politics is that I’m not a close student of politics,” he says. “That’s because I don’t expect very much from politics. But I know humans and greatly discomfort myself by expecting a lot from them. So far, I haven’t met a perfect human, but I’ve encountered enough of them who have seemed to me admirable.”

He does support Obama’s embrace of gay marriage. “I’m in favor of it, too,” he says. “It’s really only because they’re being denied the benefits of inheritance and so on—otherwise I don’t think it ought to be the government’s business.” He regards the entire debate as a distraction: “I really don’t understand how you can single out homosexuality for opprobrium and wink at fornication and adultery, which the Bible has a lot more to say about. The churches are not going to come out against fornication and adultery because there are too damn many fornicators and adulterers in their congregations.” That’s not all he scorns: “I’m against divorce, too, though I know perfectly well that nobody can judge anybody else’s marriage and say that any particular divorce should not happen.” Berry, for his part, has been married to the same woman for 55 years.

As Berry enters the final stage of his career—he says he approached the Jefferson Lecture as a “summing up” of his views—he appears content with the way he has lived out his convictions, no matter how they’re labeled. He plans to keep on writing, and a new book will arrive this fall: *A Place in Time*, collecting 20 short stories from the Port William milieu. “It’s been an extraordinarily rich life,” he says. At the same time, the contentment always fades to worry. The world is going to pot, and, if you leaf through Berry’s body of work, you’ll see that it’s been going there for a long time. **NR**

War of the Worldviews

A RECENT *National Geographic* survey found that Americans trusted Barack Obama over Mitt Romney in the case of an alien invasion. Sixty-five percent to 35 percent. It is not clear whether this was a poll of likely idiots or registered idiots, but it made headlines in *USA Today*. What's their rationale? Some possible answers:

His surrender skills are second to none. You can imagine Obama holding a joint press conference after the alien fleet has reduced the world's capitals to ashes with their Zeta-beam rays. He leans over, thinking the mics are off: "Please tell Zkutiꞑsgħ!t the Unbearable, Scourge of the Outer Rim, Pain of the Great Void, Lament of the Gaseous Cluster, that I will have more flexibility following the immolation of the Southern Hemisphere."

Facility with other cultures. There's no culture President Obama cannot effortlessly impress. He would make sure to pronounce Zkutiꞑsgħ!t correctly, for example—and you just know that would irritate all the traditionalists who were brought up with a soft ZK sound. *Listen to that fancy-pants suck-up with his fricative ZK. Hey, you going to ask him why he vaporized Pock-Ee-Ston, too?*

Because he killed bin Laden! Gutsy call! Sure, there's a bit of a difference between sending in a highly trained team to a cinderblock complex at night to perforate bipeds whose behavior can be reasonably predicted and inserting a team into an orbital platform to kill someone whose gelatinous body lives simultaneously in two dimensions and requires an atmosphere of irradiated chlorine, but GUTSY CALL.

Because he is actually an alien himself, and when he undoes the zipper and steps out of his suit of flesh to reveal the hideous, tentacle-waving monstrosity who rakes the press room with rays of death that seem to flow from his fingers like bright water, some people watching on CNN will shout I KNEW HE WAS BORN IN KENYA!

Because *Dreams from My Father* has an aching passage, heartfelt and beautifully written, where the young Obama dates an alien girl from the Orion system and thinks there will be some understanding between them because her green skin marked her as an outsider. "The other boys called her Pickle," he wrote, "but to me her skin was the color of the leaves and grass in the summer sun."

It later turned out that she was a composite of a blonde girl from Beverly Hills and a can of green paint he had walked past when someone was touching up the trim on her porch. But the general idea of knowing what it's like to be from another star system is the important lesson to take away; he's certainly more empathetic than Romney, who would attempt to move jobs to Orion.

But wouldn't Romney use his special Destroyer Powers to ruin Orion's industrial base by buying up all the fac-

tories and shutting them down? After all, that's how he makes money: buying up successful companies that are doing well and then declaring bankruptcy, firing everyone, and selling the assets for pennies on the dollar, leading to a net loss for everyone, except for Romney, because his team has the airport concession for sandwiches and makes money on all the consultants who have to fly to the factory to close it down. Nine dollars for a turkey sandwich! Imagine if he's president! Gas will be over 55 dollars a gallon, because he's bought the refineries and turned them into big piles of pipes.

Planet-wide death and destruction are excellent opportunities for Keynesian spending, and the president has a natural feel for these things. There's nothing quite so shovel-ready as a mass grave that needs to be dug, and if 5 percent of the population is put to work interring the other 95 percent, you're talking employment numbers that make Reagan look like Hoover in '31.

Because it wouldn't be an invasion, after all; it would be a compassionate act of recognition that there are Zorgonians who have been living among us for some time now, and he will declare them to be exempt from deportation by executive order. "With this decision, millions of Zorgonians will be able to come out of the shadows, or would, if the touch of our sun's rays didn't cause them unbearable pain."

He would assure us that this is not surrender but "amnesty." The Supreme Court would agree, thereby assuaging fears that "amnesty" could be construed as "surrender" by future presidents seeking to expand the government's ability to collapse like a house of cards. Justice Roberts, however, would surprise everyone, noting that the action actually falls under the "capitulation powers." Some conservative pundits would call Roberts's decision a brilliant move that handcuffs future expansion of the government's surrender power, but the pundits would be unable to complete the thought, because Washington had been consumed by a blinding flash of purplish light that made people and marble alike turn to friable ash.

Zorgonians would call talk radio to complain, noting that they came here legally by the route they were supposed to take: crash-landing in deep-space probes and shape-shifting to assume human form.

The survey had some other interesting results. *USA Today* said that people were unable to rally behind a superhero to defend the planet. Twenty-one percent would call in the Hulk; 12 percent would flash the Bat signal; a mere 8 percent would rely on Spider-Man. But what of Superman? What of the heroic, all-powerful, upright defender of truth, justice, and the American way?

He's fictional, you say. Well, so's the president everyone seems to think we have, and that didn't stop people from trusting him over Mitt.

NR



The Long View BY ROB LONG

ZAGAT'S NEW YORK RESTAURANT GUIDE

Post-Bloomberg Edition

GRAND CENTRAL OYSTER BAR

The fish is “as fresh as you’ll find it anywhere,” and the New England clam chowder is as creamy as possible under NYC Health and Safety regulations on dairy use per portion. The oyster crackers have been replaced by low-carb repurposed packing materials, and they are no longer available by the dozen, but the old style of the place is “intact and better than ever.” Tuck into a variety of sustainable low-sodium fish products—many served with a zesty lemon wedge for added flavor—and enjoy the simple, unadorned low-fat charm of fish steamed in plain water and served as a drinkable paste. Moderate to expensive. Lunch and dinner.

CARNEGIE DELI

Carnegie Deli has been feeding the “late-night show-biz crowd” with “enormous portions” of cheesecake and “mile-high” stacks of pastrami for decades. Open late for “midnight cravings,” these days it’s a place to see New York’s deli cognoscenti tuck into city-health-police-regulated, portion-controlled mini-sandwichettes of tofurkey and salt-free korned bean-f (a tasty and heart-healthy soya-based mock-corned-beef product). Alas, the cheesecake hasn’t been served—or baked—since the famous Carnegie Deli cheesecake producer was arrested for violating NYC Health and Safety Ordinance 310-H-9, prohibiting the sale and manufacture of sweetened dairy products within city limits. Enjoy! Breakfast, lunch, and dinner. Open late.

RESTAURANT DANIEL

This “glamorous, upscale” Manhattan restaurant is “perfect for stargazing” and a classic American answer to the “Parisian fine-dining experience.” Come for the “gilded pampering” and the “tasteful interior design,” and stay for the “dazzling wine list” (customers limited to two (2) 3 oz. servings of beverage alcohol, in accordance with NYC Health and Safety Ordinance). Since the public execution of the pastry chef, a meal at Daniel is “surprisingly affordable.” Jackets for men. Bar menu discontinued due to Bar Closure Ordinance.

ANGELO PIZZERIA

This “local favorite” is “half dive, half pizza mecca,” and it has lines out the door to prove it. Angelo’s manages to “conform” to the current pizza regulations enforced by the NYC Health and Safety Department, and diners are recommended to “dip your slice into the bowl of warm water” that accompanies each order, which will “loosen up” the soy-based cheese strands and soften the “faux-peroni” disks. No beer. No wine. No soda. Lunch and dinner.

KATZ'S DELI

Closed by order of NYC Health and Safety Department, in violation of the Pastrami Ordinance and the Salted Meats Prohibition. Mail-order customers or those still holding cured meats and/or pickles from this establishment are required to surrender them to the NYC Department of Health and Safety, either in person or utilizing the blue dropboxes for banned foodstuffs/drinkables located throughout the city.

PETER LUGER'S STEAKHOUSE

This “Brooklyn institution” is famous for its small portions—3 oz. or less, in accordance with NYC Health and Safety Regulation 349A-01—

and its total lack of the fried potato. It would seem impossible to serve “delicious, tender” all-American beef without the use of salt, but somehow Peter Luger does it. New York’s only remaining steakhouse after the forced closures of Palm, Smith & Wollensky, Homeland, Strip House, Wolfgang’s, Patroon, 43rd Street Steakhouse, and all Tad’s locations, Luger’s “holds up the standard” of the classic Manhattan steakhouse with “pride and ingenuity,” especially considering that, in addition to prohibiting salt, NYC Health and Safety Ordinance 733-H-0K specifically bans the use of beef fat within city limits. No credit cards. No alcohol served. One member of each party must order vegan.

CHAN YANG SZECHUAN

Chinese restaurants in the city have been disappearing since the advent of Mayor Bloomberg’s NYC Health and Safety regulations, but Chan Yang Szechuan holds on with a “winning mix of old Chinese and new healthy cooking.” It’s now an all-broccoli menu, with a variety of broccoli and mini-corn dishes to “remind diners of the stuff they used to pick around” when they enjoyed Chinese food in years past. No reservations.

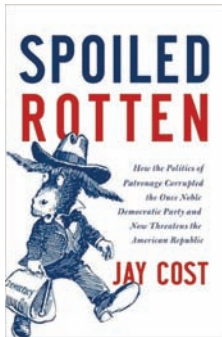
PER SE

Chef Thomas Keller’s “temple of haute cuisine” serves “spectacularly memorable” multi-course tasting menus in a “lavish” and “opulent” setting. Diners enjoy his “pricey but worth it” all-steamed-vegetable menus, and some return “again and again” for his annual “Study in Rice Cake” chef’s menu. If you’re not “put off by the police standing by to enforce the No Foie Gras Ordinance” or by the “eye-popping prices” for organic yard trimmings, you’ll “flip” for the “hip, stylish” interior and the bottled-water choices. Expensive to very.

Books, Arts & Manners

Cronies, Clients, and Corruption

VINCENT J. CANNATO



Spoiled Rotten: How the Politics of Patronage Corrupted the Once Noble Democratic Party and Now Threatens the American Republic, by Jay Cost (Broadside, 368 pp., \$26.99)

“IT wasn’t supposed to be like this.” So begins *Spoiled Rotten*, Jay Cost’s new history of the Democratic party. Cost is referring to the presidency of Barack Obama, who was going to be a post-partisan, post-racial leader for the 21st century. More importantly for Democrats, Obama was also going to usher in a new era of Democratic dominance based on the changing demographics of American society.

Since the 1960s, Democrats have increasingly pinned their electoral hopes less on white working-class voters and more on an alliance of upper-middle-class professionals, minorities, young voters, and women. The election of 2008, which included Democratic victories in previously Republican states such as Virginia, North Carolina, Indiana, Florida, Nevada, and Colorado, at the time seemed to have proven the 40-year strategy correct. Amid an economic crisis, Obama was inaugurated with high approval ratings, a strongly Democratic Congress, and a

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Time magazine cover showing the new president as the reincarnation of Franklin D. Roosevelt. Liberals, it seemed, finally had their new New Deal.

In 2012, those dreams are a distant memory. Although no longer in a recession, the economy has been limping along with anemic growth. President Obama’s signature policy change, health-care reform, is not widely popular, and many of the initial claims about its contents and costs are proving to be untrue or exaggerated. The stimulus plan now looks more like a grab bag of political handouts than a serious economic policy.

So why did things go so wrong? Part of the problem is with President Obama himself. He has proved to be a far less adept politician than many people once believed. He routinely shows a political tin ear and has expended little of the energy required to make the wheels of government turn. The president seems oddly disengaged and even uninterested in leadership. Speeches, not policy, drive Barack Obama. On top of this, the president’s overweening narcissism gives the administration an odd, disconnected feel. The president seems to be saying by his body language that the country doesn’t deserve a president as gifted as Barack Obama.

Cost is a writer for *The Weekly Standard* who brings a political scientist’s keen eye to the analysis of campaigns and elections. *Spoiled Rotten* is part polemic, part history, and a must-read for political junkies. There are many flashes here of the political smarts and good sense that fans of his writing have come to expect.

In this book, Cost claims that the problems of the Obama administration go far beyond the failings of the president and extend to a fatal flaw within the modern Democratic party. He argues that the party has increasingly succumbed to the vice of what he terms “clientelism,” which he defines as “transforming factions of voters into loyal members of a party’s coalition by offering them special privileges.” The Democratic party breaks down the American population into discrete groups and then proceeds to win their votes with government benefits.

In doing so, Cost writes, the Democrats have “become a threat to the American republic itself.” Instead of working for the public interest, “the Democrats are the party of, by, and for the politically privileged few, at the expense of everybody else.”

Readers of the book will be treated to a lengthy tour of Democratic-party history, from Andrew Jackson to Obama, although most of the book focuses on the post-New Deal period. In his detailed and persuasive recounting of political history, Cost shows how Democrats continually sought to expand the powers of the federal government and create programs they believed would both solve social problems and win the allegiance of voters. They broke down the American public into discrete groups and tried to make those groups “clients” of the New Deal coalition.

Discussing the post-1960s period, Cost takes us into the era of the “New Politics,” where increasingly the most pressing issues became social and cultural rather than economic. He ably shows how Democrats added new “clients” to their coalition: African Americans, abortion-rights supporters, environmentalists, and gays.

In our own time, “clientelism” is really another term for “crony capitalism,” and therefore the book is firmly rooted in the Age of Obama. From energy policy to health care to the stimulus, special interests have certainly had a strong hand in the shaping of policy under this administration. Attacks on cronyism have become one of the most potent Republican criticisms of the Obama administration.

One small issue with *Spoiled Rotten* is that Cost borrows a rhetorical trick often used by liberals, who criticize Republicans by complaining that the current party has drifted from its noble past. Liberals argue that the GOP is no longer the party of Lincoln, Theodore Roosevelt, or even Goldwater and Reagan, but instead in the thrall of extremists.

As his subtitle states, Cost believes that the Democratic party has become unmoored from its “once noble” past. To Cost, that means the era of Andrew Jackson in the 1830s, when the Democratic

party stood for the interests of “humble members of society” against special interests. Count me skeptical, both on the history and on the usefulness of this trope. As Cost correctly notes, factionalism is rooted in the very nature of party politics, a development that the Founding Fathers despaired of and hoped to avoid in the new republic; yet in the nation’s infancy, factionalism and party politics took hold with the participation of many of those who had just years earlier fretted about the problem. Even the Jacksonian Democrats that Cost lionizes played the game of factionalism and patronage.

Cost demonizes Gilded Age Republicans and argues that their support for high tariffs during the late 1800s was akin to a “shakedown racket” to use government policy to support Republican manufacturers. But Democratic policies during the Gilded Age were just as guilty of “clientelism.” Free silver was an attempt to inflate the currency to assist debt-ridden farmers and others who suffered during a time of deflation.

Nor does Cost grapple with the fact that Republicans during the presidency of

ed defense of the virtues of republican government and the general idea that our public policy should be created in the interest of the public good, not for the fostering of a political base. It is a compelling argument that dates back to the American Revolution, one that is written into the nation’s ideological DNA.

The problem, however, is that while it may in fact be immoral and anti-republican, “clientelism” makes rational sense as a political strategy for the Democrats. Sure, “green” energy companies and other crony capitalists get subsidies and benefits from government, but the “humble members” of society also get benefits at the same time, including Medicare, Medicaid, Social Security, student loans, housing assistance, WIC, food stamps, and myriad others. Too often Cost writes as if only well-connected fat cats make out from Democratic policies, not mentioning that lower-income Americans vote disproportionately Democratic for good reasons. Those “humble members” turn out to be clients as well.

As the size of government grows, so does the number of potential clients for future Democratic politicians. One of the

Spoiled Rotten is a spirited defense of the virtues of republican government and the general idea that our public policy should be created in the interest of the public good.

George W. Bush also tried to play the “clientelist” game. The Bush administration pursued policies that targeted specific groups in the hopes of building a new, stronger Republican party. Economic conservatives got tax cuts. Religious conservatives got faith-based initiatives. Laxer policies on homeownership were especially geared toward minorities. Suburban independents got No Child Left Behind. Seniors got the Medicare prescription-drug benefit. Immigration reform was supposed to attract Hispanic voters, while young voters were offered Social Security reform. The latter two ideas never came to fruition, and the strategy largely failed as both politics and policy.

Cost’s attack on “clientelism” is mostly a moral one. *Spoiled Rotten* is a spirit-

biggest problems that fiscally conservative Republicans in Washington have had over the years is that the constituencies to keep federal programs are always bigger (and louder) than the constituencies to abolish or cut back those programs.

Even with the sputtering economy and the problems that Obama has largely created for himself, the 2012 presidential election will probably be very close largely because of the fact that there might just be enough Democratic “clients” to forge a new political coalition. In *Spoiled Rotten*, Jay Cost provides a much-needed history lesson for Republicans trying to figure out how to appeal to 21st-century voters, as well as for Democrats seeking to reshape their party away from the divisiveness of “clientelism.”

NR

The Thirty Years’ War

MICHAEL RUBIN



The Twilight War: The Secret History of America's Thirty-Year Conflict with Iran, by David Crist (Penguin, 656 pp., \$36)

As American diplomats and their international partners prepared to sit down with their Iranian counterparts in Baghdad last May to discuss Iran’s nuclear program, the State Department was aflutter. In conference calls and background briefs, senior diplomats and Obama-administration officials suggested Tehran was on the verge of grasping Obama’s outstretched hand and might agree to deal seriously to end years of crisis.

That the talks would go nowhere was predictable. When Iranian negotiators proposed to hold discussions on May 23, Obama’s team agreed immediately; the White House cared little why the supreme leader, Ali Khamenei, had picked that date or venue. Iranian history informs, however: May 23 marked the 30th anniversary of Iran’s liberation of Khorramshahr, its key victory during the Iran–Iraq War. “The pioneering Iranian nation will continue its movement towards greater progress and justice,” Khamenei promised at a victory speech, adding, “The front of tyranny, arrogance, and bullying is moving towards weakness and destruction.”

The nuclear talks were the Islamic Republic’s latest but not its last parry in its battle with the United States. While almost every U.S. administration has sought reconciliation with Tehran, first revolutionary

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leader Ayatollah Ruhollah Khomeini and then Khamenei have conceived of themselves as at war with “the Great Satan.”

Against this backdrop, David Crist’s *The Twilight War* is valuable. Crist, a historian at the Pentagon and a Marine reserve officer who served in Afghanistan and Iraq, pens the history of the more-than-three-decade “secret war” between the United States and Iran.

Jimmy Carter never expected Iran to define his presidency. A foreign-policy novice, Carter hoped to make his mark on Korea, promising a withdrawal of U.S. forces just days after announcing his run for the Democratic nomination. The Iran situation threw the Carter White House into crisis and exposed factional divisions that would undermine Carter’s response and culminate in the resignation of Cyrus Vance, his secretary of state. While Crist adds little new in his examination of Carter-administration diplomacy—former CIA analyst-turned-Brookings scholar Ken Pollack covered that period well nearly ten years ago in *The Persian Puzzle*—he is an excellent writer whose narrative is a pleasure to read. He illustrates well how the State Department bubble failed to recognize reality until it was too late.

Without access to Persian sources, he does miss pivotal points, however. “Initially, the students had intended to hold the embassy for just a few hours,” he writes, “but the embassy takeover acquired a life of its own.” But what caused the students to change their minds is important for today: According to his Carter-administration colleagues (whom I interviewed for a book of my own), Gary Sick—the Iran director on the National Security Council—leaked to the *Boston Globe* that Carter had removed military options from the table. When the captors read that revelation, they transformed a 48-hour action into one that lasted 444 days.

The Twilight War’s strength is less in rehashing the policy muddle and more in recording the military and intelligence component of U.S.-Iran relations. Prior to the Islamic Revolution, Iran was a key Cold War ally and a front-line state with the Soviet Union. Before Soviet premier Leonid Brezhnev ordered the Red Army into Afghanistan, the Pentagon’s nightmare was a Soviet assault on Iran. Crist details the Pentagon’s war plans to counter a Soviet invasion of Iran, and also charts preliminary plans to foment insurgency in

Iran. Decades later, as the Revolutionary Guards increased harassment of American forces, General Anthony Zinni would revise these plans into a strategy for occupying Iran. American policy was schizophrenic, however. Even after the hostage crisis, many American officials saw Iran first and foremost through the Cold War prism. Crist relates how CIA director William Casey—remembered best for his role in the Iran-Contra affair—leaked the names of Soviet spies in Iran, enabling revolutionary authorities to eliminate them.

With the exception of Operation Eagle Claw—the ill-fated hostage-rescue attempt—Carter ignored the military option. Curiously, Crist omits the Navy’s proposed plans to seize Kharg Island, a move that would have stopped Iranian oil exports cold and strangled the economy until Khomeini released the hostages.

While the Islamic Republic is not as impervious to human-intelligence penetration as North Korea is, it has always—for American spies—been a desert. It was not for lack of trying. Under President Ronald Reagan, the CIA worked to build a human-intelligence network inside Iran and actually succeeded in recruiting several senior military officers. It was less successful in rallying the Iranian opposition: Getting opposition forces to cooperate with one another was like herding cats. “Every Iranian male is born with a chip in his brain that periodically broadcasts, ‘I am the leader of the Iranian people,’” CIA operative George Cave quipped.

The Iran-Iraq War was like an intensified version of World War I. Not only did conscripts face trench warfare, barbed wire, and mustard gas, but they also had to cope with late-20th-century technology, such as Scud missiles and supersonic aircraft. In the run-up to Operation Iraqi Freedom, the press lambasted Secretary of Defense Donald Rumsfeld for his infamous 1983 handshake with Iraqi dictator Saddam Hussein; Crist provides greater context, explaining how the Reagan administration feared that the Iranian advance on the southern-Iraqi city of Basra might presage a victory for Khomeini that would fundamentally alter security in the Middle East. In the wake of President Barack Obama’s decision to withdraw U.S. forces from Iraq despite Iran’s resurgence, policymakers may get a sense of what might have been had the Reagan

administration not tried to check Iran in Iraq.

Much of the proxy war between the U.S. and Iran occurred in the valleys and alleys of Lebanon. Crist describes the lead-up to the Marine barracks bombing, and then Reagan-administration discussions about how to retaliate. Here, he could have gone farther: While he notes that Defense Secretary Caspar Weinberger was reluctant to retaliate against the individual perpetrators—their location was known—Crist never explains Weinberger’s inaction. Had he explored this question, as some of Weinberger’s contemporaries did, he might have found that Prince Bandar, the Saudi ambassador in Washington who enjoyed near-unfettered access to Weinberger’s office, had convinced Weinberger to accept the dubious idea that retaliation would spark broader conflict and undercut oil markets.

As the Lebanese civil war wound down, the proxy war shifted to the Persian Gulf. Crist explores Iranian mining of international waters, and the tanker war, which culminated in Operation Praying Mantis and the USS *Vincennes*’s downing of an Iranian airliner. Crist illuminates not only well-known encounters, but also lesser-known events, such as the intelligence windfall provided by the Navy SEAL capture of the ship *Iran Ajr*. He also describes the Pentagon’s rejection of plans by Admiral James “Ace” Lyons to hit Iran in a limited fashion with the aim of rolling back its revolutionary regime. As in many instances in which timid officials shelved plans to retaliate more forcibly against Iran, it is easy to speculate about how Tehran’s subsequent behavior might have been different had the Iranians been given cause to take U.S. redlines more seriously.

When it comes to more recent events, Crist gets much wrong. Like many journalists, he is beholden to conventional wisdom and the agendas of sources, some of whom—including Hillary Mann Leverett and James Dobbins—have distinguished themselves with post-retirement opinions that exculpate Iran and bash Bush. Deputy Secretary of State Richard Armitage, a gossip whose leaks paralyzed the Bush administration and led to the Scooter Libby investigation, misleads Crist outright when he says that Pentagon civilians favored utilizing the Mujahideen al-Khalq (some in the military did, and the Pentagon civilians scrambled with the State Department to end such discussion).

Crist repeats the mantra that the Iranian people sympathized with the United States after 9/11, but fails to note Khamenei's gloating over that event. Like the proverbial blind man describing the elephant, he amplifies limited experience into an unrepresentative whole. He reminisces about a game of brinkmanship with Iranian small boats soon after the beginning of Operation Iraqi Freedom. "What I did not know until later . . . was how little CENTCOM or the civilians in the Pentagon had bothered to consider Iran when planning to remove Saddam Hussein." Nothing could be farther from the truth. Pentagon civilians raised the Iranian challenge repeatedly—but the State Department convinced itself that Iranian promises could be taken at face value.

Crist also credulously accepts the idea that the Iranian regime offered the Bush administration a grand bargain that, in a peak of arrogance, the White House and the Pentagon rejected. This is nonsense. Tim Guldemann, the Swiss ambassador in Tehran, unveiled the proposal, unaware that the Americans and Iranians were talking at a higher level. Trita Parsi, an Iranian-born activist and lobbyist in Washington, promoted the story even though his own e-mails (released through courtroom discovery process) indicate that the Iranians denied the offer was theirs.

Crist gets sloppy toward the end—confusing, for example, the amount requested and the amount granted for programs to promote democracy in Iran. As he brings his narrative into the Obama years, he lets his underlying assumptions shine through. By 2012, he relates, "seasoned, pragmatic Iran watchers called for tougher sanctions to punish Iranian intransigence. . . . But punishing Iranian intransigence also hardens Iranian leaders and justifies in their minds the need for a nuclear program, both for increased self-sufficiency and as a deterrent." Alas, here he not only, like many who are overly reliant on American sources, downplays the ayatollahs' ideological motivations, but also ignores the lessons of the past: When the Islamic Republic is chastened, as it was by Reagan's 1988 ordering of the U.S. Navy into action, sometimes the regime reconsiders further provocations. Nevertheless, Crist is correct to note that, when it comes to Iran, "glimmers of optimism invariably give way to the smell of cordite." **NR**

The Marriage Mess

RYAN T. ANDERSON



Debating Same-Sex Marriage, by John Corvino and Maggie Gallagher (Oxford, 296 pp., \$16.95)

THE debate over whether to recognize same-sex relationships as marriages is among the most sensitive, difficult, and important in American public life. Sensitive, because it addresses real people's happiness, and provokes strong emotions. Difficult, because it occurs between reasonable people of good will with different visions of the common good, in a culture already long confused about marriage and sexuality. Important, because the family is society's foundation.

John Corvino and Maggie Gallagher know this, which is why their arguments on marriage are so measured, reasonable, and persuasive—despite their own profound disagreement. Corvino, a philosophy professor at Wayne State University, favors recognizing same-sex relationships as marriages. Gallagher, founder of the National Organization for Marriage, favors retaining civil marriage as the union of man and woman. Both are friends of mine, and both mention (critically and appreciatively) my writings on marriage with Sherif Girgis and Robert P. George.

The authors seek to "achieve disagreement": to understand precisely where and why they differ, a rare feat "in the face of a sometimes ugly division." And in 100

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pages each of positive arguments, and 20 pages each of replies, they do just that. The total effect is to give readers a sense of the strengths and weaknesses of the arguments, without the usual spike in blood pressure.

Corvino opens with a poignant description of a "gay wedding" (his term) between "Boyd and Josh" to highlight the human consequences of the debate. A marriage, he argues, is "when people in love commit to building a life together." He submits that "were it not for the absence of a bride, you'd have a hard time distinguishing the scene from any other wedding."

While he addresses legal effects, Corvino's main concern is with the social meaning of marriage. His account is quite good, although incomplete. Marriage, he says, is about *sustaining*, not just celebrating love—and not just the "stomach butterflies" kind, but the love that "keeps you up all night" tending to a sick spouse: "True love is challenging. It is not a mere feeling, but an ongoing activity." Marriage is to help sustain "that kind of steady, enduring love even as romantic bliss waxes and wanes." Regardless of their sex, Corvino argues, "such love is good for people, and society has an interest in promoting, honoring, and reinforcing it." It establishes your "Number One Person," that "special someone" whom "you will come home to at night, wake up with in the morning, and share life's joys, sorrows, and challenges with." Corvino calls this the "mutual lifelong caregiving rationale."

He admits that children's well-being is "a supremely important rationale for marriage," but denies that it is "the sole important rationale." He cites data, some from Gallagher's writings, on how marriage benefits spouses. Indeed, he suggests, marriage benefits children and society by *first* promoting mutual caregiving: "The myriad benefits of marriage accrue largely because it is an exclusive, presumptively lifelong, mutually supporting partnership." For these reasons, he thinks, we should try to promote it for as many as possible.

Corvino intelligently responds to many now-standard arguments against his view, but his academic training gets the best of him. He too frequently engages in philosophical logic-chopping, chiding his opponents for lack of technical rigor while failing to appreciate the main arcs of their arguments.

Gallagher sees this, too: “Advocates for gay marriage, with but very few exceptions, literally do not understand the arguments opposing it.” Some of this is intentional, as “it serves their core myth” that “opposition to gay marriage is based on bigotry—irrational hatred.” But much of it is not intentional. In the wake of the damage to marriage inflicted by heterosexuals, same-sex marriage follows a certain logic. Gallagher does not “blame gay men (or women)” for this, but says it’s no reason to double down on the sexual revolution’s follies.

Gallagher regrets that “an idea about marriage that has been incarnated over and over again in diverse human societies—marriage is a sexual union of male and female oriented toward connecting fathers to mothers and their children—is now apparently unintelligible, especially to many in the intelligentsia.” She seeks to explain how even people who “fully embrace respect for gay people in civil society nonetheless stubbornly resist the idea that same-sex unions are marriages.” After all, “stopping gay marriage is not victory, it is only a necessary step to the ultimate victory: the strengthening of a culture of marriage that successfully connects sex, love, children, and mothers and fathers.”

That connection explains why the government deals with marriage in the first place. Marriage is a social institution that helps unite goods and persons that would otherwise split apart, at great social cost: “The critical public or ‘civil’ task of marriage is to regulate sexual relationships between men and women in order to reduce the likelihood that children (and their mothers, and society) will face the burdens of fatherlessness, and increase the likelihood that there will be a next generation that will be raised by their mothers and fathers in one family, where both parents are committed to each other and to their children.”

Gallagher doesn’t say this to denigrate other relationships, but to stress that not every loving, care-giving relationship is a marriage. Marriage has its distinct contours and norms in part because of its social function. And reluctance to recognize same-sex relationships as marriages reflects a conviction “that our traditional vision of marriage is true, good, and just—that marriage understood in that way deserves its unique legal and cultural status because it is rooted in real and en-

during differences between marriage and other relationships.”

Gallagher also fears that redefining marriage to include same-sex relationships will cause harm: not immediately, but over time, as it shapes culture. For one thing, the particular logic of the contemporary same-sex-marriage movement, premised as it is on “marriage equality,” brands as bigots those who see differences between same- and opposite-sex relationships. Taking her opponents’ words at face value, Gallagher argues that cultural stigma and legal penalties will await those who continue to argue that children need married moms and dads.

She notes that the traditional norms of marriage—monogamy, sexual exclusivity,

BELL AND CHALICE

Our reach to Heaven
rings true to our humanity
through symbols tangible
to the mind and to the eye;
the deeper the history,
the more compelling the concept,
the stronger its grip.
The chalice bearing
the spirit of God
does so in the wine,
the blood of the Son;
simple as a drink,
yet bearing a provenance
beyond understanding,
the full flower of sacrifice
partially accepted,
partially understood,
even as fully revealed,
not because of some oblivion,
under the full light of heaven,
to which we are tending,
but because our lives
and understanding are finite,
as is the chalice, and each drop
that we may drink from it,
in our best moments, joyous and grateful,
and at other times,
still within the history of the gift
and its meaning,
ringing true
to the most distant hearer
of the bells of joyful revelation,
and the dreams of his children,
and generations, by the grace of God,
yet to be born.

—WILLIAM W. RUNYEON

and permanence—make less sense once marriage is no longer bridging the gender divide and is severed from its orientation to procreation. Why should same-sex and opposite-sex relationships be governed by the same rules? Gallagher cites studies showing that people in same-sex relationships report less of an interest in and satisfaction from such norms: An expert witness in favor of gay marriage in the Proposition 8 case, for example, testified that “for gay men there’s no association between sexual exclusivity and the satisfaction of the relationship.” Gallagher fears that those norms, instead of shaping same-sex relationships, will simply be further weakened, leading to more non-marital childbearing and less satisfaction among opposite-sex spouses. (Indeed, same-sex-marriage advocates such as Dan Savage have already proposed greater acceptance of the idea of “open” marriage.)

Corvino offers a rather weak defense of monogamy: “Only one person can be your ‘Number One Person.’” Gallagher offers a bit more: “Because sexual unions of male and female produce children, the rules and norms that govern them are different from other kinds of unions.”

Finally, Gallagher thinks that anyone who takes marriage seriously as a child-protecting institution should proceed with caution before redefining the institution and changing the cultural message that it sends. It’s true that some same-sex couples have kids, and Gallagher calculates that about “one-fifth of one-eighth of one percent of children in America might experience a benefit from gay marriage, assuming it stabilized their parent’s union more than private commitment ceremonies or civil unions.” But before we embark on such a vast social experiment to benefit such a small population, she argues, the “burden of proof” should be on those who would redefine the institution to show that it wouldn’t obscure the central function of marriage, and thus have a negative effect in the broader society.

On this issue, Corvino makes the mistake of too eagerly embracing the results of preliminary social science: “Children raised in same-sex households fare just as well as their peers on standard measurements of health and well-being.” He appeals to a statement by the American Psychological Association for support. But earlier this summer, two important peer-reviewed articles were published that seriously call into question the value of the

previous social science on same-sex parenting. One showed that none of the studies that the APA relied on used random, representative, or longitudinal samples. And when a representative sample was drawn, the results continued to suggest that children do best when reared by their married biological mother and father. (Gallagher makes a similar point about the scientific literature: “We have not a single study of ‘planned motherless families.’ We have zero scientific information on how children fare raised by single gay dads, or two gay dads.”)

Long before there was a debate about same-sex marriage, there was a debate about marriage. It spawned a “marriage movement,” and Gallagher was one of its leaders. Author of several books and reports on this subject throughout the Eighties and Nineties, Gallagher wanted to explain why marriage was good for the men and women who abided by its norms and the children reared within its confines. Same-sex relationships weren’t on her radar screen. Her concern, like that of most of the leading scholars and activists on that side of the marriage debate today, was much broader than same-sex relationships.

The rationale that leads them to reject premarital sex and the hookup culture, cohabitation and non-marital childbearing, and divorce and extramarital affairs also leads them to reject same-sex marriage. They don’t see how same-sex relationships, whatever their other merits, can be marriages, nor how recognizing them as such could strengthen the marriage culture. Instead, they see the logic of redefinition as driving a final nail in the coffin of marriage as a normative ideal uniting sex, family life, and permanently exclusive commitment. Same-sex marriage cements a view of marriage based solely on adult desire—hardly a solid foundation for the kind of families that children and society need in order to flourish.

Support for man-woman marriage is no excuse for animus against people with same-sex attractions, or for ignoring the needs of people who may never marry for whatever reason. They are no less worthy than others of concern and respect, and public policy should do what it can to help their lives go well. Still, Gallagher is correct that because “sex makes babies, society needs babies, and children need mothers and fathers,” the law should specially support the union of man and woman known as marriage. **NR**

Quidditch, It’s Not

ANDREW STUTTAFORD



The Hunger Games (Scholastic, 384 pp., \$8.99), *Catching Fire* (Scholastic, 391 pp., \$17.99), and *Mockingjay* (Scholastic, 400 pp., \$17.99),
by Suzanne Collins

DYSTOPIAS—dark, funhouse mirrors of our fears—will always be with us. *Nineteen Eighty-Four* was the product of a time when Big Brother Stalin was on the march, and the Eloi and the Morlocks of *The Time Machine* reflected H. G. Wells’s anxiety about where the onrush of 19th-century capitalism could lead. So what to make of the success of a “young adult” trilogy set in a North America that has—here a shout-out to a fashionably green vision of global catastrophe—emerged after “the droughts, the storms, the fires, the encroaching seas that swallowed up so much,” including, it appears, all of the spirit of 1776? This land is now Panem, run by a despotism that proclaims and reinforces its control with the Hunger Games, a brilliantly, sadistically choreographed

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contest that is broadcast across the nation. This annual ritual turns slaughter into both spectacle and terrifying statement of who is in charge.

The Hunger Games, the first of the trilogy by Suzanne Collins, spent nearly two years on the *New York Times* best-seller list after its release in 2008. By May 2012, Scholastic reported that some 36 million copies of the three books were in print in the U.S. The movie version (not bad, incidentally) has been a smash, grossing over \$150 million in its opening weekend alone.

Earlier this year Collins became the best-selling author in Kindle’s history. That’s quite something for a writer of works aimed at (to repeat that cloying phrase) young adults, even in the age of *Harry Potter* and *Twilight*. What she has produced is no great work of art (the trilogy’s numerous grown-up devotees need to move on to more challenging fare), but Collins fully deserves her legions of teenaged fans. Her characters can find themselves burdened with names that hint at vintage sci-fi or sepia bucolic idyll (Katniss, Peeta, Haymitch, Cartwright), but the writing is taut and spare. Chapters frequently finish with cliffhangers that beg for a turned page.

Collins’s heroine, 16-year-old Katniss Everdeen, is tough and ornery, an accomplished huntress and, when she has to be, a deft killer. If less glamorously so, she is a model of adolescent female empowerment in the venerable Buffy tradition, with her harsher traits both diluted and emphasized by nods to girliness that won’t have hurt Collins’s sales in Sweet Valley High: Despite the dangers that lie in the Hunger Games ahead, and despite herself, Katniss exults in the outfit created for her presentation to the crowds in Panem’s capital. Nor is this the trilogy’s only fashionista interlude: Throughout the books there are detailed descriptions of what is being worn by whom, and a “stylist” is one of the heroes.

There is also a love triangle that could have matched that between *Twilight*’s Edward, Bella, and Jacob in its angst, but, revealingly, does not. Perhaps Collins felt that male readers could take only so much. They, and other savages, are thrown plenty of bones, limbs, mutilations, sinister mutant creatures, and well-told grotesque, disgusting deaths.

The brutality is inclusive. Sympathetic

characters don't escape Collins's chopping block. Then again, dystopias are not meant to be happy places. And Panem is not. It exists purely to serve the needs of a predatory capital—the Capitol—that feeds off twelve ruthlessly exploited districts. Its coal is mined in Katniss's Appalachian home, the desperately hard-scrabble District 12; its fish comes from District 4; and so on. The Capitol regime is a caricature of vicious imperial misrule, and the Hunger Games are the acme of a cruelty as depraved as it is carefully targeted, a reminder of the consequences of a failed revolt by the districts three-quarters of a century before. Each district has to furnish two "tributes," a boy and a girl between the ages of twelve and 18, for a gladiatorial competition in which they and the other 22 will be consigned to an arena from which only one is allowed to emerge alive.

Unkind critics have commented on similarities between the Hunger Games and *Battle Royale*, a Japanese saga of high schoolers forced to fight to the death by a totalitarian state, a connection that Collins denies. She cites instead, as an influence, the legend of the, uh, young adults handed over to the Minotaur. Spartacus, she says, is another: "Katniss follows the same arc from slave to gladiator to rebel to face of a war." Lest the classical analogies pass anyone by, there are other clues, from the occasional Lati-nate coinage (a slave with his or her tongue cut out is an Avox) to the fact that many of the Capitol's inhabitants, not to speak of the city itself, are named with a distinctly Roman flourish: Coriolanus Snow, Seneca Crane, Caesar Flickerman—you get the point. Then there is this from a member of the Capitol's elite who switches sides: "In the Capitol, all they've known is *Panem et Circenses*. . . . [It] translates into 'Bread and Circuses.' The [Roman] writer was saying that in return for full bellies and entertainment, his people had given up their political responsibilities and therefore their power."

Ah, *Panem*.

Katniss connects the remaining dots. The districts are compelled to provide the Capitol's frivolous and decadent citizenry with abundance and, through the tributes, the "ultimate" distraction of the Hunger Games. Duly sated, the frivolous and decadent citizenry then leaves the business of power to those who

wield it. By now even the slowest of Collins's readers may suspect whose reflection they have been glimpsing in this particular funhouse mirror.

That seems to have been her intent. She has said that the idea for *The Hunger Games* first struck her while channel-surfing between reality TV and coverage of the Iraq War, something that troubled her NPRish fastidiousness more than it should: It's a long way from *Survivor* to Katniss. There are certainly viewers who have been desensitized by the tube's manufactured conflicts, but only psychopaths or the extremely stupid could have confused the images from Iraq with entertainment, make-believe, or both.

Collins's explanation that war is hell (a theme of her *Underland Chronicles* too) is unoriginal, but commendable enough, at least until the moment—sometime in the course of *Mockingjay*—when sermon overwhelms story. The tale of the Capitol's fall offered an ideal opportunity for a deeper exploration of the principle of morally legitimate violence that, from Katniss's arrival in the arena, forms one of a number of this trilogy's more interesting subtexts. That opportunity is at first grasped but then thrown away in favor of a dull plague-on-both-your-houses world-weariness that is more evasion or tantrum than an attempt at an answer.

There are always true believers of one sort or another who see a popular phenomenon and claim it for their own. Some Christians have detected a Christian message in these books. Meanwhile, writing in *The Atlantic*, Nicole Allan saw Katniss as "the populist hero the Occupy movement wasn't able to deliver." To be fair, that's a proposition more credible than the notion of one of Katniss's two suitors (an admirable lad, but still) as a Christ figure. At a time when the left side of the elite is using inequality to bludgeon the right, it's easy to see how this trilogy could be cast as a manifesto for the 99 percent. Maybe that has been some of its appeal. Perfectly, *The Hunger Games* came out as Lehman went down.

And there are historical resonances far closer to home than ancient Rome is. Collins has given Zola's *Germinal*, no mash note to the 1 percent, as a reason for picking coal-mining as District 12's industry, but that district's pinched

iconography also has more than a trace (underlined in the movie) of Depression-era photographer Dorothea Lange about it. District 11 suggests the Jim Crow South. There are class and, possibly, ethnic tensions within the districts—the closest that District 12 comes to a bourgeoisie is WASPy, light-haired, and blue-eyed; the miners are olive-skinned, black-haired, and gray-eyed—and also between them. Pampered District 2, the source of Panem's thuggish Peacekeepers, is filled with Capitol loyalists, but its stoutly proletarian stonecutters swiftly rally to the revolution.

But before draping Collins in a flag of the deepest red, look more carefully. The revolution's base—the never-vanquished District 13—is a repressive, sternly egalitarian place somewhere between Sparta and Mao, and it's not sympathetically portrayed. Libertarians may appreciate the *Sic semper tyrannis* twist towards the trilogy's end, and tea-party types will note that the Capitol is overthrown by a union of 13 districts.

Rebels of both Left and Right will identify with the contrast between the homespun virtues that can be found in the "real" Panem and the excess, affectations, and vice of its capital. And so they should: This is a time-honored narrative, sometimes accurate, sometimes not, but, in its combination of resentment and self-congratulation, one of eternal appeal to those on the outside. You would have heard it in Imperial Russia, you would have heard it in Imperial Rome, and, if there's any truth to an old, old story, you would have heard it in Sherwood Forest too. Katniss, of course, is deadly with a bow.

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Love Poetry

DIANE SCHARPER



Pity the Beautiful: Poems, by Dana Gioia
(Graywolf, 68 pp., \$15)

ANGELS—at least according to Hollywood—are handsome, shining, and strong. But the angel in Dana Gioia’s new book of poems looks like he’s been in a fight and lost.

His wing is broken; he’s missing an eye; his hair is uncombed, his robe streaked with dirt. He doesn’t even have a halo. Yet he’s featured on the cover of Gioia’s fourth book of poetry, *Pity the Beautiful*. And he (or someone very much like him) seems to be given a voice in some of the poems here.

In one, “The Angel with the Broken Wing,” for instance, he mourns the loss of his past glory and the state of his present decline. He had been a conduit for prayers in their ascent to God, or, as Gioia’s stunning metaphor puts it, “Their candles stretched my shadow up the wall, / And I became the hunger that they fed.”

This broken angel leads readers through a collection of poems that (like the angel) is affected by what is missing. As Gioia writes, even God is missing: He’s merely “an ancient memory they [people] can’t dismiss.”

Gioia’s poems are countercultural. They, like Gioia, go against the prevailing winds of opinion. Politically incorrect, they speak of sin, prayers, prophecy,

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virtues, and grace. They consider unusual subjects from unusual perspectives—such as looking for one’s self or soul in a mall.

Gioia is not afraid to acknowledge man’s spiritual nature. In his poems, one hears echoes of T. S. Eliot (“The Hollow Men”), W. H. Auden (“Musée des Beaux Arts”), and Gerard Manley Hopkins (“Spring and Fall”). Gioia’s spiritual themes offer contrast to the state of religious values in American culture.

Winner of the American Book Award for his last book of poetry, *Interrogations at Noon* (2001), Gioia is a highly regarded poet, essayist, and anthologist with eleven previous books to his credit. His *Atlantic Monthly* essay “Can Poetry Matter?” (1991) shocked members of the literary community as it berated them for the lackluster state of U.S. poetry. According to Gioia, poetry matters because if it doesn’t, we are lost—and so is culture, civilization, and whatever we hold, or should hold, dear. Gioia pushed that message from 2003 to 2009 when he served as chairman of the National Endowment for the Arts. And he pushes it today as the Judge Widney Professor of Poetry and Public Culture at the University of Southern California.

If there’s one theme in his latest collection, it’s that there’s more to life than consumerism. In “Shopping,” for example, Gioia writes of entering the “temple of my people,” hoping to “discover the one true thing.” In the final lines, Gioia pulls the rug out from under the reader: What appears to be a satire of shopping becomes a plea for the real amid an atmosphere of fakes. A similar poem, “The Freeways Considered as Earth Gods,” rails against a secular culture epitomized by California highways, which Gioia calls gods who do not “condescend to our frailty.”

Often, the poems here mourn lost loves, lost opportunities, lost friendships, and lost family members. In “Finding a Box of Family Letters,” Gioia reads old family letters and postcards and looks at pictures in the family album. As in his best work, Gioia allows readers to get close, with lines such as, “My father breaks my heart / simply by being so young and handsome.”

Although Gioia does not focus on the death of his infant son from SIDS as sharply as he did in *The Gods of Winter* (1991), two of the more evocative poems

here allude to that loss. “Majority” muses on what would be the 21st birthday of the infant who died, or, as Gioia exquisitely puts it, “moved away / into your own afterlife.”

In “Special Treatments Ward,” the best poem in the book, Gioia worries about a son who is ill as he remembers the son he lost. The poem’s style is meditative and serious with no jokes, no satire. It begins with the foreboding line: “So this is where the children come to die.” As we read, we learn that this poem has taken twelve years to write. “No well-stitched words could suture shut these wounds. / And so I stopped. . . . / But there are poems we do not choose to write.” The poem ends as grimly as it began, with Gioia calling his grief “a vagrant sorrow [that] cannot bless the dead.”

“Haunted,” the most unusual poem here, describes being obsessed by memories of a loved one, and uses the relationship between the ghosts who reside in a haunted house as a metaphor.

Although the title poem, “Pity the Beautiful,” would have worked better if it had been less sarcastic, it succeeds nonetheless because of its irony. People praise beauty; they don’t pity it. Poets—especially religious and romantic ones—should find inspiration in beauty. Gioia, though, who is a religious and a romantic poet par excellence, finds an occasion for pity. Why would a poet advise his readers to pity that which is beautiful?

Beauty is external and ephemeral. It’s also seductive. People get caught up in it and lose sight of what matters and what endures. Beauty fades; youthful good looks vanish. Those who are the most beautiful have the most to lose. There’s a world we don’t see. It’s more lasting, according to Gioia, than the one we do see.

Gioia writes neo-formalist poetry that blends techniques of free verse and formal verse. There are sonnets here with perfect and slant rhyme. There are couplets and quatrains written mostly in iambic pentameter. There are poems written after lines from such classic poets as Pablo Neruda. There’s even a short libretto. Whatever their form, these poems have a musical quality.

Ultimately, Gioia’s poems come alive and sing on the page. In a sense, they’re all love poems.

NR

Film

Shock Plus Nothing

ROSS DOUTHAT

ON the weekend before the Fourth of July, Americans lined up for two raunchy, R-rated exercises in transgression. In heartland cities like Indianapolis, Nashville, and Kansas City, notionally havens of decency and family values, the movie of choice (mostly for women) was *Magic Mike*, a beefcake parade starring Channing Tatum as a male stripper on the make. Meanwhile, in liberal metropolises like Boston and New York, notionally havens of tolerance, multiculturalism, and political correctness, audiences (mostly male) preferred Seth MacFarlane's *Ted*, a bawdy modern fairy tale whose comedy depends on generous doses of misogyny, ethnic stereotyping, and gay panic.

This filmgoing polarization cries out for some sort of generalization about the Red America/Blue America divide. So here goes: In more conservative parts of the country, perhaps, sex and nudity still retain enough of their traditional frisson to make the prospect of watching the matinee idol of the moment strip and gyrate seem like a genuine cinematic event. In more liberal areas, though, political correctness is the only remaining form of puritanism, which means that filmgoers looking for a transgressive kick are more likely to get it from jokes about Asians or the mentally handicapped than from the sight of a handsome movie star in his skivvies.

At the very least, this theory suggests a possible answer to the otherwise incomprehensible riddle of Seth MacFarlane's immensely successful comedy career. MacFarlane is the impresario behind *Family Guy*, a third-rate *Simpsons* knock-off that lasted just three seasons on Fox around the turn of the millennium but then was rescued from deserved oblivion by DVD sales and renewed in 2004 by the network, and is still going strong. Its creator now presides over a range of spin-offs and tie-ins, and he's sufficiently respected—as

an entrepreneur, if not an artist—that he's been entrusted with a revival of *The Flintstones*, scheduled to take form whenever his busy schedule permits.

First, though, that schedule has given us *Ted*, MacFarlane's first feature film and a distillation of the comedy style that has made him so successful. The movie stars Mark Wahlberg as John Bennett, the grown-up version of a Boston-area boy who wished that his oversize teddy bear would spring to life and saw that wish miraculously granted. Over the intervening years, the bear has grown up with him, trading a childlike warble for a *Cheers*-style Bostonian patois. He and Bennett are still best friends, but now they pass the bong back and forth, trade graphic insults, and zone out watching Eighties television. This ursine-enabled arrested develop-

Lou Gehrig's disease, which one character wishes on another, a laugh line that's prompted a predictable backlash from ALS sufferers and activists.)

A "shock-and-gross-out agenda" is common to a lot of comedy today. MacFarlane is unusual, though, because he offers transgression-plus-nothing. He doesn't have the fundamental sweetness of the Farrelly brothers, or the hints of social conservatism that make Judd Apatow's oeuvre so interesting, or the anarchic libertarianism that infuses the work of *South Park*'s Trey Parker and Matt Stone. (Parker and Stone famously loathe *Family Guy*.) When *Ted* brings on an Asian guy who yells "This is my home long time!" or makes its teddy-bear-obsessed villain a mincing, effeminate closet case or cracks wise about Middle Eastern men or mental retarda-



The star of *Ted*

ment exasperates Bennett's girlfriend (Mila Kunis), whose angst over her Ted-dependent paramour creaks the movie's plotting into gear.

MacFarlane does Ted's voice, as he does the voices of several characters in *Family Guy*, and not surprisingly the bear gets most of the best lines. By "best," though, I mostly just mean "most offensive," because that's the essential element in his comedy. MacFarlane favors pop-culture references and random, one-joke set pieces, but mostly he favors what Claire Hoffman, profiling him in *The New Yorker*, describes as "an aggressive shock-and-gross-out agenda" in which "abortion, AIDS, bestiality, Down syndrome, and rape are favorite comic motifs." (To that list, *Ted* adds

tion, the un-PC offensiveness is the beginning and end of the joke. We're shocked, we laugh, and then it's on to the next provocation.

MacFarlane's offenses don't subvert his audience's pieties, as a more talented comic's might; they depend on them. It's telling, in this regard, that his real-life politics are conventionally Left Coast: Indeed, he was actually honored last year (by an atheists' association) for "his fearless support of equal marriage rights and other social justice issues." What they call fearlessness I'd call professional self-interest. MacFarlane needs a world of PC shibboleths, because otherwise he wouldn't know what buttons to push to get a shocked, "did the teddy bear really just say that?" laugh. **NR**

Street-Sign Statism

I'VE spent the last few weeks tootling round various parts of Britain and Europe, and, as always, it takes me a couple of days to acclimatize to local driving norms. I quickly appreciate being on a country lane and able to see the country, as opposed to admiring rural America's unending procession of bend signs, pedestrian-approaching signs, stop signs, stop-sign-ahead signs, stop-sign-ahead-signs-ahead signs, pedestrian-approaching-a-stop-sign signs, designated-scenic-view-ahead signs, parking-restrictions-at-the-designated-scenic-view signs, etc. It takes me a little longer to get used to the idea that I'm free to pass other cars pretty much whenever I want to, as opposed to settling in behind Granny for the rest of the day as the unbroken yellow lines stretch lazily down broad, straight, empty rural blacktop, across the horizon and into infinity. Want to pass on a blind bend in beautiful County Down or the Dordogne? Hey, it's your call. Your judgment. Fancy that.

Italian tanks may have five gears for reverse and only one for forward, but in a Fiat the size of your cupholder it's a different story. The French may plant trees on the Champs-Élysées because the Germans like to march in the shade, but they'll still pass you at 120 on the Grande Corniche. When you've done your last surrender-monkey crack, that cloud in your windshield is a dinged *deux chevaux* leaving your fully loaded SUV for dust. Continentals would never for a moment tolerate the restrictive driving conditions of the United States, and they don't understand why Americans do. *Mon dieu*, is not America the land of the car chase?

Gitcha motor running
Head out on the highway
Looking for adventure . . .

Actually, America is the land of the car-chase *movie*. Off-screen, it's a more sedate affair. Gitcha motor running, head out on the highway, shift down to third gear as there's a stop-sign-ahead sign ahead. At dinner, I listened to a Frenchman and an Italian while away the *entrée* chortling at how docile and compliant Americans are. Americans would counter that they're the only country with a Second Amendment. But Continentals don't see a gun rack in your pickup as any consolation for not being able to pass for the next 28 miles.

Most of all they were amused by the constant refrain from the American Right that if the nation doesn't change course it will end up as mired in statism as Europe. "Americans love Big Government as much as Europeans," one chap told me. "The only difference is that Americans refuse to admit it." He attributed this to our national myth-making—"I'm proud to be an American, where at least I know I'm free." Maybe they should change it to "at least I know it's free." In 1979, 7 percent of Americans received

means-tested government benefits; by 2009, it was over 30 percent. In 2000, 17 million Americans were on food stamps; today, it's 46 million. In the last three years, 2.6 million Americans have signed on with new employers, but 3.1 million have signed on for disability checks. In little more than a generation, dependency has metastasized in America. Workplace death and accident rates have fallen by 40 percent since the Sixties, but apparently the safer the American work environment gets the more people are disabled by it.

To be disabled in the government sense it is not necessary to be disabled in any meaningful sense. To be on food stamps it is not necessary to be in need of food: In Massachusetts, as Governor Patrick has recently clarified, it's fine to use them to buy porn and get tattoos. On the latter point, should you change your mind, the website The Billfold interviewed a well-remunerated lawyer who's saving four grand by getting her faded Celtic knot removed by a federally funded free clinic in Oregon under a program intended to help ex-gang members rid themselves of identifying tats.

How many more millions will be on food stamps and disability by the end of the decade? According to the Heritage Foundation, in the United States government spending accounts for 42 percent of GDP, in Canada 44 percent. Those two points are apparently the difference between a sturdy republic of limited government and self-reliant citizens and a notorious semi-French socialist basket case of effete wimps. Oh, wait: New Zealand's about the same as America.

In my book *America Alone*, there's a passage on cheese, prompted by a casual remark from a Gallic *bon vivant* who argued that, if federalism merely means a different town clerk every five miles, what's the point? The French, he said, practice cultural federalism—a different cheese every five miles—unlike Washington's hideous National Uniform Cheese Regime, which, as with the rest of USDA's regulatory enforcement, is doing a grand job of removing all taste from American food. I could see what he was getting at. Americans, so zealous in defense of their liberties when it comes to guns, are cheese-surrendering eating-monkeys when it comes to dairy products. On the roads, on the cheese board, in health care, in banking privacy, and in a zillion other areas of life, many Europeans now have more freedom than Americans.

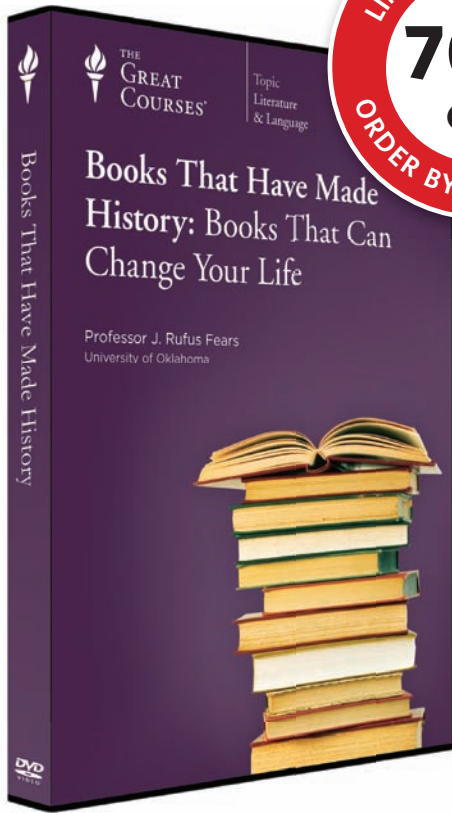
For the record, I'm consistent in these matters—I want it all: assault weapons and unpasteurized Camembert, guns and butter. Certainly, cheese makes a poor attitudinal rallying cry: "I'm proud to be a Frenchman, where at least I know my Brie!" But, in the pit of national decline, the cheese will still be there. To invest your national identity in ideas about liberty and government is far more perilous, especially as the gap between those ideas and the daily lives of increasing numbers of Americans grows ever wider.

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Mr. Steyn blogs at SteynOnline (www.steynonline.com).



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