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They say there’s an app for everything, and doubters should know there are now at least two apps dealing with excrement on the street or sidewalk in San Francisco. The city has its official SF311 “San Francisco at your Service” app, and last year saw the unveiling of the privately developed Snapcrap, which allows you to use your smartphone to snap a photo of the offending specimen and upload it directly to the 311 site. The city’s new five-person “poop patrol” will follow up, presumably, with a smile.

Then there are the maps. At least three maps charting the location of “poop complaints” in the city have been assembled, the latest and best by the resourceful people at the nonprofit Open the Books. Their map shows most of the city covered by brown pindots, each marking a report to the SF Department of Public Works.

The folks at RealtyHop, comparing the complaints in Chicago, New York City, and San Francisco, awarded the palm, or the scoop, to the city by the bay as “the doo-doo capital of the U.S.” They noted that the city’s poop reports almost tripled between 2011 and 2017.

The problem draws attention because the poo comes increasingly from…humans. In partial defense of his city, Adam Brinklow (at Curbed SF) explained that the reports submitted to the city didn’t distinguish between human and dog excrement, and that there were 150,000 dogs and fewer than 10,000 homeless people within city limits. But he admitted that homelessness was probably the leading edge of the problem, as also in Los Angeles, where 36,000 people live, and many do their business, on the streets.

In fact, the majority of the nation’s homeless people now call California home, so to speak. There are myriad causes at work, no doubt. But in the 1930s, during the Great Depression, with unemployment peaking at 25%, with “hobos” and vagabonds roaming the highways in search of food, shelter, and above all work, with shanty towns and “Hoovervilles” springing up across the country, there was no “defecation crisis” as there is in today’s prosperous California.

Our homeless population and our grandparents’ diverge in many ways, of course. The triple scourges of drug abuse, mental illness, and family breakdown have produced anomie and derangements far deeper than those seen in the 1930s, when the widely shared nature of the economic and psychological distress provided its own grim comfort.

In California, at least, one is struck by the contrast between the fastidious attention paid to the social duty of scooping up and disposing of dog feces, and the rather more paralyzed and guilty reaction to the plague of human feces coming soon to a sidewalk near you. The former is treated as a moral imperative among enlightened persons—and the thin plastic bags used as the means to this moral end have, so far at least, notably escaped the fate of plastic straws, well on their way to being outlawed as an environmental outrage. Even social justice warriors do not consider it their personal duty, however, to tidy up after their fellow human beings on the streets.

Confronted on the sidewalk with a nasty fait accompli, most people are indignant. But the questions they then ask often diverge. Those of a more traditional disposition might wonder, “What is wrong with these people?” Those of a more progressive mindset might exclaim, “Why isn’t there a program to solve this problem?”

Each is sincere, and we will have to try to answer both in order to make things better. But it’s the former inquiry, prepared to make some difficult and unfashionable moral distinctions, that needs our encouragement in deep-blue California. “Homeless” was originally just an adjective. It became a collective noun, denoting the victims of homelessness, only later, under the influence of the 20th century’s confidence that the first step in solving a social problem is to name it. Not all problems are social, however, and few if any social problems can be “solved,” in the strong sense of the term.

Without wishing to return to the Elizabethan Poor Laws, we ought to consider what we lost when the courts discouraged Americans from thinking of “homelessness” in light of the old laws against vagrancy. Under the old understanding, no one had a right to camp out indefinitely on public property, much less to defecate on it. Public property belonged to the public—to all of us—and could not be privatized for the benefit of one or more vagrants, however poor or sick. Though that principle would need to be applied to modern circumstances, it is the indispensable starting point for thinking about the shocking problems of the Golden State.

FROM THE EDITOR’S DESK

THE HOUSE AT POO CORNER

by Charles R. Kesler

In California, at least, one is struck by the contrast between the fastidious attention paid to the social duty of scooping up and disposing of dog feces, and the rather more paralyzed and guilty reaction to the plague of human feces coming soon to a sidewalk near you. The former is treated as a moral imperative among enlightened persons—and the thin plastic bags used as the means to this moral end have, so far at least, notably escaped the fate of plastic straws, well on their way to being outlawed as an environmental outrage. Even social justice warriors do not consider it their personal duty, however, to tidy up after their fellow human beings on the streets.

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CORRESPONDENCE

Defeating Multiculturalism

Thomas Klingensteins essay “Patriotism vs. Multiculturalism,” focused as it is on the contrast between what makes America a good nation and the multiculturalism that attacks that goodness, does not sufficiently explain multiculturalism (Spring 2019). Although the comments that follow the essay contribute to an explanation, they leave the reader without a schematic view of the phenomenon.

Multiculturalism is anything but an insane exercise in self-flagellation. Today’s multiculturalists, unlike medieval flagellants, neither confess their own sins nor flagellate themselves. Their self-purification and virtue certification consist of confessing your original sins and mine, and flagellating us!

Nor is there anything “multi” about multiculturalism. Unlike the version in Samuel Huntington’s time, it is no longer “a progressive cultural cosmopolitanism distinguished by superior sensitivity to the downtrodden.” There is zero cosmopolitanism about it; it is peculiar to a narrow class of latter-day Westerners. Having almost abolished the study of foreign languages and literature in universities, multiculturalists are aggressively ignorant about any and all foreign cultures. They neither know nor care about Confucius, Leibnitz, or Cervantes, any more than they do about Aristotle, Descartes, or Dostoyevsky.

Klingensteins remarks remind us that human beings are “justice-demanding beings.” Although multiculturalists are intellectually and morally distinct from every culture that has ever existed—peculiar and incomprehensible in any terms but their own—they do not have a set of judgments about what is good or just, about how to live life. Rather, multiculturalists define themselves solely in negative terms—in terms of what they hate. Their perversion of justice consists of vengeance—not for violations of some standard of justice but for what they allege to be wrongs done to their own constituent groups.

In fact, the “multi” in “multiculturalism” must be understood in light of the key concept “intersectionality” that David Azerad mentions in his response to Klingensteins essay. In a nutshell, it means concurrence in revolutionary hate and vengeance.

Beginning circa 1969 the rising movement for “black power” sought no longer to integrate blacks into American society, but rather to make war against it. “Chicano” groups did the same. By the same token, some of the feminist movement abandoned the goal of improving women’s lives and sought to harness sex-based resentment for revolutionary political purposes. Many homosexuals soon began to translate their resentment as American society’s outsiders into revolutionary hate. As ever, lumpen-intellectuals hate those who don’t give them the obesiance they think they deserve. Each of an increasing number of identity groups is driven by the desire for revenge for its peculiar grievance. But in theory they concur—and in practice they unite—in making Western civilization in general, and America in particular, the object of their revolutionary hate.

Their unity is more revealing of what they are about than is their grievances’ diversity. For example, though the issue of global warming is irrelevant to blacks as blacks or to women as women, each of these identity groups has taken up that issue as part of their own revolutionary rationale. Formally, and often more than formally, every multicultural identity group has taken up every other’s grievance as its own. Effectively, the rest of us are faced by a front—in debt by a party. It should escape no one that this party is merging with, influencing, and may be remaking the Democratic Party into an instrument of revolution.

Angelo M. Codervilla
Plymouth, CA

Thomas Klingensteins has identified multiculturalism as “the central issue and threat—the Communism or slavery, as it were—of our time.” All thoughtful discussion of this evil must observe his logic that “We are most in need of arguments from justice (and other aspects of Lincolnsian thinking) where the problem is most intractable: education, in particular, elite higher education.”

I believe Klingensteins is calling for a new Reconstruction to finish the work of the American Civil War. Lincoln intended the 13th Amendment to restore the Declaration of Independence in the Constitution—that is, to reaffirm the American Founding.

But note how Lincoln had to argue for this end, as exemplified in his June 26, 1857, speech on the newly announced Dred Scott v. Sandford decision:

Now I protest against that counterfeit logic which concludes that, because I do not want a black woman for a slave I must necessarily want her for a wife. I need not have her for either, I can just leave her alone. In some respects she certainly is not my equal; but in her natural right to eat the bread she earns with her own hands without asking leave of any one else, she is my equal, and the equal of all others.

The passage reflects how easy it is to collapse from a false understanding of freedom (e.g., Francis Fukuyama’s) into tyranny. Lincolns comparison (with its context) shows most poignantly the necessity of establishing justice before sharing a common public space.

In his debates with Stephen Douglas and his quarrels with Frederick Douglass, Lincoln had first to defend the justice of recognizing the natural right of liberty by denying he meant a multicultural America, even to the point of advocating colonization for freed slaves. Our error today is to proceed as though we can identify multiculturalism with justice. The root of that blunder, the banishing of both self-interest and the self, or soul, from politics, will lead to tyranny, as all class-based political solutions do.

Although the tyrannical mindset easily impuicides racism to President Trump—a red-blooded American patriot who has the courage to stand up to the times,” as Klingensteins calls him—it is the egoist Trump, not the multicultural, biracial Obama who acts in the Lincolnsian spirit.

Ken Masugi
Rockville, MD

What Ought We to Do?

We’re grateful for Mark Blitzs thoughtful review of our book, Science and the Good: The Tragic Quest for the Foundations of Morality (“Morality and Happiness,” Winter 2018/19). On key points, however, he has missed the mark. He takes us on for not presenting a positive account of morality, and for not distinguishing the moral
from the merely ethical within the realm of ethics, broadly considered. These are worthwhile pursuits, but neither is a concern of our book. The fact is that hundreds of millions of dollars and extraordinary scholarly effort have been given to the false and destructive promises of the new moral science. The overarching argument of our book is meant as a caution to those headed off this cliff rather than a positive account of morality and, thus, a roadmap to an alternative consensus.

We do agree that there are genuine distinctions between the ethical, narrowly construed (e.g., the good, values) and the moral (e.g., rights, irreducible duties), yet for the argument we were making, they're just not relevant. The important distinction in our argument is between the ethical, broadly speaking, and the non-ethical. It is because moral science typically fails to make this distinction that it is implicitly committed to David Hume's fallacy—committed to the viability of deriving "oughts" from non-"oughts." The distinction between ethics and morality is otiose for our argument, and making it would have been mere pedantry.

"To see what we can discover about happiness through the methods of modern natural science," Blitz claims, "we must first earn the consensus-generating method for deriving "oughts" from non-"oughts."" The attempt to baptize as "scientific" the new moral science began as an attempt to end the violence between the two ideal-types he calls "Anywheres" and "Somewheres" (Winter 2018/19). The former are essential Anywheres who share among happiness, morality, and regions. Well done. But, reading his analysis, I would note that while DeMuth, CRB editor Charles Kesler, and I unanimously favor the Somewhere viewpoint, we don't exactly fit its mold:

- DeMuth: One degree each from The Lawrenceville School, Harvard, and the University of Chicago; instructor at Harvard; lawyer at Sidley Austin; White House aide; Reagan's "deregulation czar"; president of the American Enterprise Institute.
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In short, we are three quintessential Anywheres who share Somewhere views. Conversely, former bartender Alexandria Ocasio-Cortez and former welfare recipient Rashida Tlaib don't exactly fit its mold: "Anywheres & Somewheres" (Winter 2018/19). The former are "cosmopolitan, educated, mobile, and networked," while the latter "are rooted in...their families, neighborhoods, clubs, and religions." Well done. But, reading his analysis, I would note that while DeMuth, CRB editor Charles Kesler, and I unanimously favor the Somewhere viewpoint, we don't exactly fit its mold:

Christopher DeMuth’s essay “Trumpism, Nationalism, and Conservatism” skillfully delineates the real and critical battle between the two ideal-types he calls “Anywheres” and “Somewheres” (Winter 2018/19). The former are "cosmopolitan, educated, mobile, and networked," while the latter "are rooted in...their families, neighborhoods, clubs, and religions." Well done. But, reading his analysis, I would note that while DeMuth, CRB editor Charles Kesler, and I unanimously favor the Somewhere viewpoint, we don’t exactly fit its mold:

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In the world of ancient Greece and Rome, collective reverence for the war dead helped explain why hoplites and legionaries fought so fiercely. The great themes of classical literature are often those of battlefield commemoration. Pericles’ majestic Funeral Oration, the lyric poet Simonides’ epitaph for the fallen at Thermopylae (“Go tell the Spartans…”), Horace’s dulce et decorum est pro patria mori (“It is sweet and proper to die for one’s country”), the hundreds of elegant casualty lists carefully carved on stone, and the glimpses of funerals for the fallen on red-figure vases—all these remind us that without national commemoration and collective gratitude for the sacrifice of their youth, consensual societies of the past could not offer successful resistance against their more regimented or tribal enemies.

Senator Tom Cotton (R-AR) believes that proper commemoration still enhances civic responsibility. Accordingly, in Sacred Duty: A Soldier’s Tour at Arlington National Cemetery he offers three narratives to emphasize how and why America has learned this ancient lesson of honoring the war dead. He relates a regimental motto of the 3rd United States Infantry Regiment, also known as The Old Guard: “soldiers never die until they are forgotten.” Sacred Duty, focused for the most part on Arlington National Cemetery, is a multifaceted primer in why America so dutifully commemorates her soldiers, and how such formal gratitude contributes to our civic sense of self and to élan among our fighting forces. Or as Cotton, himself an Army veteran of Iraq and Afghanistan, puts it in more personal terms: “I knew that, if I died, my battle buddies would bring me home and the Army would look after my family. That mutual pledge shaped our identity as soldiers and our willingness to fight—and, if necessary, to die—for our country.”

The core of his book is a history of The Old Guard, created in 1784 shortly after the American Revolution and now the Army’s most ancient unit, with a decorated record of service that includes the War of 1812, the Mexican War, the Civil War, and the Spanish-American War. “[N]o other unit in our military,” writes Cotton, “has such constant reminders of its heritage, of the traditions and standards its soldiers are expected to uphold.” The Regiment’s three battalions oversee a vast array of the nation’s most solemn military rituals—well beyond their duties as the U.S. Army’s official honor guard, in which capacity they have escorted the president at ceremonies and in formal parades since 1948. The Old Guard solemnly handles the transfers of our soldiers killed overseas, whose bodies arrive at Dover Air Force Base in Delaware. It escorts the caskets of the fallen at public funerals and supervises the daily military burials at Arlington National Cemetery. And The Old Guard provides the sleepless sentinels who guard the Tomb of the Unknown Soldier. “Their dedication to that mission transcends duty into love for three Unknown Soldiers who, in a phrase I heard often, ‘didn’t just give up their lives, they gave up their identities.’”

In all of these tasks Cotton gives an insider’s exacting description of the exhaustive conduct, ritual, and dress codes that ensure such meticulous devotion—whether manifested in the Caisson Platoon, famous for its solemn riderless horses, or the Fife and Drum Corps, or the commander-in-chief’s guard that drills as Revolutionary-era soldiers with cocked hats, wigs, and British Brown Bess muskets. The regiment’s uniform cloths are measured and cut not to the quarter inch but to 1/16-inch precision. Elaborate ancestral customs, along with exacting physical requirements, ensure that these various honorific platoons can perform 365 days a year and are as fresh and crisp in appearance and comportment when they end their daily watch as when they begin it.

It is not just that Old Guard soldiers must be able to stand mute and motionless for 75 minutes in all sorts of weather, or that they must master some 20 set marching movements. They also must be free of all prior convictions, civil and criminal, and avoid alcohol, drugs,
and debts. Readers at first may be amazed by the array of detail, which extends into the esoteric tricks of pressing cloths and removing uniform lint—next, they remove ‘fuzz,’ or the wool’s nap, with cigarette lighters and masking tape.” But such minutiae (Windex is used to spruce up shoe shines) illustrate Cotton’s point: in the quiet of the barracks, soldiers take it as a matter of ancient and personal honor to be perfectly groomed and attired even in ways imperceptible to the public. Cotton takes pride in the Pattonesque notion that a unit will fight the way it looks and drills.

As his subtitle implies, Cotton weaves his own personal history into this loving description of The Old Guard’s rituals. His is a fascinating story of how a Harvard College and Harvard Law School graduate left a prestigious law firm, volunteered for combat duty in the U.S. Army, and at 27 was deployed in the 101st Airborne to fronts in post-9/11 Afghanistan and Iraq. As U.S. military casualties mounted and recruitment sometimes stalled, he was eventually asked to redeploy to The Old Guard at Arlington, where he finished out his four-year active service before joining the reserves.

That Cotton is 6 feet, 5 inches tall was a special inducement. The Old Guard prizes impressive stature—perhaps somewhat in the manner of Napoleon’s renowned Vieux Garde, who were selected in part due to their minimum six-foot height, rendered even more imposing by their tall, black, bearskin hats.

Representative and now Senator Cotton experienced the loss of fellow soldiers firsthand, in combat and then as an Old Guard captain overseeing military funerals at Arlington. These experiences explain the book’s third and subtlest theme. Cotton has been a life-long (he is 42 years old) conservative critic of American progressivism and the current postmodern trajectory of American popular culture. As an undergraduate he once worried about the cultural influence of the early internet. Later, as a soldier in 2006 Iraq, he wrote a widely circulated but unpublished letter to the New York Times, advocating the jailing of journalists who had leaked critical classified information on anti-terrorist efforts—information that he felt endangered troops in the field. After military service, he returned to farming his family’s ranch until at 35 he won a seat in his conservative Arkansas congressional district.

Cotton, then, naturally worries if these ancient rituals can survive in a politically correct, globalized America. Will The Old Guard be reduced to an esoteric ancient cult, largely unknown to the vast nation it serves and, when known, treated as a museum exhibit?

The forces of woke popular culture arrayed against the values of The Old Guard are certainly formidable. While I was reading Cotton’s book, the week’s tabloid news focused on U.S. women’s soccer team sensation Megan Rapinoe, who declared that she would not participate in the National Anthem and had sworn not to visit the “f---ing White House.” Nike announced that it would pull its July 4th-themed sneaker, emblazoned with a Betsy Ross Revolutionary-era flag, because their adman Colin Kaepernick had whined that the supposedly iconic symbol resonated with racism and an array of other -ologies and -isms. The courts had blocked a census inquiry asking whether the respondent was a U.S. citizen. And meanwhile, a Depression-era mural of George Washington was to be erased from a San Francisco school wall on the grounds that it supposedly promoted the racist visions of the Founding Fathers and their ilk.

Amid media-generated psychodramas such as these, the optimist Cotton still believes that the core of the country remains true to its founding. Accordingly, The Old Guard exists not because a fading minority take their patriotic responsibilities seriously and are pledged to honor the dead who helped save the country, but rather because the vast majority of Americans still expect from the U.S. Army and the government such diligence and solemnity in shared national rituals. The Old Guard exists at the nexus of two antithetical visions of America’s founding: the modernist, pessimistic view that the United States was flawed in its origins and that its increasingly toxic traditions must be eradicated if it is ever going to reach its progressive potential—and the idea that America’s sins are not unique but those of all humankind, which are best addressed and remedied within an exceptional United States that does not have to be perfect to be far better than the alternatives.

No wonder Senator Tom Cotton ends his inspiring, much-needed book with a story from Sergeant Major of the Army Dan Dailey, who talked to a foreign military leader visiting Arlington. The guest, after he had observed The Old Guard, sighed, “[N]ow I know why your soldiers fight so hard. You take better care of your dead than we do our living.”
The Chosen and the Woke

William Voegeli

The Knesset, Israel’s parliament, passed a law last year declaring Israel “the national home of the Jewish people, in which it fulfills its natural, cultural, religious, and historical right to self-determination.” One might suppose that this “Basic Law” (akin to a constitutional amendment) would be as contentious as the Vatican proclaiming itself Catholic.

To the contrary. Although the “nation-state law” changed no policies and affirmed a relationship between Jews and Israel that had been manifest since the country’s founding in 1948, the legislation was exceptionally controversial. One of Prime Minister Benjamin Netanyahu’s main political opponents, opposition leader Tzipi Livni, charged that its passage showed that “this government is racist.” The leader of Israel’s alliance of Arab political parties called it “a law of Jewish supremacy,” while another Arab member of the Knesset described it as “the official beginning of fascism and apartheid.”

The reaction in America was more temperate but still critical. The Anti-Defamation League lamented the law’s “awkwardness and superfluity,” worrying about its potential to “undermine Israel’s cherished democratic character.” Thirteen left-of-center Jewish organizations issued a letter claiming that the new law would “give constitutional protection to policies that could discriminate against minorities.” One of the organizations, J Street (the “home for pro-Israel, pro-peace Americans”), said that the Basic Law “sends a message to the 20 percent of Israelis who are not Jewish that they are, at best, second-class citizens in the land of their birth.”

Netanyahu conceded nothing to these detractors:

We enshrined in law the basic principle of our existence. Israel is the nation-state of the Jewish people, that respects the individual rights of all its citizens. This is our state—the Jewish state. In recent years there have been some who have attempted to put this in doubt, to undercut the core of our being. Today we made it law: This is our nation, language, and flag.

So, the law was enacted in response to (unnamed) people who have cast doubt on Israel’s identity as a Jewish state. How we got to the point where Israel’s government felt it necessary to belabor the obvious, officially, is an interesting story—two stories, really, intertwined. The first is about a change in left-of-center thinking, observable around the world but especially significant in America, Israel’s closest and most important ally. That change involves discarding a remedial mindset in favor of a prosecutorial one. Instead of solving problems, the Left wants to identify and berate villains. To be more precise, the new dispensation holds that social problems cannot be understood as bad things that somehow happened, or bad conditions that obtain due to misunderstandings or unavoidable complexities. Rather, specific problems resulting from specific sins of commission and omission cannot be solved unless those sinners are identified, then forced to atone and change their ways.

The second story is about how Israel has, increasingly, become the object of this prosecutorial zeal. Susie Linfield, a journalism professor at New York University, makes it her subject in The Lion’s Den: Zionism and the Left from Hannah Arendt to Noam Chomsky. (Benjamin Balint reviewed the book this year for CRB Digital.) Linfield is “grieved by the contemporary Left’s blanket hatred of Israel,” in particular its “startling ability to support regimes far more repressive and violent, and far less egalitarian and politically open, than Israel.” Linfield’s analysis makes clear that this animus cannot be explained as a reaction to particular Israeli policies regarding Palestinians, but makes sense only by realizing that many progressives “are repelled by the existence of Israel itself.”

We the People

We can begin to tell and connect these two stories with the help of New York Times columnist Max Fisher, who wrote that the nation-
state law, one small country's largely symbolic enactment, embodied a dilemma that is generating controversy around the world: which takes precedence, national identity or democracy? There is, he said, “a growing backlash to the idea that countries should privilege democracy” in favor of the demand that “identity will come first.” Fisher characterized this trend as a reversal of the modern project, which favored both democracy and national self-determination, understood as “one nation for one people.” If the two principles clashed, “an informal consensus” had always favored “softening” national identity for the sake of democracy, the more fundamental imperative. Israel’s New Basic Law, he argued, was one of several signs that this consensus is unraveling.

Fisher is right to say that the nation-state law raises fundamental questions about how democracy and national identity intersect. We can proceed from the general issues to those specific to Israel by starting with Abraham Lincoln’s famous definition of democracy: government of the people, by the people, and for the people. Notwithstanding the reverence in which this formulation is held, scrutiny of it leads directly to the problems Fisher identifies. Political scientist Margaret Canovan’s The People (2005) showed how this deceptively simple word harbors several distinct concepts while giving rise to sharp disagreements. Arguments about national identity take up the question of a people, as when the Declaration of Independence asserts that it has become necessary “for one people to dissolve the political bands which have connected them with another.” Unlike the document’s ensuing self-evident truths about “all men,” this statement was more of a planted axiom. It takes for granted assent to the proposition that mankind is divided into peoples—that is, nations—and further assumes that individual peoples have the right to demand their own nation-states, which will possess “full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do.” Benjamin Netanyahu’s defense of Israel’s nation-state law is a perfect expression of nationalism, as defined in historian Robert Wiebe’s We Who We Are (2001): “the desire among people who believe they share a common ancestry and a common destiny to live under their own government on land sacred to their history.”

Populism, an especially assertive and adversarial commitment to democracy, concentrates on the people, championing them against those considered powerful or elite. As such, it can serve the Left’s purposes or the Right’s. Democrat Bernie Sanders denouncing Wall Street and the One Percent is a populist, but so was Republican Spiro Agnew, Richard Nixon’s vice president, who attacked “an effete corps of impudent snobs who characterize themselves as intellectuals.” Sometimes, the desire to punch upward may be so powerful that it renders the Left-Right distinction inapplicable, as in the ungainly coalition government that emerged from Italy’s 2018 elections.

A synthesis of nationalism and populism occurs when the people’s central grievance against the powerful is that they are hostile to—or, at best, feckless in defense of—a particular nation-state that a particular people prizes as its manifestation and looks to as its protector. Christopher DeMuth recently discussed “Somewheres” versus “Anywheres” in these pages (“Trumpism, Nationalism, and Conservatism,” Winter 2018/19). The former direct their populist anger against the latter, the “nation’s political and business leaders,” in the belief that they are “part of, and loyal to, an international elite with its own self-serving agenda.”

The leaders’ aversion to nationalism is not a populist canard. Before serving as deputy secretary in President Clinton’s State Department, and then as president of the Brookings Institution for 15 years, Strobe Talbott worked for Time magazine. There, in 1992, he applauded the prospect that “all states will recognize a single, global authority” before the end of the 21st century, because “nationhood as we know it will be obsolete.” And good riddance. Countries are “all artificial and temporary,” he asserted, a form of association descended from, but fundamentally the same as, “a prehistoric band clustered around a fire beside a river in a valley,” whose “members had a language, a set of supernatural beliefs and a repertoire of legends about their ancestors.” In the same vein, political scientist Amy Gutmann, president of the University of Pennsylvania since 2004, has urged Americans to be loyal to “democratic humanism” rather than to “the United States or some other politically sovereign community.”

The Somewheres’ desire to assert and preserve their national identity does not, as far as it goes, conflict with democracy. Governments deriving their just powers from the consent of the governed should be at least as conducive as any other constitutional arrangement to upholding a nation’s identity, sovereignty, and territorial integrity. Max Fisher’s framework makes more sense when we allow for his stipulation that democracy means “equal participation for all, including in defining the nation’s character.” Democracy, then, is not just one form of government but a fluid, provisional social order and its underlying egalitarian spirit. As Alexis de Tocqueville discerned, the democrat prizes equality above all else and considers inequality the gravest injustice. Progress means progress toward greater equality, yet each step in that direction reveals inequalities previously unnoticed or tolerated, which call out for still more extensive egalitarian reforms. Ever greater equality of rights and opportunity is only part of a never-ending quest for ever greater equality of conditions, participation, acceptance, dignity, and the capacity to define a nation’s character.

Thus, it would be a mistake to treat national populist as a new political force confronting a long-settled commitment to democracy. Always seeking and finding new dragons to slay, democratic egalitarianism is inherently protean. The nationalist challenge to democracy cannot be understood except as a response to the democratic challenge to nationalism.

Race to the Bottom

The long-standing egalitarian misgivings about nationhood have recently become more explicit and strident. As political scientist Joseph Cropsey discerned more than 50 years ago, liberals (in the modern, American, left-of-center sense of the term) have always viewed “the dividedness of men grouped according to their nations” as arbitrary and pernicious. Those committed to equality as the highest political good believe that the groups divided in this way can never be mutually respectful for long. Instead, us-and-them distinctions necessarily become invidious, leading to competition, strife, and conquest. As Strobe Talbott said of the small tribes that were modern nations’ predecessors:

Eventually they forged primitive weapons and set off over the mountain, muttering phrases that could be loosely translated as having something to do with “vital national interests” and “manifest destiny.” When they reached the next valley, they massacred and enslaved some weaker band of people they found clustered around some smaller fire and thus became the world’s first imperialists.

Egalitarianism’s most recent iteration, the “Great Awkening,” is “the rapidly changing political ideology of white liberals that is
remaking American politics,” in the words of Zach Goldberg, writing for Tablet magazine. A study of America’s white liberals, of course, will find them preoccupied with race relations, especially those between blacks and whites. The Great Awakening antedates Donald Trump’s 2016 election victory. Goldberg, a political science doctoral student at Georgia State University who examines polling data, reports that 25% of whites who self-identified as liberals in 2010 considered racial discrimination against blacks to be a “very serious” problem, virtually the same proportion as over the preceding 15 years. “By 2015, however, this figure had almost doubled to 47%, and then increased further to 58% in 2016.”

Part of this phenomenon’s explanation is the growing use of social media, such as Facebook and Twitter, which function as what Goldberg calls an “outrage feedback loop.” That is, it became clear that “race-related moral outrage stories”—such as the fatal shooting in 2014 of an unarmed black teenager by a white police officer in Ferguson, Missouri—drove up page-views on news and commentary websites. In turn, exposure to these stories “generated moral outrage among white liberal readers, who then fed that emotional response back into the sites, which catered to their appetites as consumers.”

The Woke’s righteous indignation is too gratifying for them to relinquish it out of deference to mere facts. Goldberg points out that an unarmed African-American male is about as likely to be killed by a police officer as to be struck by lightning. The New York Times devoted flood-the-zone coverage to the murder of seven-year-old Jazmine Barnes in December 2018, despite the fact that the shooting took place in Houston, 1,400 miles from Manhattan. Television networks and other national media also treated it as a matter of high urgency. Jasmine was black, and her mother told the police that she had been shot by a white man in a pickup truck. One week after the shooting, however, police arrested two black suspects, offering the theory that they mistook the car Jasmine was riding in for one occupied by rival gang members. The arrests immediately halted the gathering national crisis over a white-on-black hate-crime, rendering Jasmine’s murder another very sad local story, all the sadder for being unexceptional, and of little further interest to the Times. The newspaper’s ensuing cover-your-ass article on how trauma can impair eyewitnesses’ recollections did not examine the ways confirmation bias distorts journalists’ judgment.

Extrapolating from race relations, the Great Awakening is so strongly opposed to invidious distinctions in general as to have turned “other” into a verb, one that denotes and condemns a moral transgression. In 2016, for example, the Huffington Post castigated vice presidential candidate Mike Pence for “his long record of othering the [gay] community.” According to sociologist Yiannis Gabriel, “Othering is the process of casting a group, an individual or an object into the role of the ‘other’ and establishing one’s own identity through opposition to and, frequently, vilification of this Other.” Goldberg finds that white liberals are twice as enthused as white non-liberals (87% to 42%) about diversity, formulated in American National Election Studies surveys as the question of whether “having an increasing number of people of many different races, ethnic groups and nationalities in the United States makes this country a better place to live.” On this issue, blacks (54%) and Hispanics (46%) score much closer to non-liberals, though we can be confident that liberals won’t hold such retrograde attitudes against them.

A human grouping to which everyone does or can belong is one to which nobody belongs in any way that matters or makes sense.

Breeding Contempt

Ultimately, of course, a world cleansed of other-ing must also renounce us-ing. Whether it’s a softball team or a nation, a human grouping to which everyone does or can belong is one to which nobody belongs in any way that matters or makes sense. No group can have an inside unless it also has an outside. The meaning and importance of being inside will, inevitably, turn on how those who are inside define and defend the boundaries that distinguish them from others.

The response to these conflicting imperatives is, unsurprisingly, incoherent. Goldberg finds that white liberals are the only group in the history of public opinion surveys to exhibit a “pro-outgroup bias,” a clear preference for non-whites over whites. He describes it as a “very recent, and unprecedented, phenomenon.” This sounds like a confirmed sighting of “oikophobia,” philosopher Roger Scruton’s term to describe xenophobia’s opposite: fear and loathing of the close and familiar in favor of that which is unlike oneself.

Perhaps, however, white liberals’ aversion to whites is really just an aversion to whites who aren’t liberal. In that case, the pro-outgroup bias against whites in general would really be a pro-ingroup bias in favor of white liberals. A recent study in the Journal of Experimental Psychology found that after reading about white privilege, white liberals did not become more sympathetic to impoverished blacks, but did become notably less sympathetic to impoverished whites. Journalist Zaid Jilani speculates that “social liberals are internalizing white-privilege lessons in a way that flattens the image of whites, portraying all of them as inherently privileged. So if a white person is poor, it must be his or her own fault.” Of course, after November 2016 many oikophobic tirades held that lower-class whites were not merely losers but menaces. Essayist and editorial cartoonist Tim Kreider, for example, wrote that most Trump voters are “just evil” by virtue of “not much caring about other people’s suffering.”

Bear in mind that the Great Awokening demands diversity and inclusion. The two are reconcilable and even inseparable if we accept the premises spelled out by Cropsey: liberals are committed to the simultaneous cultivation of “idiotsynratic freedom” and the coalescence of social communities based on humans’ posited affinity for one another. Thus enlightened, “men would wish to benefit themselves only in ways that are beneficial or at least not harmful to others. In that state, men’s perfect integration into the community would be indistinguishable from their perfect freedom to do as they please.” The Woke, then, are not just Anywheres but also Everyone. The nurturing subdivisions of the human family that promote individual fulfillment and interpersonal harmony must be cultivated, while the divisive ones that result in othering, opposition, and even vilification must be eradicated.

The only legitimate othering takes place when, in pursuit of social justice, the Woke call out somebody on the wrong side of what they regard as the one truly valid division among humans, that between the Privileged and the Oppressed. The former need not have personally victimized or exploited the latter, or even said bad things or harbored bad thoughts about them. The wickedness of the Privileged encompasses benefiting from past oppressions, even those in the distant past, and complicitly tolerating today’s unfair sys-
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tems that mock and thwart the aspirations of the Oppressed. So, for example, there is "Racism without Racists," which sociologist Eduardo Bonilla-Silva used as the title for a book of his in 2003. Such racism transpires when America’s whites engage in the “color-blind racism” that leads them to accept and perpetuate, rather than work to dismantle, the "structural" or "systemic" racism that oppresses blacks and other minority groups.

There could, conceivably, be a moral and political philosophy that subsumed every controversy into the relationship between the Privileged and the Oppressed, and yet also emphasized the importance of empirical rigor and intellectual humility when making sense of a complex world. Determining who is and isn’t oppressed, it would caution, is more often difficult than simple. It would further observe that inter-group differences in wealth, power, status, and education—a feature of every social order known to history and anthropology—are too numerous and varied for all of them to be reduced to a single, neat causal relationship.

The Great Awokening that we might have, however, is very different from the one that we do have. The Manichean one we do have stresses certitude and zeal while disdaining nuance and caution. People are either privileged or they’re victims. To suggest that not all victims are simply victims, or that not all their difficulties derive from being victimized, is to “blame the victim,” which is not just an intellectual error but a moral offense. Those who blame the victim further victimize that victim by reinforcing the structural oppression afflicting him.

The prominent writer Ta-Nehisi Coates denies, for example, that such dysfunctional behaviors as teenage pregnancy, drug use, dropping out of school, or declining to find work or hold a job have any relationship to high poverty and crime rates in predominantly black areas. Rather, he insists, the root cause of all these behaviors and problems is white supremacy, and we have no reason or right to expect that any of them will change until we eradicate every aspect of white supremacy. To economist Glenn Loury, this framing of the issue is “an absurdity.” (Both Coates and Loury are black.) “You’re telling me that people have to run up and down the street, firing guns out of windows and killing their brethren because we didn’t get reparations for slavery handed over to you yet?” More generally, Loury rejects the idea that past, present, or structural discrimination “explains or somehow excuses or cancels out the moral judgment that I would otherwise bring to bear against any other community.”

As Loury makes clear, the last full measure of oppression consists in having the Woke absolve you of moral responsibility, culminating in their determination that you are incapable of moral agency. Whatever the Oppressed do or don’t do is a function of what has been done to them by their oppressors. Such solicitude is indistinguishable from condescension and ultimately contempt, a fact not lost on some objects of that solicitude. Since 1994 the National Opinion Research Center’s General Social Survey has asked respondents whether they agreed or disagreed with this statement: "Irish, Italians, Jewish, and many other minorities overcame prejudice and worked their way up. Blacks should do the same without special favors." Dissecting the results, Goldberg shows that white liberals were only half as likely as blacks to reject that proposition in 1994. By 2016, after white liberals’ opposition to that statement had increased and blacks’ opposition to it had declined, the former were half again as likely as the latter to disagree with it. That is, white liberals have come to believe that blacks don’t fully appreciate how burdened they are by white racism.

Zionism and Racism

The Great Awokening’s defining features, then, include: its roots in the logic of left-liberalism; its reduction of any and every complex sociopolitical reality to designated oppressors’ abuse of designated victims; its preoccupation, in particular, with the plight of American blacks; and its use of that plight as a template for all kinds of oppression, which effectively means for all clashes of political interest or opinion. These qualities explain how some can denounce as racist and fascist a law affirming that the world’s only Jewish nation-state is a Jewish nation-state. In the Great Awokening, to quote Goldberg again:

the same empathic outrage over the bigoted persecution by the "privileged" against the vulnerable...is extended out to the international arena where Israel is a fixture of every moral drama. A white supremacist America holds people of color down and keeps the door shut for others, while a “Zionist supremacist” Israel behaves in much the same way toward its minorities of color.

Goldberg points out that, from the time when public opinion surveys started asking the question in 1978, white liberals were more sympathetic to Israel than to the Palestinians...until 2016, after which they have consistently regarded Palestinians as the aggrieved party in this dispute.

These trends started long before the polling question’s first appearance. Zionism was just one of 19th-century Europe’s nationalist movements. Some of them, as in Italy and Germany, resulted in new nation-states being formed by aggregating many smaller, previously independent political entities. Others worked by disaggregation, as when the dissolution of the Austro-Hungarian Empire at the end of World War I bega some central European states and augmented the territory of others. The Zionist movement was realized, still later, under extraordinary circumstances. Founded three years after the end of World War II, Israel was an object of profound sympathy due to widespread horror and shame about the Holocaust. With images of Auschwitz in the world’s mind, it would have been grotesque to admonish Jews, in or out of Palestine, to check their privilege.

It turned out, however, that even the Holocaust established Jewish victimhood only temporarily. Among the Woke, writes Goldberg, “Jews are perceived to be privileged—at least in comparison to other historically victimized groups.”

Having made a full recovery from the Holocaust, Jews are no longer the downtrodden collective that white liberals can readily sympathize with. Other groups lower on the privilege hierarchy and less tainted by association with whiteness now have priority.

In particular, these victimizer victims have come to include the Palestinians. In the belief that Palestinians have, as a rule, darker complexions than Israel’s Ashkenazim (Jews whose ancestors lived in Europe for centuries), the Woke apply the implicit rule of white supremacy now have priority.

The New Left and Third World liberation movements, interconnected ideologically and operationally, began to denounce Israel’s treatment of Palestine’s Arabs in the 1960s. In 1967 the Student Nonviolent Coordinating Committee (SNCC), originator of the Black Power movement, published a section on “The Palestine Problem” in its newsletter, with a cartoon implying Israel or perhaps Jews in general oppressed both blacks and Arabs. When Jewish groups withdrew support from the SNCC in response, the SNCC’s next newsletter warned, “Don’t get caught on the wrong side of the revolution.”
In 1975 a coalition of Communist and Third World countries passed a United Nations resolution declaring Zionism to be “a form of racism and racial discrimination.” In a speech to the General Assembly, the United States ambassador to the United Nations, Daniel Patrick Moynihan, denounced “this obscenity.” The U.N. repealed the resolution in 1991, but the seeds it planted are still bearing poisonous fruit. To demonstrate the absurdity of the 1975 resolution Moynihan argued that its true import was that “Zionism is a form of Nazism.” This exact formulation, however, has since become a staple of anti-Israel rhetoric. Earlier this year, Al Jazeera aired a documentary that claimed, “Israel is the biggest winner from the Holocaust, and it uses the same Nazi justifications as a launching pad for the racial cleansing and annihilation of the Palestinians.” After the program elicited outrage, Al Jazeera pulled it, saying it violated the network’s editorial standards.

Equally venomous and unhinged arguments, however, can lead to a long, comfortable career in American higher education. Judith Butler, an academic superstar, told an interviewer in 2010 that Israelis carried out military actions with the mindset that “any and all Palestinian lives that are killed or injured are understood no longer to be living, no longer understood even to be human in a recognizable sense.” Instead, Palestinians’ deaths in military confrontations leave Israelis “thrilled, because they think their safety and well-being and happiness are being purchased, are being achieved through this destruction.” In Visual Occupations (2015), UCLA literature and gender studies professor Gil Hochberg described posters in Gaza and the West Bank honoring those Palestinians who had died carrying out suicide bombings against Israelis as “a defiant practice of anticolonial national remembering.” Jasbir Puar, a women’s studies professor at Rutgers University, gave a talk at Vassar College in 2016 in which she claimed that Israel killed Palestinians to harvest their organs, conducted medical experiments on Palestinian children, and intentionally bombed hospitals and nursing homes. When her accusations were subsequently challenged, she threatened to sue anyone who made an audio recording of her lecture available to the public.

Granted, these are the words of extremists…but when extremists become more extreme, moderates often respond by becoming less moderate, not more. The academy’s multiculturalist vanguard, in particular, has helped shape mainstream liberal rhetoric and shifted its “Overton window,” the boundary dividing thinkable from unthinkable policy options. Senator Kirsten Gillibrand of New York, a candidate for the 2020 Democratic presidential nomination, proclaims that the future is intersectional (that is, one in which prejudices against the oppressed overlap and compound one another).

If reparations for slavery and the abolition of private health insurance are now on the list of things we need to discuss, there’s no reason to assume that terminating America’s special relationship with Israel is off it. Another Democratic presidential candidate, former U.S. Representative Beto O’Rourke of Texas, has called Benjamin Netanyahu a “racist” who does not represent “the true will of the Israeli people,” a doubtful assessment of a politician who recently became the longest-serving prime minister in his country’s 71-year history. Peter Beinart—Atlantic columnist, former New Republic editor, and a self-described proponent of “liberal Zionism” who faults Israel’s dealings with Palestinians for failing to live up to the ideals of “human rights, equal citizenship, and territorial compromise”—also considers Netanyahu a racist, but one who reflects Israelis’ true will quite accurately. In a column for the Forward, Beinart deplored the results of Israel’s April 2019 elections, which were inconclusive in the crucial respects (there...
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will be new elections in September) but did mark a clear defeat for what remains of that country’s Left. The Labor Party, in particular, which was dominant during Israel’s first decades, received 4.4% of the popular vote, its contingent in the 120-member Knesset falling from 19 to six.

**Wokeness Distilled**

In a nation that has been at war, hot or cold, for its entire history, every other political issue is subordinate to national security. Israeli leftists, then, are doves who favor taking greater “risks for peace.” In Beinart’s words, they want a government that will end the growth of Israeli settlements in West Bank territories under Palestinian Authority jurisdiction, “disband the system of institutionalized racism it has established in the West Bank,” and make “a public...commitment to negotiate a viable Palestinian state.” The most recent elections made clear, however, that Israel’s electorate is decidedly opposed to that agenda and its premises.

Because most Israelis are comfortable with the status quo, Beinart argues, they will elect doves over hawks only if Americans and Palestinians take steps to “make them uncomfortable.” “I hope that demand is made non-violently and with love,” he writes, a formulation that implicitly encourages a third intifada. The second, from 2000 to 2005, “traumatized and embittered Israeli Jews,” according to Beinart, a result we might have expected after Hamas, Palestinian Islamic Jihad, and the Popular Front for the Liberation of Palestine carried out 141 car and suicide bombings, the most lethal of them on city buses, in discos and restaurants, and during a Passover seder in a hotel.

Conversely, the first intifada, which lasted from 1987 to 1993, encourages Beinart, since he believes it led to Israel’s engagement in the Oslo peace process. “When Palestinians rise up again—hopefully non-violently, as they mostly did in the first intifada—and raise the cost of occupation again, Israeli politics will change again.” Apart from the Palestinians’ 3,600 Molotov cocktail attacks, 100 hand grenade attacks, and 600 assaults with guns or explosives, which killed 27 Israeli soldiers and civilians and injured 3,100 more; the death of 1,100 Palestinians in clashes with the Israeli Defense Forces; and the death of a larger number of Palestinians who were killed by other Palestinians on the suspicion (or pre-text) of collaborating with Israel, Beinart’s characterization of the loving first intifada is, hopefully, mostly accurate.

Johns Hopkins University political scientist Michael Mandelbaum has an account of the persistent strife between Israel and the Palestinians that is plausible rather than tortured. Responsibility for failing to secure peace, 25 years after the Oslo peace process began, “belongs to the Palestinians,” he writes. Hamas, which has controlled Gaza since 2005, “says explicitly that it will never accept Jewish sovereignty in the Middle East and devotes its resources not to promoting the welfare of those it governs but to terrorism against Israel.” The Palestinian Authority, in control of the West Bank, is “putatively moderate” by comparison, yet has “refused all offers to settle the conflict, which have included substantial territorial concessions, that Israeli governments have made.”

It has never put forward a counteroffer of its own or indicated the kind of settlement it envisions. It has done nothing to build the institutions of statehood other than deploying multiple police forces that repress political opposition. It has generated vile anti-Jewish propaganda that harks back to Europe in the 1930s and has sponsored the murder of Jews by publicly praising and paying the murderers.

“I wish my brethren in the Jewish state were angelic creatures whose consciences alone could move them to stop oppressing millions of their fellow human beings,” Beinart writes. The idea that those designated as oppressors commit their oppressions because they are morally deficient, rather than in response to complex and often harrowing political dilemmas, is wokeness distilled. In this respect, too, the Great Awkening radicalizes notions that have long been integral to left-liberalism, in particular “the dictum that trust edifies and absolute trust edifies absolutely,” to quote Cropsey again.

The Woke interpretation, then, is the opposite of Mandelbaum’s: responsibility for the hostile relations between Israel and the Palestinians belongs to Israel. Period. Palestinian acts of violence go unmentioned or, if acknowledged, are treated as responses to Israeli actions. Digital Militarism: Israel’s Occupation in the Social Media Age (2015), coauthored by an anthropologist and a communications scholar, describes the second intifada as “a period characterized by a heavily militarized Israeli response to mass demonstrations across the occupied territories, backed by an Israeli public disillusioned by the collapse of the Oslo process.”

Israel’s location on the privilege hierarchy is so determinative that even its victories on the Great Awkening scorecard register as defeats. Israel is notably tolerant regarding sexu-
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al orientation, especially in comparison to the rest of the Middle East, where the treatment of gays ranges from disapproving to barbaric. Benjamin Netanyahu has had the effrontery to point this out, telling the U.S. Congress in 2011 that the Middle East is “a region where women are stoned, gays are hanged, Christians are persecuted.” Sarah Schulman, a City University of New York humanities professor, dismisses such rhetoric as “pinkwashing”—a “public relations tool” and “deliberate strategy to conceal the continuing violations of Palestinians’ human rights behind an image of modernity signified by Israeli gay life.”

No Place Like Home

Billion of pixels have given their lives to prolong the debate over whether Israeli-Palestinian hostilities should conclude with a “two-state solution” or a “one-state solution.” That is, will there be a newly created Palestinian state sharing a negotiated border with Israel, or a binational state where Jews and Palestinians are fellow citizens? Less attention has been paid to the question of whether, and under what circumstances, either of these options amounts to a solution, as opposed to an arrangement that recasts but does not settle the tensions between the two peoples.

In the Woke framework, Israel is the independent variable and the Palestinians the dependent one, which places the burden on Israel to determine both its own policies and the course to be taken by the Palestinians, who are assumed able to react but not initiate. But Israel’s security depends on its leaders making the opposite assumption: that Palestinians can choose, and the choices they’ve made reflect their true intentions. It is often said that the Palestinians have never missed an opportunity to miss an opportunity, which treats the failure to get a state of their own as the result of inept political leadership. But if Palestinians are more determined to drive Jews out of Israel than to achieve statehood, then the opportunities—as early as the recommendation by Great Britain’s Peel Commission in 1937 for an Arab state occupying 80% of the Palestine Mandate territory, and as recent as the 2008 offer by then-Israeli prime minister Ehud Barak of a detailed map that met every condition Palestinian negotiators had identified as vital to establishing their own new state—haven’t been “missed.” They’ve been rejected by people aiming at a fundamentally different resolution.

Absent an unmistakable, binding Palestinian commitment to share peacefully with Jews the land they have fought over for nearly a century, no “solution” will actually solve anything. For Israel to submit to a two-state solution, in the face of the Palestinian and American pressure Peter Beinart calls for, would amount to a choice of protracted national suicide. Israel would acquiesce in the creation of an adjacent sovereign state whose identity is less a threat to democracy than a prerequisite for it. As the Hoover Institution’s Beinart and J Street can speak well of it. Americans have more pressing reasons to reject the Great Awkening than Israel’s national security, but none more clarifying.

Americans have more reasons to reject the Great Awakening than Israel’s national security, but none more clarifying. The case of Israel demonstrates that national identity is less a threat to democracy than a prerequisite for it. As the Hoover Institution’s Peter Berkowitz wrote after the passage of the nation-state law, “Since the largest viable political unit to which citizens can plausibly consent—even tacitly—is a state characterized by shared traditions, language, and political hopes, the modern tradition of freedom reinforces the case for nationalism.” The future of Israel, America, and other nations will be shaped by the contest between the Great Awkening and Somewhereism. If the latter prevails, it will be because national majorities around the world come to feel that “[t]his is our nation, language, and flag,” is not just a legitimate thing for an Israeli prime minister to say, but also for patriotic citizens of any decent country to believe.

William Vogeli is senior editor of the Claremont Review of Books.
Book Review by Matthew Continetti

All the News That's Fit to Slant


Robert Kaiser, then-managing editor of the Washington Post, visited Japan for a conference in 1992. One of the presentations he heard there concerned technology and the news business. Digital communications, the speaker said, would make journalism unrecognizable. Kaiser was shocked. He spent the trip home writing a memo for Post executives on what he had learned. “None of this is science fiction,” he urged, “it’s just around the corner.”

Nothing significant came of the memo. Such was the case throughout the news industry, where editors and publishers ignored similar warnings. They were content with revenues generated by classified ads, coupon inserts, and department store notices. By the turn of the century, they had grown so complacent that when the industry began to change just as the speaker had predicted, they promptly hit a brick wall.

The total circulation of weekday newspapers in the United States was 60 million when Kaiser went to Japan. In 2017 it was an estimated 31 million. In 1992 the total advertising revenue of U.S. newspapers was $31 billion. In 2017 it was an estimated $16 billion. It’s as if Thanos from the Avengers movies had snapped his fingers and eliminated half of print journalism.

Merchants of truth by Jill Abramson, who edited the New York Times from 2011 to 2014, is a study of the impact of this digital revolution on four news outlets: BuzzFeed, Vice, the Times, and the Post. Her story does not have a happy ending. The news industry is experiencing interlocking crises of sustainability, credibility, and identity. Print and digital outlets have no reliable financial base. The public has less confidence in media institutions, and deservedly so. Journalists routinely ignore or violate the norms and canons that once defined their profession.

The reader finishes this book with an overwhelming sense of the power of technology to upend politics, society, culture, and business, including the business of news. Classified ads migrated to Craigslist. Google search decimated subscriptions—why pay when you can get stories free online? Facebook privileged clickbait and sharable content over investigations and foreign coverage. The iPhone displaced print as the go-to medium for news. Twitter, at its best, is a free, global, crowdsourced newswire; at its worst, it is a platform for sanctimony, rumor, insults, and hatred.

Technology changed more than the way we read. It also changed what we read. The websites created by Jonah Peretti—HuffPo and BuzzFeed—provide readers not so much with information as with sensation. With its “LOL,” “OMG,” “Trashy,” “WTF,” and “Fail” tags, BuzzFeed categorizes posts not by subject matter but by emotional response.

Sensationalism did not begin with the internet, of course. But technological innovations have altered the way many publishers view their audience. The old conception was
that the reader was a democratic citizen who needed to be informed. The new conception is that the reader is a bundle of preferences, desires, and affinities ripe for manipulation. “BuzzFeed’s technologists,” Abramson writes, “knew how to use mind tricks and pressure points, how to twist arms, dangle carrots, and use reverse psychology. They had it down to a science: blend one part tough love into two parts obsequious flattery, filter that through nostalgia, and glaze it with scot-free optimism.” Whatever that is, it is not shoe-leather reporting.

The internet is a great leveler. Print institutions used to observe certain boundaries between the newsgathering and business departments, and between editorial and advertising content. Abramson describes the process by which publishers transgressed those boundaries. They did so out of necessity. They had to find alternative sources of revenue once print advertising disappeared. Programmatic online ads did not cover losses. The answer, according to BuzzFeed’s Peretti, was so-called “native advertising.” This was a euphemism for marketing pitches that read like news or feature articles.

“The digital era had enshrined a new business model as the industry standard,” explains Abramson.

[P]laces like Vice and BuzzFeed would give away their journalistic content for free to win adherents to the publisher’s brand identity, then use this leverage to present sales pitches for their sponsors’ sales pitches, soft-pedaling them to the same unsuspecting readers whose loyalty they had won. Their unsponsored editorial work sold readers on how awesome and uncompromising they were. And the depth of that connection with readers was what they sold to advertisers, charging them for the opportunity to compromise it.

The Post and the Times were reluctant to adopt a model that collapsed the distinction between news and business. Then they succumbed. As the line between reporting and advertising dissolved, so too did the line between fact and opinion. BuzzFeed eschewed detachment and dispassion for advocacy and commitment to minority, women’s, and LGBT rights. Later, a front-page article in the August 7, 2016, New York Times reported that “Trump Is Testing the Norms of Objectivity in Journalism,” norms most reporters were more than happy to abandon if it cost Donald Trump the presidency.

The media that emerged from the technological whirlwind were digital-first platforms that integrated marketing with an outlet’s brand. BuzzFeed produced ads indistinguishable from its lists of “15 Hedgehogs With Things That Look Like Hedgehogs,” Vice’s in-house creative agency, dubbed “Virtue,” commodified dissent by infusing promotions from corporations and banks with its punk sensibility. The Times promoted trips to Iran and Cuba with the paper’s foreign correspondents, flacked wine clubs, and sold tickets to events featuring notable bylines. The Post got into trouble when its plans for “salons,” where lobbyists would pay to mingle with reporters, leaked to a competitor. Both the Times and the Post sold inserts to foreign governments who used the space, barely distinguishable from the rest of the paper, to extol the achievements of authoritarian regimes. Toward the end of the book, Abramson writes of her former paper: “The ever-growing T Studio had created 235 native ad campaigns for more than 100 clients, with branches in London and Hong Kong. With a staff of 130, it was bigger than the newsroom of Connecticut’s Hartford Courant.”

Such drastic measures are unlikely to make journalism any more sustainable. Last April, Warren Buffett said the newspaper business was “toast” because the readers of most publications do not actually subscribe for the writing and editing. “They want to know what supermarket’s having the bargain on Coke or Pepsi this weekend and so on,” Buffett said. “I mean, it upsets the people in the newsroom to talk that way, but the ads were the most important editorial content from the standpoint of the reader.” Buffett stepped down from the board of the Washington Post in 2011, two years before the paper was sold to Jeff Bezos.

If readers are not particularly interested in reporting, then money-losing publications have two choices. One is patronage, i.e., find a rich donor. Another is somehow to monetize the prestige associated with certain titles. Editors of the Economist would like subscribers to finish an issue of the magazine feeling internationally aware and financially savvy. The editor of the New Yorker produces a magazine for his readers that he hopes comes across as progressive and urbane. Subscribe to the New York Times and you can help resist Donald Trump. People will pay for status, though not very much. And status is elusive. Only a few brands can offer it.

Digital challengers such as HuffPo and Vice paid little attention to quality control. “The Huffington Post held itself accountable...
not to journalistic rules but to readers’ enthusiasm,” Abramson writes.

It did not purport to dictate the terms of the national conversation but rather to reflect it. It aimed not to change hearts and minds but to resonate with them. Company leadership was notably void of anyone with editing experience.

When incumbents such as the Times and the Post cut costs, editors were the first to go. By June 2017, the Times had terminated its 100 copy editors. “They were the editors who never got the glory, but they kept opinion from seeping into the news and saved the paper from misspellings, wrong titles, grammatical errors, and more serious mistakes,” she notes.

The digital upheaval removed experienced professionals from newsrooms and replaced them with novice activists working for paltry wages. It was former Obama adviser Ben Rhodes who best summarized the new reality. “The average reporter we talk to is 27 years old, and their only reporting experience consists of being around political campaigns,” he told the New York Times Magazine in 2016. “That’s a sea change. They literally know nothing.”

The removal of editorial safeguards coincided with the collapse of public trust in media. Abramson mentions journalistic scandals such as Dan Rather’s use of forged memos in a story on George W. Bush’s time in the Texas Air National Guard and the New York Times’s promotion of fabulist Jayson Blair. Her account barely scratches the surface. The past year has seen the media indulge in flights of speculation and hearsay regarding the nomination of Brett Kavanaugh to the Supreme Court as well as the content and consequences of Robert Mueller’s report on Russian interference in the 2016 election.

Indeed, Merchants of Truth exemplifies the very problems it describes. Abramson needs an editor, too. Her narrative is repetitive, contains factual errors, and loses momentum near the end. She acknowledges the Times’s liberal bias but is much more circumspect when it comes to her own. She says the Times “generally eschewed celebrity news,” which is laughable to anyone who has had to endure its endless profiles of Frank Ocean, Lena Dunham, and Beyoncé Knowles-Carter.

Abramson refers to the “respected” former Supreme Court reporter Linda Greenhouse—respected by whom? Her main criticism of the Times is that it did not do enough to prevent the Iraq war. She calls The Baffler “an intelligent magazine for political and cultural analysis,” which might be true, but it’s also left-wing. Perhaps Jane Mayer of the New Yorker is “one of journalism’s most intrepid investigative reporters.” She is definitely one of its most ideological and partisan.

It got worse for Abramson. On February 6, Vice correspondent Michael Moynihan said on Twitter that the chapters of the book on his company were clotted with mistakes. Lots of them. The truth promised in Merchants of Truth was often not true. While trying to corroborate certain claims, I noticed that it also contained…plagiarized passages.

Moynihan found that Abramson had without attribution used work from the Columbia Journalism Review, Time Out Chicago, the New York er, and a master’s thesis. She reacted clumsily, saying she had been “sloppy.” Later, in a statement, she admitted, The notes don’t match up with the right pages in a few cases and this was unintentional and will be promptly corrected. The language is too close in some cases and should have been cited as quotations in the text. This, too, will be fixed.

An admission of guilt.

Clumsy, sloppy, scandal-prone, reflexively liberal, and unable to live up to her own standards, Jill Abramson is the perfect representative of an industry in terminal decline.

Matthew Continetti is editor-in-chief of the Washington Free Beacon.
Earlier this year, the Connecticut legislature adopted a bill which mandated the creation of a one-credit course on black and Latino history for the state’s high schools. “American history seemed to be a long catalog of kings, presidents, generals, a few industrialists and a couple of investors, that was about it,” complained the bill’s sponsor, Edwin Vargas of Hartford. But “religions, racial and ethnic groups, women, minorities, labor, unions—all these movements in America—they were lucky if they got one or two lines in one of our history books.” It was time, added Representative Bobby Gibson of Bloomfield, to shift the focus in history teaching to the “many contributions [which] have been given to this country, to this state, by African Americans and by Latinos.”

Given that African Americans compose nearly 12% of the state’s population (and Hispanics over 16%) this may not be an unreasonable demand. The difficulty lies in assuming that history should be taught piece-meal, race by race or culture by culture. As Representative Gale Mastrofrancesco objected, there seems to be little reason why the state should mandate a course on one “particular culture and it’s not mandated that we offer it about every other culture.” Yet the Connecticut proposal is testimony to a diminishing confidence that the history of the United States can be understood as a synthetic, national whole. We live in what Daniel T. Rodgers called the Age of Fracture (2011), in which “shared traditions, values, and customs” are defended only by “conservative intellectuals who [have] not taken the libertarian turn, who still [imagine] society in organic terms.” The Connecticut scheme gives us fracture good and hard.

The fracturing of a shared history has been accelerated by the guilty realization that a good many shared histories in the past have really shared very little. In 2018, Harvard’s Donald Yacovone published a scathing review of 3,000 American history textbooks stretching back into the 19th century which depicted slavery as a benign institution where “untutored” blacks could “enjoy picnics, barbecues, singing, and dancing.” These textbooks “never mentioned any abolitionists or even an antislavery movement” and wrote off Reconstruction as a laboratory demonstration of “black incapacity.” That included, to Yacovone’s chagrin, the textbook he had read in a fifth-grade class in California. Yet without a single integrative narrative of the American experiment, American historical understanding tilts toward the pattern of the Articles of Confederation. Such
a pattern brings with it the same confusion and paralysis that forced Americans in 1787 to speak as We the People and not merely as the denizens of a state, much less a culture. American history textbooks have been shifting away for almost 30 years from the narratives Yacovone and the Connecticut legislators denounced, and the result has been texts which are little more than a Connecticut-style pastiche of American “cultures” sandwiched awkwardly between two covers. Or worse, not even sandwiched, but arrayed in militant hostility to each other. The most popular of all current American history texts, the late Howard Zinn’s A People’s History of the United States (1980), bluntly states that American history can be reduced to “a profound conflict of interest between the government and the people of the United States.” It is, as Zinn later wrote in the Progressive, “a history of slaveowner against slave, landlord against tenant, corporation against worker, rich against poor.” Overall, A People’s History has sold more than 2 million copies, and the Zinn Education Project, which promotes the use of the text, has 300,000 followers on social media.

On those terms, Connecticut’s legislators will not have to look far to find the stories they are seeking. But what they may end up with is the war of all against all.

Neither Wilfred M. McClay’s Land of Hope: An Invitation to the Great American Story nor Jill Lepore’s These Truths: A History of the United States actually advertises itself as a school textbook. Each will nevertheless be seen as a possible candidate for that role—both because McClay’s Land of Hope is laid out in the large-print, large-page format we have come to identify with textbooks, and because Lepore is an extraordinarily talented and well-known storyteller whose vignettes of forgotten chapters in American history have been a feature of the New Yorker for over a decade. It will be especially hard not to see Land of Hope as the anti-Zinn: as the intelligent conservative’s response to Zinn’s scorching denunciations of nearly everything, and thus as the logical resort of AP high school teachers who would like their courses to be about something other than an America full of sound and fury, signifying nothing. Lepore, on the other hand, has possibilities as a first-year college survey text—or would, if there were not so many gaps and bunches in the narration and so many personal obsessions to be vented.

McClay is the G.T. and Libby Blankenship Chair in the History of Liberty at the University of Oklahoma. Since earning his Ph.D. at Johns Hopkins in 1987, he has carved out an enviable career at the University of Dallas, Tulane, and the University of Tennessee at Chattanooga. His first book, The Masterless: Self and Society in Modern America (1994) won the Organization of American Historians’ Merle Curti Award in Intellectual History. But McClay’s long suit has been the broad-based, pungent essays that he has written for First Things and the New Atlantis, and Land of Hope is his first large-scale book since The Masterless. It has, notwithstanding, been worth the wait, because McClay has a very clear sense of what he wants to do with this book. The reader will get a full idea of that purpose by beginning, counterintuitively, with the epilogue, “The Shape of American Patriotism.”

For McClay does not hesitate to talk about the p-word, and to present Land of Hope as “an accurate, responsible, coherent, persuasive, and inspiring narrative account” of American history which will “inform and deepen” Americans’ “sense of the land they inhabit and equip them for the privileges and responsibilities of citizenship.” As much as McClay feels the professional historian’s urge to tell a story, he clearly wants Land of Hope to be “a contribution to the making of American citizens, and not to their discouragement or disheartening at the prospect of unrelieved evil and guilt. There is much, McClay insists, “to celebrate and cherish in the American achievement.” Although he is cautious enough of the winds blowing from Connecticut and elsewhere to assure readers that “hope” “doesn’t mean...an uncritical celebration,” there is still something desirable, “something natural about patriotism, as an expression of love for what is one’s own,” which justifies not only the inculcation of that patriotism but the use of history as the primary means for adorning it.

There are, nevertheless, at least two ways of construing patriotism—one is captured in the name of the department created after 9/11 to suppress terrorist attacks, the Department of Homeland Security. The idea of America as a homeland conjures up ugly echoes of the German Heimat, the mystical patriotism of soil and blood responsible for so much of the misery that blot the record of the 20th century. Yet it deserves not to be condemned out of hand, McClay argues, if only because amor patriae ducit (love of country leads), and love is a passion which moves toward particular objects—toward what is beloved, apart from all others, and toward the symbols of the beloved—and seals loyalty at a level which is unusually resistant to the blandishments of betrayal and despair.
But American patriotism, like the double helix of human DNA, is also wrapped by a second strand—this time of ideas, and especially the one singular “proposition” to which Abraham Lincoln believed the republic was “dedicated”: that all men are created equal. To be an American is to be one who gives rational assent to that proposition, with all that it entails about natural rights to life, liberty, the pursuit of happiness, and (as Lincoln remarked) “proving that popular government is not an absurdity.” Thus do love and reason, passion and assent, become the twin poles of American patriotism.

The question, however, is whether a narrative history can nourish love without sinking into a maudlin collection of uplifting parables, or simply ignoring the particular birth defects of the American republic (particularly concerning slavery). The answer, in McClay’s case, is a fairly strong maybe. McClay is extremely reasonable in disarming the worst barbs of the identity politicians—there were, for instance, no “Native Americans” with some overarching claim to possess the American continents, for the simple reason that all Americans, including all the presumptively “native” people, were themselves originally immigrants from somewhere else. And the “extinction or dramatic reduction of various indigenous peoples after contact” with Europeans was not the product of the “cruelty” of European invasion, “but the epidemic spread of Old World diseases such as smallpox, measles, and malaria...to which they had no natural immunity.” Nor was slavery a uniquely European or American crime. In any case, the American republic in 1776 “was founded on other principles entirely” than the exploitation of slave labor, the clincher being the sedulous exclusion of the word ‘slave’ from the federal Constitution in 1787.

Still, there is comparatively little in Land of Hope, apart from Ronald Reagan’s apostrophe to “the boys of Pointe du Hoc,” which works on the amor that embraces patria. (A few more of those uplifting parables—George Washington at Newburgh, Sergeant William Carney at Fort Wagner—might not have been out of place.) McClay is happier in delineating the propositions around which American identity is formed, and he does so by an unreservedly conservative standard. The Revolution that created those politics was, from the first, a rebellion against “consolidating the empire” Britain had established in North America. After a brief fling with near anarchy as an alternative under the Articles of Confederation, Americans arrived at a sober balance between consolidation and liberty in the Constitution. The framers thus created “a federal system that would maintain a large measure of autonomy for the states, while turning over to a national government only those things that had to be undertaken in common.” Nothing quite explains that balance more effectively in McClay’s estimate than The Federalist (with its “darkly realistic view of human potentialities”) or describes its benefits more spaciously than Alexis de Tocqueville’s Democracy in America, which McClay lauds as “the richest and most enduring study of American society and culture ever written.”

He does not underestimate the demonic strength that slavery assumed in the American republic, but he is determined to fix the blame for it on something other than American principles. The slave South “had a certain...distinctiveness from the beginning” from the rest of the American experiment,
and McClay does not hesitate to pronounce plantation culture “a feudal society...dominated as it was by an aristocratic planter class...with all the strict social hierarchy that implies.” Slavery did not undergird, finance, or instantiate the American Founding—it betrayed it into the hands of a “premodern, hierarchical vision” that despised the free-labor economy of the rest of the country and “was startlingly similar in many respects to the critique then being offered by radical leftists like Karl Marx.”

McClay is just as critical of the Progressives, who, although their roots were in the small-town middle class of the upper Midwest, were equally dismissive of “the competitive idea at the heart of the Constitution” and instead pushed forward an idea of government dedicated to “centralizing, consolidating, harmonizing.” It will come as no surprise, then, that McClay regards the New Deal with a certain skepticism, and dismisses Franklin Roosevelt (in the mordant estimate of his aide Raymond Moley) as a man whose “knowledge of political and constitutional history and theory was distinctly limited” and who lacked “any appreciation of the basic philosophical distinctions in the history of American political thought.”

McClay is an intellectual historian—which is to say that he is concerned primarily with the history of ideas, whether religious, philosophical, sociological, or political—and so Land of Hope does not set out to be a strictly political narrative. Unhappily, however, politics displays a nasty penchant for swallowing up ideas in Land of Hope. McClay’s largest foray into American literature occurs with the New England Romantics—Ralph Waldo Emerson primarily, but also Henry David Thoreau, Nathaniel Hawthorne, and Herman Melville. Not a word is said about the moral philosophers—John Witherspoon, Archibald Alexander, Francis Wayland, Mark Hopkins, Francis Bowen, Noah Porter, James McCosh—whose influence easily overshadowed the transcendentalist Romantics until William James and pragmatism blew them out. But James and pragmatism are just as invisible, despite having provided the philosophical stuffing for Progressive politics. Instead, Land of Hope increasingly becomes a political history, and especially a history of presidential administrations. Of McClay’s 429 pages of text, 190 are devoted to America since 1900, and almost all of them are a progress through presidencies and their wars.

Not that McClay’s judgments on those presidencies lack weight. But they are, in some senses, predictable. Theodore Roosevelt is “not inclined to be excessively deferential to the Constitution,” and he revives “[t]he activist power of the presidency” which had been “relatively dormant” since the death of Lincoln. Woodrow Wilson, with his management of low tariffs, income tax, central banking, the 16th and 17th Amendments (and, not to be missed, his loathing of African Americans) is even worse. Warren G. Harding and Calvin Coolidge get higher marks—the first for his economic policies, the second for his principled defense of the integrity of the American Founding. McClay is unexpectedly generous to Richard Nixon—“talented and highly intelligent” with a “remarkable talent for compromise and coalition building”—and adulatory of Ronald Reagan. But he is dismissive of Jimmy Carter, whose sole talent was for gesture, and of Barack Obama, who was long on “inspirational talk about hope and change” but an “ineffective leader when mat-
ters got down to specifics.” Republicans up, Democrats down.

The result, however, is that by the end of *Land of Hope* politics has trumped culture in a singularly exhaustive way. No notice of any American literature surfaces after Sloan Wilson’s *The Man in the Gray Flannel Suit* in 1955; American music begins—and ends—with jazz in the 1920s; apart from Martin Luther King, religion vaporizes after 1900. And rather than hope, McClay is forced to concede with a dismal picture of an America mistrustful of its own political institutions and wallowing in debt, both governmental and personal. Perhaps *Land of Hope* might have ended with some stirring invocation of the American Muses to point to a return to first principles. But it does not—apart from a final exhortation to us not to allow “one of the bright lights of human history...to be extinguished, either through inattention to our ideals or through ignorance of our story.”

**NE OF THE GREAT VIRTUES OF LAND OF HOPE IS McClay’s style: relaxed, conversational, unobtrusive, as though he were conducting a pleasant and eminently enjoyable evening with friends. Jill Lepore is, if anything, an even more talented literary stylist. But it is the style of a pupilist, jabbing remorselessly, punctuated with the frequent *eureka!* and then dropping to the conspiratorial whisper. And where McClay splashes primary colors across a vast canvas, Lepore is a pointillist, dabbing points and trusting the eye of the beholder to provide the unity. She is by turns sensitive, dismissive, dogmatic, and annoying—especially annoying when dangling participles at the end of paragraphs (“their songs unsung,” “two towers collapsing”).**

Lepore bounded quickly out of the graduate school gate at Yale: her 1998 book on King Philip’s War, *The Name of War*, earned her the Bancroft Prize, and a second opus in 2005 on the New York City slave uprising of 1741, *New York Burning*, a nomination for a Pulitzer, and the David Woods Kemper Professorship in American History at Harvard. But since then, her historical writing has been almost entirely the possession of the New Yorker, where she has published a lengthy succession of popular pieces on some singularly unknown people and places—on Benjamin Franklin’s sister, Jane Mecom; on the first political consultants, Leone Baxter and Clem Whitaker; on Robert Ripley (of Ripley’s *Believe It or Not!*). Any casual flip through *These Truths* will show that much of its 789 pages of text reads like reproductions of Lepore’s New Yorker articles, loosely filled in with connective threads. Almost all the major incidents of the book—Frederick Douglass and photography, women as moral crusaders, the historical misperceptions of Magna Carta, scientific management (and her quarrel with Clayton Christensen), the invention of polling—have previously appeared in her *New Yorker* pieces since 2008.

**L EPORE IS AS CONSCIOUS AS MCCLAY that a nation needs a history, and like McClay, she conceives of *These Truths* as an old-fashioned civics book, an exposition of the origins and ends of democratic institutions.” In a brief essay in *Foreign Affairs* earlier this year, she chided American historians for allowing “the nation” to fall “out of favor” as a subject. But her idea of a revitalized history is not aimed at fostering anything so déclassé as patriotism, largely because a) Lepore does not believe that there is an American nation to which one may attach emotions of patriotism, and b) she entertains an epistemological looseness which is at war with a national foundation constructed of propositions, much less the self-evidence Thomas Jefferson and the founders saw in “these truths.” She is, at bottom, a postmodernist: hence, all narratives are fictions, including historical narratives. “Nation-states, when they form, imagine a past,” she declared in *Foreign Affairs*, but those imaginings are invariably “little more than myths that hide the seams that stitch the nation to the state.” Normally, nations do this to justify the emergence of the state—as, for example, the Germans, who existed as a “nation” long before they created a “state” in the form of Germany in 1871, and who then had to work at making the Wilhelmine state believable. Americans had to do the reverse: they created a state in 1776, and then, since Americans were really a wild composite of immigrant identities, had to invent a “nation” to give it flesh and bones. “Our union is perfect,” Jefferson claimed in 1775 at the Second Continental Congress, “being with one mind resolved to die freemen rather than to live slaves.” Except, of course, that it wasn’t, either politically or ethnically. So, Lepore asserts, 19th-century historians concocted a national history “in an attempt to make the United States’ founding appear inevitable, its growth inexorable, and its history ancient.” But in fact, as she argues, America was riven by multiple racial divisions (which hardened into ideological divisions) from the start, and continues to be so.

Similarly, the idea that Americans are guided by a set of “truths” is just so much wishful thinking. “The truths on which the nation was founded are not...articles of faith, never to be questioned, as if the founding were an act of God.” Far from it: “the nation’s founding truths were forged in a crucible of violence, the products of staggering cruelty, conquest and slaughter, the assassination of worlds.” But, in good postmodern fashion, neither are these truths entirely false. “[N] either are they lies, all facts fictions, as if nothing can be known, in a world without truth.” The problem is that Lepore offers no method for parsing the truth in “truths” from the lethal falsehoods she decryes, except to say that we must walk an “uneasy path, away from false pieties and petty triumphs.”

Where McClay splashes primary colors across a vast canvas, Lepore is a pointillist, trusting the eye of the beholder to provide the unity.

**WALKING THAT UNEASY PATH means, for Lepore, walking in the shade of suspicion, trusting to nothing of the conventional in American history. “The Declaration,” she writes, “was a stunning rhetorical feat,” but “[j]t also marked a colossal failure of political will, in holding back the tide of opposition to slavery by ignoring it, for the sake of a union that, in the end, could not and would not last.” Immigrants who filled the cities of the new republic were met by stone walls of economic inequality and crammed into common schools “animated...by nativism and ‘regeneration.’” The American Revolution speeds past in only five pages, the Civil War in 17 (with the war itself breezily captured in just three paragraphs). The Korean War gets four sentences.

Curiously, suspicion also leads her into some unusually favorable judgments about figures who have otherwise been the scorn of the historical establishment. William Jennings Bryan’s hopeless prosecution of John Thomas Scopes in the famous “monkey trial” of 1925 earns from Lepore praise for seeing that “secular modernity” and “the heartlessness of science” spelled “the end of sympathy, compassion, and charity.” In battling Darwinism, Bryan “wasn’t battling a chimera,” since Darwinism was “indeed breeding eugenicists.”

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BUT LEPORE’S SYMPATHY FOR BRYAN HAS LESS TO DO WITH ANY RESPECT FOR BRYAN’S RELIGION (WHICH, THROWING HER DISMISSAL OF TRUTH ASIDE FOR A MOMENT, SHE REGARDS AS A “CHALLENGE...TO THE NATION’S FOUNDING PRINCIPLES AND ESPECIALLY TO THE NATURE OF TRUTH”) AND MORE TO DO WITH HER INTUITION THAT LITTLE IN AMERICAN LIFE IS WHAT IT SEEMS. MORE THAN HALF OF THESE TRUTHS IS TAKEN UP WITH AMERICA SINCE 1900, AND MUCH OF THAT BECOMES A STORY OF MANIPULATION AND WIRE-PULLING THAT MIXES C. WRIGHT MILLS WITH THE LUDDITES, ALL WITH A VIEW TOWARD DEBASEING THE POLITICAL COINAGE OF AMERICAN LIFE. “POLITICAL CONSULTANTS REPLACED TROJAN HORSE FOR RIGHT-WING TECHNOCRATS ILLUS-TRATES HOW EASILY CONSPIRACY-MONGERING CAN TEETER OVER INTO CREDULITY—SOMETHING LEPORE DEMONSTRATES WHEN SHE DISMISSES ALGER HISS’S TREASON AS MERELY “MILITARY” RATHER THAN “POLITICAL” (THE SAME THING MIGHT BE SAID ABOUT BENEDICT ARNOLD), WAITS FOR A DOzen PAGES ABOUT JOE MCCARTHY BUT SAYS NOTHING ABOUT THE ROSENBERGS, AND ATTRIBUTES THE PROSPERITY OF THE POST-WORLD WAR II YEARS TO “THE GROWING POWER OF THE STATE.” IT DOES NOT HELP THAT LEPORE ALSO TRIPS HEAVILY OVER SEVERAL IMPOSSIBILITIES: PLACING MIDWAY (THE SITE OF THE VI- TAL 1942 NAVAL BATTLE) IN THE HAWAIIAN ISLANDS, RUNNING LINCOLN AGAINST STEPHEN DOUGLAS IN 1854, ESCORTING FDR AND WINSTON CHURCHILL TO THE YALTA CONFERENCE WITH “SIX FIGHTER JETS.”

Caveant commentatores.

At least Lepore is evenhanded in dispensing disdain, especially for Bill Clinton (“he had, all his life, the face of a boy.... And yet he was, all along, a rascal”) and for intersectionality with its “politics of grievance and contempt.” All Republicans are down, but so are most Democrats. If she finds any saints at all among this congregation of the unrighteous, they are Franklin Roosevelt and Barack Obama, whose “soaring storytelling about the nation’s long march to freedom and equality” was, alas!, sabotaged by a “foreign policy” that “looked aimless and haphazard and tentative.”

BOTH MCCLAY AND LEPORE ILLUSTRATE IN DIFFERENT WAYS THE DIFFICULTIES THAT LIE IN THE PATH OF FASHIONING A WORTHWHILE NATIONAL STORY. BUT THERE ARE OTHER DIFFICULTIES, TOO, OF A MORE PRACTICAL NATURE. STARTING WITH THE PASSAGE OF NO CHILD LEFT BEHIND (NCLB) IN 2001, THE TIME ALLOTTED TO ANY HISTORY INSTRUCTION IN AMERICAN SCHOOLS HAS BEEN SHRINKING, SOMETIMES TO THE VANISHING POINT. OVERALL, IN THE FIRST FIVE YEARS OF NCLB, THE CENTER ON EDUCATION POLICY REPORTED THAT 71% OF THE NATION’S 15,000 SCHOOL DISTRICTS REDUCED THE INSTRUCTIONAL TIME SPENT ON HISTORY, MUSIC, AND OTHER SUBJECTS IN ORDER TO DOUBLE DOWN ON READING AND MATH. BY 2014, THE NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS SHOWED THAT ONLY 18% OF AMERICAN EIGHTH-GRADERS COULD BE CONSIDERED “PROFICIENT” IN AMERICAN HISTORY. SIMILARLY, SINCE 2011, THE NUMBERS OF HISTORY MAJORS IN AMERICAN COLLEGES AND UNIVERSITIES HAS DECLINED BY A STAGGERING 33%. ACCORDING TO BENJAMIN SCHMIDT OF NORTHEASTERN UNIVERSITY, WHO ANALYZED THIS DECLINE FOR THE AMERICAN HISTORICAL ASSOCIATION, “STUDENTS AND THEIR PARENTS SEEM TO BE THINKING A LOT MORE THAT THEY NEED TO MAJOR IN SOMETHING PRACTICAL,” AND “HISTORY, HUMANITIES, ENGLISH, AND PHILOSOPHY ARE NOT THOSE PRACTICAL MAJORS.”

The legions of the Left who populate the American Historical Association and the Organization of American Historians, and who rigorously ensure that no conservatives will sit on steering committees or occupy leadership posts, are not likely to be of much help in addressing Lepore’s and McClay’s dismay. They have shown little inventiveness in addressing the evaporation of history in the schools. But conservatives, whose intellectual torque has tended overwhelmingly toward political science and economics, have not shown themselves to be much of a resource, either. Without a vision, the people perish, and that is especially true of a historical vision. Where, apart from Wilfred McClay and the small cadre of conservatives that dot the historical profession, are the historians ready to restore that vision?

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The assault on the administrative state proceeds apace. Law schools and think tanks abound with seminars and conferences with titles such as “Whatever Shall We Do About the Administrative State?” “Delegation and the Administrative State,” and “Congress and the Administrative State: Delegation, Non-Delegation, and Un-Delegation.” Vigorous critiques like Philip Hamburger’s Is Administrative Law Unlawful? (2014), Joseph Postell’s Bureaucracy in America (2017), and John Marini’s new Unmasking the Administrative State receive thoughtful attention. Law reviews and public policy journals, not to mention numerous legal blogs, fairly bristle with commentary questioning virtually every conventional assumption of the once quiet and uncontroversial field of administrative law. Such developments will not instill confidence among those who believe public administration has yet to achieve its greatest glory.

Many mansions may be found in the house of the critics, but the differences among them pale compared with the shared conviction that the premises on which administrative law has rested for the better part of a century should be radically revised or abandoned. To be sure, numerous scholars who disagree with this indictment return the critics’ volleys with books and articles of their own. But the critics—at least at the present juncture—hold the stronger hand. This is a new and significant phenomenon, unthinkable a short time ago. For most of the past century, the literature on the administrative state was altogether too comfortable with itself—and with the institutions whose activities it chronicled. Most commentators celebrated or sympathized with the progressive agenda, and in some cases helped design the regulatory machinery inspired by it. Few academic tears were shed during the 20th century as important structural features of the founders’ Constitution gave way to Woodrow Wilson’s “living” constitutionalism.

This generally sympathetic support for the progressive agenda began to crumble in the 1970s across a wide range of disciplines. Economists as early as the 1960s had begun to contrast the ostensible purposes of many regulatory programs with their actual achievements and found numerous gaps between rhetoric and reality. Not long thereafter, a group of young political philosophers, most of them denizens of Claremont, began to re-examine the works of progressive theoreticians with particular care. Progressivism, they showed, was marked not merely by economic and political reform at the retail level (e.g., railroad regulation, food and drug safety legislation, or the initiative, referendum, and recall), but by a deep-seated desire to alter or abolish the founders’ consti-
The Last Chance to Rein in the Administrative

Gundy will require the Supreme Court to alter or re-well-informed, and compelling brief for the
Judicial Fortitude:

with the duty of carrying out its legislative
State

verse important precedents that have encour-
trines and opened the door for more chal-
reassessing constitutional assumptions that
have not been seriously questioned since the
years with law firms in New York and Wash-
the Treasury Department from 1981 to 1985
and as White House counsel in 1986-87. For

the administrative state. First, members busy
to consist of two things, both by-products of
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features are inextricably intertwined with
make it almost impossible to restrain govern-
ment growth and regulatory overkill. Both
features are inextricably intertwined with
longstanding judicial doctrines that impede
meaningful reform. The first concerns the
denise of the so-called non-delegation doc-
trine—the proposition that since Article I
vests Congress, and Congress alone, with leg-
islative powers, those powers may not be sub-
delegated. The rationale for the doctrine was
comprehensively laid out by John Locke in his
Second Treatise of Civil Government:

The Legislative cannot transfer the Pow-
er of Making Laws to any other hands.
For it being but a delegated Power from
the People, they, who have it, cannot
pass it over to others…. And when the
People have said, We will submit to
rules, and be governed by Laws made by
such Men, and in such Forms, no Body
else can say other Men shall make Laws
for them; nor can the people be bound
by any Laws but such as are Enacted
by those, whom they have Chosen, and
Authorised to make Laws for them. The
power of the Legislative being derived
from the People by a positive voluntary
Grant and Institution, can be no other,
than what the positive Grant conveyed,
which being only to make Laws, and not
to make Legislators, the Legislative can
have no power to transfer their Author-
ity of making laws, and place it in other
hands.

For the American framers, and for most
public officials until roughly the New Deal,
this rationale was widely accepted as a neces-
ary adjunct of limited, accountable govern-
ment. On rare occasions (dealing with episod-
ic minor matters) when Congress looked the
other way for reasons of political convenience,
legislators understood that maintenance of
the non-delegation principle was essential to
the preservation of its political leverage vis-
à-vis the executive. By degrees—like the prover-
bial pot of gradually warming water that boils
the frog—the growth of government during the
early 20th century tempted Congress to-
ward acts of constitutional impiety.

Like the proverbial

tof gradually warming
water that boils the frog,
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he past 20 years he has been a senior fellow
at the American Enterprise Institute, where
he directs a major program dealing with vari-
ous aspects of financial regulation. He has
written widely and well about regulatory mat-
ters, including what is arguably the best book
on the financial crisis of 2007-08, Hidden in
Plain Sight: What Really Caused the World’s
 Worst Financial Crisis and Why It Could Happen
Again (2015).

Wallison focuses on two fea-
tures of the contemporary admin-
istrative state that, taken together,
make it almost impossible to restrain govern-
ment growth and regulatory overkill. Both
features are inextricably intertwined with
longstanding judicial doctrines that impede
meaningful reform. The first concerns the
denise of the so-called non-delegation doc-
trine—the proposition that since Article I
vests Congress, and Congress alone, with leg-
islative powers, those powers may not be sub-

It wasn’t so long ago that Congress
took pains to master the details of pub-
lic policy and to police agencies charged
with the duty of carrying out its legislative
prescriptions. Federal legislators today seem
much less interested in performing either
task. Most congressional work today appears
to consist of two things, both by-products of
the administrative state. First, members busy
themselves as ombudsmen for the distribu-
tion of goods and services provided by big
government. Second, rather than creating
or fine-tuning guidance on policy for those
who administer it, members delegate that
responsibility to the bureaucracies of execu-
tive and independent agencies. Having done
so, they thereafter poke and prod agencies to
help causes or constituencies important to
their re-election. As Professor (now D.C. Cir-
cuit Judge) Neomi Rao has brilliantly shown,
rather than legislate collectively in an effort
to enhance the common good, members hone
their skills as individual policy entrepreneurs,
an activity that privileges and enhances the
mischiefs of faction. In short, Congress has
converted its end of the administrative state’s
machinery into a formula that seeks to en-
hance incumbent safety. The traditional idea
of lawmaking has taken a back seat to tweak-
ing the administrative system for personal po-
tical benefit. This disposition has become a
well-entrenched habit, and it will not change
unless acted upon by an outside force. Wal-
liosn believes, and credibly demonstrates, that
in the first instance the federal judiciary must
become that outside force.

That is a tall order, but Wallison’s creden-
tials are well suited to its execution. He spe-
cialized in complex regulatory matters for 30
years with law firms in New York and Wash-
ington, D.C., and served as general counsel of
the Treasury Department from 1981 to 1985
and as White House counsel in 1986-87. For

A key turning point in this trans-
formation occurred in 1928, in the
otherwise obscure case of J.W. Hamp-
ton, Jr. & Co. v. United States, where Chief
Justice William Howard Taft opined that at
least some legislative powers might be constitu-
tionally delegated after all. Congress might
seek another branch’s assistance to execute its
intend, Taft wrote, but “the extent and charac-
ter of that assistance must be fixed according

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to common sense and the inherent necessities of the governmental co-ordination. So long as Congress lays down "by legislative act an intelligible principle to which the person or body authorized to [exercise the delegated authority] is directed to conform, such legislative action is not a forbidden delegation of legislative power."

Taft, it seems reasonably clear, did not intend to eviscerate the non-delegation doctrine, nor encourage undisciplined legislative behavior. Whatever his purpose, his "intelligible principle" became an instrument through which all but the most egregious delegations were able to pass judicial muster. It is hard to see how it might serve as a guide for Congress, and for that reason equally hard to see how a reviewing court could find fault once the relevant legislative judgment has been made. In the crisis of the Great Depression and the resultant political pressures energized by the New Deal, a new constitutional order was born, one that no longer constrained legislative delegation, but actively abetted its expansion. The last gasp of the old order occurred in 1935 when the Supreme Court handed down its decisions in *Panama Refining Co. v. Ryan* and *A.L.A. Schechter Poultry Corp. v. United States*. Both involved successful constitutional challenges to the National Industrial Recovery Act (NIRA) on the ground that no intelligible principle could be ascertained that might guide or limit recipients of the Act's legislative authority. The Supreme Court agreed with the plaintiffs' argument and struck down the relevant provisions of the NIRA, much to Franklin Roosevelt's consternation. He took his revenge in February 1937, following his 1936 landslide victory, when he proposed his Court-packing plan. Although his scheme failed of enactment, he got what he wanted in the long run as judicial retirements allowed him to fill the high court with New Deal enthusiasts, for whom the idea of non-delegation was just another relic of an outmoded constitutional order. The non-delegation doctrine was effectively interred, and with minor exceptions has remained entombed since. As Professor Cass Sunstein is fond of pointing out, the doctrine really only had one good day at the Supreme Court.

But have we not learned a thing or two since the 1930s about both legislative cowardice and regulatory excess? The New Deal world was small beer compared to the size and reach of government today, which regulates details of citizens' lives in ways unthinkable only a few years ago. It is able to do so in no small part because, when people complain, Congress blames the bureaucrats who write the offending regulation, not the legislators who authorized them to do so. Is there no limit on the policymaking powers Congress may delegate to agencies, boards, and commissions? The "intelligible principle" standard, as it has been applied, limits almost nothing Congress wishes to do by way of delegating legislative power. When Congress is allowed to delegate without effective constraints—which is very close to what now prevails—three things happen at once: Congress becomes indolent, ignorant, and flabby in establishing policy standards; agencies that receive vaguely defined or open-ended grants of policy-making authority are more inclined to become capricious in the exercise of their rule-making powers; and it is much more difficult to hold either donor or recipient politically accountable. The result is the establishment of government on auto-pilot, moving inexorably toward ever-more arbitrary assertions of its power. The non-delegation doctrine is often mocked by academics and political scriveners who tend to favor big government, but there was much wisdom to its teaching, as Wallis son reminds us. He understands that it's impossible to return in some simple-minded way to 18th-century legislative standards. But he is absolutely correct that allowing Congress to evade its responsibility to the electorate by abandoning its constitutional duty is a recipe for tyranny. And he is also correct in urging the judiciary to apply more rigorous non-delegation standards against the lazy whimsies of the legislature.

The second major prong of Wallis son's reform agenda concerns the so-called "Chevron rule," which takes its name from a rule laid down by the Supreme Court in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.* (1984). The rule holds that when reviewing federal agency action, a court must defer to the agency's interpretation of a statute Congress authorized the agency to administer. Technically speaking, *Chevron* deference entails a two-step process. In step one, the court must decide whether congressional intent is clearly expressed in the statute; if so, the agency must obey that intent. If intent is unclear or ambiguous, the court must determine whether the agency's interpretation is permissible. The relevant consideration is whether the congressional ambiguity was explicit or implicit. If explicit, the agency's construction must be upheld unless that interpretation runs afoul of other administrative rules. If implicit, a reviewing court may not substitute its own judgment for the agency's as long as the agency's interpretation is reasonable.

This is the kind of a rule that only lawyers could love, especially those with time on their hands. Justice John Paul Stevens provided its rationale in his opinion for the Court in *Chevron*:

Judges are not experts in the field, and are not part of either political branch of the government. Courts must, in some cases, reconcile competing political interests, but not on the basis of the judges' personal policy preferences. In contrast, an agency to which Congress has delegated policymaking responsibilities may, within the limits of that delegation, properly rely upon the incumbent administration's views of wise policy to inform its judgments. While agencies are not directly accountable to the people, the chief executive is, and it is entirely appropriate for this political branch of the Government to make such policy choices—resolving the competing interests which Congress itself either inadvertently did not resolve, or intentionally left to be resolved by the agency charged with the administration of the statute in light of everyday realities.

In other words, if Congress is too busy, too confused, too conflicted, or too lazy to perform its constitutional duties, the Court has no problem letting others do the relevant legislative work. The business of government, after all, must go on, and someone’s got to do the heavy lifting. That may make sense from a strictly utilitarian perspective, but it disregards the Constitution at least twice over: it allows Congress to abandon its legislative duties and abdicates the judicial duty to say what the law means. As Justice Neil Gorsuch remarked in a Tenth Circuit case a year before he was confirmed for the Supreme Court, *Chevron* seems no less than a judge-made doctrine for the abdication of the judicial duty. At *Chevron* step one, judges decide whether the statute is "ambiguous," and at step two they decide whether the agency's view is "reasonable." But where in all this does a court interpret the law and say what it is?

Making matters worse, a second rule of deference has arisen—"Seminole Rock" or "Auer deference," named after the two leading cases that
birthed and sustained it (in 1945 and 1997, respectively). This rule applies 
Chevron-like deference to an agency’s interpretation of its own regulations. As numerous critics have 
pointed out, this entails a fundamental violation of what ought to be a bedrock separation of powers principle: the power to make and to 
execute law should not lie in the same hands. Even so, the Supreme Court for more than half a century has applied this second rule of 
dererence and ensconced it as an important part of administrative law. This deference cre-
ates a perverse incentive for agencies to craft relatively vague regulations, knowing they are 
likely to be upheld, and thereafter to apply those regulations through even harder to con-
trol forms of “guidance.”

All this roughly summarizes the most important ways by which the judiciary has 
helped to validate and perpetuate the operations of the administrative state. The reason 
for Wallison’s well-chosen title, Judicial For-
titude, now becomes apparent. It is taken 
from Alexander Hamilton’s defense in Fed-
eralist No. 78 of lifetime tenure; it was neces-
sary, he said, because judges must be “guard-
ians” of the Constitution, a duty whose exer-
cise will require them to oppose the political 
branches. Wallison has made a compelling 
case for reinstating a workable version of the 
non-delegation doctrine, and for reducing if 
not eliminating judicial deference to agency 
interpretations of agency authority. He is a 
practical man, though he is generally famil-
 iar with, and certainly has been instructed by, 
the major philosophical and jurisprudential 
principles that undergird his argument. He 
surely recognizes that formal re-establish-
ment of the non-delegation doctrine is un-
likely in the short term; his primary interest 
lies in redefining the terms of debate, in get-
ting us back to the spirit that animated the 
founders when they endorsed the separation 
of powers as essential to the preservation of 
liberty. Some will no doubt dismiss this ef-
fort as a feckless romantic gesture on behalf 
of a world long gone, or as a reactionary ef-
fort to un-do the New Deal.

The new deal is not going to be un-
done in any radical way—but where 
is it written that we must accept as 
permanent arrangements put in place nearly 
a century ago? Who are the real reactionar-
ies, those who wish to preserve in amber the 
ideas of Woodrow Wilson, Herbert Croly, 
and FDR, for example, or those who, based 
on experience, see the flaws in those ideas and 
wish to present a better way forward? One can 
have energetic government that addresses the 
concerns of 21st-century Americans without 
the high-fallutin’ intellectual baggage of pro-
gressive theorizing about man and nature. One doesn’t need Teddy Roosevelt’s rhetori-
cal bombast or his stewardship theory of the 
executive to legislate on food and drug safety, 
for example. Nor does energetic government 
require government agencies that can, with 
only limited supervision by Congress and the 
courts, set the metes and bounds of their own 
authority. To the contrary, you need to control 
them if you value liberty and the institutions 
that preserve it. You do need a Congress that 
understands its deliberative, law-making, and 
oversight duties. You do need an executive 
that understands the rule of law as something 
broader, deeper, and more important than the 
ability to wield a pen and a phone. And you 
do need a judiciary that will teach the pub-
lic, not to mention public officials, about the 
founders’ Constitution and force government 
agents to take their oaths of office seriously.

A sizeable task, but not impossible, 
especially if one takes into account 
the Supreme Court as currently con-
stituted. Chief Justice John Roberts and Jus-
tices Clarence Thomas, Samuel Alito, Neil 
Gorsuch, and Brett Kavanaugh have all ex-
pressed, at one time or another (and especially
in Justice Thomas's case, repeatedly), strong reservations about the dangers of ill-defined legislative delegations and undue deference to bureaucrats' interpretations of their own authority. If one is looking for a constitutional moment at which some of the administrative state's operative premises are likely to be questioned, the current Court offers greater hope for reasonable change than has been seen in the lifetime of anyone now living. Diverse opinions of these five justices clearly show that they have absorbed lessons from the revisionist literature. How far they are willing to go to restore the old order remains to be seen. But we may yet get a taste of what could lie ahead from two cases handed down in the just-completed term of court.

**Gundy v. United States** placed the non-delegation question squarely in issue. Under a 2006 statute, Congress required certain convicted sex offenders to register in the state of their residence. The law imposed automatic registration on offenders convicted after the date of enactment, but allowed the Attorney General to specify whether those convicted before enactment must also register. The question before the Court was whether the latter provision violated the non-delegation doctrine. Because the case had been argued before Justice Kavanaught joined the Court, only eight justices participated. Justice Elena Kagan (joined by Justices Ruth Bader Ginsburg, Stephen Breyer, and Sonia Sotomayor) said no, arguing that the discretion granted to the Attorney General was “distinctly small bore.” She added pointedly that if the grant here were deemed unconstitutional, “then most of Government is unconstitutional.”

Justice Alito, in a clever strategic move, wrote a brief concurring opinion that joined only the judgment of the Kagan group but not its rationale, adding that he would be willing to join a majority that decided to seriously reconsider the non-delegation rule. The opening paragraphs of Justice Gorsuch’s dissent (joined by the Chief Justice and Justice Thomas) pull the curtain back on a new drama that may soon unfold:

The Constitution promises that only the people's elected representatives may adopt new federal laws restricting liberty. Yet the statute before us scrambles that design. It purports to endow the nation's chief prosecutor with the power to write his own criminal code governing the lives of a half-million citizens. Yes, those affected are some of the least popular among us. But if a single executive branch official can write laws restricting liberty of this group of persons, what does that mean for the next?

Today, a plurality of an eight-member Court endorses this extraconstitutional arrangement but resolves nothing. Working from an understanding of the Constitution at war with its text and history, the plurality reimagines the terms of the statute before us and insists there is nothing wrong with Congress handing off so much power to the Attorney General. But Justice Alito supplies the fifth vote for today's judgment and he does not join either the plurality's constitutional or statutory analysis, indicating instead that he remains willing, in a future case with a full Court, to revisit these matters. Respectfully, I would not wait.

We may not have to wait long before Justice Kavanaugh provides the necessary fifth vote for a wholesale reconsideration of the non-delegation principle. Many progressive legal commentators are already in a swivet about that prospect. Good.

Some observers hoped that the Court would use this term's Kisor v. Wilkie to strike down the Auer deference rule. That did not materialize. Instead of constitutional clarity (announcing that it was the judiciary's job to say what the law is), what we got was a constructively modified but still muddled status quo. None of the nine justices was quite ready to overrule Auer, but all agreed, for varying reasons, that agencies should not have carte blanche to interpret their own rules. Not surprisingly, Justice Kagan and her three liberal colleagues had fewer objections to the status quo than the Court's conservative block. Chief Justice Roberts provided a fifth vote to uphold Auer while rejecting much of Kagan's rationale for its retention. For the time being at least, he argued, the Auer rule deserved the benefit of stare decisis. Roberts’s move had the effect of forcing Kagan and Co. to add various qualifications to the prior Auer rule. The revised rule now appears to entailing no less than a five-step process, which will usefully narrow agency discretion, do wonders for the billable hours of administrative lawyers, and postpone important constitutional questions about deference to another day. With the current Court, agencies will be a bit less generous when interpreting their own rules, and judges will exercise a bit more scrutiny.

Although this term's results were less than reformers hoped, the good news is that the Court is at least beginning to address constitutional reservations about the administrative state, and that it is very close to having a solid majority to ensure a constitutionally desirable result. In short, those who admire the separation of powers and wish to see it revived should be much happier than they were only a few years ago. This is a great tribute to those scholars and practitioners who have labored so long to restore constitutional limitations on officious government action. It might be too much to ask, but as the justices sharpen their quills, they could do worse than to have an open copy of Peter Wallison's book at hand.

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Incoming British Prime Minister Boris Johnson’s first address to the House of Commons on July 25 coincided with the arrival of a heat wave so devastating it sparked talk of a global-warming apocalypse. Steam rose out of the Thames, overhead electrical wires melted on the London-Luton train line, and the Cambridge University Botanic Garden registered the highest temperature (102° F) in the history of the British isles. Naturally there was joking among political pundits about “hot air” and a government “meltdown,” but there were darker grumblings, too. This was a descent into “populism,” one could read in the pages of the *Guardian*, the *Independent*, and papers from the European continent. That the Conservative Johnson had moved into the prime ministerial townhouse at 10 Downing Street meant that Britain was now under the control of a “clown,” a “saboteur,” or, worse, the British equivalent of U.S. President Donald Trump.

Whether one backed the antic, mop-haired Johnson or not, it was obvious at a glance that he exhibited none of the traits that the adjective “populist” is usually meant to evoke. Eton- and Oxford-educated, he has been a foreign correspondent, the editor of the venerable weekly the *Spectator*, the mayor of London, and, until his resignation in 2018, foreign secretary. The real grounds for elite hostility toward him lay elsewhere: Johnson came to office promising—“do or die,” as he put it—that the government would honor its commitment to withdraw the United Kingdom from the 28-nation European Union on October 31. In a long-sought 2016 referendum, British voters had approved this British exit, or “Brexit.” At a time when British politicians of all establishment parties had stood against Brexit in almost unbroken solidarity, Johnson had made himself its most prominent backer.

Johnson’s Conservative predecessor, Theresa May, found the job of implementing the referendum’s mandate either beyond her powers or not to her tastes. More than three years later Britain remains stuck in the E.U. Johnson has taken a different tack—he has burned his ships. He nominated Dominic Cummings, an architect of the referendum campaign, to mastermind the implementation of Brexit, and filled his cabinet with convinced Brexiteers, purging every last “gloomster,” to use his vocabulary. He solemnly told a divided Parliament that “under no circumstances” would he appoint a new U.K. commissioner to the European Union. And he announced that, should Britain’s European neighbors prove unwilling to let the country go its own way, he would leave the E.U. without agreeing to a deal—a course Theresa May considered too fraught with danger to undertake.

One of them—either May or Johnson—is going to be vindicated in the eyes of history. To figure out who, we need to figure out why Brexit didn’t happen—why Britain’s government has thus far not declared its independence from the E.U. despite an explicit promise to its people that it would do so. Perhaps, in an interdependent world, national sovereignty is as unrealistic an indulgence as the E.U.’s champions always claimed. Or perhaps the E.U.’s ability to evade democratic accountability has proved even more robust and tenacious than the champions of Brexit had feared.

**Project Fear**

The E.U. was conceived by ambitious Cold War politicians as a federation-in-embryo, but presented to the public as an exercise in international friendship.
"Richard Gergel presents a deeply researched account of [Isaac] Woodard's tragic story and weaves it into a larger narrative... The definitive account of Woodard's blinding."

"Remarkable... riveting."

"There are many histories of American expansionism. How to Hide an Empire renders them all obsolete. It is brilliantly conceived, utterly original, and immensely entertaining — simultaneously vivid, sardonic, and deadly serious."
—Andrew I. Bacevich, author of Twilight of the American Century

"Moretti proves that criticism can be both thought provoking and fun."
—Publishers Weekly

"A 'genuine intellectual experience' to learn from a first-rate literary critic."
—Kirkus Reviews

"This is a brilliant and urgently necessary book, eloquently making the case against bigotry and for all of us migrants—what we are not, who we are, and why we deserve to be welcomed, not feared."
—Salman Rushdie

"The must-read book for 2019. Suketu Mehta is one of our finest thinkers and writers on the subject of immigration."
—Gary Shteyngart
main achievement has been to impose economic deregulation on duly elected national governments wherever they have resisted it, thus grooming Europeans for global capitalism. But it has also made ever bolder claims to chart the destinies of the countries that make it up, meddling in questions of school bullying in Spain, pensions in Italy, and press regulation in Hungary. European voters have been losing patience with the E.U., even as zeal for it among local governing elites has risen.

The Conservative Prime Minister Edward Heath brought the United Kingdom into the European Economic Community (EEC) in 1973, and voters ratified the decision in a referendum two years later. But discontent spread, especially after the Maastricht Treaty of 1992 transformed the European Community into the E.U., setting its member countries on a path toward an “ever closer union.” Maastricht was narrowly and rancorously passed in the U.K. Parliament, in a way that poisoned British politics, especially among Conservatives, or Tories, as they are sometimes called. Whenever British people were asked their feelings about the E.U. in a way that didn’t activate either their insecurity (disliking the E.U. is low-class) or their fear (leaving the E.U. will cause a depression), they opposed it. It took constant vigilance to keep anti-E.U. sentiment from rising to the surface.

The (large-c) Conservative Prime Minister David Cameron assented to the 2016 referendum in order to silence a rebellion of his (small-c) conservative colleagues. He did so reluctantly, and put himself at the head of the pro-E.U. “Remain” forces. Although experts doubted voters would want to pull out of the E.U., Cameron well understood that those experts were complacent. That is why he turned the 2016 campaign into “Project Fear,” to use an expression one of his own campaign officials had coined for a different referendum two years earlier. He enlisted British businessmen to describe Brexit’s dire consequences for employment. He commissioned studies from the Treasury to illustrate the deadly impact of Brexit on the British economy, and used government funds to have these studies printed in brochures that were distributed to every household in the country. (Those projections have turned out to be spectacularly off-target.) He invited leaders from around the world to warn Britons of the contempt in which the international ruling class would hold the United Kingdom if they favored London over Brussels. United States President Barack Obama went so far as to tell British voters that if they chose to leave the E.U. they would find themselves at “the back of the queue” in their dealings with the United States.

These elaborately manufactured and precision-timed bombshells were lobbed at the rate of one per news cycle throughout the spring of 2016. Shortly before the vote, Cameron even gathered veterans of World War II to his side as he warned that, should his listeners be rash enough to exit the E.U., the United Kingdom might soon reacquaint itself with what he called the “serried rows of white headstones in lovingly tended Commonwealth war cemeteries.”

It was, in short, a thoroughly unfair campaign. But because the side against which the deck had been stacked won, the referendum seemed to have a calming effect. Turnout for the election had been massive, and the 52% to 48% victory extraordinary. The 17.4 million people who voted to leave the E.U. were the largest number of Britons who had ever voted for anything. Only the 1975 EEC referendum came close. No political party had ever come within 3 million votes of it.

Independence Ignored

It was reasonable to assume that in Britain’s heart of hearts, absent peer pressure and government scare tactics, sentiments were even more pro-Brexit than the impression majority at the ballot box could convey, and that the change of regime would be almost self-enacting. “The Government will implement what you decide,” leaflets distributed during the referendum had promised. So the Brexit forces disbanded. The beery wise- acre Nigel Farage, whose U.K. Independence Party (UKIP) had focused single-mindedly on discontent with the E.U., retired from politics. The Tories returned to business as usual. Upon Cameron’s resignation, members chose as his successor the former home secretary Theresa May, who had not even backed Brexit herself. That seemed not to matter. “Brexit means Brexit,” May dutifully intoned. It was government policy. Brexit would be a bureaucratic sideshow to the real business of her premiership, which May laid out when she devoted her first major speech to “Seven Burning Injustices,” most of them involving race, class, and gender. On March 29, 2017, Parliament activated Article 50, which fixed the date for Britain’s departure from the E.U. exactly two years later. Now Brexit seemed locked in beyond the shadow of a doubt. May then called (and was nearly ousted in) a general election, on which the Brexit question had hardly any effect, because her Labour foes treated the matter as settled. And then, two years later...

No Brexit. It has been postponed. Yes, Britain will regain its independence on October 31, if Brexit’s adversaries do not find a way to block it. But those adversaries include almost the whole of Britain’s political, economic, and journalistic elite, and they have been ingenious in finding ways to block it thus far. The largest and highest-stakes exercise in democracy that the country ever engaged in—the culmination of decades of soul-searching, in which the country insisted on its independence, its national identity, and the primacy of its constitutional system—is at risk of simply being ignored.

May left office in disgrace and in tears, burbling about “race disparity audits” and “gender pay reporting” and fair treatment for gays. Perfectly legitimate subjects for another time, but not for a moment when the country’s sovereignty hung in the balance. Her inability to understand the stakes of her three-year premiership made her the country’s most significant political failure since Neville Chamberlain. What does this mean for Boris Johnson? To the alarm of all Remainers (many of whom despise him), and even a good number of Brexiteers (many of whom envy him), it places him in the most Churchillian situation of any incoming premier since Margaret Thatcher after the strike-ridden “Winter of Discontent” in 1979, or possibly since Churchill himself in 1940.

The press mostly sees Britain’s current impasse as the result of some oversight or mistake, whether May’s or the voting public’s. Parliament has bungled Brexit,” wrote a correspondent in the conservative Telegraph. A national haemorrhage of shared purpose and belief began in earnest in June 2016,” according to the progressive Observer, “when Britain voted to leave the E.U.”

But this explanation is quite wrong. The divisions were there in the first place. In Britain as elsewhere in the world, the struggle has been unleashed by innovations in administration that have arisen since the Cold War. These shift power from electorates and parliaments to managers of information, inside government and out. From thousand-year-old constitutional ideas to five-year-olds. From habeas corpus to gender identity. Because it was Britain that did the most to construct the ideal of liberty which is now being challenged, Brexit clarifies the constitutional stakes for the world as nothing else.

Over decades, British citizens have cloven into two parties of roughly equal strength. The Brexiteers are the party of the unwritten British constitution as it existed from the Glorious Revolution of 1688-89 until Britain’s accession to the E.U. in 1973. This is the tradition of “parliamentary supremacy,” as John Locke called it, or “parliamentary sovereignty,” as it more often came to be
The 17.4 million people who voted to leave the E.U. were the largest number of Britons who had ever voted for anything.

Britain, they said, had to give a little bit of its sovereignty up in order to receive the benefits of cooperation, the way it did in, say, NATO. Other European countries had done so without wrecking their systems.

But this was a false analogy, as the political scientist Vernon Bogdantor explains persuasively in his recent book, Beyond Brexit. NATO was a treaty. The EEC was a merger. What is more, the EEC that Britain joined had been designed by the major countries of continental Europe in line with their own traditions and interests. It was not in line with Britain's. Britain had no institutions like the European Commission, an unelected body that could (and still does) initiate legislation. Britain's politicians didn't understand the rules intuitively and were less able to work the system. British political institutions were unsuitable as a "farm system" for training E.U. politicians.

And there was an even larger problem than the loss of national sovereignty, Bogdantor shows. The E.U. destroyed the system of parliamentary sovereignty at the heart of Britain's constitution. For all its royalist trappings, Britain has traditionally been a much purer representative democracy than the United States, because it excludes courts from reviewing legislation on any grounds. British politicians tried to calm the public with assurances that, where British law and E.U. law clashed, British law would prevail. But the acknowledgement of E.U. legal supremacy in the treaties meant that E.U. law was British law. In the 1980s, British judges began finding that parliamentary laws had been invalidated by later British laws—a normal and time-honored process, except that these new "British" laws had been imported into British statute books not by legislation but by Britain's commitment to accept laws made on the continent. Bogdantor, who is a Remainer and a defender of human rights, does not necessarily condemn this development. But it meant that, through the back door, judicial review was being introduced into a constitutional culture that had never had it.

Quangos and foundations began designing cases—concerning migrants' rights, gay rights, search-and-seizure—that unraveled the centuries-old fabric woven from the rights and duties of British citizenship. A new fabric began to be woven, based (as are all such systems in Europe) on post-Civil Rights Act American law and on the litigative ethos of the American bar.

In 1998, Labour Prime Minister Tony Blair passed the Human Rights Act, which swept into British law the European Convention on Human Rights (a pre-E.U. document dating from 1953). It also bound Britain to abide by decisions reached by the European Court of Human Rights, which sits in the French city of Strasbourg. Article 8.1 of the Convention ("Everyone has the right to respect for his private and family life, his home and his correspondence") was supposed to protect people from the prying eyes of the state, as our Fourth Amendment does. But as the judge and scholar Jonathan (Lord) Sumption noted in a series of lectures this summer, it quickly became the "functional equivalent" of the due process clause of the American 14th Amendment—grounds for all kinds of judicial adventurism. British judges discovered that Article 8:

potentially covers anything that intrudes upon a person's autonomy unless the Court considers it to be justified... the legal status of illegitimate children, immigration and deportation, extradi-
tion, criminal sentencing, the recording of crime, abortion, artificial insemination, homosexuality and same sex unions, child abduction, the policing of public demonstrations, employment and social security rights, environmental and planning law, noise abatement, eviction for non-payment of rent and a great deal else besides.

In the late 1990s, Blair began a reform of the House of Lords, depriving all but a few dozen hereditary peers of their right to sit. He replaced those ousted with a body that was meant to be more meritocratic but wound up less diverse and arguably more class-bound—a collection of activist foundation heads, “rights barristers” (as legal agitators are called), think-tank directors and in-the-tank journalists, and political henchmen. Judicial functions that the House of Lords once carried out were calved off into an actual Supreme Court, which took over as the high court of the land.

Eventually even the reliably anti-Brexit Economist came to see that some of Britain’s major problems had arisen from constitutional meddling. David Cameron’s 2011 Fixed-Term Parliaments Act, in particular, made it much more difficult to call the general elections that would ordinarily have been provoked by the resounding repudiation of Theresa May’s withdrawal package. Blair and Cameron, the magazine noted, “came to power when history was said to have come to an end. They saw no need to take particular care of the constitution.” E.U. membership hid these problems—if Britain wasn’t paying attention to its constitution at the time, it was partly because it had been using someone else’s.

These shifts in Britain’s constitutional culture have become obvious during the rolling European migration crisis of recent decades. The more courts took control of immigration policy, the harder immigration was to stop. As home secretary under David Cameron, May promised to limit Britain’s galloping population growth to “tens of thousands a year, not hundreds of thousands.” But net migration has been running at around a quarter-million ever since, rising as high as 333,000 in 2015. Last year, according to Migration Watch U.K., net migration was 258,000. That means 74,000 “Europeans added to 232,000 non-Europeans who arrived, and 48,000 Britons who left.” May was just a talker when it came to immigration policy, but no politician in three decades had done any better. Once the judiciary rules politics, all politicians are just talkers. Understand that, and you are most of the way to understanding Brexit.

The transfer of competences from legislatures to courts is a superb thing for the rich, because of the way the constitution interacts with occupational sociology. Where the judiciary is drawn from the legal profession, and where the legal profession is credentialed by expensive and elite professional schools, judicialization always means a transfer of power from the country at large to the richest sliver of it. This is true no matter what glorious-sounding pretext is found to justify the shift—racial harmony, European peace, a fair shake for women. In a global age, judicial review is a tool that powerful people expect to find in a constitution, in the same way one might expect to find a hair dryer in a hotel room.

Negotiating the Withdrawal

FROM THE BEGINNING, A CERTAIN NUMBER OF Remain-ers had called for a second referendum, arguing that the people had not really known what they were voting for when they chose Brexit. The Independent newspaper had the gall to call this hypothetical rerun a “People’s Vote,” though sometimes they called it a “Final Say.” The People themselves were suspicious. It was the oldest trick in the E.U. book to hold second referenda when—and only when—the public’s wishes diverged from those of Brussels. It had been used in Denmark in 1993 and in Ireland in 2002 and 2009. By 2017, though, these dovers had become a Europe-wide symbol of contempt for voters. And that is why Parliament voted overwhelmingly in March 2017 to validate the referendum, activate the E.U.’s Article 50, and fix the date for British withdrawal.

But there were a couple of details left. Article 50 called for a two-year negotiating period between the seceding country and the E.U., in order that the two might come to an optimal post-separation arrangement. From the outset there was a dangerous asymmetry of motives. Britain had nothing against its neighbors on the continent—it sought only the right to make its own decisions again. The E.U.’s leaders, however, had an incentive to inflict maximum hardship on Britain. In most member countries the E.U. was being blamed for stagnating economies, dizzying inequality, and out-of-control immigration. If Britain were granted a pain-free exit, others would follow suit.

Early in the negotiating process, Britain’s ambassador to the E.U., the Brussels insider Ivan Rogers, submitted his resignation, warn-
ing that Britain was going to get its head handed to it at the bargaining table. “Serious multilateral negotiating experience is in short supply in Whitehall,” he wrote, “and that is not the case in the [European] Commission or in the Council.” He was right about that, and it was a lesson in the sociology of Brexit. In England, at least, the electoral map of Brexit looked like the electoral map of Donald Trump's presidential victory in America would look later that year. Remain was the choice of those who benefited from the global economy. It won overwhelmingly in a few compact islands of rich people, intellectuals, and minorities—London, Oxford, Cambridge. The ranks of Remain-aligned politicians were crowded with well-educated, tech-savvy, cosmopolitan people. Leave won everywhere else. It was the choice of yesterday's Britain, the Britain of losers.

Even after its victory, Leave found itself constantly out-thought, out-classed, and out-worked by Remain. May made David Davis, a party bull approaching the end of his career, her chief negotiator. He didn’t seem to think the post would require too much energy, expertise, or imagination—because, at the end of the day, Britain could walk away from the negotiating table with no deal. How could May have put Brexit at risk by picking someone like Davis to secure it? Well, how could Donald Trump have put his presidency at risk by picking someone like Jeff Sessions to defend it? The answer in both cases was the same: in populist causes, the pickings are slim, personnel-wise.

The continental negotiators, by contrast, were the cream of Europe's educated classes. The E.U. is a highly elaborated administrative state. Indeed, it is an especially logical and efficient one, because it has developed before the underlying society—so there are no pragmatic or traditional considerations to complicate its rules or shrink its remit. Rogers loved legalistic gobbledygook, noting that the E.U. tacticians would know how to withhold “adequacy determinations” under the “GDPR” (General Data Protection Regulation) and they were masters of “equivalence decisions”—whatever any of that meant. His slashing book on the whole Brexit process, 9 Lessons in Brexit, would become a bible of London's pro-E.U. intellectuals, from historian Simon Schama to Harry Potter creator J.K. Rowling. But to read it is to be struck by a blind spot.

Constantly belittling the public for not understanding the ins and outs of negotiating trade agreements, Rogers, for all his smarts, failed to understand that a) this was a negotiation about something deeper than trade, and b) the sovereign people sets parameters for negotiators, not vice versa. Rogers could not see that his countrymen did not feel the same loyalty to the E.U. and its “process” that he did. He couldn't imagine why people would want it to go away.

Where Loyalties Lie

Rogers and other British experts were strangely unimpressed by the powerful practical levers their own side disposed of. Britain was the largest importer of cars from Germany. It had a trade deficit with most countries on the continent, which meant that any breakdown in talks would idle more European factories than British ones. It was, with France, one of only two serious military powers in Western Europe. It had an intelligence-gathering relationship with the United States that continental Europe was desperate to preserve the benefits of. It contained 40% of Europe's data servers. It was due to recover its own rich fishing banks—schools of mackerel north of Scotland, beds of prawns southwest of Cornwall—where E.U. vessels took 59% of the haul. And it was the financial capital of the world. The E.U. would have no choice but to do business with an independent Britain.
And yet there was a hangdog tone in all elite descriptions of the Article 50 discussions. People were wishing their own country ill in an international negotiation. “If I were an E.U. negotiator,” wrote the Liberal Democrat Member of Parliament Sir Ed Davey in a fantasy of his own country’s humiliation that appeared in the Independent, “my starting position would be to increase the divorce fee to £50bn, arguing that the U.K. must now pay the E.U.’s cost of handling the no-deal Brexit, after refusing the first deal. Given the severely negative impact of a no-deal Brexit on everything from our sheep farmers to our NHS [National Health Service], I rather think any U.K. government would be so desperate to make some deals that £50bn might suddenly seem a bargain.”

Remainers’ hearts were with the Europeans at the table, not with the Brexiteers who were supposed to be their countrymen. There may be an innocent “epistemological” explanation for this. When a regime is changing, the old world is made of concrete things that have lost their legitimacy, while the world to come is made up of legitimate things that have not yet become concrete. Rogers hated the whole enterprise of undoing existing E.U. structures: “[W]e are privileging notional autonomy to make our own laws over real power to set the rules by which in practice we shall be governed.” The Financial Times columnist Martin Wolf similarly saw no point in the Brexiteer reluctance to bind Britain’s trade policy to the E.U.’s. “It would only prevent the U.K. from making trade deals that are less important than maintaining good relations with the E.U.,” Wolf wrote in the Financial Times.

Every negotiator on the British side behaved as if there were nothing more important than maintaining good relations with the E.U. Perhaps that was to be expected. The E.U. pursues the goal of transcending (a fancy way to say “getting rid of”) the nation-states that make it up. As the Union grows ever closer, there must eventually come a moment when the loyalty of subjects is transferred from the institutions of the nation to those of federal Europe. Brexit showed that, for elites to whom the E.U. offers a grand role, that moment has come already. The E.U., not Britain, is their country. They saw Brexit not as most British people did—as a solemn and even sacred uprising by an ancient people against a usurper. No. Elites saw Brexit as a local nuisance in the domestic politics of the only legitimate custodian of Britain’s long-term interests: the E.U.

Theresa May fell under the influence of these views, particularly after dropping conservative adviser Nick Timothy in the days after her general election loss in 2017. It was Timothy who had written her “Brexit means Brexit” speech. Without him, she, too, lost sight of what Brexit was. Brexit turned into a word that meant its opposite. It was now a “damage-limitation exercise,” as Timothy would later put it. May came to believe that Brexit meant honoring the patriotic emotions that had led to a national temper tantrum, while protecting the country against any foolish actions that might result from such emotions—such as breaking relations with the European Union. In mid-2017, May opted for getting experts on board. Olly Robbins, an E.U.-friendly aide who had risen under Tony Blair and David Cameron (and who had been Rogers’s successor as Blair’s private secretary), took over as lead negotiator from the Brexiteer Davis.

**The Irish Backstop**

Brexiteers now began to suspect that May’s own negotiators were conniving with the European Union’s to trap Britain in E.U. membership. The means of doing this would be Ireland. In 1998 Britain had negotiated the Good Friday Agreement, a treaty aimed at quelling the guerrilla
war that the terrorist Irish Republican Army had waged for decades in order to reunit
6 Northern Irish counties that belonged to the U.K. with the 26 Southern ones that be-
longed to the Irish republic. The E.U. insisted on a guarantee, now referred to as the "Irish
backstop," that after Brexit Britain would maintain a "soft" border with Ireland, an E.U.
member state.

It was an unusual demand for a number of reasons. There had never been a hard border
between the two countries, outside of mili-
tary emergencies. Nor was there a need for
one now. Britain and Ireland were part of the
same island region, cut off by ocean and law
from the E.U.’s "Schengen" area of free move-
ment. Britain had as much reason to demand
danger guarantees from the E.U. as the E.U.
did from Britain. And while such borders
might present new challenges after Brexit,
there were proven solutions: non-E.U. Swit-
zerland, for example, keeps its borders, travel,
and trade open with four major E.U. coun-
tries. These problems only became "insoluble"
when E.U. diplomats discovered they might
take it and tangle up the Brexit negoti-
ations.

In December 2017, May made a terrible
mistake. She agreed in a joint E.U.-U.K. re-
port that there would be "no diminution
of rights" for anyone in Northern Ireland.

This was a promise inconsistent with Brexit.
Northern Ireland, like everyplace else in the
United Kingdom, would have its native con-
stitutional regime restored by Brexit. As such,
it would be moving from a polity that oper-
ates primarily through court-conferred rights
back into one that operates primarily through
the will of Parliament. While the Northern
Irish might wind up more free, happy, and
self-reliant, their "rights" would be delineated
and protected in different ways, and in some
respects this difference would be a diminu-
tion. Rogers had been right about the skill of
E.U. negotiators. They had taken the back-
stop, an issue that no one had even considered
until Brexit was voted, and turned it into an
E.U. veto on the whole of Brexit.

Some suggested that Northern Ireland re-
mained under the same customs regime as the
Irish republic. But under the terms of the
1998 peace agreement, it couldn’t. The most
important guarantee to Northern Ireland
had been that Britain would not "make any
change in the status of Northern Ireland [in
its relation to the rest of the U.K.] save with
the consent of a majority of its people." Mak-
ing Northern Ireland subject to the laws of a
foreign country would count as a rather large
change in status. But this difficulty prompted
May's negotiators to come up with a more am-
bitious solution. The backstop would cause no
change in Northern Ireland’s status within
the U.K. if the whole U.K. could be included
in the European Customs area. So Britain
could solve the problems created by its depar-
ture from the European Union by agreeing to
remain subject to the European Union!

An abyss opened up in July 2018 at the
prime ministerial retreat of Chequers, when
May released a plan for future relations with
Brussels. It called for harmonization with
E.U. rules and regulations, described the
backstop in a way that made it look inescap-
able, and envisioned a role for the European
Court of Justice. Johnson said that May was
"volunteering for economic vassalage" and re-
signed as foreign secretary. "[W]e continue
to make the fatal mistake of underestimating
the intelligence of the public, saying one thing
to the E.U. about what we are doing and say-
ing another to the electorate," he explained.
"[I]n important ways, this is...Brexit in Name
Only," Davis resigned too.

The final negotiated Withdrawal Agree-
ment that May unveiled to Parliament last
November caused the whole country, Brexi-
teers and Remainers alike, to gasp in horror.
May's team had been sent away to declare
British independence and had returned with
a document of surrender. The agreement not
only contained (as expected) a £39 billion ($50 billion) "divorce" fee, but also left E.U. courts free to top that fee up. It locked Brit-ain into a customs union with the E.U., with no mechanism for leaving it—ever. The E.U. and the E.U. alone, would decide when Brit-ain had fulfilled the backstop agreement, and any move to break it unilaterally on Britain's part would be resolved by giving the E.U. ju-risdiction over Northern Ireland's economic relations. It subjected Britain to E.U. trade sanctions more onerous than those meted out to other countries. It laid out contexts in which E.U. law would retain its supremacy over U.K. law.

The Withdrawal Agreement not only did not end Britain's ties to the E.U. In the name of Brexit, it actually deepened and constitution-alized them. This ensured that pro-Brexit Tories would not vote for it. But it also re-nounced Britain's official membership in E.U. institutions, and indeed its right to have any say in them, dooming it for anti-Brexiters of all parties. In January it was rejected in Par-liament by the largest margin of any measure in British parliamentary history. It was subse-quently rejected twice more.

The Withdrawal Agreement thrilled Re-mainers, even if they wouldn't vote for it, and breathed new life into their cause. They could now present the Agreement not as a twisted document put together by a pro-Remain bu-reaucracy but as faithful depiction of modern reality. We told you there was no possible governing arrangement better than the Eu-ropean Union! Back came Project Fear, now carried out by the Financial Times, the Guardian, and the Independent. Back came the calls for a people's vote, and back came all the scare vocabulary about how a no-deal Brexit would cause Britain to go over the "cliff edge" and "crash out" of the European Union.

Once the Withdrawal Agreement failed, no-deal was the form that independence had to take. It would be no deal or no Brexit. And Remain-ers were alarmed to realize that no-deal Brexit was the law. It had been agreed on March 29, 2017, and it would automatically become reality on March 29, 2019, unless something could be done to stop it.

The Deep State Intervenes

It was surprising how much could be done to stop it. Remainers were a synonym for the governing class. They had an infinity of tools, and they were no longer scared of the voters. No one wanted to be so contemptuous as to repeal Brexit, but Parliament could put a "no-deal Brexit" on hold, which it did. May's negotiators had already produced a "Brexit" deal that caused misgivings among the Brexiteers themselves. The prime minis-ter's cabinet secretary, a powerful member of the career civil service, now wrote a 14-page memo warning that no deal would lead to higher food prices and more crime. Someone in May's office helpfully forwarded it to the Daily Mail. The chancellor of the exchequer, Philip Hammond, warned that Parliament might have to repeal Article 50 to "protect the value of the pound." May herself entered into consultation with the old-school Labour leader Jeremy Corbyn to see if he would help pass her deal, in the course of which she even offered to agree to a second referendum. Per-haps that revealed what May had thought of Brexit all along. It was not a constitutional de-mand but a psychiatric symptom.

Some of the most extraordinary moments of these winter debates involved the interven-tions of the Speaker of the House, John Ber-cow. Elected as a Conservative, he had, in Da-vid Souter-esque fashion, discovered once in power that he actually opposed Conserva-tive policies on most things, very much including Brexit. On April 3, Bercow transferred con-trol of primary legislation from "the govern-ment" (as the cabinet is called when it pres-ents legislation in Parliament) to a group of Brexit rebels. That did away with a rule on which Parliament had done business for the past 330 years and threw the country into a serious constitutional quarrel. Anti-Brexi-teers used their control of debate to pass the European Union (Withdrawal) Act 2019, which ordered Theresa May to seek an exten-sion of Brexit from the European Union. And that began the process that led to postponing the Brexit deadline until October 31.

Once the legislature had seized the pow-ers of the executive, the genie could not be returned to the bottle. Brexiteers now un-derstood that Bercow might unilaterally block any moves toward Brexit, rendering parliamentary debate futile. So some To ries began to think: what if Parliament were prorogued—kept out of session until after the next deadline passed? Labour had re-sorted to a prorogation in 1948, which made the idea less of a trespass on parliamentary procedure than Bercow's. In the event, the prorogation maneuver was blocked by an amendment in the House of Lords that es-sentially bans Parliament from going out of session in October.

The failure of Brexit was the worst hu-miliation of a British government in decades, deepened by the sudden realization that Britain would have to take part in the Eu-ropean Union elections in late May. In early April Nigel Farage announced his return to politics and hastily assembled a ragtag for-mation called the Brexit Party. Five weeks later, with a list of nobodies, has-beens, and famous politicians' sisters, Farage's Brexi-teers took 29 of Britain's 73 seats to become the single biggest party in the European Parliament; May's Tories took only four. John-son announced his bid for the leadership, saying: "There is a very real choice between getting Brexit done and the potential extinc-tion of this great party."

Making Things Explicit

Most commentary on Brexit dis-misses those who sought it as fanta-sists and the Parliament that debat-ed it as a madhouse. 'Bungle' is the favored verb in most articles on the subject, which generally explain that Britain's difficult winter and spring illustrate what a misbegotten idea Brexit was in the first place. The Dutch diplomat Frans Timmermans, a veteran E.U. commissioner involved in negotiations, told the BBC that his British counterparts had been 'running around like idiots.' European Council president Donald Tusk said, 'I've been wondering what the special place in hell looks like for those who promoted Brexit without even a sketch of a plan of how to carry it safely.' Washington Post columnist Fareed Zakaria said in March, "Britain, famous for its prudence, propriety, and punctuality, is suddenly looking like a banana republic as it makes reckless decisions, misrepresents reality and now wants to change its own self-imposed deadline."

But the reasons for the chaos of the past winter—and for the fact that Brexit has still not happened—lie elsewhere. Brexit is an epochal struggle for power, and an exempl ary one. It pits a savvy elite against a feck-less minority. There have been scares before for those who run the institutions of global governance—the rise of Syriza in Greece, with its attack on the common European currency, the election of Donald Trump, the nation-based immigration restrictions put forward by Italian interior minister Matteo Salvini and Hungarian president Viktor Orbán. But it is Brexit that has hit bedrock. If Brexit happens, our future will look one way. If not, it will look another. Those people who...
warn, as Zakaria does, that voting for Brexit has decreased Britain’s importance in the world—are they joking?

Only when the Leave side won the referendum did it become clear that the vote had been about not just a policy preference but also an identity. It raised the question for each voter of whether he considered himself an Englishman or a European, and of whether it was legitimate to be ruled by one power or the other. As such it made certain things explicit.

The main legacy of the European Union in the past three decades has been the suppression of democracy and sovereignty in the countries that belong to it. We can argue about whether this is the main purpose of the federation, but suppression of self-rule certainly counts as one of its purposes. Extinguishing national sovereignty was E.U. technocrats’ way of assuring that what Germany, Italy, and Spain set in motion in the 20th century would not repeat itself in the 21st. The architects of the Brussels order proclaimed this intention loudly until they discovered it cost them elections and support. The E.U.’s suspicion of nationalism is understandable. But its hostility to democracy is real.

The self-image of today’s E.U. elites is still that of protecting Europe from its historic dark side. They are confident history will regard them as the fathers of a Common European Home. In the imaginary biography he carries around inside his own head, a British builder of the European Union, whether a human rights lawyer or a hectoring journalist, will cast himself as one of the righteous heroes of his time, one of the enlightened. He is a man who “stood alone” to “fight for his principles” and so on. Maybe posterity will even see him as a European James Madison.

Many people in all member states have sought to puncture this kind of “Eurocrat” self-regard, but Britain’s anti-E.U. intellectuals have been particularly direct and pitiless. In mid-July, Robin Harris, a longtime adviser to Cold War Prime Minister Margaret Thatcher, wrote an article in the Telegraph urging Boris Johnson to carry out “a peaceful but revolutionary seizure of power by the British people from a supranational authority and a home-grown but deracinated, collaborationist elite.”

Imagine how it strikes a man who has spent decades working for the E.U. dream—Tony Blair or Donald Tusk, for instance—to see his work likened to “collaboration.” Special place in hell, indeed! Those who sought the Brexit referendum placed a proposition before the British electorate that these self-styled architects of “Europe,” these idealists, had been, all along, not Europe’s Madisons but its Quislings. Worse, when that proposition was placed before the British people, they assented to it. Brexit was not an “outburst” or a cry of despair or a message to the European Commission. It was an eviction notice. It was an explicit withdrawal of the legal sanction under which Brussels had governed Europe’s most important country. If it is really Britain’s wish to see its old constitutional arrangements restored, then this notice is open to emendation and reconsideration. But as things stand now, the Leave vote made E.U. rule over the U.K. illegitimate. Not illegitimate only when Brussels has been given one last chance to talk Britain out of it, but illegitimate now. What Britons voted for in 2016 was to leave the European Union—not to ask permission to leave the European Union. It is hard to see how Britain’s remaining in the E.U. would benefit either side.

And yet, given that Britain is the first country to issue such an ultimatum, given that pro-E.U. elites in other European countries have reason to fear its replication, given the moral ambitions of the E.U. project, given that the British who support Remain have transferred their sentiments and their allegiances across the channel, given the social disparity between those who rule the E.U. and most of those who want to leave it, how could the reaction of Britain’s establishment be anything but all-out administrative, judicial, economic, media, political, and parliamentary war? The battle against Brexit is being fought, Europe-wide, with all the weaponry a cornered elite has at its disposal.

It has proved sufficient so far.

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The Rediscovery of America contains a series of highly provocative, profound essays—some previously unpublished—by the late Harry V. Jaffa. The editors, Edward J. Erler and Ken Masugi, both former Jaffa students, have performed an invaluable service in making these available. They provide brief but helpful introductions to each of the book’s ten chapters. There’s inevitably some repetition in such a collection, but in this case the repetitions contain things that bear repeating because the issues the book addresses are perennial ones.

Consider, for instance, the recent celebration within many conservative circles of Patrick Deneen’s attacks on the American Founding. They would have been nothing new to Jaffa. This is why his responses to earlier critics remain highly pertinent. To anyone tempted to ask why Jaffa kept beating a dead horse, the answer is: because it wasn’t dead. In fact, it’s off to the races anew.

These essays are, in a way, glosses on Socrates’ argument with Thrasymachus in Plato’s Republic—right makes might versus might makes right. Jaffa is particularly good at exposing contemporary controversies as rehashes of the struggle between right grounded in reason and right grounded in will, whether the will of the one or the many. Against the modern triumph of the will, he endeavored to resuscitate natural law as the ground of morality—especially through his explication of Abraham Lincoln’s thought and actions, and their roots in the founding.

Jaffa stressed that the Declaration of Independence’s “self-evident” truths were only intelligible in the natural law/natural rights context in which they were written and from which they arose. Though Jaffa criticizes Irving Kristol a good deal in these essays, he leaves untouched this quotation from Kristol’s 1989 essay “On the Character of American Political Order”: “You have got to have a fundamental, unshakable basis for your conviction in a given set of human rights, and Harry Jaffa’s view is that the rights expressed in the Declaration of Independence, in the end, rely on the natural law and natural rights tradition which goes back through St. Thomas Aquinas to Aristotle.” This, indeed, is the position Jaffa defended, and he took on all comers.

In this collection, the verbal pugilism for which he was so well known is on full display. The editors speak of “the kind of no-holds-barred polemical disputes that Jaffa preferred.” These are not only exhilarating (so long as one is not the target) but illuminating. In the classroom Jaffa enjoyed nothing more than being challenged. It shifted his dialectical energies into high gear, and this is when his teaching was at its most engaging and enlightening. Like Socrates, he was always arguing with someone. The arguments, however, were never adventitious. This volume offers a ringside seat to fights over the status of the preamble of the Declaration of Independence with Russell Kirk (along with T.S. Eliot), Irving Kristol (who gets whacked twice), Allan Bloom, and Harvey Mansfield. In a warm-up
round, he takes out Francis Fukuyama, and Alexandre Kojève with him. Walter Berns receives only a two-page dusting, but that title fight was fought in other pages, where Berns's contention that the founding was essentially Hobbesian got knocked out. In these matches, Jaffa never flinched. He never ducked and covered. They were fair fights, with few low blows. There were, however, few return matches—in fact, few matches to begin with. Was this because Jaffa was too aggressive, too prone to call his opponents Confederate sympathizers? Possibly, but more likely they had a premonition that all that would be left after an encounter with him was a smoking pair of shoes. For instance, switching analogies from the fight ring to the surgical theater, Jaffa's 38-page operation on Allan Bloom's Closing of the American Mind is about as complete an evisceration of a then-still-living human being (or book) as I've encountered. The review, first published in Interpretation in 1988, has lost none of its power. It is one of the must-reads in this collection and I don't mean for visi-sectionists, but for those who appreciate seeing doctrine skepticism exposed for the nihilism it really is.

Some complained that Jaffa was wasting time in these disputes that would've been better spent on scholarly pursuits. But his scholarship was simply another form of pugilism. Who could read him on Stephen A. Douglas in Crisis of the House Divided (1959) and on John C. Calhoun in A New Birth of Freedom (2000) and not know these were heavyweight matches? His writing's distinguishing characteristic is its liveliness. Jaffa seems to be speaking to a contemporary even when his interlocutor has been dead for centuries. For Jaffa, they remained alive, so long as their ideas lived. He duked it out with Calhoun because he held him responsible for the ideas animating many misguided contemporary conservatives—including some on the bench.

Some critics try to dismiss Jaffa as an enraged cheerleader for the American regime. Law & Liberty's Mark Pulliam calls him "the vituperative political philosopher" for his "many feuds with leading conservative figures, such as Chief Justice William Rehnquist, Associate Justice Antonin Scalia, former Attorney General Ed Meese, Judge Robert Bork...and noted constitutional litigator Chuck Cooper." (More about Cooper anon.) Jaffa's criticism of Justice Scalia may indeed have been harsh and imprudent, but Jaffa was right that Scalia was no natural law man. Scalia thereby placed himself at a profound disadvantage in understanding the 'original intent' of the founders, who embraced natural law and natural rights. In fact, none of those Pulliam cites held natural law to be a morally indispensable foundation of positive law. Pulliam's condescension is exposed for what it is as Jaffa bores through the underlying philosophical and metaphysical substrata of disputes to reveal bedrock.

Controversy clarifies. As Jaffa said of Jefferson, Lincoln, and Churchill, "The swords of argument that they wielded were keen because they had been tempered in the fires of controversy." One cannot read Jaffa's exchanges with Mansfield (a major feature of this book) and not know exactly what Jaffa thinks in the most unambiguous, forthright way. Often what begins in a blaze of polemics ends in deep philosophical insight.

A little-known Jaffa story illustrates the relevance of what he had to say, how often it went undetected by those who could have benefited from it, and the extensive damage caused by their ignorance. It concerns attorney Charles Cooper. Though Cooper is not part of the present volume, his case is a good example of how important Jaffa's criticism of the anti-natural law position is regarding issues essential to the public's survival, like the integrity of the natural family. More than 30 years ago, Jaffa debated Cooper and exposed him as a legal positivist and historicist (collected in Storm over the Constitution, 1999). In a subsequent book review of Jaffa's Original Intent and the Framers of the Constitution (1994), Cooper held that, "The American people are thus enslaved [by Jaffa] to the 'moral and political philosophy' of the founders, powerless to redefine their 'legal and...moral personality.'" Because it fundamentally limits what can be changed, he said, "Jaffa's natural justice theory of constitutional interpretation is thus the very negation of the idea of self-government."

Ignorant of Jaffa's critique, leaders of the pro-natural marriage movement chose Cooper as counsel to defend California's Proposition 8, which defined marriage as between a man and a woman, before the U.S. District Court and then the U.S. Supreme Court. Cooper showed himself to be the Stephen Douglas of the pro-family movement, arguing that there was nothing inherently right or wrong about two people of the same gender marrying each other. "If the tables were turned," he said, "if California's voters had adopted gay marriage, as the voters of several states now have—I would be no less willing to defend their right to make that decision too." Soon after losing the case, he spoke of looking forward to his stepdaughter's lesbian wedding. Fully displaying his historicism, Cooper explained, "My views evolve on issues of this kind...and how I view this down the road may not be the way I view it now, or how I viewed it ten years ago." Jaffa spoke of this as "just collateral damage from the triumph of history over nature."

Cooper supported the very cause against which he was supposed to argue. Resenting Jaffa's "natural justice," he substituted for it an unnatural justice. Popular sovereignty should reign regardless of the morality of what's chosen—or, more precisely, because the majority's choice constitutes morality. This is the majority might-makes-right view Jaffa uncovered and criticized in most of his opponents.

Thus we drift unawares into democratic totalitarianism. Jaffa shows that the founding principles are the best defense against this, and he is perhaps their most eloquent champion. In the chapter titled "The American Founding as the Best Regime," he points out that James Madison's notion of sovereignty, contra Cooper, "defines the limits of the authority of the majority by reference to whatever might be done rightfully" (emphasis in the original). The rights in the Declaration, Jaffa explains, "are rights under the 'laws of nature and of nature's God.' They are not rights authorizing actions which, by those laws, are wrongs." To say we lack an understanding of these principles today would be an understatement.

Another issue addressed in this book is the theological-political problem—in respect to which Jaffa emphasizes the unique compatibility of reason and revelation in the American Founding. He states that this combination is at the heart of American exceptionalism. Religious freedom not only freed America from sectarian religious conflict, but also "makes reason and revelation—for the first time—open friends and allies on the political level." Jaffa argues that the founders' assumptions about Equality—which include assumptions about the subhuman and superhuman—are independent of the validity of any particular religious beliefs. But by reason alone are we able to arrive at all the necessary presuppositions for democratic, constitutional order? One can point to Plato, Aristotle, and Cicero as among those who approached the necessary truths through unassisted reason, but were unable to grasp them in their fullness. It seemed to take the assistance of a certain kind of revelation to achieve that.

The primacy of the person ultimately needs theological support. But not just any god will do as the source of constitutional order: not Moloch, or Baal, or Thor, or Quetzalcoatl, or Kali. Only upon reconsideration of the basic insights of Plato, Aristotle, and
Cicero in light of Judeo-Christian revelation was the base secured for the development of democratic constitutional order. "Long before the writings of Hobbes and Locke," writes Jaffa, "Christianity sowed the seed of what we have come to call individualism." He adds: "The salvation sought by Christian [of Pilgrim's Progress] was dependent upon the state of his own soul and was independent of the goodness of his political community, or even of his family. This is the origin of modern individualism. And in its secularized version it has become the basis of free government in the post-classical world."

In light of this, one might say that the Declaration and the Constitution are not explicitly Christian, but they are nonetheless Christian products. The thinking about political first principles that produced them took place in a world profoundly formed and affected by that revelation. There are no Christian principles per se embedded in the Declaration and the Constitution; rather, they are embedded in Christianity. Religious beliefs are hardly indifferent to their assumptions, or their arguments to religious beliefs. As Jaffa says, the Declaration contains an idea of God exactly compatible with democratic constitutional rule. Nonetheless, it had to state its self-evident truths—in the ancient world (Jews excepted), then it is, as closely as possible in nonsectarian terms in order for them to be "independent of the validity of any particular religious beliefs." This is neither legerdemain nor deceit, but simply returning to the philosophical level insights attained—or reinforced—at the theological level, so that their universality could be more readily recognized and acknowledged. The Declaration fuses the God of natural religion, "Nature's God," reachable by reason alone, with the God of revelation—Creator, Supreme Judge, and Providence. The colonists, who were overwhelmingly Christian, could make their philosophical appeals knowing full well that they were vindicated and sustained by the God who reveals himself as the divine Logos.

In turn, writes Jaffa, "the possibility of a constructive and healthy non-sectarian religious influence in American politics depends upon the rationalism of the natural law tradition that presided over the Founding." This cross-pollination was essential to its success. Reason is open to revelation, for it asks questions it itself cannot answer. "The claims of autonomous human reason," writes Jaffa, "cannot be fully vindicated by that reason. It always leaves philosophers open to the possibility that the fully consistent life—the life that the philosopher himself longs for above all others—is possible only on the basis of revelation." Yet reason doesn't surrender to whatever answers revelation gives but is only open to those that are reasonable. Therefore, "the free exercise of religion does not include the right to human sacrifice, to sate, to temple prostitution, to the use of hallucinatory drugs, or to any other of the thousand and one barbarous and savage religious practices that have been features of barbarous and savage religions." Jaffa makes a similar point in respect to 20th-century ideologies: "Those who do not recognize our humanity, who would use political power to strip us of our rights as human beings, are not entitled to share in the power stemming from the protection of those rights."

Because of the concision of these essays, they could easily be the basis for a Jaffa christomathy. I close with a few choice samples as a foretaste of the many pleasures contained within:

- "The charge of Eurocentrism is itself Eurocentric!"
- "If reason cannot decide, that does not mean there will be no decision: only that the decision will not be by reason."
- "The very idea of individual rights is derived from the fact that in a post-classical monotheistic universe, man's relationship to God is personal."
- "Consent operates within a moral order, it is itself a creation of that order, and there is no sovereign authority outside of that order."
- "The principles of the Declaration of Independence, although not explicitly incorporated in the Constitution, are the necessary ground for distinguishing the Constitution's principles from its compromises."
- "What united Marx and Calhoun was a belief in a determinism that subordinated reason to passion and nature to history."

As this volume attests, Harry Jaffa stands as a champion of the primacy of reason and nature (and therefore freedom) against the primacy of will and power. Read this book and arm yourselves.

Robert R. Reilly is the author of America on Trial: A Defense of the Founding, forthcoming from Ignatius Press.
As George Will nears his 80th birthday, he has produced The Conservative Sensibility, the summa of his long career in opinion journalism. Unlike his periodic collections of topical columns, this big book is written to last for many seasons to come. (The name “Trump” does not appear once.) A close look at the sweep of Will’s career reveals subtle changes in his political outlook, reflecting the maturation of his own views but also of American conservatism. An impressive achievement, The Conservative Sensibility deserves to take its place with such classics as Friedrich Hayek’s The Road to Serfdom (1944) and Richard Weaver’s Ideas Have Consequences (1948).

In 1981, on the occasion of his 40th birthday, Will whimsically remarked that “I have been eagerly anticipating my ‘mid-life crisis,’ that moment when the middle-aged male does something peculiar.” It was not forthcoming, and he quickly admitted that “my mid-life crisis is that I am not having a mid-life crisis.” But arguably he did have a slow-moving midlife intellectual crisis: The Conservative Sensibility shows him working it out at last. Will’s midlife intellectual crisis, and its resolution, mirrors the midlife crisis of post-Reagan conservatism, which is still working itself out even as it recalibrates its meaning in relation to Donald Trump’s presidency.

Will also delivered the Godkin Lectures at Harvard University in 1981, the basis for his slender book Statecraft as Soulcraft: What Government Does (1983). It was, he self-deprecatingly wrote later, “read by dozens,” but some of those dozens found it “peculiar” in just the way a midlife crisis might manifest itself. In those days, Will described himself as a “Tory,” because “I trace the pedigree of my philosophy to Burke, Newman, Disraeli, and others who were more skeptical, even pessimistic, about the modern world than most people are who today call themselves conservatives.” (His collection of columns published the previous year was titled, The Pursuit of Virtue and Other Tory Notions.) Though Will’s erudition encompassed American thinkers and writers, he chose three British thinkers as his inspirations.

The Conservative Sensibility repudiates the main argument of Statecraft as Soulcraft. Will now believes that he was “quite wrong” to think “that the American nation was ‘ill-founded’ because too little attention was given to the explicit cultivation of the virtues requisite for the success of a republic.” The “defect of better motives” was, plain and simple, not a defect of the founding. But Will is too hard on himself. Perhaps Statecraft as Soulcraft should be thought of as an early first draft for The Conservative Sensibility, which is more than three times as long. Some important differences and continuities
between the two books reveal how Will has ‘refined and enlarged’ his views, to borrow a phrase from The Federalist.

In particular, he has changed his mind about James Madison. In the earlier book Will blamed our supposed neglect of civic and individual virtue on Madison, who had founded a government on the low but solid ground of accommodating and checking the people’s self-interest and passions. Will’s heart belonged to Edmund Burke, the thinker cited most extensively in Statecraft as Soulcraft. ’American conservatism needs a Burke, a Disraeli—a self-conscious practitioner who can articulate the principles implicit in the statecraft he practices,’ Will wrote 36 years ago. Furthermore, ’The conservatism for which I argue is a ‘European’ conservatism…. It is the conservatism of Augustine and Aquinas, Shakespeare and Burke, Newman and T.S. Eliot and Thomas Mann.’ In calling for revisions to conservative rhetoric about government, Will argued that it should be ’less Madisonian and [John] Marshallian.’ Like Russell Kirk’s, Will’s brand of American conservatism back then disregarded or disowned the distinctly American elements of our political life.

By contrast, Will’s new book places the American Founding front and center:

Although it distresses some American conservatives to be told this, American conservatism has little in common with European conservatism, which descended from, and often is still tainted by, throne-and-altar, blood-and-soil nostalgia, irrationality, and tribalism. American conservatism has a clear mission: It is to preserve, by articulating and demonstrating the continuing pertinence of, the Founders’ thinking—reconnecting the country with the principles of the Founding [is] conservatism’s core purpose today.

The Conservative Sensibility explicitly repudiates Burke:

It is not so much that Will offers a sweeping revision of Madison as that he perceives more fully the virtues of the founders’ thought. Now, he says, ’properly understood, conservatism is the Madisonian persuasion,’ and ’the fundamental political axis of our time is an argument between Madisonians and Wilsonians.’ Will joins the growing number of conservatives who, influenced by the work of Ronald J. Pestritto (Pestritto is cited more than any other scholar in Will’s new book), regard Woodrow Wilson and Progressivism, not Franklin Roosevelt’s New Deal, as the primary attack on the American Founding. Will does, however, include a good summary of how FDR built upon the Progressive attack.

Of equal significance, he also discusses extensively and admiringly the Declaration of Independence and its teaching about natural right. In Statecraft as Soulcraft, Will is equivocal, even skeptical, of the Declaration, especially its self-evident truths about natural right. He refers to its most famous sentences as a ”highly charged declaration of a political philosophy” that ultimately amounts to a ”rhetorical flourish” rather than a serious political theory. Will now says, however, that ”the most important paragraph in humanity’s political history [is] the second paragraph of the Declaration of Independence,” precisely because it does embody serious principles that are the ultimate stumbling block to modern progressive ambitions.

And at the heart of the Declaration’s principles is the central contested issue of our time: human nature. Progressives and their allies consider it unfixed, malleable, and therefore raw material that invites endless progressive social engineering. Will doesn’t equivocate here: ”If there is no sense in which there is an eternal human nature, there cannot be eternal principles—certainly no self-evident truths—of political organization and action.” Throughout The Conservative Sensibility, he returns to human nature’s centrality. ”Civilization’s enemies attack civilization’s foundational idea,” he writes, ”the proposition that human nature is not infinitely plastic and therefore that people cannot be socialized to accept or do whatever those in charge of socialization desire.”

Will still believes that ”measures must be taken to make virtue less rare and more predictable,” but whereas his earlier book treated our deficiency in promoting virtue as a political failure, his new one understands it primarily as an educational failure. His chapter on the wreck of American education today, a subject absent from Statecraft as Soulcraft, notes the continuity between the founders and the classics, a subject usually missing from the ”low but solid” rendering of the founding. ”[Madison] and his fellow Founders conceived of happiness as Aristotle did, as a durable state of worthy satisfaction with life…. Happiness, therefore, is an activity.”

And what is the primary “activity” of America? Here Will pivots from Madison to Alexander Hamilton, and we see another significant revision. The commercial society that Will had mildly disdained in Statecraft as Soulcraft he now sees as an incubator of civility: ”In fact, the nature of life in a commercial society under limited government is a daily instruction in the self-reliance and politeness—taken together, the civility—of a lightly governed open society.”

The subtitle of the chapter where this appears is ”Capitalism as Soulcraft.” Will doesn’t neglect or deny the arguments of Harvard sociologist Daniel Bell and others that dynamic capitalism undermines some virtues necessary for ordered liberty and human flourishing, but regards the welfare state as social decay’s more significant cause.

The subject of political economy displays one of Will’s more important revisions. ”If conservatism is to engage itself with the way we live now, it must address government’s graver purposes with an affirmative doctrine of the welfare state,” he argued in Statecraft as Soulcraft’s brief chapter on ”Conservative Political Economy.” A welfare state is implied by conservative rhetoric. A welfare state can be an embodiment of a wholesome ethic of common provision.” Back then, Will wasn’t much impressed with libertarians; he called them ”ideological capitalists,” and included a genial sideswipe at Milton Friedman just to make sure we got the point.

The difference between this and his much longer ”Political Economy” chapter in The Conservative Sensibility can be summarized by a single name that never appeared in the earlier book: Friedrich Hayek. Today Will endorses the central insight that Hayek variously described as the ”fatal conceit,” ”constructivist fallacy,” or ”knowledge problem”: the coordination of human knowledge presupposed by socialism or central planning is epistemologically impossible. Will quotes one of Hayek’s shorter formulas as the epigram for the chapter: ”The curious task of economics is to demonstrate to men how little they really know about what they imagine they can design,” and Will goes on to give an able summary of Hayek’s seminal 1945 essay ”The Use of Knowledge in Society.”

Consequences ensue. Milton Friedman is rehabilitated, and Will calls as witnesses a number of contemporary thinkers who can
be considered Hayek and Friedman’s progeny, such as John Cochrane, Deirdre McCloskey, and Matt Ridley. In perhaps his most startling confession, Will thinks the Supreme Court’s 1905 ruling in Lochner v. New York was correct: government regulations cannot violate individuals’ constitutional rights to enter into contracts. His argument owes a great deal to David Bernstein’s powerful revisionist history, Rehabilitating Lochner: Defending Individual Rights Against Progressive Reform (2011).

But if Will is now more friendly to classical libertarianism and notes that the welfare state is much more pernicious than consumerist capitalism as an acid eating away at family stability and bourgeois virtues, he has not embraced the hyper-libertarianism that disdains any political or policy role oriented toward both virtue and greater social equality. His richer understanding of the sensibility conservatives should bring to social policy can be revealed again by comparing parallel passages between Statecraft as Soulcraft and The Conservative Sensibility. In the former, Will argued:

But conservatives, in their eagerness to put government in its place (which they think is down, and far away), argue fatuously that “only people produce wealth; government does not.” Government produces the infrastructure of society—legal, physical, educational, from highways through skills—that is a precondition for the production of wealth. The unlovely locution “human capital” reflects the impulse to reduce all social categories to economic ones, but it also reflects a recognition that investment must be made in people before they can be socially competent. And it is obvious, once you think about it, that government is, and must be, a major investor.

This formulation sounds uncomfortably similar to President Obama’s claim, “If you’ve got a business—you didn’t build that. Somebody else made that happen.” Or, as Senator Elizabeth Warren had argued before him, “You moved your goods to market on the roads the rest of us paid for. You hired workers the rest of us paid to educate.”

In The Conservative Sensibility, Will correctly discerns that for today’s progressives, emphasizing the governmentally provided “infrastructure of society” is not intended to support the flourishing of individuals or to make greater individual achievement possible. Quite the opposite: Obama and Warren “both spoke in order to advance the progressive project of diluting the concept of individualism. Dilution is a prerequisite for advancement of a collectivist political agenda.” The progressive appeals to “society” (or, to invoke former Representative Barney Frank’s embrace of government, “the things we do together”) serve as a sanctification of envy, and a justification for wealth confiscation and redistribution. Progressives are usually more artful than New York City Mayor Bill de Blasio, who says that “there’s plenty of money in this country—it’s just in the wrong hands.” As Will warns, “government will not be a disinterested judge of what is its proper share of others’ wealth.”

With one simple distinction, Will’s prior position on government’s affirmative role can be squared with his current clarity about rapacious progressivism: It is conservatives, not progressives, who appreciate society and understand its complexity. And toward the family, the most important aspect of society, progressivism has been indifferent, if not hostile. “It is arguable,” Will writes, “that the most molecular word in political discourse, the noun that denotes something on which all else depends and builds, is neither justice nor freedom nor equality. It is ‘family.’ Whether the struggles of the family in recent
I will explain in a roundabout way that conservatives should take inequality more seriously than the Left does, largely because conservatives do not avert their gaze from natural and deeply ingrained social causes of unequal outcomes. But he goes on to suggest enhancing equality of opportunity by various forms of state action, family-friendly tax credits being one possibility.

In the conservative sensibility will expounds this subject at greater length, reflecting the insights and concerns of James Q. Wilson and, above all, Will’s great friend Daniel Patrick Moynihan. “The depressing truth is that inequality has deeper, more complex origins than we have thought. And America’s foundational promise of equality of opportunity is far more problematic and elusive than we, particularly conservatives, have thought.” No mention of tax credits or other small-ball this time. To the contrary, channeling both Hayek and Burke, Will warns against the progressive hubris that we know how to fix complex social problems. Intuitive solutions “will be wrong most of the time,” and when complex, undesigned systems such as the family “are unintentionally weakened to the point of disintegration, no one knows how to put them back together.” What is most needed now is for “government to swear a version of the Hippocratic oath: ‘Do no harm.”

Will’s capacious treatment of progressivism’s threat to the republic, and robust revisions of his previous perspective on the American Founding, would suffice to make this book interesting and important. But there’s much more. His chapter on “The Judicial Supervision of Democracy” lays out the case for what is today called “judicial engagement” on behalf of protecting natural rights. Will unites the Declaration and the Constitution, consequently endorsing constitutional principles not necessarily in the document’s text. He follows Harry V. Jaffa in linking Robert Bork and Antonin Scalia with the majoritarian positivism of Oliver Wendell Holmes. Will says that by criticizing the defective originalism that has facilitated the administrative state’s relentless expansion, “Clarence Thomas becomes America’s indispensable constitutionalist.”

His chapter on foreign policy, “Going Abroad: A Creedal Nation in a World on Probation,” is more theoretical than tethered to current events. Aside from a brief critique of George W. Bush’s idealism, which manifested itself in the agonizing war and occupation in Iraq, Will takes the long view, revealing a geopolitical realism more harmonious with Thucydides than John Bolton. “Reflection about foreign policy, as about all other spheres of politics, should begin with the basic question: What is the essential, unchanging nature of human beings?” Applying Hayek’s “fatal conceit” to the domain of foreign policy, Will finds our incompetence at nation-building has the same root as our incompetence at domestic social engineering.

He wants us to shed not only progressive romanticism about domestic social policy, but also our “temperamental optimism” about foreign policy—a trickier matter, precisely because America is founded on an explicitly idealistic creed. Will doesn’t just want us to be realistic or prudent but properly pessimistic about the world. “In foreign policy, as elsewhere, one of conservatism’s functions is to say some things that people do not want to hear, such as this: War, which always has been part of the human story, always will be.” Offering no brief for isolationism, he merely thinks our departures from John Quincy Adams’s declaration that we “do not go abroad searching for monsters to destroy” have lacked prudence.

The conservative sensibility’s most idiosyncratic chapter concerns religion and science. Will describes himself as “an amiable, low-voltage atheist,” for whom “[t]heism is an optional component of conservatism.” His main object is to fix our emphasis on the first half of Jefferson’s phrase in the Declaration about “the laws of nature” in preference to “nature’s God,” who was “not necessarily the God of the Bible.” His respectful argument curdles only in his discussion of two figures—Whittaker Chambers and Russell Kirk—whose emphasis on the necessity of religious faith is, Will thinks, politically ruinous” for conservatives.

After 30 pages of discussing religion, the chapter takes a sharp turn to science and cosmology, subjects rarely discussed in Will’s newspaper columns. His Cook’s tour from physics to biology contends that an entirely secular openness to transcendence is possible: who needs revelation when the awesome mysteries of the cosmos fire human contemplation and creativity? Or as he puts it, “Why speak of emptiness when our world is still filled with…astonishments, including the worlds Shakespeare created and peopled?”

Off course, a key aspect of modern cosmology is entropy; everything eventually runs down. The Conservative Sensibility concludes with a return to entropy in the political realm: “Conservatism’s task is to urgently warn about what is perishable: Everything.” The remedy is a return to the centrality of reestablishing respect for the principles of constitutional government, which in turn depends on one of the oldest and simplest of virtues: self-control or self-restraint. “[T]he Republican Party’s intellectual pedigree traces directly to Lincoln’s denial that Kansas could choose to have slaves.”

Today’s progressives promote a slavishness to the nanny state that doesn’t just undermine self-control but debases politics itself. Although George Will can be said to have taken a libertarian turn in his late career, he does not have the anti-political attitude that often accompanies libertarian insights into government failure. He diagnoses a “protracted apostasy from principles that, by limiting the scope of government, protected the stature of politics” as the cause of our contemporary peril. His remedy is a “conservative sensibility [that] knows that the possibilities of politics, although limited, are not negligible.”

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Book Review by Michael Anton

Are the Kids Al(t)right?

*Bronze Age Mindset: An Exhortation*, by Bronze Age Pervert. Independently published, 198 pages, $16.48

Around a year ago, the editors of this august journal asked me to contribute a piece on the “alt-right.” I hesitated, for a number of reasons, at least two of which are relevant here.

First, I did not then—and still do not—quite know what the “alt-right” is. That is to say, I know what the term means to the Left and to the mainstream media (apologies for the redundancy): “anyone to my right whom I can profitably smear as a Nazi.” But so far as I can tell, even many who consider themselves “alt-right” can’t agree on the term’s meaning, or on who or what qualifies. Furthermore, some of those least afraid to accept the label insist that the underlying phenomenon is dead, having immolated itself in Charlottesville in August 2017. Why bother writing about something that no one can define and whose most prominent proponents claim is defunct?

Second, in looking into this a little, I found plenty of books about the alt-right but none by the alt-right. This is perhaps not surprising, since one of the few things that those who talk about it can agree on is that it is, or was, primarily a social media phenomenon. But I was convinced then, and remain so, that a long review of volumes summarizing blogs, tweets, and memes would be as tedious and fruitless to write as to read. So I begged off.

Months later, the tech entrepreneur and anti-democracy blogger Curtis Yarvin brought to a small dinner at my home, in lieu of the more traditional flowers or wine, a book—one I had never heard of, called *Bronze Age Mindset* (hereafter BAM) by a person calling himself “Bronze Age Pervert” (hereafter BAP). A few weeks later, I took it up in a moment of idle curiosity.

In structure and tone, *BAM* appears at first glance to be a simplified pastiche of Friedrich Nietzsche written by an ESL-middle-school-message-board troll. Words are often misspelled or dropped, verbs misconjugated, punctuation rules ignored. For example, a prototypical BAP sentence reads “Wat means?”—which presumably means: “What does this mean?” Yet the author weaves in clear English amidst the doggerel, showing that he knows how to write. And standard English increasingly takes over as the book proceeds.

But I didn’t notice that at first because I gave up early. Then I happened to mention this strange gift to a young friend and for-
mer White House colleague, Darren Beat
tie, who urged me to try again and persevere. The book, he said, has struck a chord with younger people—especially men—who are dissatisfied with the way the world is going and have no faith in mainstream conservativ-
ism’s efforts to arrest, much less reverse, the rot.

Self-published in June 2018, BAM quickly cracked the top 150 on Amazon—not, mind you, in some category within Amazon but on the site as a whole. This for a book with no publisher and no publicist, whose author is not even known. Sales have been driven, one suspects, by BAP’s largish (>20K) Twit-
ter following. Legions of eager fans quote the book and/or post pictures of its cover in exotic locations and/or lying atop military uniforms, presumably their own. But I think this understates BAP’s influence. Beyond his own account, he has scores of imitators who ape his writing style and amplify his ideas. Others have imitated him more directly, self-
publishing their own BAPish books, and BAP returns the compliment through gener-
ous cross-promotion.

So I resolved to force myself through the whole thing. By around page 40, the effort ceased to be a chore. Say what you will about Bronze Age Mindset, it’s not boring. BAP takes a flamethrower to one contemporary piety after another, left and right alike (but mostly left). Was here, finally, a way to satisfy my editors’ request? BAM after all is a book; it is on the right; and it is “alt,” in the sense that it presents sharp alternatives to much, even most, of what the establishment Right professes and holds dear.

It’s been evident for a while, at least to me, that conventional conservatism no longer holds much purchase with large swaths of the under 40, and especially under 30, crowd. Tax cuts, deregulation, trade giveaways, Rus-
sophia, democracy wars, and open borders are not, to say the least, getting the kids riled up. What is? The youthful enthusiasm for BAM suggested a place to start looking.

The young like to shock and be shocked, and Bronze Age Mindset more than deliv-
ers on this score. Its many provocations range from the relatively small—teenage put-downs and crude sexual or scatological slang—to the more substantive. Many of the latter are in line with what one would expect from an “alt-right” book: sweeping general-
izations about women, homosexuals, and, to a lesser extent, national and ethnic groups. Still others question or attack conventional wisdom on science, health, nutrition, and other topics, often referencing some obscure figure whom contemporary authorities dis-
miss as a crank. In perhaps the book’s most risible passages, BAP wonders aloud wheth-
er history has been falsified, persons and events invented from whole cloth, centuries added to our chronology, entire chapters to classic texts.

The book at times reads so outlandishly that one wonders if any of it could possibly be meant seriously or if the author is just a kook. But on reflection I came to believe that some of the ridiculousness is intended to help the unscientific and unphilosophic grasp con-
cepts beyond their conceptual framework. Some is meant to shock and discomfit, as if BAP were in the reader’s ear shouting “I ins-
sist you must question everything!” (I note here that whenever BAP begins a sentence with the first-person pronoun and ends with an exclamation point, he is being serious. One example: “I don’t do irony!”)

And a great deal of BAP’s silly outrageous-
ness seems to be there to provide air cover for the outrageous things he means in deadly ear-
nest. If so, he might be following Niccolò Machiavelli, who once wrote “that it is a very wise thing to simulate craziness at the right time.” The internet pidgin likely serves a similar pur-
pose. It simultaneously attracts the young—
who by nature enjoy slang for its exclusionary effect on the duffers (which is why, to remain effective, slang must be constantly reinvent-
ed)—while putting off said duffers, who will assume that such drivel cannot be serious and thus is not worth their attention, much less their worry.

Could it be that BAM’s frivolous surface hides a serious core? Or, to put it in BAPian terms: What means?

Beginning at the beginning—the first paragraph of the Prologue—BAP explicitly denies that his book is “phil-
osophy”; it is, rather, “exhortation.” He thus in the same breath diminishes and elevates his intention. The blue-hairs, he hopes, will take seriously his declaration of unserious-
ness. At the same time, he warns readers who persevere that this little volume should not be mistaken for an education; those who want to know more must go deeper.

BAP provides guidance for those who so wish. The book is shot through with refer-
ences to poets, philosophers, historians, scien-
tists, and their theories. His range of knowl-
edge is vast—or at least appears so. I often found myself willing to give him the benefit of the doubt on scientific concepts I don’t under-
stand because so often when he writes about something I do understand, he gets it right.
us essentially nowhere in explaining what life is.

Before the religious or classically inclined among us begin thinking that BAP might be a kindred spirit, it must be said that he is a frank agnostic—"I don't talk about if God exists, I don't know this"—and dismissive of conservative attempts to marshal ancient philosophy to support an account of a natural moral order. "Ethics," BAP says in an aside, "is for cows"—sneer quotes his. That is not to say he rejects "teleology"—the idea that natural beings have intrinsic ends—per se. For BAP, life is "intelligent" but neither "designed" nor "evolved." It aims at something, but not moral perfection or excellence. Each living being, he says, possesses a nature with inborn characteristics and tendencies that science has not yet begun to penetrate. And if that makes BAP sound like someone who exalts an "ineffable mystery of life" inherently beyond the reach of human intellect, think again. BAP not only doesn't dismiss the possibility that science could penetrate, or at least penetrate further, into the mystery of life; he urges that resources be spent on exactly such an effort—though he doesn't hold out much hope that we'll get anywhere soon. He holds modern biologists and their institutions—really all academics and all the universities—in contempt.

To paraphrase Woody Allen (whom, I hasten to add, BAP does not quote), life wants what it wants. What does it want? At the upper reaches, among the higher animals (BAP is relentlessly hierarchical), what it wants is mastery of "owned space." "Owned space" is the most important concept introduced in Part One and the key to understanding the rest of the "exhortation," if not necessarily the rest of the book. BAP argues that life, fundamentally, is a "struggle for space." All life seeks to develop its powers and master the surrounding matter and space to the maximum extent possible. For the lower species, this simply means mass reproduction and enlarging habitat. For the higher animals, it means controlling terrain, dominating other species, dominating the weaker specimens within your own species, getting first dibs on prey and choice of mates, and so on. BAP sees no fundamental distinction between living in harmony with nature and mastering nature. All animals seek to master their environments to the extent that they can, and the nature of man, or of man at his best—the highest man—is to seek to master nature itself. Not in the Aristotelian sense of understanding the whole, nor in
the Baconian sense of “the relief of man’s estate” via technology and plenty; more to assert and exert his own power. Indeed, BAP posits an inner kinship between the genuine scientist and the warrior; he calls the former “monsters of will.” BAP rejects the Darwinian claim that the fundamental imperative of life is reproduction. The highest animals, he notes, reproduce relatively slowly and infrequently, with great danger to the distaff side of the species. Indeed, BAP’s objections to Charles Darwin Nature—life—has been thwarted. He rather asserts that lower life or mere life BAP’s term for Nietzsche’s Last Man, the analysis slaves to the system no less than the bugmen they ostensibly rule. In one of many ideas BAP appears to take from Machiavelli, he posits a hidden or indirect government in which the real power is shadowy but firmly in control—except that Machiavelli meant this as a recommendation whereas BAP means it as a warning and rallying cry.

This book speaks directly to young men dissatisfied with a hectoring, vindictive equality that punishes excellence.

Roughly speaking, BAP seems to divide the human race into three types: natural bugmen, who will always be the majority but who can be led in positive directions by the right kind of man; naturally superior specimens who “desire one thing above all, ever-flowing eternal fame among mortals” (BAP quoting Heraclitus); and a sort of middle category who in good times serve the natural aristocracy but in bad times become regime apparatchiks and enforcers of the “Leviathan” (BAP borrowing from Thomas Hobbes). It gradually becomes clear, then, that BAP’s bugman is not strictly analogous to the Last Man: the latter is much worse but also not always present. He, however, ascendant at the moment and one aim of his rule is to degrade and multiply the natural bugmen.

In the only mention of Socrates in BAN, BAP accuses Plato of falsely presenting Socrates’ rejection of Alcibiades’ idea of kalos (the beautiful, fine, noble, good) as the “useful,” severing the connection between the beautiful and the good (for the good is surely useful, but the beautiful, not necessarily). BAP’s ambition extends to overturning that commonplace in favor of the older Greek notion that form and value, aesthetics and excellence, the beautiful, the good and the noble are one and indivisible. The early Greeks meant this literally, he insists—and further insists that they were right. It is a necessary characteristic of bugman—the ugly master of an ugly regime—to try to sunder the connection...
between the beautiful and the good, to denigrate the former and exalt ugliness.

BAP defines his title only once, calling the "Bronze Age mindset" "the secret desire...to be worshiped as a god." Three further possibilities suggest themselves, probably all intended by the author. The first and most obvious is a reference to the eponymous historic epoch. And BAP does claim that men were stronger, faster, tougher, more manly—just better—in the old days. Second, it is a parody of Gorilla Mindset, another self-published book by an "alt-right" figure. Third, it brings to mind the "Bronze Age" did not end well for its bronze men. Is BAP trying to tell us something? Still, BAP's "iron prison" is clearly meant to be reminiscent of Hesiod's dark and dismal "Iron Age," in which men are virtual slaves, life is miserable, and everything higher is quashed.

Now, if for Hesiod—and Homer—the highest type of man is the warrior; for Plato, the philosopher; for Augustine and Aquinas, the monk; and for Machiavelli, the founder; for BAP it is...the pirate? Pirates, says BAP, are free—the freest, perhaps the only truly free, men. Pirates being especially prone to violating the "owned space" of others means they are especially disinclined to being hemmed in by custom, law, tradition, religion, or anything else—including a stultifying and unjust regime. The pirate has the spirit to violate the owned space of the Leviathan and to own his own.

That sounds something like the revolutionary— and, human nature remaining constant, the revolutionary may yet again become a necessary actor on the political stage. But is revolution really what pirates do?

Strictly speaking, a pirate is a violent outlaw, a thief. He may be a talented, charismatic, skilled, and strong thief, but at the end of the day, he's still a thief. We can't help but think of the difference between courage, strength, and daring marshaled in a just cause versus private selfishness or will-to-power cruelty. BAP seems not to admit any such distinction. Yet he also seems to hold out the pirate as a sort of necessary figure, the one who will bring cleansing fire to a rotten superstructure. For BAP, a fundamental fact of nature is that the higher man is always present and his patience is not unlimited. The cycle of regimes predicts that the Leviathan will decay—indeed, BAP insists that the rot is already quite advanced—and the warrior-pirate's time will come again.

Near the end of the book, surfing this wave of BAPian optimism, and immediately after saying he will not advise anyone how to live, BAP tells young readers to join the military and/or state security or intelligence services, learn vital skills, make lasting friendships, and wait for the opportunity to do great things for their countries. Perhaps BAP's praise is less for piracy itself than for those virtues or qualities present in, and necessary to, the pirate—as well as those who will one day topple the Leviathan—but conspicuously lacking in bugman and suppressed by the Leviathan.

This rhetorical reversal reminds one of Machiavelli, who frequently tempers his most outrageous statements with sensible and moderate teachings; or to say better, who obscures his sensible and moderate teachings with outrageous statements that appeal to the impetuosity, zeal, and bravado of the young. Machiavelli intimates that the primary purpose of his Discourses on Livy is to prepare a certain subset of the youth to act, when the time is ripe, to overthrow a corrupt "sect" and restore ancient virtue. It is my impression that Bronze Age Mindset was written with the same intent.

The ruthless counsels given throughout the Prince are addressed less to princes, who would hardly need them, than to "the young" who are concerned with understanding the nature of society. Those true addressers of the Prince have been brought up in teachings which, in the light of Machiavelli's wholly new teaching, reveal themselves to be much too confident of human goodness, if not of the goodness of creation, and hence too gentle or effeminate. Just as a man who is timorous by training or nature cannot acquire courage, which is the mean between cowardice and foolhardiness, unless he drags himself in the direction of foolhardiness, so Machiavelli's pupils must go through a process of brutalization in order to be freed from effeminacy.

Reading BAM is certainly, on one level, to undergo a "process of brutalization." Indeed, it will be all too easy for interns to comb through the book, find offensive statements (they are legion), and pass them up the chain for their bosses to hold out for two-minute-hates. The only reason this hasn't happened
yet is because the commissars haven’t taken any notice. If and when BAP’s identity should ever be revealed, the denunciation storm will follow instantly.

The strongest and easiest objections to make to *Bronze Age Mindset* are that it is “racist,” “anti-Semitic,” “anti-democratic,” “misogynistic,” and “homophobic.” And indeed, BAP delights in generalizing. The fact that he generalizes in neutral or positive ways at least as much as in negative ones won’t matter. In the current year, saying good things about good groups is good; saying bad things about bad groups is good; saying anything else about anyone else is bad. And yet very little—if anything—BAP says is more outrageous than even the mid-level outrages of Machiavelli or Nietzsche, and most is quite a bit gentler than what one finds in Marx, Lenin, Mao, Sayyid Qurb, Guevara, Alinsky, Foucault, or any number of fanatics whose screeds are taught in elite universities.

Rather than anticipate and litigate each individual charge, we can save time by bumping up a level, since all of BAP’s offenses fall under one broad heading, about which there can be no question he is sincere. BAP is, as noted, relentlessly hierarchical and this emphatically extends to human beings: the highest theme of *Bronze Age Mindset* is a sustained diatribe against the idea of human equality.

The disclaimer that he is writing exhortation, not philosophy, allows BAP to skip past hard questions that have bedeviled the greatest thinkers and statesmen for centuries. Everyone who has wrestled with the nature of man knows the myriad ways in which human beings are unequal—in talent, intellect, virtue, character, size, strength, and so many others. The key political questions arising from this natural inequality are, first, how justly to apportion scarce goods among unequal claims to merit but equal claims to common citizenship; and, second, who gets to rule?

The latter seems easier to answer. Figures from Plato to Thomas Jefferson affirm what common sense suggests: it’s best to be governed by the best. But who, exactly, are the best? The bravest? The smartest? The strongest? Before we can even contemplate a means to rule? Before we can even contemplate a means to answer this question would be ‘those most adept at ruling.’ But how do we identify them? Many who self-identify as adept at ruling have no business doing so but are simply out for themselves—pirates without ships. Indeed, one problem with BAP’s effusive praise for strength and daring—untempered by corresponding gestures to wisdom and moderation—is that it encourages such men to think they deserve a high place they have not earned, may not be fit for, and which they may very well abuse.

To this I suppose BAP would reply: in bugtimes, it is folly to praise that which is easily appropriated by bugman and used to strengthen and lengthen the Leviathan’s rule. In such times, preparation for the noble and just assault on the Leviathan becomes the highest rhetorical necessity.

Perhaps, at any rate, let us stipulate for the sake of argument that BAP is right that the natural aristoi are defined not in Jefferson’s terms—‘virtue and talents’—but rather more or less as Machiavelli says: strength of mind, will, or temper combined with physical prowess and endurance. There is much overlap here to be sure. But there is in Jefferson’s writings—and in the works of those who informed and inspired him—a much more serious concern for the status of morality, and for those virtues conducive to stability, prosperity, technical innovation, and the arts and sciences. Yet however we define virtue, we immediately recognize that such qualities are possessed by degrees. Some people have none; many have at least a little; and a few have a great deal. What counts as ‘enough’ to qualify one as superior? Even if we can establish the cut-off line, how do we measure the amount? How do we convince those—there’s bound to be a lot of them—certain they have the right stuff, but...
who fall short according to our metric, to accept their inferior status with good grace?

But suppose all that could be figured out; we still face the problem of how to get the natural aristoi into positions of power. Lord knows, mankind has tried a variety of means: divine appointment, trials and labors, single combat, service to the state, heredity, competitive examinations, “meritocracy.” None of them has quite worked. Yet it’s fair to ask whether these modes, warts and all, are better or worse than that of the pirate, who simply takes what he wants. In politics, that’s called tyranny.

One cannot find in BAM any principled reason—or any reason at all—to reject or object to tyranny. Or to slavery, serfdom, perpetual peasantry, might-makes-right, warlordism, gangsterism, bullying, or other forms of what the religious and philosophic traditions call “injustice.” The only injustice BAP seems concerned with is the suppression of the higher by the lower. But the lower—or, let’s be more charitable than BAP and say “the common man”—will always be around. God must love the common people, Abraham Lincoln is said to have said; He made so many of them. What is their place in BAP’s moral universe? He seems to reject out of hand the existence of a common good shared by the ordinary and the exceptional, and the possibility of a regime in which the just claims of both can be, if not fully worked. Yet it’s fair to ask whether these modes, we still face the problem of how to get the natural aristoi into positions of power. Lord knows, mankind has tried a variety of means: divine appointment, trials and labors, single combat, service to the state, heredity, competitive examinations, “meritocracy.” None of them has quite worked. Yet it’s fair to ask whether these modes, warts and all, are better or worse than that of the pirate, who simply takes what he wants. In politics, that’s called tyranny.

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Yet one can accept the most reasonable of BAP’s premises—that natural inequalities exist, that strength and courage are real virtues, and that certain men are naturally more fit to rule than others—without accepting his apparent conclusion: that (to twist Jefferson’s words) the mass of mankind has been born with saddles on their backs, and a favored few booted and spurred, ready to ride them legitimately.

We may phrase the central question raised by Bronze Age Mindset as this: must equality always and everywhere be the enemy of excellence, or vice versa? BAP’s answer is an emphatic “Yes!” But the American Founders didn’t think so. At the same time that they declared all men to be created equal, they also affirmed not merely the necessity but the nobility of the manly virtues. They sought to build a regime that honors strength, virtue, and justice simultaneously, recognizing some tension among those ends but seeing no inherent incompatibility. Nor can we dismiss this goal as merely aspirational on their part, as examples from George Washington to Andrew Jackson, Teddy Roosevelt, and Dwight Eisenhower show.

BAP at any rate cannot be unaware that the practical questions raised above—and others—form insurmountable barriers to any stable, just, and lasting regime based on equality. I suspect he would say: nothing lasts, much less anything great; your silly regime based on “equality” didn’t last either and gave us bugrule to boot; better a short period of rule by the highest men than centuries of bugdom; wouldn’t you rather have some greatness rather than none? One day as a lion and all that.

BAP says that “life appears at its peak...in the military state” and calls military rule inevitable in the West. But he nowhere clarifies how it will work—how, or whether, it will be distinguishable from the exploitation of the weak by the strong. The classics no less than Machiavelli affirm that every aristocracy hitherto known either was from the beginning, or quickly devolved into, oligarchy. Indeed, I find myself wondering whether BAP would dispute what seems so plainly obvious to me: namely that an indispensable foundation—and means of perpetuation—of the contemporary world he so despises is precisely a forced and false inequality under the guise of “meritocracy.” How much different—better—would our country look, feel, and operate if all human beings were treated equally before the law? How much more freedom to excel would BAP’s higher specimens enjoy?

Which brings us back to the kids. The reason this book is important is because it speaks directly to a youthful dissatisfaction (especially among white males) with equality as propagated and imposed in our day: a hectoring, vindictive, resentful, levelling, hypocritical equality that punishes excellence and publicly denies all difference while at the same time elevating and enriching a decadent, incompetent, and corrupt elite.

BAP would say—indeed does say—that this is where the logic of equality inherently and inevitably leads. He even goes so far as to deny that the American Founders meant a word of their rhetoric. I think this is impossible to sustain as a historical matter, but on the larger philosophical question it is possible that the founders meant every word but were still wrong. It’s fair to say, however, that BAP’s followers take for granted that the idea of equality is false. They even have a derisive term for it: “equalism.” They dismiss the language of the founders, of rights, of the American political tradition as “Enlightenment,” which—rest assured—they don’t mean as a compliment.

And I have more bad news for my fellow conservatives: the talented kids who’ve found this book aren’t listening to us. It doesn’t matter whether they aren’t listening because they found the book, or they found the book because they aren’t listening. The fact remains that all our earnest explanations of the true meaning of equality, how it comports with nature, how it can answer their dissatisfaction, and how it’s been corrupted—none of that has made a dent.

This—of course—doesn’t mean that we should abandon our understanding. Truth is truth, and if we’re right, we’re right. But it does mean that we need to acknowledge a serious rhetorical deficiency that we’ve not even begun to learn how to overcome. In the spiritual war for the hearts and minds of the disaffected youth on the right, conservatism is losing. BAPism is winning.

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Essay by Angelo M. Codevilla

What’s Russia to Us?

What 21st-century Russia is in itself, to its neighbors, and to America flows from the fact it is no longer the Soviet Union. As the red flag came down from the Kremlin on Christmas Day 1991, Russian president Boris Yeltsin, when asked what he thought of Communism, nearly wept as he replied: “I wish it had been tried somewhere else.” Vladimir Putin, who famously said that the USSR’s collapse had been a tragedy, nevertheless shares the Russian people’s consensus that their country was Communism’s first and foremost victim, and that no one knows how long it may take to live down its dysfunctions. To its neighbors, this Russia is a rebudding tsarist empire. To Americans, it is a major adversary despite the lack of clashing geopolitical interests. 

After Communism

The revolution of 1917 was possible because socialists, in Russia and throughout the Western world, believed that “present-day society,” as Karl Marx put it, is a jumble of “contradictions,” which could be resolved only by tearing down the pillars of the house. Once that was done, history would end: man and woman, farmer and industrial worker, producer and consumer, intellectual and mechanic—heretofore at odds—would live harmoniously, freely, and prosperously ever after.

Because they really believed in this utopian dream, the socialists gave absolute power to Lenin and Stalin’s Communist Party to wreck and reorganize—to break eggs in order to make a delicious omelette. But Communism, while retaining some of Marxism’s antinomian features (e.g., war on the family and on religion), became in practice almost exclusively a justification for the party’s absolute rule. For example, the economic system adopted by the Soviet Union and by other Communist regimes owed precisely zero to Marx, but was a finely tuned instrument for keeping the party in control of wealth.

The Leninist party is gone forever in Russia because, decades after its leaders stopped...
belonging in Marxism, and after Leonid Brezhnev had freed them from the Stalinist incubus that had kept them loyal to the center, they had learned to make the party into a racket. That, and the residual antinomian features, made Russia into a kokotopia. Russian men learned to intrigue and drink on the job rather than work. Shunning responsibility for women and children, they turned Russian society into a matriarchy, held together by grandmothers. In a thoroughly bureaucratized system, each holder of a bit of authority used it to inconvenience the others. Forcing people to tell each other things that both knew not to be true—recall that “politically correct” is a Communist expression—engendered cynicism and disrespect for truth. The endless anti-religion campaigns cut the people off from one moral system and failed to inculcate another. Alcohol drowned unhappiness, life expectancies declined, and fewer Russians were born.

The Russian people rejected Communism in the only ways that powerless people can—by passivity, by turning to anything foreign to authority, and by cynicism. Nothing being more foreign to Communism than Christianity, Russians started wearing crosses, knowing that the regime frowned on this feature of the Russia that had pre-existed Communism, and would survive it.

No sooner had the USSR died than Russia restored the name Saint Petersburg to Peter the Great’s “window on the West.” Even under Soviet rule, Russians had gone out of their way to outdo the West in Western cultural matters—“nekulturny” (uncultured!) was, and remains, a heavy insult in Russia. Moscow let countless priorities languish as it rebuilt in record time its massive Christ the Savior cathedral to original specifications. As the Russian Orthodox church resumed its place as a pillar of the Russian that had been Christianity’s bastion against the Mongol horde as well as against the Muslim Ottomans, golden domes soon shone throughout the land. Whatever anyone might think of the Russian Orthodox church, it anchors the country to its Christian roots.

Few Americans understood Vladimir Putin’s rise to power at the close of the 20th century as the reassertion of a bankrupt, humiliated, resentful people looking to make Russia great again. Since then, Putin has rebuilt the Russian state into a major European power with worldwide influence. Poverty and a resource-based economy notwithstanding, it is on a sounder financial basis than any Western country. Corruption is within historical limits. The leadership is appreciated by the vast majority, whose national pride and solidarity dwarf those of Western publics. Nearly all Russians approve strongly of its absorption of Crimea. Russia effectively controls Ukraine’s eastern end, and has exposed the West’s incapacity to interfere militarily in the former Soviet empire. In the Middle East, Russia is now the dominant force.

In sum, the Russian bear licks its deep wounds as it growls behind fearsome defenses.

**The Neighborhood**

Russia’s westernism is neither imitation nor love of the West. It is the assertion that Russia is an indispensable part of it. The Russians saved Europe from Napoleon, and from Hitler, too. That they did the latter tyrannically, as Soviets, does not, in their minds, disqualify them from their rightful place in Europe, or justify Europeans, much less Americans, trying to limit Russia’s rightful stature. Today’s Russian rulers are not gentler or nicer than the emperor who shook off the Mongol yoke—who wasn’t known as Ivan the Nice Guy. Like their forebears they are calculating Russia’s stature in terms of the limits—primarily in Europe—set by their own present power as well as by that of their immediate neighbors.

Russian writing on international affairs focuses exclusively on the country’s role as a member of the European system. By the 2030s, if not sooner, the Russian government will have filled such territory, and established such influence, as befit its own people’s and its neighbors’ realities, and will be occupied with keeping it. More than most, Putin is painfully aware of Russia’s limits. Its declining population is less than half of America’s and a tenth of China’s. Despite efforts to boost natality, its demography is likely to recover only slowly. Nor is its culture friendly to the sort of entrepreneurship, trust, and cooperation that produces widespread wealth. What, then, are Putin’s—or any Russian leader’s—national and international objectives?

As always, Ukraine is of prime interest to Russia because it is the crux of internal and external affairs. With Ukraine, Russia is potentially a world power. Without it, it is less, at best. But Putin’s pressures, disruptions, and meddling have shown him how limited Russia’s reach into Ukraine is, and is sure to remain. Hence, Russia’s conquest of Ukraine east of the Don River signifies much less the acquisition of a base for further conquest than the achievement of modern Russia’s natural territorial limit in Europe. The 20th century’s events forever severed Ukraine and the Baltic states from Russia; even Belarus has become less compatible with it. Modern Russia is recognizing its independence, even as the Soviet Union at the height of its power effectively recognized Finland’s. As the Russian Federation’s demographic weight shifts southward—and Islamism continues to gain favor there—the Russian government will have to consider whether to shift its efforts from keeping the Muslim regions within the federation to expelling and building fences against them.

As the decades pass, post-Soviet Russia will have to work harder and harder to cut the sort of figure in Europe that it did under the tsars. That figure’s size is the issue. The Russian empire’s size has varied over the centuries according to the ratios between its and its neighbors’ national vigor and power. In the past, Poland, Sweden, Turkey, the Hanseatic powers, Germany, all have shrunkened or swollen Russia. Borders and spheres of influence have varied. There is no reason why this should not be so in the future. Russia will neither invade Europe nor dominate it politically because its people lack the political will, and its state the capacity, to do either. During Soviet times, this will and this capacity were the product of the national and international Communist Party apparatus, now gone forever.

A glance back at this gargantuan human structure reminds us of how grateful we should be that it now belongs to history. The Communist faction that resulted from the 1918 split in the international socialist movement—like the rump socialist faction that ended up governing Europe after 1945, but unlike the fascist one—already intended to conquer the world. (Fascism, Mussolini’s invention, recalled some of ancient Rome’s peculiar institutions and symbols—the fasci was the bundle of punishing rods carried by the consuls’ lictors—and added governing Italy through business-labor-government councils. It was not for export.) Communists worldwide came under the firm control of the Soviet Party’s international division run by formidable persons like Andrei Zhdanov and Boris Ponomarev, disposing of virtually unlimited budgets and, after 1929, of the services of countless “front organizations.” These, the party’s hands and feet and its pride and joy, reached out to every imaginable category of persons: union members, lawyers, teachers, journalists, housewives, professional women, students, non-students. Each front organization had an ostensible purpose: peace, through opposition or support of any number of causes. But supporting the “Soviet line” was the proximate purpose of all. Through tins of thousands of “witting” Communists, these fronts marshaled mil-
Discrimination and Disparities is a radical book, in the fundamental sense of going to the root of an issue. It challenges the very foundation of assumptions on which the prevailing “social justice” vision of our time is based. The first two chapters of Discrimination and Disparities present a new framework of analysis, and back it up with empirical evidence from around the world, before proceeding to demonstrate why and how so much of the “social justice” vision is a house of cards.

Some readers may find it surprising to discover what elementary fallacies provide the basis for many often-repeated assertions about the “top 10 percent,” “top one percent” or the “top 400” highest income recipients. The numbers behind such assertions may be valid as of a given moment, but most people’s lives last longer than a moment.

At some time during their lives, just over half of all Americans are in the “top 10 percent” in income. Internal Revenue Service data show that, over a 23-year period, there were 4,584 people in the “top 400”—and most of them were in that bracket just one year out of more than two decades. In many contexts, turnover is the ignored elephant in the room. Discrimination and Disparities points out many other elephants that have been ignored for far too long.

The fact that life has never been even approximately “fair,” in the sense of presenting equal chances for achievement to all individuals, groups or nations is undeniable. But that tells us nothing about the causes of particular skewed outcomes. Nor does it mean that we can reduce the causes to whatever fits a particular social vision, without putting that vision to the test of empirical evidence.

The alternative analysis and evidence offered in Discrimination and Disparities suggest that skewed distributions of outcomes are by no means improbably or unusual, whether among human beings or in natural phenomena beyond human control, such as tornadoes or earthquakes. This does not mean fatalistic acceptance of economic and social disparities. But it does suggest that much of what is said and done in the name of “social justice” is an impediment to creating greater opportunities for all.

Teachers who want their students to see more than one side of an issue may find Discrimination and Disparities especially appropriate for that role.
lions of unwitting supporters, helping to reshape Western societies. Soviet political control of Europe was eminently possible, with or without an invasion, because the Soviet domestic apparatus had marshaled Soviet society, and because its international department and front organizations had convinced sectors of European societies to welcome the prospect.

The tools that today's Russia wields vis-à-vis Europe are limited to commerce in natural gas, and to the opportunities for bribery that this creates—witness Russian Gazprom's employment of former German chancellor Gerhard Schröder. Not only do European governments not fear being invaded by Russia, they refuse to diversify their sources of natural gas, and generally oppose American sanctions imposed on Russia because of its actions in Ukraine. The notion among European ruling parties that the voters who are in the process of rejecting them for various "populist" and nationalist options, are pining for Russian-style governance or tricked by Russian wiles is a baseless attempt to sidestep the ruling parties' own failures.

Europe's rulers know that Russian military forces are not built to conquer the continent, because these forces lack the wherewithal for large-scale projection of power. Instead, they possess formidable capacity for what soldiers call "area denial." This fits Russian leaders' strategic goals, the people's sentiments, and material constraints. The wars that today's Russian military are built to fight are in areas that today's Russian military sees most threatened by the U.S. and NATO, on its borders with Poland and Lithuania (where Russia crushed the Wehrmacht in 1944-45), and in Ukraine, north of Crimea. Russia's military posture has ever been, and gives every sign of remaining, strategically defensive but operationally offensive. Now as before, when war seems imminent Russia's operational doctrine calls for taking the initiative in a preemptive manner.

Although Russian strategy would be to surround and seal off foreign troops by air and ground, for the first time in Russia's history, military manpower is scarce and precious. Economizing manpower is one reason why the country has fully integrated nuclear weapons in ordinary military operations, recalling nothing so much as President Dwight Eisenhower's doctrine in the 1950s of "more bang for the buck." To seal off the airspace, and to provide an umbrella for their ground forces, the Russians would use the S-400 air-missile defense system—the world's best, which is now deployed around some 300 high-value locations. Strikes (or the threat thereof) by the unique Iskander short-range missile would preclude the foreign forces' escape, as Russian troops moved in with Armata tanks, which carry the world's best reactive armor.

Possession of perhaps the world's best offensive and defensive strategic forces—comparable to America's and far superior to China's—is why Russia is confident that it can contain within limited areas the wars that it needs to fight. Because Russia has nothing to gain by military action against America or China, this arsenal is militarily useful only as insurance against anyone's escalation of border disputes, and as the basis for Russia's claim to be a major world player.

Priorities and Collusion

Russia loomed small in U.S. foreign policy from the time of the founding until the 1917 Bolshevik coup, because the interactions between America's and Russia's geopolitical and economic interests were few and mostly compatible. Given that these fundamentals have not changed, it would be best for both countries if their policies gradually returned to that long normal.

But for both countries, transcending the past century's habits is not easy. The essential problem is that neither side's desires, nor its calculus of ends and means, is clear to the other, or perhaps to itself. It seems that the main thing Putin or any other Russian leader might want from America is no interference as Russia tries to recreate the tsars' empire. Thus Russia's continuing relations with anti-U.S. regimes in Latin America can only be understood as Cold War inertia—the almost instinctive sense that what is bad for America must somehow be good for Russia. The U.S. government, for its part, while largely neglecting Russia's involvement in the Western hemisphere, tries to limit its influence in Europe while at the same time reaching agreements concerning strategic weapons—a largely Cold War agenda. The soundness of these priorities on both sides is doubtful.

Both Russia and the U.S. fear China, and with good reason. The crushing size of contemporary China's population and economy frightens the Russians. The fact that some Russian women marry Chinese men (disdaining Russian ones) embarrasses them and has made them more racially prejudiced than ever against the Chinese. Yet Russia aligns with China internationally and sells it advanced weapons, paid for with American money—money that China earns by trading its people's cheap labor for America's expensive technology. With these weapons as well as its own, China has established de facto sovereignty over the South China Sea and is pushing America out of the western Pacific. Nonetheless, the U.S. treats Russia as a major threat, including "to our democracy." For Russia and America to work against one another to their common principal adversary's advantage makes no geopolitical sense. But internal dynamics drive countries more than geopolitics.

Nowhere is this clearer than with the notion that Russia interfered in the 2016 U.S. election—a charge which has roiled American public life for the past two years and counting. Interference in American life? That is what the Soviet Union was all about. By contrast, current concerns about Russia are a tempest, albeit a violent one, in a domestic American teapot.

In America, the Soviets worked less through the Communist Party than they did in Europe. Here, they simply seduced and influenced people at the top of our society. Even in America prominent persons in the Democratic Party, academia, media, and intelligence services (or who would become prominent, e.g., future Democratic presidential candidate Bernie Sanders and CIA Director John Brennan), were Communists more or less openly. Far more important to the Soviets were persons convinced that Soviet and American interests were identical. Harry Hopkins, for example, who ran the U.S. government on President Franklin Roosevelt's behalf, considered Stalin's objectives to be so indistinguishable from America's that the KGB considered him to be effectively Stalin's agent. By contrast, Alger Hiss, an important State Department official, was one of many controlled Soviet agents within the U.S. government. But the compatibility between Hiss's views and those of many in the U.S. ruling class was striking. For example, even after Soviet archives confirmed Hiss's status as a Soviet agent, Robert McNamara, secretary of defense under Presidents John Kennedy and Lyndon Johnson, like many of his class, angrily insisted on Hiss's innocence.
The comradeship of American liberals and Soviet Communists lasted to the Soviet Union’s end. In May 1983, for example, in an incident widely reported at the time and confirmed by Soviet archives, former U.S. senator John Tunney visited Moscow and, on behalf of his friend and classmate—and prospective Democratic presidential candidate—Senator Edward Kennedy, proposed to KGB director Viktor Chebrikov that Kennedy work with Soviet dictator Yuri Andropov to “arm Soviet officials with explanations regarding problems of nuclear disarmament so they may be better prepared and more convincing during appearances in the USA” because “[t]he only real potential threats to Reagan [in the 1984 election] are problems of war and peace and Soviet-American relations.” Kennedy promised “to have representatives of the largest television companies in the USA contact Y. V. Andropov for an invitation to Moscow for the interviews.” Collusion, anyone? Today, with the Soviet Union gone, its moral-intellectual imprint on our ruling class remains.

The contemporary notion of Russian interference, however, owes nothing to Russia. It began when, in June 2016, the Democratic National Committee (DNC) tried to explain how a trove of e-mails showing its partiality for Hillary Clinton over Bernie Sanders got into the public domain, alleging that they had been hacked from its server by Russian agents. To this day, there is zero evidence for this, the DNC not having allowed access to that server by any law enforcement agency or independent party.

Throughout the rest of the 2016 campaign, this narrative merged with one from CIA Director John Brennan and other leaders of U.S. intelligence, who were circulating a scurrilous dossier, paid for by the Clinton campaign, that alleged Trump’s connections with Russia. The Obama Administration used the dossier as the basis for electronic and human surveillance of the Trump campaign. Together, these narratives prompted a two-year investigation by Special Counsel Robert Mueller, which found no basis for the dossier, or for a relationship between Russia and the Trump campaign. Nevertheless, the assertion of Trump’s indebtedness to Russia became the pretext for #TheResistance to the 2016 election’s result, led by the Democratic Party, most of the judiciary, the bureaucracy, and the media.

In Europe as well as in America, the establishment’s protagonists have pointed to Russia to allege that their rejection by the voters is somehow “undemocratic.” Larry Diamond in the Wall Street Journal, following Robert Kagan in the Washington Post, wrote that “in one country after another, elected leaders have gradually attacked the deep tissues of democracy—the independence [from sovereign voters] of the courts, the business community, the media, civil society, universities and sensitive state institutions like the civil service, the intelligence agencies and the police.” Voting against the establishment, you see, is undemocratic!

What Are Our Interests?

Making impossible a rational public discussion of U.S. policy toward Russia is the very least of the damage this partisan war has wrought. American liberals believed the Soviet Union’s dissolution was impossible; conservatives flattened themselves that they caused it. Few paid attention to what happened and how. Once the Soviet Union was gone, the West in general and Americans in particular presumed to teach Russians how to live, while helping their oligarchs loot the country. Russians soon got the impression that they were being disrespected. At least as Soviets, they had been feared. The Clinton Administration was confident that Russia would become a liberal partner in the rules-based international order. At the same time Clinton tried to load onto...
Russia the hopes that the U.S. establishment had long entertained about global co-dominion with the Soviets. In the same moment they pushed NATO to Russia's borders—a mess of appeasement, provocation, and insult. Long-suffering Russians, who had idolized the West during the Soviet era, came to dislike us.

As the George W. Bush Administration fumbled at the new reality, it tried to appease Russia by continuing to limit U.S. missile defenses in fact, while publicly disavowing the Anti-Ballistic Missile Treaty; it formally objected to Russia's dismemberment of Georgia, while effectively condoning it. The incoming Barack Obama Administration tried to go further along the same self-contradictory line by withdrawing anti-missile support from eastern Europe, and quietly promising even more restraint. But when, in 2014, Putin seized Crimea, Obama imposed serious economic sanctions and agreed to place NATO and American troops in Poland and the Baltic States. Then, for the most tactical of domestic political considerations, the Obama Administration, and hence the U.S. establishment, decided to try explaining the course and results of the 2016 U.S. election campaign as “Russia's attack on our democracy.”

What are the American people's interests in Eurasia, and how big are these interests? Although today's Russia poses none of the ideological threats that the Soviet Union did—and despite the absence of geopolitical or any other clashing interests—Russia is clearly a major adversary in Europe and the Middle East. Its technical contributions to China's military, and its general geopolitical alignment with China, are most worrisome. What, other than Soviet inertia and wounded pride, motivates the Russians? The U.S. maintains economic sanctions on Russia. To achieve precisely what? From both sides' perspective, it is difficult to see what good can come from this continued enmity.

Today's triangular U.S.-Russia-China calculus is not comparable to the Soviet-Chinese military confrontation of the 1970s and '80s, when both the U.S. and China feared Soviet missiles, and the U.S. best served its own interests by implicitly extending its nuclear umbrella over China. Today, the problems between Russia and China stem from basic disparities that U.S. policy obscures by treating Russia as, if anything, more of a threat than China. The best that the U.S. can do for itself is to say nothing, and do nothing, that obscures these disparities. Without backed-up U.S. support for close Russo-Chinese relations, the two countries would quickly become each other's principal enemies.

Ongoing U.S. anxiety about negotiations with Russia over weaponry is nothing but a legacy of the Cold War and a refusal to pay attention to a century of experience, teaching that arms control agreements limit only those who wish to limit themselves. Russia violated the 1987 Intermediate-Range Nuclear Forces Treaty by developing the Iskander missile; the U.S. was right to withdraw from the agreement, but mistaken in ever expecting another country not to arm itself as it thinks best. In that regard, Americans should not listen to, never mind accommodate in any way, Russia’s (or any other country's) objections to U.S. missile defenses. These are in our clear and overriding interest. Defending America as best we can—against missiles that might come to us from anywhere, for any reason—is supremely our business.

What then are America’s legitimate, realizable demands on Russia?

Putin's Russia, by its 2015-18 intervention in Syria and its management of Turkey, achieved the tsars' historic desire for a warm water port. Although the former conquest is firm, keeping Turkey friendly to Russia must ever be troublesome. Absent a friendly Turkey, Russia's renewed control of Crimea and even the Syrian bases will be of very limited worth for any but defensive purposes. Whatever else might be said of its role in the Middle East, Russia has brought more stable balance to local forces than ever in this young century. Only with difficulty will American statesmen regret that our old adversary now deals with some of the problems that bedeviled us a half-century ago.

The U.S. would be more secure geopolitically were Russia merely one of several European powers. But it has always been an empire, whose size has varied with time. An independent Ukraine has always been the greatest practical limitation on Russia's imperial ambitions. That is very much a U.S. interest, but is beyond our capacity to secure. U.S. relations with Russia regarding Ukraine are analogous to U.S. relations with Europe 200 years ago. Our overriding interest then was to prevent the Europeans from holding any major part of the Western hemisphere.

By stating America’s intention to guard its hemispheric interests while forsaking meddling in European affairs, the U.S. encouraged them to face that reality. Today's Russia realizes it cannot control Ukraine except for its Russian part, nor the Baltics, never mind the Visegrad states. The U.S. could lead Russia to be comfortable with that reality by reassuring it that we will not use our normal relations with Ukraine or with any of Russia's neighbors to try to define Russia's limits in Europe. We should realize that our setting such limits is beyond America’s capacity, and that it undercuts the basis for fruitful relations.

The U.S. prefers the Baltic States, and especially Ukraine, to be independent. But we know, and should sincerely convey to Russia, that their independence depends on themselves, and that we regard it as counterproductive to make them into American pawns or even to give the impression that they could be. Ukraine’s independence—and hence Russia’s acceptance of it as inevitable—depends on Ukraine redefining itself as a nation, and standing firmly on its own feet—as, for example, by asserting its Orthodox church's independence from Russia's.

Wise U.S. policy would remove sanctions that previous administrations placed on Russia on behalf of Ukraine. Fruitless strife has been these sanctions' only result. For example, they emboldened Ukraine to suppose it had U.S. support for presuming it had the same right to navigate in the Sea of Azov, passing under a Russian bridge, as it does in the Atlantic Ocean.

But in accord with the Monroe Doctrine, we should be willing to wage economic war on Russia—outright and destructive—on America's own behalf, were the Russians to continue supporting anti-U.S. regimes in the Western hemisphere. If you want economic peace with America, we would say, stop interfering in our backyard. We Americans, for our part, are perfectly willing to stop interfering in your backyard.

In sum, nothing should be geopolitically clearer than that the natural policy for both America and Russia is not to go looking for opportunities to get in each other's way.

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Book Review by John Daniel Davidson

HOW THE WEST WAS WON

The Right Side of History: How Reason and Moral Purpose Made the West Great,

As Notre-Dame cathedral was burning, conservative columnist Ben Shapiro made what should have been a rather bland and unobjectionable remark on Twitter. He said: “Absolutely heartbreaking. A magnificent monument to Western civilization collapsing.”

Catholics could have quibbled that Notre-Dame is actually a monument to the Blessed Virgin Mary and her son Jesus Christ, or at least that it is only secondarily a monument to Western civilization. But it was liberals who objected to Shapiro’s use of that phrase, “Western civilization,” and later, his invocation of “Judeo-Christian heritage.” Online critics immediately pointed to all the terrible things French Catholics did to Jews in the Middle Ages, as if to argue against the very notion of a unified Judeo-Christian heritage, or to suggest that Western civilization is nothing so much as a series of crimes against oppressed and marginalized peoples.

Despite its absurdity, the exchange was a perfect manifestation of what’s gone wrong in Western civilization: liberals becoming outraged at the suggestion that Notre-Dame—even as it was engulfed in flames—is anything but a symbol of oppression, and especially outraged that Shapiro, an orthodox Jew, would have the chutzpah to say otherwise. (Next we’ll no doubt be hearing about how the Louvre is a monument to income inequality and the Eiffel Tower is an oppressive symbol of toxic masculinity.)

It would be easy to laugh at this sort of thing if those who espoused it weren’t so damn serious—and if there weren’t so many of them. Sadly, this narrative of the West as an oppressive, racist, misogynistic, violent civilization that must be dismantled and disowned has come to dominate not just the academy but vast swathes of the cultural landscape, from Hollywood to Silicon Valley to professional sports. Shapiro has been thinking about how it has come to this, and a month before the Notre-Dame fire he published The Right Side of History: How Reason and Moral Purpose Made the West Great—a title that almost seems designed to provoke outrage on the Left.

But Shapiro’s aim isn’t to outrage, it is to educate, and we are obviously in dire need of some remedial education. Not that long ago there would have been no need for a book like this. Had it been published even a generation ago, a 200-page summary of the roots of Western civilization and the calamities that befell it in the 20th century probably would have seemed rather redundant. At best, it would have been useful perhaps as a text book for a high school Western Civ class, or maybe as an extended bibliography for a Great Books reading course. As far as books about culture, history, and politics go, it would hardly have been noticed.

Instead, Shapiro’s book was an immediate bestseller, debuting at number one in nonfiction on the New York Times’s bestseller list and hitting number one on Amazon the day after it was released. Its success says less about the merits of the book (though it is a fine book) than it does about the state of our culture and,
specifically, the state of education. Shapiro, a frequent speaker on college campuses where he is both adored and reviled, no doubt knew his primary audience for The Right Side of History would be young people who have just enough knowledge of history to know that they’ve been shortchanged, if not completely misled, by their schools. He acknowledges as much early on, noting, “As of 2010, not a single top university required students to take a course in Western Civilization; only sixteen even offered such a course.”

No wonder, then, that by simply laying out a succinct defense of Western civilization, it is as if Shapiro has burst forth with a long-lost manuscript revealing ancient secrets, or discovered a forgotten formula for human happiness. His book has struck a chord, not because what it says is new, but because what it says is old—and true. The same might be said of the popularity of Jordan Peterson, whose lectures have captivated young people all over the world largely because they present a cogent defense of things many young people have been taught are indefensible: the virtues of masculinity and femininity, moral truth, religious devotion.

That so many young people seem to be encountering these ideas for the first time is itself evidence in support of Shapiro’s claim that “we’ve spent the last two centuries carving ourselves off from the roots of our civilization.” All our modern notions of reason and science, he says, were built on “deep foundations,” and “we’re tossing away what’s best about our civilization because we’ve forgotten that those foundations even exist.”

To uncover these foundations for readers who are largely ignorant of them, Shapiro marches through thousands of years of intellectual history, from Plato to Thomas Aquinas to Friedrich Nietzsche, at last coming to a succinct defense of Western civilization than with telling a story about how the massive edifice of Western civilization was built and why it’s now beginning to crumble—or rather, why it’s being purposefully torn down.

He begins where other recent commentators have begun, assessing why so many people in the West seem dissatisfied at a time when seemingly things have never been better. In fact, he argues, there are ample signs that things are not as good as they seem, and our material prosperity belies something rotten at the core of our culture: “We are in the process of abandoning Judeo-Christian values and Greek natural law, favoring moral subjectivism and the rule of passion,” Shapiro writes. “And we are watching our civilization collapse into age-old tribalism, individualistic hedonism, and moral subjectivism.” If things have not quite reached a crisis point it’s because we’re still living off the interest, so to speak, of our Western heritage. But the account is almost empty.

Shapiro departs from writers like Jonah Goldberg and Steven Pinker, both of whom he argues, recently to tackle these questions with unsatisfying results. Goldberg, in an unsuccessful attempt to defend Western civilization on the basis of a purely atheistic and utilitarian ethic, posits in Suicide of the West (2018) that the Enlightenment was a “miracle” that sprang forth unbidden from the atavistic superstitions of medieval Europe. And to keep the miracle alive we have to keep faith with Enlightenment rationalism, the font of all of our prosperity. Pinker tries a similar trick in Enlightenment Now (2018), arguing that the Enlightenment was a break from the ideas that preceded it and that we can enjoy its fruits unencumbered by irrational appeals to religion and religious obligations. Science and reason are all we need to live the good life, secure in our material well-being.

Shapiro doesn’t buy it. “Pinker wants to pluck the fruit of the Enlightenment without stepping in the manure,” he writes, noting that in a 400-page book about the Enlightenment, Pinker never mentions the French Revolution. Shapiro also challenges Goldberg on why, if Enlightenment ideals are unnatural, the “miracle” should have happened at all, and why it is being undermined at this particular moment. The truth, again, is an old idea that’s fallen out of fashion: the Enlightenment, and by extension all of Western civilization, cannot be understood apart from its grounding in the Judeo-Christian heritage—that is, its basis in religion. Greek reason had to combine with revelation, and we can’t have one without the other. This is of course a tougher sell than the soothing platitudes of Pinker and Goldberg, but it is nevertheless true. The attempt to divorce not just religious faith but also religious imperatives from human reason and the governance of society has been disastrous. As Shapiro notes toward the end of his book, echoing a similar point by Sam Harris, “most of what constitutes human well-being at any moment will escape narrow Darwinian calculus, because most human beings are not driven simply by the dictates of procreation and survival and pain avoidance.” We aren’t mere animals that need only to be well-fed and kept safe; we are beings created in the image of God, without whom our souls can find no rest.

Indeed, countering such popular but misguided notions about the Enlightenment might be the most valuable contribution of The Right Side of History. It’s all well and good that young people are drawn to iconoclasts like Peterson and Harris, but Shapiro is yet more iconoclastic in arguing that reason won’t be enough to save us—or even keep at bay the neo-paganism of identity politics and intersectionality theory. We’re going to need stronger stuff. That young people are also drawn to Shapiro we should take as a very good sign: they are open to an appeal to reason and faith.

Where Shapiro’s argument suffers is perhaps in his framing of what provides the foundation for happiness. He lists four elements: individual moral purpose, individual capacity, communal moral purpose, and communal capacity. The foundation of a successful civilization must be balanced on these elements, he says—and he’s not wrong. We’ve obviously neglected communal purpose in favor of an atomizing individualism, to say nothing of how we’ve all but destroyed the idea of a common morality.

But Shapiro perhaps overestimates the ability of atomized individuals to pursue moral purpose, whether individual or communal, in a society as bereft of solidarity as ours. He spends plenty of time talking about communal purpose and capacity, but not enough time talking about community itself, what it might look like and what place it deserves in 21st-century America. People who are morally adrift, who have no unchosen obligations or religious imperatives, are not going to pull themselves up by their own bootstraps and start living lives of personal virtue all on their own. They are going to need something tangible—real connections to people in their daily lives, real obligations to their neighbors and relatives, real sources of strength and support when hard times come.

It’s true, as Shapiro writes in a too-short concluding chapter, that “[o]ur individual and communal happiness depends on us regaining the values we’re losing all too quickly.” But values alone won’t be enough, not for everyone. Faith without works is dead, as the Epistle of James reminds us, and by the same token ideas without works are also dead—and in fact those ideas, as Ben Shapiro leaves no doubt, are dying right before our eyes.

John Daniel Davidson is a senior correspondent at the Federalist.
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History in the Present Tense

American Dialogue: The Founders and Us, by Joseph J. Ellis. Alfred A. Knopf, 304 pages, $27.95

American Dialogue: The Founders and Us is the most overtly political and personal of Joseph Ellis’s 13 books, all of which are concerned with the founding era. The book itself is a sort of dialogue between Ellis the historian and Ellis the pundit. “We inhabit a backlash moment,” he writes, given that the “most inexperienced, uninformed, and divisive presidential candidate in American history was elected.” Ellis the historian has won the Pulitzer Prize and a National Book Award, which makes it all the more disappointing that Ellis the pundit is so overwrought.

American Dialogue takes up four fundamental political concerns, each examined by interpreting a particular founder’s words and deeds: race (Thomas Jefferson), economic equality (John Adams), the Constitution (James Madison), and foreign policy (George Washington). Ellis judges Jefferson hypocritical, Adams regrettable, Madison ambiguous, and Washington laudable. In particular, Jefferson, by the end of his life, was “indistinguishable from most ardent proslavery advocates” in invoking states’ rights to challenge restrictions on slavery. Adams thought every nation needed a natural aristocracy but also fretted that the inescapable inequalities could cleave society. Ellis emphasizes that Madison was principally a politician, not a theoretician. He regarded the Bill of Rights, for example, “as indistinguishable from most ardent proslavery advocates” in invoking states’ rights to challenge restrictions on slavery. Adams thought every nation needed a natural aristocracy but also fretted that the inescapable inequalities could cleave society. Ellis emphasizes that Madison was principally a politician, not a theoretician. He regarded the Bill of Rights, for example, “less as a philosophical statement than as a political tactic,” a concession to bolster support for the newborn Constitution.

Washington is Ellis’s foreign-policy exemplar for such aspirations as seeking to end “imperialism” against Indians during his presidency. But this magnanimous policy was undermined because an army-less federal government could control neither its borders nor disobedient states and citizens. Washington would also learn, painfully, that democratic swings of opinion frustrate pursuit of a steady foreign policy. Ellis finds in his Farewell Address a “high-toned condemnation” of the internecine bitterness that put the “still fragile American republic at risk.”

But then there’s the punditry. “[B]oth the middle class and the coral reefs are eroding,” Ellis writes in a typical sentence. The terms “law and order” and “voter fraud” are code-words for racism, an observation that was already hackneyed during Lyndon Johnson’s presidency. Ellis warns that we have entered a “second Gilded Age” in which the rising tide now lifts only yachts.

Ellis the conspiracy theorist warns about Charles and David Koch’s “vast network” of “dark money” and John Birch Society connections. Such conservatives want an America “without government... regulation and where ‘any federally sponsored policy of income redistribution [is] here- sy.” No regulation? No income redistribution? Ellis simply asserts rather than demonstrates his targets’ extremism. Ellis even writes that the “New Right” (whatever that is, exactly) dreams of returning to a “paradise” of “Robber Barons feasting at Delmonico’s” and reveling in their “Social Darwinism.” That’s a lot of cliché to pack into a single sentence.

He is most confused when attacking originalism. “[J]ust as there are fundamentalists on the Christian side,” he writes, “there are originalists on the judicial side, both groups insisting that our lives in the present must be guided by principles embedded in language written long ago and in the intentions or meanings of the authors of those sacred, or semi-sacred, words.” But that’s not what originalism means. Every Justice since John Marshall has spoken reverently of the Constitution’s text to new circumstances over time. The question is who does it, and to what degree. Originalism is merely the most recent response to the view that judges are the vanguard of social progress.

Ellis is right that the Supreme Court’s role in American life is outsized, and inconsistent with the role envisioned for it by any founder. But the cause has been decades of decisions on social questions—abortion, prayer in schools, welfare, affirmative action, the death penalty—that vaulted the Supreme Court into the center of our most unresolvable social tensions. He even recognizes the liberal “judicial revolution,” beginning in the 1950s, “based on the belief that federal judges,” interpreting a “Living Constitution,” were obliged “to adjust its meaning to evolving standards of justice.” Antonin Scalia’s version of originalism was a counterrevolu-

tion, which insisted that the Constitution was largely silent on most policy questions. This silence guaranteed that voters and legislators, not judges, would decide how to best order our society. It was Scalia’s nemesis, William Brennan, by contrast, who injected court power into every new areas of life, declaring that our lives must be “guided” by its—the Court’s—words in the true Biblical sense.

The book is also full of errors on law. Ellis says that District of Columbia v. Heller (2008) created a “nearly unlimited individual right” to keep firearms, even though the Court specifically approved of myriad gun restrictions and the D.C. law at issue in Heller remains the only federal law struck down under the Second Amendment. Ellis says Citizens United v. FEC (2010) “removed all restrictions on corporate giving to political candidates,” even though that decision only concerned independent expenditures and did not touch bans on corporate contributions to candidates.

Historians, including Ellis in American Dialogue, complain that lawyers are insufficiently respectful of the ambiguity and complexity of history. But lawyers have a right to observe that their day-to-day work also involves making careful distinctions. A critic of law-office history should be on guard against purveying history-department law.

What is so curious about American Dialogue—what makes it two books in one—is the contrast between Ellis’s purported mission to commend subtlety and indeterminacy in our approach to history, while giving us card-board villains and conspiracies in the present. Though he tries to understand the framers as they understood themselves, he doesn’t extend that courtesy to Scalia, the Koch brothers, or many other contemporaries. If nothing else, Joseph Ellis proves that you can’t write history in the present tense.

For the first half of the 20th century, Harvard Law School, founded in 1817, was the ne plus ultra of legal training, its professors larger than life, its graduates the most famous advocates and judges. Professor Charles Kingsfield of The Paper Chase embodied Harvard: brilliant but aloof, demanding to the point of cruelty, devoted to the law as a mystical ideal.

In the older view, regnant at Harvard before the 1960s, law was an intellectual discipline devoted to discerning objective truths. There were correct answers to legal questions, ascertainable to all jurists who sought them by using the correct procedures. Just as any mathematician who calculated rightly would arrive at the same answer to an equation, any jurist who reasoned correctly, Democrat or Republican, would reach the same interpretation of the law.

Largely of necessity, Yale Law School, founded in 1824, constructed an identity as the anti-Harvard. It appears, over the second half of the 20th century, to have been a historic success. In 1987, just over a decade after I graduated from Yale, it gained what seems to be a permanent place at the top of the U.S. News & World Report law school rankings.

Yale in the 1970s was engaging, intellectually stimulating, full of talented and preternaturally accomplished students, and comparatively relaxed. I think most of us fully enjoyed our experience there. We could sense, however, that a reconceptualization of law was taking root. The old-fashioned "legal liberalism" that still held sway—that historian Laura Kalman calls trust in the potential of courts to bring about nationwide social reform via policy change—was gradually giving way. Though legal liberalism was liberal in being identified with political liberalism, nonetheless it was legal in that it presupposed a legal process built upon reason and a common set of assumptions about discerning the law in a constitutional republic, including the idea that it was both rules-based and could have a substantial degree of objectivity. Taking its place was a more relativistic, results-oriented jurisprudence, flavored with Marxism and postmodernism. It is now clear that the musings in New Haven's ivory tower have come to dominate mainstream American legal and political thought.

Law or Politics

Since 1974, for the entire period of its ascendency, Owen Fiss has been a professor at Yale Law. After clerking for U.S. Supreme Court Justice Thurgood Marshall, working in the Department of Justice's Civil Rights Division, and teaching six years at the University of Chicago, he came to Yale and rose to Sterling Professor of Law (now emeritus), the school's highest professorial rank. His lengthy record of scholarly work has made him one of the most influential legal academics of the past 45 years. In Pillars of Justice: Lawyers and the Liberal Tradition (2017), he pays generous tribute to mentors and colleagues, most of whom served with him on the Yale faculty. Legal liberals such as Fiss have had a long romance with radicalism. Thus, Fiss's "pillars" include several lawyers who are far more radical than liberal, such as Catharine MacKinnon, a classmate of mine who became a leading theoretician of feminist jurisprudence.

Fiss credits Eugene Rostow, dean from 1955 to 1965, for Yale Law's displacement of Harvard. Himself a Harvard Law graduate, Fiss believes that under Rostow "the Law School emerged as a great national institution, a bastion of the liberal tradition." For Fiss, the hinge of American legal history was the Supreme Court's Brown v. Board of Education decision in 1954 under Chief Justice Earl Warren.

It may seem surprising now, but the Brown decision generated considerable angst in the legal academy, particularly at Harvard. Fiss writes, "Harvard's intellectual milieu was defined by Herbert Wechsler's 1959 article on neutral principles, in which he announced..."
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that he had come to the conclusion that Brown...was wrongly decided, or at least not adequately justified.” Although Wechsler taught at Columbia, the article originated as a lecture at Harvard before being published in the Harvard Law Review. Sixty-five years later, it remains one of the most cited law review articles and continues to spark debate.

Because Brown was understood by the Court as a pivotal decision with far-reaching social and political consequences, Chief Justice Earl Warren crafted an unanimous opinion that was able to bridge differences among the Justices, citing social science research in order to conclude that state-mandated segregation is inherently unequal under the 14th Amendment’s Equal Protection Clause. Wechsler’s article tentatively criticizes the decision for glossing over problems with its use of factual findings and its failure to grapple with issues relating to freedom of association. Brown was about cutting the Gordian Knot created by prior inability to disentangle racial animus from the law. But the things at issue are not Brown’s result or the civil rights struggle in general (and the reason that the idea of neutral principles has lived on while Wechsler’s critique of Brown is largely forgotten); rather they are fundamental questions about the nature of law and the judiciary’s role in a constitutional republic. Such questions have been at the heart of political debates about law and the courts ever since.

Fiss recalls that in contrast to Harvard, “Yale had a very different stance on Brown—it embraced the decision.” Two prominent faculty members, Charles Black and Louis Pollak, had assisted on the briefs, and Rostow praised the decision eloquently. While Fiss, the Harvard product, was writing an article to show that Brown and neutral principles could be reconciled, Rostow advised him that trying to fashion this synthesis was a waste of time. Fiss now attributes Rostow’s comment to a belief in Yale’s “pride of place” and unhappiness that he was allowing Harvard to “dictate the terms of [the] inquiry.”

The stakes, however, involved much more than institutional pride. Fiss saw himself as fundamentally different from most of his Yale faculty colleagues, believing that his view of law could be reconciled with the traditional emphasis on neutral principles over policy outcomes. For Fiss, it is possible to believe that: a) law can be objective and principled; and b) the arc of justice must always bend in a liberal direction, because the more “pure” the law becomes, the more it furthers the ideals of Brown: bringing about a more just result through the patient exploitation of the raw material of the law. But very few cases have the unique characteristics of Brown. Although Fiss would deny the truth of it, viewing every case through this special lens leaves him open to the charge that, ultimately, his conception of law regards it as nothing more than a tool to impose certain political values. Unlike younger legal progressives who are candid about achieving their political goals “by any means necessary,” Fiss is “old school.” With full confidence in his own sense of fairness, powers of reason, and the desirability of using courts to advance progressive policy, Fiss wields the legal tools ascribed to legal traditionalists: the appeal to the mystery and majesty of the law—with its resort to peculiar terms (such as ‘penumbras’), its analogical leaps, and rhetorical method—to reach his conception of a just result.

Fiss was not the first Yale professor to wrestle with the dilemma of whether to secure liberal goals through law or politics. Alexander Bickel’s extremely influential The Least Dangerous Branch: The Supreme Court at the Bar of Politics (1962) examined the “counter-majoritarian difficulty”: why should unelected, unaccountable justices, appointed for life, be entrusted with the ability to override decisions made by democratically elected legislatures and executives? Bickel’s answer—judges should remain aware of the counter-majoritarian difficulty and voluntarily wield their power cautiously instead of boldly—was far too modest to settle the fundamental question he posed.

Bickel’s work added enormously to Yale’s prestige and reputation in the 1960s, but his prudent liberalism was in tension with the law school’s dominant cast of mind. This tension is recounted in the work of Laura Kalman, who has centered much of her scholarship on the developments at Yale: Legal Realism at Yale, 1927–1960 (1986), The Strange Career of Legal Liberalism (1996; in which the writings of Fiss and other Yale professors receive significant attention), and Yale Law School and the Sixties (2005). The earliest of these books tells how Yale came to reject the objective or scientific study of law, dominant at Harvard and elsewhere in the first half of the 20th century. The legal realists, such as Charles Clark and Thurman Arnold, radicals of their time, saw gaps between the theory of law and its practice, dismissed the idea that legal results could be predicted with rigorous logic and formal rules, and favored legal analysis that incorporated the social sciences’ empirical findings.

The period beginning in the 1920s was also when some prominent Yale faculty embraced both public law—the emphasis on statutory and common law as tools of public policy—and an interdisciplinary approach as essential, distinctive parts of the school’s mission. Professor William O. Douglas, future New Deal and Supreme Court justice, as well as the paradigmatic liberal jurist, was this view’s leading exponent. The combination of legal realism, public law, and interdisciplinary studies eventually became the essence of the law school’s reputation. Nonetheless, Kalman concludes that the changes in teaching and curriculum promised by these developments largely failed, and the actual substance of legal education at Yale was not terribly different from that at Harvard or elsewhere.

Nevertheless, as Kalman writes in Yale Law School and the Sixties, the realists “imbued Yale with a mystique that...has endured to this day.” Kalman, like Fiss, is a legal liberal with a romantic attachment to its more radical offshoots, candidly stating that she is deeply sympathetic to the ‘60s student radicals. She summarizes the main line of scholarship at Yale during the ’70s and ’80s as “New Legal Process”—in essence, an effort to find principled ways to justify the Warren Court’s liberal decisions while rejecting the Burger and Rehnquist Courts’ conservative ones. It was also to distinguish itself from the ‘old’ legal process at Harvard. This is the species of what both Kalman and Fiss call “legal liberalism,” of which Fiss was a prime exponent.

Books mentioned in this essay:

Pillars of Justice: Lawyers and the Liberal Tradition, by Owen Fiss. Harvard University Press, 224 pages, $27.95

The Least Dangerous Branch: The Supreme Court at the Bar of Politics, by Alexander M. Bickel. Yale University Press, 303 pages, $32 (paper)

Legal Realism at Yale, 1927–1960, by Laura Kalman. The University of North Carolina Press, 326 pages, $37.50 (paper)

The Strange Career of Legal Liberalism, by Laura Kalman. Yale University Press, 384 pages, $25 (paper)


Sexual Harassment of Working Women, by Catharine MacKinnon. Yale University Press, 312 pages, $32
Unresolved Tensions

While Brown and Warren Court jurisprudence remained an essential touchstone, after 1973 the real problem for legal liberalism was Roe v. Wade. Their residual commitment to neutral principles led a number of legal liberals to concede that Roe was, at a minimum, exceedingly difficult to justify, depending instead on a concept they had spent their careers vilifying, “substantive due process.” Yale graduate and onetime Yale professor John Hart Ely said as much in what became a famous Yale Law Journal article, “The Wages of Crying Wolf.” Future dean Guido Calabresi conceded that Roe was not justifiable under any principled legal analysis. Another dean, Harry Wellington, did his best to prove otherwise in another Yale Law Journal article, with unpersuasive results.

The difficulty, however, was that Yale’s community of legal liberals, including Ely, Calabresi, and Wellington, firmly supported the abortion policy created by Roe. Like Fiss, they were convinced that if only they tried hard enough they could justify the result. Because proper liberal outcomes were always to be found at the end of the law’s appropriate path, with enough effort these justifications would support the inevitable process of American law becoming pure.

In many ways the unresolved tensions starting with Brown, continuing through the subsequent Warren Court decisions, and culminating in Roe v. Wade, came to the fore in the 1987 Senate Judiciary Committee hearings over Supreme Court nominee and former Yale Law Professor Robert Bork. Though Bork was, like his Yale colleagues, a defender of Brown, he did so on the basis of an originalist interpretation of the 14th Amendment. At that time, most of the liberal academy disdained originalism. This was not surprising, as conservative politicians and writers had denounced the Warren Court for creative innovations that could not be justified as fair readings of the Constitution. Several of his former Yale colleagues, including Fiss, testified against Bork. These were not to be the last Supreme Court confirmation hearings where Yale played a starring role.

Given a legal liberal consensus that stressed outcome over justification, Yale was becoming increasingly radical. Kalman argues that the law school emerged stronger from the turmoil of the late ’60s and early ’70s. The traditionally liberal faculty, who embraced free speech and reform causes but strongly opposed tactics and demands challenging their view of the legal academy’s mission, compromised with the student body’s radical elements. The resulting relaxed grading system made the school a less stressful place, but with the greater congeniality came a changed intellectual atmosphere.

Yale’s offspring were pushing the school’s heritage to an extreme. The understanding that outcomes came first, and explanations would be found thereafter, moved from being implicit to explicit. Although rationales were a practical necessity, it was easy for students to conclude that those were largely a matter of finding and manipulating whatever facts or arguments proved serviceable.

Consequently, Yale law graduates of the 1960s and ’70s were at the heart of the Critical Legal Studies movement, academic radicalism’s new frontier. One did not need to be a “crit” to move well to the left of Fiss. Pillars of Justice tells the stories of two young Yale faculty colleagues, Robert Cover and Arthur Leff, who shared the view that law was not objective, and that legal rules were about power, not neutral rules.

By this point the influence of Yale in legal academia had come to reflect its dominant U.S. News ranking. As growing numbers of professors holding both J.D.s and Ph.D.s joined the law faculty, often with joint appointments in academic disciplines. For a school where policy science and legal realism had long been central, the notion of “law and…” was natural.

In particular, the growing influence of postmodernism, multiculturalism, and race and gender-studies had an impact on how law was understood and taught. In Kalman’s The Strange Career of Legal Liberalism, where Fiss plays a major part, legal liberalism was becoming a relic, beloved only by the oldest faculty who, like Fiss, still revered the Warren Court. Left-wing academics had moved on. It is no wonder that so many of Fiss’s pillars of legal liberalism are not legal liberals. His was a dying breed.

Getting Results

For example, Catharine MacKinnon was a doctoral student in political science while also enrolled in law school. As Fiss relates, she began working on a paper that became Sexual Harassment of Working Women (1976), ushering in both enormous legal and cultural change. Her debt to Karl Marx was clear to classmates and, subsequently, her readers. As MacKinnon wrote in 1982, “Sexuality is to feminism what work is to Marxism: that which is most one’s own, yet most taken away.”

MacKinnon played a significant part in the evolution of workplace standards. Ironically, her work on sexual harassment and gender brought Yale Law School into the national spotlight again and again. Clarence Thomas and Anita Hill were both Yale Law alumni, as were many of the witnesses who figured in Thomas’s 1991 Supreme Court nomination hearings, such as Guido Calabresi and John N. Doggett III, as well as Judiciary Committee member Arlen Specter. MacKinnon’s concept of sexual harassment in the workplace created the drama’s legal framework, with allegations about sexual innuendo between a supervisor and a subordinate.

As Fiss points out in Pillars of Justice, Yale did not offer MacKinnon a tenured position after a stint as a visiting law professor in 1990, despite her consequential innovations. She ended up on the Michigan Law School faculty, and also became a long-time visiting professor at Harvard Law. (She is, however, on the board of the Yale Journal of Law and Feminism.) Yale had no class on law and gender until Fiss started a seminar on feminist legal theory. He was aided by a student, Reva Siegel, who later ended up a faculty member and a collaborator in subsequent books by MacKinnon. Although Fiss makes clear his sympathies with MacKinnon, he continues to disagree with her on the fundamental theoretical question of whether law can be objective, fair, and impartial. MacKinnon, who has devoted her career to action, with theory always in support of the desired result, is unabashedly interested in making the law work toward outcomes. When you believe that relationships, including sexual ones, are all about power, what matters is putting the force of law on the side of those who suffer for having too little of it.

MacKinnon loomed large over the law school in other ways. Its two most famous graduates, Bill and Hillary Clinton, both class of 1973, became the ultimate Yale Law power couple. Clinton was not the first president with a Yale J.D.; Gerald Ford had received one in 1941, and former president William Howard Taft became a law professor there in 1913. The Clintons, however, embodied the school’s emerging blend of legal liberalism, social science, and ’60s radicalism. The problem is that this blend included MacKinnon’s work on sexual harassment, the crux of Bill Clinton’s legal and political difficulties involving Paula Jones and Monica Lewinsky.
Here again, results took precedence over rules. Some of Clinton’s most ardent defenders were feminists who had no doubts that Clarence Thomas had harassed Anita Hill, and that his conduct was unforgivable. But because Thomas held the wrong view about Roe, and Clinton the right one, it became imperative for feminists to tolerate actions they would otherwise denounce as intolerable.

This awkward moral flexibility continued for 16 years, until Hillary Clinton’s astounding loss to Donald Trump. The diminishment of the Clintons’ usefulness to feminism and other progressive causes, combined with the rise of the #MeToo movement, coincided with a rapid reversion to denouncing sexual misconduct when the circumstances were more politically accommodating. In 2018, dramatic accusations and denials about sexual assault dominated the hearings over yet another Supreme Court nominee, Brett Kavanaugh, who graduated from Yale Law in 1990. In the back-and-forth over his treatment of women, Kavanaugh pointed to the many female clerks who had worked for him as a judge on the D.C. Circuit, a number of whom expressed their support for him.

In response, a sizeable part of the Yale Law community took the position that men “credibly” accused of sexual misconduct should—at least until determined otherwise—be passed over for consideration for vital public office (a fine distinction from guilty until proven innocent). This “rule,” a hazy standard, was deemed sufficient to effect the desired result: denying Kavanaugh, a conservative and Roe skeptic, a seat on the Supreme Court. Once again, Yale Law was at the forefront of both the cultural moment and the evolving legal arguments. The journalist famous for igniting #MeToo, Ronan Farrow, was a Yale Law grad, as was New Jersey Senator Cory Booker, prominent among the Judiciary Committee members attacking Kavanaugh.

A Choice to Make

The ascendency of Yale Law tracks deeper philosophical tensions. The legal liberalism at Yale, so beloved by Owen Fiss, was constantly at war with itself. On the one hand, it cultivated a careful, craftsmanlike devotion to understanding the legal decision-making process, and the value of adhering to that process. On the other hand, the hearts of the great majority of the faculty and most of the students longed to pursue whatever policy avenues and other methods were most favorable to enacting the Left’s evolving policy agenda.

One Yale Law professor, Samuel Moyn, has come full circle on the counter-majoritarian difficulty. Harking back to the days of Yale’s legal realists in the 1930s, he has recently written in the Boston Review that conservatives “stole the originally progressive talking point that we are experiencing government by judiciary.” The confirmation of Kavanaugh, he contends, created an “imperial judiciary” under “hard right-wing control.” Accordingly, he concludes, it is time “to stand up for reforms that will take the last word from the Court, so that it might someday ‘evolve into an advisory body.’” As the maelstrom generated at Yale over the Kavanaugh nomination shows, the ascendant belief is that law is the tool of powerful groups and classes. It is both fair and necessary for their victims to use it in whatever way will end their own subjugation.

Now the question is whether Yale Law School will allow political dispositions shared by most of its faculty and students to overwhelm completely its ability to entertain all points of view, including a willingness to deal honestly with complex, divisive issues. Despite its strong identification with legal liberalism, Yale has been a place that accommodated students with other viewpoints. It produced conservative Supreme Court Justices Clarence Thomas, Samuel Alito, and Brett Kavanaugh, a slew of right-of-center lower court judges, and the Federalist Society’s first chapter. Ominously, current Yale Law student Aaron Haviland, writing in the Federalist about the school’s decision to disallow stipends for students working at conservative public-interest firms, argues, “Progressive students are attempting to shrink the Overton Window of reasonable public discourse, and Yale seems all too willing to comply.”

Upon Kavanaugh’s nomination the current dean, Heather Gerken, admitted her admiration for him as a friend, teacher, student mentor, and for hiring a “diverse set of clerks.” She has sought to maintain the school’s equilibrium, appealing to its deeply held principles. The question, of course, is which of those principles will ultimately prevail. Fiss has argued for decades, ever since he was a young professor and I was one of his students, that no one had to choose between advancing the progressive cause and respecting the traditional understanding of the law. This choice cannot be evaded indefinitely. Sadly, it is becoming increasingly doubtful whether Yale will continue to see a distinction between law and policy—and respect the views of those who do.

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Some political thinkers hold that commerce may advance the national welfare but makes bad citizens. The pursuit of profit, in this view, indulges a narrow self-interest inimical to the public good. It produces citizens who would willingly trade dignity, their own and their country’s, for another dollar.

This view contrasts commercial egoism with republican virtue, which is willing to sacrifice self-interest to advance the common good. Martial virtues tend to predominate in the defense of liberty and independence, both personal and national. And because these virtues predominate, they preserve liberty and independence even as commercial republics lose theirs.

Utah State University political scientist Anthony A. Peacock rejects this critique. Or, more accurately, Peacock believes that Alexander Hamilton, John Jay, and James Madison reject it. In Vindicating the Commercial Republic: The Federalist on Union, Enterprise, and War, Peacock interprets The Federalist as an argument that national greatness and the commercial spirit work in tandem rather than at cross-purposes. Commercial republicanism manifests the restless energy that aspires to conquest and glory, but redirects it, channeling it into enterprise. Thus occupied, it better secures liberty and independence than the martial virtues do in societies dedicated to them. Even then, commercial republicanism need not trade away military readiness to achieve national prosperity. Rather, the spirit of commercial republicanism allows superior realization of martial virtues where and when needed.

Peacock makes three particularly significant arguments. First, American character in the commercial republic reflects strength, virtue, and energy. Second, the weakness of the national government under the Articles of Confederation diminished Americans’ liberty by allowing, and often necessitating, excessive restrictions on commercial activity. Third, the creation of a standing army better secures liberty, and promotes virtue and prosperity, relative to dependence on a system of citizen-soldiers organized in militias.

Concerning character, Peacock writes that Publius rejects any tradeoff between virtue and commerce. In the commercial republic, business promotes virtue, and vice versa. The Constitution encourages what Peacock terms a “virtue of enterprise,” reflecting a set of attainable, self-sustaining virtues. Among them, Peacock lists “[i]ndustry, innovation, economy, self-restraint, honesty, prudence, temperance, firmness, vigilance, and an appreciation for free, limited government constitutionalism.” The Constitution for Publius was “not only a political but a moral necessity.”

For Peacock, the virtues of classical republicanism would require government intervention in people’s lives exceeding the boundaries conducive to constitutionalism. The commercial republic cannot flourish unless government regulation and control are somewhat limited. But creating a larger national government, more energetic and powerful than the United States had known under the Articles of Confederation, would increase (paradoxically) Americans’ freedom. To take one important area, the Articles allowed but the Constitution prevented interstate protectionism, which inhibited commerce, prosperity, and the development of the commercial republic’s distinctive virtues.

Finally, in Peacock’s reading of Publius a national standing army would increase liberty, not decrease it. As with national regulation of commerce, placing monopoly control of the military in the hands of a single national government would reduce the threat of state- or regional-level conflicts among Americans. Furthermore, a standing army, unlike state militias, would free up men’s labor for production and commerce: professionals would fight better than amateurs, and the time amateurs devoted to training could instead be dedicated to production.

Peacock’s analysis of The Federalist is not merely historical. He seeks to vindicate the commercial republic for America today. Though this, too, is a worthy project, Peacock sometimes gives his reader cause to believe that he is ascribing his own views to Publius more than he is interpreting The Federalist. For example, he suggests that Madison in Federalist No. 10 sees the Constitution as a tool that would channel religious and political conflicts into economic conflict in order to “tame or devitalize” them. That goes beyond anything Madison actually says there. Similarly, in asserting that “Publius did not accept that self-sacrificing virtue could ever be the foundation of republican government,” Peacock draws the lines too starkly. After all, the commercial republic’s virtues require self-sacrifice as well, just not in the same degree as classical republicanism. It is difficult to believe the virtue of republican commercialism was intended to be as totalizing, and as foundational secular, as Peacock portrays.

So, too, the arguments in The Federalist regarding national jurisdiction over commerce and trade are more equivocal than Peacock suggests. State competition, for example, resulted in lower tariff revenues overall. Merging power over tariffs into a national government eliminated the tax-lowering state competitions and enabled the imposition of a higher effective tariff. Adam Smith’s analysis in The Wealth of Nations would hold that this result, on balance, hindered America’s economic development.

None of these observations detract from the many virtues of Vindicating the Commercial Republic. Peacock identifies a theme in The Federalist that too many scholars have ignored. Rereading Publius in light of the argument that the commercial republic is a positive good rather than a necessary compromise reveals significant insights previously ignored. I have no doubt that America would be better off—not only economically but politically and socially—if the entrepreneurial spirit Anthony Peacock identifies were renewed.

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Book Review by James R. Rogers

A Fistful of Dollars

The explosion of Adam Smith scholarship in the last two decades has generated new comprehension, but also more confusion. Readers have gotten to know Smith as a left-winger and right-winger, a thinker ancient and modern, radical and cautious.

Amidst this proliferation, Jesse Norman, a Conservative member of the British Parliament and author of the well-received book Edmund Burke: The First Conservative (2013), has produced Adam Smith: Father of Economics. His immediate goal is to refute those, Left and Right, who consider Smith a narrow advocate of self-interest and laissez-faire. Smith, Norman argues, is much more than an economist and his economics differs substantially from today’s highly abstract and mathematical academic discipline.

The idea that Smith is prudent rather than zealous is not a bold insight. What is distinctive about Norman’s interpretation is the way he applies Smith to 21st-century controversies. Anxious to absolve Smith from any responsibility for the 2008 global financial crisis, Norman argues for a free-market conservatism. Neo-liberalism is dead, he declares, an increasingly transparent apology for a crony capitalism that produces slow growth, increasing inequality, volatility, and popular resentment. What is needed is a new “master-narrative for our times,” grounded in a return to Adam Smith and the “dawn of our economic modernity.”

Like all Smith biographers, Norman faces the difficulty that his subject’s life was rather dull. He worked as a professor, tutor, and tax collector, discharging his duties diligently, successfully, and without scandal. He never married and lived most of his life with his mother.

If Smith’s life wasn’t interesting, his times were. Lowland Scotland was enjoying an extraordinary century, its economy booming, its universities and school system far superior to England’s. Smith’s closest friend, David Hume, became one of the world’s most eminent philosophers. The context for these developments was Britain’s attempt to consolidate its place as a world power, vanquishing France but then being thwarted by America’s colonists. Throughout his life Smith assessed the progress and upheaval taking place around him judiciously and dispassionately. Even when participating in events, he displayed the extraordinary equanimity befitting a “solitary philosopher,” as he described himself in a memorandum to the British government on the American Revolution.

Norman tells Smith’s life briskly and well, with a keen eye for political details. Along the way, he argues that Smith’s overarching project was a “science of man” that could take its place alongside Newton’s science of nature, a “unified and general account of human life in its major aspects” that would be a “naturalistic, empirical theory.” Smith did not—and, Norman ventures, probably could not—complete the project. What he left us with was a book on moral theory, another on political economy, and some shorter but provocative writings on science, the arts, and the origin of language.

Norman identifies two controlling ideas that undergird Smith’s ambitious project. The first is a radical egalitarianism. What differences we see between “a philosopher and a common street porter,” Smith argues, are due to education rather than nature. According to Norman, Smith “appears to have disliked hierarchy in any form,” a dislike that showed itself in his attacks on restrictive guild and apprentice laws, feudalism, imperialism, mercantile special interests, and capitalists’ collusion against workers.

The other crucial tenet is that human life progresses through a process of evolution. Smith was a proto-Darwinian: repeated iterations lead to change and gradual improvement. (Darwin did indeed read Smith carefully.) In Smith’s evolutionary story, the struggle for
survival is replaced, in most cases, by incentives built into greater economic efficiency and a more complex cultural life. Norman considers The Theory of Moral Sentiments a work of social psychology explaining how moral norms emerge out of repeated interactions between human beings seeking approval. It is “not first and foremost a work of moral philosophy” in the Kantian mold. Similarly, The Wealth of Nations is not an “economic textbook” but one about “economic processes and economic development.” Smith’s blistering attack on mercantilism stems from his belief that it distorts the natural process of economic development, creating both inefficiencies and injustice.

Had Norman stopped here he would have written one of the better short introductions to Adam Smith’s life and work. He aspires to more, however, attempting to ground a new free-market conservatism in Smith’s thought. The argument meanders through a history of economic thinking, an assessment of recent economic developments—especially the crash of 2008—and a critique of neoliberalism. In the process, we become less clear about Smith’s thinking without necessarily becoming clearer about Normans.

He does have interesting and important things to say, showing for example that Smith often anticipated recent findings in behavioral economics, neuroscience, and experimental economics. He also makes clear that Smith’s “followers” deviate from his broad vision of political economy. Mainstream economics became increasingly abstract, both in terms of its substance (the behavior of homo economicus) and presentation (mathematical models). Growing hubris went along with these developments. Some thought that markets could never be wrong, others that they could correct for every market failure, real or imagined.

Norman is on his firmest ground in exonerating Smith from responsibility for the 2008 crisis. The banking and finance sectors were exceptional for Smith, who treated the way that money deceives us as a great theme in Wealth of Nations. When coupled with our propensity to overrate our chances of success, an observation that Smith shares with today’s behavioral economists, such delusions are apt to lead us to ruin. Thus, he favored regulations that restricted access to credit by the poor, enforcing measures designed to keep banks from over-lending, and even a maximum rate of interest to channel investments away from “projectors” and into the hands of the “sober.” One can only imagine the prudent Scotsman’s horror at the thought of a no-down-payment, no-documentation mortgage loan.

From this exception Norman draws a very interesting general point: not all markets are the same. Each has its own history, legal requirements, and purposes. Markets do not exhibit the uniform equilibrium-seeking processes described in textbooks. Expanding on this axiom, Norman argues that because of asymmetries of power and information, not just the financial sector but high tech, social media, and utilities now all require government intervention, as do the problems of inequality and climate change. He justifies this regulative tilt in terms of the need to overthrow crony capitalism and the neoliberal ideology on which it was built.

Norman’s argument is problematic in two ways, one intellectual, the other political. First, it’s one thing to say that Adam Smith is not Milton Friedman but quite another to say that he is not Adam Smith. Concluding his chapter on banking, Smith remarks that once a small number of regulations are in place, the banks “may, with safety to the public, be rendered in all other respects perfectly free.” His overall message is the superiority of competition to regulation, even in sensitive areas such as the grain trade and foreign trade.

Norman doesn’t think much of Smith’s “invisible hand,” mentioned just once in The Wealth of Nations’ 900 pages. He concludes that “there is no theory of the invisible hand as such in Smith’s work.” Yet Smith follows up his one mention with a crucial explanatory statement: “What is the species of domestic industry which his capital can employ, and of which the produce is likely to be of the greatest value, every individual, it is evident, can, in his local situation, judge much better than any statesman or lawyer can do for him.” This thought, running through the entire Wealth of Nations, constitutes a powerful argument for markets and explains how the “system of natural liberty” promotes the common good.

The second problem is that Norman’s narrative seems to have been overtaken by events. The outrage at crony capitalism now comes from a nationalist and populist direction. Aware of these trends, he interprets Smith as posing an alternative version of their antipathy to neoliberalism. The resulting argument shows more fervor than discernment. Was neoliberalism, outside of some parts of academia and among libertarians, ever the monolithic, totalizing ideology Norman would have us believe? Who has ever met a neoliberal who self-describes as a neoliberal? Were Ronald Reagan and Tony Blair really members of the same economic church?

Jesse Norman has posed vital questions in a way politicians rarely do. And no one ever loses by reading Adam Smith. But Norman’s free-market conservatism is irresolute and vague. Contrast his with Margaret Thatcher’s famous closing argument, “There is no alternative.” Norman’s conservatism invites many alternatives and endless qualifications.

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Book Review by B.N. Queenan

DESTINY AND DNA

She Has Her Mother’s Laugh: The Powers, Perversions, and Potential of Heredity,
by Carl Zimmer. Dutton, 672 pages, $30

Blueprint: How DNA Makes Us Who We Are, by Robert Plomin.
MIT Press, 280 pages, $27.95

In 1856, a failed priest-botanist painted a picture in seven dimensions. It was a picture of a plant; more specifically, the mathematical nature of a plant. Capturing this plant’s nature required answering seven questions—three on color and one each on height, shape, location, and texture. Each question had only two possible answers: green or yellow, purple or white, tall or short, smooth or wrinkled, near or far, big or small.

This Cubist conceptualization of botany is the backbone of modern genetics. The multi-dimensional picture is the plant’s phenotype, its set of observable traits. Traits are controlled by genes, which come in one of two forms (alleles). Alleles combine with certain probabilities that can be calculated using neat little (Punnett) squares. Father Gregor Mendel’s avant-garde description of the pea plant is now taught as an elementary exercise in fractions.

A genetics student finds nothing shocking about this picture, just as an art student wanders past Picasso’s Les Demoiselles d’Avignon without being scandalized. Yet Mendel’s picture should dazzle and horrify. The seven features he selected seem innocuous—textures and colors of seeds and flowers and pods. Each carefully hand-selected trait, however, unlocks an additional dimension: time. These particular traits offer a vantage point from which you can watch the life of a plant unfolding, a botanical Nude Descending a Staircase.

Just as Isaac Newton and Gottfried Leibniz’s calculus formally related an object’s present motion to its past and future motion, Mendel’s fractions formally related an organism’s present nature to its past and future nature. In some cases, there is a direct correspondence between traits and the genes which produce them. Genes hold information about a living thing’s past, its present, and the future of its offspring. The world has not yet come to terms with this branch of mathematics. “What Mendel discovered,” writes Carl Zimmer in She Has Her Mother’s Laugh, “was not a law so much as a battleground.”

The science of heredity is, indeed, a battleground, and the weapons of war have just gotten a lot more powerful. We’ve entered an era in which we can read and edit our genetic material on demand. Genomes can be sequenced and rewritten, quickly and cheaply—though not always well. This technological shift is just beginning to transform the scientific and social landscape.
The ability to do good, the capacity to do evil, and the opportunity to mess things up spectacularly are all much, much greater than before. It’s an excellent time to talk about what our genetic information can and should be used for.

Journalist Zimmer's *The Killer Angels* and psychologist Robert Plomin's *Blueprint* are both timely responses to these recent technological developments in human genetics. However, Zimmer and Plomin are two very different types of military historians.

She has her mother's laugh is a sprawling, intricate, at times heartrending account of the various botched and brilliant attempts to establish the laws of heredity. In the literary tradition of Barbara Tuchman's *The Gunfight at O.K. Corral* (1962), Michael Shaara's *The Killer Angels* (1974), or Siddhartha Mukherjee's *The Emperor of All Maladies* (2010), Zimmer’s book interweaves stories of the individuals who have fought and are still fighting the battle—from scientists, soldiers, and statesmen to patients, physicians, and parents.

The biological actors get their own narratives as well—cells and chromosomes become compelling characters. Zimmer's best moment in this respect comes when explaining the "laughably baroque" process of certain cell divisions. When a cell divides, it performs a miracle akin to Jesus feeding the multitude: from one cell with one set of genetic material arise two. The elaborate cellular square-dance by which DNA is replicated, packaged, and distributed into two new cells is known as mitosis. However, sometimes cells orchestrate an even stranger courting dance—meiosis. In this scenario, the original cell doubles once but divides twice. The resulting cells are left impotent, with only half the genetic material needed to function properly.

As a young biology student, I was catastrophically confused about the difference between mitosis and meiosis. Zimmer's book made me feel considerably better about this confusion: “The biologist Laurence Hurst once wrote that meiosis takes place 'in a manner reminiscent of drunkards returning from an evening's revelry: one step backwards, two steps forward.” Zimmer transforms the clumsy footnote, enumerating how “this strange stumbling is also responsible for heredity's most elegant patterns.”

Living things pass on genetic information to their descendants—but 'descendant' means a different thing to different creatures. Viruses have genetic material, but cannot make more of themselves directly. They must infect another cell to replicate: “When it comes to viruses, heredity is almost an abstraction. They have no material bond to their ancestors, since all the atoms in a new virus come from the host cell where it formed.” Bacteria have a slightly different family situation—they can make more bacteria, but, in so doing, they cease to be. "For microbes... their ancestors vanish.” When a bacterial cell divides, it destroys itself, splitting into two new bacteria.

**Cells in our bodies regularly undergo the same mitotic divisions as bacteria, doubling and splitting to make two new cells. Certain cells, however, undergo meiosis, making seemingly incomplete 'germ cells'—better known as eggs and sperm. The extra fission event gives these cells the ability to later fuse, forming a new cell with a genetic identity distinct from either of its ancestors. The apparent stinginess of meiosis, the petulant refusal to share all of one's genetic material, makes it possible for us to raise our children rather than become them. Because of this process of non-destructive replication, "[w]e humans can have the opportunity to get to know our parents.'

Zimmer’s book leaves the reader reeling from the cleverness and complexity of biological systems. Our bodies are mosaics of different cells and chimeras—different cells contain different genomes. Even cells with identical genomes can suppress their genetic nature—through epigenetic espionage or chromosomal silencing. The environment—especially early life exposure to toxins, starvation, or stress—can determine which of our genes see the light of day. There are more things in the laws of heredity than were dreamt of in Mendel's philosophy.

We now know that Mendel's math works only when there is a direct correspondence between a gene and a trait. Mendel selected situations in which the relationship between the two could be measured, understood, and ultimately predicted using simple fractions. In humans, there are certain diseases which can be traced back to a specific gene: cystic fibrosis, hemophilia, and Huntington's disease among them. Very few human "traits," however, map directly onto a single gene. There is no one gene for height or weight, sense of humor or attractiveness, athleticism, creativity, intelligence, or anything else you might put on a dating profile. Mendel's mathematics was a brilliant first approximation, but the reality of the situation is far more complex—in peas and people.

If a nuanced, literary approach to the complex science of human heredity isn't your style, Plomin's *Blueprint* might be right up your alley. *Blueprint* is a self- admitted sales pitch about a new fortune-telling device that promises to transform our understanding of ourselves and our life trajectories.” The author promises "a novel perspective on equal opportunity, social mobility and the structure of society" based on the findings of behavioral genetics. Sadly, there is nothing novel here. The book is a rambling, entirely predictable rebranding of determinism with a few charts, numbers, and DNA base pairs thrown in.

Plomin has made a career of looking at siblings—in particular, twins. "[T]wins are a biological experiment," he says, "a gift to science." Twins are grown by the same scientist (the mother), at the same time, under the same conditions, within the same environment. Identical twins have the same genes; fraternal twins do not. If twins are raised apart—something which evidently happens often enough to power a career—the role of the parent can be removed from the experiment, allowing one to distinguish between nature (genes) and nurture (environment).

By studying twins reared together or apart, Plomin has found that genetically similar people are similar in other respects. If your twin is tall, you are more likely to be tall. If your twin is a bad student, you are more likely to be a bad student. If your twin develops Alzheimer's, you are more likely to develop Alzheimer's. Genes matter, for anyone who hasn't been paying attention for the last century or so.

Plomin wants you to believe he can look at your DNA, use some high-school statistics to calculate your "polygenic score," and thereby "tell [y]our genetic fortunes." This assertion is, at best, naïve and, at worst, deliberately misleading. By far the best chapter in the book, "Gene-hunting," is a history of the failed attempts to find the genes that explain the mind. Even armed with a complete knowledge of every single base pair in your genome, we cannot (yet) tell you exactly how your body and mind will behave. Because this wouldn't sell books, *Blueprint* is based entirely on 'heritability,' a statistic with which Plomin bludgeons the reader. Heritability relates genes to traits numerically in a way that refuses to answer the question everyone wants answered.

In statistics, data are often described using two measurements: one capturing magnitude, one messiness. A group of people might be on
“Clausing’s comprehensive but crystal-clear new book shows that ‘the fault lies not in our stars, but in ourselves’; if only the political will is there, national policy can harness globalization as a force for inclusive growth. This is a message that thoughtful citizens of every political stripe need to absorb.”

—Maurice Obstfeld, University of California, Berkeley, and former Chief Economist, International Monetary Fund

“Rachel Barkow powerfully argues that the only way to end mass incarceration is to transform how criminal law is made. Instead of fear-driven anecdotes and popular politics, we need law based on reliable data, expert agencies, constrained prosecutors, and judges who were once public defenders. If you care, as I do, about disrupting the perverse politics of criminal justice, there is no better place to start than Prisoners of Politics.”

—James Forman, Jr., Pulitzer Prize–winning author of Locking Up Our Own

“After changing how we think about the U.S. Constitution, Bruce Ackerman is doing the same for the rest of the world. This volume is a remarkable start for what is certain to become one of the most ambitious endeavors in constitutional scholarship: to understand the different beginnings of constitutionalism in the world.”

—Miguel Poiares Maduro, European University Institute

—Belknap Press
average five feet tall (magnitude) plus or minus a couple inches (messiness). A reasonable person would ask how genes correspond to height's magnitude. 'Heritability' does not relate genes to the trait's magnitude; it relates the trait's messiness to the messiness of genes. It is a number which estimates what's left for genes to do once the environment and random chance have taken their toll. A trait (e.g., height) can be highly heritable, but that doesn't mean we can look at your genes and tell you how tall you'll become. Without such predictive power, this statistic is effectively useless. If you want to make sure a child grows up to be short, starve them. No need to bring genetics into this.

For the most part, genetics doesn't enter Blueprint. DNA gets its first formal introduction on page 109, accompanied by an apology "if this chapter occasionally seems like a biology lesson." As a biologist, I can tell you, it does not. Within ten furious pages, Plomin mangles the history of genetics, blows past the ethics of CRISPR gene-editing technologies, uses a discussion of polymorphisms to set up a fat joke, and makes the book's first and only passing reference to the major genetic interface between nature and nurture (in parentheses).

Throughout, he persistently overlooks or obscures the interesting and important relationships among genes, the environment, and human experience. The environment can alter our traits without altering our genes, and these alterations can be passed on to descendants. It's a fascinating phenomenon called epigenetics, though you will not find the book's first and only passing reference to it in the index. In Blueprint, a self-described behavioral geneticist spends 200 pages bulldozing a path from genes to heritable human traits without acknowledging the biological mechanisms of circumventing this route. This is also a fascinating phenomenon. Blueprint suffers from a lack of mathematical, genetic, or neuroscientific sophistication which makes it hard to take seriously from any scientific perspective. From a lifetime of work, Plomin has concluded that identical twins are more identical than non-identical twins and other siblings. Now, his "goal is to tell the truth as I see it, without pulling punches for the sake of perceived political correctness." That truth boils down to "genetic essentialism," the notion that we have certain essential characteristics that make us us, that these characteristics can be found in our DNA, and that there's nothing we can do about it—so we might as well accept it and move on. Plomin is then off to the races, dismissing the roles of parents, schools, the environment, traumatic life events, and whatever else is on hand. He intends to provoke. This is an issue, however, where no provocation is needed. In the history of human genetics, the main theater of war is well-established: the Intelligence Front. The battle to establish a biological basis for human intelligence, by any means necessary, is far older than genetics itself. Blueprint is an important reminder that all is not quiet on this front. As we all know, correlation does not imply causation. But Plomin has built a career on correlations. He should know better than anyone there's a suspicious association between the tendency to perpetrate industrial-scale atrocities and the tendency to misrepresent the heritability of human minds.

Almost all the arguments in Blueprint are well known, predating gene sequencing, big data, brain imaging, and behavioral genetics. The arguments can be and have been dismissed using op-eds, speeches, and studies written a century ago, many of which are outlined in Zimmer's book. The American eugenics movement of the early 20th century was characterized by precisely the same combination of statistical dishonesty, shoddy science, and lack of social nuance. Most of the arguments in Blueprint would simply be laughable—except eugenics isn't all that funny. Neither Blueprint nor She Has Her Mother's Laugh will make you a card-carrying geneticist, just as no military history can make you a soldier or general. The books will, however, lead to vastly different conversations at dinner parties on society's best strategy now that the weapons of genetic war have gotten more dangerous.

Blueprint may lead you to conclude that behavioral genetics is the most recent rebranding of the eugenics movement, or that some of its practitioners are, at best, woefully naive about their own ancestral origins. Regardless, you'll emerge with the conviction that we should teach people history, genetics, and math properly.

She Has Her Mother's Laugh will provide you with an endless series of anecdotes with which to regale dinner guests. You will find stories to prove that scientists are idiots and also geniuses, that they give up too quickly and are too stuck in their ways, that they are ushering in the apocalypse and that they are our only hope.

I can tell you what these books contain, but I cannot tell you how your dinner conversation will unfold. Similarly, a geneticist can tell you the contents of your genome, but not how your life will unfold. The mathematics of heredity does not predict which genes inevitably lead to which human realities, because human realities are shaped by more than genes.

DNA is not a blueprint. A blueprint faithfully maps out each part of an envisioned structure. Unlike a battlefield or a building, our bodies and minds are not static structures constructed to specification. Identical twins may have identical genomes, but they are not the same person, they do not have the same minds, and they will not live the same life, regardless of whether they are ripped from each other.

It is more appropriate to think of DNA as the military-industrial complex of a cell or an organism. Your DNA is the arsenal of tactics, strategies, industries, weapons, and resources accumulated by your ancestors as they struggled to survive against random chance and a hostile, unpredictable environment. Regardless of how they went about doing it, every one of your ancestors managed to survive just long enough to produce you. You have inherited a unique set of capabilities, cobbled together within and across lifetimes, based on past experiences which may or may not be relevant to you now. Your ancestors did not give you a blueprint from which to build the ship they envisioned. They gave you the ability to draw your own blueprint and build the ship you envision.

Just like any weapon or resource, you will use your genetic arsenal as you see fit, based on the circumstances in which you find yourself. I'm sure your ancestors would be fascinated to see what you do with the tools they've provided. But they didn't know what you would encounter. They didn't know what you might need. The world in which they lived is not the one in which you live. Heredity, the American botanist Luther Burbank once declared, "is only the sum of all past environments." For now, the future is still up to us.

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FIVE YEARS INTO A LIFE SENTENCE FOR a gang initiation murder, Jessie Con-ui murdered a prison guard. A videotape of the crime, played at Con-ui’s trial, showed him pausing, in the course of stabbing the victim 200 times, to wash his hands and remove a gum packet from the dying guard’s shirt pocket. According to newspaper accounts, Con-ui’s confessed motive for the crime was that the guard had “disrespected” him by searching his cell. Another inmate testified that Con-ui planned the killing to provoke a transfer to a cushier prison. Charged with and convicted of murder, Con-ui escaped a death sentence because one juror “felt bad” for Con-ui’s mother and told others in deliberations, “There’s enough bad things in the world the way it is, and I can’t see taking a life.”

Why does America bother to retain the death penalty? In Con-ui’s case it’s hard to say what box wasn’t checked justifying a death sentence, if ever a crime warrants death. Doubts about guilt or the offense’s gravity? None. Concerns that the defendant’s judgment was impaired by drugs or alcohol? None. Questions about whether the murder was aberrant and not reflective of the defendant’s character? None. There were, of course, “mitigating” factors, vented elaborately at the sentencing hearing—a deprived childhood and a father who sometimes made the defendant sleep in a car. But prosecutors reviewing Con-ui’s verdict must wonder, even when confronted with the most heinous crimes, whether pursuing a capital sentence is worth the expense.

And expensive it is. Prosecutors must prepare for two trials—first on guilt, and then on what is infelicitously denominated “death-eligibility.” Byzantine rules, crafted over four decades of Supreme Court opinions, specify which “aggravating factors” transform the ordinarily horrible murder into an especially horrible “death-eligible” murder. Enter the parade of witnesses, including sobbing kin of the victim. Then come the defense witnesses, summoned by skillful counsel (well-funded, at state expense) gesturing at inchoate “mitigating factors” that return the murder to the category of the ordinarily horrible. Almost all states now demand a unanimous jury verdict on the question of “death-eligibility.”

Assume that a unanimous jury returns a death sentence and the trial judge ratifies it.
Decades of appeals, petitions, and emergency motions follow. The condemned does not lack for advocates. Countless law firms and schools enlist eager associates and students, all acting, as it’s optimistically said, “pro bono publico.” In some jurisdictions, judges in capital cases are liberated from any trammeling notions of judicial duty—i.e., to follow the law. In one escape, the Ninth Circuit Court of Appeals invalidated a death sentence on the premise that the condemned man had a First Amendment right to know the dosage of the poisons the state intended to administer. The claim baffled Supreme Court Justices otherwise disposed to sympathize with almost any argument raised by capital defendants.

Jump forward about 20 years. The legal hurdles have all, improbably, been surmounted, and the day of execution has arrived. How hard is it to end a human life? For centuries, hanging was deemed adequate, with guidelines on rope diameter and length, calibrated to the condemned man’s weight, to ensure the neck snaps without severing the head. But over the course of the 20th century hanging was rejected as barbaric and unscientific. Electrocution emerged as the modern answer—so that witnesses are not overly alarmed. In particular, the use of a muscle relaxant ensures the condemned doesn’t startle observers by spasming. As a journalist present at many executions observed, the final act is “so clinical as to be anticlimactic.” The impulse to mask an execution’s brutal nature—the culmination of decades of agonized equivocation—strengthens the suspicion that 21st-century America lacks the will to perform the act at all.

The End of History

In 1989 political scientist Francis Fukuyama wrote that the close of the Cold War probably marked “the end of history”—the fulfillment of “mankind’s ideological evolution and the universalization of Western liberal democracy as the final form of human government.” A defining aspect of this soon-to-be universal civilization was the recognition of a common humanity, which entailed “the spread of compassion, and a steadily decreasing tolerance for violence, death, and suffering. This comes to light, for example, in the gradual disappearance of capital punishment among developed countries.”

In Europe, Fukuyama’s account—both as description and prediction—has been borne out. The last execution on western European soil occurred in 1977, when France deployed its guillotine on a Tunisian-born murderer. Several countries in central and eastern Europe persisted in applying the death penalty through the 1990s, but today only outcasts Belarus retains capital punishment.

Miscellaneous and redundant European Union conventions have codified the death penalty’s abolition. The E.U. has also been at the forefront of pressuring nations worldwide to abolish capital punishment. Any country, however obscure and wracked by terrorism and violent crime, which imposes a single death sentence can expect criticism from an E.U. functionary. When, in January 2018, the Israeli Knesset voted preliminarily to authorize capital punishment for convicted terrorists, the E.U. Delegation to the State of Israel promptly criticized the move in a tweet that intoned, “The death penalty is incompatible with human dignity.” And when, in July 2018, the president of Sri Lanka intimated that he was open to ending his nation’s 42-year moratorium on the death penalty, the E.U. threatened to withdraw the tiny island nation’s favored trade status.

J ust four years after Fukuyama published The End of History, Harvard’s Samuel Huntington countered with The Clash of Civilizations and the Remaking of World Order (1996). For Huntington, mankind remained, and for the foreseeable future would continue to remain, stalled in history. He saw the world divided among competing civilizations, rooted in different pasts, valuing incommensurable principles. To think these civilizations were destined to embrace the European Convention on Human Rights as the pinnacle of human existence, wrote Huntington (quoting British historian Arnold Toynbee), reflects the “egocentric illusions” and “impertinence of the West.”

One curious aspect of Fukuyama’s argument is that although he anticipated this development, he did not embrace it unreservedly. He sprinkles his book The End of History and the Last Man (1992) with quotations from Alexis de Tocqueville, Friedrich Nietzsche, and C.S. Lewis, all of whom looked with horror at Nietzsche’s “last men” and Lewis’s “men without chests” who, stripped of spiritedness, are “incessantly endeavoring to procure the petty and paltry pleasures with which they glut their lives,” as Tocqueville put it. A similar note was struck by Walter Berns in his polemic defending the death penalty, For Capital Punishment (1979), at a time when the practice had almost ceased. Berns despairingly invoked Nietzsche’s critique of the “pathologically soft” last man: “There is a point in the history of society when it becomes so pathologically soft and tender that among other things it sides even with those who harm it, criminals, and does this quite sincerely and honestly.” For Berns, only a decline in spirited moral indignation, and squeamishness about—even aversion to—punishing criminals, could explain the apparent direction of American attitudes towards the death penalty.

Books discussed in this essay:

The End of History and the Last Man, by Francis Fukuyama. Free Press, 418 pages, $18 (paper)


The Clash of Civilizations and the Remaking of World Order, by Samuel P. Huntington. Simon & Schuster, 368 pages, $18 (paper)
Two civilizations—the Sinic and Japane-se—show no movement toward abolition. For China, exact numbers are impossible to come by, but it is likely the country executes between 2,000 and 4,000 people each year. And Japan is a persistent embarrassment to those who portray America's attachment to the death penalty as unique in the "indus-trialized” or "civilized” world. From 2012 to 2017 Japan executed between three and eight people each year, which means that per num-ber of homicides, the Japanese execution rate exceeds that of the United States. Moreover, in July 2018, with little forewarning, Japan ex-ecuted 13 people, all associated with the 1995 sarin gas attack.

The Islamic civilization is difficult to characterize. Those inclined to see Western trends focus on smaller, more moderate coun-tries such as Morocco, which hasn't executed anyone since 1993, or Indonesia—with the world’s largest Muslim population—which hasn't executed anyone in two years. Con-versely, two of the most influential Muslim nations, Iran and Saudi Arabia, continue to employ capital punishment at high levels (300-800 per year in Iran, 50-150 per year in Saudi Arabia). Pakistan, the second-largest Muslim country, emphatically restored capi-tal punishment in the aftermath of the 2014 Peshawar massacre. An even more cautionary story, for those optimistic about abolitionism in the Islamic world, is that of Jordan. In 2005 King Abdullah II announced that “in coordi-nation with the European Union” he antic-vars the country would become the first Middle Eastern nation to abolish the death penalty. Yet after a moratorium of several years, Jor-dan restored the death penalty in 2014 amid concerns about terrorism.

The Hindu and Buddhist civilizations also supply evidence for both the Fukuyama and Huntington theses. On the one hand, the leading countries in each civilization—In-dia and Thailand—have executed a total of only four people between 2010 and 2018. On the other hand, both countries regularly issue death sentences, which have widespread public support. A 2018 poll published in the Bangkok Post found that 92% of Thais desired to retain the penalty, and India has witnessed a resurgence in interest in retaining and even expanding capital punishment after a series of highly publicized child rape cases. More broadly, any claim that these civilizations are converging on Western secularism, with its gentler punishment practices, fails to ac-knowledge the resurgence of militant Hindu-ism in India and militant Buddhism in Sri Lanka and Myanmar—developments Hun-tington predicted and which point to a per-sistent division of the world into competing civilizations.

The African civilization is touted by Am-nesty International and other Western ob-servers as a success story for death-penalty abolitionism, with roughly three quarters of its countries abandoning capital punishment. Yet there are significant outliers. Nigeria, the continent’s most populous nation, has over 2,000 people on death row. Although Nigeria hasn’t conducted any executions recently, its courts hand out hundreds of death sentences every year, and the country’s president has re-peatedly spurned Western criticisms of this practice. Furthermore, it is unclear whether the abolition of the death penalty, where it has occurred in Africa, reflects a shift in at-titudes towards human rights.

Both Latin American and Orthodox civili-zations have been hailed as either exclusively or overwhelmingly abolitionist. With respect to Latin American countries, however, the governments’ repudiation of the death pen-alty coexists with astonishing levels of violence: Latin America contains 17 of the 20 nations in the world with the highest homicide rates. Abolitionists indefatigably promote the con-tested claim that “the death penalty does not deter,” but, confronted with a national homicide rate five times that of the United States, Jair Bolsonaro, Brazil’s president since Janu-ary, campaigned on a promise to restore capi-tal punishment. There can be little confidence that Latin America will remain abolitionist in the face of violent crime rates that are mul-tiples of those experienced in the West.

All Orthodox countries (except the afore-mentioned Belarus) are abolitionist and praised as such by Amnesty International. Consider, in this regard, the chastening re-minder of one Orthodox leader to his Amer-i-can counterparts that the death penalty is nothing more than “vengeance on the part of the state.” It is a remark that could easily have been uttered by any E.U. bureaucrat, and suggests this leader has wholeheartedly em-braced the E.U. understanding of punishment practices. His name? Vladimir Putin.

Do non-Western leaders par-tot the language of abolitionism to virtue-signal to, and secure finan-cial aid from, the European Union (or in Putin’s case, simply to tweak the United States) rather than out of genuine agreement about underlying principles? If so, how long will non-Western nations continue this charade? Huntington emphasizes that population and wealth trends point dramatically in favor of non-Western civilizations. According to PricewaterhouseCoopers projections for the year 2050, Thailand will have a larger GNP than Spain, Russia will have a larger GNP than every European nation, and the 27 na-tions that constitute the European Union will, collectively, have a GNP of only 60% that of India and 40% that of China. In such a world, will non-Western countries grovel before the European Union and pretend to aspirations—such as death penalty abolitionism—that they do not share?

When viewed in Huntington’s framework, reports of capital punishment’s death in the non-Western world are greatly exaggerated. The success of abolitionism is contingent on continuing Western power and influence, which are likely waning, and declining rates of terrorism and domestic violence, concern-ing which no confidence is warranted.

Even in what Huntington calls Western civilization, abolitionist trends may not be as durable as advertised. Western elites regu-larly underestimate public support for capital punishment. When, in 2015, Supreme Court Justices Stephen Breyer and Ruth Bader Ginsburg mused that “the death penalty is dying away” and that “a majority of Ameri-cans” reject capital punishment, Justice An-tonin Scalia astutely responded: “Welcome to Groundhog Day.” We have indeed been here before. In 1972, in the course of deliberations in the case Furman v. Georgia, Justices Potter Stewart and Byron White wondered whether “capital punishment...has, for all practical pur-poses, run its course.” Yet within two years of the Furman decision’s imposing a moratorium on capital punishment, 35 states re- enacted death penalty statutes.

In 2016, death penalty referenda appeared on three state ballots. In Oklahoma, voters re-jected an effort to repeal the death penalty by a two to one margin. In Nebraska, the margin was 60% to 40%. Remarkably, the result in California was nearly the same: 53% to 47%.

European elites have been more effective than their American counterparts in transform-ing criminal punishment practices. But their success may simply prove that Europe-
A political system are more undemocratic than those of America. After West Germany abolished capital punishment in 1949, Justice Minister Thomas Dehler was forthright: “I say in all clarity: I do not care about the people's conviction, that is, the opinion of the man on the street.” He subsequently suggested that those in favor of the death penalty were so because of “genetically inherited” dispositions.

The elitist, morally crusading aspect to much of the Western abolitionist movement calls to mind one of Huntington’s last contributions to understanding the modern world—the “Davos Man.” Introduced in his essay “Dead Souls: The Denationalization of the American Elite,” and expanded upon in later writings, Davos Man—who takes his name from the town in the Swiss Alps where the World Economic Forum meets—is distinguished by his cosmopolitan attachment to the Enlightenment’s abstract ideals, rather than to the nation state of his birth. Huntington spelled out the implications of this belief system for Davos Man’s views on international trade (no tariffs) and immigration (open borders); but Davos Culture cosmopolitanism doubtless generates, or at least corresponds with, certain attitudes towards criminal punishment. The impulse to punish, rooted in a spirited and vengeful defense of one’s community, is atrophied in Davos Man.

In his world view, past wrongs are dead weight of their universal pretensions.” However weighty Man—who takes his name from the town in Huntington calls the “hypocrisy and double costly, with few easily discernible benefits, he discards as a hopeless atavism.

Many non-Westerners are struck by what Huntington calls the “hypocrisy and double standards” of Westerners, which is the “price of [their] universal pretensions.” However weighty the arguments for abolishing the death penalty, at least in the peaceful and lawyered Western world, it is odd that Davos Man demands this reform in nations that are not his home and where conditions are inconceivably different from those that predominate in the West.

April 15, 2013, marked the 117th running of the Boston Marathon, a celebration of one of Western civilization’s iconic victories. At 2:49 p.m., near the finish line, two makeshift bombs were detonated, shattering the festivities and killing three people. Within days, the culprits—Chechen brothers, fueled by anger toward the West—were tracked down, one dead and one alive.

President Obama’s Justice Department pursued the death penalty against the surviving brother, Dzhokhar Tsarnaev. The decision was controversial, as the last execution in Massachusetts had occurred over 60 years earlier. Tsarnaev’s guilt was easily proven, but difficulties arose at the sentencing phase. He had a team of five experienced defense lawyers. Among the witnesses summoned on his behalf was Helen Prejean, a globe-trotting Catholic nun and death penalty abolitionist. She testified Tsarnaev was “absolutely sincere” in his plea for forgiveness.

The prosecutors had to cross-examine a witness likely viewed sympathetically by the predominantly Catholic jury. The Boston-based prosecutor began as follows:

Q. Sister, you’re not based in Massachusetts, are you?
A. Correct.
Q. You don’t live here?
A. No.

Q. And your order is not located here?
A. Some—sisters are related in different branches, so some of our cousin sisters of St. Joseph are here.
Q. But not you?
A. But not me.

The best cross-examinations plant an idea and rouse the listener to draw out a chain of reasoning. The cross-examination of Sister Prejean invited the following thought in the jurors: You are not from the community that was devastated by this crime. You just jet around where you have no business. Who are you to lecture us about the sincerity of the defendant? With four questions, Sister Prejean was transformed in the eyes of the jurors from a kindly nun to a sanctimonious outsider. The jury unanimously voted death.

It is unlikely that Tsarnaev will ever be executed. In the decades of appeals that have just begun, some legal error, however trivial, will be identified. Nonetheless, the answer to the question that introduced this article seems to be: Americans retain the death penalty because a sizable number think it sometimes just and necessary. Ours may be an agonized retention of capital punishment, but perhaps the emphasis should be laid not so much on the agony as on the retention. Despite the contempt for the retentionist view expressed by proper-thinking people, many Americans (and Japanese, Chinese, Muslims, Hindus, and even a few Europeans) remain un persuaded by the abolitionist argument.

It is possible that at some future date the world will be so prosperously harmonious that all of humanity will reject capital punishment. Until then, as long as we remain mired in the violence and civilizational conflict of history, the resolve to punish and even execute those who have wronged our community will likely remain a testament to human spiritedness.

The evidence suggests that the death penalty is far from dead.

Craig S. Lerner is a professor at George Mason University’s Antonin Scalia Law School,
The issues that concern Jacob Howland in *Glaucon’s Fate* are these: "Is [Plato’s] Republic primarily a work of philosophical inquiry or ideological dogmatism? Are its political proposals serious or ironic?" "How has the Republic managed to inspire tyrannical hubris as well as reflective openness?" Howland argues that "a confusion of philosophical aspiration and political ideology runs throughout the Republic."

A philosophy professor at Tulsa University, Howland thinks Socrates failed to convince his central interlocutor in the Republic, Plato’s brother Glaucon, "of the superiority of the life of philosophy and justice." Evidence for this is Howland’s surmise (following Michael Munn) that Glaucon died fighting for the notorious Thirty Tyrants who ruled Athens in 404 B.C., after Sparta defeated it. Plato’s relatives Charmides and Critias are known to have been members of the Thirty—Critias led the group, which killed 1,500 people. This connection leads Howland to make much of what he takes to be Critias’ views in three of the dialogues in which he appears (*Critias*, *Timaeus*, and *Charmides*).

Few who study Plato claim Socrates succeeded in turning his most politically ambitious interlocutors toward a philosophical life. This is visible with Alcibiades, whom Howland discusses, and clear enough to the reader of the *Charmides* even if one did not know that Critias led the Thirty. Speculation about whether Glaucon supported this tyranny does not add much to the already striking evidence of Socrates’ failures: Glaucon’s political ambition and shortcomings, as well as his gifts, are evident in the Republic. But such speculation is historically and poetically interesting: in general, Howland makes good use of the Republic’s literary references. He suggests that Glaucon died in the battle of Munychia—the decisive battle between the Thirty and democratic forces. This battle was fought on the road along which Socrates and Glaucon walk at the Republic’s beginning; they are stopped by Polemarchus’ slave near or at the place on the road on which the battle was joined. Several of the Republic’s characters, moreover, were killed by the Thirty. From this perspective, the Republic is Plato’s memorial to his brother.

The novelty of Howland’s approach is to consider Critias to be a tyrant informed by philosophy, an ideologue who is a precursor to later ideological views. The *"Timaeus* begins to reveal the ideological shape and scope of Critias’ ambitions”; Critias has a “top-down, technical conception of politics.” More importantly, Socrates’ most just regime in the Republic, Callipolis (the Beautiful City), exemplifies a Critian regime. In it, “political repression co-exists...with individual license.” "In constructing Callipolis,” Howland asserts, “Socrates disgraces philosophy as well as virtue—and he knows it, as the fears and regrets that frame the Republic’s central books make clear.” Callipolis is characterized by “philosophical totalitarianism.”
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and “infected with immoderation and ruled by technicians supported by a rhetoric of expertise, the practical but philosophically spurious side of the formal ontology in which the city’s kings are trained.”

Others have argued that Callipolis is not intended to be a concrete political model: the Republic’s political scheme is meant to show that no actual city is an adequate home for justice, or that it outlines a version of the republic of letters, or of the education of philosophers across generations. Howland does not make these arguments. Rather, he attempts to save Socrates from his accusation of political recklessness by arguing that Socrates (or is it Plato?) means to distinguish the individual philosophical life from a political order ruled by philosophers, or intended to produce them. The dialogue’s “dramatic failures teach that philosophical salvation cannot be worked out through political institutions.” Callipolis is “a profoundly immoderate regime that is only superficially governed by the measures of philosophy.”

Howland advances this view by differentiating genuine philosophy from the technical philosophy taught and employed in Callipolis, and by arguing that Socrates and true philosophy are erotic while Critias and his thought-informed tyranny are thumotic—dominated by spiritedness. “The path of natural erotic development,” he writes, “leads to the perfection of the genuine philosopher...that of thymotic political production, to Callipolis’s pure-bred but philosophically illegitimate rulers.” “Socrates offers prophetic intimations of the Good, the unifying origin of the Whole, that allow us to glimpse the truest and deepest mysteries of philosophy. For genuinely erotic souls, the light of the Good, more brilliant than any flame, points the way toward virtue and happiness.” The Republic’s concluding myth, moreover, “supports an erotic reading of the Republic as a quest for individual salvation through philosophy.” We should therefore distinguish Socrates’ genuine presentation of philosophy from one that makes it too precise or scientific. The latter kind of “philosophy” is the ground for ideological tyranny.

Howland’s Socrates nonetheless is blameworthy because he does not clearly differentiate true from scientific philosophy:

Socrates instructs his companions in the fundamental dogma, so to speak, of the church of the Good. This philosophical catechism plainly indicates that the Good, in its lofty uniqueness, cannot be adequately cognized by a purely formal ontology or with scientific precision. Yet it makes no clear distinction between scientific and non-scientific forms of knowledge.... An insufficiently attentive auditor might nevertheless take Socrates to mean that intellectual vision is essentially, or in its highest instance, identical to episteme [science].... Yet, it is this very misunderstanding on which the education of the philosopher-kings is based.

To develop his position Howland takes a number of arguable steps. First, he largely ignores the Republic’s search for justice: although he praises non-metaphysical philosophy, the actual search for justice in the dialogue is given short-shrift. Indeed, he says little about justice in the soul. But if the philosopher’s soul or way of life is most just, and if the soul is spirited as well as erotic, the place of spiritedness in thought must be greater than Howland suggests. He even downplays the philosopher’s use of reason in attempting to articulate matters subtly and with complexity: the work or activity of the philosopher is, in his account, somewhat unclear.

Howland’s second questionable step is to partially distort Socrates’ presentation of the philosophers’ education in Callipolis. The rul-
discusses incidents that created national publicity at Amherst, Brown, "fake news," Russian interference in the 2016 election, and some of the acceptable campus discourse, nothing may be heard in the vacuum of Wesleyan. But, if that guard dog just silently patrols the fences of more often what is omitted from campus discussions, the silenced City University of New York, Evergreen, Lewis and Clark, Michigan, how then-candidate Donald Trump used the Internet to help fuel his 2016 presidential campaign and also examines such phenomena as individuals to communicate with each other. This new edition explores was not to be told. For this reason, there were two realities: one that the head, and buried in a mass grave in a forest, unbeknownst to their strove for the truth, and the other, the official line. Those who thought friends of the True City." But how can philosophy be that there may "see the good itself."

This issue is connected to a third question-able step, a certain moralism: "the goodness of philosophical speech is dependent on the moral orientation of those who employ it." But is not the philosophical life itself the ground of philosophers’ "moral orientation?" Howland acts as if moderation is the central virtue of the genuine Socrates teaches. Yet it is the third virtue in the soul as well as in the city. In general, Howland comes close to contrasting a political side of Socrates that is totalitarian or leads to totalitarianism with a prophetic, contemplative side that is quasi-Christian.

Howland’s fourth arguable step is to overestimate Socrates’ estimation of the true city—the city of pigs. This city, Howland claims, "will...respect the intrinsic measures of human being...exemplifying the natural criteria of what it is to be a self-sufficient human community..." "In the true city all are perfected by nature." There is but "one truly relevant standard for which Socrates has so far vouched in the Republic: the natural measures of human being and community that came to light in the True City." Yet, one wonders how excellent a city can be that has no need for philosophy and no philosophers, that fails to credit or educate human spirit-"... For free speech, the problem may become more often what is omitted from campus discussions, the silenced stages, over overt suppression.

Encounter with Katyń
The Wartime and Postwar Story of Poles Who Saw the Katyń Site in 1943
Tadeusz Wolsza, Institute for the History of Science

The haunting dog of censorship usually creates attention. This book discusses incidents that created national publicity at Amherst, Brown, City University of New York, Evergreen, Lewis and Clark, Michigan, Middlebury, New York University, Reed, Seattle, Yale, UC Berkeley, University of Pennsylvania, University of Washington, Vanderbilt, and Wesleyan. But, if that guard dog just silently patrols the fences of acceptable campus discourse, nothing may be heard in the vacuum created. Many speakers will not be invited and many public policy is-... From the Foreword

"There are points in history which shape the identity of nations. They are significant vantage points, collections of the most important events, works, and ideas. One such event in Polish history is the Katyń Massacre. The aim of its perpetrators was the genocidal extermination of the Polish national elite. The Polish officers who were taken prisoner without trial or sentence were murdered with a bullet in the back of the head, and buried in a mass grave in a forest, unbeknownst to their families... The story we present in this book is intertwined with the drama of the lives of people who testified to that crime. The Katyń affair is the story of a great lie that spread around the world and was designed to be perpetuated and established forever. The truth about the crimes of the Red Army and the nature of the Communist system was not to be told. For this reason, there were two realities: one that strove for the truth, and the other, the official line. Those who thought or spoke differently weresuppressed, not only in Poland by the Communist secret police, but also throughout the world by intelligence agencies and fellow travelers, such as Communist parties in Western Europe." Save 20% off these titles with the discount code, CROBS19, through December 31, 2019. For more information, and to view other titles, please visit www.caplaw.com.

Why, in Howland’s view, does Socrates convert philosophy to ideology? “If Socrates argues for a regime and a curriculum that he knows to be philosophically and politically deficient, he does so not simply to test Glaucon’s nature, but also in the hope of keeping him at his side. Callipolis is in this sense an individually tailored advertisement for Socratic philosopizing, designed to make Glaucon invest more deeply in their relationship.” Moreover, Howland argues, Socrates advances the “professionalization” of philosophy in Callipolis in order to exclude the “vicious [or fraudulent] philosophers” by establishing “labors of abstract studies” that would be too rigorous for them. In attempting to suppress counter-feit philosophers, “Socrates clouds the erotic purity of his soul with the unphilosophical spiritedness of an ideologue.”

These explanations are sufficient to account for Howland’s claim that, by constructing Callipolis, Socrates “disgraces philosophy”? In any event, Glaucon’s Fate is thoughtful and illuminating, with many telling historical and literary references and a challenging thesis. It explores significant questions about Plato’s understanding of the connection between philosophy and politics and is well worth reading.

Mark Blitz is the Fletcher Jones Professor of Political Philosophy at Claremont McKenna College, and the author of Plato’s Political Philosophy (Johns Hopkins University Press).
We'll always have Rome. From Caesar and Cleopatra to Marcello Mastroianni and Anita Ekberg, from Brutus to Garibaldi, from the Colosseum to the Vatican, the people and places of the city on the Tiber justify the ancient claim that Rome would be a place “without end.” True, what was once the largest metropolis in the world is now merely the fourth-largest city in the European Union, outstripped in population by a city founded, under the name of Constantinople, as a second capital for the Roman Empire. Once known as “New Rome,” Istanbul today is Europe’s largest city.

Yet (old) Rome punches above its weight and carries symbolism beyond its power. During the Renaissance, Machiavelli invented modern politics through his reinterpretation of Roman history. And in the wake of the French Revolution, Napoleon took Rome as the model for his new empire.

But what about us? Outside of Italy, no country has given Rome so large a place in its imagination as the United States. The founders might have flirted with the idea of making America a Christian Sparta, but it was Rome they settled on as a model for the new country, basing much of the Constitution on what they saw as the sober balance of power in the Roman republic.

What ancient Rome built was so big and so long-lasting—the city of Rome had an empire for 700 years and its successor state in the eastern Mediterranean for another millennium—that it provides enough historical data to continue to keep scholars busy for years to come. Its leaders astound and appall us; its literature enthralls us; its ruins amaze us. And ancient though it is, the history of Rome has proven adaptable. For example, the emergence of new powers around the world offers the prospect of comparing...
Rome with non-Western empires in China, India, and the Muslim world. (See, for example, Walter Scheidel’s *Rome and China: Comparative Perspectives on Ancient World Empires* [2009].) But just as the destruction of Troy fascinated the audience of Virgil’s *Aeneid*, so the fall of Rome, as much as its rise, continues to rivet us.

Cullen Murphy’s 2007 book, for example, *Are We Rome? The Fall of an Empire and the Fate of America*, argued that the United States dangerously resembled the ancient empire in its corruption and arrogance and needed to change its ways if it wanted to avoid Rome’s fate. Mike Duncan’s *The Storm Before the Storm: The Beginning of the End of the Roman Republic* (2017) is more allusive, but it too sees dangerous parallels. Duncan suggests that we may be on the same road to dictatorship as the Roman republic was after the bloody decades that tore the empire’s consensus apart. Mary Beard’s *SPQR: A History of Ancient Rome* (2015) makes a strong case that we have a tremendous amount to learn from the Romans. She begins her book with a dramatic scene from the Roman republic’s turbulent final years: Cicero’s confrontation with the revolutionary Catiline. Unable to resist the awe of a political murder, I, too, turned to the theme of the republic’s fall in *The Death of Caesar: The Story of History’s Most Famous Assassination* (2015). Caesar’s younger contemporary, the poet Catullus, is at the center of Daisy Dunn’s *Catullus’ Bed-spread: The Life of Rome’s Most Erotic Poet* (2016), a book that shows through the life of a sensualist that, whatever else the Roman republic was no tyranny, but the blunt, open, public give-and-take of republican political discourse was gone. Once a prominent place of public debate, the Roman Forum was now more like a museum.

Why, then, did the republic turn into a monarchy? Why did a regime known for the outspoken freedom of its political speech turn into one in which members chose their words carefully or sometimes paid with their lives? Freedom had not died completely, and under good emperors Rome was no tyranny, but the blunt, open, and public give-and-take of republican political discourse was gone. Once a prominent place of public debate, the Roman Forum was now more like a museum.

Although many scholars would say that by Caesar’s day, the fall of the republic was inevitable, Watts argues correctly that the republic could have survived. Had Caesar been less brilliant and unscrupulous or had Pompey been luckier; had Brutus and Cassius capped off the murder of Caesar by buying off his veterans with a hefty raise; had an ailing Octavian succumbed to one of his various illnesses and left the more pliant Antony as the Senate’s main enemy, then the Romans might have managed to govern themselves without turning to monarchy.

They could only have done so, however, if the political elite had been willing to com-
Robert H. Michel
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promise. As Watts details, that quality, along with humility and altruism, was in all too short supply among Roman politicians. Yet some of the most selfish among them at least understood the economic needs of ordinary people. Watts wishes that the Roman people had punished elite politicians for their misbehavior. Perhaps they would have, but the purblind implacability of the old guard drove them into the arms of the populists.

In order to maintain the republic’s political order, Rome needed to do two things after acquiring an empire, for the sake of justice and expediency. First, it had to share the loot with ordinary soldiers and families who had built that empire. Yet, just the opposite happened: the soldiers were robbed blind by the oligarchs who dominated Rome and Italy. Watts does a fine job of outlining the ways in which empire divided Italy into a new class of super-rich and a growing number of newly poor. When reformers like the Gracchi tried to do justice to Rome’s veterans, the ruling class destroyed them. Later peaceful attempts at reform did no better. In the end, the Roman poor found that the only road to reform was to march in the armies of men like Sulla and Caesar, who cared little for republican political norms but paid their soldiers well.

Second, Rome needed to make a deal with the elites of its conquered peoples. A city-state like Rome could not govern an empire of tens of millions of people without either engaging in permanent repression or gaining the consent of the governed. Permanent repression was not an option, because it would require so big an army that it would break the budget and overwhelm the political system. Gaining the consent of the governed was, however, a genuine possibility. Since most of the lands Rome conquered were hierarchical societies, Rome merely needed to win the favor of the various provincial elites. Doing so, as it turned out, brought a measure of peace and limited prosperity to most of the conquered lands as well.

Unfortunately, most of the men who governed the republic intended to keep power concentrated in the hands of a very few old families. They had no intention of bringing foreign elites into the tent. Like the Davos elite railing against populists, Rome’s oligarchs branded the people’s champions as beyond the pale. As for the people themselves, the Roman nobility acted as if they were an inconvenient detail. And so they wrote their own obituary.

Demagoguery is poison for republics. But there is another slow and secret poison that destroys republics as well, and that is the complacency of the moderates, the people who pride themselves on their wisdom, education, and qualifications (whether noble blood or elite diplomas). Had men like Brutus and Cassius understood the need to broaden the base of the republic’s support, then they might have been able to keep the republic. Unfortunately, they were too narrow-minded and bigoted to see beyond the confines of their proud nobility. They were also too tight-fisted to give up their own fortunes.

Caesar and Augustus were less scrupulous but far more visionary. And so, in the end, it was men who cared nothing for the republic’s political rules who inherited the earth. They began the process of turning Rome from a conquering republic into a bureaucratic empire that paid its soldiers and enlarged its elite.

As Edward Watts admirably shows, republics are mortal. They die when the political class lacks the wisdom to change and compromise, ignoring calls for justice. That is a lesson from Roman history we would do well to remember.

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Two hundred years after his birth, Walt Whitman is still alive and well. “[L]ook for me under your bootses,” he once intoned, “Missing me one place search another.” And he isn’t that hard to find: we’re all familiar with his best-known poem “O Captain! My Captain!” from the 1989 film Dead Poets Society. In 2009, Levi’s advertised blue jeans using the one audio recording believed to be of Whitman’s voice, reading some lines from his poem “America.” You can read a 2016 detective novel starring Whitman. This year, Michigan’s Bell’s Brewery began releasing a seven-beer series honoring Whitman’s poems. The U.S. Postal Service has announced a new commemorative stamp, and I even found a Whitman magnet at a street market: a cartoon Walt broods over a bowl of breakfast cereal, the box labeled “O Captain! My Captain Crunch!”

For the bicentennial, scholars have gathered in New York and Paris, and Americans have hosted public readings, performance art, and festivals to celebrate his life and works. But for some conservatives, Whitman remains something of a pariah for his unorthodox poetics, his questioning of organized religion, and his expressions of same-sex desire. It doesn’t help that he has been adopted as the poet laureate for the Left. But amidst our cultural polarization, his bicentennial could also be a moment of ceasefire. He was an innovator who celebrated equality and dignity, who helped our nation grieve during the Civil War, and who beautifully articulated the experience of being human. These are things on which we should all agree, and it’s time for all of us to return to our American Bard.

Barbaric Yawp

Born to working-class parents on Long Island on May 31, 1819, Walt Whitman descended from Dutch and English stock, and his great-grandfather had served under John Paul Jones in the American Revolution. Educated only to age eleven, Whitman nevertheless read voraciously. He
went to work in a law office and as a typesetter—getting an early exposure to printing and publishing. Providing for himself from a young age—his father was a failed housebuilder and likely an alcoholic—he taught school, which he hated, and tried his hand unsuccessfully at politics, before devoting himself to journalism. He lived in New York and briefly in New Orleans, writing local-color sketches, reviews, and op-eds. He published some conventional poems, short stories, and the occasional pot-boiler—writings that formed what Ralph Waldo Emerson later called the “long foreground” to his 1855 book, *Leaves of Grass*.

When he published that book of poems, Whitman was 36 and largely unknown in the literary world. The volume didn’t really sell—by all accounts it sold almost no copies. Readers confronted a strange, large-format green book with no author’s name on the cover. Inside they found the now-famous engraving of Walt in workmen’s clothes, hand on hip, his hat cocked jauntily, as he gazes frankly at his readers. After a long prose preface whose first word is “AMERICA,” the opening line of the untitled first poem, later called “Song of Myself,” announces: “I celebrate myself.” Even the meter provokes: Whitman begins with iambic feet—the dominant rhythm for Shakespeare and John Milton. But he cuts it off after three metrical feet, never reaching the prescribed five of iambic pentameter, and the poem never returns to it. The break with regularized meter, although with some antecedents in William Blake, had begun in earnest.

In 12 untitled poems, full of epic catalogues and long experimental lines, Whitman sounded his “barbaric yawp” (his term) and celebrated the full range of human experience, the dignity and beauty of creation, the soul, and his beloved America. Bridget Bennett, in her introduction to the beautiful new Macmillan Collector’s Library edition of selected poems from *Leaves of Grass*, calls it “a poetic Declaration of Independence.” Over his long life, Whitman revised and expanded *Leaves of Grass* into a massive book, organized largely into thematic ‘clusters’ of poems, and he published it in six distinct editions.

Reviews of the first edition were mixed, mostly perplexed, and occasionally savage. The cantankerous Rufus W. Griswold, who as Edgar Allan Poe’s literary executor had devoted himself to slandering the deceased author, wrote anonymously of Whitman in the weekly *Criterion*: “[I]t is impossible to imagine how any man’s fancy could have conceived such a mass of stupid filth, unless he were possessed of the soul of a sentimental donkey that had died of disappointed love.” Those were the good old days for book reviews.

**An Equal Place**

HOSTILE CRITICS FOAMED AGAINST Whitman’s experimental form and his frank portrait of the human body, but some initially failed to recognize that at the heart of this strange, unruled book was Whitman’s artistic working-out of the Declaration’s claim that “all men are created equal.” “I am the poet of the woman the same as the man,” his opening poem declares, “And I say it is as great to be a woman as to be a man.” Readers then and now have struggled to make sense of his seemingly disorganized epic catalogues of American life. Yet these catalogues dramatize his interpretation of this founding principle in poetic form:

The bride unrumples her white dress,
the minutehand of the clock moves slowly,
The opium eater reclines with rigid head and just-opened lips,
The prostitute drags her shawl, her bonnet bobs on her tipsy and pimpled neck,
The crowd laugh at her blackguard orths, the men jeer and wink to each other,
(Miserable! I do not laugh at your orths nor jeer you.)

The President holds a cabinet council, he is surrounded by the great secretaries....

These lines juxtapose the highest and lowest members of white society, images of bridal purity with drug use, the presidency with prostitution. Whitman, who would elsewhere condemn prostitution as degrading, still refuses to place these persons into hierarchical order: in the American republic, as in emerging American art, everyone has an equal place. His vast catalogues form a cinematic montage that includes women, men, children, immigrants, people of various and mixed races, and disabled persons. “I will not have a single person slighted or left away,” he writes.

Because of this project of equality, Whitman wrote some of the most powerful anti-slavery poetry in American literature. In a vivid passage of the poem later titled “I Sing the Body Electric,” he turns a slave auction—which he had likely witnessed in New Orleans—into a dramatic assertion of human dignity. In a rhetorical coup, his speaker insists that the value of the slave in fact far exceeds his price on the auction block. The auctioneer of slaves “does not half know his business,” and the poetic speaker seizes the stage: “Gentlemen look on this curious creature, / Whatever the bids of the bidders they cannot be high enough for him.” “Examine these limbs, red black or white,” he exclaims, “Within there runs his blood...the same old blood...the same red running blood.” And in a startling move, the poem prophesies that this person legally for sale might become the father of “populous states and rich republics.”

If many political leaders of Whitman’s republic sought to compromise on the question of slavery, his book would not. The speaker in “Song of Myself” aids and abets a runaway slave, ‘putting plasters on the galls of his neck and ankles; / He staid with me a week before he was recuperated and passed north.” Whitman wrote in his prose preface to the 1855 edition, “The attitude of great poets is to cheer up slaves and horrify despots.”
government job in 1865, and in 1882 the book was banned in Boston.

But his treatment of sex and the body reiterates his democratic principles. If everyone stands equal within the body politic, the same must be true within the human body. “Welcome is every organ and attribute of me,” his speaker says, “and of any man hearty and clean, / Not an inch nor a particle of an inch is vile, and none shall be less familiar than the rest.” Whitman’s verse elevates bodily life: “I keep as delicate around the bowels as around the head and heart,” he writes, “Copulation is no more rank to me than death is.”

Although it shocked his 19th-century audience, it was nothing truly new. Homer, Geoffrey Chaucer, Shakespeare, and Jonathan Swift had already explored the combination of awkwardness and sublimity that being an embodied spirit entails. But Whitman emphasizes beauty, joy, and innocence rather than the limitations and discomforts that informed the bawdy humor of his literary ancestors. The poems of his “Children of Adam” cluster marvel at the beauty of the human form, male and female, and celebrate the joyful union and generative power of sex, “Singing the song of procreation.” The title of Whitman’s cluster evokes Milton, who in Book IV of Paradise Lost added to the Genesis account those “rites / Mysterious of connubial love” in the Garden. Even for fallen humans, Milton insisted that sex remains holy, and his epic narrator denounces “Whatever hypocrites” would go “Defaming as impure what God declares / Pure.” For all his posture of originality, Whitman planted himself firmly in this tradition.

Flesh and Blood

Much has been written about Whitman’s articulation of his own same-sex desire. In the homoerotic “Calamus” cluster, and in his private writings, the poet expressed his longing for what he called “the need of comrades.” Indeed, he never married, and had close, loving friendships with younger men, particularly the Irish-born ex-Confederate Peter Doyle. Late in life, Whitman tantalized one disciple with the promised revelation of a deep secret, but never delivered. He also claimed (probably falsely) to have had six illegitimate children, none of whom was ever found.

The published “Calamus” lyrics originate in a 12-poem manuscript sequence that Whitman never published, known as Live Oak, with Moss. Newly reissued with manuscript images and illustrations by Brian Selznick, best known for The Invention of Hugo Cabret (2007), these private poems articulate a conflicted desire for male intimacy. The speaker expresses longing, exaltation, despair, shame, and the pain of unrequited love. Karen Karbiener’s foreword draws fascinating links to Shakespeare’s sonnets, and Selznick’s illustrations range from the truly beautiful to regrettable male erotica.

This vision of intimate male love, in Whitman’s mind, could be the deep bond of friendship needed to unite the nation. In “For You O Democracy,” his speaker proclaims that he “will make the continent indissoluble” and “will make inseparable cities,… / By the love of comrades, / By the manly love of comrades.” He first published the poem in 1860, when the nation seemed neither loving nor quite so indissoluble.

Whitman never forgot his first real encounters with the Civil War. When his brother George was wounded at Fredericksburg, Whitman went to the front to find him. Outside a field hospital, he recalled seeing “a heap of amputated feet, legs, arms, hands, &c., a full load for a one-horse cart.” These severed body parts acted out in flesh and blood the divisive conflict of our Civil War, and the poet of American optimism would have to grapple with the horrific suffering of this dark period.

He began visiting the wounded, sick, and dying soldiers that filled the Union hospitals. Though never a combatant, he experienced the costs of war firsthand and up close during his hospital work: he estimated that he had visited between 80,000 and 100,000 men, and described in one memoir that his notebooks were spotted with blood. In the wards of D.C. and New York, he sat with the men, sometimes late into the nights, bringing them ice cream, tobacco, and books. He listened to their stories and struck up fast friendships, providing the human companionship and morale-boosting that were essential to recovery. And just as important, he mourned these men when they died, helping their families to grieve. Many soldiers died in these hospitals far from home and family, and Whitman would sometimes write to the bereaved parents about the last days of their sons.

Keeping Vigil

The anonymity of some of these deaths horrified him. In the era before dog-tags and DNA testing, countless men died unknown, blown to pieces on the battlefield, rolled unceremoniously into mass graves, or left unidentified in the hospitals. As historian Drew Gilpin Faust recounts in her brilliant book This Republic of Suffering: Death and the American Civil War (2008), these men were also denied what American culture be-
lieved to be the “good death,” a version of the old *ars moriendi* (art of dying) that prescribed a preparation for, and acceptance of, death. Because of the dislocations of the war, the surviving family, too, was denied some of the rituals of burial and grief. In the face of this cultural catastrophe, Whitman and other American writers set out to provide a literary good death and mourning that could stand in and help the nation to grieve.

In his magnificent elegy, “Vigil Strange I Kept on the Field One Night,” Whitman’s poetical speaker keeps an all-night “Vigil of silence” for a “son’ and ‘comrade’ on the battlefield. As in almost all of the poems of his Civil War cluster “Drum-Taps,” the soldier remains nameless, and thus can stand in for any one of what Whitman later called “The Million Dead.” The speaker calls it a “Vigil strange” because the war necessitates improvised mourning practices, and this funeral wake takes place not in a home but on the battle-scarred field. Critics have noted that Whitman’s repetition of the word “vigil” becomes a kind of liturgical chant, and that the poem itself becomes a burial rite for the unknown dead, a fixing in our memory of those who might otherwise be forgotten:

Exult O shores, and ring O bells!  
But I with mournful tread,  
Walk the deck my Captain lies,  
Fallen cold and dead.

For all its success, the ballad is not his best poem, and later in life Whitman humorously lamented that the public loved it so much. When a critic suggested that he should have written more like it, he told a friend, “I’m honest when I say, damn ‘My Captain’ and all the ‘My Captains’ in my book!” “I’m almost sorry I ever wrote the poem,” he groused, and complained that if that poem were considered his best work, “God help me! what can the worst be like?”

**Do Not Prettify Me**

A **fter the war, Whitman’s health was never the same**: he endured terrific stresses during his hospital volunteering, and was exposed to countless diseases and infections. In 1873, he suffered a stroke that left him partly paralyzed. He moved to Camden, New Jersey, where he would live until his death in 1892. Although extremely poor—even supported by charity—and at times quite incapacitated, he still wrote constantly, revising, expanding, and republishing *Leaves of Grass*, memoirs, and other works.

In Camden, Whitman met and befriended Horace Traubel, a young socialist intellectual who would launch one of the most ambitious projects in American biography: over the last four years of Whitman’s life, Traubel visited the ailing poet nearly every day, and wrote down everything he said. Although the nine volumes of *With Walt Whitman in Camden* can be found as searchable text on *The Walt Whitman Archive*, the Library of America has done a great service by condensing this massive, rambling record into a single useful volume, *Walt Whitman Speaks*. Edited by Brenda Wineapple, the book collects the most interesting of Whitman’s remarks, organized under headings like “Literature,” “Friendship,” “Nature,” and “Democracy.”

“[D]o not prettify me,” he instructed Traubel, “include all the hells and dams.” Indeed, what emerges from this lovely book is the everyday Walt: opinionated, jovial, looking back on his life and work. We get his colorful, off-the-cuff remarks on other writers. “Milton soars,” he says, “but with dull, unwieldy motion.” Of Edgar Allan Poe: “morbid, shadowy, lugubrious.” Henry James: “only feathers to me.” George Eliot: “a great, gentle soul, lacking sunlight.” Though aged and infirm, Whitman reflects on his own enduring optimism: “I stand for the sunny point of view—stand for the joyful conclusions.” Of *Leaves of Grass* he says it “is an iconoclasm, it starts out to shatter the idols of porcelain worshipped by the average poets of our age.”

As an iconoclast, Whitman has often attracted the attention of progressives and radical movements. But there’s always a risk in recruiting authors to current ideological causes, as Karbiener’s foreword to *Live Oak, with Mass* does when it puts Whitman in the context of “today’s LGBTQ rights movement” and the 1969 Stonewall riots. Calling Whitman “the first gay American of letters” is to map a very narrow label from today’s identity politics onto a complex, unique American artist. It’s not that these labels aren’t true, but they’re not true enough to capture a human being’s breadth and richness. As a writer and as a man, Walt Whitman called for unity and magnanimity during his own troubled, divisive times. His poetry speaks all voices, embraces all peoples: “I am large,” he famously wrote in “Song of Myself,” “I contain multitudes.” Still, Whitman was a feisty, independent spirit, a self-proclaimed “rowdy” and “an American, one of the roughs,” who enjoyed provoking his readers. “I have always craved to hear the damndest that could be said of me,” he told Traubel, “and the damndest has been said, I do believe.”

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SHADOW PLAY
by Martha Bayles

It Takes a Village

The best stories, we like to believe, are morally uplifting, with pure, noble heroes triumphing over evil, despicable villains. But is that really true? Don’t we also have a soft spot for rogues, hellions, knaves, scoundrels, and miscreants—especially when they are smart, irreverent, and good-looking? Much as we hope to see goodness triumph in the end, don’t we sometimes take the side of wickedness, if only for the sake of a good story?

If you agree with this quick take on human nature, then let me push your envelope. Imagine a fictional character who works for the Nazi intelligence agency Sicherheitsdienst (SD) in a village in occupied France. Imagine him intellectually gifted, contemptuous of Nazi ideology, fluent in French, and so devilishly handsome that he kindles a lifelong passion in the gorgeous, red-haired, emotionally unstable wife of the kind and honorable village doctor. When the local Communist cell manages to kill a German army officer, imagine this same handsome SD agent interrogating witnesses by burning them with cigarettes and threatening their children.

Is it okay to empathize with such a character? Most people would say no, not even for the sake of a good story. But what if the story were so humanely conceived, capably told, and historically accurate that you find yourself empathizing, to varying degrees, with scores of characters, including many who choose, or are driven to commit, evil acts? Some of the greatest writers can do this—Shakespeare and Tolstoy come to mind, with their godlike ability to invite us into the heart and soul of every character they create. But in all my years of reviewing film and television, I have never seen a long-form TV series display that same godlike ability. Until now.

Microcosm of World War II

Un village français (“a French village”) is set in Villeneuve, a fictional community in the Jura mountains of eastern France, which on June 12, 1940, was overrun by the German Blitzkrieg. By placing Villeneuve close to the Swiss border and adjacent to the demarcation line between German-occupied France and Vichy, the series is able to present a finely detailed, historically accurate microcosm of French society during the war. I should add that this does not keep it from being binge-worthy, even though the likely bingers will be adults, not adolescents.

The series begins on a lovely summer morning, and for the first 17 minutes we watch the men and women of Villeneuve going about their business. One or two are mindful of impending catastrophe. But then a lone German warplane appears in the sky and, spotting an anti-aircraft gun in a meadow with its camouflage removed by curious children on a school picnic, the plane zooms in and opens fire, killing one boy and a teacher. Another boy flees into the forest, and the saga begins: a whole season for each of the war years, plus two for the aftermath.

The first thing to be said about A French Village is that it departs from the standard French narrative of the Occupation as a time of stark moral choice between evil collaboration and virtuous resistance. In a 2009 interview with the London Telegraph, head screenwriter Frédéric Krivine commented: “In 1940, no one knows what ‘occupation’ is…. It is just each person’s own life. Nor does anyone know what will be the fate of the Jews.” The same article also quotes Jean-Pierre Azémé, a prominent historian of the Occupation who served as a consultant on the series: “Men and women argued, they had financial or family problems, religious or political experiences, they had love affairs—all these pushed them down this or that path which at the time had none of the significance which we accord to it in retrospect.”

A French Village also departs from the contemporary long-form TV approach to period drama, which is retrospective to a fault. The period could be Tudor England, Renaissance Italy, 1920s Madrid, or Northern Ireland during the Troubles—the setting scarcely matters, except to the production designer. What matters is that the moral and political sensibilities of the most “relatable” characters align as closely as possible with those of 21st-century progressives. It also matters that the product be mindlessly addictive. In the words of TV Guide: “While the historical dramas might not be super accurate—hey, at least The Tudors covered the basics in between those steamy love scenes—they make history exciting with high-stakes drama and opulent costumes that are most certainly way out of your budget.”

Against such criteria, how does A French Village stack up? For opulent costumes, we could look to the haute couture worn by Hortense (Audrey Fleurot), the unfaithful wife of the village doctor, Daniel Larcher (Robin Renucci); and by Jeannine (Emmanuelle Bach), the scheming wife of a local businessman, Raymond Schwartz (Thierry Go-

Discussed in this essay:
A French Village (Un village français), created by Frédéric Krivine, Philippe Triboit, and Emmanuel Daucé. France 3

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dard). But the effect of these costumes is not glamorous, because in occupied Villeneuve, dressing à la mode is a sure sign of moral obtuseness. Hortense gains our sympathy only after losing her wardrobe, while Jeannine remains voguish—and odious—throughout.

As for steamy love scenes, the most convincing are those between dashing, mettle Communist Resistance.) But unlike the typical Hollywood sex scenes, which recycle the same puerile, wham-bang clichés every time, the erotic encounters in A French Village are handled with maturity, subtlety, and (dare I say it?) savoir-faire, making each encounter distinct in ways that mesh with the lovers’ humanity (or lack of it).

A Tangle of Difficult Choices

A French Village was produced by France 3, the second largest public TV channel in France, which invested an average of $637,000 in each of its 72 episodes (currently streaming on Amazon Prime with English subtitles). The first airing of the series, which occurred between 2009 and 2017, attracted an average audience of 3.4 million, which sounds small but is in fact large—because, unlike their British and American counterparts, French audiences still hold le cinéma in higher esteem than la télévision. If this attitude is changing, I daresay it is not just because technology has blurred the distinction between the two, but also because A French Village has revealed the artistic potential of the latter.

No short story can do what a novel can do, and no feature film can do what A French Village does, which is fill a huge canvas with the complex reactions of an entire community to the catalyst of invasion, followed by five years of increasingly harsh occupation. Over time, the pattern in most longform TV series is for the writers to add increasingly bizarre and arbitrary plot twists, in an effort to extend the sell-by date. This is not true of A French Village. Here, multiple plot lines grow out of a tangle of difficult choices made under pressure of fear, pain, rage, desire, and desperation; and the proper word to describe them is not arbitrary but tragic.

Case in point: the aforementioned killing of a German army officer by local Communist conspirators. But—I mean this as a compliment—the average viewer caught up in the drama might not even notice that a debate is occurring. There are no set pieces, no stilted speeches channeling the opinions of some engaged screenwriters, director, or producer. When these characters agonize over right and wrong, it feels per-
fectly natural, because their agonizing arises from life-and-death pressures experienced in the moment. Far be it from me to flatter the French, but in the present political and social mood of the United States, it is nice to be reminded that ordinary human beings are capable of reason.

The Rest of the Canvas

The plot line I have been tracing is only one among many. I could also trace that of Raymond Schwartz, navigating cannily through a wretched marriage, a passionate love affair, the ups and downs of wartime business, and a begrudging commitment to the non-Communist Resistance. Or that of the devout young teacher Lucienne Borderie (Marie Kremer), conceiving a child with a soulful German soldier named Kurt (Samuel Theis), then losing Kurt to the war with a soulful German soldier named Kurt (Axelle Maricq), another Jewish refugee living in Villeneuve with her aged mother. When the SS sets a quota of additional Jews to be rounded up, Marchetti manages to save Rita, but at the price of secretly arranging to have her mother arrested instead.

Finally, I could describe the reprieve offered in Season 4, when a young man named Antoine (Martin Loizillon) retreats into the mountains to escape a forced-labor decree and, joining a group of like-minded runaways, emerges as a leader in the non-Communist Resistance. The reprieve comes while Antoine’s fledgling maquisards are preparing, somewhat impatiently, for a chance to fight the Germans, and one of their number, a poet named Claude (Alexandre Hamidi), suggests that a good way to pass the time would be to stage a play. In clumsier hands, the idea of a pastoral interlude in late 1943 would not work. But here it does, and we are briefly transported to a muddier, grubbiest, but still magical Forest of Arden.

The Ice of Truth, the Fire of Lies

But now let me return to the plot line I began with: the ill-conceived killing of the German army officer that sets into motion the destruction of the bond between Marcel and his son, Gustave, among other calamities. Chief among these is the trial, in autumn 1945, of two Villeneuve citizens, Daniel Larcher and Henri Servier, of “war crimes” committed while “collaborating” with the Nazi invaders. The trial occurs in Season 6, and while I appreciate the attempt made in Season 7 to tie up loose ends and provide closure about the postwar lives of the surviving characters, for me A French Village ends with this astonishing trial. Here is an eloquent description of it by the Australian critic Jane Goodall:

After years of living with vicious permutations of justice, attempts at formal adjudication of the rights and wrongs of the past five years only produce another order of perversion. The trial scenes involving two major characters are some of the most painful to watch. The prosecutor, played by distinguished theatre actor François Chattot, treats the courtroom as his stage, engaging in flights of rhetoric about the fate of innocent victims, the persecution of Jewish citizens, the scenes in which children are torn from their parents.

But even as he does this we are made to hate him, because he is distorting the facts of the particular case. It is all in the cause of finding an outlet for righteous indignation and a necessary sacrifice to appease the collective need for vengeance. Ultimately, there must be another batch of executions, and this is just an exercise in arbitrarily choosing victims. One of the remaining résistants quotes La Fontaine: “Man is of ice for the truth, of fire for lies.”

Words to ponder in our own parlous era. Fortunately, the filmmakers do not deny all hope of redemption. In the death scenes of Servier, Marchetti, and a handful of others, we are granted a glimpse of what justice looks like when it is tempered with repentance, forgiveness, and grace. We should not be surprised, I guess, that those qualities do not come from angry people settling political scores.

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A part from Noam Chomsky, the two forces degrading English today are ignorance and politics. From ignorance we get, among other things, the frequent abandonment of conjunctions (no better way to screw up a sentence); the sudden disappearance of national adjectives, so that we have “the France government,” presumably “France wine,” and the insane construction of the Wall Street Journal, July 3, “the Turkey’s decision to take delivery of the Russian S-400.” And do not forget prepositions used as if by men from Mars, as in “arrived to,” “specified of,” or a “study on.”

Though “on” as a universal preposition has for decades been a specialty of the New York Times, in most of the supposedly best written public prints one finds more and more the absence of even such basics as subject-verb agreement. After an apparently confusing prepositional phrase—often with the wrong preposition—you see the equivalents of “they is,” or “she are.”

It is unfortunately now acceptable in formal English to use, dredged up from other eras, words that anyone who lived through those eras knows were spoken by idiots—“rip-off,” “turn-on,” “hasse,” “into” (as in, “He’s into her, but she’s into Egyptian hieroglyphics”), to be “hip with”—and kid words and phrases such as “cool stuff” and “awesome” that make even kids sound stupid. Forget syntax. Overnight, the difference between “advocate,” taking a direct object—such as “reform,” “arrived to,” “specified of,” or a “study on.”

The deficits of Ronald Reagan’s eight years in the Oval Office, produced by increased non-defense spending after his budgets were famously dead on arrival, averaged 4.08% of GDP. Obama’s deficits averaged 5.76% of GDP. Both presidents faced inherited economic crises: Reagan’s was in fact steeper. Despite Obama’s 40% higher deficits his average annual economic growth rate was 1.88%, whereas Reagan’s was 3.59%. And yet, in the petrified forest, one does not encounter “the Obama Deficits.”

During the Civil War and in its aftermath, the “Union” became synonymous with the United States. That is, with the nation itself. But the founders took the “union” they wanted to perfect primarily as the relationship among and the position of the states within a federal schema. This was, as any reader of The Federalist would gather, one of the chief questions of the time. “Union” misconstrued suggests that it is the nation that must be perfected, which has led to the misapprehension that the Constitution’s prologue invites a continuing quest for perfection of the nation as a whole—something not unrelated to the perpetual expansion of the administrative state and its limitless messing with everything.

Our fate depends upon our understanding and use of language, for, otherwise, in the petrified forest of words insufficiently considered and ideas poorly conceived, the subtleties and uncertainties of life will be eliminated in striving for an immutable order when all that will remain will be the stillness and silence of perfect control.
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