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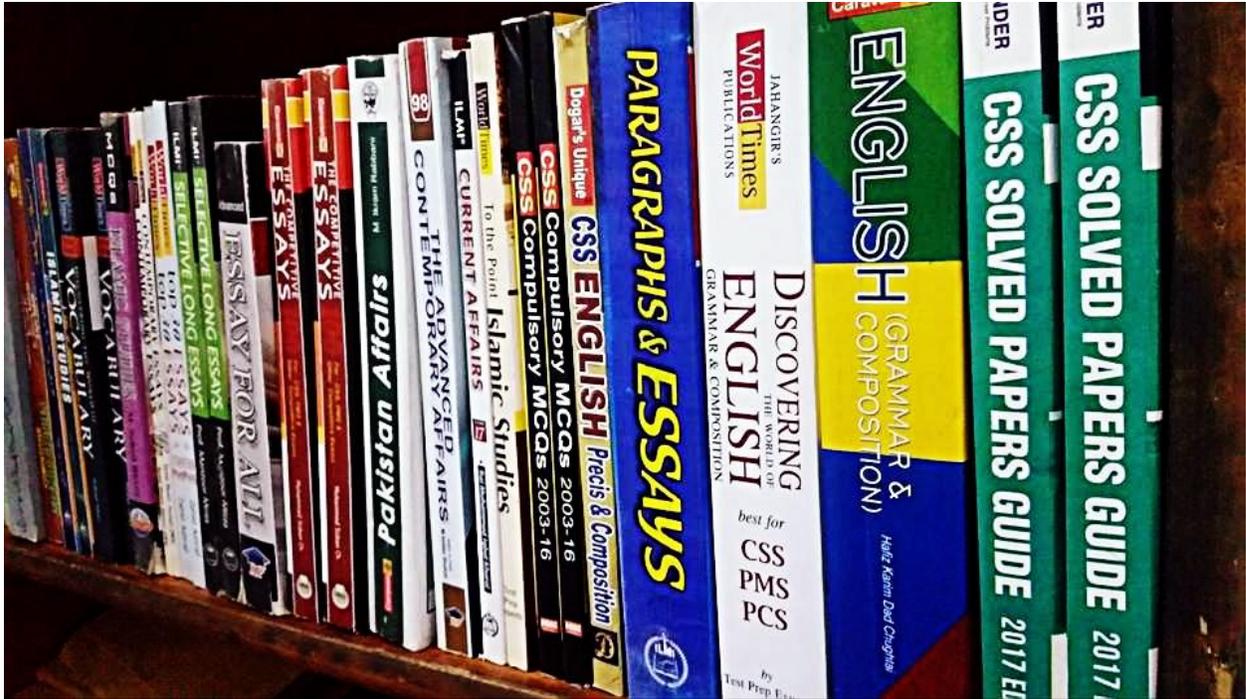
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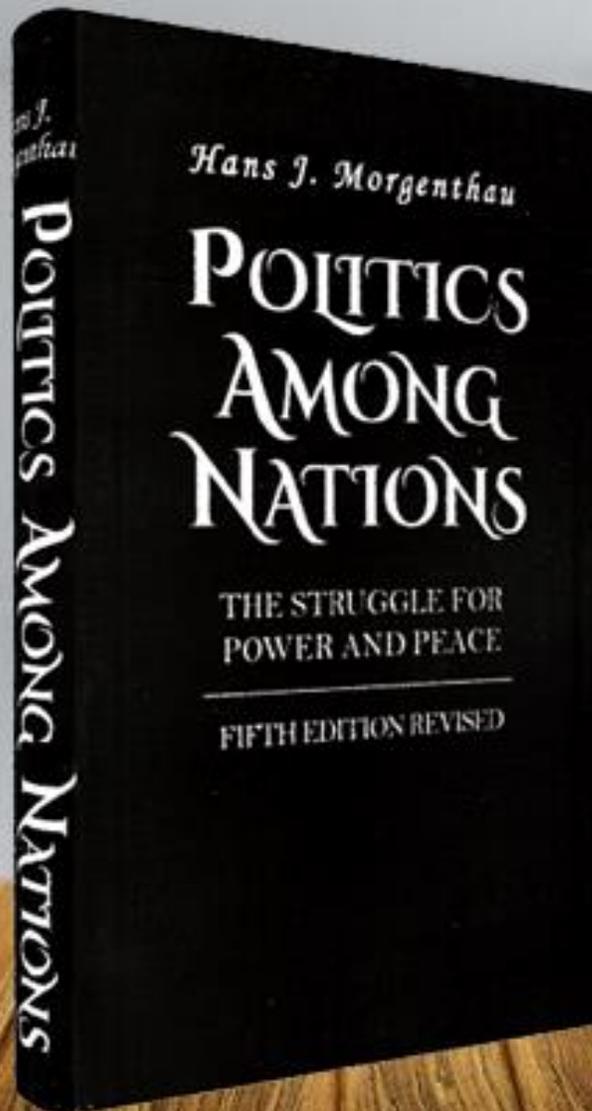
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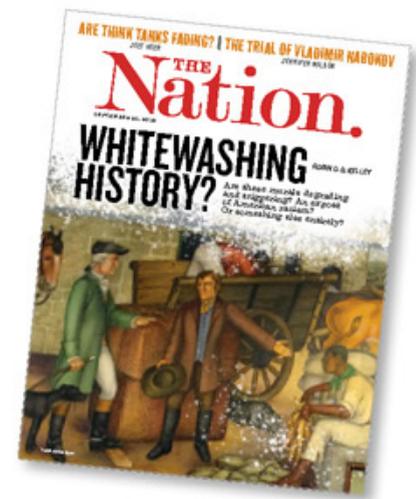
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Letters

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Shades of Whitewashing

The unique power of public art stems from its very nature: creative expression paid for by the people to be viewed not by a limited few in a sterile museum room but by anyone in a public space in the real world. Public art can beautify, decorate, or bring sunshine to a dreary day. It can also spark new ideas, generate passionate debate, and force us to consider the world from a perspective other than our own.

The insightful article “Don’t Look Now!” by Robin D.G. Kelley [Sept. 23] demonstrated this power of public art by illuminating a host of ways the 13 New

Deal-funded frescoes by Victor Arnautoff at George Washington High School in San Francisco have brought complex conversations about representation, history, and artistic freedom to life in 2019.

On August 13, the school board reversed its previous decision to paint over and destroy the murals. But it voted instead to “remove the murals from public view” by boarding them over with “solid panels” or “equivalent material.” While not as irreversible as destroying the murals, this equally bad decision was a compromise with nobody and accepted by no one. As the actor and activist Danny Glover, an alumnus of the high school, said, “To destroy them

or block them from view would be akin to book burning. We would be missing the opportunity for enhanced historic introspection this moment has provided us.”

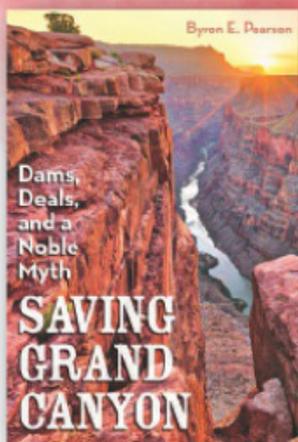
The Coalition to Protect Public Art is pursuing a variety of political, legislative, and legal options to ensure that this valuable public art remains public.

The poet Bertolt Brecht said, “Art is not a mirror with which to reflect reality but a hammer with which to shape it.” Rather than destroy or hide art we don’t like, let’s fund new public art and create more hammers to shape a better world.

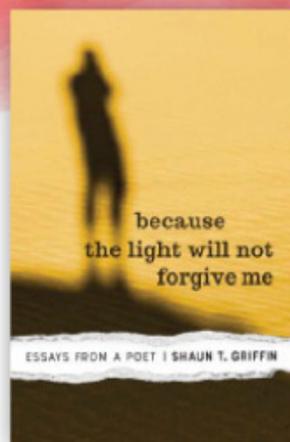
JON GOLINGER
Executive Director
Coalition to Protect Public Art
SAN FRANCISCO

Books That Matter

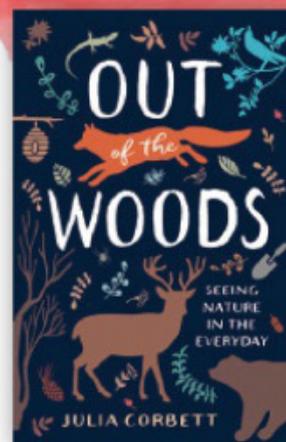
Inspiring Change in our World



“Nature-loving readers will find value in his [Pearson’s] insights both into a specific conservation milestone and into the broader sweep of the environmentalist movement’s history.”
—*Publishers Weekly*



“... visits not just the world of poetry, but the American West—especially his beloved desert—plus Ireland, Spain, Africa, and Mexico, as well. He writes of all of these worlds and the people in them with love and intensity...”
—John H. Irsfeld, author of *Rat’s Alley*



Reading the West Award Nonfiction Winner
“Throughout this well-crafted, contemplative collection, Corbett writes eloquently about the environmental conundrums she faces...”
—*Foreword Reviews*

I appreciate Jon Golinger’s letter and his efforts to ensure that future generations might one day see Victor Arnautoff’s mural in person rather than as a virtual image. However, the final agreement clearly states that the frescoes will be covered and not destroyed. Presumably, whatever material will be used to shroud them can be removed, even if it requires great effort. I agree that the school board is intent on permanently hiding the work from view, but school boards come and go, and in light of the current political situation, this decision is far more reasonable than sandblasting or whitewashing.

The more urgent question remains, “What is the fate of schools like George Washington High in a city experiencing such aggressive gentrification and privatization?” I hope Golinger and others agree that the struggle against whitewashing history should extend to the whitewashing of the city itself. The dispossession and settlement depicted in Arnautoff’s *Life of Washington* is hardly ancient history; it speaks to the present and possibly the future, unless we stop it.

ROBIN D.G. KELLEY
LOS ANGELES

letters@thenation.com

All the President's Henchmen

After weeks of ever-worsening news about how Donald Trump, according to multiple accounts, held up military aid to Ukraine until the country promised to investigate Joe Biden's (fabricated) corruption and Trump's nutty conspiracy theories about the origins of the Russia

probe, it remains remarkable how this godless New York grifter so thoroughly took over a political party that pretended to be about sober conservatism, Christian piety, and balanced budgets. Let's look at four administration stalwarts up to their necks in this mess: Vice President Mike Pence, Attorney General William Barr, Secretary of State Mike Pompeo, and acting White House chief of staff Mick Mulvaney. Together they represent the four tent poles of the modern GOP circus: the extreme Christian right, the stolid GOP establishment, the corporate Koch brothers wing, and the allegedly anti-deficit, actually white nationalist Tea Party. When those tent poles go down, they could bring the whole sad party with them.

Barr is starting to make career racist Jeff Sessions look like Eric Holder. Even Trump critics in the legal community hoped Barr would cure what ailed the Justice Department after Sessions's impaired successor—remember Matt Whitaker?—

had to leave the stage. Instead Barr has turned out to be just what Trump asked for: his Roy Cohn.

Over the past month we've learned that Barr traveled to foreign capitals, at least once circumventing local US diplomatic staff, to "investigate" the debunked notion that some of America's top allies helped gin up the Russia probe to discredit Trump's presidency. Equally disturbing, Barr ignored the recommendation of the CIA's general counsel to criminally investigate Trump's heavy-handed "requests" of Ukrainian President Volodymyr Zelensky—even though Trump mentioned Barr on the call, which many believe means the attorney general should have recused himself. (Who knew Sessions had more professional integrity?)

But Barr's perfidy shouldn't surprise us. Instead, it should remind us that the Ukraine scandal is less like Watergate—which, bad as it was, involved only domestic politics—and more like the Reagan-Bush

Iran-contra scandal and its aftermath, in which Barr was also implicated as George H.W. Bush's attorney general. While arms for hostages might sound marginally more honorable than arms for political dirt, the attempted trades are comparable: two efforts backed by a GOP White House to subvert the bipartisan foreign policy appropriations of Congress and advance Republican interests. (In case you missed the connection, Trump gave Reagan's attorney general Ed Meese the Presidential Medal of Freedom on October 8.) Barr, who advised Bush to pardon the indicted conspirators of Iran-contra, is up to his neck in both betrayals of his country. He helps prove that even the pre-Trump Republican Party was more interested in power than rectitude. If Congress is not too busy, Barr should be impeached.

As should Pompeo. In 2016, as a Kansas congressman supported by Charles and David Koch—and best known before that for running an aircraft supply company into the ground—Pompeo warned that Trump would be "an authoritarian president who ignored our Constitution." Now he's helping Trump do just that. After ducking questions about it, Pompeo had to admit he was on the July 25 call in which Trump pressured Zelensky to investigate Biden in exchange for military aid that Congress had already approved. That was bad enough. Then Pompeo attempted to defy Democratic subpoenas for information about the Ukraine mess, complaining his political opponents were "intimidating and bullying" State Department officials. Unfortunately for him, some of those officials have agreed to testify before Congress, and House Intelligence Committee chair Adam Schiff suggested that his committee could include Pompeo's defiance in articles of impeachment involving the administration's habitual obstruction of justice.



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BY THE NUMBERS
88M

Number of people in the United States over the age of 65 by the year 2050

50%

Percentage of those who will have significant long-term service needs

\$266K

Projected average annual cost for those with significant long-term service needs

\$11.57

Median hourly wage for a home care worker in the United States

87%

Percentage of home care workers who are women—more than half of them women of color

I Number of Democratic presidential candidates (Julián Castro) who have endorsed establishing a universal family care fund to make child care, elder care, support services for people with disabilities, and paid leave more affordable as of October 8

—Spencer Green

Shortly thereafter, former Ukraine envoy Kurt Volker shared a raft of once-encrypted texts that demonstrate the arms-for-political-dirt quid pro quo that Pompeo and other Trump defenders deny existed. Others who were subpoenaed also indicated their willingness to testify. Pompeo should also be impeached. (But Barr comes first.)

Then there's Mulvaney. The South Carolina Tea Party Republican was a founding member of the wing nut Freedom Caucus and purported to be a mortal foe of deficit spending—at least by a black president, as it turns out. Like Pompeo, Mulvaney opposed Trump in 2016, calling him a “terrible human being,” but then took multiple jobs in his administration; he's still Office of Management and Budget head as well as acting White House chief of staff. First he peddled the budget-busting Trump tax cuts. Now he's the guy who gave the order to halt congressionally approved military aid to Ukraine, as Trump directed. He has also been subpoenaed to provide a libraryful of administration documents to the committees investigating impeachment. I don't think you can impeach a White House chief of staff, but Mulvaney will go down in history as a corrupt hypocrite who helped prove that the Tea Party movement was about big racism, not small government.

Which brings us to Pence. Mother save us. He could have been the GOP's modern-day Gerald Ford—who, as Richard Nixon's second vice president, stepped in to save the party when its corrupt leader had to resign—but Pence is now in the running to become the 21st century Spiro Agnew. To be fair, we have no evidence of Pence's personal corruption, which is what brought down Nixon's first VP. But Pence has let himself get so close to Trump that he gives the president impeachment insurance.

After news of the Zelensky call broke, Trump first told reporters, “I think you should ask for VP Pence's conversation, because he had a couple of conversations also.” Then White House officials leaked that Pence's top national security adviser was on the Zelensky call as well, that the vice president had likely received detailed notes on it, and that he'd been sent by Trump to emphasize the administration's concern about corruption when Pence met Zelensky during his trip to Poland in August.

Uncharacteristically, Team Pence pushed back on those claims, but it's probably too late. Trump has set him up so that if congressional Republicans ever begin to walk on two feet again, they will know that impeaching Trump could put in the White House the person behind Pence in the line of succession: Can you say “President Nancy Pelosi”?

If (I can't honestly say “when”) Trump's poll numbers sink so far underwater that congressional Republicans abandon him and get behind impeachment, Trump will be swiftly swept away. Mainstream media will lionize the defectors and paper over the rot at the center of the party. Then it will be on the rest of us to remind them that this is Trump's GOP. As Pompeo once said about Trump, “It's time to turn down the lights on the circus.”

JOAN WALSH FOR THE NATION

Trump Trashes CA

This is vengeful, mob-style politics.

On October 4, the Bureau of Land Management announced that it was ending a five-year moratorium on the selling of oil and gas drilling leases on public lands on California's Central Coast. The bureau will soon be seeking bids for drilling on 725,000 acres of land across 11 of California's most beautiful counties.

This is just the latest in a series of extraordinary efforts by the Trump administration to slap down California, the front line of states' resistance to Trumpism, and to use federal powers to dilute the state's environmental protections, arguably its proudest political achievement of recent decades.

Donald Trump has been stewing about the Golden State ever since it voted overwhelmingly for Hillary Clinton in 2016, helping ensure that he lost the popular vote nationwide by more than 3 million votes. And he has sought payback against its political representatives and its population centers ever since the leader of the state Senate and the speaker of the state Assembly issued an extraordinary joint announcement the day after that election condemning Trumpism. As the *Los Angeles Times* recently documented, Trump has, on a near-daily basis, tweeted insults about the state's politics, its culture, its politicians, even its misfortune with forest fires.

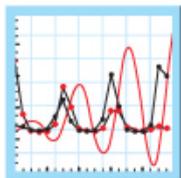
Early in his presidency, Trump and his congressional allies fashioned a tax “reform” that went out of its way to financially penalize middle-class Californians by limiting the extent to which property and state taxes could be deducted on federal tax returns. The result was that while most Americans, especially those in red states, saw some short-term financial benefits—skewed heavily toward the well-off—home-owning Californians in expensive parts of the state saw their federal tax burden significantly increase. The state's Franchise Tax Board has estimated that 1 million California households ended up paying an additional \$12 billion as a result.

Since then, as California Attorney General Xavier Becerra has filed one lawsuit after another against Trump's administration—the state has sued it more than 60 times—the president has locked in a strategy of financially punitive responses and has weaponized the Environmental Protection Agency and other agencies in an effort to undermine signature California policies.

In September the administration announced it was ending a nearly 50-year-old waiver to the Clean Air Act that gave California, the country's largest single market for auto sales, the ability to set more stringent vehicle pollution and fuel efficiency standards than do the feds—an alternative environmental model around which other states could coalesce. The result will be far dirtier air in California and far fewer fuel-efficient cars on American roads.

Absurdly, soon after trying to kill California's clean air standards, the EPA, which over the past three years has become a clearinghouse for big polluters, followed up by

(continued on page 8)



THE SCORE/BRYCE COVERT + MIKE KONCZAL

Tax the Filthy Rich!

The vast inequality in wealth among Americans is one of the most serious economic problems facing the country, but there is a very simple solution: a wealth tax.

The top 1 percent of Americans have more wealth than the bottom 95 percent, and that gulf is growing. Those in the top 0.1 percent have doubled their share of the country's wealth over the past four decades, from about 10 to 20 percent of all wealth. A wealth tax could blunt this inequality and fund a more just and humane society.

In the eyes of the government, the wealthy are not like us. The vast majority of Americans earn their income by slogging through jobs. According to tax law experts

To avoid paying taxes, the rich are able to claim how, when, and where to declare their income.

Lily Batchelder and David Kamin, the bottom 95 percent of income earners make 80 percent of their income from wages and salaries. In contrast, the top 1 percent earn just over half their income this way, and that number drops rapidly as you go up the ladder. For those making over \$53 million a year, or the top 0.001 percent, only 10 percent of their income comes from jobs. For these high-income individuals, their money comes overwhelmingly from capital gains and dividends. That means they also face a lower top tax rate than high-end wage earners.

In order to avoid paying taxes, the rich are able to claim how, when, and where to declare their income. They can hide their wages as corporate profits or financially engineer them into dividends or other types of capital income, which are taxed at lower rates. This alchemy of turning one kind of income into another has been turbocharged by the Trump tax cuts, which are very generous to people who claim to make their income from their own business rather than from a salary. By choosing when and where to declare their income, the wealthy can also manipulate profits and losses across different kinds of

investments or squirrel their fortune across various tax havens. Batchelder and Kamin found that millionaires face a tax rate between 0 and 40 percent, depending on how they classify their income.

Senators Elizabeth Warren and Bernie Sanders have proposed wealth taxes, with Warren's taxing 2 percent of wealth for those worth over \$50 million and 3 percent after the first \$1 billion. Sanders's plan would levy a 1 percent tax on households worth more than \$32 million, with higher tax rates for the wealthiest—up to 8 percent for those with fortunes in excess of \$10 billion.

Researched and defended by economists Gabriel Zucman and Emmanuel Saez, a wealth tax is one of the most progressive government levies available to us, falling entirely on the extremely wealthy. It would help with some of the evasion problems: Efforts to hide income as wealth would be rendered futile, as that fortune would be taxed anyway.

Experts are addressing objections to the wealth tax. There is a question of how to value wealth so it can be taxed and whether people would be liquid enough to pay these taxes. Fortunately, much wealth is in stocks and bonds, which are easily calculated. And the IRS can develop new evaluation techniques for other financial assets. Sanders and Warren want to increase the agency's enforcement budget. Under Sanders's plan, billionaires would be audited every year. And the liquidity issue of having the cash on hand to pay can be addressed by allowing limited deferrals with interest. Unlike many countries, the United States collects taxes from citizens overseas. It also has a wealth penalty it charges people who renounce their citizenship to avoid taxes, as some fear might happen if a wealth tax is implemented. Warren's plan, for instance, would impose a 40 percent exit tax on Americans worth more than \$50 million who give up their citizenship.

It is worth noting what kind of public program expansion could happen with this kind of revenue growth. Saez and Zucman said that a proposal like Warren's would raise \$2.75 trillion over 10 years and that Sanders's

could raise \$4.35 trillion over the same period. This would pay for free college, public day care, paid family leave, and a universal child allowance. It is a sad state that, with US life expectancy falling and families struggling to provide care and education for their children, the rich are hoarding an entire welfare state. Luckily, there is a clear path to changing that.

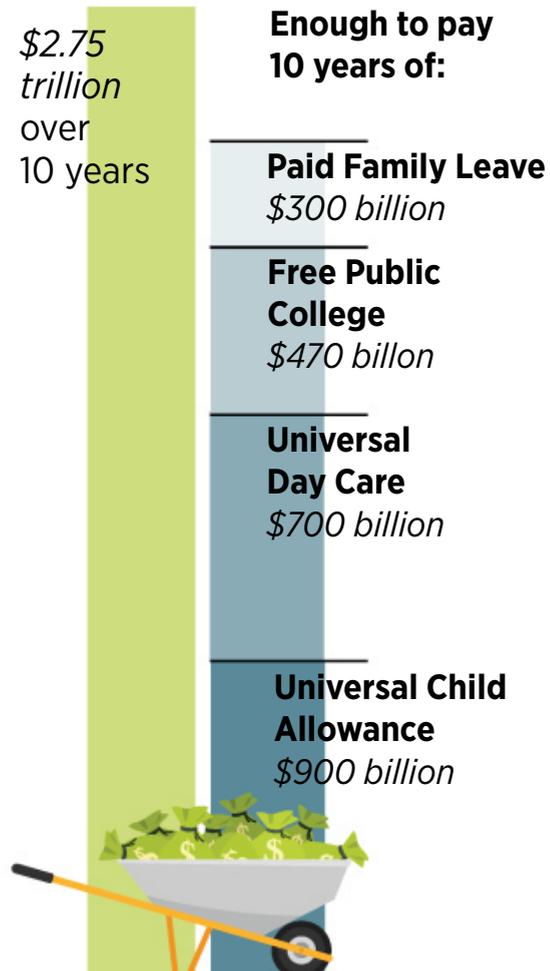
Mike Konczal

The Tax That Could Fix Us

A progressive wealth tax could fund a more just and humane society.

THE PLAN:

A 2% tax on wealth over \$50 million affects only the top 0.1%.



Sources: Saez and Zucman; FAMILY Act; American Family Act; proposals from Warren and Sanders campaigns; estimates from IWPR, Moody's Analytics, Columbia University.

2019 infographic: Tracy Matsue Loeffelholz

PRIVATE PRISONS

Going Broke?

Eight major banks have said they will divest from the private prison and immigrant detention industry. Together these banks have provided Geo Group and CoreCivic, the industry's two largest companies, with \$2.35 billion, or about 87 percent of their financing.

In an August conference call CoreCivic's chief executive, Damon Hininger, blamed organizers for the banks' decisions to pull out. "Clearly," he said, the banks "had bowed down to a small group of activists."

But the fight isn't over. The private prison industry incarcerates 75 percent of immigrant detainees, a share that could grow as Geo plans to make 5,700 detention beds available by the end of this year.

Government funding is not likely to disappear, as Geo and CoreCivic have poured nearly \$10 million into candidates' coffers and more than \$25 million into federal lobbying for harsher immigration policies over the last few decades.

In lieu of big banks, *The Washington Post* reported that Geo and CoreCivic could seek money from hedge funds and private equity firms. Regional banks are another potential source of financing. The big banks' pullout is "not a death knell for the industry by any means," said Alan Zibel, a research director who reports on federal contracts at the nonprofit consumer rights advocacy group Public Citizen. But it is progress. Said Natalia Aristizabal of Make the Road New York, an immigrant community organizing group, "Bankrolling this type of oppression is reprehensible, and it must stop." —Molly Minta



Cruel and Unusual

Pretending Trump is like other presidents is dangerous.

It feels like years ago, but it was only this past August when the executive editor of *The New York Times*, Dean Baquet, held a series of interviews and staff meetings to defend his publication from charges that it was underplaying President Donald Trump's racism. The catalyst was the paper's August 6 headline "Trump Urges Unity vs. Racism." To be fair, it was literally true regarding the remarks the president had recently (and apparently reluctantly) given. But his consistent use of Ku Klux Klan-level rhetoric obviously contradicts that one speech.

While Baquet admitted that the headline was a mistake, he took issue with those who argued that by refusing to call a spade a spade—or in this case, a racist president a racist—the paper was deceiving its readers on Trump's behalf. Baquet's view was that Trump was nothing special. "I get that people see the phenomenon of someone who says inflammatory statements as a new thing," he told a reporter, but he noted that he'd covered colorful politicians as a young journalist, such as Louisiana Governor Edwin Edwards, and Trump did not strike him as categorically different. (Edwards famously quipped to Baquet, then at New Orleans's *Times-Picayune*, "Only way I lose this election is if I'm caught in bed with a dead girl or a live boy.")

The *Times*, like nearly all news organizations, has also been hesitant about calling Trump a liar. Ironically, the *Times* was among the first to report that the president was repeating "an election lie" way back in January 2017 when Trump insisted, during a meeting with congressional leaders, that he had won the popular vote if one discounted all those who voted illegally. (He lost by about 3 million votes, and voter fraud is extremely rare.) The result of the *Times*' hypercaution, however, is that America's most influential media institution has ended up normalizing Trump, allowing him and his followers to undermine the norms of our democratic republic.

"We're not cheerleaders for the president nor are we the opposition," argued Peter Baker, a *New York Times* White House correspondent, adding that he worried that "the noise"—meaning the complaints about the paper's use of kid gloves vis-à-vis Trump—might "overcome our journalistic values." While Baker, together with his colleague Maggie Haberman, has energetically reported on

the bizarre backstage drama of leaking, lying, and backstabbing that is Trumpworld, he, like Baquet and Haberman, has also gone to considerable lengths to make it all seem routine.

Baker must know that Trump is nuts. In August, covering his antics at the G-7 summit in France, Baker wrote that the president "seemed especially erratic, spinning out wild conspiracy theories, provoking racial and religious divisions and employing messianic language about himself." But just two days later, Baker said, "Like other presidents, and perhaps even more so, Mr. Trump tends to hear what he wants to hear at settings like this, either tuning

out contrary voices or disregarding them." Recall that he was describing a politician who had just tweeted this almost comically transparent lie: "The question I was asked most today by fellow World Leaders, who think the USA is doing so well and is stronger than ever before, happens to be, 'Mr. President, why does the American media hate your Country so much? Why are they rooting for it to fail?'"

I dare Baker to explain how this is like other presidents. Trump recently went after Baker and his wife, *New Yorker* writer Susan Glasser, in one of his 801 September tweets, complaining, "Peter Baker of the Failing New York Times, married to an even bigger Trump Hater than himself, should not even be allowed to write about me. Every story is a made up disaster with sources and leakers that don't even exist."

The point to remember is this: Trump is not like other presidents. He is not like them in almost every respect, but the contempt he showers on journalists is truly unparalleled. "We're not at war. We're at work" is *Washington Post* editor Marty Baron's oft-quoted mantra. But Trump is sure as hell at war. That's why he calls journalists "scum," "slime," "sick," and "lying, disgusting people." It's why the president congratulated a Republican congressman for body-slammng a *Guardian* reporter. That's why he has lifted the phrase "enemy of the people"

Eric Alterman



The result of the Times' hypercaution is that America's most influential media institution has ended up normalizing Trump.

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— J. Fitzgerald, VA



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While there are good reasons not to make accusations about a leader with whom one disagrees, there is also danger in complacency.

from its previous champions Stalin, Mao, and Hitler.

The journalistic values and professionalism that Baron and Baker describe and Baquet embodies are no doubt admirable, but they were forged in another era under different circumstances. And while there are good reasons not to want to scare off conservative readers or make accusations about a leader with whom one disagrees, there is also danger in complacency. No doubt coincidentally, one is reminded of the reporting of *The New York Times*, which reassured readers in 1922 that “several reliable, well-informed sources confirmed the idea that Hitler’s anti-Semitism was not so genuine or violent as it sounded” and was just a political ploy “to catch masses of followers

and keep them aroused, enthusiastic, and in line.” Again, Trump is not Hitler, and the United States of today bears little resemblance to the Germany of the 1930s and 1940s. Even so, history’s warnings can be suggestive.

What’s crucial to keep in mind was put nicely in a tweet by *Times* columnist Paul Krugman. After Trump suggested that House Intelligence Committee chairman Adam Schiff be tried for treason, Krugman wrote, “Trump consistently manages to be worse than you could possibly have imagined, even taking into account your knowledge that he will be worse than you could possibly have imagined.” Shame on any journalist or outlet that fears the consequences of revealing the truth about this dangerous, evil man. ■

(continued from page 4)

threatening to withhold billions of federal highway dollars from California because of its poor air quality.

Adding insult to injury, Trump’s EPA has been busy rolling back prohibitions on a range of particularly harmful pesticides, an end run around the efforts of California, New York, and other states to better regulate these deadly chemicals.

Trump’s war on California doesn’t stop there. The president journeyed to the state in late September and spent much of his

time bashing California for its homeless population. Yes, the problem has reached catastrophic proportions—but Trump used the crisis only to posture. He didn’t go offering money to build houses or fund social services to tackle mental illness, drug addiction, or the lack of opportunities faced by ex-prisoners. Instead, he declared that skid rows in Los Angeles, San Francisco, and elsewhere were nuisances and urged extraordinarily coercive, illegal responses, such as rounding up the homeless wholesale and forcibly detaining them in federal facilities.

While he rants about California’s homelessness crisis, Trump has been trying to neuter the Affordable Care Act and roll back SNAP, the food stamp program. If implemented, both of these attacks on the social safety net would disproportionately hit California, which has been particularly effective in recent years in using expansions in federal benefits to deliver services more effectively to its most vulnerable residents. If, at Trump’s urging, the courts rule the ACA unconstitutional, California would lose billions of federal dollars overnight, and many of the state’s most vulnerable residents would be pushed further into destitution.

In a recent letter to California Governor Gavin Newsom, Trump’s EPA administrator claimed that San Francisco’s toleration of homelessness was contributing to water pollution, citing reports of streets filled with needles, human feces, and other toxic waste. While it’s true that homeless encampments have been linked to unhealthy levels of *E. coli* in some rivers, it’s also the case that California is among just a handful of states that have enacted legislation guaranteeing access to safe drinking water as a human right. Given this, there is more than a whiff of hypocrisy to the EPA’s threat to sanction California.

None of this is the ordinary back-and-forth that routinely occurs between the states and the federal government. This is mob-style politics, the politics of the strong arm and the iron fist, of blackmail and protection rackets. No matter where we live, we all have a dog in this fight. For if California is forced to bend to Trump’s will, the country as a whole will pay the long-term costs.

SASHA ABRAMSKY

COMIX NATION

JEN SORENSEN



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Sasha Abramsky, whose “Signal:Noise” column can be found at TheNation.com twice weekly, is the author, most recently, of *Jumping at Shadows: The Triumph of Fear and the End of the American Dream*.

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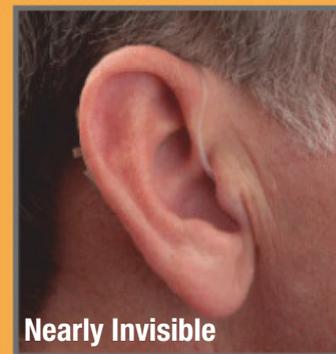
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WAR ON DRUGS

Blaming the Victim

The Trump administration's Department of Labor issued a rule on October 4 that expands the ability of states to drug test applicants for unemployment benefits. States may now subject employees laid off in occupations that require drug tests to undergo further testing to maintain their unemployment insurance eligibility.

The rule allows the government to deny help to workers who just lost their jobs and are disproportionately poor. It also incentivizes employers to start drug testing at work—the more people who are denied benefits, the lower the costs of unemployment insurance. Workers' rights advocates have attacked the rule as humiliating and cruel and as an unconstitutional violation of workers' privacy. Legal groups are expected to challenge the regulation in court.

Michele Evermore, a policy analyst with the National Employment Law Project, wrote in a statement to *Vox*, "This final rule represents a not-so-subtle attack on the character of unemployed Americans.... Drug testing is simply a lazy way of blaming the victims of larger economic trends or corporate practices such as downsizing, outsourcing, and offshoring."

—Teddy Ostrow

Katha Pollitt



A Bittersweet Pill to Swallow

Will abortion pills transform reproductive choice in a post-Roe America?

The news that the Supreme Court will hear its first abortion case since Brett Kavanaugh replaced Anthony Kennedy has prompted many to wonder whether *Roe v. Wade* will finally, unfortunately, be overturned. The case, *June Medical Services v. Gee*, challenges a Louisiana law requiring clinic doctors to have admitting privileges at a nearby hospital. Sound familiar? In 2016 in *Whole Woman's Health v. Hellerstedt*, the court struck down a Texas law over a similar requirement. You'd think that would have settled the matter, but no. The case is essentially the same, but the court is not.

Abortion-rights advocates have been warning about the end of *Roe* for decades. So far, they've been wrong, and they may be wrong this time too. Overturning *Roe* so close to the elections would hurt Republicans. A June NPR/PBS *NewsHour*/Marist poll found that 77 percent of Americans support *Roe*, even if they'd like more abortion restrictions.

That means that from a practical anti-choice point of view, it makes more sense to preserve *Roe* on paper while permitting regulations that close clinics, harass providers, and put women through hell. Barring a federal ban, the court could keep *Roe* and still essentially enshrine in law the patchwork map of abortion rights that *Roe* was meant to end. In fact, we're well on our way there already. Six states have only one clinic each: Kentucky, Mississippi, Missouri, North Dakota, South Dakota, and West Virginia. Since the Republican triumphs of 2010, nearly 400 restrictions have been passed in state legislatures. At the same time, a few blue states—including Maine, California, and New York—have increased abortion access.

If the Kavanaugh court upholds the restriction at issue, it will be open season on clinics—not to mention on women. More women will have to travel long distances to find a clinic, with prohibitive expenses for transportation, hotel accommodations, child care, and lost work. They will face more risks from abusive partners or family and more shaming from anti-choicers, because it's not that easy to keep a long trip secret. New York City and Austin, Texas, have allotted funds to help. Abortion funds, which pay for low-income women's procedures, are doing heroic work, as are funds like the Brigid Alliance and Fund Texas Choice, which pay and arrange for travel. Readers should donate whatever they can to

these wonderful volunteer groups. But there's only so much they can do even now, let alone in the tidal wave of need that is likely to come.

Pro-choicers often warn of a return to the bad old pre-*Roe* days. In some ways it might be worse: Anti-abortion propaganda has raised the status of the fetus much higher than it was pre-*Roe*. Before legalization, abortion was widely practiced and tacitly condoned. It's unclear whether even one woman was incarcerated in the United States for ending her pregnancy in the roughly 150 years abortion was a crime, and providers were rarely punished unless a woman died. Today abortion is a political flash point, defined as murder by a militant and highly effective organized anti-abortion movement. Anti-abortion leaders say they will never punish women for having an abortion, but we have already seen women charged with various crimes for miscarriages and stillbirths tenuously connected to their conduct during pregnancy and sometimes convicted under arcane laws for self-abortion.

In one important way, though, we won't be revisiting the past. The coat hanger, that dread symbol of the dangerous methods many women used pre-*Roe*, has largely been replaced by pills: mifepristone and misoprostol, the same medications used in clinics to end an early pregnancy, or misoprostol alone, which is 75 to 85 percent effective. Abortion pills are five to 10 times safer than Viagra, and you can find them easily on the Internet, despite the FDA's attempts to prevent online pharmacies from selling them.

They produce a miscarriage indistinguishable from a natural one, so in the unlikely event you need to go to an emergency room, your secret is safe. American women are already seeking out these pills. In the month after Trump's election, there were more than 200,000 US Internet searches for self-managed abortion. The existence of these pills doesn't change America's retrograde attitude towards women's rights, of course—but it may provide some reprieve should



The coat hanger, that dread symbol of dangerous methods many women used pre-Roe, has been replaced by pills.

the Supreme Court's right wing have its way.

In Ireland, where the near-total ban on abortion was repealed in a 2018 referendum, self-managed abortion helped change people's minds. Voters saw that abortion could not be stopped; when the postal service impounded suspicious packages, women had the pills mailed to different addresses or obtained them by hand from underground networks. Goretti Horgan, a socialist feminist campaigner and professor at Ulster University, has been working for years to legalize abortion in Northern Ireland. (The procedure is illegal there, except in cases of grave danger to the woman's life.) The use of pills is very widespread here," she told me, "and there is just no way to stop it." As in Ireland, pills have played an important role in building support for decriminalization, which seems imminent, unless the two major parties can put together a last-minute power-sharing agreement. "Peo-

ple saw that even when they face prosecution, desperate women will do anything to stop a pregnancy."

Recent studies show that about 1,000 Northern Irish women traveled to England for legal clinic terminations last year and about 700 ordered illegal pills at home in 2017. If enough women deprived of legal abortion turn to pills rather than keep unwanted pregnancies, will Americans, too, see that abortion is unstoppable and force politicians to legislate accordingly? "You mustn't get too upset about the makeup of your court," Horgan said cheerfully, recalling how in 1992 massive demonstrations made the Supreme Court reverse a lower court ruling barring Miss X, a 14-year-old rape victim, from going to England for a termination.

In the end, Horgan said, the status of abortion will come down to people power—and maybe some pill power too. ■

"People saw that even when they face prosecution, desperate women will do anything to stop a pregnancy," said professor Goretti Horgan.

SNAPSHOT / MATT DUNHAM

Rallies Heating Up

Environmental protesters gather around the head of a statue confiscated by police on Lambeth Bridge in central London on October 7. Activists from Extinction Rebellion blocked roads leading to Britain's Parliament in an attempt to disrupt the government. Police made nearly 500 arrests.

ON TRUMP ASKING CHINA TO INVESTIGATE THE BIDENS

Calvin Trillin
Deadline Poet

"You really do believe he was serious?"

—Representative Jim Jordan (R-OH) on ABC's *This Week*

Jim Jordan has said that it's clear

That this was a joke Trump contrived—
Which makes it, of course, quite all right.
A new Billy Bush has arrived.



AP PHOTO

The Nation.



THE EXTREME COURT

GUN CONTROL

ABORTION RIGHTS

**The Supreme Court's
2019-20 docket reads like a far-right
dystopian fantasy. That's no accident.
That's the Kavanaugh effect.**

ELIE MYSTAL

THE SUPREME COURT HEARD ITS FIRST CASE OF THE TERM ON MONDAY, OCTOBER 7. PROGRESSIVES WOULD BE BETTER OFF IF THE JUSTICES stayed home. All of the efforts by Senate majority leader Mitch McConnell and President Donald Trump to reshape the Supreme Court—stealing a seat from President Barack Obama, installing a vindictive partisan who has been credibly accused of attempted rape—are about to pay off for Republicans. As a famous man once said, “We are entering a period of consequences.”

This year the court will wrongly decide cases that will be devastating to individual rights and the rule of law. The single biggest reason for the court’s aggressive posture over the next year is the presence there of one man: Justice Brett Kavanaugh.

Kavanaugh was confirmed just at the start of last year’s court term. But his effect was limited. That’s because last year he was restricted to ruling on cases the court had already prepared to hear with Anthony Kennedy, the man Kavanaugh succeeded, on the bench. This year, the court is looking at a docket largely shaped by Kavanaugh’s politics.

To understand the Kavanaugh effect, you have to understand how the Supreme Court gets cases. It hears only a tiny fraction of the cases appealed to it—usually about 100 to 150 of the more than 7,000 it can choose from to review annually. If the Supreme Court is going to hear a case, it must grant certiorari. (Don’t worry, I can’t pronounce it, either.) The key is that it takes only four justices to grant cert on a case. Not five, not nine—just a minority of them have to agree to hear a case.

People who focus on how Kavanaugh—or Neil Gorsuch or Samuel Alito or Clarence Thomas—votes on the cases in front of him to determine his left/right bias are missing half the game. Given the wide discretion over which cases the court hears, voting to grant cert on a case is itself an indication of bias. Deciding which issues of law the court will consider in the cases it bothers to hear is also an indication of bias. The votes for certiorari are rarely made public; justices are never required to give their reasons for hearing one case while ignoring another. But it’s not hard to look at the docket and say, “I see what you did there.”

With Kavanaugh in its stable, the court’s conservative bloc now has the crucial fourth vote to hear the most aggressive versions of longtime Republican hobby horses. Chief Justice John Roberts is portrayed as an institutionalist who tries to keep the court away from hot-button political issues. Kennedy was a center-right justice, uncomfortable with the application of strict ideology to cases and controversies. Kavanaugh has none of the restraint of the man who preceded him or any of the humility of the chief. Now that he can hook up with Gorsuch, Thomas, and Alito, the 2019–20 docket reeks of their influence. The court will target the LGBTQ community and racial minorities. It will be pro-gun and pro-death. It will be pro-Trump to the point of shamefulness.

It will also be anti-choice. On October 4 the Supreme Court decided to add a case, *June Medical Services v. Gee*, regarding a Louisiana law that restricts access to abortion by requiring doctors who provide abortion services to have admitting privileges at a nearby hospital. If that issue sounds familiar to you, it’s because you have a working memory. The Supreme Court already decided that such laws are unconstitutional burdens on women, in a 2016 case called *Whole Woman’s Health v. Hellerstedt*. The only difference between that case and the new one is that Kavanaugh is now on the Supreme Court. That alone might be enough for the court to overrule itself on abortion rights and go full *Handmaid’s Tale* on America.

The court could make similar last-minute additions to the docket with any number of cases pretty much anytime during the term. As of now, the cases tackling the legal dumpster fire that is Donald Trump’s border wall are not scheduled for review. But that could change. *Trump v. Sierra Club*—the case challenging his assertion of a national emergency to steal money to build his border distraction—



Supreme injustice?
The justices with their newest member, Brett Kavanaugh, second row, far right, in 2018.

The single biggest reason for the court’s aggressive posture over the next year is the presence there of one man: Justice Brett Kavanaugh.

and a bunch of other wall-related cases are not on the docket. But the court has already lifted a temporary injunction the Ninth Circuit handed down in *Trump v. Sierra Club*, thereby allowing Trump to start stealing money to build his wall. The Supreme Court might decide that a full hearing on the merits is unnecessary this term, before the election, after which the wall issue may be moot or hopeless.

Challenges from House Democrats over Trump and his cronies’ attempts to defy subpoenas for his financial documents have also not reached the Supreme Court just yet. Whether the court decides to take those cases before the election is anyone’s guess. If the progressives on the court believe that Roberts will come down on the side of the rule of law, those four might be the ones who grant cert in the subpoena cases, over the objection of the conservatives.

What is on the docket will test Roberts. He has largely fooled the media into believing that he is some kind of centrist, some kind of swing vote who will mollify the worst impulses of the Republican Party. But he is no centrist. He is a conservative who excels at bending the law toward the GOP agenda as far as it can go without breaking. That he cares about it actually breaking, unlike his conservative brethren, is why he gets called an institutionalist. But it will be hard for him to pull off this sleight of hand when he is busy being the fifth vote to crush LGBTQ rights in the workplace or the fifth vote to end the Deferred Action for Childhood Arrivals (DACA) program or the fifth vote to condemn an insane person to death. (And don’t forget, if Trump is impeached by the

House of Representatives, the trial will be conducted in the Senate, presided over by the chief justice.)

History will likely look back at this year as a defining one in Roberts's legacy. It could well be the year that his mask of moderation is finally ripped off. Still, while Roberts will be critical to the decisions that are made by the Supreme Court, it's no longer really his court. He is just along for the ride; the people driving the car are Thomas, Alito, Gorsuch, and Kavanaugh. They are deciding where the court goes and what the court considers.

Buckle up. With Kavanaugh in the driver's seat, it's going to be a terrifying ride.

Death Is Always on the Docket

CASES: *Kahler v. Kansas* and *McKinney v. Arizona*

STATE-SPONSORED REVENGE KILLING, MORE COMMONLY known as the death penalty, has been legal at the federal level in this country since the Supreme Court reinstated capital punishment in 1976. In 1994 popular support for the death penalty reached an all-time high in Gallup Poll tracking, with 80 percent of Americans in favor of the policy. Since then, popular support has been falling. In 2018, Gallup recorded support at 49 percent, a new low in its polling.

But the current conservative majority on the Supreme Court has been going in the opposite direction. It's no longer enough for those justices to rule that the application of capital punishment is constitutional. Now the conservatives are challenging basic concepts of mercy and decency when those arguments get in the way of the death penalty. Alito has written derisively about how the court receives an application to stay an execution in "virtually every case." He is worried about delays when he's talking about killing people. Last year the court ruled that a Muslim prisoner could be denied his spiritual adviser during his execution, which seems like the smallest possible comfort to offer the condemned, because he waited too long to ask for one. In March, the court decided *Bucklew v. Precythe*. In his majority opinion, Gorsuch wrote that the Eighth Amendment's prohibition on cruel and unusual punishment doesn't include the right to a "painless death."

If the court rules that the Eighth Amendment doesn't require states to look at mitigating factors like mental disability, more people will die.

Choose life: Activists protest an execution outside the walls of San Quentin State Prison in 2005. Earlier this year California suspended the death penalty.



The conservative bloodlust will continue this term. On its first day back, the court will hear *Kahler v. Kansas*, which doesn't immediately present itself as a death penalty case. At issue is the circumstance that Kansas is one of five states (along with Alaska, Idaho, Montana, and Utah) that prohibit what is commonly known as the insanity defense in criminal cases. The court is being asked to consider whether states should be constitutionally required to consider an insanity defense under the Eighth Amendment or under the Fourteenth Amendment's promise of due process.

Prohibiting the insanity defense is problematic in all criminal cases, but in this one, Kraig Kahler has been sentenced to die. He was convicted of murdering his estranged wife, his two daughters, and their great-grandmother. An expert testified at his trial that he was suffering from major depressive disorder and obsessive-compulsive, borderline, paranoid, and narcissistic personality tendencies. That's not an excuse for his actions, simply an understanding of his diminished capacity to control his actions. In modern societies, we don't put people to death who lack the capacity to know right from wrong.

The state of Kansas cannot be forced to act like a modern society. The question is whether the Supreme Court will force it to at least consider this mitigation.

The Kansas statute that tries to do the medieval work of disregarding insanity is poorly written. Conservatives could save Kahler's life by simply ruling that the statute is legal gobbledygook too vague to be enforced while maintaining their street cred as stone-cold killers. But if the court continues its pro-death trend and rules that the Eighth Amendment doesn't require states to look at mitigating factors like mental disability, more people will die.

The second death penalty case on the docket this term is a more straightforward application of the conservative approach to the issue. In *McKinney v. Arizona*, James McKinney was convicted and sentenced to death for two murders in connection with two burglaries. He has post-traumatic stress disorder stemming from what a psychologist testified was a "horrific childhood." In 1991, when he committed his crimes, the judge did not consider PTSD a mitigating factor and sentenced him to death.

Times have changed since then, and on appeal, the Ninth Circuit ordered Arizona to resentence the case in light of his PTSD. From there, procedural hell broke loose. Arizona decided that McKinney could be resentenced by a judge alone, but he argued that he was entitled to a jury. He cited a 2002 Supreme Court decision affirming the right to be sentenced by a jury, but Arizona argues that since that ruling came out years after he committed his crimes, it doesn't apply to his case.

It's that issue that is before the Supreme Court: whether McKinney can be sentenced under the standards applicable in 1991 or the ones applicable now. Procedural confusion aside, it seems to me that if it was standard to kill somebody without a jury in the past but that's not the standard now and that person is still alive, then the state shouldn't kill him without talking to a jury first. But I'm just a guy who thinks the state shouldn't kill people.

Unfortunately, conservative justices don't seem to be interested in letting legal arguments—even ones as central



as “Which law applies?”—get in the way of killing people.

It is depressing that the conservative Supreme Court justices seem annoyed by technicalities that have the effect of keeping people alive. As Justice Sonia Sotomayor wrote in a dissent from Gorsuch’s opinion in *Bucklew*, “There are higher values than ensuring that executions run on time.”

On the Basis of Bigotry

CASES: *Altitude Express v. Zarda*; *Bostock v. Clayton County, Georgia*; and *R.G. & G.R. Harris Funeral Homes v. EEOC*

IN OCTOBER 8 THE SUPREME COURT WILL CONSIDER sending us back in time. Back before Randy Rainbow. Back before “don’t ask, don’t tell.” Back before Stonewall. The Supreme Court will consider sending us back to a time before there were federal civil rights laws—and will try to read the LGBTQ community out of the civil rights laws we do have.

The court will use three cases as its time machine. In *Altitude Express v. Zarda*, Donald Zarda’s estate contends he was fired from the skydiving company where he worked because he’s gay. (Zarda died in 2014.) In *Bostock v. Clayton County, Georgia*, a child-welfare worker argues that he was fired for mismanagement of funds after the county learned that he is gay. And in *R.G. & G.R. Harris Funeral Homes v. EEOC*, the owner of a funeral home fired his employee of several years after the employee came out as a trans woman and announced that she would be wearing women’s clothing to work.

Whether these victims are allowed to sue their former employers for discrimination hinges on the court’s interpretation of Title VII of the 1964 Civil Rights Act. The point of Title VII was to end employment discrimination. The law puts it simply:

It shall be an unlawful employment practice for an employer...to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.

Some jurists on circuit courts have already caught up to the fact that prohibiting discrimination on the

Fighting for her rights: Aimee Stephens, who was fired from her job at a funeral home after coming out as transgender, is at the center of a historic Title VII case.

If conservatives have their way, the results will be disastrous for the LGBTQ community. We’re talking about schoolteachers being fired because they’re gay.

Elie Mystal is the executive editor of Above the Law and a contributing writer for The Nation.

basis of sex includes prohibiting discrimination on the basis of sexual orientation or gender identity, but others have taken the dullest possible view of the word “sex.” They argue that sex refers only to a person’s biological assignment at birth and nothing more. They believe that “you can’t have sex with that person because of your sex” is a reasonable statement and not the epitome of what discrimination on the basis of sex looks like.”

They insist that Title VII explicitly does not prohibit discrimination against the LGBTQ community.

Conservatives will tell you that the authors of the 1964 Civil Rights Act did not intend to protect gay or transgender individuals. That’s probably true, given that in 1964 it was still legal to criminalize what was deemed homosexual conduct. Calcifying the laws with the impurities of the small-minded men who wrote them is kind of the conservative game plan.

But Title VII has long been interpreted to include outlawing discrimination on the basis of sex stereotyping. Thirty years ago, the court decided *Price Waterhouse v. Hopkins*. In that case, Ann Hopkins claimed she was passed over for promotion at Price Waterhouse because she didn’t behave as a woman was traditionally expected to. The Supreme Court ruled that this kind of discrimination was clearly within the scope outlawed by Title VII.

Despite this settled precedent, *Altitude Express* and *Bostock* will probably come down 5-4 against gays and lesbians. It will be the most significant setback for LGBTQ civil rights since the court ruled in *Bowers v. Hardwick* that there was no constitutional protection for sodomy. Mitch McConnell didn’t steal a seat on the court for nothing. I expect Mike Pence will read this decision aloud to Mother when it comes down, especially if they let Gorsuch write it.

R.G. & G.R. Harris is harder to predict because discrimination against transgender individuals is even more obviously a matter of discrimination on the basis of sex as imposed by others. However, when judges want to allow sexual discrimination, they use what’s called a bona fide occupational qualification, or BFOQ, to justify it. A BFOQ is what allows Victoria’s Secret to hire only women as “angels” to model its clothes. Technically, it’s sex discrimination for it not to allow me, a gender-conforming 300-pound man, the opportunity to model the company’s new bra and panty set. Practically, I get it; nobody needs to see that. The BFOQ allows Victoria’s Secret to conduct its specialized business without frightening children.

I’m not sure how the court wangles a BFOQ out of the job description of a funeral home worker, but I’m not Roberts and thus lack a certain measure of creativity when it comes to figuring out how to achieve bigotry.

If conservatives have their way, the results will be disastrous for the LGBTQ community. We’re talking about schoolteachers being fired because they’re gay. We’re talking about trans teens getting fired from their pizza delivery jobs. We’re talking about people being afraid to put their (legal) wedding photos on their desks for fear of being passed over for promotions.

We are supposed to be past this kind of legalized bigotry in professional spaces. If the Supreme Court

drags us backward, it will be on Congress to replace the progress the court takes away by updating the Civil Rights Act to reinstate protections for the LGBTQ community.

When Cruelty Is the Point

CASES: *Trump v. NAACP*, *DHS v. California Regents*, and *McAleenan v. Vidal*

ON NOVEMBER 12, THE SUPREME COURT WILL HEAR THESE THREE CASES, consolidated into one hearing, about Trump's efforts to end the Deferred Action for Childhood Arrivals (DACA) program. The outcome will hinge on whether the court decides that Trump has or needs a good reason to cancel the program.

What's at issue is a limitation on executive power. The president, through executive agencies, has broad powers to do what he wants, as long as that power is not used in an arbitrary and capricious fashion. The arbitrary and capricious standard of judicial review affords maximum deference to the executive branch. It means that courts should uphold the president's decision if they can identify any constitutionally valid reason for the policy, even if that reason is bad or the policy is obviously flawed. It's a standard designed to stop mad kings from acting on fleeting whims; it's not a bar to good-faith rule-making from the executive branch.

Unfortunately, the Trump administration wouldn't recognize a good-faith rule if it was written in rainbow sparkles by a Care Bear. "Owning the libs" is not a constitutionally valid reason to make or change a law.

This is essentially the point the Ninth Circuit made in *DHS v. California Regents* when it upheld a preliminary injunction preventing the government from ending DACA. It's not that Trump can't end DACA; it's that he can't end it for no reason. In response to the Ninth Circuit's ruling, the Supreme Court took the extraordinary step of reviewing all the ongoing DACA cases—including *Trump v. NAACP* and *McAleenan v. Vidal*, even before the DC Circuit and the Second Circuit got to rule on these cases.

Because the Supreme Court granted review, the Trump administration now has another bite of the apple to come up with a valid legal reason for ending the program. Unlike Trump, the solicitor general can't stand up in court and call Mexicans criminals and rapists. Even Trump people know that's not a legal justification to end a federal program. So instead, the government is throwing a lot of arguments against the wall. In the brief filed with the court, the administration argues that its decision cannot be reviewed

under the arbitrary and capricious standard—because it's an executive branch decision that is somehow magically not subject to the Administrative Procedure Act, which gives the courts standing to review executive rule-making. The White House also argues that if it must come up with a reason, the reason is that DACA provides an incentive for people to enter the country illegally. Finally, it argues that DACA was illegal when Obama instituted it, so now the administration is fixing the problem.

None of those arguments should work—in theory. The Department of Homeland Security is not a special agency that is above the law, there's no evidence that DACA creates incentives for women to carry their babies over mountains and through rivers to escape whatever torments are driving them, and the GOP already repeatedly tried and failed to get DACA ruled illegal when Obama was president.

But any of those arguments might work with this court. That this case is even in front of the Supreme Court is evidence of the Kavanaugh effect. Thomas, Alito, and Gorsuch might be hot to rubber-stamp Trump's executive excesses, but I do not believe Roberts wanted any part of this case this year. Kennedy probably wouldn't have wanted to see this, either. If the court had just passed it over, the case might have resolved itself in 2021 with a new president or a new Congress that could pass some kind of comprehensive immigration reform. The decision to hear this case at this time, before all the lower courts have issued rulings, reeks of Kavanaugh's influence as the fourth vote for partisan hackery.

Even if Roberts would have preferred to parry, now that the case is here, he is at the center of it—and he is almost certain to rule the wrong way. He, let us not forget, is the one who passed off on Trump's Muslim ban and allowed Trump to implement massive changes to asylum rules—both cases that were challenged by arguing that the president acted in an arbitrary and capricious fashion. Although Roberts did block Trump's attempt to add a citizenship question to the census, his reason appeared to stem not from some newfound willingness to apply minimum standards to this president but from evidence showing that the administration was clearly lying about its reasons for adding the question.

Unless there is some e-mail in which Trump says, "Dreamers should go back to their shithole countries," Roberts is likely to again rubber-stamp Trump's bigotry.

DACA has helped nearly 800,000 people get out of a legal limbo. The only reason for ending it is cruelty.

The outcome will hinge on whether the court decides that Trump has or needs a good reason to cancel DACA.

Dreamer undeterred: Martín Batalla Vidal is the lead plaintiff in one of this term's DACA lawsuits.



Racism Made Easier

CASE: *Comcast v. National Association of African American-Owned Media*

I DO NOT KNOW WHEN WHITE PEOPLE DECIDED "I DON'T have a racist bone in my body" was a relevant contribution to the discussion surrounding racial oppression and white supremacy, but I do know that the Supreme Court is about to try to make that line a legally valid defense to the charge of racial discrimination. On November 13 the court will hear arguments in the

case of *Comcast v. National Association of African American–Owned Media*. The cable giant is trying to get around a prohibition against discrimination—one that goes all the way back to Reconstruction—and it most likely has five Supreme Court justices willing to help it do so.

At issue is Entertainment Studios Network, which is owned by television producer and comedian Byron Allen. Comcast decided to not carry the network, and Allen alleges racial bias played a role in the decision. He says that a Comcast executive told him the company wasn't trying to "create any more Bob Johnsons" and argues that Comcast picked up less popular but white-owned competitors in his place.

To make his case, Allen is availing himself not of Title VII of the Civil Rights Act of 1964 but of a far older set of protections provided to African Americans under the Civil Rights Act of 1866. He's making a Section 1981 claim (the older civil rights law is codified as 42 USC Section 1981). That law, at its most basic, guarantees the right to sue, and it says simply, "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens."

Giving black people the right to sue over racial discrimination is a pretty important step toward outlawing racial discrimination. However, Comcast evidently thinks that black people living after the Civil War have things too easy when it came to suing white people for discrimination. It apparently wants to change the long-standing interpretation of Section 1981. Currently people have to show only that race or ethnicity was a "motivating factor" in a dispute. Conservatives argue that plaintiffs must show that race or ethnicity was the "but for cause" of a denied opportunity.

"But for" is a legal term of art that means the factor must be decisive. For instance: Half-price boxed wine and lax security might be motivating factors in a person's death by mauling in a zoo's lion enclosure, but the zoo is going to argue that ignoring the warning signs and jumping the fence were the but for causes of death.

In *The New York Times*, Comcast argued that it's making a minor, purely technical legal argument. But the difference between showing that race is a factor versus the entire enchilada is huge. By changing the standard along the lines Comcast and conservatives suggest, it will be easier for courts to dismiss racial discrimination lawsuits before the victims of racial discrimination even have an opportunity for discovery—the process through which plaintiffs are able to gather evidence.

Racist people rarely say, "I hate you because you are black." They rarely say, "I would give you a contract, but the color of your skin makes me uncomfortable." That's not how racism works. That's just how Thomas



Call to arms: Gun owners and Second Amendment advocates demonstrate at the state Capitol in Albany, New York, in 2013.

appears to think it works. So if Comcast succeeds in persuading five justices to require antebellum-style proof of racial bias in order even to think about suing, don't be surprised if Thomas writes the opinion. The white conservatives love having their black friend do this kind of work for them.

"I voted for Obama" is not a valid defense against racism. The court shouldn't make it so that you have to sound like Trump before somebody can sue you for racial discrimination.

Gun Control in the Crosshairs

CASE: *New York State Rifle & Pistol Association v. City of New York*

THE SUPREME COURT HASN'T TAKEN A CASE ABOUT the Second Amendment since 2010. In the years since, about 1.2 million Americans have been shot, according to the Giffords Law Center, with more than 11 out of every 100,000 US residents dying from gun violence every year. In Canada, that number is 1.9 per 100,000, and they have to defend themselves from bears. If only we had some kind of constitutional way to well regulate dangerous firearms.

On December 2 the court will hear arguments in *New York State Rifle & Pistol Association v. City of New York*. This case is unlikely to result in the sweeping creation of gun rights, as happened with *DC v. Heller* in 2008. In that case, Antonin Scalia invented a personal right to own a firearm for self-defense. In this instance, the court seems poised merely to "shred the entire fabric of state and local gun regulations," as *The Atlantic's* Garrett Epps wrote.

New York State Rifle & Pistol centers on one of these local gun regulations. New York City's gun permitting regime is very strict. It offers a single narrow license to ammosexuals, known as a premises license. Until recently, this license barred gun owners from transporting their guns outside the city, instead requiring them to keep their guns in the home, unloaded, and allowing owners to travel with their firearms only to specified city gun ranges. Before 2001, the city granted target licenses that

(continued on page 26)

Comcast is trying to get around a prohibition against discrimination and it most likely has five Supreme Court justices willing to help it do so.

**BORIS JOHNSON
DOES
AMERICA**



KUPER



Britain's prime minister is a **lifelong admirer of America.** How will Brexit change his—and his country's—special relationship?

by **JON ALLSOP**

IN APRIL 2003, BORIS JOHNSON STOOD, AWESTRUCK, IN BAGHDAD, STARING INTO THE REMNANTS OF A HOUSE BLOWN APART BY AN AMERICAN bomb. He was in Iraq on a fact-finding mission: He had voted for the invasion in his capacity as a Conservative Party lawmaker and was there to check out the aftermath. He was also working there as a journalist, documenting his experience in the British weekly *The Spectator*.

“Crumbs,” he recalls thinking as he surveyed the scene. “Crumbs” is an affected British expression meaning “gosh.” It also referred to the fragments left of the house; Johnson explained the wordplay, in case we didn’t get it. The ruins, he went on, were a neat metaphor for what the United States had done to the Iraqi regime, as well as the broader “range and irresistibility of America.” The “liberated” Iraqis he saw in Baghdad “were skinny and dark, badly dressed and fed.” The Americans “were taller and squarer than the indigenous people, with heavier chins and better dentition,” resembling “a master race from outer space, or something from the pages of *Judge Dredd*.”

These days, Johnson has made himself known as an opportunistic charlatan who campaigned for Brexit in order to become prime minister, became prime minister, then embarked on a reckless bid to throw the United Kingdom out of the European Union. Because of his bald careerism, his critics characterize him as a vacuum of beliefs—a black hole into which principles disappear. But one narrative has come up consistently in his writings and public statements over the years: Johnson is in genuine awe of the raw global power of the United States.

America, he has said, is the “greatest country on earth” and the United Kingdom’s “closest ally.” The United States’ rise he sees as the great story of the past century, upholding the idea that “government of the people, by the people, for the people should not perish from the earth.” For Johnson, American culture is a unifying, binding force that other pretenders to superpower status (China, Europe) lack. He has written of the thrill of flying in an American fighter jet, of strolling the Santa Monica Pier in California at sunset, and of the consummate Americanism of the film *Avatar*. Johnson also seems to believe the United Kingdom is in America’s league and should be treated that way. That view may well complicate efforts to negotiate a post-Brexit trade deal, but it doesn’t undermine his clear belief in a strong US-UK relationship.

“Boris does, from time to time, fly by the seat of his pants, as we all know. He also contradicts himself quite frequently,” Robin Renwick, a former British ambassador to the United States, told me recently. “But he is a true believer in the specially close relationship with the US and the need to reinforce it.”

Johnson’s views on the United States are newly relevant. Whatever the outcome of his Brexit, he will need America to buoy his country’s economy and help the United Kingdom maintain political relevance on the world stage. But particularly with Trump in charge, that means taking orders from the Americans, and for all the surface comparisons between Johnson and Trump—the hair, the lying, the hair again—Trump does not fit Johnson’s stated views of what a president should be.

In the past, Johnson was harshly critical of Trump and his politics. In 2015 he called Trump “out of his mind” and “frankly unfit to hold the office of president of the United States.” Publicly, at least, Trump seems to have forgiven him, but Johnson already lacks leverage, and the power imbalance between the two countries will only grow in the likely chance of a messy Brexit. In such circumstances, will Johnson resist Trump’s bullying in order to protect his waning dignity and in the process threaten to sink the UK further into an economic hole? Or will he muster the humility to negotiate what he has always

**“He was the
idlest buffoon
of his generation.... His
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of Hitler’s.”**

—Oswyn Murray,
fellow emeritus at
Oxford

What a good boy:

Trump pats Johnson on the back during a session at this year’s United Nations General Assembly in New York.

seemed to want—an even closer US-UK relationship—but accept whatever unpalatable conditions Trump insists should be part of the deal?

Historically, many Brits (including Johnson) have reacted poorly to the idea of the United Kingdom as a vassal or 51st US state. The Iraq-era epithet that stuck so ruinously to Tony Blair—that he was America’s poodle—will no doubt loom in Johnson’s mind.

As Johnson frequently reminds us, Brexit is about reclaiming sovereignty. Perhaps the question now should be, “From whom?”

JOHNSON’S LOVE AFFAIR WITH THE UNITED STATES began early. He is a natural-born American and a native of New York City, where his father, Stanley Johnson, was a student in 1964. In a radio program later that year, Stanley Johnson said that friends of his then-wife, Charlotte Johnson, implored her not to have Boris in America, fearing the medical costs and the possibility of his conscription to serve in the military. The first of her fears, at least, was well founded, but it did not materialize. Boris was born at a pay-what-you-can clinic that “respectable” New Yorkers did not frequent, his father said. “We were neither respectable nor New Yorkers.”

Boris spent the first months of his life in a loft opposite the Chelsea Hotel. After an interlude back in the UK, Stanley Johnson got a job with the World Bank in



Washington, DC, and was fired after he submitted a prank funding application to build pyramids and a sphinx in Egypt.

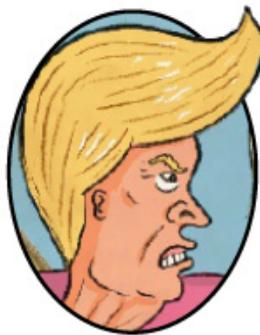
In 1969, when Boris was four, the Johnsons left the States again for England. Although Boris continued to have a cosmopolitan, itinerant upbringing—his family was based in Brussels for a time—he never again lived in America. “He did have important early years in America, though how much he remembers about them I can’t possibly tell you,” Stanley Johnson told me.

Records suggest how much America appears to have held his interest and significantly influenced the development of his thought. As a student at Eton, Britain’s most prestigious prep school, Boris Johnson reportedly tried to invite Ronald Reagan to lecture there. In interviews, Johnson has traced his childhood love of classics, still an ostentatious facet of his public persona, to his “skin crawling” realization, at age 12 or so, “that Athens was like America—open, generous, democratic—and Sparta was like the Soviet Union—nasty, closed, militaristic, totalitarian.” Later, when he served as mayor of London, he put a bust of Pericles in his office, and the hat of what he said was “some American mayor” atop it. (I asked a couple of Johnson’s teachers from Oxford, where he studied classics, if the America-Athens comparison had influenced his work there. One of them, Oswyn Murray, replied, “I came to the conclusion that he was the idlest buffoon of his generation.... His knowledge of Pericles has not improved since the age of 12 and reminds me of Hitler’s.”)

Johnson was elected president of the Oxford Union, a prestigious debate society, largely thanks to a sophisticated poll conducted by Frank Luntz, an American fellow student and a future GOP pollster. Since the early days of Johnson’s career, many of his political instincts have borne the supersize imprimatur of Americanism. His political convictions have always been secondary to the force of his personality, and since he became prime minister in July of this year, he has adopted a US president’s adversarial style when dealing with lawmakers rather than the more genteel, consensual approach traditionally associated with the UK’s parliamentary system. The allure of supreme personal power has always been strong for Johnson. As a child, he told a family friend that it was his ambition to be “world king.” Stanley Johnson recently said of his son, “He could have been president of America, but he opted to be prime minister of England.”

America looms over another aspect of Boris Johnson’s self-created mythology: his spiritual closeness to his hero Winston Churchill, whose mother was American. In his 2014 book, *The Churchill Factor*—a transparent exercise in parallelism—Johnson hails the wartime leader for his visionary “transatlantic plucking.” Churchill foresaw the new US-centric world order and got the United Kingdom special status within it, “with his Anglo-American self (naturally) as the incarnation of this union.”

And yet since the very beginnings of Johnson’s political career, he has also personified the bumbling British gentleman—not an archetype typically associated with the Oval Office. His exaggerated Britishness has come in handy during his push for Brexit, which has been couched, in large part, as an appeal to unthinking patriotism. (Disclosure: I worked for the campaign to keep the UK in the EU in 2016.)



As a child, Johnson told a family friend that it was his ambition to be “world king.”

Special friends: US President Ronald Reagan and British Prime Minister Margaret Thatcher shared many right-wing values.



There have been bumps in Johnson’s romance with the United States, of course. In a 2006 article headlined “That’s It Uncle Sam,” he threatened to renounce his US citizenship. He said it “used vaguely to tinge my sense of identity” but didn’t anymore. (Andrew Gimson, Johnson’s biographer and a former *Spectator* colleague, told me Johnson “used to make quite a thing of having an American passport.... I think he generally seemed to have a tremendous relish for visiting America.”)

Around that time, Johnson publicly changed his position on the United States and the Iraq War. Gone was the paean to American triumph from his visit to Baghdad, replaced by a tone that modulated between ass-covering (yes, the weapons of mass destruction were a lie, but Saddam had to go) and explicit personal regret for his support of the invasion. If this seems contradictory or at least an epic flip-flop, consider the egotism of Boris Johnson. He sees Britain as great because America is great—and vice versa.

It would be 2016 before Johnson formally severed legal allegiances to the States—not because he felt too “jolly British” to have dual citizenship but, in all likelihood, to avoid paying US taxes after a crackdown on foreign bank accounts. (What could be more American?) The same year—the year of the Brexit referendum—Johnson railed publicly against Barack Obama’s criticism of the Leave effort. Brexit was none of America’s business, Johnson said.

Besides, the United States would never accept similar interference with its own affairs.

IN THE CONSERVATIVE PARTY, PRO-AMERICANISM IS NOT unusual. America stands for democracy and capitalism; liberty and small government; consumerism and entrepreneurialism; low taxes and cheap gas; pride in the flag, the troops, and obscene wealth (all of which are considered gauche in Britain); and an anything-is-possible ethos. In his final *Telegraph* column before taking office as prime minister, Johnson even invoked the moon landing and “the ‘can do’ spirit of 1960s America” as inspiration for tackling the technical challenges posed by Brexit.

But his fellow feeling with the States verges on the libidinal. In a 2003 profile of Italy’s then-Prime Minister Silvio Berlusconi, Johnson twice uses the word “American” as a synonym for explosive, virile energy. Johnson wrote the next year that in a Las Vegas hotel, he feels “surges of enthusiasm for America and her energy” as he looks out over the city’s “colossal neon representations of rhinestone-covered buttocks.”

Such machismo invokes a nostalgia for colonial power, which America, in Johnson’s view, inherited from Britain. The United States, he said, is “one of the finest ideological and cultural creations” of the UK. It’s as if he wants to bask in America’s glory without sharing responsibility for its failures. Now as ever, when it comes to the special relationship, Johnson wants to have his cake and eat it, too. “Whoever comes to power in Britain...will continue to

try to have it both ways,” he writes in 2003’s *Lend Me Your Ears*. That involves “pretending a unique allegiance to both Europe and America, not because we are especially duplicitous, but because it is the sensible thing to do. We will stick with America while contriving to remain on the European ‘train.’”

The United Kingdom has gone off the European rails, steered in no small part by Johnson. The country’s relationship with America, under his leadership, will now logically assume added importance. Already, British and US officials have made enthusiastic noises about the prospect of a quick trade deal the minute the UK is out of the EU. Sitting next to Johnson on the sidelines of the United Nations General Assembly in September, Trump said, “We can quadruple our trade with the UK.” Trump has even paid Johnson the highest compliment imaginable: that he is “Britain Trump.”

“He’s happy to pose as Trump’s best buddy now,” Jonathan Freedland, a columnist for *The Guardian* who wrote a book about the UK and America, told me. “I think to flatter him by calling him an Atlanticist... would be a mistake, because it would imply a kind of worldview. I don’t think there is one.”

IN 2004, A YEAR AND A HALF AFTER HIS TRIP TO BAGHDAD, Johnson published *Seventy-Two Virgins*, his first and so far (thankfully) only novel. The book is a kind of Socratic dialogue about the goodness of America in the context of the Iraq War. Its narrative features jihadists taking the US president hostage while he’s giving a speech in Parliament, then forcing the assembled dignitaries to debate whether the United States should be forced to release prisoners from Guantánamo Bay. The world, watching on TV, is invited to weigh in on the matter in a telephone referendum. The US wins by a Brexit-thin margin.

In the novel, Johnson portrays anti-Americanism, then on the rise in the UK, as a childish agenda pushed by dope-smoking hippies and effete snobs. At the same time, he channels his ambivalence through thinly veiled alter egos like Roger Barlow, a fictional Conservative lawmaker who expresses irritation as American soldiers push him around.

Barlow serves as a useful proxy for Johnson, revealing a rare deep truth about him: that for all his love of America, he desperately wants the United Kingdom to be—and be seen as—its peer. In real life, Johnson has complained about America’s lies and the UK’s supine naivete over the Iraq invasion. In *Seventy-Two Virgins*, the narrator asks, “Britain wasn’t a colony of America, was she? She could hardly be called a vassal state, could she?”

Iraq was the clearest manifestation yet that this was wishful thinking, but there were, are, and certainly will be others. In 2004, Johnson wrote about an extradition case that the US-UK relationship had become “give, give, give.” In 2009 he called another US extradition request “a comment on American bullying and British spinelessness.” As the United Kingdom’s foreign minister under Theresa May, he banned the phrase “special relationship” in his office. It made Britain sound “needy,” he said. “As in so many romantic relationships, there’s an asymmetry.”

With the US-UK relationship about to enter a new phase, Johnson’s resentment of American pushiness could



Dangling Boris: As mayor of London, Johnson rode a zip line to celebrate the 2012 Olympics. He didn’t count on getting stuck.

override his Atlanticist values. He could just as easily be backed into a corner by Britain’s economic needs and capitulate to the States completely. Politically, at least, this might be less of a problem for him than vassalage to the EU. “A peculiarity of English nativism is to see continental Europe as foreign and yet to see Canada, Australia, New Zealand, and the United States as somehow less foreign,” Freedland said. This decidedly colonial view may help Johnson rationalize difficult decisions.

Nonetheless, many Brits worry the Trump administration’s promise of a post-Brexit trade deal will make the UK adopt looser, US-style regulations and support Trump’s foreign policy priorities, notably on Iran and the Chinese multinational Huawei. In particular, many Brits fear that a trade deal would lead to further privatization of the country’s free-to-use National Health Service and the introduction to the British market of chlorinated chicken, which is common in the US but banned under European health standards. (According to a poll conducted by the consumer-advocacy organization Which? last year, nearly three-quarters of respondents oppose weakening food safety standards.)

Johnson has stressed that he will fight hard for the NHS and other interests, and Gimson, his biographer, said he sees “no evidence that Boris is a feeble negotiator.” (Johnson has apparently been practicing his golf swing, perhaps to that end.) But critics have already started labeling Johnson as Trump’s poodle.

It’s hard to predict anything about Johnson’s strategy, let alone in regard to the Brexit he is overseeing. For now, Parliament has frustrated the possibility of Britain leaving Europe without a deal (though at the time of this writing, the Johnson government was reportedly exploring workarounds). What’s more, the public could vote him out of office.

What he can be relied on is to do what he has always done: keep pandering to different audiences to advance the one true cause of Boris Johnson. Given his affinity for and appreciation of America, he—if he can get away with it—might like very much to go down as the leader who decisively steered UK foreign policy out of Europe’s thrall and back in a transatlantic direction.

Toward the end of *Seventy-Two Virgins*, Barlow—the character who is obviously Johnson—has the final say in the debate on America’s goodness. Held hostage by jihadists in Parliament with the US president and other dignitaries, Barlow, after some prevarication, stands up to speak. “I say vote for America!” he cries. Boris Johnson will soon find himself in a strangely similar position. ■

“Whoever comes to power in Britain... will continue to try to have it both ways.”

—Boris Johnson



Jon Allsop writes a daily newsletter for Columbia Journalism Review. He lives in London.



THE
OPTIMIST
IN
THE
ROOM

Representative ILHAN OMAR

is bringing an organizer's
mind-set to Congress.

DAVID M. PERRY

JUST A FEW DAYS AFTER PRESIDENT DONALD TRUMP INCITED HIS FANS TO chant “Send her back” at a rally in July, Representative Ilhan Omar and her staff fanned out down Lake Street in the heart of South Minneapolis. The road was closed off for a neighborhood festival, with sidewalks lined with informational booths, musicians, and people selling fruity drinks and local beers. People smiled and drew close to the then-36-year-old congresswoman. A trio of a cappella singers improvised songs about her. She played soccer with a few kids, skillfully nutmegging one of them.

I’ve seen politicians work crowds before, and Omar moves with a different energy. Instead of drawing the attention toward herself and her agenda, she expands the spotlight to those around her. At her core, she’s still a community organizer, building networks across the microcommunities that make up Minneapolis. As I walked with her team, I turned to her and said, “You seem to know everybody.” She replied simply, “It’s home.”

As one of the first two Muslim congresswomen in the US, she’s a focal point of Trumpian racist fantasies about creeping Sharia. She’s also one of a handful of progressive and newly elected officials pushing the Democratic Party to the left. It seems her every public statement generates intense scrutiny from both the right and the center.

But to fixate on the national discourse obscures how Omar rose to prominence and how she operates in communities that have elected her by overwhelming margins. Since February, I’ve attended every public appearance of hers that I could, got to know her staff in Minneapolis and in DC, and sat down with her to talk about her political philosophy. Here’s what I learned: She likes to listen. She asks questions. She spends more time passing the microphone than speaking into it. She cares about the details of policy, especially the ways they might affect vulnerable communities. She is a product of inclusive Midwestern politics, not the result of a localized identity politics.

When I moved to Minnesota from the East Coast in 1997, I was fully infected by Lake Wobegon stereotypes. I thought the food would be bland. I thought everyone would be white. I thought I was surrendering diversity for pastoral homogeneity. We see that false vision manifest every four years in the buildup to the Iowa caucuses, when the heartland gets equated to a minority of rural white communities. Such stereotypes fuel anti-black and anti-Islamic bigotries and posit Omar as an outsider in the “real” Midwest.

Yet according to the 2010 census, more than three-quarters of Midwesterners live in urban centers, not rural communities or towns. Even rural spaces aren’t as white as the media commonly portrays. For decades, Hmong families have been farming in Minnesota, and now increasing numbers of Somalis are doing likewise. Minneapolis, however, remains over 63 percent white, and Omar’s Fifth Congressional District is more than 67 percent white.

Omar once told an audience she had to be asked 14 times before she agreed to run for office.

David M. Perry is a journalist and historian.

Her political ascent required the ability to connect across diverse communities.

Omar grew up in a Somali neighborhood in Minneapolis, but it’s a mistake to see her as someone whose political activity has been as a representative of just that community. She went around the traditional pathways into politics. “There isn’t really a Somali person who will say they see me as an organizer within the Somali community. That thought has been really laughable to many Somalis,” she told me.

After graduating from North Dakota State University in 2011, she worked as the child nutrition outreach coordinator for the Minnesota Department of Education. In 2013, she also served as the campaign manager for Andrew Johnson, a young engineer running for the Minneapolis City Council. When he won, she became his policy aide, seemingly placing her in line to run for office herself.

Her rise, however, wasn’t smooth. She encountered hostility and, in one case, violence. In 2014, at a local Democratic Party caucus where she was organizing in support of a Somali politician running against an incumbent Minnesota House member, multiple assailants, their identities never revealed, held Omar down and beat her, sending her to the hospital with a concussion. Afterward, she wrote an op-ed for *The Star Tribune* arguing that she was assaulted because “my opinions are contrary to those of a few male political leaders in our community” and in service to others who wanted to keep additional Somalis out of local politics.

It was clear then that Omar couldn’t be easily silenced, but she remained a reluctant candidate. She once told an audience she had to be asked 14 times before she agreed to run for office. She credits her decision to try for the Minnesota House of Representatives in 2016 in part to joining Women Organizing Women, a group led by another local Somali leader, Habon Abdulle. Since being elected, Omar has proved a natural politician. She authored 38 bills in the Minnesota legislature, and in the US Congress she has refused to back down in the face of the president’s cruelty.

ON THE DAY OMAR FLEW HOME IN JULY, A CROWD of over 150 supporters, including Abdulle, greeted her at the airport, assembling on short notice as Facebook invites shot through Minnesota’s progressive networks. She entered the baggage claim area to cheers, grabbed a bullhorn, and delivered remarks that shifted quickly from radiant to serious. She said Trump turns his hate on her because he “is threatened [that] we are inspiring people to dream about a country that recognizes our dignity and our humanity.”

That was the last time over the weekend that she allowed Trump’s insults to dominate the conversation. I followed her that evening to a town hall at the Sabathani Community Center in a historically black neighborhood in South Minneapolis.

Here’s what happens at Omar’s events. She arrives to thunderous applause. She speaks briefly. If Trump has tweeted about her recently, she acknowledges it but then immediately turns to the issue at hand. That July night, for example, she invited Representative Pramila Jayapal to speak on a Medicare for All panel with Erin Murphy, a

nurse and former Minnesota House majority leader; Melisa Franzen, a state senator; Rose Roach, a nurse and labor activist; and Dave Dvorak, an emergency room doctor. All the panelists spoke, then Omar asked them questions. She weighed in from time to time but mostly encouraged others to mobilize and educate the crowd. The same thing happened in a May panel on global warming and in August panels on maternal health for women of color and on immigration reform. She convenes and presides.

Omar is strengthening and expanding the networks that she is going to need to change the country's direction. Her model of politics as an extension of community organizing helps make people feel empowered to seek transformative change themselves. At the end of the Medicare for All panel, attendees buzzed happily as they dispersed, no longer angry about Trump's tweets but focused on taking the small steps required to build a more just health care system. Her brand of politics sends the message that we're all in this together.

IN AUGUST I MADE MY WAY TO THE WAREHOUSE DISTRICT just north of downtown Minneapolis to interview Omar. Her office is on the second floor, with a narrow reception area that opens up to a well-lit open space. She settled down on a couch and pulled a gray blanket over her lap. I asked her about her panel events, observing that I had never seen a politician talk so little. She told me, "It is an organizer's philosophy. You set the table, and you allow for people to not only be seen but be heard."

She traced this habit to her family, saying, "There was no hierarchy in my home, there was no one really smarter than the next person. We could just interject as kids, and whatever adult was in that space would pause and say, 'You have something to say? Finish your sentence.' I think it allowed us to grow and feel internal liberation. And it allowed whoever was the leader, the adult in that room, to feel more secure in whatever decision or thought process they were going through, because it wasn't solely their own."

She said this childhood experience still informs her philosophy of cogovernance—and not just when planning town halls. "If you think about the fundamentals of a representative government, you hear everyone so that you can represent their voice. That's kind of how I think about my position as a leader," she said.

I asked her if there is something especially Minnesotan about that, and she answered, "There's something human about that," but then elaborated, "I think that is why so many of us feel alive in Minnesota politics, because there is something about building consensus. There's something about having joy in politics, knowing that everything is local, the decisions that you're going to make are impacting your friends, your neighbors, your colleagues."

Omar's desire to bring new voices into politics has led her to sometimes avoid the traditional community spokespeople who crop up in diverse cities. "I have a complete disdain for gatekeepers, and I try to keep them at a distance," she said, adding that she has developed "a complete disregard" for "talking to the subcommunities as a voting bloc."

I pressed her, asking, "But don't different groups have different needs sometimes?" She replied, "Not in the way that I see it. I don't have particular needs as a Muslim

refugee immigrant that aren't really similar to anyone else wanting proper health care and full education and a world that's safe from persecution." While she acknowledged that different groups encounter distinct barriers and threats, she insisted that "our core needs as humans" are universal and that universality should govern our politics.

Although attacks on identity politics often come from the right, Omar offered a cogent reframing from the left. She said she never wants to assume, "because [people] have a particular identity, that they must be very different in the kind of world that they want." She looks for ties based on common values instead of asking, "Who are the black leaders I'm connected to, so that I can do black organizing? What Somali leaders do I work with so I can do Somali organizing? What Jewish leaders am I connected to? That framework," she added, "has not been part of my organizing work."

This disregard for convention, though, may have also contributed to Omar's early stumbles, when her criticisms of Israel invoked anti-Semitic tropes. These are the kind of unforced errors that she might have avoided had she spent more time cultivating those designated leaders who are skilled at navigating the rhetorical pitfalls of their communities.

She seems to be learning. Her office said that after she apologized for tweeting that political support for Israel was "all about the Benjamins baby," she and her team reached out to local Jewish groups. She organized a call that included Jewish Community Action, the Jewish Community Relations Council, and several rabbis in her district to make sure her rebukes of Israel would not unintentionally divide allies.

She knows that controversy will follow her. As I wrote this piece, she tweeted a death threat that she had received. The wife of a DC political consultant alleged in a divorce filing that her husband was having an affair with Omar (who denies it). The Alabama GOP voted to expel her from Congress. And she shared an anodyne political cartoon about being barred from Israel—but the cartoonist, it turned out, had placed second in a 2006 Holocaust cartoon contest in Iran.

She said she's handling the pressure easily enough. Being Somali, she explained, has given her a thick skin because of her community's habit of good-natured mockery. "I also grew up in a Somali culture, where we are extremely direct and are trained to not take much offense. I mean, 90 percent of our nicknames are based on our abilities or defects that we might have as humans. Somalis call me 'half-life' because I'm so tiny. The natural thing for a Somali person when they see me [is] to say, 'What is happening to you? Why are you dying?'"

What does worry her, though, is that people who identify with her will feel the blow. "I know that if they say something about Muslims or immigrants or refugees, that there is a refugee or an immigrant or a Muslim person who sees themselves in me and who will take it personally."

Meanwhile, Omar and her team keep working to find new audiences to educate and experts to elevate. She's always the "optimist in the room," she said. "I am the kind of person that really isn't challenged by any circumstances. I will see an opportunity." ■



"I don't have particular needs as a Muslim refugee immigrant that aren't really similar to anyone else wanting a world safe from persecution."

—Rep. Ilhan Omar

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(continued from page 17)

permitted people to carry their guns to shooting ranges throughout the state, but the city stopped issuing those licenses when it determined they were being abused.

In 2013, NYS Rifle & Pistol sued New York City over what it deemed the restrictiveness of the premises license. The Second Circuit Court of Appeals upheld New York City's regulation, but NYS Rifle & Pistol appealed the ruling to the Supreme Court, citing the kinds of Second Amendment and interstate commerce concerns the gun lobby does anytime we try to make ourselves a little bit safer from its products. Apparently, the inability to take their city gun to their second home is a major constitutional problem for people who can afford two entire homes but only one gun.

The Supreme Court granted review. Fearing, perhaps what the conservatives would do with this case, New York City responded by changing its permitting laws, providing a way for city gun owners to transport their weapons. The city then asked the Supreme Court to dismiss the case, since the offending regulation was no longer on the books.

Under normal circumstances, this would be an easy dismissal. The case is moot, which means there is no longer an active issue to be decided. All federal courts, including the Supreme Court, are supposed to deal only with cases and controversies. They don't give advisory opinions, and they don't speculate on what the law could be in a hypothetical situation. Judges are not philosophers; they think about how things are, not how things could be.

Instead of dismissing the case, however, the court decided to hear it. This, again, is where you can see the Kavanaugh effect. It's unlikely that Roberts was eager to hear a speculative case on gun rights. Kennedy wouldn't have been likely to want this case, either. In the eight years before he retired, the court didn't take a single gun case. The continued existence of this case is an act of aggression by the hard-right wing of the Supreme Court. It is a signal that this court is willing to hear any challenge to any gun regulation whatsoever.

Every person asking politicians to do something about gun violence in the wake of whatever mass shooting happens between now and the time I finish this sentence needs to recognize that the current conservative majority on the Supreme Court has no intention of letting meaningful gun regulations become law. It's a message that Democratic senators heard loud and clear. Senator Sheldon Whitehouse (D-RI) filed an amicus brief in this case in support of the New York City regulation. He took the relatively unprecedented step of threatening the Supreme Court. "The Supreme Court is not well. And the people know it," he wrote in his brief. "Perhaps the Court can heal itself before the public demands it be 'restructured in order to reduce the influence of politics.' Particularly on the urgent issue of gun control, a nation desperately needs it to heal."

Whitehouse's brief is likely to do nothing to bring the conservative majority to heel. But his solution is the right one. This Supreme Court term seems to have been designed to show the country what it's like when an archconservative majority is in charge of deciding which cases are heard before the highest court in the land.

This term is going to be ugly. When it's over, people are going to go vote. If people want their votes to matter, if people want their representatives to have any real ability to fix all that has been exposed as broken during the Trump era, then restructuring the Supreme Court should probably be the first agenda item on the 2021 docket. ■

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Books & the Arts



THE CONFIDENCE GAME

How Silicon Valley broke the economy

by **ADRIAN CHEN**

One of Apple cofounder Steve Jobs's most audacious marketing triumphs is rarely mentioned in the paeans to his genius that remain a staple of business content farms. In 1982, Jobs offered to donate a computer to every K-12 school in America, provided Congress pass a bill giving Apple substantial tax write-offs for the donations. When he arrived in Washington, DC, to lobby for what became known as the Apple Bill, the 28-year-old CEO looked "more like a summer intern than the head of a \$600-million-a-year corporation," according to *The Washington Post*, but he already showed signs

of his famous arrogance. He barraged the legislators with white papers and proclaimed that they "would be crazy not to take us up on this." Jobs knew the strength of his hand: A mania for computer literacy was sweeping the nation as an answer to the competitive threats of globalization and the reescalation of the Cold War's technology and space races. Yet even as preparing students for the Information Age became a national priority, the Reagan era's budget cuts meant that few schools could afford a brand-new \$2,400 Apple II computer.

The Apple Bill passed the House overwhelmingly but then died in the Senate after a bureaucratic snafu for which Jobs forever blamed Republican Senator Bob Dole of Kansas, then chair of the Finance

Committee. Yet all was not lost: A similar bill passed in California, and Apple flooded its home state with almost 10,000 computers. Apple's success in California gave it a leg up in the lucrative education market as states around the country began to computerize their classrooms. But education was not radically transformed, unless you count a spike in *The Oregon Trail*-related deaths from dysentery. If anything, those who have studied the rapid introduction of computers into classrooms in the 1980s and '90s tend to conclude that it exacerbated inequities. Elite students and schools zoomed smoothly into cyberspace, while poorer schools fell further behind, bogged down by a lack of training and resources.

A young, charismatic geek hawks his

Adrian Chen is a freelance writer. He is working on a book about Internet culture.

wares using bold promises of social progress but actually makes things worse and gets extremely rich in the process—today it is easy to see the story of the Apple Bill as a stand-in for the history of the digital revolution as a whole. The growing concern about the role that technology plays in our lives and society is fueled in no small part by a growing realization that we have been duped. We were told that computerizing everything would lead to greater prosperity, personal empowerment, collective understanding, even the ability to transcend the limits of the physical realm and create a big, beautiful global brain made out of electrons. Instead, our extreme dependence on technology seems to have mainly enriched and empowered a handful of tech companies at the expense of everyone else. The panic over Facebook's impact on democracy sparked by Donald Trump's election in a haze of fake news and Russian bots felt like the national version of the personal anxiety that seizes many of us when we find ourselves snapping away from our phone for what seems like the 1,000th time in an hour and contemplating how our lives are being stolen by a screen. We are stuck in a really bad system.

This realization has led to a justifiable anger and derision aimed at the architects of this system. Silicon Valley executives and engineers are taken to task every week in the op-ed pages of our largest newspapers. We are told that their irresponsibility and greed have undermined our freedom and degraded our democratic institutions. While it is gratifying to see tech billionaires get a (very small) portion of their comeuppance, we often forget that until very recently, Silicon Valley was hailed by almost everyone as creating the path toward a brilliant future. Perhaps we should pause and contemplate how this situation came to be, lest we make the same mistakes again. The story of how Silicon Valley ended up at the center of the American dream in the late 20th and early 21st centuries, as well as the ambiguous reality behind its own technoutopian dreams, is the subject of Margaret O'Mara's sweeping new history, *The Code: Silicon Valley and the Remaking of America*. In it, she puts Silicon Valley into the context of a larger story about postwar America's economic and social transformations, highlighting its connections with the mainstream rather than the cultural quirks and business practices that set it apart. *The Code* urges us to consider Silicon Valley's shortcomings as America's shortcomings, even if it fails to interrogate them as deeply as our current crisis—and the role that technology played in bringing it about—seems to warrant.

The Code

Silicon Valley and the Remaking of America

By Margaret O'Mara

Penguin Press. 512 pp. \$30

Silicon Valley entered the public consciousness in the 1970s as something of a charmed place. The first recorded mention of Silicon Valley was in a 1971 article by a writer for a technology newspaper reporting on the region's semiconductor industry, which was booming despite the economic doldrums that had descended on most of the country. As the Rust Belt foundered and Detroit crumbled, Silicon Valley soared to heights barely conveyed by the metrics that O'Mara rattles off in the opening pages of *The Code*: "Three billion smartphones. Two billion social media users. Two trillion-dollar companies" and "the richest people in the history of humanity." Many people have attempted to divine the secret of Silicon Valley's success. The consensus became that the Valley had pioneered a form of quicksilver entrepreneurialism perfectly suited to the Information Age. It was fast, flexible, meritocratic, and open to new ways of doing things. It allowed brilliant young people to turn crazy ideas into world-changing companies practically overnight. Silicon Valley came to represent the innovative power of capitalism freed from the clutches of uptight men in midcentury business suits, bestowed upon the masses by a new, appealing folk hero: the cherub-faced start-up founder hacking away in his dorm room.

The Code both bolsters and revises this story. On the one hand, O'Mara, a historian at the University of Washington, is clearly enamored with tales of entrepreneurial derring-do. From the "traitorous eight" who broke dramatically from the Shockley Semiconductor Laboratory in 1957 to start Fairchild Semiconductor and create the modern silicon transistor to the well-documented story of Facebook's founding, the major milestones of Silicon Valley history are told in heroic terms that can seem gratefully out of touch, given what we know about how it all turned out. In her portrayal of Silicon Valley's tech titans, O'Mara emphasizes virtuous qualities like determination, ingenuity, and humanistic concern, while hints of darker motives are studiously ignored. We learn that a "visionary and relentless" Jeff Bezos continued to drive a beat-up Honda Accord even as he became a billionaire, but his reported remark to an Amazon sales team that they ought to treat small publishers the way a lion treats a sickly gazelle is apparently not deemed worthy of the historical record. But

at the same time, O'Mara helps us understand why Silicon Valley's economic dominance can't be chalked up solely to the grit and smarts of entrepreneurs battling it out in the free market. At every stage of its development, she shows how the booming tech industry was aided and abetted by a wide swath of American society both inside and outside the Valley. Marketing gurus shaped the tech companies' images, educators evangelized for technology in schools, best-selling futurists preached personalized tech as a means toward personal liberation. What emerges in *The Code* is less the story of a tribe of misfits working against the grain than the simultaneous alignment of the country's political, cultural, and technical elites around the view that Silicon Valley held the key to the future.

Above all, O'Mara highlights the profound role that the US government played in Silicon Valley's rise. At the end of World War II, the region was still the sleepy, sun-drenched Santa Clara Valley, home to farms and orchards, an upstart Stanford University, and a scattering of small electronics and aerospace firms. Then came the space and arms races, given new urgency in 1957 with the launch of Sputnik, which suggested a serious Soviet advantage. Millions of dollars in government funding flooded technology companies and universities around the country. An outsize portion went to Northern California's burgeoning tech industry, thanks in large part to Stanford's far-sighted provost Frederick Terman, who reshaped the university into a hub for engineering and the applied sciences.

Stanford and the surrounding area became a hive of government R&D during these years, as IBM and Lockheed Martin opened local outposts and the first native start-ups hit the ground. While these early companies relied on what O'Mara calls the Valley's "ecosystem" of fresh-faced engineers seeking freedom and sunshine in California, venture capitalists sniffing out a profitable new industry, and lawyers, construction companies, and real estate agents jumping to serve their somewhat quirky ways, she makes it clear that the lifeblood pumping through it all was government money. Fairchild Semiconductor's biggest clients for its new silicon chips were NASA, which put them in the Apollo rockets, and the Defense Department, which stuck them in Minuteman nuclear missiles. The brains of all of today's devices have their origin in the United States' drive to defeat the Soviet Union in the Cold War.

But the role of public funding in the creation of Silicon Valley is not the big gov-

ernment success story a good liberal might be tempted to consider it. As O'Mara points out, during the Cold War American leaders deliberately pushed public funds to private industry rather than government programs because they thought the market was the best way to spur technological progress while avoiding the specter of centralized planning, which had come to smack of communist tyranny. In the years that followed, this belief in the market as the means to achieve the goals of liberal democracy spread to nearly every aspect of life and society, from public education and health care to social justice, solidifying into the creed we now call neoliberalism. As the role of the state was eclipsed by the market, Silicon Valley—full of brilliant entrepreneurs devising technologies that promised to revolutionize everything they touched—was well positioned to step into the void.

The earliest start-up founders hardly seemed eager to assume the mantle of social visionary that their successors, today's flashy celebrity technologists, happily take up. They were buttoned-down engineers who reflected the cool practicality of their major government and corporate clients. As the 1960s wore on, they were increasingly out of touch. Amid the tumult of the civil rights movement and the protests against the Vietnam War, the major concern in Silicon Valley's manicured technology parks was a Johnson-era drop in military spending. The relatively few techies who were political at the time were conservative.

Things started to change in the 1970s. The '60s made a belated arrival in the Valley as a younger generation of geeks steeped in countercultural values began to apply them to the development of computer technology. The weight of Silicon Valley's culture shifted from the conservative suits to long-haired techno-utopians with dreams of radically reorganizing society through technology. This shift was perhaps best embodied by Lee Felsenstein, a former self-described "child radical" who cut his teeth running communications operations for anti-war and civil rights protests before going on to develop the Tom Swift Terminal, one of the earliest personal computers. Felsenstein believed that giving everyday people access to computers could liberate them from the crushing hierarchy of modern industrial society by breaking the monopoly on information held by corporations and government bureaucracies. "To change the rules, change the tools," he liked to say. Whereas Silicon Valley had traditionally developed tools for the Man, these techies wanted to make tools to undermine

him. They created a loose-knit network of hobbyist groups, drop-in computer centers, and DIY publications to share knowledge and work toward the ideal of personal liberation through technology. Their dreams seemed increasingly achievable as computers shrank from massive, room-filling mainframes to the smaller-room-filling minicomputers to, finally, in 1975, the first commercially viable personal computer, the Altair.

Yet as O'Mara shows, the techno-utopians did not ultimately constitute such a radical break from the past. While their calls to democratize computing may have echoed Marxist cries to seize the means of production, most were capitalists at heart. To advance the personal computer "revolution," they founded start-ups, trade magazines, and business forums, relying on funding from venture capital funds often with roots in the old money elite. Jobs became the most celebrated entrepreneur of the era by embodying the discordant figures of both the cowboy capitalist and the touchy-feely hippie, an image crafted in large part by the marketing guru Regis McKenna. Silicon Valley soon became an industry that looked a lot like those that had come before. It was nearly as white and male as they were. Its engineers worked soul-crushing hours and blew off steam with boozy pool parties. And its most successful company, Microsoft, clawed its way to the top through ruthless monopolistic tactics.

Perhaps the strongest case against the supposed subversiveness of the personal computer pioneers is how quickly they were embraced by those in power. As profits rose and spectacular IPOs seized headlines throughout the 1980s, Silicon Valley was championed by the rising stars of supply-side economics, who hitched their drive for tax cuts and deregulation to tech's venture-capital-fueled rocket ship. The groundwork was laid in 1978, when the Valley's venture capitalists formed an alliance with the Republicans to kill then-President Jimmy Carter's proposed increase in the capital gains tax. They beta-tested Reaganomics by advancing the dubious argument that millionaires' making slightly less money on their investments might stifle technological innovation by limiting the supply of capital available to start-ups. And they carried the day.

As president, Ronald Reagan doubled down with tax cuts and wild technophilia. In a truly trippy speech to students at Moscow State University in 1988, he hailed the transcendent possibilities of the new economy epitomized by Silicon Valley, predicting a future in which "human innovation increasingly makes physical resources

obsolete." Meanwhile, the market-friendly New Democrats embraced the tech industry so enthusiastically that they became known, to their chagrin, as Atari Democrats. The media turned Silicon Valley entrepreneurs into international celebrities with flattering profiles and cover stories—living proof that the mix of technological innovation, risk taking, corporate social responsibility, and lack of regulation that defined Silicon Valley in the popular imagination was the template for unending growth and prosperity, even in an era of deindustrialization and globalization.

The near-universal celebration of Silicon Valley as an avatar of free-market capitalism in the 1980s helped ensure that the market would guide the Internet's development in the 1990s, as it became the cutting-edge technology that promised to change everything. The Internet began as an academic resource, first as ARPANET, funded and overseen by the Department of Defense, and later as the National Science Foundation's NSFNET. And while Al Gore didn't invent the Internet, he did spearhead the push to privatize it: As the Clinton administration's "technology czar," he helped develop its landmark National Information Infrastructure (NII) plan, which emphasized the role of private industry and the importance of telecommunications deregulation in constructing America's "information superhighway." Not surprisingly, Gore would later do a little-known turn as a venture capitalist with the prestigious Valley firm Kleiner Perkins, becoming very wealthy in the process. In response to his NII plan, the advocacy group Computer Professionals for Social Responsibility warned of a possible corporate takeover of the Internet. "An imaginative view of the risks of an NII designed without sufficient attention to public-interest needs can be found in the modern genre of dystopian fiction known as 'cyberpunk,'" they wrote. "Cyberpunk novelists depict a world in which a handful of multinational corporations have seized control, not only of the physical world, but of the virtual world of cyberspace." Who can deny that today's commercial Internet has largely fulfilled this cyberpunk nightmare? Someone should ask Gore what he thinks.

Despite offering evidence to the contrary, O'Mara narrates her tale of Silicon Valley's rise as, ultimately, a success story. At the end of the book, we see it as the envy of other states around the country and other countries around the world, an "exuberantly capitalist, slightly anarchic tech ecosystem that had evolved over several generations."

Throughout the book, she highlights the many issues that have sparked increasing public consternation with Big Tech of late, from its lack of diversity to its stupendous concentration of wealth, but these are framed in the end as unfortunate side effects of the headlong rush to create a new and brilliant future. She hardly mentions the revelations by the National Security Agency whistle-blower Edward Snowden of the US government's chilling capacity to siphon users' most intimate information from Silicon Valley's platforms and the voraciousness with which it has done so. Nor does she grapple with Uber, which built its multibillion-dollar leviathan on the backs of meagerly paid drivers. The fact that in order to carry out almost anything online we must subject ourselves to a hypercommodified hellscape of targeted advertising and algorithmic sorting does not appear to be a huge cause for concern. But these and many other aspects of our digital landscape have made me wonder if a technical complex born out of Cold War militarism and mainstreamed in a free-market frenzy might not be fundamentally always at odds with human flourishing. O'Mara suggests at the end of her book that Silicon Valley's flaws might be redeemed by a new, more enlightened, and more diverse generation of techies. But haven't we heard this story before?

If there is a larger lesson to learn from *The Code*, it is that technology cannot be separated from the social and political contexts in which it is created. The major currents in society shape and guide the creation of a system that appears to spring from the minds of its inventors alone. Militarism and unbridled capitalism remain among the most powerful forces in the United States, and to my mind, there is no reason to believe that a new generation of techies might resist them any more effectively than the previous ones. The question of fixing Silicon Valley is inseparable from the question of fixing the system of postwar American capitalism, of which it is perhaps the purest expression. Some believe that the problems we see are bugs that might be fixed with a patch. Others think the code is so bad at its core that a radical rewrite is the only answer. Although *The Code* was written for people in the first group, it offers an important lesson for those of us in the second: Silicon Valley is as much a symptom as it is a cause of our current crisis. Resisting its bad influence on society will ultimately prove meaningless if we cannot also formulate a vision of a better world—one with a more humane relationship to technology—to counteract it. And, alas, there is no app for that. ■



THE SPREAD

Ben Lerner at the crossroads between poetry and fiction

by EVAN KINDLEY

Ben Lerner's first two books of fiction—*Leaving the Atocha Station* and *10:04*—stand at a cautious remove from the novel form. Reading them, you sometimes suspect they don't want to be novels at all. Often classified as "autofiction" because of the close correspondences between their protagonists and their author, they might more aptly be understood as "poet's novels." This is not simply because Lerner is a poet—he brought out three highly lauded volumes of poetry before publishing *Leaving the Atocha Station*—and not just in the mildly pejorative sense that book reviewers sometimes use the term, to censure pretentiousness. They're actually *about* poetry: Significant stretches of them are devoted to analyses of poems, statements of poetics, or defenses of the poetic undertaking.

Nothing is more important to Lerner or his narrators than poetry, and yet they're aware that nothing, in the 21st century capitalist culture they inhabit, is less important to everyone else. Indeed,

Evan Kindley teaches at Pomona and is the author of Poet-Critics and the Administration of Culture.

this lack of social importance is a perverse point of pride. "If I was a poet," muses Adam Gordon, the narrator of *Leaving the Atocha Station*, "I had become one because poetry, more intensely than any other practice, could not evade its anachronism and marginality and so constituted a kind of acknowledgment of my own preposterousness, admitting my bad faith in good faith, so to speak." For Adam, "poet" is more of an identity category, an orientation toward capitalist society, than it is a profession or practice. In point of fact, Adam doesn't even *like* poetry all that much. "Although I claimed to be a poet," he confesses, "I tended to find lines of poetry beautiful only when I encountered them quoted in prose, in the essays my professors had assigned in college, where the line breaks were replaced with slashes, so that what was communicated was less a particular poem than the echo of poetic possibility."

This fictional admission lays out the basic terms of Lerner's formal cosmology. Poetry represents possibility, utopia, the virtual; prose stands for the existent, the immanent, the actual. The novel, it seems, enables a kind



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Market Rule and Political Rupture
EDITED BY WILLIAM CALLISON
AND ZACHARY MANFREDI

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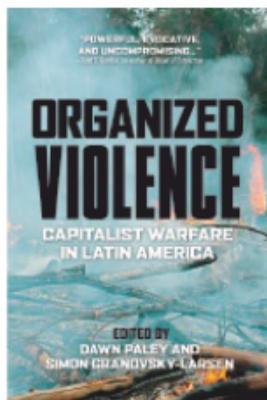
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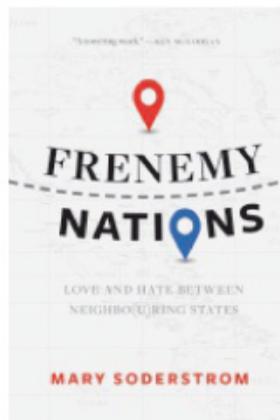


Organized Violence
Capitalist Warfare in Latin America
EDITED BY DAWN PALEY AND
SIMON GRANOVSKY-LARSEN

Official stories say that violence in Latin America is a product of criminal activity and the drug trade. *Organized Violence* exposes how that narrative serves corporate and state interests, arguing instead that economic expansion and extractive industries benefit from repressive activities carried out under the guise of fighting crime.

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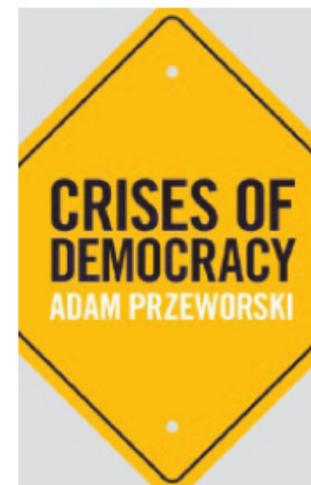


Frenemy Nations
Love and Hate Between
Neighbo(u)ring States
BY MARY SODERSTROM

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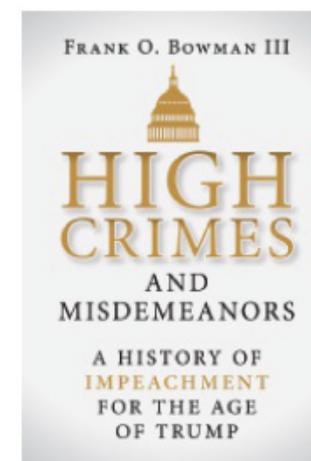


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BY ADAM PRZEWSKI

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of compromise between these categories, a book written in the prose of the world but containing suggestions that another world is possible. Thus a poet like Adam, or Lerner, may write a novel, but we shouldn't expect them to be happy about it.

In *10:04*, ambivalence toward novel writing—an ambivalence bordering on embarrassment—is a running theme. “I decided to write more fiction—something I’d promised my poet friends I wasn’t going to do,” the narrator, Ben, declares. This decision is motivated not by aesthetic ambition but by financial incentives and ethical responsibility: His “strong six-figure” book advance will be used to fund fertility treatments for a friend who wants to have a child. Since novels have not (yet) become as unpopular and economically marginal as poetry, fiction writing represents the only way to transform his otherwise valueless art into a viable commodity for a bourgeois audience. But what Ben ultimately produces is “a novel that dissolves into a poem.” In *10:04*'s increasingly desultory second half, he goes to a writers' retreat to work on his novel, only to find himself working “on the wrong thing.” “Instead of earning my advance,” he admits, “I was writing a poem.... Having monetized the future of my fiction, I turned my back on it.”

But Lerner himself keeps writing fiction, and he keeps getting better at it. *The Topeka School* is, if not his best, certainly his most novelistic novel yet. Unlike its predecessors, which were essentially interior monologues delivered by characters with voices all but indistinguishable from Lerner's, *The Topeka School* features four distinct protagonists, their narratives presented variously in the first, second, and third person. One of these is Adam Gordon, the neurotic hero of *Leaving the Atocha Station*, who appears here as a promising teenager on the verge of leaving his hometown of Topeka, Kansas, for an Ivy League university. But whereas Adam's voice completely dominates the earlier novel, *The Topeka School* is more dialogic in its structure than Lerner's predecessors. Adam's parents, Jonathan and Jane Gordon—both psychologists—narrate two chapters apiece, and the novel is punctuated by a series of italicized interludes written from the perspective of Darren Eberheart, an emotionally disturbed boy in Adam's class who has dropped out of school and is living, barely tolerated, on the margins of Topeka society. The Gordons are displaced East Coast intellectuals making a life against the “almost exotically boring backdrop” of a midsize Midwestern city. Both are employed at the Foundation, a fictional-

The Topeka School

A Novel

By Ben Lerner

Farrar, Straus and Giroux. 304 pp. \$27

ized version of the Menninger Foundation, the world-famous psychiatric institute where the author's own parents were employed. Jane is a best-selling Oprah-endorsed author (just like Harriet Lerner, Ben Lerner's mother). Jonathan specializes in working with “lost boys”—alienated young men unable to adjust to the demands of adult society. Darren is one of his patients.

Unlike his first two fiction works, which both seemed to be trying to evade the history of the bourgeois novel, *The Topeka School* flirts with a half-dozen traditional novelistic genres at once. *The Topeka School* is a family saga, and it's a historical novel, scrupulous about the surface details of the summer of 1996: Tupac Shakur on every sound system, Bob Dole and Bill Clinton on every TV, dial-up modems downloading pornographic images to desktop computers with excruciating slowness, “the striptease of slow bit speed.” It's a regional novel, attempting to portray an underrepresented corner of America in all its peculiarity. It's a bildungsroman, chronicling its hero's progress toward maturity, and a *Künstlerroman*, telling us how and why he becomes an artist. And it's a novel of adultery. (How bourgeois can you get?) It is even, in its own way, a tale of suspense, suffused with dramatic tension and the threat of violence. At this juncture in Lerner's career, the traditionalism of *The Topeka School* is far more surprising than its avant-gardism. The book finds Lerner at a crossroads, tempted by the conventions of the novel even as he continues to insist on the priority of the poetic.

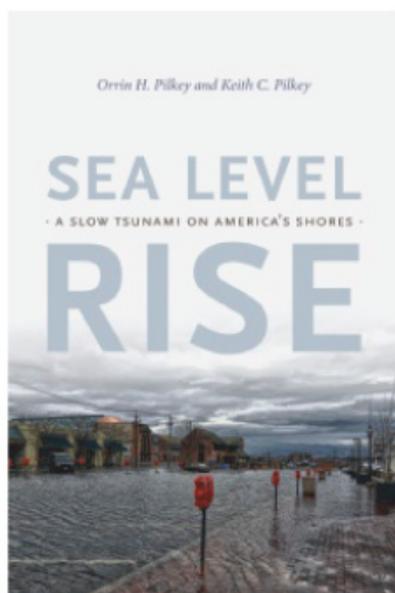
As distinct as the narrative voices in *The Topeka School* are, they also echo one another. The novel's realism exists in tension with its formalism. The book is structured around a series of repeated phrases that constantly send the reader back to hunt for cross-references, somewhat impeding the narrative's momentum. People speak of remembering things “in the third person.” Sentences from Herman Hesse's 1908 story “A Man by the Name of Ziegler,” which Jonathan reads on the advice of his analyst and later adapts into a film, recur frequently, as do references to the Thematic Apperception Test, which Jonathan administers to his patients, and to Duccio di Buoninsegna's *Madonna and Child*. Ordinary social rituals are observed, again and again, “with

the distance of an anthropologist or ghost.”

These uncanny repetitions work, first and foremost, as an aesthetic device: They give the novel a symphonic quality. There are similar leitmotifs in *Leaving the Atocha Station* and *10:04*, but the device operates differently here. In the earlier books, the repetitions seemed to betoken an obsessive attraction to pattern for its own sake. In *The Topeka School*, this is still true, but the expansion of the novel's cast allows Lerner to achieve other effects as well. In the case of Adam and his parents, for example, the mysterious parallels among their narratives can be understood as a way to stylize the tenets of family-systems theory, as developed by Murray Bowen and practiced by Jane (and Harriet Lerner). Bowen's theory states that “families so profoundly affect their members' thoughts, feelings, and actions that it often seems as if people are living under the same ‘emotional skin.’” Children can't help taking on their parents' stresses. Parents experience their children's suffering intensely, even when they have no idea what's causing it. Jane worries that a campaign of misogynist harassment against her is unconsciously affecting her son. Adam overhears his parents arguing and feels that he “couldn't have explained his desire not to understand the nature of their fight.” Ben Lerner is exquisitely sensitive to these psychological dynamics, and the echoes across the Gordons' narratives are one way of registering their interconnectedness within the system that is their family.

At other times, the correspondences exceed the familial frame. Topeka itself is subject to doubling. At the beginning of the novel, Adam enters what he thinks is his girlfriend Amber's lakeside house, only to find that he has trespassed accidentally into an almost identical prefab unit:

Along with the sheer terror of finding himself in the wrong house, with his recognition of its difference, was a sense, because of the houses' sameness, that he was in all the houses around the lake at once; the sublime of identical layouts. In each house she or someone like her was in her bed, sleeping or pretending to sleep; legal guardians were farther down the hall, large men snoring; the faces and poses in the family photographs on the mantel might change, but would all belong to the same grammar of faces and poses; the elements of the painted scenes might vary, but not the level of familiarity and flatness; if you opened any of the giant stainless steel refriger-



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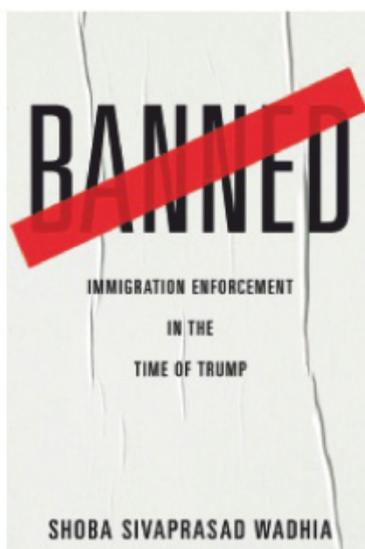
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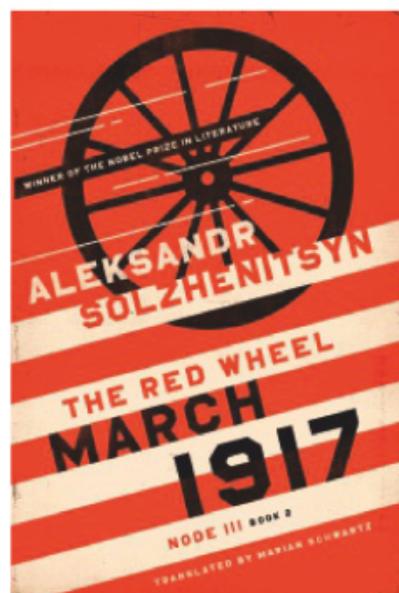
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March 1917
The Red Wheel, Node III, Book 2
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TRANSLATED BY MARIAN SCHWARTZ

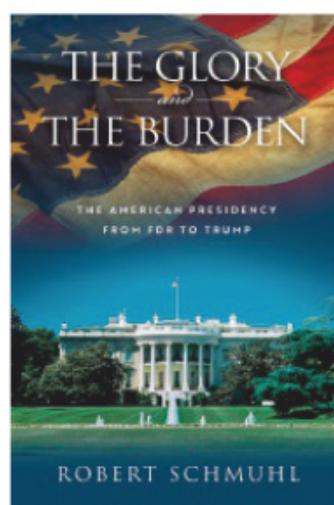
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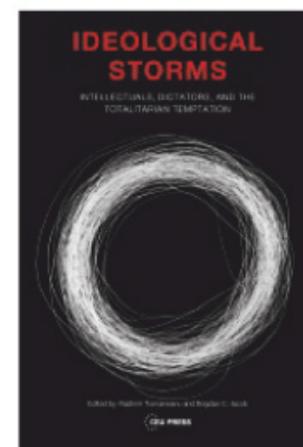
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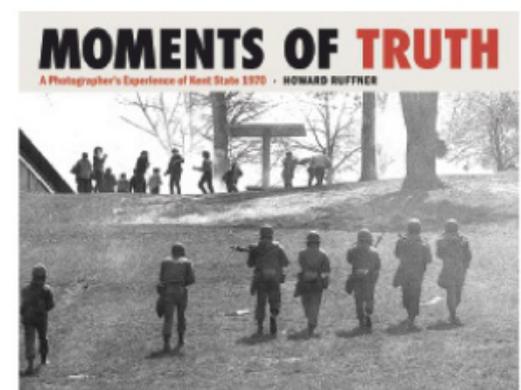
Ideological Storms
Intellectuals,
Dictators, and
the Totalitarian
Temptation
EDITED BY
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CLOTH



Moments of Truth
A Photographer's Experience
of Kent State 1970
BY HOWARD RUFFNER

Howard Ruffner was a college sophomore when the tragic shootings of May 4, 1970, occurred—leaving four students dead and nine wounded. A student photographer, he was asked to serve as a stringer for *Life* magazine as campus protests against the Vietnam War intensified and National Guard troops arrived. Several of his photographs, including one from the cover of *Life*, have been etched into our collective consciousness. Includes 150 photographs, many never before published, alongside Ruffner's reflections.

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ators or surveyed the faux-marble islands, you would encounter matching, modular products in slightly different configurations.

This doubling—of both space and consciousness—is not only a literary device; it helps Lerner tell us a larger story about human life in the age of late capitalism, an era defined by a mode of production that standardizes experience. This “sublime of identical layouts” can also be found in the proliferation of fast-food franchises (Adam and Darren appreciate the “familiar contours of the molded seating” at McDonald’s) and on the shelves of big-box stores, whose aisles full of identical packaging give Adam a “thrill...that banal but supernumerary sublime of exchangeability.” As elsewhere in Lerner’s work, an anticapitalist rhetoric indebted to critical theory is wedded to a lyricism that finds an eerie beauty in what it negates, like a black light.

As a prose performance, *The Topeka School* is an unqualified success. It proves that Lerner, without sacrificing the idiosyncratic charms of his earlier books, can do more things with the novel form than we thought he could and perhaps more than he thought he wanted to. As a piece of urgent social critique—which *The Topeka School*, his most overtly political novel, also aspires to be—the results are more mixed. Although its action mainly takes place two decades ago, Lerner is obviously eager to make statements about contemporary politics. At several crucial moments he jams the fast-forward button, escaping the 1990s and returning us to our regularly scheduled dystopia of pussy grabbing, mass shootings, and family separations.

Some of these gestures toward the present work better than others. A central theme of *The Topeka School* is the recrudescence of various forms of what we now call toxic masculinity. Jane uses the term in her present-day narration (it would have been anachronistic in 1996) to describe the anonymous harassers who call her at home after her appearance on *Oprah*. “They would often start off very politely, in a normal voice,” she recalls, but when “I said, ‘Hello,’ the voice would typically drop into a whisper or a hiss; then—almost without fail—I’d hear the word ‘cunt.’ Sometimes they just wanted to let me know that I was a cunt who ruined their marriage, or that cunts like me were the problem with women today, a bunch of feminazi cunts, or that I should shut my cunt mouth (stop writing).” The line that travels from these hateful men (styled “the Men”

throughout), steeling themselves to commit little acts of domestic terrorism over land lines, to their current counterparts, their rage enabled and emboldened by high-speed Internet connections and the protection of online anonymity, is one that Lerner only needs to indicate. The story tells itself.

The Men don’t much bother Jane, who is too shrewd a psychologist to be rattled by them. For her, they’re nothing more than “specimens of the ugly fragility of masculinity.” But she also acknowledges that they’re symptoms of a larger pathology, one that regularly produces terrors that are less easily dismissed: “If we’ve learned anything, it’s how dangerous that fragile masculinity can be.” The avatar of that danger and that fragility is Darren. To Adam and the other members of his high school class, he’s a comic figure, “the man-child, descendant of the jester and village idiot.” Most of the time, he’s excluded from their social circles entirely. When they do include him, it’s usually to mock his cluelessness. This is not just ordinary adolescent sadism. Darren is an object of his peers’ “anthropological fascination.” To them, his social failures “performed a critical social function: he naturalized their own appropriated talk and ritual; Darren helped them keep it real.”

Darren’s abjection is bound up with his masculinity as well as his whiteness. The man-child must, Adam insists, “be not only male, but also white and able-bodied: the perverted form of the empire’s privileged subject. If he were a woman or a racialized or otherwise othered body, he would be in immediate mortal danger from sexual predators and police. It was his similarity to the dominant that rendered him pathetic and a provocation.” It is not surprising that Darren, the white guy who just misses a state of privilege and is made a scapegoat by those who embody it fully, absorbs hatred and resentment like a sponge. He is indoctrinated in misogyny and racism by hanging out with an angry ex-Marine named Stan at the Army surplus store, and “particles of Stan’s anger would get in him.” Today he’d be an easy mark for the incel community or the alt-right. In the novel, he ultimately aligns himself with as extreme a form of reactionary hatred as Topeka can supply.

To Lerner’s credit, Darren isn’t villainized. In fact, he’s treated with considerable empathy and is established early on as a counterpart to Adam, whose precocity and ability to master social codes contrast with Darren’s utter ineptitude, his “deep incomprehension of the language game in

which he was attempting to feign fluency.” Adam, it’s made clear, has been one of Darren’s principal tormenters for years. In a key scene about halfway through the novel, he and his friends abandon Darren sleeping next to a lake, forcing him to walk home. (He ends up walking 20 miles in the wrong direction.) When Adam has a nervous breakdown in college, he confesses to a lingering sense of guilt about Darren, who continues to haunt the edges of the Gordons’ middle-class melodramas, quietly suffering, occasionally disturbing the peace. If Adam is the anthropologist of bourgeois Topeka, Darren is its ghost.

Closely related to *The Topeka School*’s interrogation of masculinity is its treatment of language. It’s consistently implied that Darren’s marginality and his anger arise out of a lack of facility with words. As a child, he’s verbally bullied by his peers for his slowness: “The grown-ups had equipped him with weak spells to cast back against the insults,” but they’re so clichéd (“May break my bones but words. Bounces off me sticks to you”) as to be utterly ineffectual (“Nice comeback, Darren”). He’s a Caliban who never learned how to curse.

Whereas Darren’s “weak spells” fail him, causing him to look for more powerful language (hate speech) or to abandon words in favor of physical violence, Adam proves to be a successful verbal magician. The teenage Adam wants “to be a poet because poems were spells, were shaped sound unmaking and remaking sense that inflicted and repelled violence...and could have other effects on bodies: put them to sleep or wake them, cause tears or other forms of lubrication, swelling, the raising of small hairs.” It’s not Adam alone who respects the power of language: “Almost everybody [in Topeka] agreed language could have magical effects.”

Adam channels his poetic impulses into more worldly pursuits like high school debates and freestyle rap battles, both of which earn him social capital by weaponizing his natural eloquence. “Poetry could be excused if it upped your game, became cipher and flow, if it was part of why [your girlfriend] was fucking you,” he reflects. “If linguistic prowess could do damage and get you laid, then it could be integrated into the adolescent social realm.”

Debate, in particular, is treated as poetry’s dark doppelgänger. Coached by Peter Evanson, a former national debate champion who is now a rising Republican political consultant, Adam is encouraged to play

to the judges' right-wing attitudes, deploy "quick swerves into the folksy," and, when on the ropes, resort to a style of verbal overkill known as "the spread." "Spreading" one's opponent means "to make more arguments, marshal more evidence than the other team can respond to within the allotted time, the rule being among serious debaters that a 'dropped argument,' no matter its quality, its content, is conceded." It's a kind of rhetorical carpet-bombing.

The sections of *The Topeka School* chronicling Adam's debate career—which recycle, update, and fictionalize material from Lerner's 2012 *Harper's* essay "Contest of Words"—are rich in realistic detail, but they're also the novel's most tendentious. It's the one area where Lerner consistently overreaches, attempting to transform his own extracurricular activities into an improbable allegory for the decline of American public discourse. The spread, in Lerner's eyes, is not just a debater's tactic; it comes to epitomize a multitude of national sins. "Corporate persons deployed a version of the spread all the time," he writes, in television commercials for prescription drugs and "the list of rules and caveats read rapid-fire at the end of promotions on the radio." The spread is yet another form of verbal spell, a use of language not to communicate but to dominate:

These types of disclosure were designed to conceal; they exposed you to information that, should you challenge the institution in question, would be treated like a "dropped argument" in a fast round of debate—you have already conceded the validity of the point by failing to address it when it was presented. It's no excuse that you didn't have the time. Even before the twenty-four-hour news cycle, Twitter storms, algorithmic trading, spreadsheets, the DDoS attack, Americans were getting "spread" in their daily lives; meanwhile, their politicians went on speaking slowly, slowly about values utterly disconnected from their policies.

This passage is a tour de force, but it's a tour de force of conspiracy theory, uniting a range of complex phenomena under a penumbra of paranoia. Lurking beneath it is the evergreen populist idea that ordinary Americans are actively deceived by cynical power elites, that the masses' false consciousness is the result of a manipulative and dishonest use of rhetoric. (What's the matter with Kansas?) But such an argument—and Lerner must know this—is in fact an instance of "spread"

in its own right, hiding a fuzzy causal logic under a false sense of comprehensiveness. Did Donald Trump get elected by people who were confused about what he really thought? Who needs the spread when you can simply pander to your base's basest instincts?

A similar problem arises with Peter Evanson, Adam's debate coach and the novel's flattest character. He's clearly cast as *The Topeka School's* Mephistopheles (or is it Darth Vader?), tempting Adam to use his verbal gifts for evil. As the child of transplanted coastal liberals—a "red-diaper kid from a red state"—Adam is inoculated against Evanson's right-wing ideology, but even if he "was rarely if ever swayed by a position...he was with every passing hour absorbing an interpersonal style it would take him decades fully to unlearn." (And this style, we're given to understand, is not unrelated to the wider culture of misogyny in Topeka and America at large. Adam's parents, watching him in competition, are dismayed by his aggressiveness, his propensity for rhetorical bullying. Jane worries that she has "offered my boy up to the wrong tutelage...offered him to the Men, thinking he would somehow know better.")

In 1996, Adam blithely assumes that Evanson is "on the wrong side of the history that ended with [Bob] Dole," that American conservatives are "doomed.... The electorate, Adam had read in *The Economist*, would grow increasingly diverse and the Republicans would die off as a national party.... Adam wanted to believe it was the end of the age of angry white men proclaiming the end of civilization." In passages like this, Lerner's irony—usually so finely calibrated—is a blunderbuss. The links he wants to make, here and elsewhere, between the libertarian conservatism of 1990s Topeka and the virulent ethnopopulism of the current administration feel strained, a novelistic conceit rather than a political insight. Whatever one can say about the ideological and demographic continuities underlying the evolution of the Republican Party since 1996, it's a long way from Bob Dole to Donald Trump.

The *Topeka School*, when all is said and done, is still a poet's novel, in both its language—subtly studded with phrases from and allusions to Dante, Keats, Wallace Stevens, W.H. Auden, and John Ashbery (Adam's idol, who makes a cameo appearance as a character)—and its themes. This accounts for its many strengths as well as its occasional weaknesses. Poets are prone to overestimate the political importance of language—it's

an occupational hazard—and to decry the distance between public rhetoric and poetry. Practitioners of what Lerner has called an "art [that] assumes the dislike of its audience" are inclined to associate one kind of speech (poetry) with all that is righteous and holy, and its putative opposite (prose, in its various forms—high school debate, novels, advertising, economics textbooks) with the worldly and the fallen. This kind of adversarial discourse, as Lerner observed in his 2016 critical treatise *The Hatred of Poetry*, goes back at least as far as the 19th century, when poets felt the need to "assert the relevance of the art for a (novel-reading) middle class preoccupied with material things." They did this by recasting poetry's "distance from material reality as a virtuous alternative to our insatiable hunger for money and things, credit and cattle."

Note that Lerner here puts the novel on the side of material reality and the middle class, poetry on the side of the virtuous and the virtual. The contest of forms that has been raging throughout his literary work is apparently resolved in favor of poetry—but only apparently. After all, if novels are expressions of middle-class materialism and poetry is a "virtuous alternative," why write novels (unless you need the money)?

This is the theoretical question that Lerner's practice—his persistence in writing novels—continues to put to him. In *The Topeka School* he tries to keep faith with the poetic, rejecting a debased public, prosaic rhetoric ("the spread") for the unworldly, utopian language of poetic possibility. But he does so, paradoxically, through a novel, not a poem. By embedding a utopian faith in poetry within the bourgeois compromise of the novel, Lerner makes his most compelling case yet for poetry. Which is perhaps why it's a good thing that he keeps on deciding to write fiction, whatever his poet friends may think.

On its own terms, Lerner's neo-Romantic theory of poetry as pure potential is a bit thin and self-serving; it seems designed to assuage poets' sense of obsolescence rather than make a real claim for their art's significance. Enveloped within a fictional narrative, though, in tension with other ideas (family-systems theory, free-market economics, fundamentalist dogma, teenage macho bullshit) that are shown to be just as compelling and just as inadequate, it takes on a dialectical strength it wouldn't have on its own. Which is only to say what the poet in Lerner may not want to admit but *The Topeka School*, almost despite itself, confirms: I think he's a novelist. ■



HIGH JINKS

The wild imagination of *Los Espookys*

by JULYSSA LOPEZ

There was no better way to introduce *Los Espookys*—the band of horror aficionados at the center of the new HBO series of the same name—than with a spooky quinceañera.

In the show's first scene, the group's de facto leader, Renaldo (played by the endlessly charismatic Bernardo Velasco), has recruited his friends, who are skilled as makeup artists and production designers, to help decorate his little sister's 15th birthday party. Quinceañera festivities are usually marked by pink dresses as full and fluffy as the frosting on a cupcake. But *Los Espookys* have morphed the celebration into a ghoulish get-together complete with smoke machines, desserts that ooze blood, and a dramatic, raven-colored ball gown fit for an evil Disney queen. The gleeful spectacle of it all underscores the absurdity of a ritual centered on young girls trans-

mogrifying into women before a roomful of guests, and it's a clever and satirical wink at a fusty tradition.

The quinceañera is so successful that the local priest, Father Francisco, enlists Renaldo and his friends for another event. The offbeat crew includes stony-faced dental hygienist Úrsula (Cassandra Ciangherotti), pixie-like space cadet Tati (Brooklyn-based stand-up comic Ana Fabrega), and sulky, sapphire-haired rich kid Andrés (*Saturday Night Live* writer Julio Torres), who is heir to a massive chocolate corporation. A clique of Latinx misfits putting on scary events is an enticingly ridiculous premise, in line with the past work of executive producer Fred Armisen, the former *SNL* regular and co-creator of *Portlandia*, who created *Los Espookys* with Torres and Fabrega. Initially, Armisen and his compatriots were looking to land the mostly Spanish-language show on HBO Latino. However, executives at the network picked up the series for their main

channel without compromising the language, with English subtitles for viewers who don't speak Spanish, and *Los Espookys* premiered this June.

Throughout its six episodes, the series delights in oddball humor with a touch of the supernatural. The story arcs are entertaining in all of their wacky (if occasionally frivolous) bizarreness. However, when the show strikes a deeper vein, it does so with quiet nuance, capturing certain subtleties of Latin American culture, particularly its affection for the morbid, for magical realism, and for all things *espooky*. While in some instances the show's interest in horror and surrealism is used to explore deeper cultural anxieties like queer identity and the othering of Latinx people, *Los Espookys* is as interested in silliness as it is in social commentary. The comedy stems from the wit and precision of the writing as well as the deadpan delivery of nearly every actor on the show.

At first, the horror that Renaldo, Úrsula, Andrés, and Tati enjoy seems more of the craft store variety. The job from Father Francisco—he wants to fake an exorcism to outshine a younger priest who has won the affection of his parish—is heavy on costumery and special effects. The group executes his vision by lathering up Tati in green paint and having her spew pink vomit. *Mira Esto*, a news show in their unnamed city, is there to record the whole thing, after *Los Espookys* capture the attention of the program's host by arranging the delivery of a fake severed head to her. While props and DIY tricks are major parts of the series, an eerie mystical energy also lurks in the world of these four friends. Andrés convenes meetings with a long-lashed water demon who lives inside him and holds the key to his mysterious childhood. At one point he watches his boyfriend doing crunches through the use of a magic amulet that he wears over decadent robes and ruffled shirts that are part David Bowie and part Walter Mercado, the famous Puerto Rican astrologist who appeared for decades on Univision. When Tati offers a list of all the roles and jobs she can do for *Los Espookys*, she casually shares the information that the crew can light her on fire if they want. Úrsula chimes in dryly, "Tati is indestructible." Most satisfying of all, no one explains this paranormal side of things; it is just a part of everyday life.

People familiar with Latin American culture's superstitions will appreciate these

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uncanny bits. The writer Carlos Fuentes once said in an NPR interview that Latin American novelists write about reality so extravagantly “because it’s the only way to deal with the magnitude of the problems of the characters in history, of the length of the rivers, the height of the mountains.” This baroque imagination can be traced back to famous folk tales, which include figures like La Llorona, Mexico’s weeping ghost, and La Tunda, a shape-shifting monster familiar to Afro-indigenous communities.

These folk stories share a bond with horror, which has established its own foothold in Latin American cinema, lately thanks to directors like Guillermo del Toro and Pablo Parés. Renaldo touches on the power of the horror genre in a hilariously exaggerated monologue describing how he was teased in school because his absent-minded mother forgot to put a “y” in his name to make it “Reynaldo.” He felt like an outsider until he discovered the work of Bianca Nova, a (fictional) horror director played in *Los Espookys* by Carol Kane, saying wistfully, “The kids made me feel like a monster, so I embraced my monstrosity through horror.”

Los Espookys also pokes fun at Latin American media’s interest in religious mysteries and sensationalist content through *Mira Esto*, a parody of the intense and sometimes grim Spanish-language news shows like Telemundo’s *Al Rojo Vivo*. “When we return, we’ll meet a restaurant owner who claims that an angel has been calling and placing long, complicated orders but never picks them up,” says Gregoria Santos, the unblinking host, in one segment. “And when we return, the most liked car crash on Facebook,” she announces in another. All of these are satirical takes on stories that have actually appeared on these programs; *Al Rojo Vivo* has run reports on a crying statue of the Virgin Mary in Honduras, a possessed Mexican doll, and a man with 26 fingers and toes. When *Los Espookys* try to drum up a furor by staging a monster sighting to boost tourism in a nearby city, Anglo viewers may think of Bigfoot, but plenty of Latinx kids will think of the chupacabra, the blood-sucking creature of legend that made headlines in several Spanish-speaking countries in the ’90s.

Nods to telenovelas sneak in through a parade of idiosyncratic characters, including the wide-eyed, expressionless Santos, who seems to have no memory of her life outside *Mira Esto*; a dramatic lady in red called simply the Mysterious Woman; and Andrés’s boyfriend, Juan Carlos, who serves

as an amusing avatar of unabashed wealth and snobbery. (“Promise me you won’t do more ugly things with that greasy guy,” he says to Andrés about Renaldo at one point. “You know I can’t tolerate ugly things. When we watch *Beauty and the Beast*, I skip the scenes with the beast.”) As pompous as Juan Carlos is, his push-and-pull relationship with Andrés is hysterically funny, and it’s a portrait of queerness that is largely still taboo in a lot of Spanish-language media. The ability to tie so many things together—cultural specificity, comedic weirdness, striking modernity, and a roster of peculiar personalities—gives the series its distinctive charm.

As enjoyable as most of the show’s antics are, some of its jokes can be somewhat glib. One of the least interesting subplots involves Tati getting mixed up in an energy-drink pyramid scheme with a company that is clearly a spoof of the disgraced nutritional supplement corporation Herbalife, which preyed on underserved Latinx communities throughout the United States. After a wild plot twist leaves Tati rich, she pays off her debts and wraps up the story line abruptly, leaving viewers wondering what exactly the setup was for. (Maybe magical thinking has its limits.) Additionally, Armisen spends his time on the show playing a valet driver (Renaldo’s uncle Tico) with an empty clownishness and an exaggerated accent, both of which come across as more mocking than funny.

People have praised the show and HBO for putting Spanish-language programming on prestige television. And while the use of Spanish is a step forward in terms of the network’s diversity, *Los Espookys* still follows some of the patterns of HBO-style comedies: The characters fall into the category of modern, light-skinned, middle-class young people trying to find themselves (think *Girls* or *How to Make It in America*). Considering that the show uses so much magic and imagination to spur the plot forward, it seems that the writers could do more, in terms of storytelling and casting, to push the boundaries of Latinx representation and show the broad range of backgrounds and races that make up these identities.

As far as the show’s actual message, Torres has explained that sweeping political statements aren’t the central focus. “The trend right now is horror as a vehicle for scary social critique, like Jordan Peele’s work,” he told *Ars Technica*. “[*Los Espookys*] is sillier than that. It has a very silly sen-

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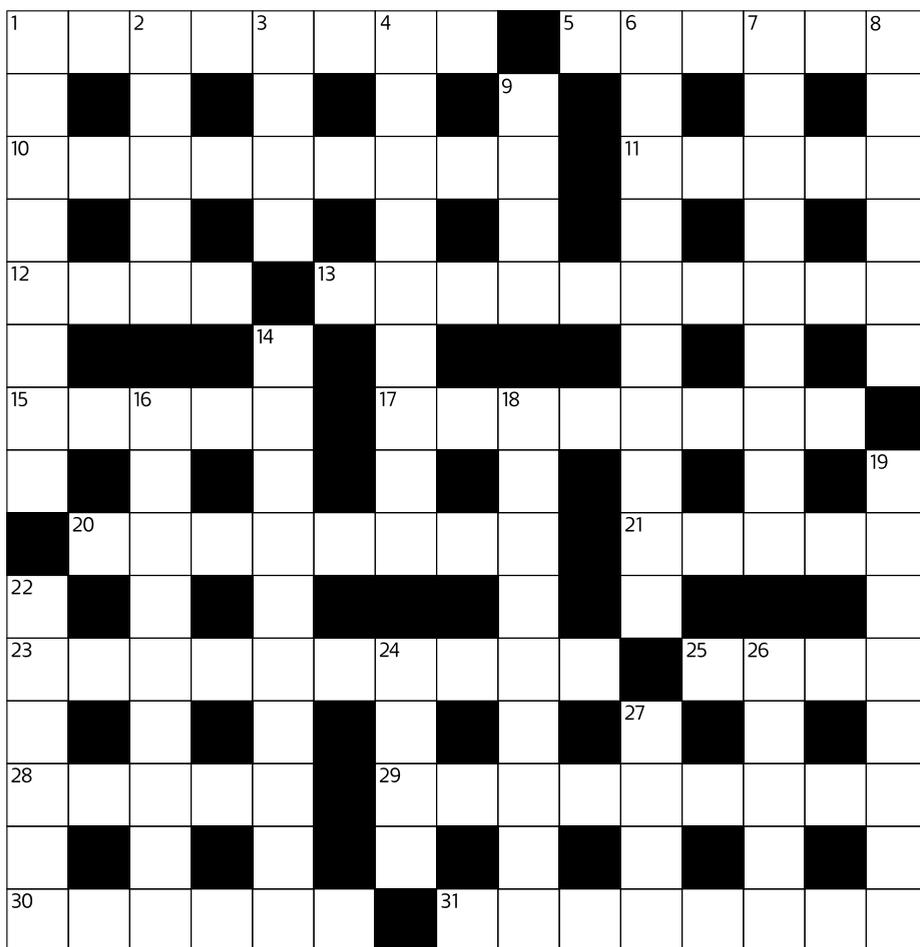
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sibility.” The irony is that when the show does aim for sharp insights about the current cultural moment, it’s both engaging and perceptive. The difficulty of getting a visa as a foreign Latin American traveling to the United States is reflected when the foursome accidentally traps a US diplomat in an enchanted mirror that eventually shatters. Andrés’s water demon is comical, but it also hints at a larger quest for identity and self-discovery in today’s world. A scientist hires the four friends to pretend to be extraterrestrials for a grant audit, during which she quips, “You won’t believe what language they speak... Spanish! What a coincidence.” The line carries extra weight as the group stands in front of her, wearing green alien costumes.

The first season, which wraps up with a perfectly preposterous wedding ceremony, can feel like working your way through a small but delightful haunted house at an amusement park. The episodes are heavy on thrills and laughs, if sometimes light on substance. Still, there’s room for *Los Espookys* to leave a lasting impression: HBO has ordered a second season of the show, giving Armisen, Torres, and Fabrega more time to stretch the limits of their absurdist imaginations. ■

Puzzle No. 3513

JOSHUA KOSMAN AND HENRI PICCIOTTO



ACROSS

- 1 What often follows. (Simple gripe) (8)
 5 Reversed circuits capturing Rhode Island wind (6)
 10 Otherwise, teach girl to be low-energy (9)
 11 Fabulist with a retro stance (5)
 12 In the West, Rastafarians are uncommon (4)
 13 Rearranging 23 is forever greedy (10)
 15 Shot puts around midfield leading to unexpected defeat (5)
 17 With no time to lose, someone occupying the kitchen doesn't start to remove lid from spicy dish (2,1,5)
 20 "Axe Party Corruption!"—one who supports the government (8)
 21 A place where archaeologists go, for example, and coordinate physical therapy (5)
 23 Modify 13 to make 6 (10)
 25 Jack Gardner's hot drink (4)
 28 Frank's opening sequence from musical title made famous by Judy Garland (5)
 29 Prerogative of bluenose to conceal abhorrent energy (9)

- 30 Vicious cut into insect is near (6)
 31 Exercise yard, shut when this puzzle appears online (8)

DOWN

- 1 Cost of living is above unacceptable four-fifty! That's attention-grabbing (8)
 2 *Othello*, for instance, includes windup of plot engine (5)
 3 King's creepy glance pronounced (4)
 4 Resourcefulness of American playwright at night in Paris? Yes (9)
 6 23 or 14 nuts (10)
 7 Beam about small lead, and misjudge an expression of contempt (9)
 8 Addendum in retroactive agreement—not like your subscription, hopefully (6)
 9 You claim to provide cover for Western school (4)
 14 Specified 6 changes (10)
 16 Grows old holding in element of surprise without disgrace (9)
 18 Support their wage restructuring (5,4)
 19 Plan: Get back into sin (8)
 22 Take in rejection of sib's degree (6)
 24 Record letter from talking parrot (4)
 26 Expressed audible amazement when leader is moved to fourth position at the front (5)
 27 Landing ripe bananas (4)

SOLUTION TO PUZZLE NO. 3512

ACROSS 1 FRIED RIC[e] + HEN + GELS
 9 hidden 10 PAGE + AN + TRY
 11 INNU(EN)DOES (*one in US anag.*)
 12 DA(L)I (*aid anag.*) 14 GAZE + BO
 15 anag. 18 MA(S + TO-DO)N 19 anag.
 22 LOG + E 24 CHIVA(L + ROU)S (*our anag.*) 26 CRO(MAG + N)ON
 27 PEEV (rev.) + E
 28 W(INCHES + TERRIF[y] + L)E

DOWN 1 F(IL)LING 2 I + M + MUNI + ZES[t] 3 DEN + VERB + OOT (rev.)
 4 hidden 5 HUG(U)E + NOT
 6 palindrome 7 [s]EX + TRA (rev.)
 8 STY + LING 13 anag.
 16 DI + SPO + SEOF (rev.)
 17 T(OM)HANKS 18 M(ILK)C + OW
 20 [f]AUST + ERE 21 A + VENUE
 23 G(R)OWN 25 HAS + H





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