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THE SCORE
CLASS ACT
BRYCE COVERT

DEADLINE POET
WHY TRUMP DOESN’T...
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B&A

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Fire Donald Trump

This is the most important election in our lifetimes—and one of the most consequential in The Nation’s 155-year history. Accepting his party’s nomination in 2016, Donald Trump promised to “lead our country back to safety, prosperity, and peace...to add millions of new jobs and trillions in new wealth.” At his inauguration, he returned to that theme, vowing to rebuild “our country, with American hands and American labor.” All lies. He also claimed to be worth billions—and to have paid “millions” in taxes. That turned out to be a lie, too.

Instead of leading us toward prosperity, Trump pushed through a tax bill that gave billions of dollars to his rich supporters (and cabinet members) and cut taxes on corporations by a whopping 40 percent while doling out crumbs to working families. Instead of pursuing peace, Trump scuttled the Iran nuclear deal, reneged on the Intermediate-Range Nuclear Forces Treaty (negotiated by Ronald Reagan), and is withdrawing the country from the Open Skies agreement. Not to mention his abdication of the Paris climate accord—the predictable consequence of an administration with a contempt for science, an aversion to truth, and a blind faith in the infallible wisdom of markets and corporate elites. Fiddling on Twitter while the West Coast burns, Trump has nothing to offer but four more years of incompetence and indifference. The man who pledged to end “American carnage” has instead revealed himself as a cheerleader for white supremacy, religious bigotry, and nationalist hatred.

And this is without even reckoning with the way the coronavirus pitilessly exposed his terrifying inadequacy as a leader, his literally fatal inability to take advice or rise to an occasion. As the pandemic continues to spread, with our country leading the world in death and suffering, Americans should ask ourselves, “Do I feel safer than I did four years ago?”

Voting Trump out of office will not in itself heal the terrible wounds inflicted on our body politic over the past four years. But it is the absolutely necessary first step. That means voting for Joe Biden—through early voting wherever possible or by absentee or in-person voting when necessary.

We have no illusions about Biden, who—as we reported here last November—removed bankruptcy protections from student loans, helped write the bill that barred states from capping interest rates on interstate banking, and spent a career in the Senate carrying water for Delaware’s credit card industry. The idea that Biden is some kind of sleeper agent for socialism is a cruel joke, as is the claim that he is a closet radical.

The Democratic primaries did include some candidates and ideas that truly are radical. Bernie Sanders—The Nation’s preferred candidate—articulated a vision of Medicare for All and an America where health and education and economic security are human rights. Elizabeth Warren opposed Biden’s favors for the banks and ran on a platform of taking on the monopolist millionaires and robber baron billionaires who have rigged our economy. Yet both of them are voting for Biden.

So are Angela Davis, Noam Chomsky, and Jesse Jackson, whose pioneering campaign first demonstrated the potential of a presidential run to change the boundaries of the possible. As Davis said, this election is about “choosing a candidate who can be most effectively pressured into allowing more space for the evolving anti-racist movement.” The Nation has always preferred to put our faith in movements rather than saviors. If the current moment allows for hope—and we believe it does—it comes from those movements and from a government willing to listen rather than lash out.

The recent death of Justice Ruth Bader Ginsburg underlines just how much is at stake. “It doesn’t matter whether you like Biden or not,” Chomsky argued. “Another four years of Trump may literally lead us to the stage where the survival of organized human society is deeply imperiled.” Maybe you think that’s fearmongering. Perhaps you live in a safe state. (New Yorkers are fortunate enough to have the option of voting for Biden on the Working Families Party line—a vote against Trump and against the corporate-dominated Democratic Party.) But Trump needs to be repudiated decisively in the popular vote to undercut any appeal to a Supreme Court already tipped in his favor, and for that, every vote will count.

When he first endorsed Biden in April, Sanders complimented him: “You want to bring...
people in, even people who disagree with you.” Whatever its other merits, Biden’s choice of Kamala Harris as his running mate showed a willingness to reach out to one of his most effective critics. It also indicated due respect for the voters of color—African American women in particular—whose role as the keystone of the Democratic coalition had been taken for granted for far too long.

After winning the nomination, Biden implicitly acknowledged that the times demanded bolder solutions than the restoration he promised during the primaries, convening a unity task force that included not just Sanders but also Congressional Black Caucus chair Karen Bass, Representatives Alexandria Ocasio-Cortez and Pramila Jayapal, Sunrise Movement cofounder Varshini Prakash, and Association of Flight Attendants president Sara Nelson. The result is arguably the most progressive Democratic platform in decades, though Biden’s stubborn refusal, despite the raging pandemic, to embrace Medicare for All seems politically perverse as well as shortsighted.

Yet as Sanders told the Democratic convention, “If Donald Trump is reelected, all the progress we have made will be in jeopardy.” Because despite Trump’s best efforts, we have made progress—in our attitudes toward climate change, reproductive rights, racial justice, economic inequality, police brutality, immigration reform, and universal health care.

Getting rid of Trump allows the movements behind those changes to keep pushing forward, rather than spend the next four years in a defensive crouch. It also empowers the growing cadre of genuinely progressive elected officials, especially if Democrats succeed in flipping the Senate. But there are no guarantees. Power concedes nothing without a demand.

This much is certain: Trump is a danger not just to our republic and our democratic institutions but also to our very lives. Let’s vote him out. On November 3, let’s fire Donald Trump.

**COMMENT/JOAN WALSH**

**Election Month 2020**

*We won't know on November 3 who won the White House.*

In 2018, despite months of hype about a looming blue wave, election night was a dud. Cable commentators sagged, trying to find meaning in what seemed to be mixed results. Democrats appeared to have lost high-profile statewide races in Georgia, Texas, and Florida. And while the party seemed to win control of the House, at midevening it looked to be by the narrowest of margins.

On Fox News, anchors mocked it as a mini-wave. CNN anchor Jake Tapper declared, “When you look at what’s going on here tonight, this is not a blue wave.” Donald Trump called the results “very close to complete victory” for Republicans the next morning. But a week later, CNN trumpeted a new rollout of election coverage: “Election Night in America Continued.” It was a belated acknowledgment that the elections remained an unfolding story. At that point, eight states—including California, Florida, New York, and Texas—were still counting ballots. By the time the last race was called, more than three weeks after election night, House Democrats had notched an impressive 40-seat net gain. Ultimately, the party’s popular-vote margin was almost 9 percentage points, larger than in the legendary GOP wave elections of 1994 and 2010. There had indeed been a blue wave, and the rush to call election night a virtual draw let Trump spread lies about fraud when the story changed. A week later, as Democratic wins materialized in California and recounts in Florida continued, he was screeching about “infected” ballots on Twitter and demanding, “Must go with Election Night!”

Get ready for much, much worse in November. If the networks and the mainstream newspapers cling to the outdated model of trying to call races on election night, we are headed for a presidential legitimacy crisis—regardless of who wins, but especially if Trump loses. The Covid-19 pandemic has inspired dozens of states to expand vote-by-mail options, with many others offering a choice of early voting, voting by mail, or absentee ballots, along with traditional Election Day voting. Some experts estimate that the number of ballots cast by mail could be double what it was in 2016. Meanwhile, polls say many races are currently dead heats. There could be many more tight races, protracted recounts, and more emphasis on slower-to-count absentee or mail-in ballots than ever before.

While there are many groups working overtime to ensure ballot access at the federal and local levels, some are also working to persuade the media to take a longer view in its election coverage. A bipartisan blue-ribbon panel convened by the University of California–Irvine Law School’s Rick Hasen recommended that “the media educate the public about how changes in vote counts may take longer than past years and vote margins may change during the count as election officials process large numbers of mail-in ballots.” Or as Hasen told me, “Regardless of what candidates might say, the default has to be a race or a state is too early to call” if there are a lot of uncounted mail-in ballots. The panel has urged media outlets to, among other measures, “emphasize the need for a careful count, rather than reporting that [a complicated timeline] reflects an institutional failure,” and “explain why shifts in vote margins are routine” as counts of mail ballots are conducted and not indicative of fraud.

These steps should become routine in reporting election results. Although we knew it couldn’t change the outcome in 2016, Hillary Clinton’s 2.9 million popular-vote lead—validating for the resistance and maddening for Trump—was under
FOR YEARS, THE SQUALOR OF OVERCROWDED metal container homes and flimsy tents amid open rivers of sewage made life in the sprawling Moria refugee camp here a grim symbol of Fortress Europe’s refusal to openly accept asylum seekers. That cruel regime changed abruptly in September, when four nights of fires turned the 12,000-person camp into a wasteland of char and ash.

After the fires, people who had fled war and oppression—often from conflicts instigated or exacerbated by the United States and NATO—slept on the ground under the watchful eye of riot police, who penned them in. Protests demanding freedom and decrying this roadside misery erupted, but security forces left asylum seekers with only one certainty: that their cries would be met with tear gas.

The first fires sent the inhabitants of Moria, Europe’s largest refugee camp, running for their lives, but intimidation and violence awaited those who sought assistance in a nearby village. Ahmadjamshid Amiri—who is the son of a contractor working for NATO forces in Afghanistan and escaped his homeland after the Taliban threatened his family—fled the flames in terror. “When we ran to the village, people hit us with pieces of wood,” he said, describing the response from a community that has grown increasingly intolerant of refugees. “Someone then pulled a knife on me, and we just ran.” Amiri’s account is echoed by those of other asylum seekers and by Doctors Without Borders, or Médecins Sans Frontières, which has recorded other cases of village intimidation against migrants fleeing the fires.

Greek Prime Minister Kyriakos Mitsotakis and his right-wing New Democracy party blame camp residents for the fires, and a week after they erupted, six Afghan asylum seekers, including two minors, were charged with igniting the blazes.

Human rights groups and NGOs have long called for Moria and camps like it to be closed and for residents to be housed in better conditions. Amid the coronavirus pandemic, those pleas became urgent warnings of a public health crisis waiting to explode. Moria was Covid-free until September; its first outbreak piled on levels of tension before the fires, according to Doctors Without Borders spokeswoman Faris Al-Jawad. “It has been approaching a breaking point for a long time,” he said about life in a camp designed for 3,000 people that at times swelled to more than 20,000.

In the wake of the fires, Migration Minister Notis Mitarachi suggested Moria would be replaced with a closed, facility like those used by US Immigration and Customs Enforcement.

While Germany has offered to resettle 1,500 refugees, Greece’s hard-line approach is being encouraged by other major EU countries. A senior embassy official of a key EU member state, who spoke on condition of anonymity, told The Nation that powerhouses like Germany and France support the actions being taken by the Greek government, seeing them as essential to enforcing the EU-Turkey migration agreement of 2016, which stranded refugees in island camps while their claims languished. Those actions include the Greek coast guard’s practice of pushing back migrants at sea—illegal under EU and international law—and the turn toward detention centers. Refugee roundups in Athens since last year and efforts to increase detention and deportations seem to be actively encouraged by many European embassies, according to this official. “The last [Greek] government was ideologically opposed to the system, so it went along but didn’t agree,” said the official about the left-wing Syriza government’s approach to the EU-Turkey deal. “Many member states were pressuring the Greeks on why their returns were so low,” added the official, who said those countries are now happy that New Democracy is speeding up deportations.

In the wake of the fires, hungry and trapped former Moria residents stared desperately into a shuttered supermarket. The Greek government, backed by other EU members, had already begun setting up a camp nearby—one that refugees fear will become their next prison.

Displaced once more: Refugees leaving Moria after the fires, September 22.

Jesse Rosenfeld has reported from the Middle East and the Balkans since 2007 for The Nation, The Daily Beast, The Intercept, and Al Jazeera, among other news sources.
The Liberal Media
Eric Alterman

The Fish Rots From the Head

How do you cover an administration that has lost touch with reality?

This column is almost always critical of journalists and spotlights the many mistakes, malfeasances, and misunderstandings that characterize so much of our political coverage. But today I just want to offer my condolences. We have had presidential administrations run by criminals before. It would be fair to call certain past presidents con men. (See my new book, Lying in State, for details.) This administration is all that and more, but there's a new problem: Donald Trump's White House, the party it represents, and its most prominent supporters in the media are untethered from reality. How do you cover one of the two major parties—the one that controls the Oval Office, the Senate, and increasingly the courts—and the most popular (and most profitable) cable station in America when their arguments consist almost entirely of dangerous lunacy?

A test case arose recently when Michael Caputo, the top spokesperson for the Centers for Disease Control and Prevention, experienced what he eventually said was a breakdown. In a video of a meeting posted on Facebook, Caputo—who, the historian Heather Cox Richardson notes on the Public Seminar website, had been “a long-time Republican operative, an associate of Roger Stone who had worked for Russia’s Gazprom Media to improve the image of Vladimir Putin in the U.S.”—accused the Democrats of planning to steal the presidential election. He predicted that when that happened and “when Donald Trump refuses to stand down at the inauguration, the shooting will begin.” He then advised gun-carrying Trump supporters to immediately buy ammunition. Caputo claimed that “there are hit squads being trained all over this country” and predicted that “they’re going to have to kill me, and unfortunately, I think that’s where this is going.”

He knew this because, he told The New York Times, “since joining the administration, my family and I have been continually threatened” by people who have later been prosecuted. “This weighs heavily on us, and we deeply appreciate the friendship and support of President Trump as we address these matters and keep our children safe.”

In a nearly perfect illustration of the Trump administration’s modus operandi, when Caputo made these statements, he was both sabotaging the CDC’s ability to keep Americans safe from the coronavirus and plotting to spend $250 million in taxpayer money to praise his agency for having done the exact opposite. His aide Paul Alexander instructed CDC director Robert Redfield to tamper with previously issued reports that Caputo judged to be “hit pieces on the administration.” Caputo also demanded to review CDC scientific reports in advance. As Politico reported, he supported efforts to rewrite the CDC’s Morbidity and Mortality Weekly Reports on the coronavirus in order to purposely mislead the scientific and public health communities, and his aide pressured Dr. Anthony Fauci, the nation’s top infectious-disease expert, to downplay the virus’s risk to children. Presumably to mask this anti-science, pro-coronavirus agenda, Caputo, who lacks any scientific training, insisted that the CDC’s scientists walk “around like they are monks” and engage in “rotten science.” And in what sounds like an imitation of Napoleon and Squealer, the pigs in George Orwell’s Animal Farm, Caputo pronounced, “Our intention is to make sure that evidence, science-based data, drives policy through this pandemic—not ulterior deep state motives in the bowels of CDC.”

Caputo appeared to have an inkling of how strange he sounded, because after making these suggestions, he said that his “mental health has definitely failed.” And to her and her paper’s credit, The New York Times’ Sharon LaFraniere wrote an unusually context-driven account that demonstrated the degree to which this fish was rotting from its presidential head. She added the important information that Caputo’s comments “were simply an amplified version of remarks that the president himself has made,” given that “both men have singled out government scientists and health officials as disloyal, suggested that the election will not be fairly decided, and insinuated that left-wing groups are secretly plotting to incite violence across the United States.” What’s more, “There were no obvious signs from administration officials on Monday that Mr. Caputo’s job was in danger. On the contrary, Mr. Trump again added his voice to the administration’s science denialism. As the president visited California to show solidarity with the fire-ravaged West, he challenged the established science of climate change, declaring, ‘It will start getting cooler…. Just watch. I don’t think science knows, actually.’” Her article further noted that Trump’s ravings “dovetailed in part with those of Roger J. Stone Jr., a longtime confidant of both
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Bill Miller is an accredited journalist at the UN for the Washington International and has written extensively on UN issues. He is the Principal of Miller and Associates International Media Consultants, which created the Global Connection Television concept.

Bill developed an interest in international issues and the UN when he served as a US Peace Corps volunteer in the Dominican Republic. In his first year he worked as a community developer in a remote rural area; his second year he was Professor of Social Work at the Madre y Maestra University in Santiago, the country’s second largest city.

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Mr. Caputo and Mr. Trump. Mr. Stone, whose 40-month prison sentence for lying to Congress was commuted by the president in July, told the conspiracy website Infowars on Friday [September 11] that Mr. Trump should consider declaring martial law if he lost re-election.”

Two days after LaFraniere’s article appeared, the Department of Health and Human Services announced that Caputo had apologized to the CDC staff and would be taking a 60-day medical leave of absence from his job “to focus on his health and the well-being of his family.” Caputo called his unwillingness to see a doctor previously “a mistake” and attributed his remarks “to my stress level, along with the increasing number of violent threats leveled at me and my family back in Buffalo.” Alexander was said to be on his way out.

This well-reported story should be an example for other journalists. Unfortunately, it is also an exception to the far more common normalization of the crazytown comments that characterize Trump’s Washington: a place where ignorance, arrogance, and deliberate deception come together to destroy our democracy, undermine our freedoms, and now kill our citizens. 

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**Whitewash, Rinse, Repeat**

As demands for justice grow, Trump pushes historical mythmaking into high gear.

**Enjamin Tillman, the scion of a rich, slaveholding South Carolina family, was elected governor of the state in 1890.** Driven by his fury over Black emancipation and enfranchisement after the Civil War, he dedicated his political career to spreading what he dubbed “the gospel of white supremacy according to Tillman.” At every opportunity, he stoked anti-Black violence, once stating that “nothing but bloodshed and a good deal of it could answer the purpose of redeeming the state from negro and carpetbag rule” and boasting of having “shot negroes and stuffed ballot boxes” as a leader in the Red Shirts, a white terrorist group that executed six African American freedmen in the 1876 Hamburg Massacre. His appeals to white South Carolinians’ racial resentments got him elected to the US Senate in 1894. Before heading to Congress, where he would serve for 23 years, Tillman essentially rewrote South Carolina’s Constitution, ending Reconstruction-era Black political influence and stripping Black folks of the right to vote.

“We of the South have never recognized the right of the negro to govern white men, and we never will,” Tillman declared in a 1900 speech. “I would to God the last one of them was in Africa and that none of them had ever been brought to our shores.”

South Carolina’s all-white legislature honored Tillman in 1940 by casting his likeness in bronze, erecting the eight-foot statue on the Capitol lawn, where it remains, a message of white power and racial terrorism sent straight from the state government. The inscription on the figure’s pedestal lauds him for his “life of service and achievement,” fondly remembering him as a “friend and leader of the common people [who] taught them their political power.”

Absent are any of Tillman’s most famous quotes, including his 1892 claim that he would “lead a mob in lynching a Negro” and his gubernatorial inauguration declaration that “whites have absolute control of the state government, and we intend at any and all hazards to retain it.” South Carolina officials seem to have taken pains to minimize his record of racist violence, suggesting they knew that legacy—and their celebration of it—was shameful. Like the more than 750 Confederate monuments that vacate those who fought to keep Black people enslaved, the Tillman statue proves the vigorous effort undertaken to whitewash American history of...
the legacy of anti-Black racial oppression and terrorism.

The back draft of historical revisionism always explodes when movements for social justice threaten to upset the status quo. The Tillman statue went up just as the NAACP was fighting for laws against lynching around the United States and as Black demands for basic civil rights were swelling. We are facing a similar moment today. In reaction to protests against racism and the removal of white supremacist statuary across the country, Donald Trump has launched a deliberate effort to suppress and sanitize America’s history. He has derided The New York Times’ 1619 Project, a Pulitzer Prize-winning essay series that examines the way slavery has shaped every American institution (and which he has definitely not read), likening it to anti-American propaganda and calling it “ideological poison” that “will destroy our country.” He has attacked the teaching of critical race theory as a “form of child abuse” and demeaned it as “a sickness that cannot be allowed to continue.” The president has pledged to withhold federal funds from schools that incorporate the 1619 Project into their curricula and has demanded the cancellation of racial sensitivity trainings for federal employees, directing agencies to halt spending on programs that examine white privilege. According to a tweet from Russ Vought, the director of the Office of Management and Budget, Trump “has asked people to report any sightings” of critical race theory. Recently, Trump announced that he is launching the 1776 Commission, which will “promote patriotic education” and “teach our children about the miracle of American history.”

The concealment of verifiable historical fact, the explicit crushing of dissent, the assault on truth to uphold a historical narrative rooted in myths—these are not only autocratic; they’re propagandizing branded as patriotism. Trump attacks truth-telling about the lasting impact of slavery and anti-Black racism because it counters the tale of universal freedom and civil liberty that white Americans have fought so hard to maintain, even as they have fought assiduously to ensure black folks have neither. Trump is fighting to shut up those calling out America’s racial falsehoods and selective remembrances because the truth gives voice to a Black American history (of resilience, resistance, determination, and humanity) that white America has always sought to erase. Above all, it reveals the lie at the core of this country’s founding.

The backlash against critical examinations of American history is happening because telling the truth implicates white America in the second-class citizenship of Black folks today. Acknowledging America’s racist immorality, the unceasing physical and political violence it has inflicted on Black people since its founding, destroys white claims to innocence and self-absolution, doing away with the cherished white American fallacy that our racial caste system is an accidental consequence of Black people’s inherent pathologies and inferiorities and not the engineered outcome of systemic oppression and racism. Real American history identifies how this country has, at every juncture, undermined Black freedom, which in turn demands both accountability and redress. And the only thing white America hates more than having to name its racist crimes is being called to account for them.

There is nothing surprising about this president—an overt racist for whom anti-Black racism is a major policy platform—engaging in race-baiting. Trump and his supporters are waging a bitter fight against racial progress. They believe American history is proprietary, and their birthright includes selectively retelling. He recently admitted as much. “We grew up with a certain history, and now they’re trying to change our history,” he stated. “That’s why they want to take down our monuments. That’s why they want to take down our statues.” That effort ties him to the slavery apologists, Confederate sympathizers, and historical revisionists who preceded him. Proving the circularity of American history: The more it changes, the more its foundations remain the same.
Stephen F. Cohen (1938–2020)

Moï Смив (My Steve): A personal recollection of Stephen F. Cohen, who died on September 18 at the age of 81.

Life with Steve was never boring. He was supremely independent, the true radical in our family, unfailingly going to the root of the problem. And as The Chronicle of Higher Education noted in 2017, he “was the most controversial Russia expert in America.”

I first “met” Steve through his 1977 essay “Bolshevism and Stalinism.” His cogent, persuasive revisionist argument that there are always alternatives in history and politics influenced me deeply. And his seminal Bukharin and the Bolshevik Revolution, challenging prevailing interpretations of Soviet history, was to me, and to many, a model of how biography should be written: engaged and sympathetically critical.

Steve’s work—and soon, Steve himself—challenged me to be critical-minded, to seek alternatives to the status quo, to stay true to my beliefs (even if they weren’t popular), and to ask unpopular questions of even the most powerful. These are values I carry with me to this day as editorial director of The Nation, which Steve introduced me to (and its editor, Victor Navasky) and for which he wrote a column (“Sovieticus”) from 1982 to 1987, and many articles and essays beginning in 1979.

The experiences we shared in Moscow beginning in 1980 are in many ways my life’s most meaningful. Steve introduced me to realms of politics, history, and life I might never have experienced: to Nikolai Bukharin’s widow, matriarch of his second family, and to his eclectic and fascinating circle of friends—survivors of the gulag (whom he later wrote about in The Victims Return), dissidents, and freethinkers, both outside and inside officialdom.

Our marriage coincided with perestroika. In fact, it was samizdat manuscripts that first brought us together. In 1978, Steve heard that I could bring out samizdat documents being held for him in Moscow. I would have been happy to do so, but Steve had been misinformed. I didn’t have a diplomatic passport.

Our marriage was always alternatives in history and politics influenced me deeply. And his seminal Bukharin and the Bolshevik Revolution, challenging prevailing interpretations of Soviet history, was to me, and to many, a model of how biography should be written: engaged and sympathetically critical.

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Our marriage coincided with perestroika. In fact, Steve spent the very first day after our wedding, our so-called honeymoon, at the United Nations with Mikhail Gorbachev and the news anchor Dan Rather (Steve was consulting for CBS News at the time). Then, on our first anniversary, in 1989, we were with President Bush (the first) and Gorbachev on Malta when they declared the end of the Cold War. And we think of our daughter, Nika, now 29 years old, as a perestroika baby because she was conceived in Russia during the Gorbachev years, made her first visit to Moscow in July 1991, and since then has been back some 40 times. In a moving moment, a year after his wife, Raisa Maksimova, died, Gorbachev remarked to Steve that our marriage and partnership reminded him of his with Raisa because we, too, seemed inseparable.

Steve first visited the Soviet Union in 1959. But it was those pre-perestroika years, 1975 to 1982, that gave Steve what he once told me was his “real education...not only in Russian society but in Russian politics, because I began to understand the connection between trends in society, trends in the dissident movement, and trends in the nomenklatura.” They were, he added, “utterly formative years for me.”

They also informed his writings, especially his pathbreaking book Rethinking the Soviet Experience, which was published at the very time Gorbachev came to power. “There was a lot of tragedy,” Steve used to say, “but also a lot of humor and warmth, when people had little more than personal friendships and ideas to keep them company.” From 1980, when I first traveled to Moscow with Steve, to 1982, when neither of us could get a visa, we lived in that Russia, spending many nights in friends’ apartments and kitchens drinking into the night and listening to uncensored, often pessimistic thinking about the present and future of Russia.

I later became Steve’s collaborator in smuggling samizdat manuscripts out of Russia to the West and taking samizdat books back to Russia. By the time I joined him, Steve had managed to send dozens of such books to Moscow, satisfying friends with a selection ranging from Aleksandr Solzhenitsyn and George Orwell to the Kama Sutra and, of course, the samizdat version of Steve’s own book on Bukharin. At a certain point, Steve’s shoulder bag became so heavy that he developed a hernia on his right side. After surgery, he started carrying the bag on his left side but developed a hernia there, as well. He liked to say that the worst the KGB ever did to him was to cause him two hernias!

In fact, it was samizdat manuscripts that first brought us together. In 1978, Steve heard that I had a diplomatic passport, which would have exempted me from a customs search, and was about to travel to Moscow. (At the time my father was the US representative to the United Nations in Geneva.) Through a mutual friend, Steve asked if I would bring out samizdat documents being held for him in Moscow. I would have been happy to do so, but Steve had been misinformed. I didn’t have a diplomatic passport.
Steve could sometimes seem like a tough guy, but those who won his trust knew he was a person of great generosity, loyalty, and kindness. He was known in our Upper West Side neighborhood in New York City as an impresario/organizer and longtime supporter of basketball tournaments for local kids. In the United States and Russia, Steve mentored and supported young scholars. In the last decade, he set up fellowships for young scholars of Russian history at the several universities where he’d studied and taught. He lent his support to the establishment of Moscow’s State Museum of Gulag History and to its young director and team.

Through all our years together, Steve was my backbone, fortifying me for the battles Nation editors must wage and giving me the personal and political courage to do the right thing. But never more so than when we entered what might be called the Russiagate era.

While Steve liked to say it’s healthy to rethink, to have more questions than answers, there was a wise consistency to his political analysis. He unwaveringly opposed American Cold War thinking—both during the Cold War and since the end of the Soviet Union. He was consistent in his refusal to sermonize, lecture, or moralize about what Russia should do. He preferred to listen rather than preach, to analyze rather than demonize.

This stance was no recipe for popularity, which Steve professed to care little about. He was courageous and fearless in continuing to question the increasingly rigid orthodoxies about the Soviet Union and Russia. But in the last months, such criticism did take its toll on him. Along with others who sought to avert a new and more dangerous Cold War, Steve despaired that the public debate so desperately needed had become increasingly impossible in mainstream politics or media. Until his death, he’d been working on a short article about what he saw as the “criminalization of détente.” The organization he established, the American Committee for East-West Accord, tried mightily to argue for a more sane US policy toward Russia.

He fared better than I often did confronting the controversies that surrounded him since 2014, in reaction to his views on Ukraine, Vladimir Putin, election interference, and more. The positions he took often elicited slurs and scurrilous attacks. How many times could he be labeled “Putin’s puppet”? “Putin’s No. 1 American apologist”? Endlessly, it seemed. But Steve chose not to respond directly to the attacks, believing, as he told me many times when I urged him to respond, that they offered no truly substantive criticism of his arguments but were merely ad hominem attacks. What he did write about—because he was increasingly concerned with the fate of a younger generation of scholars—was the danger of smearing those who thought differently about US policy toward Russia, thereby silencing skeptics and contributing to the absence of a needed debate in our politics, media, and academy.

Gorbachev often told Steve how deeply influenced he was by his writings, especially his biography of Bukharin. Steve first met Gorbachev in 1987 at the Soviet Embassy in Washington. It was a reception for America’s progressive intelligentsia—which Steve found funny, because he considered himself a maverick and didn’t like labels. But he was there that day, and within a few minutes a Kremlin aide told Steve that the general secretary wanted to talk to him. Minutes later, Mikhail Sergeevich approached and asked Steve, assuming the author of Bukharin and the Bolshevik Revolution must be an eminent man of a serious age, “Deistvitelno [really]—you wrote the book, or was it your father?”

Steve finally achieved that serious age Gorbachev spoke of! But his heart, spirit, and mind remained youthful till the very end. Maybe it’s because of his love of Jerry Lee Lewis’s rock ’n’ roll, or New Orleans blues or Kentucky bluegrass or his passion for basketball (shared with Nika and his 16-year-old grandson, Lucas), or his quest for a good anecdote. Maybe it’s because we continued our walks in nearby Riverside Park for as long as was possible—walks full of loving and spirited argument and talk. Perhaps it’s because, while Steve was a very serious person, he didn’t take himself seriously.

The day after Steve’s death, Gorbachev sent these words about Steve:

Dear Katrina,

Please accept my sincere condolences on Steve's passing. He was one of the closest people to me in his views and understanding of the enormous events that occurred in the late 1980s in Russia and changed the world.

Steve was a brilliant historian and a man of democratic convictions. He loved Russia, the Russian intelligentsia, and believed in our country’s future.

I always considered Steve and you my true friends. During perestroika and all the subsequent years, I felt your understanding and unwavering support. I thank you both.

Dear Katrina, I feel deep sympathy for your grief and I mourn together with you and Nika.

Blessed memory for Steve.

I embrace you,

Mikhail Gorbachev

19.09.20

For 40 years, Steve was my partner, companion, coconspirator, fellow traveler, mentor, husband (for 32 years), coauthor, best friend. I will be forever grateful to him for introducing me to The Nation and to Russia; for a life that has been full of shared adventure, friendship, and passion; and for our beloved daughter, Nika.

An expanded version is available at TheNation.com.
Despite his (alleged) nickname, “Middle-Class Joe” Biden doesn’t seem to understand the middle class. It’s become customary for Democratic presidential candidates to vow not to raise taxes on this particular group of voters. Hillary Clinton repeatedly made that pledge in 2015 and ’16—a tactic Barack Obama also used in 2008. It’s a commitment that sounds nice on the campaign trail, but it hampers policy-making. And now Biden, as the 2020 Democratic nominee, has made that bad promise even worse.

Bill and Hillary Clinton and Obama used the same cutoff for middle-class tax protection: those who earn $250,000 a year or less. It’s a preposterous definition of the middle class. But Biden has seen their $250,000 bid and nearly doubled it.

“Nobody making under 400,000 bucks would have their taxes raised, period, bingo,” he told CNBC in May, repeating the promise in August on ABC. His campaign is so dedicated to this pledge that his economic advisers gave Glenn Kessler of The Washington Post detailed workarounds that would result in, they say, no new taxes for anyone earning $400,000 or less.

Certainly the middle class has always been an amorphous idea. But it should at least nominally refer to the middle of the country’s income distribution. And $400,000 ain’t it. According to the most recent census data, median annual household income in the United States is $68,703. Even with an expansive view of how much income on either side of that mark could still qualify as middle class, it’s impossible to see how a figure nearly six times the median would count. Rather, $400,000 a year lands a household easily in the richest 5 percent.

Allowing these families to think of themselves as middle class has perverse outcomes. That distorted view of reality makes it appear as if we’re doing a better job of distributing wealth than we are. It also causes the rich to feel deserving of government benefits that would be better targeted to poorer households. Take tax breaks, which mostly flow to the richest 20 percent of Americans: That’s money that could be spent to help low-income households afford food, housing, and child care.

Letting them call themselves middle class also makes them bristle at the idea that they should chip in more to fund programs that benefit the rest of us. Obama knows this well. When he tried to levy taxes on college savings accounts, which overwhelmingly benefit families that make more than $200,000, and use the money to subsidize college for low- and middle-income people, the swift backlash that he was violating his campaign pledge led him to drop the plan just a week after he proposed it.

Making a clear promise not to raise taxes on people earning less than $400,000 will hamper Biden’s ability to enact smart policies in response to the country’s most pressing needs. Take paid family leave. Just 16 percent of private sector workers get paid family leave from their employers, leaving everyone else to cut back on spending or go into debt to take time off. Biden recognizes this problem and has promised to provide 12 weeks of paid family and medical leave a year.

This would fulfill a desire congressional Democrats have had since 2013, when they introduced the Family Act, which would levy small payroll taxes (structured like Social Security taxes) and put that money into a fund that would pay out when employees needed paid leave to care for themselves, a new baby, or a sick or disabled family member.

But it would raise taxes on everyone, so it would seem to be an option Biden has forsworn, even though it’s the model that the vast majority of other countries have chosen. Such a wrinkle led Hillary Clinton to craft a paid leave policy that would have raised its money entirely from taxing the wealthy, making paid family leave appear to be a handout to the less fortunate rather than something we all owe one another.

There are plenty of progressive policy goals that would be difficult to pull off without increasing taxes on more than just the richest few. Universal health care and universal child care are two that come to mind.

Even if the middle and lower classes saw their tax bills rise to fund such programs, they would almost certainly receive more in benefits. But we can’t start that conversation if the Democratic nominee for the White House won’t even contemplate tax increases below a certain threshold. To debate policies to make our country more equal, we must first be honest about our class divisions.

Bryce Covert
SNAPSHOT / Kiran Ridley

Merci, Workers

On September 22 in Paris, a mural by the street artist Ardif thanks hospital staffers for their efforts during the Covid-19 pandemic. To cope with a new spike in severe Covid-19 cases, hospitals in France have initiated plans blancs, a set of emergency protocols that allow medical institutions to rapidly reorganize to accommodate a sudden increase in patients.

Why Trump Doesn’t Wear a Mask

“As any woman can tell you, the masks smear makeup. The president is afraid of makeup stains on his mask and unsightly smears on his photographed face.”

—letter to The New York Times from Sarah Crichton

So, could it be that what he’s fearing Is gobs of orange makeup smearing? Could that be why he takes the view That wearing masks is up to you? And why he mocks as sissies those Who cover up the mouth and nose, So even some not in his base Now emulate his unmasked face? A shame so many die so he Can keep his visage blemish-free.

New Poetry Editor

Kaveh Akbar has been appointed The Nation’s poetry editor. Taking over the storied section, Akbar said he believes “in poetry’s power to substantively contribute to The Nation’s mission of ‘raising up the promise of a radical tomorrow while agitating for meaningful change today.’”

Born in Tehran, Akbar teaches at Purdue University and Randolph and Warren Wilson colleges. His poems have appeared in The Nation, The New Yorker, Best American Poetry, and elsewhere. He is the author of Calling a Wolf a Wolf and the forthcoming Pilgrim Bell.

“An accomplished poet and writer who writes with heart and dedication,” said literary editor David Marcus, “he is also a talented and ambitious editor, and we’re excited to see what he will do in the magazine’s pages.”

The poetry editor position has two-to-three-year terms. Akbar replaces coeditors Stephanie Burt and Carmen Giménez Smith, who, in their time at the magazine, nurtured early career talents as well as established writers, commissioned a wide range of brilliant work, and helped make poetry part of the national conversation.
Supreme Injustice
The upcoming Supreme Court term was always going to be a challenge for the court's liberal wing. Then Ruth Bader Ginsburg died.

BY ELIE MYSTAL

WITH THE DEATH OF SUPREME COURT JUSTICE RUTH BADER GINSBURG on September 18, our nation, so badly shaken during these past months, has been rattled to its very core. Her passing has jolted the 2020 elections—and it will have far-lasting effects on the makeup and, potentially, the very structure of the Supreme Court, reshaping the legal terrain for a generation of American life.

Still, while I’d like to be able to hop into my DeLorean and report back from, say, 2050 on the lasting impact of her death, we have more immediate concerns: The Supreme Court starts hearing cases again on October 5.

The court’s 2020–21 term was poised to be a challenging one even before Ginsburg’s death. The docket is stacked with consequential cases, with the court slated to hear important arguments about the Affordable Care Act, police brutality, and whether governments may forbid contracting with religious organizations that discriminate against gay and lesbian couples. It will also weigh a case against Facebook and one that will determine whether the Justice Department must finally release the full report by special counsel Robert Mueller.

And the court may be asked to intervene in the presidential election. The Supreme Court’s power to determine the fate of a contested election—and, essentially, pick the president—lurks beneath the waves, blue or otherwise, like some deep-sea monster, ready to snap the ship of state in half.

All this was bad news when there were four liberals on the court. Now, no matter how the Ginsburg replacement fight plays out, the liberal justices are likely to be outmatched. If Republicans succeed in ramming through Donald Trump’s nominee Amy Coney Barrett in the next few weeks, the court will decide some or all of these cases with six justices appointed by Republican presidents and only three appointed by Democrats. But even if the Democrats stave off an appointment, leaving only eight justices in place, it will be hard for any liberal arguments to prevail. That’s because, even in the event of a tie, the lower court ruling stands, meaning that all of the work the GOP has done to stack the lower courts comes into play. As of now, Neil Gorsuch—the man elevated to the nation’s highest court after Senate Republicans blocked the confirmation of Merrick Garland—is the court’s swing justice.

If the law were an objective thing, the death of a Supreme Court justice wouldn’t have a massive effect on the outcome of the presidential election. But if such a thing as legal objectivity ever existed, it was obliterated 20 years ago with Bush v. Gore. It was then that the Supreme Court proved, by a 5-4 vote, that it was a purely political branch. And it was then that the Democrats should have committed to fighting the Republicans for control of the court by any means necessary. If the Supreme Court is able to hand the election to the Republican candidate again, it will be because the Democrats did not address the balance of the court after the last time it picked the president.

Hopefully, it will not take the left another 20 years to learn this lesson. As we look at the critical cases before the court this term, we need to recognize that these battles have already been lost in many ways. The issues in play before this court have been presented in a way that accepts Republican theories and priorities. We’re debating religious freedoms for Christians who want to be bigoted, not Muslims who want to worship unimpeded. We’re debating Facebook’s ability to conduct the Internet equivalent of robocalls, not individual privacy rights on the platform. We’re debating whether cops violate constitutional rights when they shoot unarmed people in the back who then get away, not whether cops will be arrested and charged with attempted murder for doing so.

If we want to change the outcome of some of these cases, we must fight Trump’s attempt to replace Ginsburg. If we want to change the next generation of legal debates, we need to restructure the Supreme Court.

**Democracy v. Voter Suppression**

Perhaps the most important case the Supreme Court will decide during its fall term is one that doesn’t even exist yet: the one it might have to decide in the event of a contested election. I don’t know if the court will be asked to pick the president, as it did in 2000 with its ruling in Bush v. Gore, or if
it will be asked to cast the deciding vote in a close Senate race that determines the balance of power in the chamber. Or maybe the court will simply be asked to rubber-stamp and put some legalese around whatever coup d’état Trump tries to pull off.

What I do know is that lawsuits are coming. It is difficult to imagine any presidential election scenario in 2020 that does not include a raft of litigation. There will be lawsuits alleging that election officials didn’t count ballots or miscounted them. There will be lawsuits alleging voter fraud. There will be lawsuits complaining that some election precincts kept their polls open too late or closed them too early. The stakes are too high, and Trump has been too effective at undermining faith in the American electoral process. I’m hoping there are only lawsuits, because otherwise there will be blood.

The prospects of Republican-appointed justices handing the election to Trump were high even when Ginsburg was alive. While some people held out hope that Chief Justice John Roberts would side with voters over his party, these people were not taking a realistic look at his record. He has attacked voting rights over the entire course of his career. In fact, he authored the biggest setback to voting rights of our generation: his 2013 decision in Shelby County v. Holder, which eviscerated the Voting Rights Act.

Now, however, with Ginsburg gone, Roberts’s role scarcely matters. Even in the best-case scenario, in which only eight justices hear the case and he discovers a sudden respect for voting rights, the decision will come out as a tie—which means the lower court ruling will hold. And that ruling will come from a lower court that has very likely been stacked with Trump judges. If, for instance, an election appeal comes out of Florida, that case will come up through the state’s conservative-controlled Supreme Court (as Bush v. Gore did) or the 11th Circuit Court of Appeals, which Trump has flipped to a majority-conservative court. Other 2020 swing states present similar issues. The Michigan Supreme Court is controlled by Republican appointees. Pennsylvania’s highest court is controlled by Democratic appointees, but the Third Circuit Court of Appeals, which oversees federal law in the state, was flipped to conservative control by Trump and Senate majority leader Mitch McConnell in 2019.

And make no mistake: These and other conservative-controlled courts have no intention of playing nice. In both the state and federal systems, they have already shown a willingness to suppress the vote in the face of the coronavirus pandemic. Efforts by voting rights advocates to expand the franchise and make it easier for people to vote have been stymied by conservative judges and justices at nearly every turn.

Republicans have used raw political power to stack the courts with conservatives; now those courts are giving Republicans the tools to maintain minority rule over the popular will.

**California v. Texas**

On November 10, a week after the elections, the Supreme Court will hear California v. Texas. When that happens, the land mine that Roberts laid for the Affordable Care Act when he upheld the law in 2012 could finally blow the whole thing up. The initial conservative challenge claimed that the ACA’s individual mandate, which required uninsured people to pay a penalty for failing to get health insurance, was an unconstitutional use of federal power under the Constitution’s commerce clause. Roberts could have simply told the challengers that they were wrong and sent them on their way, but the chief justice, like most Republicans, doesn’t like it when the federal government uses the commerce clause to pass regulations on big businesses.

Instead, Roberts famously converted the individual mandate from a normal government regulation authorized by the commerce clause to a tax authorized under the federal government’s broad taxation powers. He didn’t do it to save the ACA; he did it to uphold a major piece of legislation passed by a supermajority in the Senate, while preserving his ideological objections to the commerce clause power.

In the years since, Trump and congressional Republicans have failed to repeal the ACA, but they have succeeded in eliminating the individual mandate. The 2017 Tax Cuts and Jobs Act (which sounds like it was named by a 6-year-old just getting hooked on phonics) dropped the tax penalty for the individual mandate to zero. With that part of the law gone, conservatives now return to the Supreme Court arguing that, without the individual mandate they themselves killed, the entire health care law can no longer be considered a tax and thus is unconstitutional.

This is as cynical as a bouncer mugging a guy waiting in line and then telling him he can’t afford the cover charge. A normal Congress does not try to make its own law unconstitutional, and a normal court would not countenance such a bad-faith pretext to get it to repeal a law that Congress could not.

There are two questions before the court in California v. Texas: whether the individual mandate is constitutional now that the tax has been reduced to zero and, if the mandate is unconstitutional, whether that makes the ACA unconstitutional as a whole. The legal term for whether a law survives parts of it being ruled unconstitutional is “severability,” and the way the court determines that issue will likely determine the fate of the ACA.

With the death of Ginsburg—may her memory be a blessing—the prior Fifth Circuit ruling could be critical. Earlier, US District Judge Reed O’Connor, a George W. Bush appointee from Texas, determined that the individual mandate was unconstitutional and that the mandate was the “keystone” of the ACA, making the rest of the act unconstitutional without it. The Fifth Circuit affirmed O’Connor’s ruling. If a new justice has not been appointed to the Supreme Court by November 11
and if the court then splits 4-4 on the case, the Fifth Circuit’s ruling will stand.

However, O’Connor and the Fifth Circuit were asked only to assess the constitutionality of the individual mandate. Arguably, O’Connor’s holding about the rest of the ACA could be read as a mere suggestion—though he wouldn’t be the first Republican to vote to repeal the ACA without actually being able to do it.

But it’s very hard to predict what will happen if a Supreme Court majority agrees that the individual mandate is unconstitutional yet the court splits 4-4 on the question of severability. Roberts could punt the case back to the Fifth Circuit to let it decide on severability, even though the lower court has already indicated how it feels about that issue. Or Roberts could hold off on deciding the entire case and schedule it for reargument after a ninth justice is named to the court. Or he could admit defeat, side with his other conservative colleagues, and rule that the ACA is not severable from the suddenly unconstitutional individual mandate, thereby making the entire act unconstitutional.

To echo the great, albeit fictional, Clubber Lang, my only prediction is pain. The ACA is in critical condition, and without Ginsburg, there are unlikely to be enough votes to save it, even in the midst of a pandemic that has already killed more than 200,000 Americans. Eventually, a Republican-appointee-controlled court will do what a Republican-controlled Senate could not.

**Fulton v. City of Philadelphia**

On November 4, the day after the elections, the Supreme Court will hear arguments in a lawsuit against Philadelphia brought by Catholic Social Services and a number of foster parents. The city stopped using the Catholic agency as a referral service to find foster parents after city officials became aware that it was refusing to place kids with same-sex couples. For its part, Catholic Social Services maintains that the city’s refusal to use its bigoted foster-care program is an unconstitutional infringement on its religious rights.

It’s one thing for religious conservatives to claim that the Constitution gives them a personal right to bigotry. In a free society, a personal right to be hateful is just something we all have to accept. But it’s quite another thing when conservatives argue that the Constitution requires the state to endorse their bigotry. That is an argument a secular society does not have to accept in the name of religious freedom.

In this case, it’s important to understand that the city is not asking Catholic Social Services to endorse same-sex marriage. It is not asking the agency to place foster kids with Wiccans or druids or theater people. It is not asking the agency to do anything. Catholic Social Services is and will remain free to place whichever kids are entrusted to it into any home it deems qualified, according to whatever religious teachings it happens to care about that day.

What the city will not do is contract the services of an agency that refuses to place children with LGBTQ families because of the dogmatic—and discriminatory—strictures of an organized religion. That’s an obvious and reasonable decision for a secular government to make.

Unfortunately, religious conservatives are not content to practice their faith peacefully and without government interference; their long-term culture war involves forcing the government to endorse discrimination and bigotry in the name of Jesus. They’ve turned the free exercise clause of the First Amendment—which is supposed to be a shield to protect people from government prohibitions of their religious practices—into a sword they want the government to use to strike out against the LGBTQ community and secular norms.

This corruption of the free exercise clause has increasingly been upheld by the Supreme Court. In *Trinity Lutheran Church of Columbia, Inc. v. Comer*, decided in 2017, a religious school successfully sued on free exercise grounds after it didn’t receive playground renovation funds from a state program until all the public schools were given a chance at the money. In *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, decided in 2018, a baker successfully argued that a Colorado anti-discrimination board was overly hostile to the free exercise of his religious belief that gay people should be discriminated against.

The Supreme Court decided both of those cases in 7-2 rulings. Justices Stephen Breyer and Elena Kagan joined the five religious conservatives for those rulings. Breyer and Kagan have a habit of bending over backward to try to limit these theocratic rulings by whittling them down to a very specific set of facts, and there’s a sense they would have come down differently in...
these cases if they had the votes to win. But as it stands, the religious right has a supermajority on the court that is eager to endorse the notion that free exercise is a tool to eviscerate the distinction between church and state.

I expect Fulton v. City of Philadelphia to be the worst articulation of this view yet. I expect the Supreme Court to force Philadelphia to use a foster service that is openly bigoted and call it religious freedom.

I'll probably end up framing Justice Sonia Sotomayor's lone dissent somewhere in my office.

**Department of Justice v. House Committee on the Judiciary**

**Remember the Mueller report? Remember how US Attorney General Bill Barr lied about what it said? And remember when the Democrats asked to see the underlying documents and testimony in the investigation and Barr said no and the media called the report a bust?**

Pundits declared the Mueller report dead ages ago, but Democrats on the House Judiciary Committee are still trying to get Barr’s Justice Department to release the full story. They still want to see the documents and grand jury testimony that Barr redacted from the report, and in July 2019 they sued the Justice Department to do so. The Democrats won in US district court, but the Justice Department appealed. They won again in the D.C. Circuit, but the Justice Department appealed. Finally, that lawsuit is before the Supreme Court.

Or at least it will be. It’s on the court’s docket for December 2, by which time Election Day will have come and gone—which means that, whatever else happens, Barr will have accomplished his goal of making sure Americans do not hear the full story about foreign powers meddling in the 2016 presidential election until after the 2020 elections.

This is not justice; this is the obstruction of justice. This is a corrupt attorney general using whatever means available to hide the truth from the American people—with the apparent complicity of the Supreme Court.

As far as I’m concerned, Trump has won this round politically. He got what he wanted: The media largely dismissed the Mueller report, the president was not convicted of the obstruction of justice he was impeached for, and he will likely never be held to account for soliciting foreign interference in the 2016 presidential election. The only press this ruling will spawn will be the dozens of law review articles that will be read by the tens of people who think deeply about the limits of grand jury secrecy under Rule 6 of the Federal Rules of Criminal Procedure.

The legal disposition of this case is still important, however, because it will set a precedent for presidents and attorneys general on what they can or cannot do to hide the results of an independent investigation into a president’s suspected wrongdoing. Precisely because Trump was so successful in escaping accountability for his efforts, he will not be the last presidential candidate to seek foreign help to win an election. A ruling against Trump here will come too late to stop him, but it might make the next candidate think twice.

Still, even a victory for precedent’s sake will be cold comfort. I believe in hell solely because I need to believe in a place where the people who aided and abetted the Trump administration can go and be judged by someone who acts with more dispatch than John Roberts.

**Facebook v. Duguid**

**CASES LIKE FACEBOOK V. DUGUID ARE the reason social media giants tend to either spread misinformation and lies that help conservative candidates win elections or refuse to do anything to stop that spread. Conservative politicians lead to conservative judges, and conservative judges lead to ignorant tech rulings that tech bros can exploit for profit and power.**

I love this case because the facts are a testament to how one person can challenge a corporate giant in our country. It’s not the most consequential case on the Supreme Court’s docket this year, but it is an important reminder that ordinary citizens can and do challenge the tech behemoths. These businesses do not exist outside the law, and their practices can be regulated—by the courts or by Congress.

Noah Duguid did not have a Facebook account, yet he nonetheless kept receiving text messages from the company warning him that somebody was trying to access his (non-
exist) account. This advertorial harassment went on for 10 months. In 2015 he sued Facebook under the Telephone and Consumer Protection Act. That law prohibits companies from using an automated telephone dialing system, more commonly known as an autodialer, to make robocalls.

The problem, of course, is that Facebook isn’t technically using an autodialer to worm itself into people’s text messages. It’s using something that accomplishes the same goal, but the technology is different from what is specified in the statute. I won’t pretend to understand how it’s different; I went to law school, not a-billion-dollars-is-cool school.

How a judge should handle a situation like this is one of the big differences between liberal and conservative jurists. Liberals tend to adopt an “I see what you did there” approach and interpret regulations based on what a thing does, not merely what it is called. Conservatives tend to go the other way, pulling out a dictionary to play banal word games, missing the forest while debating the difference between a Quercus rubra and a Crataegus monogyna (which are both, you know, trees).

Tech companies like Facebook generally prefer the conservative approach to interpretation. Why? For the same reason gun manufacturers do. Conservative judges are willing to let companies get out of regulations simply by slapping a new name and a different widget on the same object or product. This forces Congress to go back and pass entirely new legislation to regulate that object or product. Even if Congress has the will to reregulate (which it often doesn’t), the process gives large companies (and their lobbyists) another bite at the apple to change or manipulate the regulation to their liking.

In this case, it’s an issue the Supreme Court must decide because the circuit courts are split. The Second and Ninth Circuits (which cover New York and California, respectively) prohibit Facebook’s autodialer, while the Third, Seventh, and 11th Circuits allow it.

The conservative majority on the Supreme Court almost always sides with giant corporations over little guys like Duguid. But Facebook isn’t guaranteed to win. Supreme Court justices are old, occasionally cranky, and rarely tech savvy. If their grandkids get in their ears about how annoying unsolicited text messages can be, maybe some of these conservative justices will tell Facebook to get off their lawn.

**Torres v. Madrid**

In July 2014, Roxanne Torres dropped her friend off at an apartment complex in Albuquerque, N.M. Unbeknownst to her, police officers were lurking at the location to arrest a suspect who lived there. The officers decided that Torres was a person of interest and approached her vehicle. They were wearing police identification but were otherwise dressed in dark tactical gear. One of the officers went to her driver’s side window and ordered her to put up her hands. Then the officer fiddled with the handle on her locked door. Torres believed she was being carjacked and attempted to drive away. The officers interpreted this as an attempt to drive toward them and so, as soon as the car lurched forward, opened fire, hitting her two times in the back.

Torres got away. The police apprehended her later, when she was at the hospital receiving treatment for her gunshot wounds.

The officers were not charged for shooting an unarmed woman in the back. But Torres filed an excessive-use-of-force claim, citing the Fourth Amendment’s protection from unreasonable search and seizure.

The US District Court and the 10th Circuit Court of Appeals ruled in favor of the cops because she managed to get away. I’m not making that up. The 10th Circuit found that Torres had not been seized because she was not apprehended on the spot.

On October 14, Torres’s appeal of the 10th Circuit’s ruling is set to be argued in front of the Supreme Court. This case is critical if you care at all about beginning to address police brutality and violence against Black and brown people. The Fourth Amendment is one of the only constitutional provisions that can be used to address police misconduct. Adopting the 10th Circuit’s rule would functionally change the definition of the Fourth Amendment: Instead of protecting us from unreasonable search and seizure, it would protect us only from successful acts of unreasonable search and seizure. Constitutional protections against excessive force should not be contingent on whether the cops beat you until you stop moving. The 10th Circuit’s decision is both horrifying as a matter of law and tone-deaf as a matter of politics.

Fortunately, Fourth Amendment issues are among the few that do not break along the normal liberal-versus-conservative lines. The Eighth, Ninth, and 11th Circuit Courts of Appeal have rejected arguments similar to the one upheld by the 10th Circuit in this case. When he was on the Supreme Court, Justice, Antonin Scalia favored a robust interpretation of the Fourth Amendment, and other so-called originalists like Gorsuch and Justice Clarence Thomas are at least amenable to strong Fourth Amendment protections. On the other side, Breyer has been a bit of a weak link when it comes to the Fourth Amendment protections supported by the court’s left.

This case was supposed to be argued in front of the Supreme Court last term, before the murder of George Floyd and the Black Lives Matter uprising that followed, but was rescheduled because of Covid-19. The mainstream media might well have overlooked it had it been just another Supreme Court case sandwiched between a number of Trump-related lawsuits and arguments. I think people will notice it now. We have witnessed an uprising in our country against police violence. It’s hard to imagine the Supreme Court will respond to that uprising by ruling that the Fourth Amendment doesn’t apply unless the cops successfully kill or incapacitate you.
THE PEOPLE HAVE MARCHED...

A 2020 Climate Election Scorecard

What follows are not candidate endorsements. Rather, this nonpartisan guide aims to inform voters’ choices, help journalists decide which races to follow, and explore what the 2020 elections could portend for climate action in the US in 2021 and beyond.

Will the White House Turn Green?

Whether the White House changes hands is the most important climate question of the 2020 elections. President Donald Trump rejects climate science, is withdrawing from the Paris Agreement, and has accelerated fossil fuel development. His policy seems to be, as he tweeted in January when rejecting a federal proposal to protect New York City from storm surges, “Get your mops and buckets ready.”

During the recent wildfires, Joe Biden called Trump a “climate arsonist.” Biden backs a $2 trillion plan to create millions of jobs while slashing emissions—a Green New Deal in all but name. His running mate, Kamala Harris, has endorsed phasing out fossil fuel production, a politically explosive scientific imperative. A handful of states, five of which already face grave climate dangers, will decide the race.

The Battleground States

- Florida (hurricanes and sea level rise)
- North Carolina (ditto)
- Texas (storms and drought)
- Michigan (floods)
- Arizona (heat waves and drought)

Will Democrats Flip the Senate—and by Enough to Pass a Green New Deal?

With Democrats all but certain to maintain their majority in the House, the Senate will determine whether a potential Biden administration can deliver climate progress. Democrats must pick up three seats to flip the Senate if he wins, four if he doesn’t. Since aggressive climate policy is shunned by some Democrats, notably Joe Manchin of West Virginia, the party probably needs a net gain of five or six Senate seats to pass a Green New Deal. Environmentalists, including the League of Conservation Voters PAC, are targeting six Republicans who have opposed climate action.

The Vulnerable Republicans

- Steve Daines of Montana (denies climate science)
- Martha McSally of Arizona
- Thom Tillis of North Carolina
- Susan Collins of Maine
- Joni Ernst of Iowa (bankrolled by the Koch brothers)
- John James of Michigan (also a Koch beneficiary)

The Green New Deal Champions

In the House, environmentalists are working to elect these candidates, in one case over an establishment Democrat.

- Beth Doglio in Washington state
- Georgette Gómez in California
- Marie Newman in Illinois
- Cameron Webb in Virginia
- Mike Levin and Wendy Davis in Texas
AND NOW IT’S TIME TO VOTE

ELECTIONS MEAN FOR CLIMATE PROGRESS.

BY MARK HERTSGAARD

Will State and Local Races Advance Climate Progress?

The Climate Hawks
Under Democratic and Republican leadership alike, D.C. has long been a graveyard for strong climate action. But governors can boost or block renewable energy; the Vermont and New Hampshire races are worth watching in that regard. Attorneys general can sue fossil fuel companies for lying about climate change; climate hawks are running for those posts in Montana and North Carolina. State legislatures can accelerate or delay climate progress, as the new Democratic majorities in Virginia have shown.

The Climate Policy-Makers
Perhaps the most powerful and most overlooked climate policy-makers are public utility commissions. They control whether pipelines and other energy infrastructure get built. They determine whether electric utilities can expand their solar and improve their energy efficiency or stick with the carbon-heavy status quo.

In Arizona, Bill Mundell, a former two-term commissioner known as the godfather of solar in the state, is seeking a comeback. He argues that since Arizona law permits utilities to contribute to commissioners’ electoral campaigns, the companies can essentially buy regulators. And in South Dakota, Remi Bald Eagle, a Native American Army veteran, seeks a seat on the South Dakota Public Utilities Commission, which rules on the Standing Rock oil pipeline.

Will Influencers Usher in a Green New Era?

The Uncounted
The story that goes underreported in every US election is the number of Americans who don’t vote. In 2016 some 90 million eligible voters—roughly four out of every 10—did not cast a ballot. Attorney Nathaniel Stinnett says 10 million of these nonvoters nevertheless identify as environmentalists. They support green policies and even donate to activist groups; they just don’t vote. His Environmental Voter Project works to awaken this sleeping giant.

The Sunrise Movement
Meanwhile, the Sunrise Movement, consisting of young climate activists, has knocked off centrist Democrats in primary elections with an unabashedly Green New Deal message. But can Sunrise be successful against Republicans in the general elections?

The Star Power
An intriguing wild card: Celebrity firepower, grassroots activism, and big bucks marketing have converged behind a campaign to get Latina mothers to vote for climate action in 2020. Latinos have long been the US demographic most concerned about climate change. Vote Like a Madre aims to get 5 million Latina mothers in Florida, Texas, and Arizona to the polls.
When the Police Don’t Keep You Safe
Feminists are reconsidering the costs of criminalizing domestic violence.

BY ZOE CARPENTER

On a Friday night in July, two police officers in Rollinsford, a small town in eastern New Hampshire, responded to a report of a domestic disturbance at the home of RJ and Sarah Letendre. RJ Letendre, who at the time worked as a police officer in the nearby city of Dover, told the responding officers that during a conversation about a divorce, she attacked him, scratching and biting him.

The officers arrested Sarah Letendre, a stay-at-home mother of two young children, and charged her with domestic violence simple assault. Then they took her to a hospital for a psychiatric evaluation. In an affidavit, police said they “did not observe any obvious injuries on her,” though they noted that “she was complaining of pain in her left rib area.” Afterward, police dropped her off at her home, which she was not allowed to enter because of a no-contact order triggered by the assault charge. According to her sister Jessica Newman, Sarah Letendre was wearing a tank top, shorts, and hospital slippers when the police left her outside her house in the dark. When she went inside to get her purse so she could leave, Newman said, RJ Letendre called the police again. They pulled over Sarah Letendre as she was driving away, around 4:30 am, and tried to arrest her. She fled.

The story she told about that night to her sister and in court documents was quite different from her husband’s. In a domestic-violence petition filed later, Sarah Letendre said that during the argument, RJ Letendre, a former mixed-martial arts fighter, had forced her to the ground, held her with a knee on her sternum, and elbowed her hard in the ribs. This wasn’t the first time he’d attacked her, she claimed. In other alleged incidents dating back to 2018, he picked her up by her neck, put her in a choke hold, and pushed her into a bathroom door. She said she found a tracker on her car and that he threatened to kick her out of the house and to take their children if she tried to leave him. “He threatens to use his status as a police officer to arrest me,” she wrote in her petition. “Recently those threats are more frequent.” (He also filed a domestic violence petition against her, claiming, “I had to physically restrain her until police arrived on scene.”)

Although Sarah Letendre was taken to the hospital for a psychiatric evaluation, her discharge papers list no concerns with her mental state. Instead, her diagnosis was broken bones: “Closed fracture of multiple ribs of left side.”

For the past four decades, a dominant project for American feminists has been getting the police and the legal system to respond seriously to the crisis of domestic violence. More than 10 million people in the US are abused by their partners each year. One in four women will be pushed, slapped, beaten, burned, strangled, or otherwise harmed by an intimate partner during her lifetime. Nearly half of the women who are murdered in the US each year are killed by a romantic partner. Until the 1970s, police and the legal system largely treated this kind of violence as a family issue best resolved quietly at home. As feminists worked to bring the problem into the public sphere, many advocates focused on toughening penalties for abusers and standardizing the way law enforcement responded to complaints. Jurisdictions around the country now have laws intended to ensure an aggressive law enforcement response, including laws that require police to make an arrest in response to a credible allegation and no-drop policies that force prosecutors to continue a case even without cooperation from witnesses.

Today the anti-violence movement is in the midst of a painful reckoning with the collateral damage of this approach. Stricter criminal penalties have protected some survivors, but they’ve also led to the arrest and prosecution of others and contributed to a ballooning prison population that is disproportionately made up of men and women of color. “Anti-violence programs have their hands deeply inside of carceral processes, which leads not only to the arrest of men but also of women,” said Beth Richie, an anti-violence activist during the movement’s early years who now directs the criminology, law, and justice department at the University of Illinois at Chicago. At particular risk are those who don’t present as the perfect victim: They aren’t cooperative with the legal system, they have a criminal record or substance-use issues, or they fought back. In Sarah Letendre’s case, her arrest initially left her without custody of her children and homeless, though she has gained partial custody and, according to Newman, found an apartment. In September, the Merrimack County prosecutor dropped the felony assault charge against her but is still pursuing other criminal charges, including resisting arrest. The Dover Police Department said in August that it fired RJ Letendre, whose attorney did not return a request for comment, for “multiple violations of departmental policy.”

Some advocates credit improvements in the criminal-legal system for a sharp drop in domestic violence rates over the past three decades. But as Leigh Goodmark, who directs the Gender Violence Clinic at the University of Maryland Carey School of Law, notes in her book *Decriminalizing Domestic Violence*, that dip mirrors a decline in crime rates generally.

“Your office makes me feel even more powerless and unheard.”

—Bonnie Hansen, a victim of intimate-partner violence, in a message to the Ada County Prosecutor’s Office in Idaho

Illustration by Louisa Bertman
In recent years, domestic violence rates have fallen more slowly than crime overall, while domestic homicides rose. Despite hundreds of millions of dollars invested in improving the ways police, prosecutors, and judges respond to abuse, more than half of victims of nonfatal abuse never report it to the police. A 2015 survey found that survivors often feel dismissed or blamed by police and said they feared reprisal or consequences such as losing housing or custody of their children. Others simply don’t want their partner to be arrested. Calling the police sets in motion a process that victims have little control over. And although there is little recent data available, two studies in the 1990s indicated that police have their own domestic violence problems, with as many as 40 percent of officers’ families experiencing domestic violence, compared with 10 percent of families in the general population.

Conversations about what Nan Stoops, a 40-year veteran of anti-violence work, calls the “unholy alliance” between the anti-violence movement and criminal-legal system gained particular urgency this year, as the isolation provoked by Covid-19 intensified concerns about domestic violence and as the Black Lives Matter movement advanced discussion about police reform. “We are having really hard conversations about what this means for us and how it’s going to change our work,” said Stoops, who is a strategic adviser to the Washington State Coalition Against Domestic Violence. In June, domestic violence coalitions from more than 30 states released a remarkable letter accounting for the ways in which their movement invested in the criminal-legal system at the expense of Black and Indigenous communities and other people of color and calling for “divestment and reallocation” of resources.

Domestic abuse presents a deadly threat to millions of people across America, in part thanks to the nation’s glut of guns, and it’s often invoked to make the case for policing and prisons. But as concerns about police misconduct grow, feminist activists who have been building alternative systems for emergency intervention and longer-term accountability are finding new allies and new attention. These community-based projects are still embryonic, but they are beginning to answer the question, “If the police can’t keep everyone safe, what else can?”

When feminists launched public campaigns against battering in the early 1970s, they also established a community-based safety and support infrastructure for women fleeing abuse in the form of rape crisis centers and temporary shelters. Law enforcement began to play a larger role after lawsuits against police departments for failing to protect abused women resulted in new laws and practices standardizing their response. In 1981, Minneapolis pioneered a mandatory arrest policy in domestic abuse cases, and after early research linked the law to reduced recidivism, cities around the country adopted that approach. In 1984 a federal task force released a report cementing the notion of family violence as a criminal problem that could be addressed through arrest, prosecution, and prison time.

Thus began what longtime activist Mimi Kim has described as “the carceral creep.” Feminists were fighting for attention and resources at the same time that tough-on-crime politics came into vogue. “Because crime and criminal justice reform were sort of the only political game in town, they were the only way to get [funding],” said Donna Coker, a professor at the University of Miami School of Law. What had been a grassroots movement morphed into a professionalized field that largely saw gender violence through a unifying any-woman lens. In reality, intimate partner violence is more common and usually more serious for low-income women, and low-income women of color bear an even greater risk.

Then came the 1994 crime bill, which dumped billions of dollars into a ballooning prison system and included the Violence Against Women Act, which Joe Biden, who championed the legislation, has described as his “proudest” accomplishment from his time in the Senate. VAWA committed significant federal resources to law enforcement, victim’s services, and the National Domestic Violence Hotline, and it helped to reframe gender violence as a civil rights issue and drew massive public attention to a crisis often hidden behind closed doors.

But some feminists, particularly women of color, were deeply skeptical of the marriage between the anti-violence movement and the criminal-legal system. At the time, Kim was working at the Asian Women’s Shelter in San Francisco. “I recall someone telling us that VAWA passed—that we all needed to applaud. And I felt sick,” she wrote to me. “I understood that VAWA did help some of the immigrant women experiencing domestic violence…. But at what cost?”

VAWA directed the bulk of its funding toward criminal responses; as of 2013, only about 15 percent of the grant money allocated by VAWA was going to social services. In fiscal year 2017 the act’s two largest grant programs provided $266 million to the criminal-legal system but just $30 million to housing, writes Goodmark, “despite repeated studies showing that housing is the single greatest need identified by people subjected to abuse.”

Twenty-six years after VAWAs passage, there is little consistent evidence of the effectiveness of criminalization. Although initial research indicated that mandatory arrest policies — now in effect in nearly half the states — reduced future violence, some follow-up studies found that arrests may increase recidivism. Studies on prison time and recidivism are similarly mixed. Meanwhile, there has been a marked increase in the rate of women arrested for intimate partner violence. The case of Marissa Alexander, a Black mother of three who faced 20 years in prison for firing a warning shot to defend herself against her husband in 2010, sparked national organizing not just to free her but also to draw
attention to the many other survivors facing similar prosecutions.

“Certainly if you arrest someone and hold them, they’re not committing violence against their partner during that time, but there’s no evidence that it has a deterrent effect once they’re released,” said Goodmark. Trauma and economic insecurity have been linked to intimate partner violence. Male unemployment is the “most important demographic risk factor” in intimate partner femicides, a 2003 study found. Prosecution and imprisonment don’t fix these factors and often aren’t what survivors want, either. The criminal-legal system generally doesn’t have an answer for those women or for those who can’t afford to leave. Nationally, domestic abuse is among the leading causes of homelessness for women.

Of all the cases that Laurie Schipper has been involved in during her nearly four-decade career, none haunt her like Ruthie’s. Schipper, the executive director of the Iowa Coalition Against Domestic Violence, met Ruthie in a parking lot in Iowa’s Story County after receiving a call from the woman’s landlady. There was very little of Ruthie’s body that wasn’t covered in bruises. Schipper spoke to Ruthie through a car window for hours and learned that Ruthie’s partner had been abusing her for years, leaving her with serious physical and psychological damage. Every time Schipper moved, Ruthie flinched.

Schipper felt paralyzed. Ruthie had alcohol and drug-use disorders. She didn’t want the police to get involved, and it was clear that the effects of her trauma were so immense that she wouldn’t be stable in a shelter. “I remember thinking in the parking lot that I had nothing to offer that woman,” Schipper told me. “Those most traumatized often have long-lasting, damaging effects from the violence that often don’t fit into our boxes of who’s appropriate for services. They are angry. They may have a violent record themselves. They may be using substance abuse to self-medicate.” Eventually she gave Ruthie her card and left.

Schipper didn’t hear from Ruthie for a few years. Then, during a meeting with a county sheriff, he opened a file and asked Schipper if she could identify the woman in a photo. It was Ruthie, lying on a morgue slab. Her partner had held her captive and battered her for 10 days. Nobody knew anything about her identity when her body was taken to the morgue, but Schipper’s card was in her pocket.

Ruthie’s case was one of many that sent Schipper in search of new ideas. In 2013 the Iowa Coalition Against Domestic Violence began to pivot from the emergency shelter model; instead, the coalition prioritized securing immediate and long-term private housing for people fleeing harm, as well as financial assistance and the deployment of mobile outreach workers who met women wherever they were. Schipper also began to look for ways to help people who didn’t want the police involved in their cases.

What was happening in Iowa was part of a gradual shift among mainstream anti-violence programs. The groundwork for this turn was laid in large part by a group of feminists of color, including Kim, who in 2000 formed Incite! The organization seeded on-the-ground experiments in responses to violence that did not involve law enforcement. One of those projects, founded by Kim, was Creative Interventions, which generated a nearly 600-page tool kit for community-based violence interventions that did not rely on police, crisis centers, or social services.

Schipper used it to set up pilot projects around Iowa, working with organizations in communities of color and rural areas to offer alternatives to people who didn’t want police involvement.

UNDAUNTED
A brutally honest memoir from
John Brennan, former director of the CIA

Undaunted offers a rare and insightful look at the often-obscred world of national security, the intelligence profession, and Washington’s chaotic political environment. But more than that, it is a portrait of a man striving for integrity; for himself, for the CIA, and for his country.
Nationally, abuse is among the leading causes of homelessness for women.

Stronger together: Survivors gathered with friends, family, and ICA DV staff members in Des Moines, Iowa, in 2018.

Looking back, Bonnie Hansen can see the red flags: the jealousy, the aggression. She met S at a social event in her apartment complex last year, a few months after she moved to Idaho Falls, Idaho, from Chicago, where she’d spent her whole life. (Hansen asked me not to use his name.) She was 29 and wanted to do something new.

Things got worse this spring after the couple moved together to Boise. Hansen, a therapist, was pregnant. The coronavirus hit, and then S was out of work. Stuck at home, they fought about money. She asked him to go to counseling, which he did for a while but stopped after his therapist switched to sessions by video.

On May 19, when Hansen was five months pregnant, an argument about money escalated. She asked S to leave. Instead he charged at her, hit her in the face, pushed her to the ground, and began to strangle her. Then he took off in her car.

Hansen wasn’t sure she wanted to report the incident, but she wanted her car back, so she called police dispatch. In trying to explain what happened to her car, Hansen admitted there had been a fight. Soon two police officers showed up at her house. She recalled telling them that she didn’t want to press charges, that she just wanted S to be away from her for the night. They told her they would arrest him for felony assault.

According to Hansen, what happened next was a “nightmare.” She felt pressured and belittled by prosecutors, who served her with subpoenas, forcing her to testify against S. They sought a plea deal that would put him in prison for at least two years, though she felt strongly that incarceration would do little to change his behavior or give her a sense of closure. Because of an automatic no-contact order, she couldn’t speak with him about her pregnancy, which she ultimately decided to terminate. Unable to get an abortion in Idaho, she had to travel to Seattle for the procedure, alone.

“I wish I could have talked to him about it,” she told me. “I had an idea of what my future might look like with this person, and I was just told to move on.” (S’s attorney declined to comment on the pending case.)

“You're office makes me feel even more powerless and unheard,” Hansen wrote to the Ada County Prosecutor’s Office in August. (A spokesperson for the prosecutor’s office said she was unable to comment on pending litigation but sent a statement reading, in part, “Our primary missions as prosecutors are to help ensure public safety, to guide victims through the system and to prevent future crime by suggesting effective rehabilitation for the defendant. We take each of those goals very seriously.”)

Hansen started taking medications for panic attacks. Convinced there had to be a better way to handle abuse cases, she began to research. “I became kind of obsessive,” she told me. When she read about an approach known as restorative justice, she felt immediately drawn to the concept. “Yes, yes, I need that,” she remembered thinking.

The term “restorative justice” generally refers to dialogue-based methods of addressing harm, in which a person who’s been hurt identifies avenues for accountability in pursuit of healing and lasting change. Some practices associated with restorative justice have roots in Indigenous traditions, including peacemaking circles. Another form is group conferencing, in which victim, offender, and members of their community agree to a plan for repairing harm. Using restorative justice for domestic violence cases has long been controversial among anti-violence advocates, in part because of fears that it places too much responsibility on victims. But that is slowly changing, as the limitations of the criminal-legal system become more apparent.

In the United States many existing restorative justice processes applied in domestic violence cases take place within the criminal-legal system rather than as an alternative to it, operating in jails and prisons or serving as diversion programs. Some anti-violence advocates see this linkage as a limitation. “If advocates work with law enforcement, law enforcement invariably wins,” said Kim. Last year, she and attorney Sujatha Baliga developed a restorative justice pilot program in California’s Contra Costa County serving people who do not want law enforcement involved in their cases. For now, the pilot is working with only a handful of people, and the interventions are driven by their needs. “We’re trying to see what works, what doesn’t, what’s safe,” said Baliga.

Advocates are also crafting non-police-intervention mechanisms for situations of imminent violence. Oakland recently established a nonpolice hotline for domestic violence. In Milwaukee and other cities, teams of local violence interrupters sometimes intervene in domestic violence cases. Mia Mingus, a founding member
of the Bay Area Transformative Justice Collective, developed a tool called pod mapping to help people identify a safety network.

One of the core assumptions of restorative approaches is that people who use violence can change. How change happens is a fraught question within the anti-violence community, but it’s clear that the criminal-legal system hasn’t effectively answered it. Recidivism is common. A Washington Post analysis of men in five cities who killed their partners found that at least a third had restraining orders or prior convictions for violent crime. Research has shown little evidence that typical batterer intervention programs work.

Even as mainstream domestic violence advocates have begun to consider alternatives to the criminal-legal system, others argue that law enforcement still has a role to play. “I am persuaded by people who say, ‘Who you going to call? Ghostbusters?’” said Caroline Bettinger-López, who served as the White House adviser on violence against women during the Obama administration. “We need to focus on ways in which we can reduce the police footprint in many domestic violence contexts, but we should not pretend [the police are] going to go away. For those survivors who seek to engage with the criminal-legal system, we should make an effort to improve that system and make it more responsive to their needs… and for those survivors who do not seek to engage, we need to create alternative pathways so that they can access safety.”

Restorative justice advocates are clear-eyed about what they don’t know. “It’s not like we’ve gotten a chance to do this properly resourced,” baliga said. While there is some data showing restorative justice to be effective in juvenile cases, there is very little recent research on its application to intimate partner violence, though a 2019 study comparing a traditional batterer intervention program to one involving elements of a restorative process found that the hybrid model significantly reduced new arrests.

As restorative justice becomes more popular, baliga worried that the practice could be implemented poorly. “If you do this wrong, you will get bad outcomes,” she said. Factors like mental illness and addiction need to be addressed, and forcing people to participate as a condition of a plea deal could undermine the process. She and other critics of the criminal-legal system that I spoke with emphasized that there is no alternative that, on its own, can paper over the deep social and economic fractures associated with abuse. “Will a survivor who participated in restorative justice be murdered? Absolutely, because we haven’t solved the root causes that underlie intimate partner violence,” baliga said. The challenge, then, for the anti-violence movement in disentangling itself from the criminal-legal system is to find ways of doing both. “We have to make sure that if someone is being hurt, that that changes and that she has opportunities to heal, her kids are safe, and there’s food and all of those things,” said the University of Illinois’s Beth Richie. “And we have to understand that the expression of violence is…an expression of something larger.”

In early September, Hansen was able to speak to S for the first time since he was arrested. “It felt so good to hear him take responsibility,” she said. “If I could have heard that four months ago—oh, my gosh—I wouldn’t have gone through such trauma.” Her friends have had a hard time understanding why she would want anything to do with him. “I understand that there are some victims who think, ‘Yeah, what I want to keep myself safe and to make this right is for this person to have the harshest punish- ment,’” she said. But she wanted something else. “Why can’t we say, ‘Let’s help this person who is violent. Let’s help this person not do this again’?” She added, “I do care that we change as a whole. We can’t just keep this going.”
Among many other things, 20th century Black feminism offered a powerful analysis of social exclusion. The preeminent midcentury Black feminist Claudia Jones described how poor Black women were frequently excluded not only from the concerns of white liberal society but also from the gains won by Black activists working against racism, the gains won by communists working against capitalism’s class system, and the gains won by feminists working against patriarchy. Poor Black women, she insisted, found themselves left out across the board.

Ever since Jones’s call for a more inclusive and emancipatory politics, Black feminists in the United States
have expanded on this line of thinking. In 1977 the Combahee River Collective decreed the “interlocking” oppressions of racism, classism, and sexism and the way that Black women tended to be excluded from struggles that combated only one of these oppressions. In her 1991 article “Mapping the Margins,” Kimberlé Crenshaw asserted that a new “intersectional” politics was needed to overcome the ways in which anti-racist activism focused primarily on Black men and anti-sexit activism focused primarily on white women. Crenshaw, in short, argued that little had changed in the decades since Jones first diagnosed Black women’s exclusion.

Since the publication of her first book of poetry, Nothing in Nature Is Private, in 1994, Claudia Rankine has been among the best chroniclers of the isolation that stems from this exclusion. In books that combine visual art, lyric verse, and prose poems that are a mix of diary and essay, she has recorded memories of her childhood alienation as well as her more recent experiences as a professor and writer. Her poems are riddled with encounters with strangers who seem to walk into her, who misunderstand her, who make her feel unknown. Her friends and family treat her poorly or die, both of which, she tells us in painful detail, leave her feeling even lonelier.

Rankine’s representation of loneliness was always political as well as personal, which primed her work for mass appeal when nationwide protests against police violence erupted in 2014. Published two months after Officer Darren Wilson killed Michael Brown in Ferguson, Mo., Rankine’s Citizen, with its long poem about police violence, among other things, answered the public’s call for a book that captured the Black experience of racist violence in contemporary America. Critics lauded the collection, which became a New York Times best seller. Interviews with her appeared everywhere. She received a MacArthur grant and an endowed professorship at Yale University. The perennial stranger suddenly became a household name.

Yet as Rankine tells us in her new collection, Just Us, the inclusion of her words did not lead to the inclusion of her person. She continued to experience marginalization and its attendant isolation; being a Black woman in America still led to an endless amount of “ethical loneliness,” a term coined by Jill Stauffer in her 2015 book by that name (and cited by Rankine) to describe “the isolation one feels when one, as a violated person or as one member of a persecuted group, has been abandoned by humanity, or by those who have power over one’s life’s possibilities.”

Rankine’s abandonment took on new forms as well. Her experiences of racism, in the midst of her newfound inclusion, led her to feel abandoned in a variety of novel locales: her daughter’s school, dinner parties, and her own classes at Yale. She may have gotten wealthier and famous, but she remained as vulnerable to loneliness as ever.

Rankine’s antidote to this loneliness was and continues to be conversation—a strategy on full display in Just Us. This is partly common sense: If you’re feeling alone, talk to someone. But she does not want to talk about just anything. In Just Us, she speaks with her often white interlocutors about race and how it colors people’s experience of the world, no matter the color of their skin. By helping people confront the way racism shapes their behavior and their lives, she hopes these conversations will not only alleviate her loneliness but also change the conversants and thereby help uproot white supremacy. Through dialogue about whiteness as well as Blackness, she hopes to help white people see how whiteness leads them to ignore and simultaneously mistreat Black people.

Like Nell Irvin Painter in The History of White People, Karen Brodkin in How Jews Became White Folks and What That Says About Race in America, and other scholars in whiteness studies, Rankine aims to foreground how white people experience race (just as Americans of color do) and how this experience of race and the privilege it entails depends on a system of anti-Blackness. Like Painter and Brodkin, Rankine emphasizes that while race is a social construction, it has hardened into both a pattern of small everyday behaviors and larger structures of power and violence.

What separates Just Us from these historians’ work is its focus on personal experience and thought. By chronicing her experiences as a means of bringing America’s racism to the surface, she asks readers to consider those larger structures of power and violence as well as how so many of them, as individuals, have contributed to sustaining a racist society. By recording her conversations with people about whiteness, she talks to her readers too, asking them to think about how whiteness—"the idea that one can stand apart" from the violence on which America is built—is a fantasy that “lives in every moment.” In her account, the fantasy of whiteness licenses violence against Black people while obscuring that violence and Black people’s humanity. Engaging people in person and readers in her text, Rankine hopes that helping them diagnose America’s racist malady will enable them to begin the work of abolishing its attendant violence toward and erasure of Black humanity.

Rankine was born in Kingston, Jamaica, in 1963 and moved with her parents to New York City’s the Bronx in 1970. As a young adult, she attended Williams College, where she studied with the poet Louise Glück, and went on to complete an MFA in poetry at Columbia in 1993. During these years, she was particularly influenced by the work of Adrienne Rich. “There was something about the way in which Rich addressed social issues from a very personal position,” Rankine recalled, “that made me want to write.” Her early poems, accordingly, aimed to merge the personal and the political.

Rankine’s investment in forging a private and public poetry proved generative. By the time she was 41, she had published three books of poetry. She also won high praise from critics and readers. But it was her 2004 collection Don’t Let Me Be Lonely that marked a formal and more seismic change. A mix of prose and verse poetry as well as visual art, the book was rejected by her original publisher because it was not “poetry.” Of course it was, but in a different form: The diaristic prose poems, a blend of Rimbaud and Baldwin, eventually found a publisher at Graywolf and marked the emergence of the voice and form that audiences became familiar with in Citizen.

Much of Don’t Let Me Be Lonely describes Rankine alone at home, where she leaves the TV on all day.
From the outset, alienation follows closely on death’s heels. “There was a time I could say no one I knew well had died,” the first poem begins. Then, when Rankine is young, she sees her father “sitting on the steps of our home...he looked to me like someone understanding his aloneness. Loneliness. His mother was dead.” Her father flies back to Jamaica for the funeral without Rankine, and he says little about it after his return. Death, as well as his silence about it, isolates her father and Rankine, too.

While death spurs isolation, isolation also brings Rankine closer to death. Later in the poem, she calls the national suicide hotline and says, “I feel like I am already dead.” Fifteen minutes later, an ambulance arrives at her home. Rankine claims she is feeling better, but the attendant will not hear her. “You need to come quietly,” she writes, “or he will have to restrain you.” Even while seeking solace, she finds people more willing to hurt than to listen.

The prevalence of anti-Black violence in America reinforces Rankine’s sense that she is both vulnerable and alone. Later in the book, she is watching TV and sees Abner Louima, who was assaulted and sodomized with a broomstick by officers of the New York Police Department in 1997. At a press conference after he wins a civil suit against the city, a reporter asks him “how it feels to be a rich man,” Rankine writes. “Not rich, says Louima. Lucky, lucky to be alive.” For her, this moment foregrounds the ease with which Black people are killed and the violence so many face just to live. Louima is lucky because his survival was so unlikely.

Rankine also considers the NYPD’s murder of Amadou Diallo. “All the shots,” she writes, “all forty-one never add up, never become plural, and will not stay in the past. It felt wasteful to cry at the television set as Amadou Diallo’s death was announced.” The fact that racist violence is such a common Black experience interrupts even her mourning of Diallo, Rankine explains; the inability to stop police violence only reminds her of “what we can’t do for each other.” Her powerlessness in the face of anti-Black murder and assault—her inability to revive Diallo or to undo the police attack on Louima—isolates her even from other Black people.

For Rankine, the anti-Blackness that causes this isolation shapes American politics writ large. In a poem that begins with George W. Bush’s election, she speaks of him as a man who cannot recall “if two or three people were convicted” for lynching James Byrd Jr. in Texas. “You don’t know because you don’t care,” she tells Bush. The sadness she feels from this is a sadness that “is not really about George W. or our American optimism”; it “lives in the recognition that a life can not matter”—that the American state devalues certain people’s lives, at home and abroad.

The experience of not mattering only deepens during 9/11, when cops stand in front of the Twin Towers’ rubble, policing the public supposedly under attack. It pursues her when both Republicans and Democrats support war in Iraq. No matter the state’s attempt to call her, a naturalized citizen, into the fold of citizenship, its repeated violence against Black and brown people leaves Rankine feeling as though she doesn’t belong.

With *Citizen* in 2014, she plumbed America’s anti-Blackness at greater length. Printed on glossy white paper that heightens the black text, *Citizen* returns to the theme of being alone, but this time it describes the experiences of an unnamed “you,” who seems to be Rankine. The first poem recalls a series of racist acts: a friend calling her narrator by the name of a Black housekeeper, a friend complaining about having to hire a writer of color instead of a good one, a neighbor calling the police on a Black friend who brings her child home, and her therapist mistaking her for an intruder. (This is all in the very first poem; there are many more anti-Black encounters to follow.) Anti-Blackness seems to follow Rankine’s narrator everywhere, such that even as she falls asleep at night, the memories of racism come rushing back.

Rankine often finds common cause with Black women and especially Black women athletes. After a friend calls her speaker a “nappy-headed ho,” adopting the racist insult that talk radio host Don Imus directed toward the Rutgers women’s basketball team, she feels the joke like an “injury” that “rapture[s] along its suddenly exposed surface.” The racist sexism those women experienced publicly is revived as private pain, an experience that recurs when she watches Serena Williams. “Neither her father nor her mother nor her sister,” Rankine writes, “could shield her ultimately from people who felt her black body didn’t belong on their court, in their world.” The most egregious of those people is the tennis player Caroline Wozniacki, who pads her bust and butt (and all but paints her face black) to imitate Williams. This racist caricature of her figure is not just an attack on her Blackness but also her gender. Black women, Rankine reminds us time and again, often become objects of ridicule and vitriol whenever they step into the public eye.

For Rankine, the racism that motivates this denigration of Black women athletes is the same racism that licenses the state murder of Black people across the world. In a long poem, she recounts the many high-profile episodes of state-sanctioned racist homicide—including George Zimmerman’s murder of Trayvon Martin, Darryl Dedmon’s murder of James Craig Anderson, the London police’s murder of Mark Duggan—the abandonment of Black people in New Orleans after Hurricane Katrina, and more. These harrowing events are cumulative, gesturing to a world that produces Black death. The poem culminates in an unending list:

- In Memory of Jordan Russell Davis
- In Memory of Eric Garner
- In Memory of John Crawford

The list goes on, each name a life prematurely ended, but the words fade. At the bottom, “In Memory” is barely visible. No names follow, because more will come, and the many instances of police murder since 2014 have proved her point.

The endlessness of state violence toward Black people makes her narrator feel unsafe. When her partner (who is, perhaps, Rankine’s husband, the white filmmaker and documentary photographer John Lucas) succumbs to a bout of road rage, she pulls him back into the car as Martin’s name rings out on the radio. “Though no one seems to be chasing you,” Rankine writes, “the justice system has other plans.” The in memoriam to come may very well be your own.

Rankine’s fears about police violence lead *Citizen* to query its causes: white supremacy and the fear of Black people it instills in white Americans. “Because white men can’t / police their imagination / black people are dying,” she writes. While this makes Rankine feel alone and afraid, she finds an antidote in communal self-defense. After noticing a father who is watching over the neighborhood children as they play to ensure, perhaps, that no one kidnaps them, her narrator also feels protected. Self-defense makes him family, a guardian—a transformation that recurs when a friend relays a story about a man knocking her
child over on public transit. The friend confronts the man. “The beautiful thing is that a group of men began to stand behind me like a fleet of bodyguards,” the friend says, “like newly found uncles and brothers.” Forceful and militant self-defense turns strangers into kin, transforming isolation into community and vulnerability into safety.

While kinship forged through self-defense is a possible solution to Black vulnerability in *Citizen*, Rankine’s new collection finds her once more dwelling in loneliness. The first prose poem in *Just Us* recounts her alienating experiences while traveling. A white man walks past her in the first-class line because he assumes a Black woman could not be in first class, some white men form their own line to board because their white privilege allows them to do so, and a fellow traveler complains to Rankine that affirmative action kept his son from admission to Yale. No MacArthur grant or endowed Ivy League professorship can help her escape the loneliness born of these experiences (though one wonders how much lonelier it is for those not traveling first class).

Unlike her earlier books, *Just Us* focuses increasingly on whiteness. Drawing on the work of whiteness studies scholars like Cheryl Harris and David Roediger, Rankine seeks to turn it—and not just nonwhiteness—into an object of study. In her prose poem on traveling first class, she challenges a white man who claims that he does not see color and later strikes up a correspondence with him. “I’ve thought a lot about our conversation since that flight,” he writes to her. After he reflected on his childhood, he remembered interracial fights, a white teen using an anti-Black slur, and “cruelty, from mostly white to black.”

“The lack of an integrated life,” Rankine observes, “meant that no part of his life recognized the treatment of black people as an important disturbance. To not remember is perhaps not to feel touched by events that don’t interfere with your livelihood.”

This focused frustration with whiteness, at times, strains Rankine’s marriage. Her husband has long been committed to anti-racism, and she finds herself increasingly unhappy with his unwillingness to wrestle with his whiteness. When she tells him about her experiences with white privilege, he criticizes white fragility, but he also “set himself outside the pattern of white male dominance,” as though he were not a part of it. Their conflict reaches a boiling point when she is recovering from cancer. Rankine tells him that, as a white man, “he would have no trouble replacing me, a black woman, in America.” When they discuss this comment in marriage counseling, Rankine asks, “Isn’t my husband, whoever else he is, also white America?” Or as she puts it elsewhere, “metaphors can also be realities.”

Increasingly frustrated with white people, Rankine at points begins to wonder if her marriage—to her husband, to America—can last.

Love, ultimately, keeps her in both marriages. As she explains in a later poem, this is partly due to her love for her daughter, for whom she remains committed to creating a more just America, “because I want the world for my daughter.” She goes on to describe the Pittsburgh synagogue shooting that left 11 congregants dead and the rally in Charlottesville, Va., in which white supremacists marched with tiki torches and a counterprotester was killed. “What is it we want for our daughter?” she asks at the poem’s end. “I still want the world for my daughter that is more than this world, a world that has our daughter already in it.” Rankine wants, in other words, a world in which her daughter does not experience the alienation and the fear of racist violence that she has felt (and still does).

How does Rankine imagine that such a world can be created? One hint at a solution lies in her understanding of the problem. As she writes in the last poem, “A white supremacist orientation is packaged as universal thinking and objective seeing, which insists on the erasure of anyone—my actual presence, my humanity—who disrupts its reflection. This form of being.”

The re-assertion of the presence and humanity of nonwhite and marginalized people who are the victims of white supremacy, she insists, is a means of undoing this dominant orientation. Some of this work she does for others by asking them to consider the role of their whiteness in effacing these other groups’ humanity, and some of it she does for herself: In one poem, Rankine admits her lack of understanding of race among Latinx people and chronicles her journey toward learning more.

In these and many other examples in the book, the work of undoing white supremacy, whether it persecutes Black people or other nonwhite or marginalized people, is conversational. After dreaming of a “future other than the one that seems to be forming,” she ends the book with these words: “Tell me something, one thing, the thing, tell me that thing.”

Speak honestly—speak without taking whiteness as the unmentioned universal standard, speak with the acknowledgment of Black people’s humanity—and begin to remake the world.

**Rankine’s representation of loneliness has always been political as well as personal.**

Given Rankine’s long years of chronicling her isolation in the face of anti-Black racism, it should come as no surprise that *Just Us* delves into her ambivalence toward the nation that elected Donald Trump. “My own interracial marriage,” she writes early on in the book, “also existed inside a racist America whose ways make life more difficult.”

She then wonders, “Was there a possibility of a love and a laughter that lived outside the structure that brought us together?” If there is such a possibility, she believes it will be found in a future made through conversations about race. By speaking with others, people can begin to undo the world wrought by racism and its consequential isolation and start to make a better future.

Accordingly, Rankine’s representations of racism in *Just Us* tend to be interpersonal. Although she has discussed unconscious and implicit bias throughout her work, *Just Us* is the book in which she discusses both forms of bias most explicitly and at the greatest length. It is also the book in which she turns most profoundly to the ways in which whiteness—and especially notions of white innocence—lead white people to forget the role that racism plays in enabling their success. In diagnosing this problem, she joins James Baldwin in his “Letter From a Region in My Mind” (later included in *The Fire Next Time*) in proclaiming, “Whatever white people do not know about Negroes reveals, precisely and inexorably, what they do not know about themselves.” Like Toni Morrison in *Playing in the Dark*, Rankine aims to assert whiteness as an object of study as well as the place of Blackness in constructing whiteness, though Rankine’s preferred
method for doing so is oral.

Her commitment to the emancipatory possibilities of conversation can, at times, make Just Us a frustrating read. Time and again, one wonders, why talk at all? Why remain friends with people who treat you poorly? Why talk to your fellow first-class travelers? Why go to dinner parties with white people who cause you so much pain? She could say nothing. Rankine could befriend different people, teach at other institutions, find community in political organizations working against racism (and, one hopes, the existence of things like first class, the Ivy League, and wealth). Those people and communities will assuredly hurt her at some point, too. No one is perfect. But they are more committed to undoing the very systems that Rankine takes so much umbrage at. They seem like better company, at the very least.

Yet by the end of the book, it becomes clear that Rankine sees these conversations as doing a particular kind of work. By confronting those who preach color-blind liberalism and those who are more explicitly racist, she hopes to bring to the fore how race affects every daily interaction in America. She does this in part because of her commitment to her marriage and to her daughter’s future. But her drive to take part in these conversations also seems to come from a theory of social transformation that holds that the best way to end racism is by educating racists (as opposed to building power among those persecuted by racism). Just Us transforms Rankine’s personal conversations into poetry in the hope of starting other conversations that will lead to liberation. Just as Claudia Jones and Kimberlé Crenshaw brought to light the ways in which political activists could not see Black women’s unique oppressions, in the hopes of ending them, so too does Rankine hope to transform the unseen ways race operates in America, in order to prevent further racist violence.

This future orientation makes her latest book pessimistic. The title of her 2004 collection, Don’t Let Me Be Lonely, asks readers to prevent her isolation; the books she has written in the 16 years since then suggest we have failed. But this pessimism motivates her hope. Rankine may believe the present moment is a lost cause—she has experienced and witnessed too much violence and trauma to think otherwise—but her pain spurs her to work toward ensuring that her daughter’s future and ours are not.

The Oligarchs’ Revenge

The making of the modern right

BY MANISHA SINHA

T he average person may be forgiven for thinking that the South actually won the Civil War. Despite a brief experiment in interracial democracy during the Reconstruction years, for much of its history the region has upheld a regime of brutal racial subordination. By the 20th century, Franklin Roosevelt called the South the nation’s No. 1 economic problem, resistant to unionization and social policies. Even today it leads in indices for poverty and weak educational systems. The Jim Crow South was upended by the civil rights revolution. Yet even in defeat, its language of oligarchy and its opposition to progressive political and economic policies through an appeal to racism has been adopted by the modern Republican Party.

This is the argument presented in Heather Cox Richardson’s new book, How the South Won the Civil War. Throughout American history, she contends, the forces of oligarchy and democracy have been involved in a mortal struggle for the nation’s future, and she wants to show how the visions of oligarchy have often won
out—how, in other words, we got from the era of emancipation and Confederate defeat to the presidency of Donald Trump. A history professor at Boston College, Richardson has written numerous books on the Civil War and Reconstruction as well as on the Republican Party, and she draws from her considerable scholarly oeuvre for this slim and accessible volume. Known for her newsletter Letters From an American, which seeks to explain current political events through a historical lens, she deftly demonstrates her skill writing for a public audience in How the South Won the Civil War. Arguing that the slaveholders’ idea of an oligarchic America triumphed with the growth of the second American oligarchy in the latter part of the 20th century, Richardson shows how the rise of movement conservatism, as personified by Barry Goldwater in his 1964 presidential campaign, came to embody this vision of an oligarchic America. The new oligarchy’s triumph—one that combined economic domination with racial inequality—lay in a political alliance between the South and the West, Richardson argues, and in the Republican presidencies of Richard Nixon, Ronald Reagan, the Bushes, and finally Trump. Her interpretive scheme is simple yet also compelling and clear. The title of the book, of course, is not meant literally, but Richardson does show that while the South lost the Civil War, it eventually, in many respects, won the peace.

According to Richardson, the unending struggle between American democracy and oligarchy began with the birth of the nation. Many historians of early America have argued that the ideology of the American Revolution was democratic republicanism, born during the English Civil War in the 17th century and then embraced by the colonies. As the quintessential radical of the Age of Revolution, Thomas Paine, proclaimed, “The cause of America is in great measure the cause of all mankind.” But not all historians agree that this republicanism was the sole ideology then in circulation in North America. As Edmund Morgan observes in American Slavery, American Freedom, the seeming paradox of American republicanism was the simultaneous emergence of slavery and freedom in the colonial world. From the outset, the American idea of freedom was freedom: It was for property-owning men only and was based on the enslavement of people of African descent. The Virginian founding fathers solved the problem of inequality by simply enslaving a racially outcast working poor and at the same time elevating the status of all white men, slaveholders and nonslaveholders alike.

For Richardson, the American paradox is a bit different: Slavery and democracy were opposing forces rather than constitutive of each other. She traces the birth of oligarchy, democracy’s enemy, to the ship that brought about 20 enslaved Africans to the British North American mainland in 1619. From then until today, she argues, the history of the United States has been a history of the conflict between democracy and oligarchy. For Morgan, American democracy was based on slavery; for Richardson, though she relies on Morgan’s book, American oligarchy has always rested on combining elite domination with racial and economic inequality. Ever since the arrival of that ship, she maintains, the American republic has allowed its elites to conflate “class and race,” thereby giving them “the language to take over the government and undermine democracy.”

At many points in American history, oligarchy—from the slaveholding elite to the robber barons of the Gilded Age—has had the upper hand. But repeatedly, ordinary Americans, especially those who were disenfranchised, like women and African Americans, have pushed back, leading to the triumph of democracy with slavery’s abolition, women’s suffrage, and the enactment of the New Deal and civil rights legislation. By offering an account of the forces of both democratic progress and oligarchic reaction, Richardson provides historical detail to Corey Robin’s argument in The Reactionary Mind, which traced the antidemocratic origins of American conservatism while offering insight into the democratic forces that resisted it. While Robin situates American conservatism in the longue durée of a Western reactionary philosophical tradition, Richardson locates it in a quintessentially Southern political tradition of oligarchy: anti-statism combined with virulent racism and misogyny. For Robin, too, the proslavery ideology exemplified American conservatism. But for Richardson, after the Civil War, the West and eventually the Republican Party helped reinvent the South’s language of oligarchy with an appeal to individualism that overlays a reactionary commitment to racial hierarchy and opposition to a welfare state.
to this new egalitarian federal government, the opposition of Southern elites to Reconstruction was often couched—almost always disingenuously—in the language of local governance and opposition to corruption and taxation. Southerners opposing African American citizenship invoked the image of a corrupt federal government usurping their rights to promote Black equality. Racism became a way to protect the political and economic prerogatives of a Southern oligarchy no longer in control of the national government and, in many cases, state and local governments as well. The language of race became a potent weapon wielded against efforts to address inequality, which would supposedly benefit people of color and dependent women at the cost of white men.

According to Richardson, this political formula developed by Southern racists got a big boost with the conquest of the West and the subjugation of the Plains Indians. As federal troops retreated from enforcing Black rights in the South, they let slip the dogs of war in the West, which held the key, she writes, to the national triumph of white supremacy. John C. Calhoun, a proslavery senator from South Carolina, had long dreamed of a South-West alliance as the basis for national political dominance by a white elite, one that would marginalize the antislavery Northeast. Calhoun even put aside his objections, grounded in the notion of states’ rights, to internal improvements (the 19th century term for federal infrastructure projects) in order to woo the West. Richardson does not mention Calhoun’s dream of a South-West alliance, but she does describe a postwar settlement that strongly resembled it. While feeding off federal largesse, land and water improvements, and the might of the US Army to displace and kill Native populations, the West became fertile ground for the myth of American individualism, represented by the white cowboy single-handedly taming the frontier and its “savage” population.

The historian Frederick Jackson Turner famously viewed the Western frontier as a laboratory for American democracy. The region, however, was built on Indian dispossession and slavery, Mexican peonage, Chinese exclusion, and the abuse of immigrant labor in extractive mining industries and in the construction of railroads, which led to spectacularly violent labor conflicts, such as those along Idaho’s Coeur d’Alene River in 1892. As Richardson writes, the Civil War and its aftermath in the West “reinforced a society in which the oligarchic ideas of the defeated South would thrive.”

The West, Richardson contends, also used the myth of the cowboy to put a gloss on its own brutal and exploitative history. In popular literature and culture, the cowboy captured the American imagination. But the actual history of the West aligned it closely with the Jim Crow South. As Richardson writes, “The resurrection of antebellum southern ideology through the rise of the western individualist re-wrote American history.” By the turn of the century, the national victory of white supremacy was complete, with Western politicians helping Southerners defeat federal bills against lynching and to ensure fair elections in the South.

No one personified the myth of Western individualism and the realities of empire more than Teddy Roosevelt.

One personified the myth of Western individualism and the realities of empire more than Teddy Roosevelt. Roosevelt, however, was not just replicating the Virginian founders’ contradictions. A conservationist and a naturalist, he also supported women’s suffrage and drove Southern segregationists into fits of rage by inviting Booker T. Washington to dine with him in the White House. If anything, Roosevelt represented the unique paradoxes of the Progressive Era: salutary democratic and economic reforms accompanied by nativism and imperialism. It is difficult to square (pun intended) Roosevelt as the individualistic Western cowboy with the president who championed the government’s regulation of the economy.

His successor, Woodrow Wilson, the first Southern-born president since the Civil War, was also a vaunted progressive reformer. Yet he introduced racial segregation to the nation’s capital, and in 1925, one year after his death, a newly resurrected Ku Klux Klan would march triumphantly down the streets of Washington, D.C. The suppression of dissent during the first Red Scare by his attorney general, A. Mitchell Palmer (who gives William Barr a run for his money as the worst attorney general in US history), reveals the racial and political intolerance that defined Wilsonian liberalism. Wilson’s allegedly liberal internationalism and commitment to democratic self-rule were also not meant for the colonies, as he made clear to nationalists from Asia and Africa after World War I. If, as Richardson writes, American oligarchs have traditionally used the language of race to stymie the rise of a modern welfare state in the United States, then her book also reminds us that racism and racial inequality have proved central to many figures speaking in the name of democracy as well. Roosevelt’s and especially Wilson’s strains of progressivism upheld white supremacy.

This remained partly true during the New Deal years, too. In 1932 most African Americans who could vote became part of a massive partisan realignment, moving with liberals into the Democratic Party and leaving the Republican Party to become more than ever the party of hidebound conservatism and big business. But even Franklin Roosevelt’s New Deal ran up against the shoals of racism and obdurate Southern Democratic opposition to the extension of its benefits to most African American workers in the domestic, agricultural, and service industries.

The New Deal and World War II inaugurated the American Century. After the fight against the Nazis and fascism, racism became unfashionable in academia and popular culture. The federal government developed color-blind social policies, from the GI Bill to Social Security, and encouraged the unionization of the labor force, all of which created a pros-
perous middle class and economy. But residential redlining and the racial stratification of the labor market, not to mention Jim Crow in the South, all persisted. Even as the avatar of American liberalism and social democracy, FDR failed when it came to race, his record blemished by, among other things, the internment of Japanese Americans during the war.

Richardson’s book gathers steam in the postwar years with the rise of the modern GOP, when the lines between democracy and oligarchy become clearer once again, with Republicans increasingly abandoning racial liberalism and Democrats beginning to disavow white supremacy. Movement conservatism, from McCarthyism to the rise of the John Birch Society and William Buckley’s National Review, waged an unrelenting ideological campaign to undo the New Deal. Die-hard Southern segregationists gained intellectual respectability, their defense of Jim Crow couched in the anti-big-government, anti-socialist, anti-tax rhetoric of conservatism. Once at the fringes of the Republican Party, these men would replace established conservatives as well as the remnants of the Northern liberal Rockefeller Republicans to create a truly right-wing party. This reactionary strain had long been present, but it became ascendant with the presidential candidacy of Goldwater, who represented a toxic mix of opposition to civil rights, women’s rights, and labor rights and an aggressive championing of American unilateralism in world affairs.

Most of these Republicans were opponents of democracy in the manner of proslavery ideologues like Hammond. The new conservatism produced Goldwater, Nixon, Reagan, Pat Buchanan, and the modern GOP’s Southern strategy. As the Democratic Party became identified with civil rights for Black people and equal rights for women, Republicans swerved right, opposing all progressive social policies as government handouts and taxes on the rich as a secret scheme to redistribute wealth from hardworking white men to unworthy Blacks and women. Reagan’s cowboy image—coupled with his decision to launch his presidential campaign in Philadelphia, Miss., where three civil rights activists had been viciously murdered—symbolized the fruition of the South-West alliance. Or as Richardson writes, “Thanks to the American West, the ideology of the Confederacy had regained a foothold in national politics.” Having grown up in India, I can vouch that thanks to Reagan’s misadventures in Grenada and Central America, his cowboy persona became a global symbol of blundering Yankee imperialism, an image of an American hubris that would even glibly take credit for Mikhail Gorbachev’s reformist policies in the Soviet Union after trying to reignite the Cold War.

In measured tones, Richardson documents the deep venality and antidemocratic nature of the modern Republican Party, including Newt Gingrich’s Contract with America, the stolen presidential election of 2000, the dismantling of civil and voting rights, the culture wars attacking the expansion of rights for disenfranchised groups, Mitch McConnell’s slash-and-burn tactics against Barack Obama’s administration, and finally Trump’s “American carnage,” a crucial theme in a dark inaugural speech that foretold the course of his grim presidency. Like the Southern slaveholders of yore, who dreaded abolitionism, socialism, communism, feminism, and all the -isms of modernity, our modern oligarchs and their GOP enablers use the same bugbears and racist dog whistles to prevent the United States from developing a strong welfare state.

Richardson tells her story well, but while she delves into domestic politics with a sure hand, she strangely neglects the Cold War (except in its use as a scare tactic for domestic purposes), US foreign policy, and the national security state. What role does foreign affairs, surely an important part of the postwar story, play in the rise of the current oligarchy? Eisenhower’s warning about the military-industrial complex; the Vietnam War; the covert and sometimes overt undermining of democracy in Latin America, Africa, and Asia; and the imperialist adventurism in the Middle East are all missing from her account. The violent policing and mass incarceration of African Americans—a topic of great urgency today—and the prison-industrial complex are also not discussed in any great depth. Perhaps it is because these subjects, in her view, don’t fit neatly into the oligarchy-democracy binary.

The combination of American empire, racism, and state violence has reinvigorated oligarchic tendencies in the United States to create a crisis of unchecked proportions. The world today looks on aghast as the American republic, with a criminally incompetent and kleptocratic oligarchy hell-bent on undermining democracy, self-combusts in the midst of a global crisis. Within the Democratic Party, attempts by the left to formulate a multi-racial social democracy might yet realize the unfulfilled promises of the New Deal and the Great Society. The forces demanding democratic change are also out on the streets, protesting against police brutality and racial inequality while oligarchy rides high under Trump. Even though Richardson’s book was completed before the pandemic and the mass protests sweeping the country, her study is a useful history of the deterioration of the party of Lincoln into a revanchist, right-wing, white supremacist political organization.

Richardson is fond of saying that although history doesn’t repeat itself, it rhymes. The taking down of prominent Confederate statues and symbols in 2020 might mark the beginning of the end of the slaveholding South’s oligarchic vision for the future of the American republic. If the current American oligarchy, with its commitment to antidemocratic values and economic elitism, reminds one of the South’s slaveholding aristocracy, it is about time that we consign it, like the Confederacy, to the dustbin of history.
Nicholson Baker lay awake at night again beside his slumbering wife and their dogs, his mind caught in the tunnel of his obsession. As the novelist recounts in Baseless: My Search for Secrets in the Ruins of the Freedom of Information Act, he couldn’t stop thinking about the US government’s efforts to develop biological weapons during the early Cold War.

Baker harbored a suspicion: Maybe, when Korean and Chinese communists accused the United States of dropping plague bombs during the Korean War some 70 years ago—a claim the US government vehemently denied and that generations of Americans have been taught was a lie—they were actually telling the truth. Or, at least, maybe there was a kernel of truth mixed in with those clumsy fabrications and propaganda, and the US government has been covering up some long-ago battlefield use of taboo weaponry.

Some historians and researchers before Baker have also suspected that something about the accusations was true, notwithstanding the failure of hard evidence to come to light in the intervening decades. But Baker believed that concrete evidence may nevertheless exist, hidden away in the vaults of the National Archives’ restricted files. Certainly, the US government had a motive to heighten its attacks on the communist forces surging down the Korean Peninsula during the war, and there is reason to think it also had the means: As Baker describes, many documents about extensive American biological weapons research at Fort Detrick, Md., in the years following World War II have been declassified, showing that the US government invested heavily in ghastly research on how to weaponize and deliver germs that could wipe out vast areas of crops or kill the entire populations of cities and towns. But motive and means, by themselves, are merely circumstantial evidence suggesting that it is possible the United States used some of those weapons, despite its denials—not proof that it did.

Baker has long been intrigued by the fact that the declassified versions of government documents concerning biological weapons from this era that are available still tend to be heavily censored. The continued secrecy, for him, raises a striking question: What other information do these documents contain that remains so sensitive after all this time that the US government continues to hide it from the
American public and the rest of the world under these redactions?

Baker—a pacifist who previously wrote *Human Smoke*, which controversially suggested that World War II was not worth fighting and portrayed Winston Churchill and Franklin Roosevelt as warmongers alongside Adolf Hitler—decided to immerse himself in this mystery, working meticulously through these blacked-out or whited-out passages to puzzle over what might lurk beneath the censor’s markings.

To liberate that information, Baker attempted to use the Freedom of Information Act, or FOIA, which Congress passed in a burst of mid-1960s idealism for democratic self-government and significantly strengthened as its first major post-Watergate reform in the 1970s, overriding President Gerald Ford’s veto just a few months after Richard Nixon resigned. Baker earnestly filed FOIA request after FOIA request seeking to finally pry out the truth of what happened or didn’t happen all those decades ago on the Korean Peninsula. Godot-like, the definitive answers he sought never came.

Baker’s FOIA requests largely went unanswered for years before they were denied, if they were acknowledged at all. Just to receive letters saying a few of his requests were assigned tracking numbers became a victory of sorts. Only on rare occasions did he obtain documents that had not been available to the like-minded researchers who came before him. Madly, these glimpses of information tended to raise new questions.

Eventually, Baker gave up on learning the truth. Rather than shelve his research project as a failure, he reconceptualized it so that the impediments his efforts encountered themselves became part of the story. Structured as a series of diary entries in which he tells us what he knows for sure about American bioweapons efforts in that era, *Baseless* allows Baker to highlight that the government is still actively hiding things all these years later and to speculate about what they may be. At the same time, he tries to capture the frustration of growing older as the government runs out the clock on disclosing its secrets while they might still matter to anyone living.

“This is a book about waiting—waiting for responses from the Air Force and the Central Intelligence Agency and other places,” he writes. “It’s about my own not entirely successful efforts to squeeze germs of truth from the sanitized documentary record of the U.S. government. It’s about the exquisite pain of whitewash or blacked-out sentences and paragraphs—always the ones you want most to see—and the costs to national self-understanding of delayed disclosure.”


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**Baseless**

*My Search for Secrets in the Ruins of the Freedom of Information Act*

By Nicholson Baker

464 pp. $30

Pricarily known for novels like *The Mezzanine* and *The Anthologist* as well as for occasional nonfiction like *Human Smoke* and *Double Fold* (which decry the destruction of older books and newspapers by libraries as they microfilm or digitize their collections), Baker has given his new book a title that appears to play on several meanings.

“Baseless” echoes the oft-repeated claim by the US government and its defenders that the communist accusations of bioweapon use during the Korean War had no basis. But more concretely, “baseless” is also a reference to something that I did not know before reading this book: In October 1950—a few months after the Soviet-backed North Korean military invaded South Korea and the United States intervened to defend it—a senior Air Force general named Nathan Twining issued a top-secret order to his deputies to initiate action that would make the United States “capable of employing toxic chemical and biological agents and of defending against enemy use of these agents.”

For Baker, this memo might be a clue to what happened during the Korean War. Twining had commanded the planes that dropped atomic bombs on Hiroshima and Nagasaki, and as the world war against German and Japanese fascism transitioned into the early Cold War against global communism, Twining became a proponent of developing other types of weapons of mass destruction at a particularly important moment. His memo’s mandate included integrating Air Force capabilities and requirements for biological warfare into war plans and developing tactics to deliver such agents from the air. This directive, Baker reports, citing military files in the National Archives, was initially known by the code name Project Baseless, although the next year it was changed to Project Respondent. (The order was rescinded shortly after the cessation of hostilities.)

The following spring, North Korean and Chinese government officials began accusing the United States of having used biological weapons to spread disease on the peninsula in late 1950 and early 1951. A year later, backed as well by the Soviet Union, communist officials escalated their accusations—which the United States denied, with help from the fact that much of the physical evidence its adversaries put forward, as Baker acknowledges, was dubious. He also notes that the Air Force did not seem to have moved logistical support into the war theater that would have enabled it to carry out the industrial-scale use of bioweapons it was being accused of. There were, he writes, “no teams of trained Air Force germ handlers, no stockpiles of mass-produced weaponry, no large refrigerated lockers to hold perishable agents.”

Nevertheless, as Baker goes through the documents he can access, he develops a theory that something did happen, that America’s communist accusers were not simply making it all up. And he is right that Twining’s Project Baseless memo—showing, as it does, active and high-level consideration of deploying germ bombs just months before the accusations began—is certainly curious.

Baker’s discussion of this memo is just one of many such suggestive curiosities he shakes out of his proverbial research notebook to fill this nearly 400-page book. Most diary entries open with a word about what he says he was doing on that particular day—usually something gentle, like lying in bed, having dinner with his wife, attending a Quaker meeting, or walking through nature with their dogs. Then it pivots swiftly into a deep dive on a particular memo or project from the documentary evidence that has been made available.

Baker mixes in sketches of various creepy scientists who devoted their talents to weaponizing diseases, as well as to potential delivery devices, such as bombs stuffed with infected insects or feathers. As such, *Baseless* is less
a narrative with a beginning, middle, and end than a mosaic that forms a picture as individual tiles are added here and there, gradually accumulating into a detailed history of the United States' bioweapons research shortly after World War II.

But simply recounting a history of early Cold War American bioweapons research was not, of course, Baker's original goal: He had set out to prove his hunch that the United States had secretly used some of those weapons on the battlefield, the proof for which he believes resides in the gaps in the documentary record—the files that are still kept locked away and the paragraphs that have been removed from those the government permits the public to see. “Redaction,” Baker writes, is “a form of psychological warfare directed against historians, a way of wearing people down and making them go away.”

As a reporter for The New York Times, I have been a frequent user of the Freedom of Information Act. With help from David McCraw, the newspaper's lawyer, I have sued the federal government over and over—under administrations of both parties—in an attempt to force it to comply with FOIA and disclose information of public interest. Often, the result has been disappointment: Judges ruled that the documents I sought fell within one of several enumerated exceptions to the law, permitting the government to keep them secret. But sometimes the litigation worked. On certain occasions, after a case was filed and a Justice Department lawyer had to account for an agency's recalcitrance before a judge, the government chose to turn over the records without further fuss to resolve the litigation, sometimes after a face-saving negotiation to narrow the request. More rarely, a court ordered the federal government to disclose something over its continued objections.

Through this patient and slow boring of holes via the judicial system, one can, as we did, use FOIA to drag things into the public light—secret memos about the targeted killing of an American citizen deemed a terrorist, previously classified files illustrating how post-9/11 National Security Agency surveillance programs skirted legal limits, internal FBI reports demonstrating that the bureau quietly cleared its agents of wrongdoing in at least 150 consecutive intentional shooting incidents over nearly 20 years, and e-mails showing the military's awkward wrestling with what should happen if an aging detainee at Guantánamo needed lifesaving medical care that the remote naval base couldn't provide, among many other newsworthy subjects. Through these experiences, I have learned a lesson that does not seem to occur to Baker, despite his years of frustrations: With very few exceptions, simply filing a FOIA request does not work. If one has any hope of extracting a document in a timely fashion, it is necessary to follow up on the request by filing a lawsuit.

Without leveraging the legal system to force the government to comply with the law, FOIA is, indeed, as Baker portrays it, useless and toothless. While the law says an information act request must be processed within 20 working days, a backlog of requests clogs the queue, and there are not enough officials assigned to process them. Often the most interesting documents require a review and sign-off by multiple agencies, creating additional opportunities for bureaucratic slow-rolling. Absent litigation, it is routine for years to pass, and the government, if pressed, will claim that a given request has not yet reached the top of the queue. But a lawsuit changes everything. A judge imposes deadlines to respond and, at least in theory, can overrule a bureaucrat who claims things must remain secret without an adequate basis, thereby deterring unjustified delay and overclassification.

But, despite passionately pursuing his research for years and despite deciding to make lemonade out of his sour experience by transforming his failure to get answers into a book that is partly about the shortcomings of FOIA, Baker does not seem to have seriously considered trying litigation. The closest he comes in the book to filing a lawsuit is a passing remark in a section about how he had been waiting for seven years for a particular document that still did not come: “So what should I do? Write more letters? Sue the Air Force? Sue the National Archives? Give up? Do these particular Pentagon memos even matter, when there are many thousands of declassified Korean War-era documents readily available to historians? I did the simplest thing. I sent another email.”

And so reading this book, much of which consists of creative extrapolations about what American officials might have done 70 years ago, I found myself wondering at this failure of imagination about what he could do. Why didn’t Baker reach out to one of the public interest organizations that provide free legal services to journalists and researchers with a righteous FOIA request and see if they would be interested in taking on his case? How can he publish a book that laments FOIA’s deficiencies—its subtitle is My Search for Secrets in the Ruins of the Freedom of Information Act—without doing what is necessary, if not always sufficient, to make that law work? It is as if he bought a car and then complained that it would not run without ever putting gas in its tank.

That said, it should not require litigation to successfully use a tool that an earlier generation of lawmakers created with the intent of enabling Americans broadly to bring to light information about what their government has been up to. And even with a lawsuit, my experience has shown that it is exceedingly difficult to get a judge to second-guess the government’s claim that a document is properly classified. Baker is certainly right about one thing: FOIA is broken.

Is Baker also right about bio-weapons during the Korean War? The dispute over whether the US government really deployed weaponized germs in the conflict has been much argued over for generations, and Baker's book relies heavily on the research of those who came before him—in particular, two Canadian historians, Stephen L. Endicott and Edward Hagerman, whose 1998 book The United States and Biological Warfare: Secrets From the Early Cold War and Korea argues that the communist allegations were true. In a review in The New York Times, Ed Regis, the author of another book on America’s germ warfare efforts, criticized Endicott and Hagerman for failing to grapple with the strongest argument against their case: the findings that much of the evidence put forward by the communist regimes was fabricated.
THE ISSUES THAT DEFINE AN ELECTION
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“Campbell puts the glaring mistakes of the 2016 presidential polls in historical perspective. . . . [Anyone] following the latest 2020 predictions would be well-advised to read this bracing reality check.”
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—New York Times Book Review
Baker interviewed the two Canadian scholars in 2008 and eventually acquired boxes of their research files—including a military history of the Air Force's biological weapons program from 1944 to 1951 that contained discussion of the Baseless directive, which Hagerman requested under FOIA in 1996 and was still fighting to finally get processed as late as 2012. Baker contends that they did not deserve the damage to their reputations caused by Regis's review and by similar reactions from other historians who criticized their efforts. Without going as far as they do in their assertions, Baker clearly sees his efforts as a way to perhaps help vindicate them. He has some advantages, building on their research with additional documents that have become available in the intervening years. He is aided as well by the CIA's subsequent posting of its old archives online, under pressure from a FOIA lawsuit, which removed major practical impediments to searching through masses of previously declassified historical files.

But Baker is also more careful in letting his readers know about facts that pose a challenge to his theory. He forthrightly acknowledges, for example, the lack of large-scale deployed capabilities and the fabrications of evidence. “The Russians, the North Koreans, and the Chinese all, at times, lied about what they’d found in the snow. That’s just a fact,” he writes, citing a 1953 memo by Russia’s secret police chief about simulating “two false regions of infection” for the purpose of “accusing the Americans of using bacteriological weapons in Korea and China.”

Against that backdrop, Baker’s hypothesis is more modest than those of some of the researchers who came before him. Specifically, he thinks that while the Air Force never operationalized a biological weapons program, there may have been “a small-scale, plausibly deniable” CIA operation “about which we have little so far on paper, but about which we have immense detail, very peculiar detail—perhaps too peculiar to be invented—from the Communists.” He speculates that “the CIA had tried out several germ-warfare experiments in a war zone, first late in 1950, and then in January and February 1952, and the Communists had discovered them almost immediately, launching in response a huge, coordinated propaganda campaign—a campaign that included some faked evidence.”

To that end, Baker also dedicates a considerable part of his book to recounting the various covert assassination attempts and other reckless actions the CIA engaged in during the early Cold War that were unrelated to biological warfare but are marked by a recurring pattern: US officials shamelessly lied about them at the time, but the truth came out eventually. His point in delving into that largely tangential material seems to be that it would be naive to take at face value the indignant denials by US officials of the era that none of those bioweapons were ever used.

Baker also argues that the reason some of the evidence the communists brought forward looked fake was that it was simultaneously fake and real. To discredit the bioweapons charges and demoralize the enemy, he speculates, the CIA may have arranged to drop what appeared to be carriers of disease, such as insects and voles, on North Korea and China—except that they were not infected with any biological agents and were instead a psychological warfare operation intended to deceive. “The North Koreans and the Chinese were telling the truth when they reported the bombs and the insects, it seems to me,” he writes, citing intercepted transmissions that show they were also making these claims internally, “but the Communists didn’t understand that it was primarily a terror weapon they were dealing with, and they exerted themselves to find the taint of disease where it wasn’t.”

In other words, Baker thinks that after the United States carried out a few limited but real tests of germ warfare, it followed that act by dropsing inert materials that created the appearance of a more widespread campaign. That prompted an extensive search for bioweapons by communist forces—one that, after failing to turn up hard proof, led them to fabricate evidence. Reading this theory, I was reminded of the tangle that emerged from the notorious O.J. Simpson murder investigation and trial. One way to make sense of the clashing narratives and evidence was that it could be simultaneously true that Simpson murdered his ex-wife and her friend and that a police detective planted false evidence in a misguided and corrupt bid to ensure that a righteous case would hold up in court—in essence, framing a guilty man.

It’s an intriguing thesis, and Baker is usually careful not to go too far in putting it forward, leaving his analysis with regular signs that he doesn’t really know whether there is anything to this, such as a sentence that begins “I think maybe.” But in some places, he undercuts the persuasiveness of his analytical judgment by revealing that he is prone to see conspiracies all over the place, such as when he casually asserts at one point that “rabbit fever, Q fever, bird flu, Lyme disease, wheat stem rust, African swine fever, and hog cholera all look, to my nonscientist’s eye, like unnatural epidemics that owe their outbreaks to the laboratory” rather than to nature. (He speculates that these diseases generally got out of labs by accident, not that they were deliberate attacks.)

Despite such occasional lapses of self-awareness, Baker the person, interesting and imperfect as we are all in our own ways, rises from the pages of Baseless with a generally firm understanding that he has produced a very strange book. “I lay in bed some of today reading more of this book, hating it, excited by it, embarrassed by it,” he writes toward the end of Baseless, adding of his theory, “You may not be convinced, but that’s okay. My aim is to open the files, not necessarily to convince.”

That is the thought that fuses Baker’s original project, an intended exposition about what happened with germs and insects during the Korean War, to the lamentation about the frustrating shortcomings of FOIA that it morphed into. For Baker, ultimately what we need is far more transparency—a system that better enables Americans to drag information about their government into the light. After recounting how Hagerman lost a protracted battle to get censored passages restored to a certain perhaps (or perhaps not) key document, he describes how he renewed Hagerman’s request until he heard nothing back after two years. “What happened, I think,” Baker writes, “was that the redacteur whited out any paragraph in the document that connected events in the Far East with the Air Force’s development program for biological warfare. I could be completely wrong. The only way to prove me wrong is by declassifying the entire document.”
**Politicians in Robes**

*The Supreme Court’s war against equality*

**BY RANDALL KENNEDY**

In *Supreme Inequality*, Adam Cohen argues that for half a century, America’s highest court has waged “an unrelenting war” on the poor while championing the rich. The Supreme Court, he laments, has consigned to legal helplessness those reduced to government welfare subsidies, even in the face of unjustified deprivations. Its “campaign finance decisions have expanded the rights of wealthy individuals and corporations to use their money to gain influence over government.” Rulings “on partisan gerrymandering, voter ID, the Voting Rights Act, and voter roll purges have diminished the ability of those with little money to use the one thing they have at their disposal to win influence over government: their votes.”

Cohen points to *Dandridge v. Williams* (1970) as the case in which, after a brief period of progressive rulings during the 1960s, the Supreme Court began to turn against workers, people of color, and the poor. At issue in *Dandridge* was whether a state violated the 14th Amendment’s equal protection clause by capping welfare payments at $250 per month, regardless of a family’s size or need. Reversing the judgments of lower courts, the Supreme Court concluded that “the intractable economic, social, and even philosophical problems presented by public welfare assistance programs are not the business of [the federal judiciary].”

With subsequent rulings, the court’s aversion to judicial redistributionist interventions only deepened. In *San Antonio Independent School District v. Rodriguez* (1973), the court determined that there is no violation of federal constitutional law when children in poor districts, which are limited by constricted tax revenues, receive less funding for public schooling than those in more affluent ones. The plaintiffs in the case attended schools in San Antonio that had about 40 percent less funding than those in a wealthier district that, while nearby, was “a world away” in terms of opportunity, Cohen notes. This case, “more than any since *Brown v. Board of Education*, had the potential to transform the nation’s education system and create a more equal America.” Although a lower court sided with the plaintiffs, the Supreme Court reversed the ruling. At least where wealth is involved, Justice Lewis Powell declared, “the Equal Protection Clause does not require absolute equality or precisely equal advantages.”

In cases on racial inequality, the court also put the brakes on judicial intervention. In *Milliken v. Bradley* (1974), the question centered on whether predominantly white suburbs could be enlisted to remedy racial discrimination in the predominantly Black public schools of Detroit by integrating students through busing. Lower courts thought such a remedy ought to be permissible; after all, the state as a whole was responsible for the unconstitutional infractions of its subdivisions, cities
and suburbs alike. Four justices agreed. But the same five who decided Rodriguez ruled against the plaintiff, holding that because of the importance of local decision-making in public education, federal courts lacked the authority to order “innocent” white suburbs to contribute to desegregation in metropolitan areas.

In Buckley v. Valeo (1976), the court ruled on “a case that was as important to equality in elections,” Cohen tells us, “as [Rodriguez and Milliken] were to equality in education.” Striking down provisions that limited the amount of money individuals can spend supporting a candidate, the court invalidated major portions of the campaign finance laws enacted to address problems brought to light by the Watergate scandals. In the course of doing so, it formulated two key propositions. One was that spending money in support of candidates is tantamount to speaking out on their behalf, thus equating money with speech. The other was that when it comes to speech, imposing constraints on behalf of equal opportunity is impermissible: “The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment.”

In subsequent decisions, the court further limited the government’s authority to regulate the influence of wealth in elections. Most significantly, in Citizens United v. Federal Election Commission (2010), it ruled that the McCain-Feingold campaign finance law overstepped constitutional bounds by prohibiting corporations and unions from expending funds from their treasuries on electioneering speech. Objecting to the court’s bestowal of First Amendment rights on corporations, Justice John Paul Stevens noted in dissent that firms have “no consciences, no beliefs, no feelings, no thoughts, no desires.” Corporate personhood is a useful legal fiction in certain contexts, he added, but corporations “are not themselves members of ‘We the People’ by whom and for whom our Constitution was established.” For the five-justice majority, however, what mattered was not the source of the “speech” (i.e., money) but its content. “Political speech,” Justice Anthony Kennedy intoned, “is indispensable to decision-making in a democracy, and this is no less true because the speech comes from a corporation rather than an individual.”

Elsewhere in election law, the Supreme Court repeatedly facilitated impediments to voting. In Crawford v. Marion County Election Board (2008), the court upheld an Indiana voter identification law in the absence of any showing that it was needed to thwart substantial voter fraud and even though it predictably and disproportionately burdened Black prospective voters and other groups that Republican lawmakers viewed as likely Democratic supporters. In Shelby County v. Holder (2013), the court invalidated a key provision of the Voting Rights Act that had effectively monitored and restrained jurisdictions with long records of racial disenfranchisement, while in Husted v. A. Philip Randolph Institute (2018), the court permitted Ohio to purge from its voter rolls people who had not voted in a number of elections and had been unresponsive to notices from boards of elections—an action undertaken with the obvious hope of getting rid of as many minority and other Democratic-leaning voters as possible.

Cohen’s catalog also includes cases in which the court displayed antipathy toward organized labor, indifference toward workers seeking recourse through anti-discrimination lawsuits, and solicitude for corporations facing the wrath of justifiably outraged juries. In Janus v. American Federation of State, County, and Municipal Employees (2018), the court held that it was unconstitutional for a state to require workers to pay a fee to unions to defray the costs associated with collective bargaining. The main justification for requiring the payment of such fees was to prevent free riding by workers who benefited from the union’s bargaining even if they were not members. But in Janus, according to the 5-4 majority in an opinion written by Justice Samuel Alito, the court held that forcing workers to pay such fees amounted to coercion, violating their First Amendment rights by compelling them to subsidize speech with which they disagreed and would not otherwise support.

In Ledbetter v. Goodyear Tire & Rubber Co. (2007), the court added to its litany of anti-labor rulings, overturning a jury award of damages to a woman who had sued her employer for gender discrimination under Title VII of the 1964 Civil Rights Act. In Exxon Shipping Co. v. Baker (2008), the court added to its run of pro-business rulings by reducing a jury award of punitive damages for the catastrophic oil spill that followed the grounding of a supertanker on an Alaskan reef. The tanker’s captain, absent from the bridge when the grounding occurred, was found to have a high level of alcohol in his blood hours later. At trial, it was revealed that Exxon allowed him to command a supertanker even though the company knew of his record of alcohol abuse. A court of appeals assessed punitive damages of $2.5 billion, remitting a jury’s assessment of $5 billion. The Supreme Court, however, decided that even this amount was impermissibly excessive: It limited the punitive damages to a bit over $500 million.

Cohen notes that while the court protected corporations from what it saw as excessive penalization for grossly negligent conduct, it declined to protect people from excessive punishment. In Lockyer v. Andrade (2003), for example, the court upheld the application of California’s three-strikes law in a decision that condemned a man with prior convictions to a prison term of 50 years to life after he was caught stealing about $150 worth of videotapes from two stores. The four dissenting justices in the case remarked that if this sentence was not impermissibly disproportionate, “the principle has no meaning.” Yet the majority, in an opinion by Justice Sandra Day O’Connor, concluded that it was allowable or, in the court’s peculiar phrasing, “not objectively unreasonable.”

Randall Kennedy is a professor at Harvard Law School. His collection of essays, Say It Loud!, will be published by Pantheon in May 2021.
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Supreme Inequality offers a damning indictment. With disciplined fury, Cohen patiently collates and dissect cases whose connective tissues are often overlooked, bringing to light a subject that should receive more attention than it does: the Supreme Court’s inequality jurisprudence. Many Americans repose more faith in the judiciary than in the other branches of the federal government. According to Gallup, 81 percent of those polled in 2020 expressed at least some confidence in the Supreme Court, as opposed to 62 percent in the presidency and 55 percent in Congress. Some mistakenly believe that the judiciary is the one branch of government in which the rules apply evenly to all, whether rich or poor. Part of the excitement that surrounds the legal misfortunes of the high and mighty—for instance, the celebrity parents caught up in the recent college admissions scandal—is a sublimated yearning for a forum in which class privileges do not matter. Citizens and judges alike recite the mantra that no one, no matter how wealthy or powerful or prestigious, is above the law. Cohen’s analysis puts the lie to that myth: Wealth or its absence do indeed make a difference in outcomes, even before the putatively majestic bar of justice.

Cohen writes in a lively, accessible fashion. He is attentive to the oft-neglected people behind the lawsuits named after them, is careful to explain and humanize difficult legal abstractions, and he shows with sobering particularity the ramifications of the Supreme Court’s decisions. Anxious, it seems, to leaven his withering narrative with something more positive, he offers an overly cheery depiction of the court presided over by Earl Warren between 1953 (when the former California governor was nominated as chief justice by President Dwight Eisenhower) and 1969 (when Warren unhappily retired at the beginning of Richard Nixon’s presidency).

For Cohen, Warren’s arrival “launched a progressive legal revolution” with a “mission” of “uplifting the poor and the weak, and of building a more equal and inclusive society.” “The Warren Court,” he declares, “systematically looked for ways in which the poor were unfairly disadvantaged.” It was “a historical outlier,” he adds mournfully, one that lasted only briefly before the court was overrun with Nixon appointees who steered it to a resumption of “its traditional role in national life: protector of the rich and powerful.”

The reality of this interregnum was far more ambiguous. The Warren court’s most consequential, controversial, and esteemed decision was its 1954 ruling in Brown v. Board of Education, in which it invalidated racial segregation in public primary and secondary schooling. But the celebration of Brown has distorted the court’s role in racial desegregation. Pushed by the NAACP and other civil rights activists, the Justice Department under President Harry Truman and Eisenhower called for the elimination of racial segregation before Warren’s arrival on the court. And the armed forces ended segregation prior to the landmark ruling.

Cohen’s account, which remains the dominant narrative in many constitutional law courses in the country’s leading law schools, also obscures how the Brown ruling assuaged segregationist sentiment by assuring white supremacists that they would be allowed to desegregate “with all deliberate speed.” The court, moreover, refused to invalidate racial segregation in matrimony for 13 years after Brown. I mention this not to denigrate the Warren court; it did indeed take steps toward racial equality that warrant acknowledgment. But it was not the egalitarian Valhalla that Cohen depicts.

Supreme Inequality is also ensnared by the difficulty of distinguishing law from politics. Robert Dahl once observed that “as a political institution, the Court is highly unusual, not least because Americans are not quite willing to accept the fact that it is a political institution and not quite capable of denying it.” Like many journalists covering the court, however, Cohen sharply distinguishes it from the “political” branches of government. He complains that the court over which Chief Justice John Roberts presides “seems more like a political body than a legal one.” But the Supreme Court has always been political and is inescapably so, given, among other things, the way it is constituted.

When Cohen lambastes Citizens United, he begins by complaining that the court’s majority was “almost lawless, in its rush to overturn well-established law.” But would he object had the cases targeted for overruling been deplorables like Dred Scott v. Sandford (1857), Plessy v. Ferguson (1896), or Korematsu v. United States (1944)? The law is ever enmeshed in politics and in the service of one powerful interest or another. We should become more realistic in our estimation of the Supreme Court, recognizing that the justices are politicians in robes, though they pursue their agendas somewhat differently from those in the White House and Congress. Teasing out the similarities and differences is a task that no one has thus far accomplished satisfactorily. But the political character of the Supreme Court is clear, notwithstanding its own and others’ strenuous efforts at obfuscation. Roberts chastised Donald Trump for referring to a judge by the president who nominated him. “We do not have Obama judges or Trump judges,” the chief justice declared. “What we have is an extraordinary group of dedicated judges doing their level best to do equal right to those appearing before them.” But Trump, awful as he is, gets the better of this dispute. There were Nixon judges; they bequeathed us Rodriguez and Miliken. Similarly, there are Trump judges. What they will bequeath us, only the future can tell, though their provenance hardly inspires confidence.

In Supreme Inequality, Cohen argues persuasively that the Republicans have managed the politics of the judiciary much more effectively than the Democrats. Throughout the book he returns to an obvious but important point: Supreme Court decisions are determined by the particular justices who sit on the court, which is determined in turn by the presidents who nominate them, the senators who ratify them, and the citizens who vote for both. This largely explains the trajectory of the Supreme Court since the 1960s. In 1967, liberal justices held a slim
majority; then disaster struck. Earl Warren announced his retirement while Lyndon Johnson was still president, intending to ensure that a liberal would succeed him on the bench. But Johnson miscalculated: When he nominated Justice Abe Fortas to the position, the Senate rebelled, leaving it to the next president to nominate a new chief justice—and that president was Richard Nixon.

Over the next three years, Nixon got the chance to appoint four justices, creating a conservative majority that has held sway ever since. Not only have Republicans dominated the court through their appointive power, with their justices outnumbering the Democrats’ 14 to four among those seated between 1968 and 2020, but they have also dominated through their willingness to be more ideologically forthright than their Democratic adversaries. Republican presidents have straightforwardly declared, when nominating justices, that they mean to appoint conservatives. Democratic presidents, by contrast, have blurred the ideological complexion of their choices, as if there were something disreputable about being liberal.

To forge a better future, this will have to change. Democrats need to be more candid about their reasons for opposing Supreme Court nominees. They should not be at all reticent about voting to reject nominees on ideological grounds. Just because someone is smart and knowledgeable, hard-working and honorable does not mean that he or she should be elevated to the court. Any nominee who is likely to advance politically unacceptable policies ought to be opposed. That Antonin Scalia was confirmed with no dissenting votes (98-0) despite a record that gave ample cause for alarm reflects poorly on the senators who voted for him, especially the liberals among them (including Joe Biden, John Kerry, and Ted Kennedy).

Democrats also need to be much more intent focused on pushing the judiciary in a more progressive direction. That will require study, debate, and the identification and encouragement of prospective nominees. Liberals should have rolling lists of favorite candidates prepared, as conservatives already do, as well as a keen collective desire to refashion the judiciary so that it can contribute to the making of a more just America. Above all, they need to recognize and acknowledge that the Supreme Court is inescapably political. The key is to ensure that a judicial politics of equitable fairness prevails.

Mothers and Daughters
Yaa Gyasi’s novel of faith and family
BY LOVIA GYARKYE

A A GYASI ALWAYS INTENDED TO WRITE ABOUT MOTHERS and daughters. In a 2016 profile, the now 31-year-old Ghanaian American writer said that after her sophomore year at Stanford, she traveled to Ghana to research a story about maternal bonds set in her mother’s home region. But after Gyasi visited Cape Coast Castle, a commercial fort that held enslaved people bound for the Americas, and learned more about the relationships between some Ghanaian women and British soldiers, her interests shifted, and she decided to write a novel about the “fullness of slavery, both as it was in the 18th century and what is left behind today.”

The result was Homegoing, an ambitious debut that attempted to map more than 300 years of history. It spans continents, with the first two chapters introducing Effia and Esi, two half-sisters (unaware of the other’s existence) whose lives take dramatically different turns. Effia grows up in a village near Cape Coast Castle and is married off to a white British officer by her vengeful stepmother, while Esi, who grows up in the heart of Asanteland, is
captured before her 15th birthday and thrown in the dungeons of the slave fort. The experiences of Effia’s and Esi’s descendants form the rest of the novel as readers follow the bifurcating and occasionally intersecting paths of their respective fates. Homegoing demonstrates Gyasi’s command of language and keen eye, signaling a long and promising career. It is hard to overestimate the novel’s ambition, sense of history, and geographic scope. But its epic mission comes at a cost: Characters in each chapter sometimes feel too of their decade, their individuality subsumed into their era.

In her second novel, Transcendent Kingdom, Gyasi returns more forthrightly to her original subject of mothers and daughters, using that relationship to explore the intersection of faith, culture, and science. Set in Alabama and California, the novel follows Gifty, a 28-year-old neuroscience graduate student, as she grapples with how her mother’s depression, her brother’s death, and her Pentecostal upbringing not only shaped her life’s purpose but also left her emotionally avoidant.

Transcendent Kingdom combines Gyasi’s interest in large, complex themes with a tighter structure and even sharper character study, resulting in a sensitive and propulsive story that reveals how differently individuals, even those in the same family, seek salvation.

Transcendent Kingdom begins with a phone call. Gifty receives word from her childhood pastor that her mother is having another depressive episode. “She hasn’t been to church in nearly a month,” Pastor John says. “I think it’s happening again.” The “it” refers to the despondent mood swings she began experiencing after Gifty’s brother, Nana, died from a heroin overdose. Gifty tells Pastor John to fly her mother from Alabama to California to stay with her.

In preparation for her mother’s arrival, Gifty cleans her small apartment and buys a Ghanaian cookbook “to make up for the years I’d spent avoiding my mother’s kitchen.” Like many daughters of West African immigrants, Gifty nurtures a low-grade anxiety about what her mother will think of her lifestyle choices. But it soon becomes clear that Gifty’s mother isn’t particularly interested in her daughter’s cooking or cleaning skills. Deeply depressed, she heads to Gifty’s bedroom upon arrival and spends most of the novel sleeping.

Before her mother’s stay, Gifty lived a mostly ordered life at Stanford. She split her time between her lab, where she studied reward-seeking behavior in mice, and her office, writing her graduate paper. She did not think about her past, having decided in college to build a new version of herself, a person who did not talk so much about her family. Her mother’s arrival forces her to change: Not only must Gifty negotiate her relationship to the woman who raised her, but she must also confront tender parts of her past and grieve unrealized versions of her childhood. She tries to adapt to her new circumstances by establishing a different routine that involves caring for her mother, checking her lab mice, and making small talk with her lab partner, Han. But her mother’s presence precipitates an unavoidable flood of memories from her childhood in Alabama.

Gifty’s parents met in Kumasi, Ghana, when her mother—who remains unnamed throughout the novel—was 30 and “an old maid by Ghanaian standards.” Her father, whom her mother called the Chin Chin Man, after a popular snack, was tall and beloved. They had Nana, and their little boy became the light of their lives. They wanted to give him the whole world, which prompted Gifty’s mother to enter the US green card lottery. She was selected, and the decision to leave for America with Nana ahead of the Chin Chin Man would become the first of many fissures in their relationship.

In the United States, Gifty’s mother and Nana struggle to call this new land home. Her mother finds a job as a home health aide to a xenophobic octogenarian who repeatedly screams, “Do you speak English?” at her. She works 12-hour night shifts and, unable to afford child care, frequently leaves Nana with family or takes him to work.

These moments tread familiar territory in immigrant narratives—the culture shock of a new place, the economic hardships, the prevalent racism, and the slow, numbing realization that the American dream is nothing more than a myth. But what separates Gyasi’s narrative from others is its sympathetic examination of how faith helps Gifty and her family find their footing in the United States. Joining a church provides hope and a haven in her new world. For Gifty’s mother, the First Assemblies of God Church is the first place where “she thought she might get used to living in America.”

The church is predominately white, and its pastor and other congregants fail to cope with how racism affects their Black immigrant parishioners. After the Chin Chin Man arrives, Gifty enters the picture, but her birth only adds pressures on the now family of four as they struggle to survive in this new country. Eventually the Chin Chin Man, depressed by the reality of being a Black man in America (few job prospects, harassment, and racism), travels back to Ghana. His short trip turns into an extended stay, until he all but disappears from his family’s life.

With the Chin Chin Man’s departure, the church plays an even more prominent role in the lives of the remaining three in their pursuit of hope and salvation. Gifty’s mother works more and more hours to support the family, and she, too, mostly becomes a specter in her children’s lives. As he enters his teenage years, Nana turns away from the church and closer to sports, playing soccer to connect with his father and then finding a home on the basketball court. After injuring his ankle, he becomes addicted to prescription opioids, and soon his drug addiction, characterized by frequent benders and emotional promises to get clean, takes over his life.

Gifty, meanwhile, desperately wants to be good and seeks some kind of respite, first through the church and then...
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**Gyasi’s protagonist loses faith in far more than just the church and her parents; she also loses faith in her country.**

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After Nana dies of an overdose, the fragile threads holding Gifty’s life together disintegrate. Her mother falls into a deep depression, and she sends Gifty to Ghana for a summer so that she can heal on her own in Alabama. In Ghana, Gifty uncovers more about her family: She meets the Chin Chin Man’s new wife and learns about the shame that has kept him from reconnecting with his children in America. “Did you know I was here?” Gifty scolds her father upon their reunion, before recounting the difficulties of their lives—in particular her mother’s—in the United States. “She tried to kill herself, did you know that? She almost died and then she made me come here and you knew I was here this whole time, didn’t you?” Before he can answer, the Chin Chin Man’s new wife swoops in with food and drinks, but nothing can salvage their relationship.

Upon her return to the United States, Gifty confronts her life with a new resolve. Having reckoned with the reality of her father’s abandonment, she realizes that there is no one coming to save her family and fashions her life around rescuing herself and her mother. “I was bringing her food before walking to school, I was cleaning the house so that when she finally woke up she wouldn’t be upset with me for letting the place turn to filth,” she recalls of her mother’s first depressive episode. “We were doing okay.”

As Gifty moves through high school and college, she throws herself into studying to avoid sifting through her feelings. By the time she enters graduate school at Stanford, she has mastered a fragile and orderly existence. But her mother’s presence in her apartment destabilizes this, and like a beach ball held underwater too long, Gifty’s emotions forcefully resurface. She realizes that she can’t forsake her humanity for a vague mission to be good and struggles to reckon with the gulf between what America promises and what America provides. Her lost faith is not only in the church and in her parents; it is also in her country.
side the heartbreak of losing faith in God and the world. Those understated 

moments—shared over a meal or passing between rooms in a house—create an 

affecting and dynamic story about two people trying to understand and forgive each other.

The novel encouraged, at least for me, a personal reckoning. Parts of Gifty’s 

story prompted me to recall what I would rather forget. Like her, I was raised by 

Ghanaian immigrants, and when I was younger, my mother’s depression seemed 

to haunt every room in our apartment. No one told me she was depressed, but 

through the years, as she spent most days in bed drifting in and out of sleep while 

Channel 7 news and Lee Goldberg’s forecasts ran in the background, I sensed 

something was off.

We referred to my mother’s condition as “the sickness.” “Wo maame wo yare,” 

my father would say in those days when he clumsily took on the role of caretaker. 

When she left for Ghana, he told us she was going to be healed. Neither the 

healing nor the sickness was defined, and it would be another decade before 

I realized there was a name for what my mother had.

Once armed with this knowledge, I tried to evangelize to my family about 

mental health. I wanted to clear up what was once so shrouded in mystery, but 

our Ashanti culture, so rooted in faith, so committed to avoidance, was stronger, and my family routinely rejected my attempted proselytizing. They had their 

beliefs; I had mine.

My mother and I have never really 

talked about how depression contorted 

our relationship, shaping how we got to 

know each other around unspoken words 

and sentiments, and I thought about this 

a lot while reading Transcendent Kingdom. 

Above all else, the novel attempts to 
capture what often proves as ineffable 
as faith: How do we find a path toward 
forgiveness and compassion when faced 

with less than ideal versions of ourselves 

and others?

Gyasi does not offer answers to this 

question, and she doesn’t really need to. Sometimes the strength of a novel is 

found in more than just its artful execution or its formalist experiment; it’s found 
in how it helps you articulate a feeling that you’ve held in your chest for years—and that feels like a kind of transcendence.
of St. John the Divine. Hofstadter was uniquely respected on campus by conservatives, liberals, and many (though not all) radicals. To the conservatives and liberals, he was a pillar of scholarship and service to the school. To the radicals, he was the rare professor who listened to their complaints—so much so that after students occupied Hamilton Hall, they left him a note saying, “The Forces of Liberation have, at great length, decided to spare your office (because you are not one of them).” The hope was that Hofstadter’s address would bring some peace and resolution to the spring’s turbulence.

Facing his colleagues and the students shifting uneasily in their pews, Hofstadter most likely succeeded in this, striking a fittingly pious note for the occasion. Holding up Columbia as a time-tested haven of rational discourse, he also acknowledged the justness of the students’ grievances and called for “conciliation” as well as “stability, peace, mutual confidence.” Diana Trilling, who was in the audience, cried during the speech, and many of Hofstadter’s colleagues were also moved by his sonorous rhetoric. But not everyone felt that way: A large group of students walked out in the middle of his address and organized a countercommencement on campus. There they were joined by Old Left radicals like Erich Fromm and Dwight Macdonald, who gave speeches decrying the failure of the existing liberal order. These were times, Fromm asserted, when if you weren’t out of your mind, it meant you didn’t have one. He wasn’t entirely wrong, either: Hours after Hofstadter’s speech, the news came from California that Robert F. Kennedy had been shot.

Hofstadter himself had a tragically truncated life. He was felled by cancer two years later, at age 54. Yet his life, much like RFK’s, helped chart the ups and downs of 20th century liberalism in the United States. Born in 1916, Hofstadter came of age during the Great Depression and the era’s surge of labor radicalism and social democratic programs and bore witness to the movements that pushed for equality in the workplace and challenged white supremacy. Struggling with his fears of the revanchist right during the early Cold War, he found himself helpless as the centrist liberalism he came to embrace fell under attack.

Perhaps for this reason, a full five decades after his death, Hofstadter’s legacy remains as contested as the liberalism he avowed during his life. For liberal pundits and more traditional political historians, he created a durable framework for understanding the achievements of the liberal tradition and the recurrent attacks it has suffered. He extolled the two-party system and bipartisan comity and warned of the dangers of extremist ideologies. But for radicals and the generation of social historians who came after him, Hofstadter represented many of the weaknesses in liberal politics and historical writing. Not only was his centrimyopic, but so was his historiographic approach. Neglecting archival research and focusing on those at the top of society, he often had a curiously understanding of the grassroots social movements he criticized.

Part of the controversy over his legacy is the result of a shared simplification. Among friends and foes alike, Hofstadter tends to be pigeonholed as one of the consensus historians who flourished during the Cold War. Consensus history—exemplified by the work of Louis Hartz and Daniel Boorstin—argued that most Americans had a shared ideology that transcended partisan differences and enabled the United States to avoid the bitter polariztion that characterized European politics. Grouping Hofstadter with Hartz and Boorstin is not without justice. An easy mnemonic for understanding his work in the 1950s and ’60s is that he cherished words beginning with the letter C: “comity,” “compromise,” “conciliation,” “ci-

vility.” Conversely, terms that began with P made him purge his lips: “populism,” “tests,” “paranoia,” “popul front.”

But Hofstadter became a celebrator of consensus only midway through his career. In his earliest articulation of the idea, it was a way of marking out what constrained American democracy. For the young Hofstadter, the liberal consensus that set the parameters of American politics prevented the nation from moving beyond an outdated, money-grubbing individualism to become a true democracy.

In fact, his critique of the American consensus as an ideological straitjacket remains so convincing that it inevitably raises questions about his evolution: How did a thinker who was so alert to the painful f
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urces of class and race in America become a champion of the liberal consensus? And how did he go from offering a sweeping critique of the limits of American democracy to becoming an archfoe of populism?

A new Library of America collection of Hofstadter’s work, edited and introduced by the historian Sean Wilentz, helps us answer these questions. Charting Hofstadter’s intellectual and political career through his essays and books lets us better appreciate the origins and evolution of his anti-populism. Yet by leaving out many of his earlier works—above all, Social Darwinism in American Thought and The American Political Tradition—the volume offers only a very selective portrait, one that caters to the current anti-populist mood among centrist liberals and denies readers the more radical thinking that defined the first half of Hofstadter’s career. Although his critique of mass movements and radical politics had its seeds in his early work and his youthful experiences on the left, this new volume puts on display only the Cold War liberalism that did not fully blossom until the postwar years, when his frustrations with the left and his fears of repression combined to create the crabby elitism found in his later work. Only by understanding Hofstadter’s full story can we understand why his later embraces of the consensus and an anti-populist politics were understandable choices—but also fatal mistakes.

Richard Hofstadter
Anti-Intellectualism in American Life,
The Paranoid Style
in American Politics,
Uncollected Essays
1956–1965
Edited by Sean Wilentz
Library of America.
1,000 pp. $45

Richard Hofstadter was born in Buffalo, N.Y., the child of a Jewish father and a Christian mother. The paterfamilias wore his Jewishness lightly, so the family’s Christian side was more dominant when Hofstadter was growing up: He was christened in a Lutheran church, sang in a choir, and (to gild the lily) was confirmed as an Episcopalian to please an overzealous aunt. But the cultural tug of war within his family led him to acquire from an early age a keen awareness of how religious and ethnic differences were fault lines that could explain political differences—
theme central to his later work.

This insight was also nurtured by life in the 1920s, when economics took a back seat to more primordial battles over identity, faith, and status. Hofstadter grew up in an America consumed by culture war, an age marked by the Scopes monkey trial, the Immigration Act of 1924, the popularity of the second Ku Klux Klan, and the bigoted nativism that defined the 1928 presidential election, in which anti-Catholicism helped Herbert Hoover defeat former New York governor Al Smith and his vision of big city tolerance.

By the time Hofstadter attended the University of Buffalo, he and many of his peers were becoming defined by a set of fissures that were no longer merely cultural in nature. If his early hero H.L. Mencken taught Hofstadter the joy of rapier-sharp criticism in an age of Kulturkampf, the Depression taught him the reality of class politics. “You had to decide, in the first instance, whether you were a Marxist or an American liberal,” Hofstadter recalled. “When I was an undergraduate, I thought I was a Marxist, and I learned a great deal from the study of Marxism.”

This radical turn was quickened by his relationship with the firebrand Felice Swados, whom he met in 1933 and married in 1936, shortly before entering graduate school at Columbia. A member of the Communist Party-affiliated National Student League, she was much more of a rabble-rouser than he was. She wrote a pulp novel, House of Fury, about imprisoned teenage girls (eventually made into the movie Reform School Girl), and her dedication to political radicalism inspired him to join the Communist Party in 1938. Even then, always bookishly ambivalent, he did so more out of desperation over the status quo than in hope for a positive future. “I hate capitalism and everything that goes with it,” he wrote in 1939 to his brother-in-law Harvey Swados, a budding radical fiction writer like his sister. “But I also hate the simpering dogmatic religious-minded Janizaries that make up the CP.”

For Hofstadter, it wasn’t just the cruelty of the Soviet purges or the manifest cynicism of Joseph Stalin’s foreign policy that led to his uncertainty about the party’s so-called janissaries. It was also because he viewed its intellectual vanguard as promoting a cultural philistinism that did the left a disservice. Having made friends with New York intellectuals like Alfred Kazin, Hofstadter embraced their combination of anti-Stalinism and cultural elitism. For them, the Popular Front represented not only the positive achievements of a Dorothy Lange or a Woody Guthrie but also, more often, the promotion of crude socialist realism—what Hofstadter sniffed at in later years as “the pathetic proletarianism that swept over many American intellectuals in the 1930s.”

Hofstadter’s time as a Communist proved to be short-lived. He split the party in 1939, and although he continued to call himself radical into the 1940s, his rejection of the party hardened into a comprehensive distrust of working-class movements. In his superb biography of Hofstadter, David S. Brown writes that during this period, Hofstadter became convinced that “if the workers actually took over…men like himself and Swados would be targeted for their intellectual habits, critical instincts and petty bourgeois backgrounds.” “We weren’t workers and couldn’t be workers,” Hofstadter explained to his brother-in-law, and “the workers had no place for us. In short, that we are petty bourgeois intellectuals and that there is a certain inherent alienness in what could be regarded as the most controversial work in the history of philosophy, self-taught philosopher García-González redefines existence and perception in his book and complementary glossary, bringing back metaphysics to its old glory and elevating philosophy of mind to the level it deserves. A triumph of the human intellect in an age dominated by scientific instruments.

The Genetic Universe and Genetic Universe Glossary are now available in print and e-book formats.
that Hofstadter described was a necessary strategy to survive in a period of constricted political and professional options. Stalinism was a nightmare, but as a former Communist and a Jew, he recognized that McCarthyism and anti-Semitism were ever-present nightmares as well. As a graduate student at Columbia, he was convinced that his Jewishness had cost him grant money that was awarded to other students. There's evidence that years later, when he was teaching at the University of Maryland, he was denied a job at Johns Hopkins because the history department feared that the university’s president would “make difficulty when he found that Hofstadter was half Jewish,” as a friend of Hofstadter’s wrote. His Communist past also meant that he was always vulnerable to being hauled before congressional investigators. In 1941, after getting his first full-time teaching job at City College, he discovered that several previous instructors, including the historian Jack Foner, had been fired for being Communists. (The school was apparently unaware of Hofstadter’s past.)

This precariousness only increased when Felice Swados died of cancer in 1945, leaving Hofstadter to raise their infant son. Now a single father with a small child and an uncertain future, he pondered leaving academia for journalism. But then came a surprising opportunity: In 1946, as the country returned to peacetime, he was offered a job at Columbia. The following year he married Beatrice Kevitt, a war widow and gifted editor who would exercise a major role in shaping his prose. Out of these personally turbulent years Hofstadter emerged triumphant, publishing two major books that helped remake the writing of US history.

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istorical debate almost invariably has an Oedipal dimension. To find their way in the world, historians define themselves against the predecessors who helped make them. Hofstadter’s formation as a historian took place under the tutelage of the so-called Progressive historians—most directly Charles Beard, with whom he corresponded, as well as Frederick Jackson Turner and Vernon Parrington—and it was their work that Hofstadter sought to overturn as a way of marking his originality.
In their pathbreaking works, Beard, Turner, and Parrington defined American history as a series of pitched battles between the people and the special interests. As Parrington explained in a draft of Main Currents in American Thought, “On one side has been the party of the current aristocracy—of church, of gentry, of merchant, of slave holder, or manufacturer—and on the other the party of the commonality—of farmer, villager, small tradesman, mechanic, proletarian. The one has persistently sought to check and limit the popular power, to keep the control of the government in the hands of the few in order to serve special interests, whereas the other has sought to augment power.”

Coming out of the radical left, Hofstadter was drawn to the Progressives’ vision of class conflict in American history, but he had two critiques of their account—first, that it did not address the divisions within the “commonality” of religion, ethnicity, and race and, second, that it failed to answer the question all Marxists grapple with: How does the ruling class stay on top in a class-riven society?

From Hofstadter’s perspective, the two main parties did not look like foes but appeared remarkably similar: Both consisted of white Protestants committed to property rights. The binary division of people and special interests also failed to account for the conflict between the white Protestant majority and various ethnic and racial minorities. Racism was a defining problem in American history, but so too was liberalism’s persistent allegiance to an individualism that thwarted the solving of social problems. To develop this argument, Hofstadter dedicated his master’s thesis at Columbia to a critique of the New Deal from the left, showing that Franklin Roosevelt’s agricultural policies entrenched the power of white landowners at the expense of Black sharecroppers. In 1944, Hofstadter went even further in an important essay in The Journal of Negro History, arguing that the work of the preeminent scholar of slavery, Ulrich B. Phillips, was riddled with racist assumptions. W.E.B. Du Bois and other Black scholars had already made this very point, but Hofstadter reaffirmed it and in its first book, Social Darwinism in American Thought, pointed out how these racist assumptions pervaded much of American social thought.

Hofstadter’s highlighting of ideology was central to his radical critique of the Progressive historians. They saw competition over material interests as the driver of conflict, while he insisted that this conflict also took place in the sphere of ideas. Ideology was crucial to explaining the paradox that the Progressives often ignored: If history is the battle between the people and the special interests, then how is a minority of capitalists able to dominate?

The most satisfying answer to this question by a 20th century Marxist was Antonio Gramsci’s concept of cultural hegemony, which he teased out in his Prison Notebooks. Gramsci argued that the seemingly noncoercive ways the public is trained to be loyal to the existing system are central to sustaining the capitalist order. Hofstadter doesn’t invoke this idea, since the Prison Notebooks had yet to be translated into English. Instead, like many of his contemporaries, he had to be a Marxist Robinson Crusoe, forced by his threadbare circumstances to craft a rudimentary theoretical framework with his bare hands. His version of cultural hegemony was the notion of consensus.

Social Darwinism in American Thought sketched one particularly decadent phase of this consensus, but it was in The American Political Tradition and the Men Who Made It, published in 1948, that he offered a full portrait of liberal consensus across the sweep of US history. On the surface, the book appeared to break from the conventions of political history only in terms of tone: Offering a survey of American history from the Revolution through World War II, The American Political Tradition presents everyone from the founding fathers to FDR through a series of acerbic and revisionist profiles, worthy of Mencken in their splenetic rudeness. But in his role as an American Gramsci, Hofstadter rendered a powerful indictment of the hegemony dominating US politics and considered the counterhegemony that was still emerging.

In a crisp and wide-ranging introduction, he summed up the book’s underlying thesis: “The sanctity of private property, the right of the individual to dispose of and invest it, the value of opportunity, and the natural evolution of self-interest and self-assertion, within broad legal limits, into a beneficent social order have been staple tenets of the central faith in American political ideologies; these conceptions have been shared in large part by men as diverse as Jefferson, Jackson, Lincoln, Cleveland, Bryan, Wilson, and Hoover.” In an acute phrase, he labeled this patrimony “a democracy of cupidity rather
than a democracy of fraternity.”

A deft hand with paradox, Hofstadter often flipped the popular stereotypes of the country’s leading figures on their head, finding a proto-Marxist class critique in John C. Calhoun’s defense of slavery and a hidden conservativism in Woodrow Wilson’s progressive program. In keeping with Hofstadter’s contrarian radicalism, the one figure who appears as almost wholly admirable is Wendell Phillips, the patrician agitator whose abolitionism and socialism took him outside the tradition.

While the book’s irreverence and radicalism may have offended conservatives, its nose-thumbing capsule biographies made it a classroom favorite, helping it sell more than a million copies over the course of seven decades. The American Political Tradition amounted to something far greater than the sum of its parts. Instead of being merely a series of profiles, it told the story of the rise and dominance of an ideology: liberal property-rights individualism. The founders had hammered it into the Constitution. With Andrew Jackson, the ideology adjusted itself in the face of mass democracy, at least for white males, and in the run-up to the Civil War, it faced its first existential crisis as it found itself divided into two camps, two theories of property and self-making—one held in the South (that the ownership of enslaved persons was an inalienable part of property rights) and one held in the North (that liberty could be grounded only in the acquisitive individualism of free labor).

The rise of corporate consolidation in the years after the Civil War created a crisis for property-rights individualism, and with the Depression, the initially opportunistic FDR responded with a hodgepodge of innovations that helped make space for a new liberal consensus more adequate to its times. After World War II, Hofstadter insisted, the United States appeared to be groping its way uneasily toward a new expression of freedom that recognized how, under industrial capitalism, the needs of the community could and should override the constraints of property-rights individualism.

More than seven decades after its publication, The American Political Tradition remains a compelling and broadly convincing telling of the American story. Written by a man still on the left, it argued that a reinvigorated New Deal liberalism might be able to fulfill the unmet promises of social democracy and racial equality, and it was hardly an accident that in 1965, John Lewis carried the book in his knapsack during the March on Selma. (Hofstadter joined the second march as part of a delegation of historians.) In The American Political Tradition, Hofstadter found a way to achieve a remarkable equipoise between his radical mind and conservative heart. He managed to be clear-eyed about the durability of liberal property-rights individualism while probing its weaknesses—a kind of middle ground between the Marxism of his youth and the liberalism of the midcentury. Had he carried his search for a new liberal consensus forward, The American Political Tradition might have marked the beginning of a compelling synthesis of postwar radicalism and liberalism. But instead it marked something of an end: By the time of its completion, Hofstadter had already become wary of the social movements necessary for this new synthesis to come to life, and in the books that followed—from The Age of Reform to Anti-Intellectualism in American Life and The Paranoid Style in American Politics—he began to beat an abrupt retreat into a cranky anti-populist centrist.

At first, Hofstadter’s anti-populism emerged from a place of fear. The rise of Joseph McCarthy as a national figure in 1950 terrified him. The Wisconsin senator’s success as a demagogue suggested that the consensus could easily shatter, giving way to a disorderly politics dominated by an enraged and vengeful rabble, with former radicals like Hofstadter particularly vulnerable. The historian William Leuchtenburg, then a graduate student at Columbia, recalled how “McCarthyism led [Hofstadter] to distrust the mass mind.”

Hofstadter’s shift to the liberal center was already apparent in his follow-up to The American Political Tradition, 1955’s The Age of Reform. In it he delighted in the increasing conservativism of American intellectuals. “The immense enthusiasm that was aroused among [them] by such a circumspect and sober gentleman as Adlai Stevenson in 1952 is the most outstanding evidence of this conservatism,” he wrote. “Stevenson himself remarked during the course of his campaign that the liberals have become the true conservatives of our time.”

Hofstadter was among Stevenson’s most starry-eyed supporters. The Illinois governor, he argued, “had the dimensions and the appeal of a major tragic hero, and intellectuals identified his cause with their own.” Stevenson had enough wit to describe this type of fanboy gushing among the profs as “egghad ecstasy.” But that didn’t deter Hofstadter, who insisted that Stevenson’s elegance and urbanity were a welcome contrast to “the embarrassments of the Truman administration,” such as the president’s “shameless baiting of Wall Street.”

Like many liberal eggheads, Hofstadter did not seem bothered by the fact that Stevenson was more conservative than Truman, on everything from civil rights (Stevenson once suggested that “anti-Southernism” was comparable to “anti-Negroism”) to labor issues (he supported the Taft-Hartley Act) to social democratic programs (he opposed public housing, federal aid to education, and federal health insurance). What made Stevenson admirable—at least as far as Hofstadter was concerned—was that in a polarizing America, he represented an image of comity, eschewing partisanship and going so far as to say of the man he would soon run against in the first of two presidential contests, “There’s no man around who can beat Eisenhower, and what’s more, I don’t see any good reason why anyone should want to.”

For Hofstadter, Stevenson was proof that liberals were the true conservatives, not just because they had come to appreciate the stabilizing necessity of tradition but also because their foes, the reactionaries of McCarthyism, were the true radicals. In some ways, he wasn’t wrong; the McCarthyites were extremists. But in proposing this view, he inverted his consensus theory. The consensus, he now believed, was not so much a straitjacket as a shield, which stood between liberal intellectuals like him and his colleagues and the mob. “Ingenious as the American constitution originally was,” Hofstadter explained in Encounter in 1964, “it would still have been inadequate for the government of this sprawling continental nation, with its wide variety of interests
and its unruly and often violent people, had it not been later supplemented by the two-party system.” Moreover, the “unruly and often violent people” could be tamed only by an enlightened elite committed to compromise and comity.

Hugging the center, he came to fear the very movements that he might have celebrated as a young radical—those that sought to fashion a new egalitarian consensus. “Populism” became his catchall term for these movements, which he saw as prone to extremism, conspiracymongering, and anti-intellectualism. Nor was Hofstadter alone in this: He joined a tightly knit community of scholars, mostly based at Columbia and Harvard and working in the social sciences, who came together in the 1950s to offer an anti-populist interpretation of McCarthyism. Daniel Bell was the leader of this anti-populist posse, often dubbed the pluralists because of their emphasis on comity, which included the sociologists Seymour Martin Lipset and Edward A. Shils.

Many of the pluralists had a political and social trajectory similar to Hofstadter’s: a youthful phase of radicalism followed by a period of left-wing alienation as they experienced the embourgeoisement of the postwar years and middle age. (By the 1950s, Hofstadter, at that point well established at Columbia, had a second home on Cape Cod and sent his children to private school.) These formerly radical intellectuals were now helping to shore up the liberal and anti-communist status quo. In the early 1950s, a CIA front group, the Fund for the Republic, even paid for the distribution to opinion makers of 25,000 copies of one of Hofstadter’s anti-populist essays.

Participating in the pluralist and anti-communist project of midcentury liberalism brought him into collaboration with some of the country’s leading social theorists, such as Bell and Lipset, and increasingly Hofstadter began to borrow from their work in sociology, adopting such notions as the authoritarian personality, paranoia, and status anxiety in his own works. These magpie borrowings helped push his historical work into the realm of cultural analysis. But they also showed him to be too hasty in applying poorly digested categories to historical actors, thereby blunting his ability to see them as agents in their own right. Further, he applied his theories in a selective way, using them to explain mass movements while discussing elites as if they were almost always purely rational and pragmatic.

**The Age of Reform** was Hofstadter’s first sweeping attempt to remodel American history in his increasingly anti-populist framework. A hostile portrait of the Populist Party of the 1890s and the subsequent small-p populist and progressive culture that emerged from it, the book caricatured one of America’s most important democratic uprisings as the product of a rabid, bigoted mob.

Previous historians took a largely positive view of the Populists, a radical reform movement that attacked the domination of America by plutocrats and bankers in the Gilded Age. Hofstadter countered that the Populists were often irrational and intoxicated by an untenable nostalgia for the lost days of the yeoman farmer, that their economic problems were largely their own fault, that they were prone to crackpot monetary theories like bimetallism, and that they often scapegoat ed city dwellers, especially Jews. The Age of Reform leaves the impression that the Populists were much like the backcountry characters in James Dickey’s novel Deliverance seeking to wreak vengeance on urban sophisticates.

Hofstadter didn’t deny that the experience of McCarthyism had fueled his animus toward the Populists and their heirs. “My own interest has been drawn to that side of Populism and Progressivism—particularly of Populism—which seems very strongly to foreshadow some aspects of the cranky pseudo-conservatism of our times,” he wrote. But he was also unwilling to give credit to the positive democratic flourishing that emerged out of the Populist—and populist—spirit in American politics, insisting, “Populist thinking has survived in our own time, partly as an undercurrent of provincial resentments, popular and ‘democratic’ rebelliousness and suspiciousness, and nativism.”

The more anti-populist Hofstadter became, the more he sounded like his first literary hero, Mencken. At its best, Hofstadter’s prose had Mencken’s clarity and forcefulness, its zip and zest. But at its worst, it was replete with the vices of the Baltimore sage: the burgomaster complacency, the tendency to let sarcasm and invective do the work of argument. The sheer brutality of late 19th century peonage is nowhere evident in the book. At one point Hofstadter suggests that if the farmers had been smart, they would have followed “the usual strategies of the business world.” That didn’t happen because “when times were persistently bad, the farmer tended to reject his business role and its failures to withdraw into the role of the injured little yeoman.”

The simple truth is that it didn’t matter whether the “injured little yeoman” was good at business. Farmers were being mis miserated by an economy stacked against them by the ultrawealthy. The gold standard (supported by the bipartisan political elite) ensured decades of deflation after the Civil War, which meant farmers were going deeper into debt, no matter what they did—a situation exacerbated by the corporate consolidation of key industries like the railroads. Far from being drawn to magical thinking, the Populist movement promoted a range of monetary policies (paper money and bimetallism) that would have improved the lot of most Americans. Indeed, the Populists had better politics and better economics than their plutocratic foes.

Hofstadter’s most incendiary accusation was that “the Greenback-Populist tradition activated most of what we have of modern popular anti-Semitism in the United States.” He added, “A full history of modern anti-Semitism in the United States would reveal, I believe, its substantial Populist lineage.” There was, to be sure, anti-Semitism among some of Populism’s adherents and publicists, but as C. Vann Woodward wrote to Hofstadter in 1963, his book gives “the impression that nativism and racism are peculiarities of the unwashed and the semi-literate Populists. I think it should be pointed out that these prejudices were rife at the time among New England patricians and intellectual elite on the East Coast.” Woodward could have added that the anti-Semitism Hofstadter had experienced came not from populist farmers struggling against monopoly but from high-toned Columbia and Johns Hopkins, where Woodward was hired for the position denied to Hofstadter. Needless to say, it wasn’t the Populists
After Abolition

Prisons and cops survive only in tales for the young like twin Atlantises or two drowned boogeymen. A cop’s as harmless a Halloween getup as any monster, while a prisoner costume’s as taboo as a slave one now that schools teach what makes them kin.

A prison is the far-off past of a structure turned free housing, each cell wall knocked to sandcastle ruin, halls reshaped and re-dyed in green paints, former floor plans carved out like shores into spacious homes, laundry and A/C a given in each.

Though prisons and cops won’t be found anywhere, our youths still learn of them, and they know what they mean, how they look, how they function, what it will take to stop them if they return with new names.

KYLE CARRERO LOPEZ

Hofstadter’s work on the revanchist right proved to be equally flawed. Whether writing about McCarthyism, the John Birch Society, or Barry Goldwater’s presidential candidacy, Hofstadter would repeatedly cast these mass movements as gaggles of fringe extremists distinct from respectable mainstream conservatism. Thus he referred to “the Goldwater cult” and claimed that “Goldwater men infiltrated the [Republican Party] much as the Communists in their days of strength infiltrated liberal organizations in order to use them as front groups,” rather than consider that Goldwater conservatism was able to take over the GOP so quickly precisely because it drew on political ideas that were deeply rooted and widely shared in the party. After all, Goldwater’s libertarianism was merely the latest variation on the property-owning individualism that Hofstadter himself had shown was the consensus for the vast majority of American history.

In the decades since Hofstadter’s death—after Richard Nixon, after Ronald Reagan, after Newt Gingrich, after Dick Cheney, after Donald Trump—it’s touching to encounter the historian’s innocent faith that moderate Republicans are the true soul of the party. But Hofstadter’s cardinal error in his later years was not that he missed the connections between the far right and Republican conservatives but that he believed—much as today’s liberals do—that the bipartisan consensus of liberals and the center-right could serve as an effective bulwark against the far right.

Then as now, the opposite proved true: It has almost always been a bipartisan consensus of liberals and the center-right that has created space for a revanchist right. As historians like Ellen Schrecker have taught us, McCarthy and the John Birch Society were merely florid examples of a tradition enabled by a political center that was focused on crushing the left. The first Red Scare was not a product of the extreme right but instead was initiated by Wilson’s liberal administration. The apparatus of McCarthyism—the Smith Act, the House Un-American Activities Committee, the loyalty oaths—was created under Franklin Roosevelt and Harry Truman. J. Edgar Hoover, far more responsible for red-hunting than McCarthy, enjoyed the support of every president from Coolidge to Nixon. In 1952, Hofstadter’s hero Stevenson praised Truman for having “put the leaders of the Communist Party... where they belong—behind bars.”

The combination of Truman’s apocalyptic rhetoric about the dangers of global communism and the stalemate in Korea opened the door for McCarthy. Republican elites, including figures like Robert Taft whom Hofstadter praised for their sagaciousness, egged on...
McCarty. Hofstadter helped prop up the Cold War consensus as well: For example, his refusal in 1949 to criticize the University of Washington for firing Communist professors wasn’t just a personal failure but part of his larger loyalty to Cold War liberalism. In 1957 he happily took on the writing of a Fund for the Republic analysis of the far right that was financed by the CIA. According to his biographer, David S. Brown, Hofstadter prepared a memo in which he argued that “the Far Right… was partially correct on many issues, and, he conceded, completely correct on several more. Communists had infiltrated the federal government; American foreign policy in Asia and Europe had experienced setbacks; and it was conceivable that a fresh set of conservative policies at home and abroad would have left the country no worse off.”

In his 1963 *Anti-Intellectualism in American Life*, Hofstadter applied his growing conservatism to the history of education, arguing that rather than enabling intellectual flourishing in the United States, democracy empowered the country’s anti-intellectual tendencies. Anti-intellectualism, he argued, “is founded in the democratic institutions and the egalitarian sentiments of this country.” His argument was notable in other ways, too. Making only glancing references to African American activism—an odd omission in a book on education, given that Hofstadter started writing it in the wake of *Brown v. Board of Education*—he focused on white evangelical Protestant culture, the purported disdain of union leaders for learning that has no practical benefit, and the alleged tendency of the philosopher and reformer John Dewey’s followers to turn education into a merely instrumental task of skill acquisition.

The absence of Black American intellectual life is even more glaring, given that one of the themes of the book is the tension between vocational and humanistic education. Hofstadter completely ignored the debates between George Washington Carver, Booker T. Washington, and W.E.B. Du Bois. Dealing with African American history would have tested Hofstadter’s thesis that the main sources of anti-intellectualism in American life are “democratic institutions” and “egalitarian sentiments,” because racism has been a far more powerful engine. Before Emancipation, many states had anti-literacy laws forbidding enslaved people—and sometimes free people of color—to learn how to read. Schooling in general lagged in the South, and more subtly, white supremacy has often fueled a fear of learning. In an autobiographical essay, he admitted, “No doubt my disposition to push the fundamental realities of power somewhat into the background is one of the weaknesses of my writing.” The fundamental reality of how racism shaped American society was diminished in *Anti-Intellectualism in American Life* in order for him to further pursue his anti-populist account of US history.

In his later work, this whitewashing of American history became even more pronounced. In a 1964 essay he wrote, “The achievement of the Democratic party over the past thirty years has been testimony to the effectiveness of the consensual ethos. Since the days of FDR, for example, the Democratic party has been the chief vehicle through which the needs of American Negroes were met and through which their political aspirations have been expressed; and yet at the same time, it has been, despite some breaks, the party of the traditional South. Naturally, this arrangement has not been satisfactory to either side, and it has grown less so as time has gone on and racial tensions have grown.” It is remarkable how far this account of the New Deal years is from his master’s thesis at Columbia, which recognized how the consensus created by the New Deal often meant sacrificing Black interests to those of white Southerners.

Many of the compromises that made the American consensus work, in fact, have come at the expense of Black America—a point that Hofstadter now shied away from discussing. From the three-fifths compromise in the Constitution to the Missouri Compromise of 1820, from the Kansas-Nebraska Act to the Compromise of 1877, which ended Reconstruction, the most important accommodations in American consensus-making all ended up hurting Black Americans. Any honest celebration of consensus has to grapple with this reality. Hofstadter failed to do so.

For all his flaws, Hofstadter is a major figure and deserves to be in the Library of America. But part of the problem with the current volume is not just what it includes but also what it leaves out. Wilentz appears to have selected material intended to affirm the self-flattering image of liberalism that Hofstadter put forth in his later work: that 20th century liberalism formed a rational center besieged on both sides by extremist and anti-intellectual forces. Thus we get *Anti-Intellectualism in American Life* (a book that Hofstadter himself thought inferior to his earlier work), the collection *The Paranoid Style in American Politics and Other Essays*, plus a batch of selected essays, some of them previously unpublished. But *The American Political Tradition*—arguably his most important book and certainly his most radical one—is nowhere to be found. Neither is *Social Darwinism in American Thought* or his master’s thesis.

The essays, in particular, are an odd assortment. By reprinting *The Paranoid Style* in its entirety, Wilentz resurrects a 65-page essay on William H. Harvey, a cranky monetary theorist who is more justly dispatched in a few paragraphs in *The Age of Reform*. *The Paranoid Style* also includes an essay on Goldwater, but Wilentz gives us four more, as well as a previously unpublished piece that is an early draft of the title essay. All of this makes for a great deal of repetition. On page 633 we read, “Our chief foes—Indians, Mexicans, the decaying Spanish Empire—were on the whole easily vanquished.” On page 890, “Our foes—Indians, Mexicans, the decaying Spanish Empire—were easily vanquished.” And on page 913, “Our foes—Indians, Mexicans, the decaying Spanish Empire—were on the whole easily vanquished.”

In addition to *The American Political Tradition*, a proper Hofstadter antholgy would include *The Age of Reform*—a flawed but important work—plus a selection of essays that show the full range of his thinking, including his more radical early work. (His master’s thesis would be particularly useful in highlighting how he anticipated the work of later scholars on the New Deal.)

Instead, Wilentz has produced a book that leans so heavily into Hofstadter’s later
“The Dead Are Arising . . . will become the definitive biography of Malcolm X.”
—Ray Winbush, director of the Institute for Urban Research at Morgan State University

Les Payne, the renowned Pulitzer Prize–winning investigative journalist, embarked in 1990 on a nearly thirty-year-long quest to interview anyone he could find who had actually known Malcolm X—family, classmates, street friends, cellmates, Nation of Islam figures, and political leaders around the world.

Introduced by Payne’s daughter and primary researcher, Tamara Payne, who, following her father’s death, heroically completed the biography, *The Dead Are Arising* is a riveting, unprecedented biography of Malcolm X and his revolution.
The Infodemic

How can we save journalism?

BY ANYA SCHIFFRIN

The importance of accurate information has been too apparent during the Covid-19 pandemic. Besides charting the devastation of the virus, the World Health Organization has mapped a subsequent “infodemic,” a period of often dangerous and inflammatory misinformation circulating globally. This infodemic has had deadly effects. Donald Trump and Brazil’s Jair Bolsonaro have denied the scale of the pandemic and then peddled false cures, leading to hospitalizations and deaths among people who followed Trump’s advice to drink bleach or take hydroxychloroquine. Indian Prime Minister Narendra Modi got in on the act, claiming that yoga could increase immunity to Covid-19.

The misinformation would be laughable if it weren’t so deadly. A group of economists studying the pandemic in the United States has shown that as a result of bad information, there have been higher death rates from Covid-19 among viewers of Sean Hannity, a Fox News host who downplayed the threat. Meanwhile, Republican opposition to mask wearing may have contributed to skyrocketing infection rates in the United States in July.

Many of the tools used to fight misinformation have proved inadequate. Fact-checking politicians’ statements can be haphazard, and rebuttals often arrive long after the lies have gone viral and may not reach the people exposed to them. Attempts to build trust in the media through audience engagement have been limited in scale and remain mostly local. Twitter and Facebook have attempted to crack down, removing damaging accounts and pointing people to trustworthy sites with reliable information.
Timely Reads from the MIT Press

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How to Challenge a Misinformed Movement
Jonathan M. Berman

DEMOCRATIZING OUR DATA
A MANIFESTO
JULIA LANE

Coding Democracy
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Maureen Webb, foreword by Cory Doctorow

#Hashtag Activism
Networks of Race and Gender Justice
SARAH J. JACKSON
MOYA BAILEY
BROOKE FOUCAULT WELLES
FOREWORD BY GENIE LAUREN

The Right to Vote
100 Years Since Women’s Suffrage

Anticorruption
ROBERT I. ROTBERG

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but both companies have been slow to act. Their business model, after all, is based on audience engagement and outrage, so it’s the controversial and often false information that makes them the most money. There is no financial incentive to crack down.

Reliable information is clearly needed, but journalists find themselves in a difficult position. Although they have been classified as essential workers, tens of thousands have been laid off or furloughed around the world. News audiences have risen dramatically in 2020, but sharply declining revenue in previous years—particularly from advertising—has crippled many newsrooms. Now the economic effects of the pandemic have set the stage for what some are calling a media extinction event.

This is true in the United States, where things are so bad that the Poynter Institute, a nonprofit journalism school and research organization, says it’s updating its job loss tracker almost every day. As of this writing, the institute reports that 18 local newspapers have merged, at least 1,500 newsroom staffs have been permanently laid off, a minimum of 20 publications have suspended their print editions, and at least 30 local newsrooms have closed. (Also, journalists of color are often the most likely to be laid off, as The Washington Post reported in May.) But the crumbling of news organizations is not confined to the United States; it is happening all over the world. As the Botswana journalist Ntibinyane warned in April, many African newspapers might not survive the pandemic, and the same is true in countries as diverse as Bolivia, Brazil, India, Liberia, the Philippines, and the United Kingdom.

The desperate situation that the media finds itself in—and that we all face with it as a result—is the focus of Victor Pickard’s new book, Democracy Without Journalism? Confronting the Misinformation Society. Written before the pandemic hit, the book is all the more relevant in a world transformed by Covid-19. Among other things, it offers a critical examination of US media history, arguing that at crucial moments, a market-centered understanding of the media has undermined the public good that news outlets provide. Yet the book also offers us an important reminder that it is not too late to right this wrong by creating what Pickard calls “a permanent public news media shielded from the market.” The “current crisis,” he says, “offers opportunities for reasserting the public service mission of the press.”

Democracy Without Journalism? is the story of how the United States missed so many opportunities in the past. Pickard begins with the early years of the United States and the tension between American democracy and classical liberalism. For him, the prevailing assumption that laissez-faire politics and “capitalist competition” would best serve “democratic communication” has had disastrous consequences. Far from creating a liberal marketplace of ideas, it has resulted instead in a system dominated by powerful elites who have limited the range of political points of view, narrowed the field of reporting, and starved local news of funds.

For Pickard, the abiding faith in the market has not just impeded the flourishing of a truly free and diverse press; it has also hindered our ability to institute policies that might correct this situation. He examines areas like government regulation and monopoly control to illustrate how US policy at key points in history led to the news media’s precarious state today, and he highlights those moments when the United States might have pursued a more democratic path for journalism.

One important example for Pickard is the debate over the role of the press that took place during and after World War II. As Sam Lebovic observes in Free Speech and Unfree News, freedom of the press was viewed as “an obvious antidote to dictatorship” in the wake of the war against fascism and then in the dawning years of the Cold War. Media concentration was likewise seen as a potential danger, sparking a vigorous debate over how to regulate the news industry.

To study this threat, the Commission on Freedom of the Press was established in late 1943. Known as the Hutchins Commission (after its chair, University of Chicago president Robert Hutchins), it held numerous meetings and eventually published a report. But within the commission, analysts were divided. Media reformers wanted to break up the major newspaper monopolies, insisting that freedom from corporate control was an important part of press freedom, but they lost out to those who viewed freedom from government interference as the best way to preserve the marketplace of ideas.

The commission’s “corporate libertarian” views, as Pickard puts it, prevailed, as they did more generally in debates over government support for the media. The Federal Communications Commission, which was established in 1934, hewed to the position that it should play a limited role in regulating the press. By excluding the possibility of government-supported media reporting in the public interest, the FCC left those who wanted to protect journalism fighting with one hand tied behind their back.

Pickard notes that this did not have to be the case. From the nation’s earliest years, the federal government supported the news media in indirect ways. Drawing on the work of Richard John, who examined how the founders viewed the post office as central to the nation’s information infrastructure, Pickard argues not only that the Hutchins Commission was a missed opportunity but also that the debate showed a considerable misunderstanding of the government’s role in the past. Newspapers and magazines, he writes, have long enjoyed various government subsidies, including most obviously from the Postal Service, where over time they accounted for the majority (by weight) of what the post office shipped and delivered. In fact, if one added up all the discounted postal rates that newspapers and magazines have received since the 18th century, the sum would amount to several billion dollars.

Thus government subsidies were an important part of the news industry from its earliest days. The embrace of a corporate libertarian position did not hew to past practices; instead the refusal to invest in the press only marked an abdication on the part of the federal government—one that created an opening for further monopoly control.

Without government funding or regu-

Anya Schiffrin is a senior lecturer at Columbia University’s School of International and Public Affairs. She would like to thank Chloe Oldham for her research on this article.
lation, newspapers and broadcasting companies became dependent on advertisers and wealthy owners, setting the stage for the fiercely partisan reporting we see today from the Sinclair Broadcast Group, Fox News, and even more extreme outlets.

The American fidelity to laissez-faire created another problem: As a result of free-market ideology, newspapers and magazines are seen not as a public good but instead as commodities to be sold for profit by private companies outside the control of public institutions.

In Democracy Without Journalism? Pickard outlines a series of proposals to create a more robust news media in the United States and thus a more democratic society. He calls for the creation of a fund that would support local journalism, especially in the country’s growing number of news deserts, and for stronger privacy restrictions and more regulatory bodies to prevent further consolidation in the industry.

All of these policies are perfectly reasonable and, as Pickard shows in the book’s sections on other countries, are currently enjoyed by many other parts of the world. But he also recognizes that the notion of a government-funded media system remains anathema to many in the United States—especially (but not only) to Republicans, who have long opposed an expansive role for the FCC and government regulation of huge media companies. In his book’s last chapters, Pickard surveys many of the ongoing battles between Republicans and Democrats over the role of the FCC, as well as the prospect of more public subsidies for newspapers, radio, and television.

Instead of effective corporate regulation, the Fairness Doctrine—the 1949 replacement for the Mayflower Doctrine, which constrained broadcasters from editorializing—had long served as a consolation prize for media reformers. It required broadcasters to cover socially important issues and to fairly present opposing sides. But even that proved too much for Republicans, who repeatedly framed the policy as an attack on broadcasters’ free speech until it was revoked by Congress in 1987.

Pickard considers the battle over public television and radio, which resulted in many fewer institutions (and with far less money) than media reformers originally envisioned. And even after it became clear that the 2008 financial crisis was destroying America’s newspapers, the federal government and the FCC in particular chose to do basically nothing about it. Insisting in 2011 that “government is simply not the main player in this drama,” the FCC concluded that all the media needed was more transparency, increased government advertising, and support from philanthropists. These recommendations were assailed at the time as falling far short of what was required. More than 120 news outlets were shuttered in 2008 and the first three months of 2009; others shrank, and an estimated 13,000 newspaper jobs were lost in 2008, followed by another 15,000 in 2009.
Since then, the growth of Big Tech has further confounded the industry. Unregulated, Google and Facebook have taken away what little advertising revenue remained in the hands of newspapers and magazines. Social media platforms such as WhatsApp and Twitter have spread vast amounts of misinformation, sparking violence and killings in India, Mexico, Myanmar, and Nigeria, to name just a few examples.

Pickard has spent years working with the media activists at Free Press, a nonprofit organization that supports independent media and has called for the major social media platforms to be taxed more aggressively, and in Democracy Without Journalism? he draws from this experience to make his case for greater government investment in media outlets. A dedicated tax on online advertising could raise as much as $2 billion for independent journalism, he notes, but he quickly adds that this should be only a start. What the country needs is a public media fund of about $30 billion annually. It would be paid for by taxing media and platform monopolies and repurposing existing subsidies, with the money flowing directly to a set of genuinely public media institutions.

Pickard's public media fund is a bold idea, and it has already been adopted in some places on a more local scale. In New Jersey, for example, Free Press was able to persuade the state government to set aside funds for the Civic Information Consortium, which has a mandate to revitalize local media, particularly in “underserved, low-income areas and communities of color.”

The New Jersey program, Pickard argues, could be extended to most states to help create public radio and TV stations, and the Los Angeles Times recently put forward a raft of proposals as well, including making it easier for news outlets to convert to not-for-profit status, as the Salt Lake Tribune did in 2019; low- or no-interest loans for communities that want to set up locally owned news outlets; and tax deductions for subscriptions to nonprofit news sources. But all of these proposals still require political will—and right now, neither the Democrats nor the Republicans have embraced them.

Some of the most inspiring sections of Democracy Without Journalism? are those that discuss the news media outside the United States where a political will has been present. As Pickard observes, many countries have secured quality independent journalism through public funding and regulation. Norway and Sweden subsidize the press, as do Australia, Canada, Germany, and the UK. The BBC proposed the Local Democracy Foundation and is now funding journalists to cover local council meetings that would otherwise go unreported. Canada even gives tax credits for digital news subscriptions.

A publicly subsidized news industry would not only allow the United States to keep pace with many of these countries; it would also clarify how the news itself is a public good. There is yet another reason to do so: Regulation and funding can make it possible for the views of local communities to be heard, which are often drowned out by the corporate-backed, syndicated voices of right-wing figures like Hannity and Laura Ingraham.

Pickard’s proposals may seem hard to realize, but public media systems all over the world show they can be achieved. As Pickard reminds us, if we don’t take steps now to safeguard journalism, then democracy, such as it is, may not survive the present.
BOLD Ideas, ESSENTIAL Reading

“Paul Robeson was an artistic genius, moral titan, and courageous freedom fighter whom we must never forget!”
—Dr. Cornel West, Harvard University

“With powerful drawings, meticulous attention to historical detail, and deep appreciation for his wife, Eslanda Goode Robeson, Rudahl, Buhle, and Ware provide us with a deeply moving tribute to the enormous talent, courage and genius of Paul Robeson.”
—Bettina Aptheker, Distinguished Professor Emerita, Feminist Studies, University of California, Santa Cruz

“With extraordinary rhythm, these arresting drawings and captivating words seamlessly weave insights from critical race theory, global politics, Marxist theory, cultural studies, and historical criticism to narrate the inimitable life of Paul Robeson.”
—Andre C. Willis, Associate Professor of Religion, Brown University

Ballad of an American
A Graphic Biography of Paul Robeson
Text and art by Sharon Rudahl
Edited by Paul Buhle and Lawrence Ware

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