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FREE MINDS AND FREE MARKETS

THE
METAVERSE
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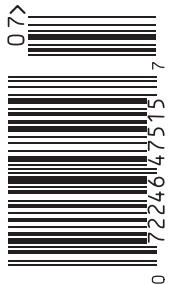
plus

Watergate turns 50

Jailed for dirty comix

Interview: Gov. Jared Polis

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Tennessee wildlife officers routinely trespass on my land—without a warrant—and snoop around for hunting violations.

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I am fighting to be free from these unconstitutional searches.

I am IJ.



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Camden, TN*

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National Law Firm for Liberty*



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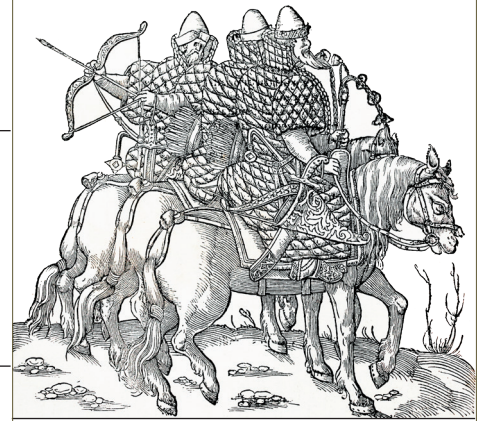
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CHARLES OLIVER
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YOU'RE WRONG ABOUT DISINFORMATION

KATHERINE MANGU-WARD

HUMANS GET STUFF wrong. We do it all the time. We're biased and blind and overconfident. We're bad at paying attention and terrible at remembering. We're prone to constructing self-serving narratives after the fact; worse, we often convince ourselves they are true. We're slightly better at identifying these distortions in others than we are in our own thinking, but not by much. And we tend to attribute others' mistakes to malice, even as we attribute our own to well-intentioned error.

All of this makes the very concept of *misinformation*—and its more sinister cousin, *disinformation*—slippery at best. Spend 10 minutes listening to any think tank panel or cable news segment about the scourge, and it will quickly become clear that many people simply use the terms to mean “information, whether true or false, that I would rather people not possess or share.” This is not a good working definition, and certainly not one on which any kind of state action should be based.

People believe and say things that aren't true all of the time, of course. When false beliefs influence the outcomes of major elections or, say, decision making during a pandemic, it's reasonable to consider ways to minimize the ill effects those false beliefs can create. But efforts by public officials to combat them—and tremendous confusion over how to identify them—may well make things worse, not better.

The battle over the appropriate response to disinformation boiled over in late April, when the Department of Homeland Security announced the creation of a Disinformation Governance Board. There appears to have been astonishingly little thought put into how the public might receive such a declaration, including the board's rather Orwellian moniker and its equally evocative acronym: DGB.



Several panicked clarifications by Secretary of Homeland Security Alejandro Mayorkas later, the board appears to be a relatively small-scale operation focused on an odd assortment of topics, including disinformation originating from Russia that might impact the next U.S. election and the dissemination of false information about U.S. immigration policies by border smugglers. This understanding of disinformation as false information purposely incepted for sinister ends by foreign agents is likely the least controversial formulation of the concept.

Still, as an open letter from Protect Democracy, the Electronic Frontier Foundation, and Columbia University's Knight First Amendment Institute succinctly put it: “Disinformation causes real harms, but the Constitution limits the government's role in combating disinformation directly, and the government can play no useful role at all in the absence of public trust. The announcement of this Board, housed in a Department with a checkered record on civil liberties and without clarity and specificity on its mandate, has squandered that trust.”

“The board does not have any operational authority or capability,” Mayorkas hastened to reassure CNN's Dana Bash. “What it will do is gather together best practices in addressing the threat of disinformation from foreign state adversaries, from the cartels, and disseminate those

best practices to the operators that have been executing in addressing this threat for years.”


If those operators include the social media companies, as seems likely, then the next logical question is to wonder what they are supposed to do with this helpful government guidance and how it might be perceived in context.

THERE ARE MANY, many ways to be wrong. In the United States, nearly all of them are protected by the First Amendment. So far, most efforts by the politically powerful to combat misinformation have approached free speech concerns with some degree of circumspection.

During his remarks at a summit on disinformation and democracy, sponsored by *The Atlantic* and the University of Chicago's Institute of Politics, former President Barack Obama was careful to say that he understood the limits on state action, even as he advocated transparency laws and other measures: “I am close to a First Amendment absolutist,” he said. “I believe in the idea of not just free speech, but also that you deal with bad speech with good speech, that the exceptions to that are very narrow.” Even better: “I want us all, as citizens, to be in the habit of hearing things that we disagree with, and be able to answer with our words.”

But there's a reason the announcement of the Disinformation Governance Board

PHOTO

IN 1986, BILL Heine installed a sculpture of a 25-foot shark crashing through the roof of his home in Oxford, England, without getting the approval of local planning officials. His son, Magnus Hanson-Heine, said his father didn't believe the government should be able to decide what art people should see. After spending years trying to get it removed, the local council has declared the shark a protected landmark—against the wishes of Hanson-Heine, who now owns the house. 

—CHARLES OLIVER



was greeted with such a clamor: The public is increasingly skeptical that officials will honor the limits of constitutional protections for speech, and increasingly aware that the status quo has moved toward censorship by proxy.

Nina Jankowicz, who was tapped to run the DGB, appeared to have a more flexible view of the limits of state power: “I shudder to think about if free speech absolutists were taking over more platforms, what that would look like for the marginalized communities all around the world,” Jankowicz told NPR in April, shortly before the announcement of her new position. “We need the platforms to do more, and we frankly need law enforcement and our legislatures to do more as well.”

At the height of COVID-19, President Joe Biden and his administration repeatedly made what it called “asks” of social media and search companies to remove content it deemed disinformation. Biden also accused social media companies of “killing people” by allowing the spread of anti-vaccine messages. (He later amended his remarks, telling reporters “Facebook isn’t killing people” but maintaining that a small group of Facebook users spreading misinformation were: “Anyone listening to it is getting hurt by it. It’s killing

people.”) White House Press Secretary Jen Psaki elaborated that the administration was “flagging problematic posts” containing “information that is leading to people not taking the vaccine,” while calling for the platforms to institute such changes as downplaying certain content and automatically banning users who have been suspended on other sites.


Again, after having been accused of actual murder by the president of the United States, it seems likely those firms greeted those “asks” as something more akin to “demands.”

A careful reader might also note that the accuracy of those “problematic” posts seems less central to the administration’s thinking than the behavior they might occasion. That lack of clarity was echoed by Surgeon General Vivek Murthy, who has called on tech companies to collect and hand over data about “COVID misinformation,” including its sources and its propagation through search engines, social media platforms, instant messaging services, and e-commerce sites. In an advisory on the topic, he recognized that he cannot compel them to do this. But the companies would hardly be engaging in wild speculation to wonder what consequences might befall them if they don’t cooperate.

“Defining ‘misinformation’ is a challenging task, and any definition has limitations,” Murthy concedes. He favors a definition that relies on “best available evidence,” but he acknowledges that “what counts as misinformation can change over time.”

The most notable recent case study of this phenomenon is guidance from public health officials about mask efficacy and best practices around mask wearing over the span of COVID-19. Under Murthy’s understanding of “misinformation,” the same post noting the weaknesses of poorly fitted cloth masks would have gone from being legit information to problematic misinformation and back again over the course of the pandemic.

The notion that a government-codified understanding of the “best available evidence” should be the standard for identifying misinformation demonstrates a spectacular misunderstanding of both free speech and the process of scientific inquiry—and a troubling lack of humility.

The problem is that governments are made of humans. And humans get stuff wrong. 

KATHERINE MANGU-WARD is editor in chief of *Reason*.

SELF-DEFENSE IS SEXY

MATT WELCH

RUSSIA'S BRUTAL AND unprovoked invasion of Ukraine was not even a week old when there was a backlash against Western ladies who thought Ukrainian President Volodymyr Zelenskyy was sexy. "Enough With the Zelensky Thirst," scolded the feminist website *Jezebel*. Added *The Forward*: "It's weird."

Weird, maybe; inexplicable, not at all.

Sure, the comedic-actor-turned-president is charismatic and easy on the eyes in his tight olive T-shirt, if a tad short for my taste. But the real reason the Ukrainian leader became an "unlikely sex symbol as photos defending Kyiv emerge[d]," per a *Daily Mirror* headline, is right there in the word *defending*. Defense is inherently sexy.

"We are here," Zelenskyy said in the video that catapulted him to international celebrity. "We are in Kyiv. We are defending Ukraine." This image was enhanced by a possibly apocryphal response to U.S. offers of evacuation: "I don't need a ride; I need more ammunition." Only an icy heart would fail to feel some warmth toward anyone brave enough to defend his home against heavily armed, openly murderous intruders.

The natural human sympathy for stoic self-defense is why the English-speaking world will never tire of Winston Churchill biographies, and why the countries overrun by Nazis and/or Soviets tend to venerate whatever "resistance" groups fought back. The fiercest and most respected acts of World War II resistance—Finns against Soviets, Yugoslavs against Germans, Poles and Ukrainians against both—continue to generate headlines today, historical echoes reverberating in the current moment. Small countries in imperial no-man's-lands tend to produce hardy stock.

The allure of defense is also why U.S. presidents during the Cold War tried (and usually failed) to convince Americans that such-and-such band of Washington-



backed rebels in a given civil or proxy war were "freedom fighters" reminiscent of our own colonial revolutionaries. We instinctively understand the injustice that the Founders felt when they were unable to shape the rules under which they lived.

But try as President Ronald Reagan might, American kids of the 1980s were more likely to identify with the Wolverines of *Red Dawn* than the Contras of Nicaragua. I refused to register with the Selective Service out of fear of being drafted to enforce the Reagan Doctrine. But if the Russkies somehow took California? All Molotov cocktails, all the time. In April, pictures of Ukrainian tanks bearing the graffiti "Wolverines" began circulating online.

The built-in sexiness of defense contains lessons far beyond foreign policy. In America, social change often comes after a politician or government goes too heavily on *offense* against individuals wishing merely to stand their ground and assert their rights. Bull Connor's fire hoses and George Wallace's billy clubs helped tilt public opinion toward brave civil rights protesters. Susette Kelo may have lost her little pink house in New London, Connecticut, to profit-seeking eminent domain abusers, but the Supreme Court's refusal to intervene provoked public outrage that led 40 states to pass laws trimming the government's power to forcibly transfer property from one private owner

to another. The Institute for Justice, which represented Kelo, has built an entire practice out of identifying and rallying support for sympathetic victims defending their turf from an aggressive state.

Populists and other government aggrandizers forget this principle at their peril. Democrats generated support when they rallied for gay people's rights to enjoy the same adoption and marriage rules as straights, but they began alienating people by going on offense against bakers and photographers who eschew gay-wedding work. Republicans are right to decry public education training seminars that conflate critical thinking with white supremacy, but they are wrong to write broad legislation restricting what books can be taught and what language can be used in the classroom.

When everyday people suddenly feel the imposition of alien practices, rules, or jargon, they tend to react badly. It is a paradox of our populist political moment that both large political parties are perennially surprised at how unpopular they can get when they go on offense. In a fractious country, we'd all be better off concentrating on individual protection rather than social engineering. Repeat after me: Defense is sexy. 📌

MATT WELCH is editor at large at *Reason*.

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GAY WEDDINGS RETURN TO THE SUPREME COURT

SCOTT SHACKFORD

THE DEBATE OVER whether businesses can be forced to provide goods and services for gay weddings will return to the Supreme Court in an upcoming case.

In February, the Supreme Court agreed to hear *303 Creative v. Elenis*. Lorie Smith owns and runs 303 Creative, a web design firm based in Colorado. Smith planned to design and host sites for weddings, but she has religious objections to same-sex marriage and does not want to be forced to design and host sites for LGBT couples. That puts her at odds with Colorado's Anti-Discrimination Act, which prohibits "places of public accommodation" from discriminating against LGBT customers.

In her petition to the Supreme Court, Smith says she is not refusing to serve LGBT


customers. Rather, she "cannot create websites that promote messages contrary to her faith, such as messages that condone violence or promote sexual immorality, abortion, or same-sex marriage."

Historically, the Supreme Court has limited the government's ability to compel a private business to transmit a message it finds objectionable. A book publisher, T-shirt printer, or social media platform generally cannot be forced to print or host messages that support or oppose any particular cause or policy.

Smith argues that the same logic should apply in her case. But the U.S. Court of Appeals for the 10th Circuit ruled that Colorado could legally require her to design and host sites for gay weddings and prohibit her from putting a message on her website stating that her religious beliefs prevent her from supporting gay marriage with her services.

The Supreme Court previously considered Colorado's anti-discrimination law in *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, a 2018 case involving a Lakewood bakery whose owner, Jack Phillips, refused to bake a wedding cake for a gay couple. In a 7-2 ruling, the Court blocked enforcement of a cease-and-desist order against Phillips. But

rather than decide whether a bakery could be compelled to make a cake for a gay wedding, the Court determined that Colorado's law had not been neutrally applied because the Colorado Civil Rights Commission demonstrated "clear and impermissible hostility" to Phillips' religious views.

If that ruling seemed like a dodge, the Court now appears ready to tangle with the underlying issue in *303 Creative v. Elenis*: "whether applying a public-accommodation law to compel an artist to speak or stay silent violates the Free Speech Clause of the First Amendment." 

SCOTT SHACKFORD is an associate editor at *Reason*.



CIVIL LIBERTIES

DATA SCRAPING IS NOT A CRIME

C.J. CIARAMELLA

SOUTH CAROLINA HAS the highest eviction rate in the country, and the state chapter of the NAACP wanted to find out why. Given the difficulty of tracking down every case by hand, the organization hoped to use a software program called a "scraper" to collect data from South Carolina's online repository of legal filings.

Researchers, academics, and investigative journalists frequently use scrapers to automate this kind of laborious, large-scale project. But the South Carolina Court Administration categorically bans such automated data collection.

Now the American Civil Liberties Union (ACLU) of South Carolina and the South Carolina NAACP are challenging the state's scraping ban in federal court. In a law-

suit they filed in the U.S. District Court for the District of South Carolina in March, the groups argue that the policy unreasonably restricts their First Amendment rights. "This case is about ensuring core First Amendment principles, like the right to access public court filings, are applied in a way that meets our rapidly expanding digital reality," Allen Chaney, the ACLU of South Carolina's legal director, said in a press release.


The NAACP says collecting eviction filings would allow it to research the issue and contact affected tenants to ensure they have meaningful access to the courts. But scraping has numerous other legitimate uses.

In 2018, for example, I wanted to find out how often Texas police used a loophole in the state's public record law to hide information on deaths in custody. So I wrote code to scrape more than 300,000 pages of public-record rulings that the Texas Attorney General's Office had posted on its website. Then I filtered the results for those that cited the specific provision I was investigating.

That would have been impossible without a bot to do the heavy lifting. By scraping data, I identified more than 80 cases in which Texas police withheld information

about deaths in custody from families, lawyers, and journalists.

The South Carolina lawsuit is the latest challenge to state anti-hacking laws and the federal Computer Fraud and Abuse Act (CFAA). The U.S. Court of Appeals for the 9th Circuit issued a landmark ruling in April that scraping publicly available data from websites does not constitute "unauthorized access" under the CFAA. While it's true that scrapers can bog down websites, ethical coders add courtesy delays to their programs that avoid that problem and include identifying information in their HTTP requests to government website administrators.

Banning scrapers is not about preventing unauthorized hacking. It just makes it harder for the public to know what the government is doing. 

C.J. CIARAMELLA is a reporter at *Reason*.

KIDS CAN LEARN WITHOUT INSTRUCTION

LENORE SKENAZY

DON'T SHOW THIS to your kids, because they might cry. But guess how much time children in “traditional societies”—indigenous groups pretty much off the grid—spend in direct instruction, the way American kids do in school?

About 90 seconds a day.

University of Utah anthropologist Karen Leslie Kramer, who has spent 30 years studying Maya villagers in the Yucatan and Pume hunter-gatherers in South America, came up with that estimate. “The opportunities for learning are everywhere,” Kramer says. “It doesn’t have to be in a formal environment. Kids are like sponges—they just absorb what’s around them.”

Kids in traditional societies spend plenty of time playing, away from the adults. But they are also often among the grown-ups, watching what they do, eavesdropping, and helping out.

Then they take that information and use it to build skills such as weaving. “In many traditional societies,” Kramer says, “one of the important things to learn is how to weave, because without plastic, we rely on [woven] containers for so much of what we do.”

How do kids learn weaving techniques? “They go to the trash dump where baskets have been discarded, and they take them apart the way young boys learned about cars or radios,” Kramer says. “And then they figure out how they go back together again. When they’re a little older and weaving with their mothers, their mother might say, ‘You’d be better off doing it like this.’ But in terms of moms sitting down formally and saying, ‘OK, step by step, here is how to make a basket’—I have not observed that.”

David F. Lancy, author of *The Anthropology of Childhood*, says the chores and

skills that traditional-society kids are mastering require a lot of “persistence, practice, and watching others.” But the children “are very much on their own,” he explains. “If they go to an adult and say, ‘I need help with this,’ the adult will send them packing: ‘Go away. I’m busy.’” Any teaching happens on the spur of the moment, when adults see the kid hit a speed bump.

What motivates kids to learn anything at all, with no teachers, grades, or trophies? “Once a kid can walk, they’re out the door and down the street,” Kramer says. They’re drawn by the excitement of being with other kids, especially the ones a little older than them. It is the desire to be like those awesome big kids that motivates the younger ones, the same way you may have been motivated to learn swimming (or swearing) to be like your older sibling. A lot of us in Western, educated, industrialized, rich, and democratic societies have forgotten how much kids learn from other kids, which is every bit as important as learning from an “official” teacher.

“Humans have been incredibly successful as a species,” Kramer says, “which is in some ways remarkable, because we go through these demographic bottlenecks several times in our history when there were very few humans and we could have gone extinct. Other species did.” Ours didn’t, thanks to young people learning so efficiently and constantly.

Our modern culture may be stunting this superpower. In one famous experiment, researchers brought pair after pair of Guatemalan Maya kids, ages 5 to 11, into a room and told Kid 2, “I’m going to teach Kid 1 how to use this toy. Then, when it’s your turn, I’ll show *you* how to do something else.” Researchers were actually studying how much attention Kid 2 paid when not being directly instructed.

The Maya kids paid lots of attention. Most of them learned the lesson that was not being taught to them. But when the experiment was done in California, the kids zoned out until the adult was directly addressing them.

One of the researchers, University of California, Santa Cruz, psychologist Barbara Rogoff, told NPR the Maya kids clearly were alert to the world, paying attention to whatever they could see and learn, “instead of always depending on adults to tell them what to pay attention to.” She added, “It may be the case that [some American] children give up control of their attention when it’s always managed by an adult.”

If we want our kids growing up smart, alert, and adaptable, they need chances to learn the old-fashioned way. That means giving them more free time with other kids of all ages. 📌

LENORE SKENAZY is president of the nonprofit Let Grow and founder of Free-Range Kids.



MEDIEVAL GEOPOLITICS HELP EXPLAIN MODERN RUSSIA AND UKRAINE

CATHY YOUNG

EXPLANATIONS FOR RUSSIA'S 2022 war in Ukraine often go back to 2014, when the Revolution of Dignity replaced Kremlin ally Viktor Yanukovich with a pro-Western government and Vladimir Putin responded by annexing Crimea and sponsoring separatist enclaves in Eastern Ukraine. Others focus on 2005, when the Orange Revolution first brought a Western-oriented leadership to power in Kyiv. Some

analysts look further back to the messy history of Ukrainian nationalism in the 1930s and '40s, including the anti-Soviet fighters who collaborated with the Nazis.

But the history of Russia and Ukraine goes all the way back to the Middle Ages. It raises fascinating questions about the role that different visions of liberty and the state played in their development.

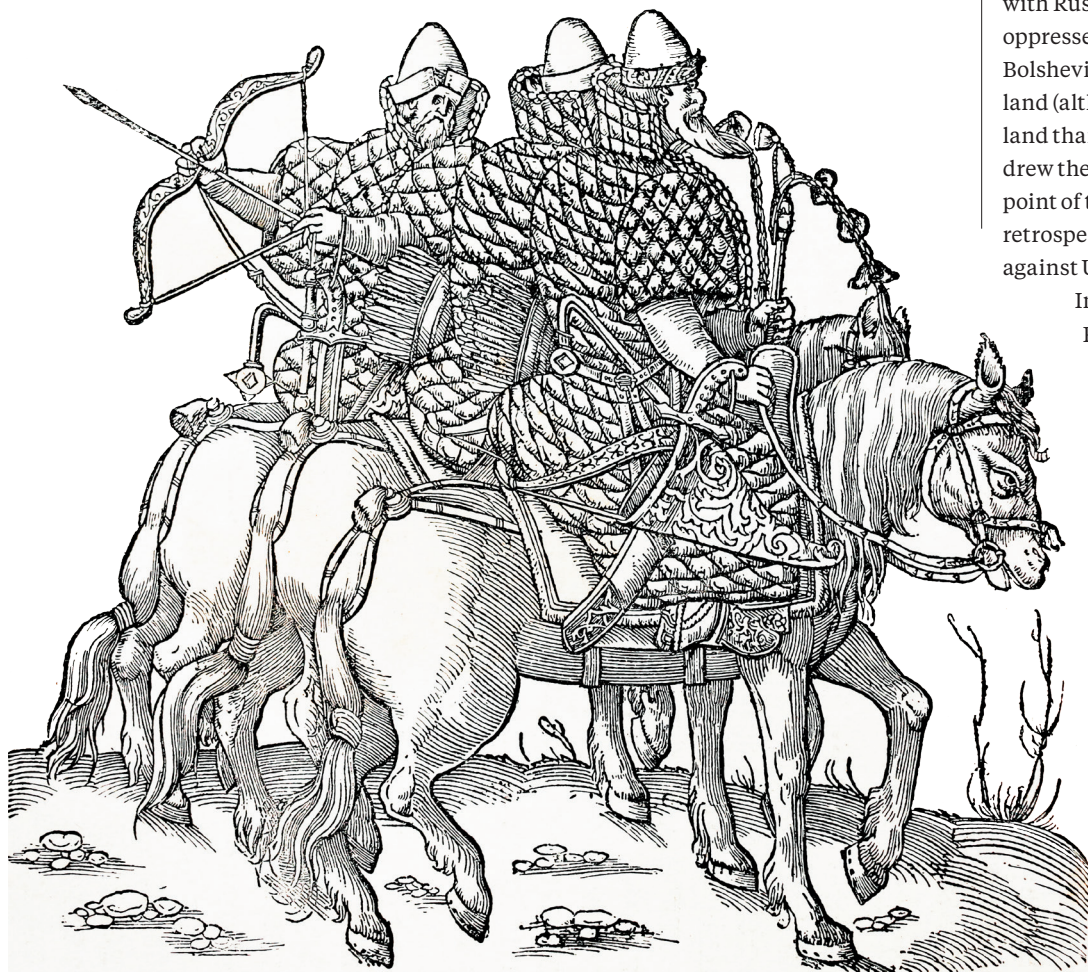
Russian and Ukrainian medieval and early modern history is sufficiently relevant that last summer, Putin produced an essay titled "On the Historical Unity of Russians and Ukrainians," which was posted on the Kremlin website in Russian, Ukrainian, and English. Putin's main thesis was that Russians and Ukrainians are part of the same family, united by language and religion but separated in the 13th century, when the northeastern part of Kievan Rus was conquered by Batu Khan's Golden Horde, while most of its southwest became part of the Grand

Duchy of Lithuania. In later centuries, Putin wrote, the northeastern Russians freed themselves from the Horde's yoke, while their southwestern Orthodox Christian brethren found themselves increasingly subjugated to Polish-Lithuanian Catholic rule, which eventually pushed them to seek the Russian czar's patronage.

After that, in Putin's narrative, everything was basically fine until the czarist empire ended with the Russian Revolution. In 1921, the Soviet Union was born, and Ukraine became one of its republics after a brief period of independence, its territory padded with lands that had previously belonged to Russia. Seventy years later, the Soviet Union broke up, and Ukraine went off on its own, taking rightfully Russian lands with it.

The gist of this supposedly learned treatise, ridiculed by Russian and Ukrainian scholars outside Putin's court, was threefold: 1) Ukrainians can fulfill their national identity only in an alliance with Russia, 2) Ukrainians were never oppressed by the czarist empire or by the Bolsheviks, and 3) Russia was robbed of land (although Ukraine actually lost more land than it gained when the Bolsheviks drew the republic's borders). The real point of the essay seems especially clear in retrospect: to justify Russian aggression against Ukraine.

In a July 2021 discussion on the Russian-language BBC News website, historian Andrei Zubov—who was booted from the Moscow State Institute of International Relations in 2014 after criticizing the annexation of Crimea—agreed that the separation of Golden Horde-occupied eastern Russia and the proto-Ukrainian west was the beginning of the Ukrainians' development as a distinct people with far stronger "Western" values than Russia. (*Ukraine*, which originally meant "borderlands," became a name for that specific region in the 17th century.) Its European imports included university educa-



tion, self-organizing artisans' guilds, and "Magdeburg rights" of self-government for cities and towns.

In a March 2022 essay published by *Novaya Gazeta*, an independent outlet that has since gone on hiatus due to censorship, Moscow State University historian Yuri Pivovarov offered a more extensive analysis of this history. Pivovarov writes that the collapse of Kievan Rus after the Mongol invasion eventually led to the emergence of two major states: the Grand Duchy of Muscovy and the Grand Duchy of Lithuania, whose sovereigns were sometimes styled grand duke of Lithuania and Ruthenia. *Ruthenians*, or *Rusyns*, was a term for the Western populations of Rus, who would later become Ukrainians and Belarussians. These two duchies vied for political and cultural supremacy as the dominant Eastern Slavonic state—essentially, the "real" Rus—from the late 14th century until the late 16th century, when Muscovy won.

The Grand Duchy of Lithuania, Pivovarov says, was in many ways a typical European feudal state, featuring "division of power among aristocratic landowners" and a hierarchy of vassalage with the grand duke as the supreme suzerain. In some ways, it was more "liberal" than most of Western Europe in that era: Instead of a hereditary monarch, it had a *hospodar* (sovereign) chosen by an assembly of nobles. By contrast, the Grand Duchy of Muscovy was highly centralized, with the grand duke—later the czar—not just at the pinnacle of the aristocratic hierarchy but "soaring above it like an earthly god."

With time, the czars' power became even more concentrated, culminating in the 16th century reign of Ivan IV, whose bloody terror against the boyar nobility relied on a special guard—the roughly 6,000-strong *oprichnina*—drawn primarily from the lower orders and given broad license to stamp out "treason." While the *oprichnina* (which Pivovarov sees as replicating Horde rule with a domestic oppressor) was the product of Ivan's paranoia, it also served to equalize all of his subjects as the czar's de facto slaves. Meanwhile, the Grand Duchy of Lithuania, which became part of the Polish-Lithuanian

Commonwealth, moved toward more regional autonomy and more limitations on the powers of the monarchy.

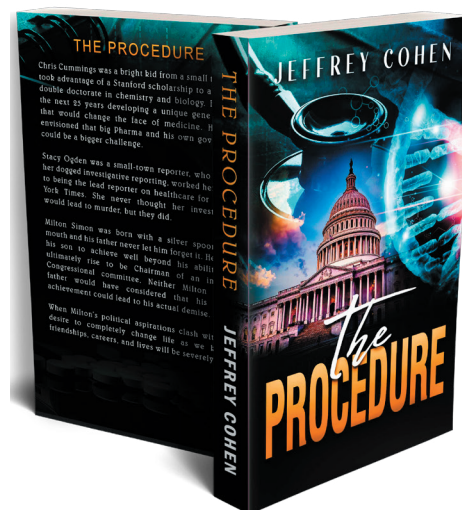
A binary framing of Ukrainian and Russian history as "liberty vs. autocracy/slavery" would be too simplistic. The franchise in the Grand Duchy of Lithuania was limited to nobles. Moscow State University historian Fyodor Gaida, who has defended Putin's treatise, argues that the privileges of townfolk were enjoyed by about one-tenth of the population, while the peasantry on lands that fell to Poland was subjected to a serfdom that was in some ways harsher than Russia's. In the 16th and 17th centuries, for example, enserfed peasants in Russia—but not in Poland—could petition the sovereign about mistreatment by their masters. The Orthodox suffered repression under Polish-Lithuanian Catholic rule, although Pivovarov notes that, from the start of the 17th century, Ukrainians pushed back by creating their own Orthodox institutions: schools and seminaries, charities, hospitals, printing shops, etc.

Eastern Ukraine's unification with Russia is a complicated story. The Cos-

sack warlord who spearheaded it, Bohdan Khmelnytsky, was not so much seeking brotherly union as craftily playing the czar, the king of Poland, and the Ottoman sultan against one another for a better deal. But Pivovarov argues that Ukraine—officially known from the late 18th century on as *Malorossiya* or Little Russia—remained a thorn in the side of the czarist empire because of its freedom-loving culture. This culture likely was not limited to elites: It is notable that, while Catherine the Great enserfed Ukrainian peasants in 1783, subsequent edicts (which did not apply in Russia) severely curbed landowners' ability to sell them.

The events of 2022 can be seen as another chapter in a very long story: Ukraine looking westward and seeking freedom while Russia slides deeper into autocracy. Some predict this conflict could lead to the end of Russia's existence as a unified central state. But even without such a drastic turn, a victory for Ukraine will be, in a sense, a triumph for the Slavic heritage of freedom. 📌

CATHY YOUNG is a contributing editor at *Reason*.



Question:

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Answer:

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OBAMACARE AND SCOTUS, 10 YEARS LATER

PETER SUDERMAN

THE PATIENT PROTECTION and Affordable Care Act of 2010, better known as Obamacare, was designed to patch the insurance gaps between Medicare, Medicaid, and employer-sponsored health care, which is bolstered by a tax carve-out for workplace benefits. Obamacare was barely two years old when it faced its first challenge at the Supreme Court.

A decade after that first challenge, the law remains on the books. But the outcome of that case has shaped both the health law's evolution and its public perception, leaving Americans with a major federal program that even its fiercest advocates say does not live up to its goals.

The justices heard arguments for and against the constitutionality of Obamacare's health insurance mandate, which required every American who did not qualify for an exemption to carry federally approved health insurance. They also considered arguments over the law's mandatory expansion of Medicaid, which penalized noncompliant states with a massive clawback of federal funds.

A year earlier, Judge Roger Vinson of the United States District Court for the Northern District of Florida had struck down the individual mandate and declared that, because it was central to Obamacare, the entire statute should fall. Many observers expected the Supreme Court to likewise rule against Obamacare. They thought the only question was whether the Court would strike down just the mandate or the entire sprawling bill.

As it turned out, the vote was 5–4 to save the mandate. In a strained opinion

that would remain controversial for years, Chief Justice John Roberts wrote that the mandate could not be justified under the Commerce Clause, because the power to regulate interstate commerce does not include the power to compel commercial activity—in this case, the purchase of government-approved medical insurance. But because people who failed to comply with the mandate were subject to an IRS-administered financial penalty, he said, the provision could be upheld as an exercise of Congress' taxing power.

In media appearances making the case for the health care law, President Barack Obama had insisted the mandate was not a tax. But according to the Supreme Court majority, that's exactly what it was—and what made it constitutionally permissible.

At the same time, the Court ruled that the federal government could not withhold all Medicaid funds from states that refused to participate in the program's expansion. That penalty, seven justices agreed, was a “gun to the head” that violated the anti-commandeering principle, which bars Congress from forcing states to participate in federal programs.

The Medicaid expansion thus became purely optional. Initially, red states were especially slow to expand. A decade later, a dozen states, including Georgia, Texas, and Florida, still have not expanded their Medicaid programs in line with Obamacare.

The Court's rulings on the mandate and on Medicaid expansion have inspired additional patches for America's health care system. A 2021 Democratic proposal promoted under the “Build Back Better”

label, for example, would have created an additional layer of federal health coverage for states that have not expanded Medicaid. But that effort was complicated by internal Democratic Party dynamics: As the bill's total price tag was whittled down throughout the year, some Democrats wondered why scarce resources should be used to fund coverage for mostly Republican states that had explicitly rejected it.

Meanwhile, the individual mandate, once the subject of so much controversy, has all but fallen away. Although the rule is still on the books, the GOP-backed Tax Cuts and Jobs Act of 2017 reduced the penalty to zero, rendering the tax meaningless and the mandate unenforceable.

Through all of this, a general air of dissatisfaction with the law has persisted, even among Democrats. The law was passed with the promise that it would make insurance affordable and accessible. Yet when Obama returned to the White House to celebrate the law's 12-year anniversary in April 2022, he remarked upon its failure to fully achieve those goals.

“Even today, some patients still pay too much for their prescriptions,” Obama said. “Some poor Americans are still falling through the cracks....Some working families are still having trouble paying for their coverage.”

Even the law's namesake could not help but acknowledge reality. Patients still were not protected, and care still was not affordable. The patchwork program would need more patches. 📌

PETER SUDERMAN is features editor at *Reason*.

BIDEN CAN'T PIN INFLATION ON PUTIN

ERIC BOEHM

HOURS AFTER THE federal government released data showing that inflation hit a 40-year high in March 2022, President Joe Biden said Russian President Vladimir Putin was responsible for “70 percent of the increase in prices.”

Biden was partly right: Russia’s invasion of Ukraine, which caused much of the world to reduce or stop purchases of Russian oil, contributed to a spike in gasoline prices, which in turn was a major factor in overall inflation in March. But the current bout of inflation—which hit 8.5 percent in March, the worst devaluation of the dollar since the early 1980s—predates Russia’s invasion, and the underlying causes go beyond higher gas prices. If Biden is looking to spread the blame evenly, he should look in the mirror.

The textbook explanation for inflation is that it results from more money chasing the same amount of goods. And there is a lot more money in the economy right

now than there was before the COVID-19 pandemic, thanks to \$800 billion in stimulus payments distributed to nearly all American households. Prior to the March 2021 passage of the \$1.9 trillion American Rescue Plan, which included the largest set of stimulus payments, even liberal economists like Lawrence H. Summers, a veteran of the Clinton and Obama administrations, were publicly sounding the alarm about coming inflation.


Such broad-based welfare “may have contributed to an increase in inflation of about 3 percentage points” by late 2021, according to a recent report from economists at the San Francisco Federal Reserve. They said the infusion could explain why inflation was running higher in the U.S. than in most other countries.

Biden is now poised to dig a deeper hole. In a notice published on March 18, the Department of Labor said it would begin the process of changing how “prevailing wages” are determined for contractors on infrastructure projects. The change, which seeks to undo a Reagan-era policy aimed at combating inflation in the early 1980s, would affect an estimated 94,000 contractors, who are likely to see average pay increases of \$3.65 per hour.

Dan Bosch, director of regulatory policy for the

If Biden is looking to spread the blame for inflation evenly, he should look in the mirror.

American Action Forum, a center-right think tank, thinks changes to the prevailing-wage rules are “ill-timed.” The resulting increase in labor costs, he says, “will contribute to higher inflation and reduce the number of infrastructure projects that can be pursued.”

It wouldn’t be the first time the Biden administration has ignored such warnings. But the president’s labor union allies no doubt will welcome the prospect of higher pay for the same work. 

ERIC BOEHM is a reporter at *Reason*.

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DRUGS

LEGALIZING POT REQUIRES GOP SUPPORT

JACOB SULLUM

WHEN LEGISLATORS WHO oppose federal marijuana prohibition vote against your legalization bill, you probably are doing something wrong. That is what happened in April, when the House of Representatives approved the Marijuana Opportunity Reinvestment and Expungement (MORE) Act.

The 220 ayes included 217 Democrats but only three Republicans, two fewer than voted for the MORE Act in 2020. That tiny tally suggests that Democrats are not really interested in building the bipartisan coalition that

would be necessary to resolve the conflict between state and federal marijuana laws.

Even if Senate Democrats unanimously supported a legalization bill, they would still need help from 10 Republicans to overcome a filibuster. But both the MORE Act and the legalization bill that Senate Majority Leader Chuck Schumer (D-N.Y.) planned to introduce by August include unnecessarily complicated and contentious provisions.

A simpler approach could help attract GOP votes. The Respect State Marijuana Laws Act of 2017, sponsored by then-Rep. Dana Rohrabacher (R-Calif.), consisted of a single sentence that said the federal marijuana ban would no longer apply to state-authorized conduct. Its 46 co-sponsors included 14 Republicans—11 more than voted for the MORE Act this year.

The Common Sense Cannabis Reform Act, which Rep. Dave Joyce (R-Ohio) introduced in May 2021, is 14 pages long. So far it has just eight co-sponsors, including four Republicans, but that still means it has more GOP support than Democrats managed to attract for the 92-page MORE Act, which includes new taxes, regulations, and spending programs.

Rep. Thomas Massie (R-Ky.) thinks Congress never should have banned mari-

juana, because it had no constitutional authority to do so. He nevertheless voted against the MORE Act, objecting to the “new marijuana crimes” its tax and regulatory provisions would create, with each violation punishable by up to five years in prison and a \$10,000 fine.

Schumer’s bill seems even less likely to lure Republicans. The preliminary version, which runs 163 pages, would levy a 25 percent federal excise tax on top of state and local taxes, impose picayune federal regulations, and create the sort of “social equity” programs that gave pause even to Rep. Matt Gaetz (R-Fla.), the MORE Act’s lone Republican co-sponsor.

Last year, 106 House Republicans voted to protect financial institutions that serve state-licensed marijuana businesses from federal prosecution, forfeiture, and regulatory penalties. That bill would already be law if Schumer had not blocked it in the Senate, insisting that his own legislation take priority. Instead of building on Republican support for marijuana federalism, Democrats seem determined to alienate potential allies. **T**

Senior Editor JACOB SULLUM is the author of *Saying Yes: In Defense of Drug Use* (Tarcher/Penguin).



REGULATION

L.A.’S ETERNAL EVICTION MORATORIUM

CHRISTIAN BRITSCHGI

BY THIS SPRING, nearly all the eviction moratoriums imposed during the COVID-19 pandemic had ended, either because courts blocked them or because legislators repealed them or allowed them to expire. One conspicuous exception was Los Angeles, where tenants were still protected from eviction by the city’s ongoing state of emergency.

L.A.’s moratorium, one of the strictest and most open-ended such policies in the U.S., is a major headache for landlords. David Greenhut is an owner of eight rent-stabilized properties in Los Angeles, totaling 221 units. As of late March, Greenhut says, he had 40 tenants who were not paying rent. He also complains that he is not allowed to evict tenants who blare music or who won’t allow pest control into their homes.

The city’s moratorium bars eviction for nonpayment or nuisances, provided either is related to COVID-19. It allows those tenants to self-certify that they have been affected by the pandemic. Landlords therefore have few means of removing people who game the system.

“If there is fraud, there’s nothing [the landlord] can do,” says Greenhut, who estimates that he is owed about \$700,000 in back rent. Rising operating costs and the city’s rent freeze for rent-stabilized units—another feature of the eviction moratorium—have forced Greenhut to take out loans to keep his business afloat.

The association representing L.A. landlords has sued the city over its eviction moratorium, including the provision that says a tenant’s unverified claims are enough to qual-

ify for protection. Last year, the U.S. Supreme Court ruled that a similar provision in New York’s eviction moratorium violated the right to due process. But even if the courts provide relief from L.A.’s eviction moratorium, landlords have already suffered two years of financial damage.

In the early days of COVID-19, moratoriums were pitched as necessary to allow unemployed people to safely shelter in place. The bans then became a time-buying measure that would allow federally funded rent relief to reach renters in need. Now that the pandemic is fading, job openings are hitting record levels, and much of the available rent relief has been spent, L.A.’s eviction moratorium seems like pure regulatory inertia.

That is to be expected. Every temporary measure creates beneficiaries who have an incentive to fight for its extension even when the original justifications for it no longer apply. Politicians, meanwhile, don’t want to be blamed for the sudden disappearance of a benefit to which people have become accustomed. L.A. politicians jumped on a tiger, and now they don’t know how to get down. **T**

CHRISTIAN BRITSCHGI is an associate editor at *Reason*.

CHRISTOPHER ALEXANDER'S UTOPIAN BLUEPRINT

JESSE WALKER

IMAGINE A FEDERATION of independent regions. Each of its cities is a mosaic of distinctive, self-governing neighborhoods, where “people can choose the kind of subculture they wish to live in, and can still experience many ways of life different from their own.” Homes and workplaces sit side by side, and those workplaces are a mix of owner-operated businesses and self-managed workshops. Bureaucracy is minimal, and services are administered in small offices without red tape.

Children roam the city freely, and the playgrounds are filled with raw materials for kids to build with. Instead of compulsory schooling, there are voucher-funded “networks of learning”: freelance instructors, shopfront schools, apprenticeships, museums. Instead of conventional universities, there are scholarly marketplaces where anyone can offer classes to willing customers. The most important mode of public transportation is a jitney-style fleet of mini-buses. One part of town is a permanent carnival. There are public bandstands, so people can dance in the street.

It is one of the least sterile, most appealing utopian blueprints I have read—tucked away, improbably, in a book about architecture. The book is *A Pattern Language*, published in 1977. Six names appear on its cover, but the text is most closely associated with the first author listed: Christopher Alexander, who died in March at 85.

One thing that makes this vision so appealing is that it's less interested in telling people how to live than in maximizing their ability to live the lives they want. But it's still a blueprint, and at times it can't help feeling prescriptive.

WHILE ALEXANDER'S THINKING evolved over the course of his life, he consistently



believed that good design principles are encoded in the world and waiting to be discovered. These universal patterns, he stressed, are broad principles, not rigid instructions: ideas that you can use “a million times over, without ever doing it the same way twice.”

A Pattern Language lists 253 of them. It begins at the most macro level, with those independent regions, then gradually narrows its way through ever-smaller social institutions before finally discussing individual buildings. By then, the utopian speculations have given way to practical advice on shaping a comfortable living space.

Much of this advice is great. Who could deny that “young children seek out cave-like spaces to get into and under,” and that a home with kids should accommodate that? Or that “cupboards that are too deep waste valuable space, and it always seems that what you want is behind something else”? (Alexander’s calls for a participatory construction process are similarly attentive to human-scale touches. His 1985 book *The Production of Houses* recommends a “barrel of beer at the end of every operation.”)

But then there’s pattern number 138: “Sleeping to the East.”

Don’t want the sun to wake you? You’re not alone: “This is one of the patterns people most often disagree with,” wrote Alexander and company. “However, we believe they are mistaken.” A healthy sleep cycle, they tell us, demands a solar waking.

Alexander’s books do not *usually* take a we-know-best tone. Their general spirit is anarchistic: In 1983, *Nomos* magazine even reprinted part of *A Pattern Language*

under the headline “Libertarian Architecture.” As the Danish designer Per Galle once said, Alexander aimed to give nonarchitects “control over their physical environments (apparently leaving little or nothing for the professionals to do).” But if you’re sensitive to sunlight or fond of sleeping late on weekends, this insistence on eastern exposure will sound awfully imperious.

The social institutions in the book sometimes veer in that direction too, with the authors offering ideas about enacting their patterns through the law. Sometimes that just means striking down existing rules or building basic infrastructure in a way that facilitates free action. But other times, *A Pattern Language* issues commands. Do not merely allow city land and farmland to interlock; make sure those agricultural strips are only a mile wide. Don’t just avoid parking minimums; impose a parking maximum. Don’t let people live in buildings more than four stories tall. Suddenly, the man searching for Platonic forms is barking orders like a Platonic government.

Alexander isn’t the first thinker to get caught between the ideal of a grand system and the ideal of a spontaneous order. Fortunately, we don’t have to buy the whole blueprint. Give me those bandstands and networks of learning. But on Saturday morning, let me recline in a fifth-floor bedroom facing west. 📍

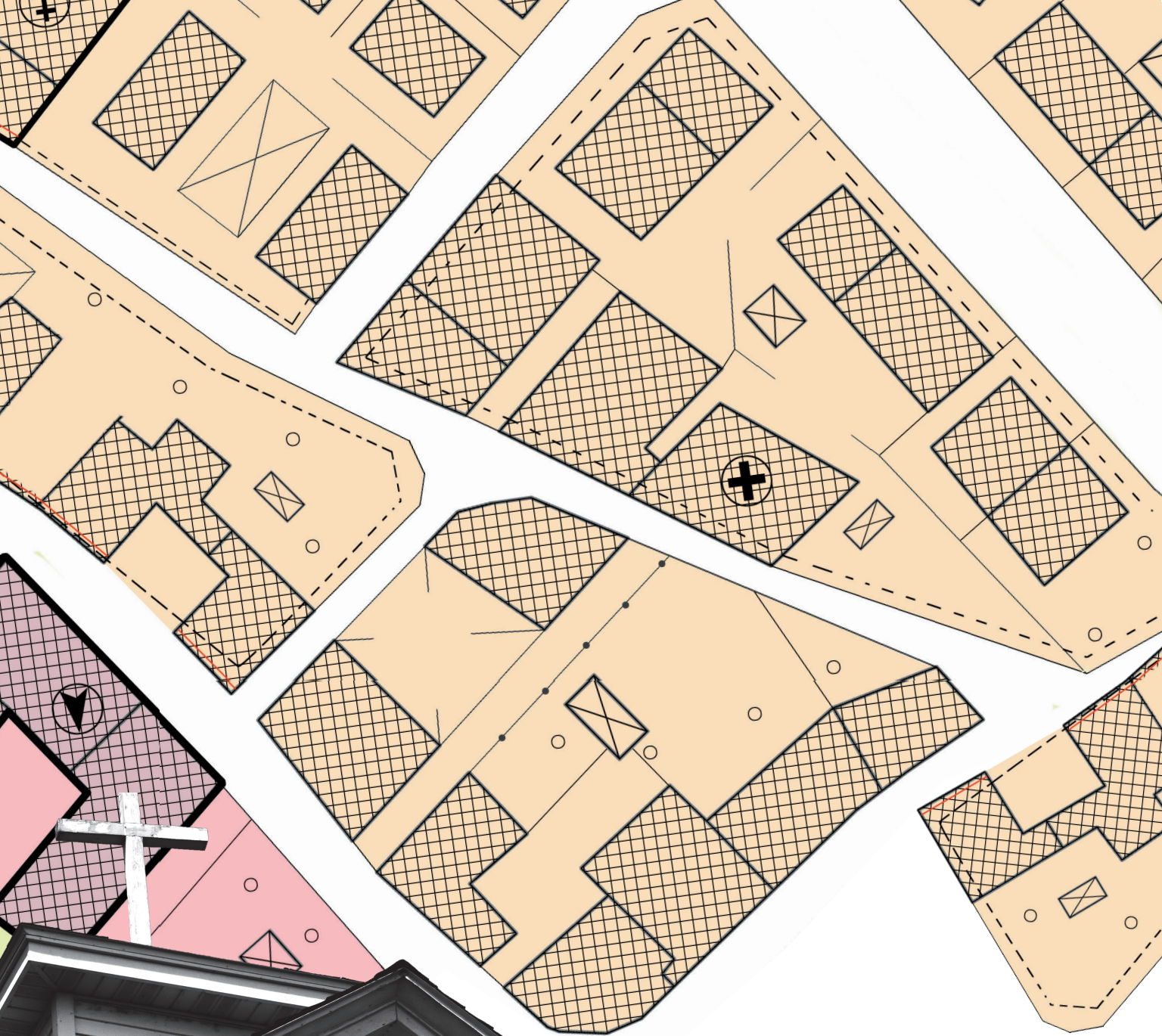
Books Editor JESSE WALKER is the author, most recently, of *The United States of Paranoia* (HarperCollins).

Zoning vs. the Good Samaritan

HOW LABYRINTHINE ZONING
RULES RESTRICTED HOMELESS
SHELTERS DURING THE PANDEMIC

CHRISTIAN BRITSCHGI





WHEN INTERFAITH SANCTUARY purchased an old Salvation Army building on State Street near downtown Boise, Idaho, in early 2021, it seemed like a dream come true. Everything about the property made it a perfect fit for the nonprofit's new emergency homeless shelter.

The only thing the organization needed to turn that dream into a reality was a conditional use permit from the city. That required talking to the neighbors. And that proved to be a problem.

The visceral opposition of nearby residents to Interfaith Sanctuary's shelter plans turned what should have been a permitting process of a few months into a bitter conflict that stretched out for over a year and put the entire project in jeopardy.

“We are stuck,” Jodi Peterson-Stigers, the executive director of Interfaith Sanctuary, told *Reason* in February. “All of these hopes and dreams are written. The architects have designed the whole thing. We have a contractor. We have complete estimates. We have a security team. We have everything we need to move forward except for the conditional use permit.”

The loss of the new shelter building would be a real blow to Interfaith Sanctuary and the people it serves.

Even before COVID-19, the organization had been bumping up against the limits of what it could do with its existing cramped emergency shelter. The sudden appearance of a deadly infectious respiratory virus didn’t help the situation.

“We use every nook and cranny and this pandemic has made it very difficult,” says Peterson-Stigers. The shelter had to slash its capacity from 164 people to 140 just to allow some modicum of social distancing.

A temporary influx of federal homeless funding, however, allowed the heretofore privately funded Interfaith Sanctuary to house those displaced from the shelter at a rented out Red Lion hotel. Soon enough, it had placed over 100 people there.

Being able to give people their own rooms where they could stay 24/7 was a huge blessing, says Peterson-Stigers. The range of health care Interfaith Sanctuary could provide to ailing, elderly clients expanded dramatically. Guests weren’t having to roam the streets all day. Parents didn’t have to raise their kids in a crowded, dormlike setting.

The improvements she saw in people’s health and well-being sent Peterson-Stigers looking for a new, larger shelter location that could support the same number of people and level of care after the outfit’s temporary federal funding dried up. In early 2021, Interfaith Sanctuary purchased the Salvation Army building and surrounding two-acre lot for \$2.4 million. It was a bargain then. The city’s white-hot real estate market makes it a practical steal now.

The building itself was three times as large as its current shelter, meaning the organization would be able to give families and hospice patients their own rooms. It was close to downtown, which meant it was close to the people it serves and the services they need.

Most importantly, it was one of the few available properties in the city whose zoning allowed for an emergency shelter. All the nonprofit needed was that conditional use permit, and then Interfaith Sanctuary could get to work on the remodeling.

In Boise, and most of the rest of the country, obtaining a conditional use permit requires applicants to notify nearby property owners of their plans, go through a public hearing, and secure the approval of the local zoning board. The process gives the neighbors a lot of opportunities to complain, which they did in Interfaith Sanctuary’s case.

Peterson-Stigers says the initial neighborhood meeting on

the permit application was a disaster. People said that the shelter would bring drug users and criminals to the area. Parks would become overrun. Kids wouldn’t be able to play outside.

Interfaith Sanctuary agreed to more rounds of public engagement. These eventually morphed into a city-sponsored task force intended to study the appropriateness of the organization’s planned shelter site.

In January 2022, neighborhood opponents managed to derail the project entirely by convincing Boise’s Planning and Zoning Commission to deny Interfaith Sanctuary’s permit application. The organization was forced to appeal to the city council. After a marathon set of hearings over multiple days in late April, the council voted 4–2 to approve the shelter. That was a victory for Interfaith Sanctuary. But it doesn’t give the organization back the time it spent waiting for permission to perform its charitable work.

The pandemic has posed a special challenge for homeless shelters, the people who run them, and the people who stay there. Crowded indoor shelters seemed almost designed to increase COVID-19 transmission. Many shelter residents chose to live on the streets instead.

In response, many of America’s churches and charitable organizations looked for safer ways to provide housing. Some of these efforts were aided by emergency pandemic funding from the federal and state governments. Yet even when one arm of the state was lending a helping hand, the other was bringing down the hammer on private parties trying to help the most vulnerable.

No comprehensive counts exist of how many homeless people died during the pandemic or how many died of COVID-19. Cities that do track these figures saw homeless deaths increase anywhere from 50 percent to 300 percent.

As the pandemic swept across the country, churches and other social organizations wanted to move quickly to help people find shelter. But labyrinthine rules around land use and building permits made doing so incredibly difficult, and in some cases effectively impossible. Zoning fights and permitting delays are often downplayed as unimportant burdens on well-heeled developers. But this was something else entirely: a direct threat to the poor and vulnerable.

MISSING THE POINT IN TIME

IN EARLY APRIL 2020, one of San Francisco’s first serious COVID-19 outbreaks swept through the city’s largest homeless shelter, Multi-Service Center South. Of the 150 people staying or working at the shelter at the time, 70 tested positive for the virus.

“Unfortunately, we have a situation that we knew could potentially happen in one of our congregate living settings,” said Democratic Mayor London Breed at an April 10 press con-

ference. But, she argued, “we know it could have been worse.”

Multi-Service Center South had a maximum pre-pandemic capacity of 340 people. In the weeks prior, the city had already been in the process of moving residents out of the shelter and into private hotel rooms where the virus would have less of a chance of spreading. Other residents, per the *San Francisco Chronicle*'s reporting, took matters into their own hands and moved out onto the streets.

Activists criticized Breed for moving too slowly to get people out of the city's shelters. Yet San Francisco's experience was fairly typical.

At the very beginning of the pandemic, there were few tools available for preventing the transmission of COVID-19. Federal ineptitude meant masks and tests were in short supply. Vaccines were still on the drawing board.

That meant the country relied on social distancing to stop the spread—a challenge anywhere, but especially in homeless shelters that typically packed many people into congregate, dormlike facilities.

Public health regulations gave shelters little choice. Complying with the Centers for Disease Control and Prevention's social distancing guidance meant some shelters had to reduce their capacity by as much as 50 percent. Others closed completely. The result was a sudden “decompression” of the existing, pre-pandemic shelter system.

In January 2020, 82.6 percent of traditional facility-based shelter beds nationwide were occupied. By January 2021, at the height of the pandemic, the occupancy rate had dropped to 71.4 percent. Where did all those people go?

One answer is that they simply moved out onto the street. “Clients regularly reported that they preferred to remain unsheltered rather than congregating indoors due to a fear of contracting the virus,” says the Department of Housing and Urban Development (HUD) in its 2021 Annual Homeless Assessment Report.

We'll never know how many people lost shelter altogether. HUD, citing health concerns, waived the requirement that recipients of federal homelessness funding perform “Point in Time” counts of the number of unsheltered people in their jurisdiction.

Another answer is that they moved into hotels and motels, often funded through government aid. The March 2020 \$2.2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act included a massive \$5 billion bump to federal homelessness spending. The bulk of that, \$4 billion, was poured into HUD's preexisting emergency solutions grants program.

The Federal Emergency Management Agency also issued guidance allowing its “public assistance” grants to be spent on providing “non-congregate shelter.”

Some of the state and local organizations that received these funds devoted a good chunk of them to renting out and staffing up motel and hotel rooms. The near-total collapse in business and tourist travel had left the hotels largely vacant,

Zoning fights and permitting delays are often downplayed as unimportant burdens on developers. But this was something else entirely: a direct threat to the poor and vulnerable.

and individual rooms allowed people to isolate.

By late June 2020, California's Project Roomkey—the first large-scale effort to turn hotels into housing for the homeless—had placed over 10,000 people in hotel rooms.

Using individual rooms also relieved some regulatory red tape. Peterson-Stigers said that the private settings allowed Interfaith Sanctuary to provide its clients at the Red Lion hotel with hospice care—something the group couldn't do in its congregate shelter because of federal medical privacy regulations.

Other guests benefited from not being outside and exposed to the elements all day. Instead, they had a safe and secure place to store their things, and a fixed address to travel to and from appointments. Parents had a much easier time enforcing rules or putting the baby down for a nap.

Once again, data on how many hotel rooms were used as homeless shelter space are spotty. HUD reports 33,259 of these voucher beds were in existence in January 2021, more than double the number that existed in 2020. But not every jurisdiction included its hotel beds in the count of available shelter beds it reported to HUD.

These voucher beds ended up housing 11.3 percent of sheltered homeless people in 2021. But they didn't absorb everybody coming out of a decompressing shelter system. Another 6.5 percent were housed in “other beds” located in churches and other facilities not traditionally used as shelters—a 15 percent increase from 2020, according to HUD.

It's likely a lot more people would have been sheltered in these nontraditional arrangements had it not been for the obscene amounts of red tape placed on churches and charitable organizations trying to give someone a warm bed for the night.

NO GOOD DEED

THE PRIMARY REASON Boise's Interfaith Sanctuary purchased its State Street property was the potential it offered the organization to scale up its charitable work. The larger building and surrounding lot would allow it to provide more services to more people.

But that scale would become a focal point of neighborhood opposition. As the approval process dragged on, opponents of Interfaith Sanctuary's new location suggested an alternative. Instead of one big shelter, why not scatter several smaller ones around the city? That way, Interfaith Sanctuary could provide more focused care to shelter residents while reducing the impacts on the neighborhoods the shelters were in.

This alternative plan turned out to be impossible to implement. In response to the controversy its shelter plans had kicked off, Interfaith Sanctuary had agreed to a request from Boise Mayor Lauren McLean to delay its permit application so that a "Better Shelter" task force—made up of city staff, neighborhood representatives, and homeless advocates—could be assembled to vet alternatives.

At one meeting, task force facilitator Jen Schneider, a Boise State University professor of public policy, presented a spreadsheet of 56 possible alternative shelter sites identified by a city-commissioned real estate survey.

Schneider noted that only four of Boise's 24 zoning categories, covering about 7 percent of the city's zoned land, allowed for shelters. That meant only 17 of the 56 potential shelter sites the city's survey had turned up were viable.

Only five of those 17 properties were the right size to host a shelter, and three of those were already in the process of being bought by other parties. That left two properties available: a vacant lot behind a Walmart and another empty parcel owned by the county highway agency that wasn't for sale.

Both were inferior to the property that Interfaith Sanctuary already owned. To acquire them, the organization would also have had to buy at the top of Boise's booming post-pandemic real estate market. That's a tall order for a privately funded nonprofit.

Boise's city limits encompass 85 square miles. That there were only three feasible properties that could play host to a homeless shelter underscores just how difficult it is for churches and nonprofit providers even to find land where their charitable work is allowed.

A sudden, massive influx of federal funding and the near-overnight collapse of business and tourism travel made the housing of homeless people in hotels during the pandemic possible. This still wouldn't have been practical without equally rapid zoning reforms.

The National Alliance to End Homelessness praises states such as California and Oregon for running model hotel-to-shelter conversion programs. The success of both programs, the organization notes, required legislation exempting these con-

versions from normal zoning regulations. Private parties trying to serve the homeless outside of state and federally funded or administered programs often had to contend with the full realm of land use regulations.

Making matters worse is the fact that homeless services often don't fit neatly into the uses permitted by a city's zoning codes. They aren't quite commercial activities. They're not residential either. Churches and charitable nonprofits were often blindsided by zoning officials' determination that their shelter or soup kitchen wasn't allowed to operate on their property.

Take the case of Free Methodist Church in Gloversville, New York. In the months before the pandemic, the church had worked to convert a former YMCA building it owned in the city's downtown into a cold weather shelter.

In February 2020, however, a city official informed Free Methodist Pastor Rich Wilkinson that the YMCA building's commercial zoning prevented it from being used as a shelter.

The trouble was that Gloversville's code was silent on whether cold weather shelters were allowed in commercial zones. This kicked off a two-year back-and-forth between Wilkinson and the city.

Wilkinson argued that a shelter was similar enough to commercial zone-compliant rooming houses and hotels that it should be allowed. This argument failed to move officials who voted against issuing his church a permit. They also denied his church's application for a zoning variance.

These delays didn't make Gloversville's weather any warmer. Anyone looking to escape the sub-zero temperatures of an upstate New York winter was forced to migrate to surrounding counties where shelter was available.

"All it is, is a line in the city code that is keeping people from sleeping in the warmth," Wilkinson says. "It's ridiculous to me that anybody would allow people to sleep in the cold when there's a place where they could come inside and get warm."

St. Timothy's Episcopal Church in Brookings, Oregon, faced similar pandemic care hurdles. For decades, the church had provided free meals two days a week alongside other religious congregations in town. When the pandemic hit, those other churches shut down their soup kitchens. Not St. Timothy's. The church's pastor, Bernie Lindley, decided to expand the church's meal service to six days a week to pick up the slack.

The expanded number of days that the church was serving meals and the fact that it was the only soup kitchen left in town soon turned it into something of a gathering place for the area's homeless and indigent. At the city's urging, the church also agreed to host a "safe parking" site where people with nowhere to sleep except their vehicle could legally park overnight. That brought even more people around.

This all boiled over into a conflict with St. Timothy's neighbors. In April 2021, 30 Brookings residents sent a letter asking

the city to “reconsider allowing vagrants to continue to live and congregate at St. Timothy’s Church.”

In response to that petition, city staff did some research. They discovered that soup kitchens—by virtue of being regulated by state health authorities, like commercial restaurants—had actually been prohibited in the city’s residential zones all along. And all churches in Brookings, including St. Timothy’s, were in residential zones.

In October 2021, the Brookings City Council passed a new ordinance allowing organizations to provide “benevolent meal service” two times a week in residential areas, provided they get a conditional use permit.

On paper, this ordinance legalized soup kitchens that were otherwise prohibited by the city’s zoning code. In practice, it meant that the Brookings City Council was imposing new requirements on the church’s heretofore unregulated meal services.

“What we’re doing is what churches do. Churches feed people,” Wilkinson told *Reason* in November 2021. “To tell a church that they have to be limited in how they live into the Gospel of Jesus Christ is a violation of our First Amendment right to freely practice our religion.”

In January 2022, the Episcopal Diocese of Oregon—with the help of the Oregon Justice Resource Center and the law firm Stoel Rives—sued the city of Brookings. The pending lawsuit argues that the city’s ordinance violates the religious liberty protections of the U.S. Constitution’s First Amendment and the federal Religious Land Use and Institutionalized Persons Act. Wilkinson’s Free Methodist Church also has an active lawsuit against Gloversville.

Both are examples of churches whose charitable activities were made illegal on technical grounds. Following the letter of the law didn’t stop other shelter operators from being dragged through hell.

JUST FOUR PARKING SPACES

LONG BEFORE THE pandemic-caused exodus from the shelter system, the Silicon Valley community of Palo Alto, California, had a large, obvious unsheltered homeless population.

“In a place like Palo Alto, where condos start at \$1.5 million, there’s literally someone who’s living out of their car or on the street on every single block, in every single neighborhood,” says Chris Kan, a genetics researcher and Palo Alto resident. “It’s a problem everyone in the area knows and everybody wants to do something about.”

For that reason, Kan’s Unitarian Universalist Church of Palo Alto (UUCPA) and other religious organizations lobbied the city to pass a “safe parking” ordinance that would permit willing churches to devote their parking spaces to overnight stays by vehicles and their owners.

The discretionary processes of governments heavily geared toward public input often mean that homeless shelters receive more de facto scrutiny than would a similar use.

In January 2020, the city council unanimously approved an 18-month pilot program letting churches set aside up to four safe parking spaces. The idea was to start off slow. If things worked out well, the city could consider allowing nonreligious institutions to host safe parking sites, and potentially permit more than four cars as well.

The program passed just in time for the pandemic. But just because these safe parking sites were legal didn’t make them easy to set up.

Unlike neighboring cities with safe parking programs, Palo Alto’s ordinance required churches to get a special permit to open one. City officials had the power to reject a permit application if they thought a parking site would adversely affect surrounding residents’ health, safety, and welfare. An approved application could also be appealed to the city council, which is exactly what happened to Kan’s application.

He says his church was ready to file an application at the beginning of 2020. The pandemic disrupted those plans. City offices, like most workplaces, were closed down or went remote. City staff suddenly had responsibility for administering a lot of new emergency programs.

This delayed things for months. Eventually in February 2021, the UUCPA had its application accepted. In May, it received provisional approval from Palo Alto’s planning director.

Instead of starting the operation, however, that approval just led to more delays. In June, the low-income senior living facility next door—ironically built on land donated by the UUCPA in the 1960s—appealed the permit.

That kicked off more rounds of public engagement, which got heated quickly. Kan says some of the opposition they faced

was from people with a misunderstanding of how the site would be managed and who would be allowed to stay there. Those folks, he says, proved reachable. Others were flatly opposed.

“Palo Alto, on a ‘not in my backyard’ scale, is probably a nine out of 10,” he says. “There was honestly just a group that, come hell or high water, weren’t going to agree to it no matter what we did. That was just a political reality.”

With the help of groups like the NAACP and the League of Women Voters, the UUCPA was able to rally support and get its application approved by the city council in October 2021. Its safe parking site is operational today. Kan says it’s mostly been at capacity since it started.

That was a happy ending for the UUCPA and the people the group is now serving. But it came almost two years after the safe parking program was first approved.

“This is literally four passenger cars,” says an exasperated Kan. “It’s four people in four cars that’s in the back of a parking lot that’s being professionally monitored by social workers and police.”

The sheer amount of process that cities layer onto the provision of homeless services is certainly burdensome. It’s often unreasonable. It can even be unconstitutional, says Diana Simpson, an attorney with the Institute for Justice.

She references the U.S. Supreme Court’s 1985 decision in *City of Cleburne, Texas v. Cleburne Living Center, Inc.*, which struck down a local requirement that hospitals serving the “feeble-minded” obtain a special permit.

Regulations have to be a rational means of pursuing a legitimate governmental interest. And in *Cleburne*, the Supreme Court decided that requiring special permits for a hospital just because it was serving the mentally ill wasn’t rational. Rather, the Court determined that the permit requirement at issue was motivated by prejudice against the disabled, and, therefore, was a violation of the Equal Protection Clause of the 14th Amendment.

“Land use decisions have to be about the use, not the people,” explains Simpson.

Theoretically, the *Cleburne* decision should provide significant protections to people trying to set up facilities servicing the homeless. But time and again, the discretionary processes of governments heavily geared toward public input often mean that those homeless shelters receive more de facto scrutiny than would a similar use, such as a hotel.

“The problem with this conditional use requirement, and this repeats all over the place, is neighbors don’t want it. The town gets shy and says you can go somewhere else, but there’s nowhere else to go,” says Simpson.

The Institute for Justice has sued on behalf of several homeless shelters that have been denied conditional use permits—recently winning one case in North Wilkesboro, North Carolina.

Despite Supreme Court precedent, these lawsuits are typically an uphill battle. Lower courts give extreme deference to a government’s rationale for its regulations. Simpson says that the courts have also generally treated *Cleburne* as a unique one-off decision that’s not neatly applicable to similar cases.

Shelter providers themselves are sometimes loath to sue—either for lack of resources or a fear of souring their relationship with a local government they have to interact with on a daily basis. The result is that the rights of homeless service providers, and the people they serve, are often ignored.

NOWHERE TO GO

ON THE MOST immediate level, the months or years churches spend getting permits or securing a scrap of land where their charitable work is legal is time they’re not spending on their missions.

The people they would have fed or sheltered during that time have to look for help elsewhere or go without it. The time and resources they do sink into getting permission comes at the expense of productive work they could be doing.

The opportunity costs of that lost time were particularly acute during the pandemic when so many people were in need.

“We could have helped elderly folks who were isolated because of the pandemic,” says Kan. He estimates the UUCPA spent a thousand volunteer hours just getting its safe parking permit. “We could have worked with kids who didn’t have the best internet. There were a lot of programs we could have put that energy into.”

Excessive regulation also suppresses organizations’ willingness to provide shelter and other services to the homeless in the first place. Palo Alto’s safe parking ordinance was backed by a number of city churches interested in participating in such a program. Most looked at what the UUCPA went through and said “heck no.”

The chilling effects of discretionary, public input-heavy approval processes also come with a personal cost. People just trying to do good have to face a lot of vitriol and opposition from their community.

“There’s no escaping this conversation in this town,” says Interfaith Sanctuary’s Peterson-Stigers. The zoning fight didn’t stop the nonprofit’s day-to-day work. But it did take an emotional toll, transforming efforts to help the needy and the vulnerable into a bureaucratic slog that put the organization at odds with the government and much of the community. “I hate the work that I’m being asked to do right now that feels very political.” 🗨️

CHRISTIAN BRITSCHE is an associate editor at *Reason*.

SACRED STONE OF THE SOUTHWEST IS ON THE BRINK OF EXTINCTION



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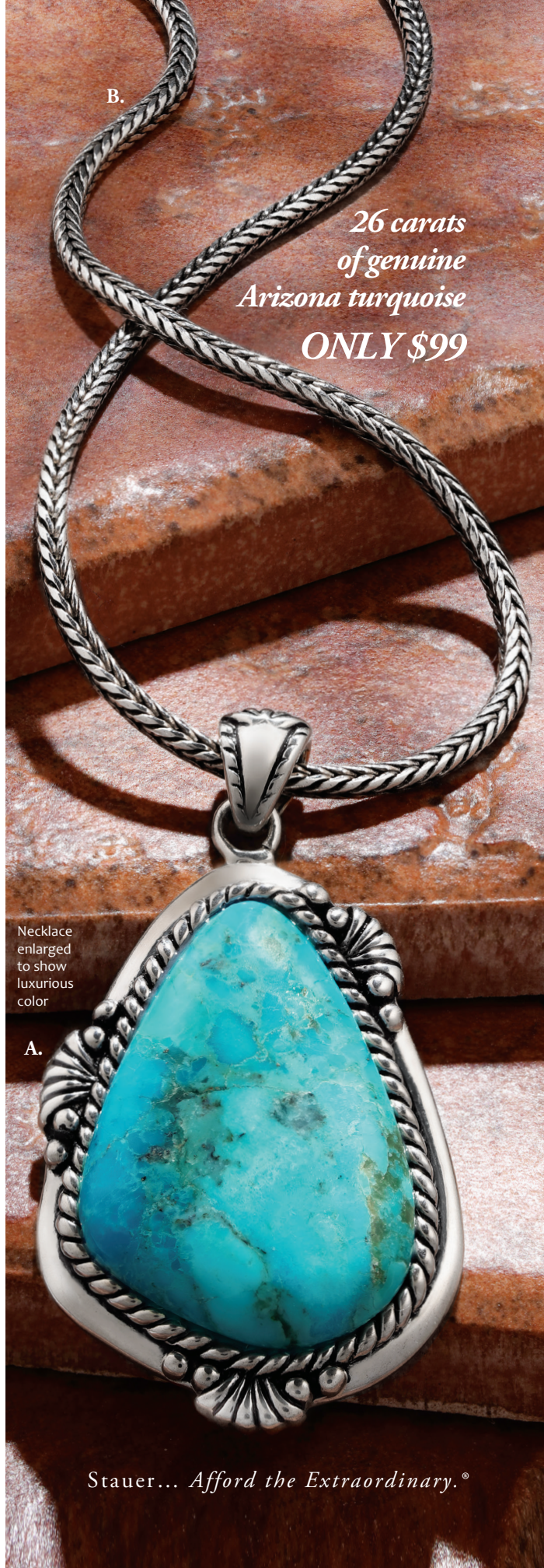
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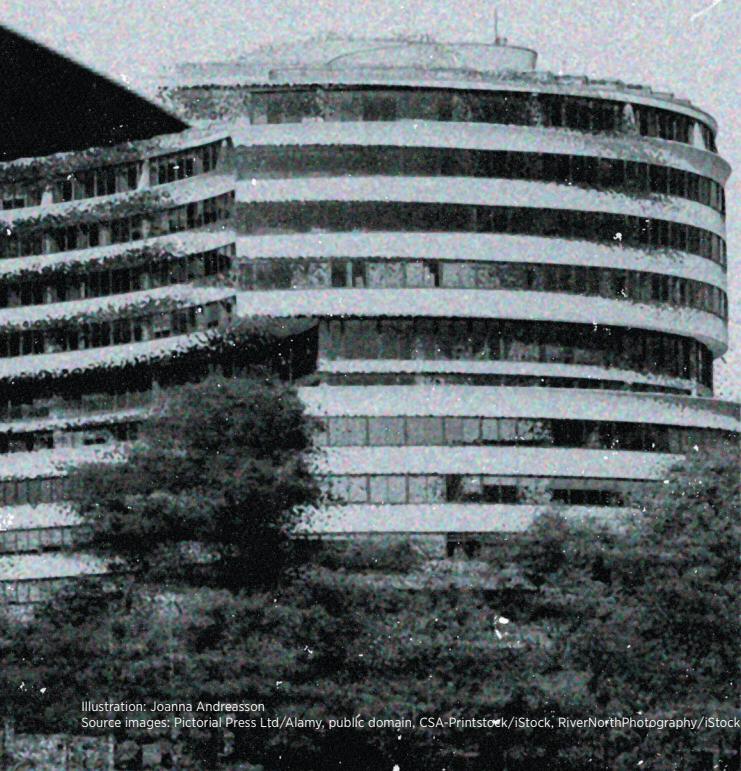
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The Weird World of Watergate



FIFTY YEARS LATER, THE MOTIVE BEHIND THE MOTHER OF ALL MODERN POLITICAL SCANDALS REMAINS CLOUDED.

GLENN GARVIN

ONE STRANGE THING about Watergate, the scandal that led Richard Nixon to resign as president, is that 50 years later we still don't know who ordered the core crime or why.

This was the crime: On June 17, 1972, a squad of five bagmen, all with at least past connections to the CIA, broke into the offices of the Democratic National Committee (DNC) in the Watergate office building. They were supervised by James McCord, director of security for Nixon's reelection committee.

McCord made a series of baffling decisions that made being caught far more likely.

To start, he taped open locks on doors to ease the way for the burglars, who were delayed in breaking in because a staffer was working late to cadge phone calls on the DNC's dime. A passing security guard easily detected the unsubtle subterfuge and re-locked them.

Despite this sign that they'd been made, McCord guided his men into the building anyway, retaping the locks the same way. They were quickly rediscovered the same way, and this time the guard called the cops.

The nation-shaking saga we call Watergate had begun.

The most obvious and common speculation is that the burglars were trying to steal political intelligence from DNC chair Larry O'Brien for the Nixon campaign's benefit. But anyone knowledgeable about how presidential campaigns work would know that any political intelligence worth stealing had already moved to the headquarters of Democratic nominee George McGovern. The party's national headquarters doesn't have much to do at that point except to put on the convention, and O'Brien had already moved to Miami to take charge of that. His office in the Watergate was vacant and ghostly.

Besides, the burglars were caught bugging the telephone not of O'Brien but of a minor party official named Spencer Oliver, a man whose duties kept him out on the road most of the time and away from his phone—a fact that has engendered some fascinatingly strange speculation, as we'll see.

Even Nixon administration figures who ended up doing time in prison due to the shock waves from that peculiar break-in, such as former White House counsel John Dean, former special counsel Chuck Colson, and former Attorney General John N. Mitchell, never seemed to understand themselves the whys behind the scandal that ended up with them disgraced and imprisoned.

Some of his notorious office tape recordings reveal Nixon himself seemingly unsure. Though the recordings show a ruthless president determined to protect himself at any cost, they also demonstrate a frequent bafflement about what his supposed subordinates are doing. "What in hell is this?" Nixon asked Dean, the chief architect of the cover-up, as they discussed the Watergate burglary itself. "What is the matter with these people? Are they crazy?"

Five decades later, despite 30,000 pages of declassified FBI investigative reports, 16,091 pages of Senate hearing transcripts, 740 pages of White House tape transcriptions, and scores of histories of the scandal and memoirs by its participants, we still know more about the cover-up than we do about the break-in.

We do know, thanks to the revelations that followed, a litany of what Mitchell would himself call "White House horrors"—not just the Watergate burglary and wiretapping, but blackmail, arson, forgery, kidnappings, hush money, and internal security

measures that can, without the slightest hyperbole, be called fascist. The swirl of scandals also included events unconnected to the burglary and cover-up, from a coup in Chile to secret bombings in Cambodia.

Too many government-respecting liberals, in overrating both the uniqueness and the finality of these scandals, seemed to believe that by ousting Nixon and his minions, *The Washington Post* and Judge John Sirica and the Senate Watergate committee not only saved democracy but obliterated an entire epoch of war and corruption. But then how do we explain the Iran-Contra scandal that would follow 15 years later? Or the sexual and financial hijinx of the Clintons? Or, if we ever get it sorted out, whatever the hell was going on with the Russians and the Trump campaign or the Democrats and the FBI or maybe both during the past six years?

White House abuses of power didn't start with Watergate either, as Martin Luther King Jr. (targeted for blackmail by President Lyndon B. Johnson's FBI) or the Japanese citizens locked up by President Franklin Delano Roosevelt could tell you. The valorization of Watergate—the crime, the cover-up, and the exposure—warped America's understanding of what we have to fear about government misbehavior and overreach, and led many people to overrate what can be expected from the American media when it comes to curbing power.

This misreading is rooted in a fundamental error: the idea that the government's blunders and abuses are simply the result of evil men occasionally grabbing the levers of power.

WATERGATE'S TORTURED PREHISTORY

THE CLUSTER OF events that would become known as Watergate began in 1969, just a few months into Nixon's presidency, when the White House began secretly bombing North Vietnamese and Viet Cong targets in Cambodia. (How secret? Even most members of the bomber crews didn't know they were inside Cambodian air space.) When word of the bombing leaked to *The New York Times*, National Security Advisor Henry Kissinger furiously demanded an investigation. He asked the FBI to wiretap 18 administration staffers, and the list soon expanded to include journalists as well.

The Nixon administration had a penchant for secrecy—and where there is secrecy, there are leaks. The White House counted more than 20 major leaks in the administration's first four months. Blame it on Xerox: Photocopiers were just becoming standard office equipment in 1969, and both leakers and the reporters who treasured them soon realized that an illicitly copied document was a lot more convincing to editors and readers than a "sources said" story. The Pentagon Papers, soon to become the mother of all leaks, could never have happened without a photocopier.

Although the Pentagon Papers had nothing to do with Nixon—they indicted the foolish and criminal Vietnam policies of his predecessors—Nixon denounced the exposé as “treasonable” and went after the leaker, a former Pentagon and State Department consultant named Daniel Ellsberg. The White House not only employed its standard tactic of wiretapping but went a few hundred steps further, sending a team of burglars who called themselves “plumbers” (their business, after all, was plugging leaks) to break into the Los Angeles office of Ellsberg’s psychiatrist hoping to find evidence of mental problems or behaviors that would permanently discredit him.

Nixon’s pursuit of columnist Jack Anderson, a scandalously successful trafficker in leaks, was even more extreme. Nixon had hated Anderson since at least 1952, when Nixon was running for vice president. The journalist had accused Nixon of being such a grubby little thief that he and his wife Pat had filed false sworn statements just to save a paltry \$50 in California state taxes. It wasn’t true, but no retraction appeared until three weeks after the election.

By the 1970s, Anderson’s column was appearing in more than 1,000 papers. That’s when Anderson landed one of his biggest blows against Nixon, reporting (correctly this time) that the White House pretense of evenhandedness in a dispute between India and Pakistan was a fraud. The U.S. was secretly giving both encouragement and military aid to Pakistan, the Soviet Union was backing India, and the clash was threatening to escalate into a superpower confrontation.

Anderson wrote column after column about American aid to Pakistan, feeding on a trove of classified documents supplied by Pentagon typist Charles Radford. The White House eventually figured out that Radford was the leaker. But Nixon was afraid to do anything about it, because Radford was also stealing White House documents and delivering them to Pentagon officials who believed the president was winding down the Vietnam War too fast. Revealing that the Pentagon was spying on the White House, Nixon feared, would create a hellacious scandal that might bring down his government.

The frustration drove Nixon and his senior aides out of their minds, almost literally. “I would just like to get ahold of this Anderson and hang him,” exclaimed John Mitchell one day, a remark captured on tape. “Goddamit, yes!” agreed Nixon. “So listen, the day after the election, win or lose, we’ve got to do something with this son of a bitch.”

Whether plumber E. Howard Hunt ever received a direct order to off Anderson (other senior Nixon advisers denied giving one) or merely bathed in the White House zeitgeist will probably never be known. But the plumbers definitely plotted some imaginative ways to handle him, including a scheme, not carried out, to cover his car’s steering wheel with LSD in hopes it would cause a fatal car crash.

The valorization of Watergate—the crime, the cover-up, and the exposure—warped America’s understanding of what we have to fear about government misbehavior.



But around that time, the plumbers got distracted by another project. Somebody wanted a break-in at the DNC headquarters, and the potential assassination of Jack Anderson just faded away.

THE PRESS DIDN'T SAVE US

IF WATERGATE HARMED the reputation of the presidency, it elevated the reputation of the American press *far* higher than the facts deserved. In the first six months of the scandal, except for the few days immediately after the burglary, the press generally lagged behind the FBI in its investigation.

"There's a myth that the press did this, uncovered all the crimes," Sandy Smith, who handled the Watergate beat very capably for *Time* magazine, said in the 1980s. "It's bunk. The press didn't do it. People forget that the government was investigating all the time. In my material there was less than two percent that was truly original investigation." The rest of the scoops came either directly from the FBI or from people who had access to FBI reports.

Or, in some cases, both. The two reporters who grabbed the spotlight for their work on Watergate were Bob Woodward and Carl Bernstein of *The Washington Post*. Their stories in 1972 would win the *Post* a Pulitzer Prize for Public Service. *All the President's Men*, the book they wrote about their pursuit of the story, made them millionaires (especially after it was adapted into a hit movie). They were superheroes to the baby boomers in journalism schools in the 1970s, who then became the bosses of the elite press during the 1990s.

The first 70 pages of *All the President's Men* are journalism-textbook stuff, with Woodward and Bernstein doing the dull and dirty drudge work of reporting. There are scores of unreturned phone calls and doors slammed in their faces. But on page 71, the book becomes way more exciting and way less accurate. That's where we meet Woodward's supersource, a government official whose name was, until relatively late in the scandal, kept secret even from the top editors at the *Post*. They nicknamed him Deep Throat, the title of a popular porn film of the day, because he would only talk to Woodward on "deep background," journalist lingo for a source who cannot be quoted directly. For the next three decades, guessing Deep Throat's identity was Washington's favorite parlor game.

In 2005, Deep Throat was revealed as Mark Felt, the second-in-command at the FBI, who was fighting to become the bureau's new boss. Enraged that he had been passed over in favor of feckless Nixon flunkie L. Patrick Gray, Felt leaked to reporters (including Woodward) anything that might destroy Gray before the Senate could confirm his nomination.

Felt even told Woodward (falsely) that Gray was trying to blackmail Nixon with knowledge of those White House horrors. That particular lie didn't make it into the pages of the *Post*, where

editors would have demanded verification, but it did appear in *All the President's Men*. Just how little Felt cared about good, clean government can be adduced by the FBI secrets he didn't leak, such as the bureau's attempts to extort Martin Luther King Jr. with illicit tapes of his marital infidelities, or the agency's illegal break-ins targeting the violent leftists of Weather Underground. That latter crime was directed by Felt himself, and he was later convicted of a felony for his part.

"Getting rid of Nixon was the last thing Felt ever wanted to accomplish; indeed, he was banking on Nixon's continuation in office to achieve his one and only aim: to reach the top of the FBI pyramid," wrote Watergate historian Max Holland in his underappreciated 2012 book *Leak: Why Mark Felt Became Deep Throat*. "Felt didn't help the media for the good of the country, he used the media in service of his own ambition. Things just didn't turn out anywhere close to the way he wanted." Felt did not end up getting the job he was angling for, though Gray was squeezed out after less than a year as acting director.

The most interesting information to emerge from the Watergate investigation, and certainly the most legally actionable, came not from journalists via Felt-like leaks but from other parts of the FBI and, indirectly, from the Senate's investigation, which stumbled onto the fact that Nixon had a secret taping system that picked up most of his conversations with his most intimate advisers.

While the media gabbled about what kind of paranoid loon would do such a thing, every president going back to Franklin Roosevelt had taped at least some of his conversations. Nixon had actually disconnected the White House recording equipment when he entered office. He relented in 1971, evidently thinking tapes would help him write memoirs of what he expected to be an epic presidency. Instead, he sealed his own doom, creating 3,432 hours of tape that turned what otherwise would have been uncorroborated he-said/he-said conversations into smoking guns.

The tapes also yielded no end of fascinating insights into the president's positions on everything from Catholicism ("You know what happened to the popes? They were layin' the nuns") to Northern California sociology ("The upper class in San Francisco...is the most faggy goddamned thing you could ever imagine....I can't shake hands with anybody from San Francisco").

The Nixonistas had some truly appalling plans. White House staffers, from top to bottom, seemed oblivious to the obvious illegality of much of what they did, as if they already believed in Nixon's proclamation, in a television interview several years after leaving office, that "when the president does it, that means that it is not illegal." A White House aide named Tom Charles Huston, with Nixon's encouragement, came up with a scheme to use the CIA and the Defense Intelligence Agency to ille-

gally collect domestic intelligence via a broad program of wire-taps, burglaries, and covert mail opening. The plan was shot down by, of all people, the surveillance-happy FBI chief J. Edgar Hoover, not because of any budding affection for civil liberties but because he was afraid he would be the fall guy if its existence was ever revealed.

Other stuff was simply bizarre. John Dean, an ambitious and amoral young attorney—a disconcerting number of his colleagues referred to him as “a snake”—had turned his office into a clearinghouse for political intelligence and malodorous off-the-books operations, including the legal suppression of the film *Tricia’s Wedding*, in which a San Francisco drag troupe called the Cockettes lampooned the president’s daughter’s nuptials.

TWO SPECULATIVE THEORIES

BUT EVEN THE tapes left gaps in our understanding of what was behind Watergate. (Literally: One tape had an 18-and-a-half-minute buzzing noise where somebody had taped over it. Nixon’s secretary, Rose Mary Woods, said that she was probably the culprit, accidentally operating a foot pedal while trying to answer a phone while transcribing a tape. Most of Nixon’s aides thought he did it, either accidentally—the president was a notorious klutz—or on purpose.)

This leaves us to contemplate two of the richest theories about root causes, which alternately describe a world where the government is riven with almost Civil War-level factional conflict or one where the most tawdry and silly of motives brings down the most powerful man on earth.

Theory 1: The CIA did it. Nixon, who believed the CIA had cost him the 1960 presidential election with illicit disclosures to John F. Kennedy, demanded that the agency help him quash the FBI’s Watergate investigation, declaring that it might otherwise expose CIA secrets. (The agency refused to help.) It was this request, caught on those White House tapes, that finally forced the president’s resignation when it was revealed.

But did the CIA plan Watergate, in a deliberate bid to damage Nixon? Was this—to quote Jim Hougan, whose 1984 book *Secret Agenda* was an early challenger to Watergate orthodoxy—“a de facto exercise in ‘regime change’”? The team of burglars had CIA connections, recall, and one was still on the agency payroll at the time of the break-in, a fact the agency concealed for years.

Hunt, on the burglary planning team, had retired from the CIA just two years before after playing key roles in two of the agency’s more notorious projects, a spectacularly successful coup in Guatemala and an even more spectacularly flopped invasion of Cuba. The allegedly retired Hunt still seemed able to get disguises and equipment from the CIA whenever his team of plumbers needed them, and suspicions persist to this day that he was reporting all his activities back to the agency.

Reconsidering Watergate and its mysteries can help us see government for what it really is: a generally lowly site of struggle for personal and institutional power.



And recall the various inexplicably bad decisions made by McCord, another supposedly former CIA man, that led to the burglars being caught by the cops.

Even so, the burglars might have escaped; some of the plumbers who had remained behind at their Howard Johnson observation post across the street spotted the cops arriving and tried to warn their compatriots over a walkie-talkie. But McCord had told the burglars to turn the walkie-talkie off because, he said, it was too noisy. They had no idea anyone was calling until the cops walked in.

McCord's odd conduct continued after that fateful night. After the burglars rigorously stonewalled cops and prosecutors for nine months, McCord confessed and wrote a letter to Sirica, the judge presiding over their trial. He told Sirica that some of the burglars had perjured themselves, that they were under "political pressure" to keep their mouths shut, and that he would like to talk to the judge in private, with no FBI agents listening in. That was the moment the cover-up collapsed. Odd-est of all, McCord assured the judge that the burglary "was not a CIA operation...I know for a fact that it was not." Not that Sirica had asked.

Theory 2: It was all about the hookers. One of the more audacious theories is that the burglars were looking for dope not on politics but on sex—evidence of a ring of call girls who did a lot of business with out-of-town visitors to the DNC. The existence of the prostitution ring, which operated from the Columbia Plaza luxury apartment building just down the street from the Watergate, is well-documented. (The FBI even raided it a week before the Watergate break-in.)

According to plumber G. Gordon Liddy, a photo album of the prostitutes was kept in a locked file cabinet belonging to DNC secretary Maxie Wells. The phone calls, so as to not freak out visitors with hard-nosed bargaining over the price of analingus and midget fellatio, were placed from behind the closed door of a usually empty office belonging to the aforementioned mid-level DNC official named Spencer Oliver, who spent most of his time on the road.

Recall that when police caught the burglars, they were working not on O'Brien's phone but on Oliver's. Furthermore, they were setting up cameras to photograph documents not in O'Brien's office but on Maxie Wells' locked file cabinet.

What's more, one of the burglars—a Cuban named Eugenio Martinez, who later turned out to be still actively on the CIA payroll—was carrying a notebook with a small key taped to it when they were caught. While the police did not discover this until later, it was the key to Maxie Wells' file cabinet. By the time the cops searched it, there had been plenty of time for the DNC staff to remove any hooker-related materials.

Martinez wouldn't ever say where he got the key or what he was supposed to be looking for. "That's the \$64,000 question,

isn't it?" he taunted the cops. He was less polite with me. Doing a *Miami Herald* story a few years back about the declassification of a secret CIA history of Watergate, I got word to Martinez that I'd like to talk with him about the key. Even at the age of 93, his reply was crisp: "*El Miami Herald es basura*"—the *Miami Herald* is garbage. Five years later, without apparently changing his opinion, he died.

If the burglars were looking for prostitution memorabilia in that file cabinet, they may have been planning to blackmail any Democratic politicians who were customers of the call girls. There is also a wilder theory that John Dean wanted to see if his wife Maureen, who had been a roommate to the woman running the call girl ring, was in the catalog and to remove anything that might implicate her.

At one weird moment during the plumbers' trial, prosecutors started to ask a question about Spencer Oliver's telephone. Instantly, a lawyer jumped to his feet and called out an objection—but from the audience rather than the defense table. This lawyer in the crowd represented Oliver and moved to suppress any testimony about him or his phone. Sirica overruled him, but he then gave the lawyer time to take his argument to an appellate court. That court overruled Sirica, and nothing more about just what that attempted wiretapping was really aimed at was allowed to come up, ever.

Among other things, the motion prevented what might have been some of the most comic moments in the history of American jurisprudence. The witness who had been interrupted was a plumber named Alfred Baldwin, a former FBI agent who had been assigned to monitor calls picked up from an earlier tap on Oliver's phone. Though he didn't tape the calls, Baldwin (who didn't know about the call-girl ring) told other guys in the office that they mostly seemed to be between a bunch of extraordinarily slutty DNC secretaries and their boyfriends.

The Deans themselves sued some authors who pushed the prostitution theory for libel. (They settled out of court.) The only time he got angry with me, in many interviews about Watergate in which I asked many extraordinarily unpleasant questions, was when I floated this Kinsey Report theory of Watergate's motive.

Reconsidering those events and the mysteries still surrounding them can help us see government for what it really is: not a holy calling besmirched by a uniquely sinister Richard Nixon, but a generally lowly site of struggle for personal and institutional power. The bad guys may not always get away with their crimes, but the government is so thick with secrecy and *omerta* that we can't always be sure we know what they are up to—not at the time, and not even 50 years later. 📍

GLENN GARVIN is a contributing editor at *Reason*.

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Jared Polis Wants To Leave You Alone

The Democratic Colorado governor on
pandemics, parenting, and partisanship

interview by

NICK GILLESPIE

LAST DECEMBER, COLORADO Gov. Jared Polis was one of the few Democratic governors willing to talk sensibly about pandemic policy after more than 18 months of blue-state lockdowns, mask mandates, school closures, and business-capacity restrictions.

“Public health [officials] don’t get to tell people what to wear; that’s just not their job,” Polis told a Colorado public radio station, declaring that the “medical emergency” phase of the pandemic had passed. Even when the omicron variant spiked this winter, Polis refused to reinstate mandates. His message was clear: Coloradans had had the opportunity to get vaccinated. They could decide their own risk tolerance.

The 46-year-old governor and former five-term congressman is presiding over one of the fastest-growing states in the country, a place that has one of the lowest death rates during the pandemic. Last fall, at a conference held by the conservative Steamboat Institute, he declared that the state income tax rate “should be zero” and he has supported ballot initiatives to reduce the rate. The gay father of two recently signed a free-range parenting bill that effectively re-legalizes the sort of Colorado childhood he recalls as the son of two ex-hippie parents. He has pushed occupational licensing reform and, as conservative states pass laws strictly limiting abortion, he signed legislation guaranteeing a woman’s right to choose. The founder of two charter schools, he is an outspoken advocate of school choice.

A serial tech entrepreneur who amassed a fortune estimated by *ProPublica* to be “in the hundreds of millions,” Polis was an early champion of bitcoin and is steadfast against limiting speech rights or treating social media platforms as utilities that can’t moderate content or bounce users for transgressing terms of service.

To be sure, Polis is no minarchist and, while critical of President Joe Biden on immigration and free trade, stands by his argument, made in the pages of *Reason* in 2014, that libertarians should vote for Democratic candidates because they are “supportive of individual liberty and freedom.” He’s called for carbon taxes (while recognizing their potential to become slush funds for expansive new government programs) and in April, he signed the largest budget in Colorado history. Yet he has displayed unmistakable libertarian tendencies, including being the only Democratic member of the now-defunct House Liberty Caucus.

Polis, who is up for reelection in the fall, appeared on *The Reason Interview With Nick Gillespie* in April. He spoke about guns, drugs, tax policy, and whether Colorado is bringing back a tolerant ethos reminiscent of 1970s America.

Reason: You recently signed the “Reasonable Independence for Children” bill, saying, “Just because a child is playing alone outside doesn’t mean they’re in danger.”

Polis: This has to do with the broad area of parental rights. It’s very reasonable to raise your child in different ways. Some parents are helicopter parents; they watch their kid every moment at the playground. People can argue that’s good [or] that’s bad. Other parents want their kid to go two blocks, play on the playground, and return home by dinner. Those are all acceptable ways to parent. I mean, the government shouldn’t be telling you how to parent.

There’s a legitimate government interest forbidding child abuse, but letting your kid play on the playground [is] not child abuse.

You’re 46. People of our rough age were not just allowed to play outside by our parents—we were forced to. What happened to American childhood?

Parents would get caught up in Child Protective Services [CPS] just because somebody saw their 8-year-old playing on a playground two blocks from where they live. And inevitably the parents would not lose custody and it would be fine, but, like, who wants to get caught up in CPS? So we wanted to be clear that yes, your kids can play alone. It’s reasonably safe. That’s how kids learn. They explore. I used to hike in the mountains near my home when I was 10, with a friend, without parents.

We’re not saying the government should put our foot on the scale either way. If parents want to be helicopter parents, that’s their prerogative too.

You signed a law saying that a woman has a right to an abortion. Are there any limits on that? What was pressing you to say that?

What’s pressing us to do this and other states is what’s happening nationally, which is very scary, in that *Roe v. Wade* effectively will be overturned. Nationally, this protected a woman’s right to bodily autonomy. We simply put *Roe v. Wade* into Colorado law. So no matter what happens nationally, the government should not be at that table in deciding whether you complete a pregnancy.

Does the state have any interest more broadly in restricting or regulating abortion as a woman comes closer to carrying a baby to term?

Neither me nor you, since we’re not women, would ever be in the shoes of a woman who’s eight months pregnant [who] found out their child has a major brain defect and will be still-born. What a horrible choice for a woman to have. But of course the government should not say, “we’re forcing you to carry this

“When you make something illegal, it doesn’t mean it goes away.”

nonviable fetus to term.” That is reprehensible. There is no shame on the woman either way. Some women might decide, because of their faith, to go ahead and do that, and that’s gut-wrenching for the woman. Some women might decide to terminate their pregnancy. That’s also gut-wrenching. But it is their decision, not yours and not mine.

How are conservatives in Colorado responding to this?

As I’ve said to many folks that consider themselves pro-life, when you make something illegal, it doesn’t mean it goes away.

In Colorado, we were one of the first states to eliminate the failed marijuana prohibition policy. Did marijuana use go up? No, it didn’t, especially among young people. Prohibition doesn’t work. So let’s meet people where they’re at. There were many on the conservative side that do believe that we should have government overreach here and [that] the government should be making these decisions, not women, not in consultation with their faith or with doctors, but that [the] decision should be made for them.

You are not against gun rights in a way that a kind of stereotypical coastal Democrat might be. But you recently signed bipartisan legislation that said people guilty of 110 different felonies are banned from owning guns.

First of all, I support the Second Amendment, our right to bear arms. It’s in our Constitution. It’s a question of: How far does that go? I’ll get to the [law] you talked about in a second. Let me talk about one other one first: red flag laws.

There’s a very high bar, as there should be, for somebody being involuntarily committed because they’re an immediate danger to themselves or others. The question is whether there is a slightly lower bar where they would temporarily lose access to their guns and then they get it back a few months later, but it still goes before a judge. So that’s what we did there. If somebody’s in a dangerous mental state, not quite at the level where they’re committed, is there something short of commitment where a loved one can intervene and a parent can say to a 19-year-old, “For three months, your guns are going to go away?”

For gun-related crimes, you lose your rights for a period of life. For other violent crimes, it’s a reasonable discussion either way.

People do that for voting rights, too. They say, “What level of crime do you lose your voting rights for? What level of crime do you lose your right to bear arms for?” There’s no right or wrong answer.

I’ve done the highest number of pardons [in Colorado] for people who have lost their right to bear arms because of something 20 or 30 years ago that they did when they were young. They’ve lived an exemplary life since, but they can’t go hunting with their kids [or] have a gun for home defense. I have given probably a dozen or two pardons, but that’s a very cumbersome process for somebody to request that.

Are you channeling the 1970s, a time in Colorado and America when a lot of personal liberties were really expanded: gay rights, women’s rights, abortion rights, gun rights, children’s rights?

Culturally, my parents were legit hippies. That’s who they were in the ’70s. They were anti-war demonstrators. They considered joining a commune, but didn’t because the commune was sexist and anti-women. That’s the milieu that I grew up in.

I respect freedom. I think that it’s great that Colorado has people that are deeply religious and conservative, as long as they don’t force their values on others. We [also] have people that are very hedonistic.

It’s great because you’re free to be the way you want. That’s the way it should be. We were the first state to legalize [recreational] marijuana. I’m very proud of that. I don’t use marijuana; that’s just a choice. I don’t really drink either, but that’s totally somebody’s choice. And in Colorado you don’t risk getting in trouble with the law just because you want to smoke marijuana.

You have a couple cities that are also expanding the use of entheogenic plants, magic mushrooms, and things like that. Is that the next state-level legalization that you see coming in Colorado?

It may be on the ballot this year. It’s a people’s initiative process. I don’t know whether they’re going to gather the signatures, but yeah, Denver already did.

I generally don’t think that things like that should be dealt with through a criminal setting. In fact, what you’re talking

about in particular might have some therapeutic uses around people that are trying to get off of opioids or people that have major issues with depression or anxiety. There's some clinical studies that have been done. Frankly, the clinical studies are inhibited by the illegality of some of the substances. We had that with marijuana as well, where it was very difficult to even do research on what the benefits might be because it couldn't be done with federally funded research.

We're taping this on Monday, April 18: Tax Day. You have stated that your preferred state income tax rate is zero. How do you approach that?

We've cut the income tax twice since I've been in office. When I came in it was 4.63 percent, now it's 4.55 percent. We also cut property taxes for two years. We'll need to renew some of that. I think the secret sauce is very simple. It's one that neither somebody whose inherent objective is to shrink government or somebody whose inherent objective is to grow government will necessarily like. It's to say: Let's take those arguments off the table, because we don't have a majority for those. Let's [make the changes] revenue-neutral. This is not a backdoor plot to increase the size of government, not a backdoor plot to decrease the size of government. Let's just say: How do we fund government?

But in this particular discussion, income is not a good thing to tax, because it taxes productivity. As a society, we like income. We want people to make income. Find something that is a negative externality or a bad thing and instead tax that. I often talk about pollution or carbon as the basis of taxation instead of income.

How do you do that in a way where the externality tax doesn't just become a way to punish more things or activities you don't like?

You're absolutely right. Another tenet would be [that] a broad-based tax is much better because it creates less distortions than a narrowly focused tax that's much higher for the same amount of revenue.

Consumption [is] reasonable to tax. There's issues around how you make sure it's not regressive because somebody who makes \$10 million simply can't consume and spend a higher percentage of income as somebody who makes \$50,000.

In practice, I'm happy to reduce the income tax if we can't eliminate it—and we've done that twice. I think that there's a discussion to be had about how [to] find a broad-based tax that punishes externalities rather than income and value creation.

Your COVID-19 response has gotten generally high marks. You got rid of mask mandates when they were no longer necessary or recognized as not effective. How

much blowback did you get from your own party?

First, I think the key thing that every governor should have done is to say, "What is the state interest here? What are we doing?" Is the state interest to save every life? Look at what China's doing. That's not working very well. We defined the state interest very early on: We do not want to overwhelm our hospital capacity.

What that would mean is not only would more COVID people die, but you could have a heart attack, a stroke, [or] not be able to get cancer treatment. We said we will not overwhelm our hospital capacity, and we succeeded in doing that.

Some Republican governors were channeling a message: "I don't like mask wearing." I was very clear during the heights of the pandemic. I wore a mask. It didn't mean I wanted to force it on people, but as a model, absolutely it would reduce your risk. Not eliminate your risk, but reduce your risk.

Vaccination, same thing. It reduces your risk. I got it. I encourage everybody to get it. I think there was some mismanagement on both sides. There were certainly some [governors] that kept too tight controls in for too long, but there were also some that catered to misinformation and disinformation that had a human toll and a toll on the economy.

What are your thoughts on state versus federal control? Former President Donald Trump gave the states a lot of freedom to pursue their own courses of action. Do you think that was a good discovery process? Or do you think the power to set COVID policy and related issues should emanate from Washington?

Here in Colorado, we actually took it a step further and really devolved to local authority. We had a very different approach in some of our big blue cities and some of our rural areas—and we actually have conservative cities too. Colorado Springs went away from mask wearing very early.

We left it in local hands. Why? Because these are real trade-offs. It was very clear there's not a right answer. It's about how you weigh the additional risks with the importance of everyday activities and freedom that people have. Who best to make that decision but the level of government closest to the people? More people had buy-in, because it was a level of government closest to the people that was weighing those trade-offs.

Your past as a businessman is in the tech industry, which is the most demonized business sector currently. What do you think about attempts to regulate social media platforms as a public utility? Laws in the Colorado legislature have been floated to identify hate speech, ban it, and punish platforms. Is that a good way forward?

The government needs to tread very, very lightly when it comes to any speech-based regulation of tech or any other

industry. I would say federally, there is a role for antitrust law. You don't want to overdo that. That's when there's a competitive advantage that protects the entrenched incumbent and it can block others from getting in.

I would argue it's a very competitive space, when you talk about social media in general. If somebody has a better search than Google, there's nothing to stop people from using that.

In the early 2000s, tech seemed like our savior. It was bringing us a lot of shiny things at great prices. Now it's in the doghouse. What is behind the ongoing vilification of the tech industry?

If you want to see a great sociopolitical commentary on that, look up [comedian] Bo Burnham's *Inside*. I think that we all had this very aspirational view of what this new communication technology can bring, but like anything, it revealed more of ourselves to one another—the good, the bad, and the ugly. As a student of human nature, I don't think it's inherently evil or inherently good. I think all those facets are reflected in each and every one of us.

Certainly the advances in technology have magnified all of that. It's amazing to see the acts of goodwill from strangers, the GoFundMes that help people get the medical care they need. But also the ugly: misinformation, disinformation, neo-Nazism, far-right conspiracies.

It doesn't change who we are, it just magnifies it.

What's your sense of state-level educational gag orders that dictate what is allowable speech in a K-12 classroom or a K-3 classroom about sexual orientation or identity? Public education is going to reflect the attitudes of people, but at what level should that be hammered out?

The level of government closest to the people. We have locally elected school boards [and] charter schools that are self-governing with their own board; they handle these issues in the best way that their parents want. It's an extension of parental rights.

We have school choice in Colorado, public school choice. You can go to any school you want: charter, public, your district, other district. If you don't like what's in your neighborhood school, there's alternatives.

These statewide gag orders are indefensible. To say you can't talk about something is absurd. I'm a gay parent with my husband and we have two kids in school. What does that mean? My kid can't say "my two dads." It's just a bizarre incursion not only on free speech but on our rights as parents.

Again, these are state-funded schools. The key public interest in this is: Every kid should be welcomed as a learner. No kid should ever be turned away because of their race, their gender, who their parents are, who they are.

Are you happy with the Biden presidency so far?

I'm happy he restored rationality to government.

I'm going to take that as a no.

I'm thrilled that Donald Trump is no longer president. Absolutely. I'm thrilled that Donald Trump is no longer president.

But what about the way Biden is governing now? I mean, is he causing inflation or abetting it?

Inflation's interesting. Government spending has the small effect that causes inflation, [and] yes, the monetary policy does. But I really believe that [fixing] tariffs and immigration would solve inflation. It really would. It would wipe it out. And neither party is very good on that right now.


Trump took a hard turn against TPP [the Trans-Pacific Partnership] and trade deals and free trade, instituted tons of tariffs. Biden has slowly unwound a few but hasn't really committed to it. On immigration, Trump was awful, the worst. Biden is a little better, but I wish [he was] much better.

And comprehensive reform still seems elusive no matter who controls Congress, Democrats or Republicans. I mean, it's hopeless with Republicans. Don't get me wrong. But even with Democrats in charge of Congress, I don't see a lot of movement on comprehensive immigration reform.

We're in a moment where we seem not to have a ruling narrative of who we are as Americans. At various points, America defined itself as a nation of immigrants or a credal nation in which individuals could actualize themselves. What's a model for an America which would be inclusive and positive in terms of growing what we're all able to do?

I wish I had the answers to that. Our experiment as a republic will be 250 years old in just a couple more years. It's time for our awkward adolescence. The left is right on coming to terms with legacies of slavery and racism.

Then, of course, on the right, understanding that there's not some collective guilt today for what might have happened 100 or 200 years ago. It's important to be honest about it, but just by being honest about what your great-grandfather might have done doesn't mean that you have culpability. We don't believe in blood guilt in our country.

I think gradually there'll be a higher level of understanding as we emerge from adolescence into our hopefully wise adult years, where we preserve the tenets of liberal democracy and our rights and free enterprise. 

This interview has been condensed and edited for style and clarity.



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 John Mackey
 David Macko
 Guy S. Mahaffey III
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 David R. Mason
 Richard Masson
 Martin Mattern
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ZAP COMIX

NO.4
ADULTS
ONLY!



ZAP COMIX WERE NEVER FOR KIDS!

DISREPUTABLE AND CENSORED COMIX
IMPROBABLY BROUGHT THE ART FORM
FROM THE GUTTER TO THE MUSEUMS.

BRIAN DOHERTY

IN 1969, IN an atmosphere of simmering animus toward youth culture, an undercover agent from the New York Police Department's Public Morals Squad visited two bookstores to buy copies of *Zap* No. 4. This minor bit of commerce had violent repercussions. "This bearded guy pushed the door open aggressively and said 'OK, this place is closed down!'" remembered Terry McCoy of the East Side Bookstore. "I thought he was a street guy. I instinctively blocked the entrance. 'Hey, buddy,' I said, trying to calm him down and get him outside, 'what's the problem?' He said, 'You work here?' I said, 'Yes,' and he said, 'You're under arrest.'" McCoy, the boss, and another employee were all taken to the precinct and then the Manhattan Detention Complex.

Zap No. 4 is an anthology with stories and drawings by seven different cartoonists: Robert Crumb, S. Clay Wilson, Rick Griffin, Victor Moscoso, Spain Rodriguez, Robert Williams, and Gilbert Shelton. Their tales include everything from sexual torture to an anthropomorphic clitoris, but the star of the lurid show, the most

unmistakably offensive and troublesome story—so far beyond what anyone might call "problematic" today—is "Joe Blow," written and drawn by Crumb. We see a father watching a blank TV, musing that he "can think up better shows than the ones that are on," who then stumbles upon his masturbating daughter. From there, things degenerate into an incestuous orgy, with the characters drawn to seem more toylike than human. In the end, after the dad declares "I never realized how much fun you could have with your children," the strip shifts into a mock-socialist propaganda mode. The kids, we are told, are "to build a better world!!" "Yes, youth holds the promise of the future!"

The New York Times asked Crumb about this comic in 1972: "What was your intention?"

"I don't know. I think I was just being a punk."

Just four years prior, Crumb had been making a living drawing funny greeting cards for American Greetings in Cleveland, but he'd transitioned into a career of blowing hippies' minds with cartoons in counterculture tabloids such as *Yarrowstalks* and the *East Village Other*. In 1968 he broke into the mainstream with his anthology *Head Comix*, published by Viking. He garnered praise from a variety of generational gatekeepers, and his art graced the cover of *Big Brother* and the Holding Company's *Cheap Thrills*, an album that topped the charts for eight weeks. And now he was inadvertently responsible for getting booksellers dragged to prison and forcing publishers into hiding from the authorities.

REVENGE OF THE SMARTASS REBEL CARTOONISTS

ZAP NO. 4 was an example, an archetypal example, of what were called "underground comix." Its artists' work in other places—album covers, rock posters, underground newspapers, T-shirts—defined what it looked and felt like to be young and strange and rebellious (or to believe you were) in the late '60s.

Unlike most comic books sold in America, the undergrounds did not subject themselves to the authority of the Comics Code, whose seal emblazoned the top corners of every comic you were apt to find on a newsstand, in a drugstore, or on a convenience store rack. To get that seal of approval, your comic had to be middle-American wholesome. It had to eschew "profanity, obscenity, smut, vulgarity" and "suggestive and salacious illustration or suggestive posture" and any "ridicule or attack on any religious or racial group." None of these were things that Crumb and his colleagues could be relied on to avoid.

Underground comix (the *x* to mark them as distinct from the mainstream) were not distributed by the sort of jobbers that were trucking around *Time*, *Better Homes and Gardens*, or *Family Circle*. They were distributed by hippie entrepreneurs,

AND THEN!...

KABLOOY!

THAT, MY STAR-GAZING FRIEND, IS "THE BIG BANG THEORY!"

SHIVER ME VULVAS, MATEY!

...AND SO IT WAS, AS IT WAS TOLD BY THE OLD "MAN IN THE BOAT!"

END

ROBERT WILLIAMS

some of whom might also be slinging drugs, and they generally appeared alongside drug paraphernalia (such as pipes and papers for help ingesting drugs, or posters that made you feel like you already had). Though some were periodicals, many were one-shots either by design or by their creator's lack of follow-through. They were not sold as ephemera to be destroyed at the end of every month with the publisher eating the expense of unsold copies, like mainstream comics were. More like books, they would sit on shelves getting more and more dog-eared by the hands of curious thrill-seekers who might not dare to actually buy them and take them home (or who couldn't afford to).

Underground comix creators didn't just do art differently; they insisted on doing business differently—and, in doing so, eventually changed the mainstream comics industry as well. They had no interest in dealing with the existing mafias of periodical distribution or the corruption of its returns system; underground comix were thus sold nonreturnable to independent retailers enmeshed in rebel youth culture, without outside sponsors' ads coming between their message and the reader. Most importantly, the artists themselves remained the owners of their work. They were paid royalties like real authors (at least theoretically) and not merely upfront page rates as work-for-hire; and underground comix publishers printed and distributed what the artists chose to create, not vice versa.

Much of what made America juicy, zesty, strange, scrappy, devil-may-care, irresponsibly fun, and chaotically strange in the past half-century flowed through and/or out of this loosely assembled band of brothers and sisters: from hot-rod magazines to funny greeting cards, biker gangs to homemade mod clothing, psychedelic rock to science fiction, cheap girly mags to women's liberation, smartass college humor magazines to karate, Wacky Packages trading cards to surfing, communist radicalism to born-again Christianity, transsexualism to graffiti. They fought and lost legal battles with Disney and vice squads across the nation; they labored for 25 bucks a page or less and reshaped their despised art form into a now essential part of the cultural repertoire of any educated hip adult.

Unlike some other countercultural pop culture products—say, rock music—underground comix were genuinely subterranean, unsupported by major corporations or distributors. They were mostly a dark secret you needed to stumble across in the search for other quirky or forbidden kicks, or be initiated into by a previous acolyte, like some occult rite of passage.

Despite, or because of, that, underground comix became an essential accoutrement of a counterculture life, even as they frequently mocked, satirized, and critiqued counterculture life. They were absurd, scatological, goofy, innovative, scary, beatific, thrilling, heartbreaking, and sometimes shoddy, but in all their manifestations they brought pleasure, insight, and bewilderment to millions while seemingly designed to have their off-reg-

With zero institutional support, the undergrounders drew not just opposition but condemnation—cultural, artistic, and legal. Still, they couldn't be stopped.

ister, scrap paper, cheaply printed, stapled bodies fall to pieces in a damp rack in some grotty group house's bathroom damp with Bronner's residue. Still, many of them have been carried into the consciousness of later generations via pricey, highly designed hardcover box sets (or on museum walls).

Underground comix were born of smartass rebel kids yearning to push back vigorously against the limits of what their culture considered acceptable or allowable. These young artists were nearly all motivated at least in part by the knee-jerk censorship of the 1950s. In that decade, respected psychiatrists, Senate subcommittees, and mothers across the nation had decided comic books, especially the ones smart weird kids loved the most, had gone too far. Mainstream comic companies reacted with the self-imposed Comics Code, and the publisher these kids admired the most—EC Comics, home of *Tales From the Crypt*, *Shock SuspenStories*, *Weird Science*, and *Mad*—shut down all the horror and science-fiction stuff and turned *Mad* into a magazine. And eventually the censors came for the undergrounds too.

SELL A COMIC BOOK, GO TO JAIL

THE MANAGERS OF those two stores selling *Zap* were convicted of selling obscene material and fined \$500 apiece—almost \$4,000 in today's money. It wasn't the last time an underground comic got someone into legal trouble. Even the famed Beat poet Lawrence Ferlinghetti had to go to court in 1970 to answer for his City Lights Bookstore selling *Zap* No. 4.

A Van Nuys, California, man running an explicitly "adult books/art film" shop called Swinger's Adult Books was arrested for selling *Zap* and Crumb's *Motor City Comics* in September

1969. A vice officer involved explicitly said, as reported in the *Hollywood Citizen-News*, that the “warrant was issued on these two publications because they had also been used as examples of pornography in other legal cases. Precedent-setting court action would aid in prosecution...adding that ‘dirtier’ material was being sold here but was not involved in the arrest.” The arrest was triggered by complaints from a local women’s club, a representative of which noted that “the type of material to which we refer does nothing to aid in the development of a healthy mental attitude.”

Ripples of fear from the *Zap* busts spread. Comics collector Glenn Bray told *Bijou Funnies* editor Jay Lynch he was having a hard time finding the new issue in the Los Angeles area in June 1970, warning him that “L.A. is really down on all the underground comix—the cops hassle everybody too much, and I guess the vendors don’t seem to think [selling comix] is worth the trouble.” *Young Lust*, one of the best-selling titles of the early 1970s, ended up with hardly any New York newsstand presence for a while because distributors there were, to quote *Young Lust* editor Jay Kinney, “chickenshit” about naughty comix after the *Zap* bust.

Bud Plant, an early comic book store and distribution pioneer, remembers at a Phoenix, Arizona, convention in the early 1970s having “a bunch of underground comix there, and we were at a Ramada Inn or something like that. One of the kitchen staff or one of the cleanup people that night had wandered into the dealer’s room after it was closed, picked up some of my undergrounds and took them back to the kitchen, was reading them and then left them laying around. So the next thing we knew the hotel people came in to [the convention organizer] and said, ‘We didn’t know you guys were selling pornography here.’” The organizer did some fast talking, the undergrounds were put away, and no one got arrested.

At another convention, in Berkeley, California, organizers built plywood walls around their display of potentially obscene art and slept in the makeshift room all night to protect it.

When the folks at the comix publisher Last Gasp shipped titles to England, they would deliberately bury the more gnarly items in the middle of the box, below slightly more anodyne ones, and cross their fingers about how deep the Brit customs boys would dig. Felix Dennis, later a billionaire publishing magnate, was sentenced to nine months in jail for violating Britain’s Obscene Publications Act for his role in publishing and distributing the underground magazine *Oz*, though he served less than a week before public pressure on his behalf got him out pending appeal, and he ended up with a suspended sentence. One of the offending things *Oz* ran was an image of a sexual Crumb cartoon with the head of the British children’s favorite Rupert the Bear superimposed.

In 1973, the U.S. Supreme Court declined to take on an

appeal of the New York *Zap* case. That same year, in *Miller v. California*, the Court issued a decision with fateful effects on the underground comix business. This ruling allowed the standards of obscenity to be fine-tuned to specific jurisdictions in which an item was sold, so the things that might be legally tolerated in San Francisco didn’t have to fly in Kankakee, Illinois. The specific facts of the case involved a porn mail-order catalog, but it hit hard at the business of selling cartoon images of sex.

Miller came down in June. By August, Denis Kitchen—founder of Kitchen Sink Press—was sending out a form letter to his artists/creditors, summing up the perfect storm of woes haunting their little cottage industry, starting with the aftermath of that decision: “Underground comix have been the target of prosecutors in several areas. We have received reports of busts in New York, New Jersey, and Iowa, and unconfirmed reports of busts elsewhere. In one instance in New York, the owners of a head shop were arrested and dragged out in handcuffs for selling underground comix.”

A sympathetic insider at the police department gave a warning to Don Schenker, majordomo of *Zap* No. 4 publisher Print Mint, a day before he was raided. He was thus able to get most of the more obviously obscene comics out of their warehouse and into a safer space just before the cops came. For the next year he sold the likes of *Zap* No. 4 bootleg-booze style, only to people he personally knew, with the offending books never being on Print Mint property. He was not convicted.

Even art galleries were not immune to vice raids. The first Bay Area art show dedicated to underground comix art at the Phoenix Gallery was raided and gallery owner Si Lowinsky arrested. He was acquitted, even though he had been selling the very porny *Jiz* and *Snatch* comics, copies of which were seized. Peter Selz of the University of California, Berkeley’s art museum, called as an expert witness, judged them “not the greatest of art, but it certainly makes one laugh.” The jury, Lowinsky later said, “decided that people have a right to symbolically represent all sorts of outrageous acts, and that society has no right to ban such representations.”

But not every case ended in an acquittal, and every arrest could have a chilling effect. As *Zap* cartoonist Robert Williams would later say, “Me and Crumb, we knew the things we drew, someone was going to have to pay for.” And they did, mostly shopkeepers and clerks, in numbers Williams swears were in the hundreds.

FROM THE GUTTER TO THE GALLERY

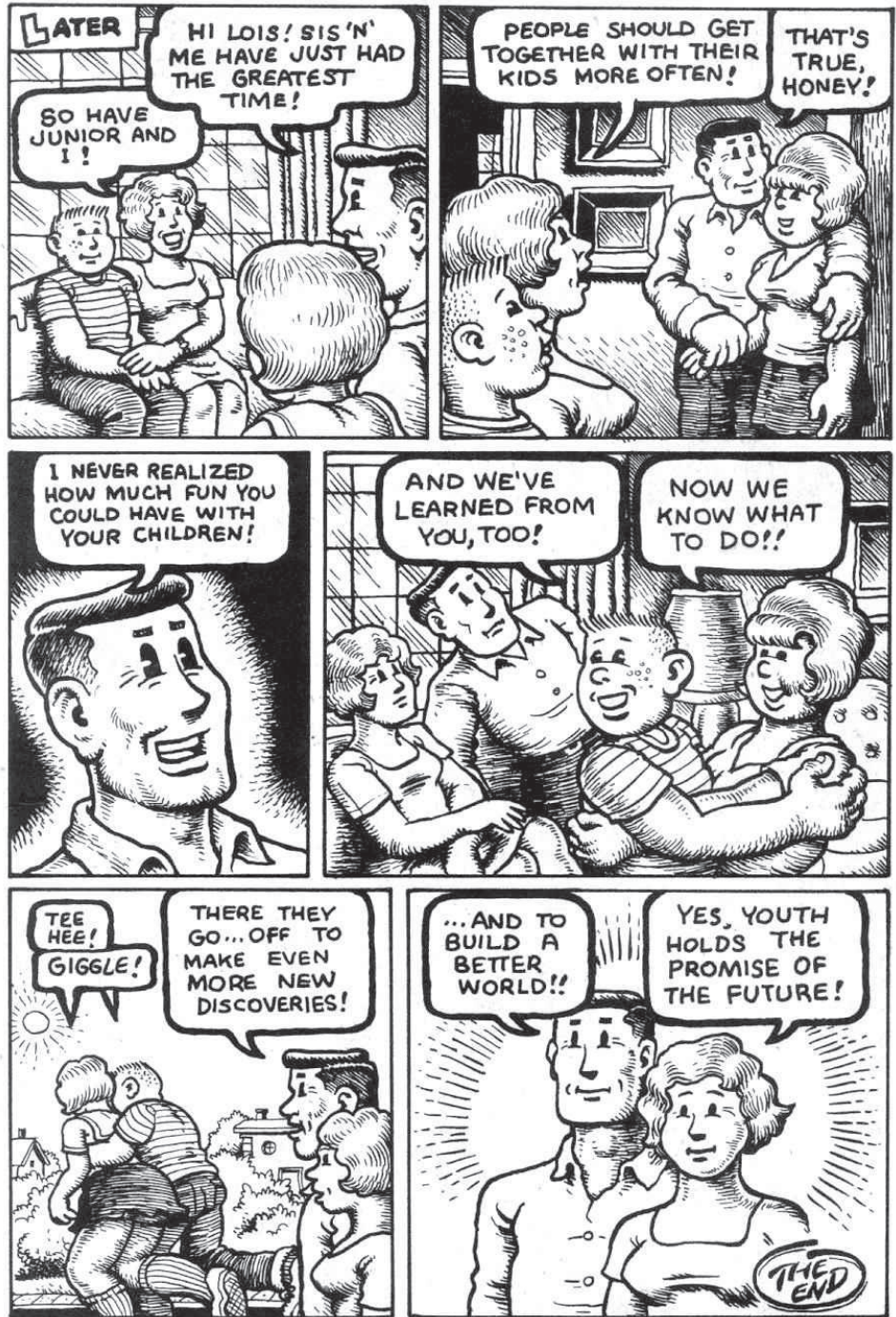
WITH ZERO INSTITUTIONAL support, the undergrounders drew not just opposition but condemnation—cultural, artistic, and legal. Still, they couldn’t be stopped. Underground comix brought comic art to the courtroom, but down the line they brought the

form and its creators to Pulitzer Prizes, *New York Times* bestseller lists, MacArthur “genius grants,” Emmys, and the Whitney Museum of American Art.

The artists’ fates were intertwined—and varied. Robert Crumb became a wealthy expatriate icon; S. Clay Wilson, who helped make Crumb what he is, lay brain-damaged for more than a decade in his rent-controlled San Francisco apartment from injuries caused by his out-of-control drunkenness. Art Spiegelman won a Pulitzer Prize and a Guggenheim Fellowship and became the leading intellectual spokesman for the entire art form; Jay Lynch, one of his best friends, who as a teen had passed out copies of the absurd cartoons they drew together to strangers, died nearly destitute and forgotten. Bill Griffith has thrived for decades at the eternal summit of the working cartoonist, a syndicated newspaper strip, while his old pal Roger Brand, who inspired him to create that strip’s central character, Zippy the Pinhead, died decades ago as a burned-out speed freak selling pages to strangers for beer money. Robert Williams can pull in high six figures for a single painting, while Trina Robbins was driven out of drawing entirely by the toxic psychological aftereffects of gendered interpersonal warfare in their tight little scene.

The skeptic might dismiss underground comix as the jokey sick nonsense a hormone-raged hostile smartass adolescent boy might be scribbling in his notebook in the back row, bored and resentful of his teacher. A lot of it *is* like that. Yet so much would be different without the underground comix creators and their influence, from the look of the modern *New Yorker* to the classic iconography of rock ‘n’ roll. No mainstream New York imprint would be publishing graphic novels without them, nor would major universities be teaching comics aesthetics or history. *The Simpsons* would not exist, nor would any modern adult animation. Even the modern superhero comic would be wildly different—Alan Moore, the British writer of *Watchmen*, first broke into the U.S. comics market in an issue of the underground *Rip Off Comix*.

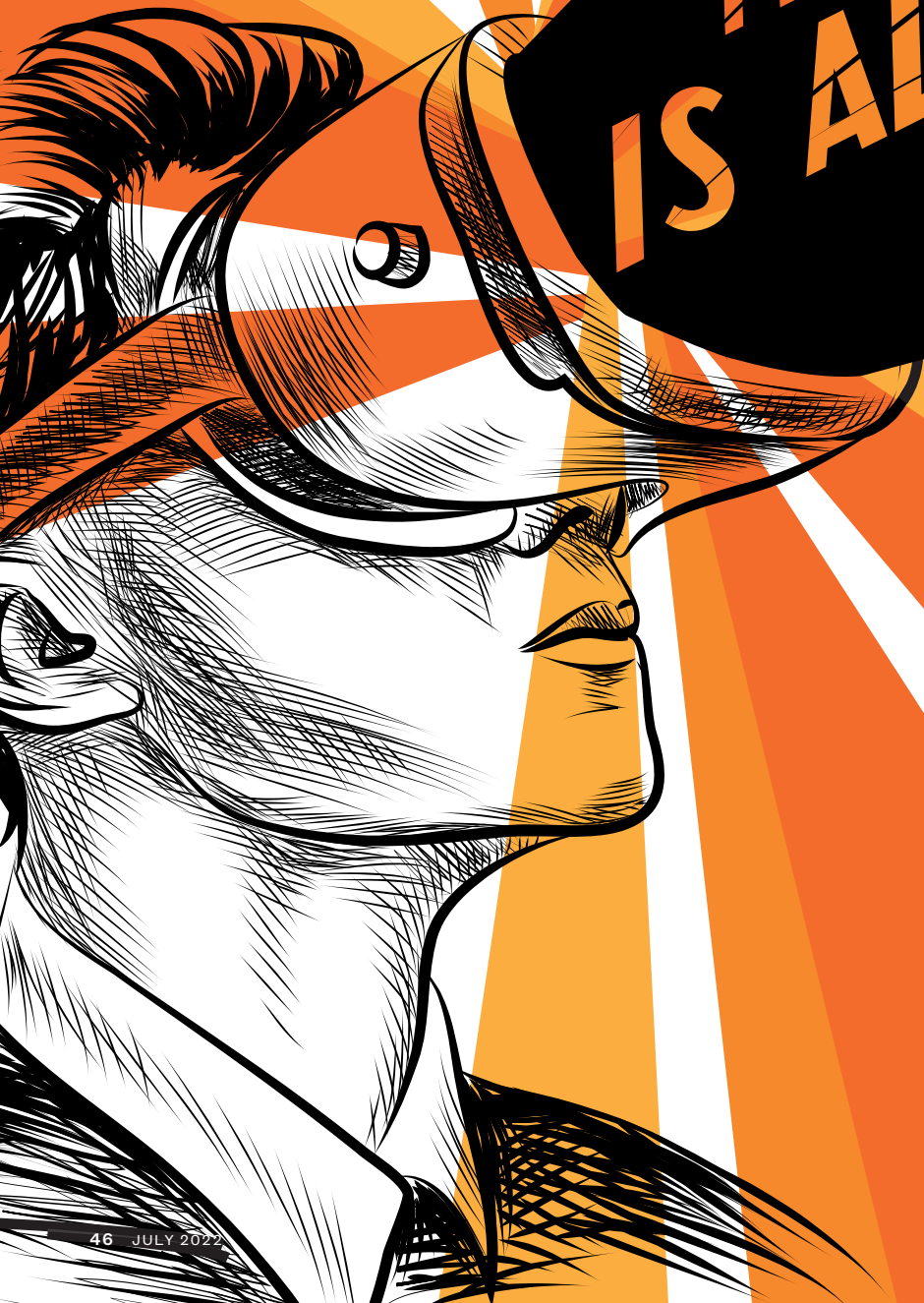
Underground comix gave a later generation of (im)maturing



cartoonists something they needed to thrive: a sense of permission to dare to be who they could and wanted to be, to dig to the core of their talents and selves. It meant a lot, and it still does. 🍷

Senior Editor BRIAN DOHERTY is the author of *Dirty Pictures: How an Underground Network of Nerds, Feminists, Misfits, Geniuses, Bikers, Potheads, Printers, Intellectuals, and Art School Rebels Revolutionized Art and Invented Comix*, from which this article is adapted by permission of Abrams Press.

**THE
METAVERSE
IS ALREADY
HERE**



HOW IS VIRTUAL REALITY REMAKING OUR WORLD?

PETER SUDERMAN

IT'S FAIR TO say that reality has a lot of problems. War. Famine. Disease. Taxes. Unwanted accumulations of pet hair. But if you look at the world through the eyes of some of the world's biggest tech companies, a deeper, more fundamental problem reveals itself: There just aren't enough holograms.

From the earliest days of the modern technology revolution—the postwar rise of computers and connections that would eventually give us the internet and email and iPhones and *Farmville*—technologists and sci-fi writers have dreamed of a world with holograms: information and three-dimensional virtual objects floating in space around you, or entirely new spaces out of the digital ether that you can explore and interact with.

This was a multidisciplinary head-scratcher. It's easy to think of holograms as just an advanced display technology, like televisions and computer monitors. But it goes much deeper than that. To interact seamlessly with objects in three-dimensional space, even in the simplest way—say, turning your head to look at something from a different angle—requires the display not only to acquire information about the physical properties of your environment but to track what you are seeing and how, and then adapt accordingly.

The same is true of sound, which varies subtly based on factors such as the mass and texture of objects in your room as well as the tilt and location of your head. Your eyes and ears are sensors, detecting a vast amount of information about the world around you, which your brain then decodes, processes, and synthesizes in real time. Add touch, and the sensory measurement challenges grow broader still. To create a world rich with virtual interaction, you'd need technology to track and measure the breadth of human perception.

In a way, this is a philosophical problem as much as a technological challenge. What does it mean to see, hear, touch, connect, communicate—to interact with the reality around us? What even is the nature of reality? What even is, like, existence, man? Feel free to take copious bong rips before proceeding.

In any case, we don't yet have this sort of hologram. But in October 2021, Facebook chief Mark Zuckerberg announced that he was committed to solving the hologram problem once and for all.

He didn't call it the hologram problem, because no one calls it that. Instead, he said that Facebook—the social-media behemoth that in two decades has gone from a website where you

could post party photos and use a “poke” button on your college crush to a sprawling and controversial cultural-political online ecosystem, widely viewed as both a radical threat to democracy and a good place to sell an old couch—was going to devote its considerable resources to building something called the metaverse, and would change its corporate name to Meta.

In a lengthy presentation that doubled as a demo reel of products, some coming soon, others hypothetical, Zuckerberg showed off his company's vision for the metaverse, a network of virtual and quasi-virtual places to work, play, buy, sell, build businesses, and connect with friends. There would be video games and meetings and workouts and other activities of every sort.

Zuckerberg cast his vision as empathic, human, liberating, and science-fictional. In the metaverse, you could take the form of a photorealistic version of yourself, interacting with a photorealistic version of your apartment, or you could have a staff meeting in space while inhabiting the persona of a dancing robot. You could ride a wave as a cartoon version of yourself or virtually punch a fantasy creature in a magical boxing ring. There would even be polygonal misbehaving pets, presumably without the accumulations of unwanted pet hair.

Throughout every experience, there would be a lot of holograms: shiny boxes glowing with virtual light and information display cards floating in midair. You yourself would be represented in many of the demo's hypothetical situations by a kind of hologram: an “avatar,” or hyper-customizable profile image, which might look like you, or might look like a lobster, or might switch back and forth depending on the circumstance.

You could sense the nerdy thrill in Zuckerberg's hammy, stilted delivery. Finally, the dream of a hologram-rich experience was going to be realized. The presentation was bathed in tech-industry idealism, with Zuckerberg enthusiastically describing a world that was not only more immersive but more human, better able to connect people and let them live and work freely.

But there was something more than a little bit cynical about the whole affair, and not only in the invocations of easy payment transaction systems. Of course Facebook—now Meta—wants to sell stuff, and to make it easy for other people to use its platform to sell stuff. But throughout the presentation, Zuckerberg also kept coming back to the importance of rules. His remarks included studiously vague mentions of regulators and policy makers and shared norms of responsible corporate behavior. All of which, if he gets his way, will reflect Meta's business interests.

The company is hardly the only one declaring its intention to build the metaverse. Most obviously, software behemoths such as Microsoft and the video game production company Epic have announced major efforts. But brands that seemingly have nothing to do with technology—producers of dish detergent, for example—have also clamored to create metaverse experi-

ences as marketing exercises. Holograms, sadly, won't wash your plates and glassware. But they might sell you soap.

Since the dawn of the internet, the titans of tech have aspired to disrupt old industries, from taxicabs to pizza delivery to conference calls to house hunting to saying "yo" to your friends. (Really. In 2014, there was an app called Yo that had exactly one function: to send the word *yo* to someone else. It received \$1.5 million in venture funding.)

But the metaverse is something more. It's an effort to disrupt the nature of reality itself—to replace it, or at least augment it, with a digital simulacra of reality, one that is more malleable and more personalized. It offers a vision of a brighter world connected by freewheeling sensory technologies that facilitate human interaction and experience, designed and controlled from the ground up by users who are empowered to shape and share the spaces around them.

At the same time, the metaverse offers a vision of a highly mediated reality that is even more friendly to ungainly forms of digital commerce and advertising, one whose highest-profile proponents seek to preemptively manage and manipulate government intervention by welcoming it from the very beginning. It is a competition, in other words, between two rival, seemingly contradictory visions of social technology, one about liberation, one about control.

As it turns out, both visions are (mostly) prescient.

FROM VIRTUAL REALITY TO CYBERPUNK

THE FIRST THING to understand about the metaverse is that it's not just virtual reality, or VR—that thing where you strap on goofy-looking electronic goggles and "jack in," then grope around the air looking like an idiot to anyone who can see you in the real world. The metaverse, as the venture capitalist Matthew Ball wrote in a lengthy online primer on the subject, is an interlinked mesh of technologies, including omnipresent networking capability, digital payment processing, portable computing, and shareable virtual identities, which can encompass not only your avatar but your digital wallet, your social networks, and various other forms of personal information.

But the metaverse is not *not* virtual reality, either. Its users will almost certainly wear goofy-looking goggles at least some of the time. So to understand where the metaverse comes from, you have to understand how VR came to be, including the idiosyncratic outsider culture it spawned.

Just as there's no definitive starting point for the internet, virtual reality crept into the world slowly, an iterative product of many different lines of research. But if we must pick a single point, let's start in the 1960s, with the legendary computer scientist Ivan Sutherland and a device that became known as the Sword of Damocles.

In 1963, Sutherland developed Sketchpad, a primitive but revolutionary digital drawing program. With this software, a human hand could trace light that would appear on screen. It was the earliest program ever to employ a graphical interface.

Graphical interfaces are commonplace now: You use them every single day on devices ranging from phones to cars to refrigerators. But in the early days of computing, they didn't exist. Users interacted with computers through abstruse code and paper punch cards, which were sometimes handled by trained human intermediaries, so that most people, even scientists who relied on computer calculations, never interacted directly with computers at all. Sketchpad showed not only that people could interact directly with the digital world but that they could do so to produce art, not just equations.

In the late 1960s, Sutherland followed Sketchpad with yet another revolutionary graphical interaction device, this one arguably even more ahead of its time. It was a set of goggles—a head-mounted display hung from a ceiling armature that connected to a computer. The system tracked user movement, and people who looked through the goggles could see extremely basic (but at the time unprecedented) computer-generated images floating in the room. If you moved your head, you could see around the image from many sides and angles. Line-drawn cubes floated in midair with a seemingly dimensional presence. It looked and felt like the cube was really there.

Technically, this was a form of *augmented reality*, also known as mixed reality, which blended the real and the virtual. But these distinctions barely existed back then. The point was that as early as 1969, Sutherland had invented a primitive yet functional system for viewing—you guessed it—holograms.

The Sword of Damocles was not the viewing mechanism. It was the heavy motion tracking system that hung precariously on the armature over the viewer's head. Hence the name, a reference to the ancient Roman parable about a court member who wished to rule like the king. The king agreed to switch places for a day, seating him on a golden couch and tasking servants with pleasing his every whim. But the king also hung a sword above the subject's head, reminding him that with awesome power came an omnipresent threat.

When Sutherland ushered early VR technology into the world, there was no awesome power yet. But there was a sense of unlimited possibility about the radical liberation the technology could bring about. For within Sutherland's virtual floating cube was the potential for a world in which reality, or at least the perception of reality, could be altered at a whim.

With computer networks growing rapidly through the '70s and '80s, a new idea took hold: Not only could you reshape reality for yourself, but you could share that new reality with other people. VR didn't just let you augment the existing world; it let

you create entirely new ones, enabling both individual freedom and communal connection.

In the years after Sutherland's invention, the idea of VR would inspire and enthrall a real-world Silicon Valley community of inventors, visionaries, quacks, cranks, and entrepreneurs. The effort was tied up with nascent hacker culture and its radical ideals, which mixed and matched space-age engineering processes with various flavors of libertarianism, syndicalism, communalism, posthumanism, New Age hippie-dippie woo, psychedelia, techno-spiritual transcendence, radical environmentalism, and whatever else happened to be coursing through the California counterculture at the moment. Timothy Leary called virtual reality "digital LSD." Others compared it to a shared lucid dream, a world without rules, whose only limit was imagination.

As Jaron Lanier, founder of the first virtual reality company and one of the medium's most influential figures, recounts in his 2017 memoir, *Dawn of the New Everything* (Henry Holt and Co.), some people in the scene even threw "VR parties" in which rooms were decorated to look like polygonal virtual environments that might eventually exist. People were so desperate for a shared world filled with holograms that they hung cardboard props in party spaces to imagine how they would someday feel.

But the actual technology was slow to develop. VR concepts were mostly explored and popularized in science fiction, which wasn't bound by technological constraints.

In 1984, William Gibson published *Neuromancer*, a neo-noir mashup of hard-boiled detective fiction, art-rock sneer, and early hacker mythos—think *Blade Runner* by way of the proto-punk band Television—that helped define the mood and themes of the genre we now know as cyberpunk. The book's most enduring contribution to popular culture was a single word: cyberspace. The more important part of Gibson's neologism was not the often-abused prefix *cyber* but the term that it modified: *space*. Virtual reality wasn't just a vibe, a style, or an attitude. It was a place you and other people could go.

The idea of virtual reality as a communal environment, which had now been given a name, persisted and proliferated throughout the decade. The sci-fi series *Star Trek: The Next Generation* featured an infinitely modifiable virtual reality playroom that could accommodate complex role-playing games, historical exploration, exotic-environment relaxation, and other full-on sensory experiences, no goofy goggles required.

Naturally, it was called the Holodeck: a place the crew of the starship *Enterprise* could go to experience holograms together.

FROM CONCEPT TO PROTOTYPE

IN THE EARLY 1990s, the core concepts of VR began to meld with another new technology: the World Wide Web. Computer networks had been around for years in the form of Usenet and other

The metaverse is a competition between two rival, seemingly contradictory visions of social technology: one about liberation and one about control.

online message boards, but the user base was comparatively small, made up of a self-selected bunch of academics, computer geeks, and enthusiasts. The web brought connection to ordinary homes across the world, and it did so through an intuitive visual interface—browser windows that displayed hypertext, hyperlinks, and images.

The early web was rather primitive. But from its inception, tech-savvy thinkers could see its potential. It could connect everyone to a shared universe of information and communication. And what if, instead of simply connecting people through basic text, links, and images, it connected them through representations of shared digital space—a vast and manipulatable layer of virtual reality, accessible to anyone with a connection, on top of the physical universe we all already share.

Meta, on top of *universe*. You might call it...a metaverse.

Indeed, that is precisely what Neal Stephenson did in his prophetic, funny, zany, incredibly influential 1992 sci-fi novel *Snow Crash*, which described a sprawling digital otherworld in which people interacted through avatars—graphical stand-ins for their physical selves—of various quality, depending on how much people paid for their connections.

Snow Crash wasn't just a primer on the metaverse. Among other things, it was an elaborate satire of anarchist politics, in which a shriveled government gives way to a fully privatized society. The metaverse was an escape from that reality, a world with its own chaotic culture and jargon—a world that, before long, people in our own reality would start trying to build.

As science fiction explored the potential for VR, the underlying technology was gradually catching up. In the early 1980s, Lanier founded VPL Research, a company fully devoted to virtual reality.

Holograms represent something vital: the potential for mass personalization and individual control.



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"ELECTRIC" SHOCKER 50c

Lanier was (and is) a showman and a polymathic oddball. The son of a science columnist for science fiction magazines, he grew up in a sci-fi-style dome house he designed himself as an adolescent and built with his father, and he was an obsessive player and collector of obscure instruments. In the early 1980s, he built a video game, *Moon dust*, that played more like an art-school thesis. It featured an unusual, naturalistic control scheme and, in a video-game first, music that responded organically to the user controls and graphics on screen.

Lanier was a fixture in Silicon Valley's virtual reality counterculture scene, giving regular "VR talks" that, as he recalled in *Dawn of the New Everything*, dealt with "ideas about early childhood, cephalopod cognition, and how humanity would destroy itself unless art got more and more intense into the future." He imagined virtual reality as a tool for connection and creation, a kind of post-language space built from interactive symbols and infinitely malleable digital environments. Reshaping reality in VR would be like playing music. "Imagine that someday there will be user interfaces for creating fresh stuff in VR that works as well, and as quickly, as musical instruments do today," he said during one such talk reprinted in his book.

Inevitably, VPL built goofy-looking goggles. It also created gloves meant to let people manipulate objects in virtual space, and it designed software and sensory tracking devices. Its immersive demos wowed people: The October 1987 cover of *Scientific American* featured one of VPL's virtual reality gloves next to its graphical representation, along with the words "The next revolution in computers."

But VPL's products were cumbersome and expensive—an affordable VR set never brought to market was intended to be priced at \$75,000. And in the early 1990s, Lanier left the company over internal disputes about its direction.

It wasn't until 2003 that someone actually put something like the complete idea of the metaverse into practice, with a virtual gathering place called *Second Life*. Even then, it was a strictly flat-screen affair, rather than the immersive VR simulator that Stephenson, Lanier, and others had imagined. *Second Life* featured a gamelike interface in which user-controlled avatars moved through sprawling virtual environments. Avatars could attend events, give talks, hang out with friends and strangers, and generally conduct themselves as citizens of a shared virtual country. There was commerce and camaraderie, education and entertainment.

It wasn't exactly Neal Stephenson's metaverse, but it employed some of the same language and concepts. And in his book, Lanier had kind words for its self-directed ethos, praising its emphasis on user buy-in and an "economy that valued individual worth." It wasn't utopian, but it was idealistic, and it stemmed from an essentially optimistic worldview that saw individual cooperation and coordination, self-direction and

self-organization, as the key to human advancement.

Second Life was a sort of prototype, an imperfect mass demo of a bottom-up, people-powered, commerce-and-community-oriented virtual gathering space.

Like Lanier's VPL, *Second Life* received some fanfare in the press. At times the company boasted as many as a million users. Notably, the creators denied that they had created a game, since it contained no top-down objectives. It was a social space whose users would define its purposes. Instead of "players" it had "residents," because *Second Life* was an online society.

But it turned out that what many people actually wanted was games. And that's where the metaverse as we know it today really took shape.

FROM FORTNITE TO FERRARI

NEARLY 20 YEARS later, the actual metaverse—or something pretty close—has begun to emerge. Virtual reality headsets aren't as ubiquitous as iPhones, but you can get a decent one for a few hundred dollars and a great one for a little more than the price of a high-end gaming computer.

It has become clear, however, that the metaverse, especially in its current early stage, isn't strictly dependent on VR—not when we have smartphones, superfast mobile networks, online payment processors, cryptocurrency, and, perhaps most importantly, mass video game communities built around games like *Fortnite* and *Pokemon Go*. Thanks to such developments, the dream of a connected world, a shared digital reality, as fluid and beautiful and intuitive as an instrument, is finally taking shape, with or without goofy-looking goggles.

And so, of course, an awful lot of it is being used to sell virtual crap, watch virtual porn, and virtually shoot each other.

In 2021, *Adult Video News* reported the launch of JOI.CITY, the self-described "Metaverse of Erotica," a virtual cityscape filled with sexual entertainment. As virtual places go, it's fairly unoriginal; it looks like Pornhub rented out the *Blade Runner* set for a night. There's a neon-lit street scene with a couple of doors into online erotic clubs and some sexy advertisements plastered on the walls. And there are, of course, virtual erotic dancers, some apparently modeled on real-life porn stars, who will perform for a fee. In this part of the metaverse, even the strippers are holograms.

In 2022, a separate company, xxxNifty, announced that it would be launching "the first full Adult Metaverse." In a virtual environment dubbed the "Pink Tower," according to *Adult Video News*, players "can live and love by having sex with their own unique 3D character." In the coming metaverse, not only can you *be* a hologram, you can have virtual sex with one, as one.

Porn creators aren't the only ones looking to monetize the metaverse. *Signal360* is an online publication that grew out of

a corporate conference series sponsored by Procter & Gamble, a multinational consumer goods company that owns such brands as Downy, Febreze, and Tide. In March, the site published a video conversation about the metaverse between Raffaella Camera of Epic Games and NFT pioneer Eric Pulier of Vatom, which bills itself as an all-in-one metaverse platform for businesses. It was obvious what their vision of the new internet is: The metaverse is about *advertising*.

Camera's company is best known for its super popular online game *Fortnite*, a large-scale multiplayer shooter that has evolved into a virtual hangout for mostly younger players. Epic is one of the many companies attempting to build out the foundational tech of the metaverse, and *Fortnite* has hosted massive in-game events, from a virtual concert featuring rapper Travis Scott to the premiere of a trailer for the Christopher Nolan movie *Tenet*, that go beyond the scope of a traditional video game.

Unlike *Second Life*, *Fortnite* is very clearly a game, built on a top-down directed experience organized for users by corporate minds. The community, however, has evolved out of that shared, goal-driven experience.

Camera, however, mostly talked about the company's digital tools, a suite of software products and virtual object libraries designed to enable anyone to create a metaverse-type experience of their own. In theory, that could mean ordinary individuals pursuing their dreams. But in practice, it's brands—such as Balenciaga, the first high-fashion label to launch in *Fortnite*, and Ferrari, which has placed hyper-detailed digital mock-ups of its supercars inside Epic's games—that are taking advantage.

One of the core appeals of the metaverse, Pulier said, is the notion of a world without traditional advertising—"a world without annoyance." Instead, advertising would be immersive. It would be fun. People would want to participate.

All of this, it's worth reiterating, appeared on a website sponsored by a company that sells paper towels and eyeliner. The theory seemed to be that, in the metaverse, people would *enjoy* spending time experiencing an ad for mouthwash. (More than a week after the video went online, it had received just 97 views, including, presumably, the three times I watched it myself.)

It's hard not to suspect that Facebook—sorry, Meta—is after something similar.

In early 2022, the company let investors know that it would undershoot its expected revenue targets by about \$10 billion. The problem was that Facebook is an app. It collects data about its users, then sells that data to brands that can use it to tailor and target their ads. Facebook has unique insights into its very large user base that make it extraordinarily valuable to advertisers. But apps run on hardware and are accessed through marketplaces such as Apple's app store. And in 2021, Apple started asking users if they want to turn off the in-app tracking that leads to more personalized ads. The majority of users turned off tracking.

Apple's control of the hardware and software ecosystem, it turned out, was the Sword of Damocles hanging over Zuckerberg's head.

Meta bills itself as a company devoted to connecting people. But its actual business model, the way it makes money, relies on tracking user behavior. Without tracking data, ad buys on its platform became much less valuable. So the company has turned to another technology that is, on the surface, about connection and communication but that is built in large part on advanced behavioral tracking systems. Virtual reality, remember, is a technology of tracking and measuring human perception.

If adopted by the masses, those systems would give Meta more user data than ever before. And this time, the company wants to control the hardware and software ecosystems so that a rival can never turn off the flow of data. Hence Meta's \$2 billion acquisition of the VR headset maker Oculus VR and the deployment of a series of relatively affordable consumer-grade virtual reality headsets. And hence Zuckerberg's insistence that the metaverse, as he imagines it, will require not only norms but "new forms of governance."

For the last several years, Zuckerberg's company has faced intense scrutiny from lawmakers in Congress. Much of this scrutiny is misguided, predicated on misunderstandings of internet technology generally and of what Facebook does specifically. But Facebook's response has been increasingly focused on accommodation. In advertising and in hearings, the company's position has been that *of course* the internet needs new rules and regulations—and that Facebook is ready and willing to help lawmakers and bureaucrats write them.

And so, late in its metaverse presentation, when an employee explained that "the speed that new technologies emerged sometimes left policy makers and regulators playing catch-up," it was not hard to guess the endgame. By bringing lawmakers and regulators into the fold early, Meta is looking for a seat at the table, where it can push for rules that will benefit Meta.

Lanier, who now works at Microsoft, has been particularly critical of Meta's plans and of Facebook's business model, which he believes relies on stoking anger for engagement. "Listening to Mark Zuckerberg talk, it sounds like some megalomaniac took my stuff and filtered it through some weird self-aggrandizement filter. I mean, it's just the weirdest thing," he said on the *New York Times* podcast *Sway* in November 2021, shortly after Facebook's big metaverse presentation. "My thought of it always was that you would emerge and it would be like 100 million micro entrepreneurs doing their little thing here and there. And there wouldn't be some overlord."

VR pioneers envisioned a freewheeling world of musical holograms where people constructed their own realities without top-down direction. Meta wants the opposite: a mediated, regulated world where advertisers track your every move.

THE HOLOGRAM DREAM LIVES

SO IS THE metaverse a cynical ploy to co-opt the regulatory process and sell branded virtual tchotchkes? Well, yes. But it isn't only that. The old dream of a shared virtual space, liberated from the constraints of physical reality and built to inspire creativity, is very much alive.

Consider Roblox, a social gaming platform that has, for most of its existence since 2006, largely targeted children (although its user base has now started to age). Roblox isn't a game itself; it's an ecosystem for making games that you and others can play. The games can then be sold, and the company shares the revenue with creators.

Some of these games are fairly conventional action-adventure experiences, but many are just experiences, without traditional video game objectives. On Roblox, you can visit tropical islands, adopt virtual pets, manage a digitized pizza restaurant, and create secret or public virtual clubhouses to hang out with your friends. Like most of today's metaverse-type experiences, it doesn't require VR goggles—you can access it from a computer or a phone—but you can use a VR headset to add to the experience if you want.

And some Roblox users are moving beyond minigames and virtual worlds to other types of creation, like music. Roblox users have created their own sonic subgenre, dubbed Robloxcore, that features bouncy, digitally created sounds and computer-manipulated voices colliding against each other in what feels like a mashup of top-40 pop and old Nintendo game soundtracks. It's exactly what you'd imagine teen pop would sound like if it came from a world inside a computer.

It would be an exaggeration to say that Roblox represents a fully liberated, user-driven world of musical holograms. But it moves us closer to that ideal.

This essay has made light of holograms, because they are silly. But they're also important, because holograms represent something vital: the potential for mass personalization and individual control.

One of the key ideas of the metaverse is the preservation and customization of individual identity.

Some of this is aesthetic: A virtual environment, or a virtual body, can be modified and altered according to your whims and preferences. It can change based on context or mood. One day you might show up to work as a cartoon panda, the next as a giant walking redwood tree. You might appear as a man or as a woman or as something else entirely. You might add extra virtual limbs or a tail; among VR research's many enlightening discoveries is that humans have little trouble adapting to avatars with additional, non-human appendages.

But it's also about personal data: the architects of the metaverse want you to be able to transfer your digital identities, from your avatars to your credit card numbers to your grocery delivery service logins, across virtual realms.

The fundamental precept of the metaverse—and the essential idea of VR—is that people are different, they have different desires and preferences, sometimes even within themselves, and they should be allowed to exist in a world that respects that fact.

Sometimes such a world will produce never-before-imagined types of music and weird art happenings that attempt to bring about elevated collective consciousness. Sometimes it will serve up a virtual Ferrari or a cool jacket from a hot brand. And sometimes it will give us a seedy neon strip club with a holographic dancer.

Just as some people design their own geodesic dome houses and other people move into cookie-cutter subdivisions, some denizens of the metaverse will appear exclusively as unrecognizable posthuman entities and build vast, strange virtual worlds to inhabit, while others will choose avatars that look a lot like their real-life bodies and stick mostly to prefab spaces, designed by others for mass use.

Some metaverse experiences will be created from the bottom up by ad hoc, anarchistic virtual communities; others will be organized from the top down, but in ways that make the experience more immediately accessible, just as Facebook brought social media to the masses and smartphones brought virtual connectedness to our persons. These two visions of a hologram-built world will coexist, sometimes in tension with each other, sometimes in cooperation.

Indeed, these two visions already exist, in various forms, in the proto-metaverse that has already begun to arrive and in video games, social media, videoconferences, telework, and various meldings of those elements. Directed, gamelike experiences like *Fortnite* are already leading to self-organized communities, and nondirected toolkits like Roblox are already generating video games with the usual gamelike goals.

All of this is happening in something like a metaverse—really *metaverses*—with or without VR goggles. And all of this will continue to happen in the metaverses of the future, as they grow and change and become an even greater part of our lives, making the dream of a disrupted reality ever more real.

As this happens, there will be limits. So far, virtual reality is primarily a technology of sight and sound, with limited tactile feedback. You can't have a cocktail in the metaverse, or pet your dog. (Hence the lack of dog hair.) Like physical reality, virtual reality has its share of problems. But it also has holograms, and a liberatory potential. As ever, human beings will make of it what we can. 📍

PETER SUDERMAN is features editor at *Reason*.

Name the System

A new book on Venezuela shows the failures of socialism—but won't blame socialism for the failures.

JIM EPSTEIN



THE BOLIVARIAN CABLE Train was an elevated railroad planned for a poor neighborhood in Caracas, Venezuela. It ended up running for only three-fifths of a mile and connecting to nothing.

By 2012, four years into the project, the government had spent about \$440 million on

it and the project was only partly finished. But the country's socialist leader, Hugo Chávez, decided that he wanted to take a ride on live television. The contractors told his handlers the train wasn't ready yet; the cable, motors, and machinery had not even been installed.

"No European engineer is going to tell the people of Venezuela what can or cannot be done," Chávez's lackey replied. So the government paid an extra million dollars for a temporary setup that might fool the TV audience. An ebullient Chávez (seemingly oblivious that the fragile, makeshift operation nearly sent him hurtling down the track during the broadcast) boasted that "this is the work of a socialist government so that the people will live better every day."

Today the train runs intermittently, the Brazilian company overseeing its construction has pleaded guilty to corruption in 12 countries, Chávez has died from cancer, and Venezuela, after more than two decades under the control of Chávez and his successor, Nicolás Maduro, has been transformed from a constitutional democracy into a brutal dictatorship. The whole cable train saga is vividly recounted in *Things Are Never So Bad That They Can't Get Worse*, a new book by former *New York Times* reporter William Neuman.

The book gives voice to a woman named Hilda Solórzano, providing a snapshot of what life is like for the Venezuelan poor. Her son's teeth turned black and fell out from lack of calcium. Her uncle and brother were murdered. Her 10-year-old daughter was kidnapped, tortured, killed, and tossed in a garbage dump. After Solórzano started a successful baking business, a relative stole the money she needed for ingredients. She lives in the same Caracas slum where the government spent around half a billion dollars on the Bolivarian Cable Train.

Neuman also introduces us to bookstore manager José Chacón, the "Last Chavista," who can't afford the mayonnaise,

beef, and tomatoes he once loved. He skips meals and drops 15 pounds. But Chacón is unswayed. He reveres Chávez and is grateful that the socialist state taught him "to eat healthier." Someday, after everyone has fled the country, Neuman writes, "you'll see Chacón, sitting atop the great pile of rubble and ash, holding firm, chewing on the last lentil."

These are powerful depictions of human beings coping with daily existence in a disintegrating society. But when it comes to explaining *why* this oil-rich nation experienced one of the largest economic contractions in modern world history, the book is a muddle.

Neuman won't accept Chávez's word that he was a socialist. Although the Venezuelan leader used that word relentlessly to describe his policies after 2005, Neuman insists it was just a marketing ploy. "Chávez was neither a Marxist nor in any real sense, despite the rhetoric, a socialist," he writes. It was "*showcialismo*."

Was it? One classic definition of socialism is government control of the means of production. Chávez nationalized banks, oil companies, telecommunications, millions of acres of farmland, supermarkets, stores, the cement industry, a glass container maker, a gold-mining outfit, the steel industry, a fertilizer company, a shipping company, the electricity industry, vacation homes, and more. He imposed capital controls that put the government in charge of all foreign trade, turning Venezuela into a command-and-control economy—aside from its burgeoning black market, another typical feature of socialist societies.

In industry after industry, nationalization led to deterioration, abandonment, and collapse. In 2008, Chávez boasted that he would transform the steel giant Sidor into a "socialist company owned by the socialist state and the socialist workers." By 2019, at the Sidor plant in Guayana City, "everything was stained with rust," Neuman writes. "In all that great expanse, nothing moved." The book is filled with similar accounts.

So it was dumbfounding to read on page 82 that "Chávez made no serious effort to dismantle the market economy." The book claims he was merely continuing longstanding Venezuelan policies but painting them "a different color." Neuman is a journalist who tells powerful stories and then misinterprets his own material.

Chávez was not the first Venezuelan president to nationalize companies, fix the exchange rate, or impose price controls.

But he pursued these policies on a much larger scale than his predecessors. Chávez also gutted property rights, destroyed the currency, dismantled the judiciary, corrupted the military, and undermined the separation of powers. One lesson of his reign is that when it comes to building sustainable prosperity, institutions matter more than possessing the world's largest oil reserves.

Neuman's analysis gets ridiculous in the post-2013 era, after oil profits (which plummeted because of a collapse in production and the end of the price boom) could no longer paper over the hollowed-out economy. That, Neuman writes, meant the state was "reduced to the absolute minimum." Services disappeared and crime ran rampant, which in his view shows us what happens when "private initiative can flourish, unencumbered." But "private initiative" depends on the rule of law. In 2019, the Fraser Institute's Human Freedom Index ranked Venezuela 163 out of 165 countries in the category of "Legal System and Property Rights."

Neuman sees nothing necessarily wrong with nationalizing industries; he just thinks Chávez did a bad job of it. "You can make an argument that certain industries or certain types of companies might be better under public control," he writes. But "you ought to make an effort to run them well—to invest in them and to hire competent administrators."

This argument reminds me of comedian John Oliver's 2018 claim that Venezuela's collapse is best understood as a case of "epic mismanagement," not socialism. It is certainly true that Chávez and his cronies mismanaged the businesses they seized. The country operated as a "mafia state," a concept developed by the Venezuelan journalist Moisés Naím. Writing recently in *The Wall Street Journal*, Naím observed that the country's socialism often served "as little more than a narrative that the powerful used to cover up their plunder of public assets." But that is true of

many socialist regimes. Indeed, it is what we should expect of them.

In his 1944 book *The Road to Serfdom*, F. A. Hayek argued that the transition to government ownership of the means of production will invariably be spearheaded by the worst types of people. Only a "skillful demagogue," Hayek wrote, can bring the "gullible" together around "hatred of an enemy"—the United States, in Venezuela's case—and then show the "ruthlessness required" to centralize an entire economy. For the apparatchiks, "the readiness to do bad things becomes a path to promotion and power."

Neuman's claim that nationalization might make companies "better" also fails to recognize that when governments steal from citizens, they scare off capital. "Investment in Venezuela has disappeared," said Marcel Granier, the CEO of Radio Caracas Televisión (RCTV), in 2007. "Nobody is going to invest in a country where they're threatened with expropriation." Granier made those remarks during RCTV's final broadcast before Chávez forced the station off the airwaves.

Speaking of RCTV: At one point in the book, Neuman travels to a café in Berlin for an interview with former RCTV producer Andrés Izarra. Izarra, who used to serve as Chávez's minister of communications, is depicted as a pained ex-official "trying to make sense" of everything he went through.

Neuman does not inform his readers that Izarra is one of Chavismo's great villains—an ideologue who spent more than a decade excusing government crimes. He was central to the propaganda campaign defending the shutdown of RCTV on the grounds that the network had supported a coup attempt in 2002. In 2008, he defended Chávez's decision to expel Human Rights Watch from the country, accusing the organization of being a cover for planned U.S. interference. In 2010, he broke into uproarious and dismissive laughter

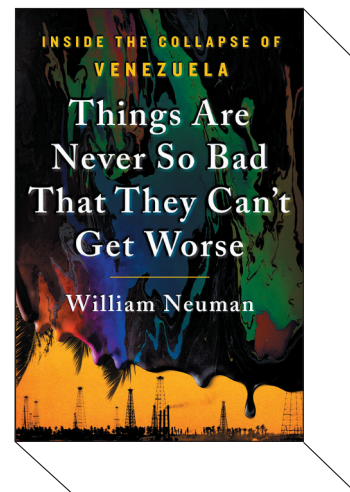
Socialism in Venezuela caused millions of personal tragedies.

during a CNN discussion of Venezuela's exploding murder rate. That same year, he tweeted: "Franklin Brito smells like formaldehyde." Brito was a martyred farmer who had died in a hunger strike after the Venezuelan government expropriated his land.

Izarra eventually fled Venezuela and now lives comfortably with his family in Germany. Hilda Solórzano remains stuck in a violent slum, worried about her next meal.

Socialism in Venezuela caused millions of personal tragedies, and I'm glad that Neuman brings many of them to life so vividly. But paying tribute to the victims should also mean being clear-eyed about the cause of their suffering. Otherwise, such catastrophes are apt to be repeated. 📍

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Things Are Never So Bad That They Can't Get Worse: Inside the Collapse of Venezuela, by William Neuman, St. Martin's Press, 352 pages, \$29.99

Surveillance Through the Centuries

KATRINA GULLIVER



AMERICA'S FIRST WIRETAPPING conviction happened in 1864. A stockbroker named D.C. Williams had been tapping a telegraph line in California to get corporate information, which he used for advantageous stock trades. The law he broke had been passed two years earlier, making California the

first state to regulate wiretapping.

The telephone had not been invented yet, and the transcontinental telegraph had only just been completed. The Golden State's legislators were ahead of the game. Ever since then, legislation dealing with electronic surveillance has been playing catch-up—both with the technology and with public sentiment.

In the early days of the telegraph, privacy was a difficult issue to address. It was impossible to expect or demand that only the addressee could see your communication: Operators had to both transmit and receive the messages, and couriers had to deliver them. The same was initially true of the telephone: Calls were connected by an operator, and many subscribers were on party lines. This made legislation hard. Simply “listening” couldn't be forbidden, since many individuals had legitimate reasons to listen or could do so incidentally.

“Eavesdropping was a feature of telephony from the beginning,” Georgetown University's Brian Hochman observes in *The Listeners*, a history of American wiretapping. “Customer privacy was an invented ideal that came later.”

Attitudes toward wiretapping evolved too. Soldiers on both sides of the Civil War had engaged extensively in the practice, and newspapers depicted their actions as beneficial, even heroic. But in peacetime, tapping was seen as the province of con men, blackmailers, and other disreputable types.

These wiretappers came up with many creative scams. A common technique was a gambling swindle: The con man would intercept the results of a horse race in another city before they could be communicated to a bookmaker, then place a bet on those results. Given delays in communication, it was easier to finesse a late bet than you might imagine—especially before the Standard Time Act of 1918 established a national system of time zones. An alternative angle was industrial espionage, trading stocks based on information gleaned from corporate communications.

Yet another scam was simply to claim to be involved in one of these hustles, recruit “investors” who might like to get in on the game, and then make off with their money. (This play was demonstrated in the film *The Sting*, where the Depression-era con men convince their victim they have a wiretap racing scam going, using a fake betting parlor.) In the real world, news stories about wiretappers and their tricks played in these criminals' favor: People were eager to believe they would make a killing on the third at Belmont, thanks to their new friend with a tap on the wire, and happily handed over their money. They thus joined the long tradition of saps who think they're in on the con until they realize, too late, that they were the marks.

On the other side of the law, police started using wiretaps



more extensively during Prohibition. As the cops listened in on gangsters' operations, conflicting legislation became a real thicket. Some states, such as California, banned wiretapping; some permitted it only for police with a court order; some had no statutes on it at all. This diversity of rules sparked challenges when cases reached federal court and prosecutors elided the source of their information rather than acknowledge a wiretap that violated state law.

Such practices also provoked civil libertarian objections. Many people, including some legislators, thought wiretapping by the police was an unjustifiable intrusion, even when the targets were criminals. "For much of the twentieth century, wiretapping for national security was generally regarded as a necessary evil, a mild concession that individual citizens needed to make in order to combat dissent and subversion," Hochman writes. "By contrast, most Americans disapproved of the prospect of wiretapping for crime control."

Hochman traces a gradual shift away from this attitude, parsing various bills and Supreme Court decisions. Learning how our grandparents thought about privacy (or didn't) makes this an especially illuminating text for modern privacy hawks.

The 1950s brought greater use of bugging instead of wiretapping; it evaded many existing statutes, since it didn't involve "tapping" a line. It could run afoul of trespassing laws if the target's property was entered, but simply placing a small microphone was not illegal in many jurisdictions. Transistor technology made this a more viable surveillance method, and bugs quickly became popular among private investigators as well as police.

The prospect of being "bugged" went mainstream in popular culture, becoming a common film plot device even as technical magazines touted the developments that made it possible. For much of the 1960s, public emotion was

swinging toward privacy and against government surveillance. Unfortunately, the decade's unrest stopped this movement in its tracks. The law-and-order faction became ascendant, renewing demands to surveil criminal suspects. "Even though the late sixties and early seventies seemed to herald a newfound national commitment to protecting privacy and limiting surveillance," Hochman writes, "the era's signature pieces of electronic surveillance legislation had the ironic effect of normalizing taps and bugs in areas of American life that would have seemed unthinkable only a decade prior."

One result was the Omnibus Crime Control and Safe Streets Act of 1968. While this law placed restrictions on wiretapping and bugging by law enforcement, it also enshrined them as standard policing techniques. Wiretapping by other parties was supposedly illegal, but government enforcement was lax.

Meanwhile, a consumer market for surveillance devices emerged. Wiretap devices were sold as "answering machines." What once was a remote eavesdropping device was reinvented as a "baby monitor."

The agencies expanding the war on drugs also presented wiretapping as the heroic work of brave policemen rather than the dirty work of crooks or private eyes. When California legalized police wiretaps in 1988, a local police official told the *Los Angeles Times*: "Wiretaps are the answer. Let everyone know that Big Brother, as you call our government, will be watching the major drug dealers in this state."

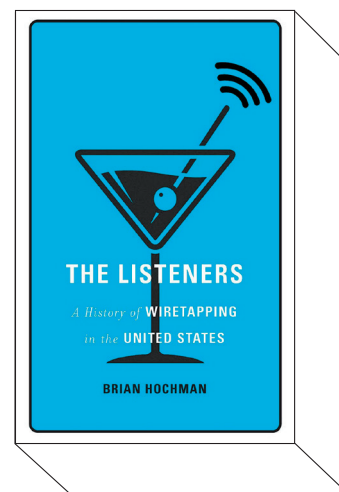
Laws are always lagging behind technology. When cordless phones were introduced in the '80s, "cross-talk"—picking up the signal from another nearby phone—was a known issue that purchasers were warned about. This phenomenon led some courts to decide that users of these devices had no "reasonable expectation of privacy," allow-

ing convictions based on overheard conversations even when there had been no warrant to monitor them.

The tug of war continued. The Electronic Communications Privacy Act of 1986 was supposed to offer individuals more privacy. But eight years later, another law-and-order spasm produced the Communications Assistance for Law Enforcement Act, which handed more surveillance powers to the cops. After 9/11, the USA PATRIOT Act gave government agencies even more snooping authority. "National security" can be a very wide net, especially in a globalized world.

Today some of us are resigned to the idea that the National Security Agency might be listening to our calls, and it feels almost inescapable that someone, in the government or in Silicon Valley, is tracking our communications. We conduct meetings on Zoom, knowing that the company can monitor our conversations. Is this a return to the mindset of a century ago, when everyone knew a Bell operator could be on the line? Perhaps privacy was always an illusion after all. 📍

KATRINA GULLIVER is a historian and writer.



The Listeners: A History of Wiretapping in the United States, by Brian Hochman, Harvard University Press, 368 pages, \$35

Gay History in the City of Secrets

WALTER OLSON



DURING J. EDGAR Hoover's 48 years as FBI director, people often gossiped about whether his bedroom tastes were as straight as his agents' marksmanship, citing everything from his fondness for socializing in male groups to his close relationship with longtime deputy Clyde Tolson. Spread-

ing such rumors might earn you a visit from the FBI itself: As James Kirchick relates in *Secret City*, the bureau made it a practice to "detect, hunt down, and intimidate private citizens who spoke ill of the director."

Among the persons brought in for grilling sessions on this sensitive topic were the owners of a diner and a hair salon, an American visiting London, a prison inmate, and a woman who had gossiped about the director at a bridge party. In the last case, the party's hostess told a nephew in the FBI what had happened, whereupon the agency's Cleveland branch ordered the talkative partygoer—described in notes as an "old maid schoolteacher"—to report to its field office for questioning. The woman, whose unease at getting such a summons may well be imagined, apologized profusely for spreading the report, spelled out exactly where she had heard it herself (on a trip to Baltimore, from a group of young men at the next restaurant table), and promised to use the next bridge get-together to tell every attendee that her statement had been unfounded.

As a history of gay D.C., *Secret City* is itself full of high-grade gossip, and I mean that as a compliment. But Kirchick is up to serious business as well. He is not much concerned with the physical city, whose elegant avenues were laid out at President George Washington's behest by the French-born architect Pierre Charles L'Enfant ("a lifelong bachelor described as 'sensitive in style and dress' and as having an 'artistic and fragile temperament'"). Kirchick's focus is homosexuals' relationship to high-level national politics, as defined by both actual and potential public scandal, and to the federal government, which in 1953 imposed a wide-ranging employment ban whose repercussions lasted for decades.

According to long-received wisdom in anti-gay circles, homosexuality tends to flourish in government work and especially in the effete and cosmopolitan precincts of the foreign service and the State Department, thanks to gays' wily networking skills and mastery of social life.

Plausible? Well, Kirchick's early chapters (he begins with President Franklin Roosevelt's administration) are indeed heavy on scandals involving diplomats and other foreign service professionals. And not just American ones: Spain's World War II-era embassy constituted "an endless bacchanal, albeit one meticulously designed to elicit valuable information for the fascist regime of Generalissimo Franco."

But no conspiracy theories are needed to account for why gays have long been well-represented in well-traveled government service and in the higher reaches of politics. It is the same logic that has applied during the same period in entertainment, travel, and hospitality: "Some of the most important prerequisites for success in Washington—the ability to work long hours on a low government salary, a willingness to travel at a moment's notice, prioritizing career over family—are more easily attained by men without a wife and children to support."

As for social life, it's true that after-hours events were once central to the Washington scene, peaking perhaps in the party-mad Kennedy and Reagan administrations. That reality created niches for social specimens like the "walker," a suave fellow "who escorted the wives of powerful and busy men to parties." To be sure, that was a long time ago. If you're into D.C. power networking these days, your time is better invested in getting to know parents whose kids go to the same elite school as yours (which does not keep low-information populists from obsessing over Georgetown cocktail parties).

Even in its heyday, how much of a problem did this situation pose for good governance? It was widely believed, especially at the Cold War's height, that gays posed a national security risk because they are (or were) readily blackmailed. But the evidence for that is lacking. "In 1991," Kirchick writes, "the Department of Defense published a study analyzing the cases of 117 American citizens who had either committed or attempted to commit espionage since 1945. Only 6 were gay, and none of them had done so under the threat of blackmail."

Many vivid characters in Kirchick's postwar narrative combined ardent anti-communism with nonstandard sexual interests. The Communist-turned-Cold-Warrior Whittaker Chambers was tormented by (and renounced) his same-sex inclinations. That one-man Chernobyl of legal ethics, Roy Cohn—"At 15, he had already arranged his first kickback"—tripped up his demagogic sponsor, Sen. Joe McCarthy (R-Wis.), through his persistence in trying to secure favorable Army treatment for a soldier with whom he was infatuated. Columnist Joseph Alsop became a target for Soviet blackmail

after a Moscow indiscretion, which he courageously blunted by preemptively disclosing the guiltiest bits to various organizations in a position to care. He went on to take a staunchly anti-Soviet line, and the Kremlin never used the material. (Allen Drury, who may or may not have been heterosexual, wrote *Advise and Consent*, a 1959 novel fictionalizing the real-life suicide of a senator from Wyoming. It deftly combined a robustly conservative take on national politics with a plea for gay acceptance.)

When moral panic hit, the ensuing Lavender Scare lasted longer than the Red Scare it accompanied. Several people you might expect to have known better endorsed, helped draft, or helped put into effect President Dwight Eisenhower's infamous Executive Order 10450, which aimed to drive gays out of the government. Among them: the closeted Eisenhower adviser Robert Cutler and the New Deal icon (and Boston-marriage participant) Frances Perkins.

Executive Order 10450 applied to all federal employees, not just those with security-sensitive jobs, so "curators at the Smithsonian Institution and veterinarians at the National Zoo" had to go too. Every federal agency was obliged to investigate both new hires and existing employees, and the order also applied to private companies with government contracts. (The use of government contracting strings to impose awful policy is not new.) It's hard to know how many employees lost jobs, but estimates start at 7,000, to which must be added many more who resigned preemptively or knew not to apply.

By way of ideological underpinning, State Department security chief Scott McLeod sought to commission an official monograph "on how homosexuality had spurred the collapse of great civilizations throughout history." (This project was scrapped after his researcher "concluded that gays could not be blamed for the downfalls of ancient Rome and Greece.") The same

McLeod, truly a petty officer, ordered retaliatory investigations of a foreign service officer overheard calling him a "jumped-up gumshoe," eventually forcing the officer out.

On the wider national scene, the issue was shaped by what Nixon adviser Murray Chotiner later described as the most important rule of politics: "Destroy your opponent." Both camps used factual allegations—and, when it served, entirely fictitious ones—to harm promising candidates on the other side. One problem in figuring out who was actually gay in American political history, in fact, is that opponents spread false rumors about so many figures. (J. Edgar Hoover himself? Unproven.)

Following the wise practice of an editor who once told me that history is most palatable to the reader when written through character stories, Kirchick traces the arcs of dozens of characters, high and low, famous and obscure. They include Oliver Sipple, who deflected an assassin's bullet aimed at President Gerald Ford and then died in misery after the resulting publicity caused his family to disown him, and Franklin Kameny, the magnificently obsessive astronomer who spent decades fighting the federal ban. Kirchick also covers a black lesbian crime boss, the gay-bookstore owners who installed a large window that made customers visible to sidewalk passersby, and various murder victims whose deaths long passed with little public investigation or notice. This broad sweep should make this book the standard on its subject.

By the 1960s, public attitudes were changing. Kirchick argues that the brilliant civil rights strategist Bayard Rustin—yet another anti-communist—deserves note as the first public figure to survive the truthful revelation of a gay scandal. The story winds down in the early '90s, amid the controversy over politically motivated "outing" and the horrors of AIDS, which by striking

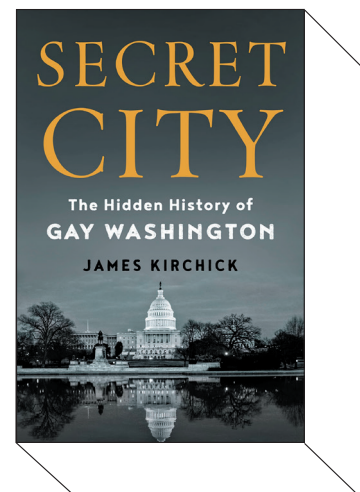
Kirchick explores the broader "story of openness triumphing over concealment."

down hundreds of thousands of men in the prime of life did far more to make straights realize they'd known gay people all along.

At that point, few imagined the extent to which, a generation later, gays would have assimilated to bourgeois norms. Today we have an openly gay transportation secretary, and the biggest controversy he has sparked so far was over whether he took too much paternity leave.

While many of his individual tales are unhappy, Kirchick draws optimism from this broader "story of openness triumphing over concealment." As he rightly says, that sea change is "a magnificent accomplishment of the liberal society, enabled by the fundamentally American concepts of free expression, pluralism, and open inquiry." 

Contributing Editor WALTER OLSON is a senior fellow at the Cato Institute.



Secret City: The Hidden History of Gay Washington, by James Kirchick, Henry Holt and Co., 816 pages, \$38

TV

WINNING TIME

MATT WELCH

Hidden near the heart of many prestige ensemble television dramas—think *Mad Men*, *The Sopranos*, or even *Hill Street Blues* back in the day—lies that seemingly unsexy of topics: management. So it is with HBO's absurdly enjoyable if not quite great *Winning Time: The Rise of the Lakers Dynasty*. The show chronicles how basketball legend Magic Johnson and real estate hustler Jerry Buss converged upon Los Angeles to transform the NBA.

Based on Jeff Pearlman's 2014 book *Showtime: Magic, Kareem, Riley, and the Los Angeles Lakers Dynasty of the 1980s*, the series explores how Buss bluffs and sleazeballs his way to genuine entertainment and sporting innovation, and how Johnson navigates the workplace delicacies involved in taking control of a team led by the fiercely intellectual future Hall of Famer Kareem Abdul-Jabbar—at the same time launching what would become a remarkably successful business career.

Other management arcs crisscross the drama: Pat Riley goes from aimless semi-hippie retiree to slicked-back coach and leadership theorist, Jerry West recognizes his deficiencies as a coach as a way of discovering his mastery as a general manager, and a number of women in Buss' otherwise Hefner-lite orbit live out feminist tales of empowerment. As ever, it is thrilling to watch human beings discover how to develop the excellence of a group. **T**

OBJECT
SKIMS

LIZ WOLFE

In April, the reality TV mogul and aspiring lawyer Kim Kardashian debuted a new collection of her lingerie/shapewear brand, SKIMS, via an ad campaign featuring a flock of former Victoria's Secret angels.

In a little under three years since launching the brand, Kardashian has pocketed a cool \$1 billion while marketing lingerie that "fits everybody" and comes in a wider array of skin tones than that industry has traditionally offered—similar to Rihanna's Fenty Beauty line, which was lauded by black beauty industry watchers (among others) for debuting with a whopping 40 different shades of foundation.

SKIMS has unseated the reigning lingerie industry titan Victoria's Secret—savagely stealing its iconic angels—by making a superior product. (Well, that plus the founder's fame and marketing prowess.) SKIMS offers bras that are far more comfortable than most

competitors while catering to a greater range of cup and band sizes. Ditto for its shapewear line, which more directly competes with brands like Spanx; for women who like to wear tight dresses a la Kim, the catsuits, bodysuits, waist trainers, and slips come in all cuts and necklines, allowing more customized sculpting base layers than Spanx ever offered.

Victoria's Secret's dominant push-up bras are a one-note bombshell-ism that flatters only women with select assets. In SKIMS' world, women swan around in skin-tight, floor-length loungewear dresses, or don shimmer leggings, or perhaps high-waisted cozy knit pants; they can emphasize or hide the most and least flattering parts of their bodies with booty- and belly-sculpting shapewear. If you've detected an ambient increased sexiness in the atmosphere, thank Kardashian's daring competition against the formerly indomitable lingerie titans. **T**



TV

THE DROPOUT

BILLY BINION

Elizabeth Holmes, founder of the disgraced medical tech company Theranos, was once seen as the embodiment of Silicon Valley. In some sense, she still is, although for dramatically different reasons.

Hulu's limited TV series *The Dropout* tells Holmes' story over a decade, from her career's humble start in a run-down office building where gunshots flew nearby to a palatial headquarters when the company's valuation was hitting \$9 billion. Theranos sold a blood-testing technology that, according to its own hype, would revolutionize preventive medicine by scanning for a litany of potential diseases in a tiny draw of blood. It won Holmes glowing profiles in major media outlets and forged a corporate board that included former Secretary of State George Shultz.

What started off looking like a Silicon Valley success story did not end that way. We see the operation slowly and then rapidly unravel, as some workers within the company become disenchanted with the broken blood-testing machines and error-ridden diagnoses. (Those included, among other mistakes, a customer receiving a false positive for HIV.) As the company begins its descent, so too does Holmes, played with an unnerving intensity by Amanda Seyfried, who nails her subtle, wide-eyed ferocity and characteristic baritone voice.

It wasn't eagle-eyed regulators who caught the fraud. It was those disenchanted employees, followed by journalist John Carreyrou of *The Wall Street Journal*. The Food and Drug Administration isn't known for throwing caution to the wind—Americans have just watched its foot-dragging bureaucrats block access to lifesaving treatments in the age of COVID-19. Yet for more than 10 years, it somehow failed to spot the fraud at the heart of Theranos. **T**

BOOK

JUNK SCIENCE AND THE AMERICAN CRIMINAL JUSTICE SYSTEM

C.J. CIARAMELLA

Few people are more qualified to write about wrongful convictions in the U.S. than M. Chris Fabricant, the director of strategic litigation for the Innocence Project. His group has freed or exonerated more than 200 people since its birth in 1992.

The advent of DNA testing allowed the Innocence Project to show that several common forensic measures are far less reliable than expert witnesses want juries to believe. Fabricant's new book, *Junk Science and the American Criminal Justice System*, details at length how those flawed techniques have led to numerous wrongful convictions.

The book opens with the case of Keith Harward, a Navy sailor convicted of a 1982 murder and rape based on bite-mark analysis. A dentist testified at Harward's trial that it was a "practical impossibility" that someone else could have bitten the victim. Harward spent 33 years in prison before DNA evidence exonerated him.

Hokum techniques get accepted in the courtroom by having a veneer of scientific surety, but they lack empirical rigor. "It is subjective speculation masquerading as science, typically tilted in the government's favor against an indigent person of color," Fabricant writes.

And it's not just bite marks that have gotten convictions without scientific credibility. Fabricant's book shows how faulty ideas from blood spatter analysis to shaken baby syndrome were developed, infected court systems, and ruined a still-untold number of lives. **f**

MOVIE

APOLLO 10 1/2

PETER SUDERMAN

Looked at one way, there's nothing particularly ambitious about *Apollo 10 1/2: A Space Age Childhood*. Part quasi-memoir, part nostalgic fantasy, the animated movie draws from director Richard Linklater's childhood experiences living in the shadow of NASA during the moonshot era, with one big difference: Milo, the child at the center of the story, has been secretly tasked with manning his own moon mission, because NASA accidentally built one of the lunar landers too small.

This amusing conceit offers a funny nod both to NASA's glitch-prone engineering and its can-do spirit, and it mostly serves as a narrative hook to pull together the movie's digressive observations about the era and its culture.

The movie's subtle daring comes from its embrace of the kid's hopeful outlook: Milo's world was awash in new technology and the promise of a better future, powered by cultural and physical innovation, from AstroTurf to pop music. NASA critics will probably find the movie too hagiographic, but it's hard to dislike this gentle, genial picture and its belief in the inspirational power of the frontier, whether in Texas or on the moon. **f**

"In this intriguing and beautifully crafted book, Innocence Project lawyer M. Chris Fabricant illustrates how wrongful convictions occur, and he makes it obvious how they could be prevented."
—JOHN GRISHAM

JUNK SCIENCE

and the
AMERICAN CRIMINAL JUSTICE SYSTEM



M. CHRIS FABRICANT



VIDEO GAME

GRAN TURISMO 7

JASON RUSSELL

One of the Trump administration's many bad ideas that has persisted into the Biden years is its support for trade protectionism. Americans should supposedly spend their American dollars on American car brands to support American jobs. The release of *Gran Turismo 7* in March served as a reminder of how much that philosophy hurts American consumers.

At launch, the racing game (from a Japanese developer) contains 424 vehicles made by 62 manufacturers from eight countries, as well as 34 track circuits from 13 countries and five continents; even more may be added in later game updates. Racers from all over the world can compete online. The grand tour of tracks, cars, and players from across the globe is the game's greatest strength.

If American players had access only to the fraction of American players, 62 American cars, and nine American tracks in the game, they'd be in for a much less fun (and much slower) experience. It's not protectionism that makes us all better off—it's competition. **f**

PODCAST

MY HISTORY CAN BEAT UP YOUR POLITICS

KATHERINE MANGU-WARD

You know a politics podcast is going to be good when the first negative review excoriates it for being the work of a "left leaning hack" and the second chides it for "normalizing a fascist coup attempt."

My History Can Beat Up Your Politics contextualizes controversial current events with a wider consideration of relevant history. With people on both the left and the right looking to make exceptions to political process and personal principles because "this time it's different," this podcast goes a long way toward demonstrating that there is, in fact, nothing new under the sun.

Hosted by Bruce Carlson, the podcast has been around since 2006 and the production quality is just barely decent—especially in the early episodes. But the content more than makes up for the occasional audio misstep. **f**



15

YEARS AGO

July 2007

“Evangelicals and Aquarians were more alike than they knew. Both sought firsthand spiritual experience; both believed that such experience could set them free and change their lives; both favored emotional intensity over intellectual rigor; both saw their spiritual lives as a refuge from a corrupt and corrupting world. That last point, of course, was subject to radically different interpretations. Aquarians rejected the establishment because of its supposedly suffocating restrictions, while the evangelicals condemned its licentious, decadent anarchy. Between them, they left the social peace of the ‘50s in ruins.”

BRINK LINDSEY

“The Aquarians and the Evangelicals”

25

YEARS AGO

July 1997

“Today, of course, racial information is used for ‘enlightened’ purposes—tracking minority employment and school enrollments, granting government contracts, ensuring voting

rights, and the like—that are supposed to end the necessity for such information in the first place. But because racial classifications are predicated upon the notion of a fixed, immutable identity, they necessarily perpetuate divisive racial categories, regardless of how they are used.”

NICK GILLESPIE

“Blurred Vision”

30

YEARS AGO

July 1992

“Although obsessive materialism and crass commercialism are undeniably a part of modern capitalism, they do not constitute its whole. To condemn commercial society as nothing but an empty rush for things is to engage in caricature and distortion. There is much more to capitalism than things: Capitalism is also about creativity, ingenuity, dedication, and perseverance; it is about teamwork and competition; it is about the fulfillment gained from working hard to do a job well; it is about pursuing your dreams, however humble or grand. Commercial life, at its best, generates spiritual as well as material abundance.”

BRINK LINDSEY

“Personal Best”

35

YEARS AGO

July 1987

“The great danger is that in an age of permanent emergency—the age we live in, the age we are likely to go on living in—the Crisis Constitution will simply swallow up the Normal Consti-

tution, depriving us at all times of the very rights the original Constitution was created to protect at all times. The outlook can only dishearten those who believe that the fundamental purpose of the Constitution is to protect individuals’ rights to life, liberty, and property.”

ROBERT HIGGS

“In the Name of Emergency”

“In a section entitled ‘From Poorhouse to Flophouse,’ [Michael] Katz recalls the ‘wretched’ conditions in which men lived in close quarters that did not smell very nice. Today, flophouses have fallen victim to local regulations and the federal bulldozer—with the result that vagrants and derelicts have nowhere to sleep and city officials frantically search them out on bitter cold nights to prevent death from freezing. So we might ask who benefited from the elimination of flophouses—vagrants or the middle-class elite whose sensibilities were offended?”

WALTER WILLIAMS

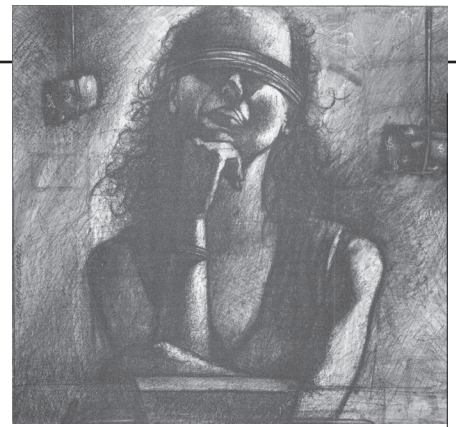
“The Poor, Poor Welfare State”

40

YEARS AGO

July 1982

“A free market functions only by means of *voluntary exchange*, which requires the free, independent judgment of every buyer and seller. But if value is intrinsic, divorced from the evaluations of those involved in a transaction, a free market is impossible. There could not be any *trade*, only dictated value and coerced payment. The worth not only of ‘women’s work’ but of all jobs would have to be fixed by government. The bureaucrats would be charged with the task



of divining the answers to questions like: Are basketball players inherently more worthy than cancer researchers? Should network anchormen be paid more than used-car salesmen? Don’t ditch-diggers display more ‘skill, effort, and responsibility’ than punk-rock singers? The law would have to create a hierarchy of jobs—and of prices, too: Is it fair that women’s shoes cost more than men’s? Isn’t it sexual discrimination to have to pay more for Chanel No. 5 than for English Leather?”

PETER SCHWARTZ

“Women’s Worth”

45

YEARS AGO

July 1977

“Why think that foreign policy should do anything more in the world than insulate a nation’s citizens from harm and avoid the waste of their resources? We ought to challenge the very foreign-ness of foreign policy. Its ultimate test is how well it serves domestic policy. One might almost call foreign policy an extension, or a limiting case, of domestic policy. It certainly is not autonomous, and it certainly does not have a unique, or a primary, claim on the energies and sacrifices of citizens.”

EARL RAVENAL

“Non-Intervention: A Libertarian Approach to Defense”

Fadi Elsalameen on Using Bitcoin To Fight Corruption in Palestine

INTERVIEW BY NOOR GREENE

FADI ELSALAMEEN IS a political commentator on Arab-Israeli affairs and an adjunct senior fellow at the American Security Project. He's a vocal critic of Mahmoud Abbas, the head of the Palestinian Authority, and he has received several death threats and survived an assassination attempt.

Elsalameen believes that an important step in liberating Palestinians is monetary freedom—specifically bitcoin, which can help them bypass the Palestinian Authority's control over their finances. In April, he spoke with *Reason's* Noor Greene at the Bitcoin 2022 conference in Miami.

Q: What role does the Palestinian Authority play in Palestine today?

A: The Palestinian Authority is a burden on the Palestinian population. Almost 84 percent of the population believes that the Palestinian Authority is corrupt. We've spent almost \$40 billion inside the Palestinian territories since 1993, and there's very little to show for that money. But we do have very wealthy politicians. Most of the economic sector is monopolized by politicians who are directly linked to the president. And the president is in his 18th year though he was only elected for a four-year term.

Q: As a Palestinian, how would you face corruption from the Palestinian Authority?


A: The majority of the Palestinian economy depends on labor in Israel. If you're a Palestinian worker, you need a permit to enter Israel to work, which is provided for free by the Israelis. But you have to pay the corrupt Palestinian official, who's now the minister of civil affairs, \$500 a month to maintain your permit. So they levy a tax on you as a worker. If you are a Palestinian living under the Palestinian Authority, under the

Israeli occupation, you're really battling all kinds of forces, whether it be corruption, military occupation, a lack of freedom, a lack of expression, or no independence whatsoever.

Q: Where does aid go that the U.S. and other countries send to Palestine?

A: Sadly, the aid that is sent by the U.S. or Europe mostly goes to benefit corrupt Palestinian officials. And if you're sending aid to strengthen and embolden corruption, you're fighting against democracy. We need to step back for a second, not only to stop the aid, but stop the way the aid is being sent. That's why we talked about introducing bitcoin into the equation. Bitcoin is a solution where the Palestinian Authority is not involved, the banks are not involved, and it's direct aid from the United States.

Q: How can bitcoin be used effectively in Palestine?

A: Bitcoin offers a way for people living under repressive regimes to earn a living outside the confinements of corruption, outside the abuse of dictators. I am a big fan of bitcoin, especially in Palestine and for Palestinians, because I feel that it's one way to curtail the influence of a corrupt regime like the Palestinian Authority. But also, it's a new way for a Palestinian generation to join the rest of the world. The conflict has held back Palestinian youth. And the Palestinian population is very young. Gaza has 2.5 million people—half of them are under 18 years old. Two-thirds of the Palestinian population is under 30 years old. Seventy percent of our population is very active on the internet. So if we're going to lift up our society and move it out of poverty, move it away from corruption, move it away from the brutality of the occupation, we need to look into new ways of achieving that. I see bitcoin as a peaceful means to empower the local population. 

This interview has been condensed and edited for style and clarity. For a video version, visit reason.com.





Craig A. Schmeckpeper, a former physical education teacher in Nebraska's North Bend Elementary School, has been charged with child abuse not resulting in serious injury. Police said Schmeckpeper pinned a student's arms behind his back in a physical education class before telling the rest of the class to line up and hit the boy while he held him. Schmeckpeper reportedly said "free hits" and "free punches" as students walked by.

As part of its "zero COVID" policy, officials in the Chinese city of Langfang ordered the "complete culling of indoor animals" of COVID-19 patients in one neighborhood. The order was later stopped, but it isn't clear how many pets were killed prior to repeal. While pets can get COVID-19 from their owners, the risk of them spreading it back to other humans is low, according to

the U.S. Centers for Disease Control and Prevention.

Police strip-searched a 15-year-old girl without her parents' permission or knowledge at her school in London, according to a report from local child protective services. Teachers said the girl smelled strongly of cannabis, but when they searched her, they found no drugs. So they called the police. When cops arrived, they took the girl into a room and strip-searched her, including making her bend over, spread her buttocks with her hands, and cough. The girl is black, and the report said racism may have been a factor in how she was treated.

Paul Kennedy, the mayor of Ocean Gate, New Jersey, has been charged with official misconduct and theft after prosecutors said he sold government-owned furniture and kept the money. Officials said Kennedy sold the furniture through a personal Facebook Marketplace account.

While responding to a burglary call in Knoxville, Tennessee, police officer Cody Klingmann drove more than 80 mph in a 45 mph zone. He was not using his

lights or sirens when his patrol car slammed into another vehicle, killing driver Mauricio Luna, 27. Both state law and department policy require officers to use their lights and sirens if they drive faster than the speed limit. Klingmann, however, remained on active duty and the local district attorney decided not to prosecute him, partly blaming Luna for "failure to yield."

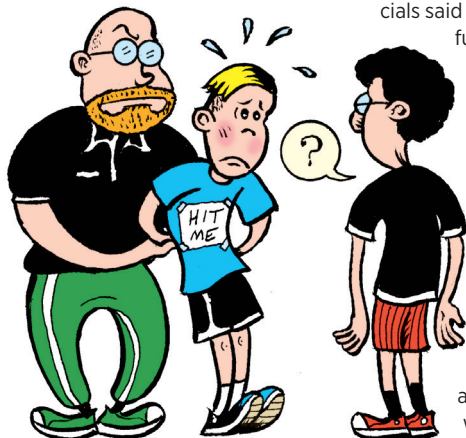
Pennsylvania's Aliquippa School District has announced it will begin searching students' bags and will confiscate and throw away "excessive amounts" of snacks. In a Facebook post, the school district said each student will be limited to one four-ounce bag of chips and one beverage of no more than 20 ounces. Superintendent Phillip K. Woods said students were bringing snacks to school to sell or trade, and the policy is aimed at reducing that activity.

Police Sergeant Donnie Din-nell of Fresno, California, has been charged with robbery, illegal possession of meth,

and a DUI after police say he stole drugs from a suspect, used them, and then crashed his patrol car into a tree in the department's parking lot.

A jury found former San Angelo, Texas, police chief Tim Vasquez guilty in March of receipt of a bribe by an agent of an organization receiving federal funds, plus three counts of mail fraud. Vasquez convinced city officials to award a \$6 million contract for its radio communication systems to a company that had also been hiring his Earth, Wind & Fire cover band Funky Munky for company events since 2007. After the contract was approved, the company then hired Funky Munky to play 10 shows for about \$84,000.

—CHARLES OLIVER



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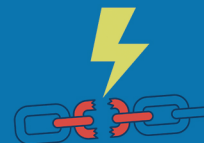
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