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July/August 2013

# POWER



## **Take Me Out to the Cleaners: Crony Capitalism and Stadium Funding**

by Michael Nolan

**Can We Correct Democracy?** by Tom W. Bell

**The Man Who Outsourced Government:  
An Interview with Oliver Porter**

# July/August 2013

Lenore Ealy  
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Bruce Yandle  
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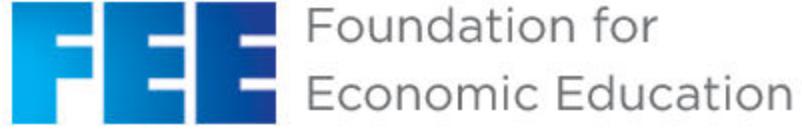
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# Common Core: A Tocquevillian Education or Cartel Federalism?

MAY 14, 2013 by Lenore Ealy

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*When administrators act, they constitute as well as manage. But what is being constituted—Leviathans or self-governing communities of relationships in compound republics?*

—Vincent Ostrom

The development of the Common Core, the model school curriculum standards that have been adopted by 45 states, offers us a glimpse into the dark underbelly of the democratic drift toward soft despotism. Proponents tout Common Core as “state-led” and say states “voluntarily adopt” the standards. Philanthropic and corporate America have gotten involved voluntarily. Parents and students—those most intimately affected by the initiative—won’t get to be a part of the voluntarism. But Common Core is so good, the argument goes, they’ll want it anyway.

Bringing greater uniformity to the K–12 curricula across the country is supposed to rescue kids stuck in lousy schools and improve standards for everyone. But policy analysts across the spectrum from Brookings to Heritage are expressing skepticism about the promises accompanying the new standards. And it is quite likely that extending such bureaucratic uniformity from Washington to the state capitols and then to every public school district in the land will pose new risks to America’s federalist experiment in self-government. What’s more, the Common Core movement is pushing increased college matriculation just as students and parents are beginning to reassess the costs and benefits of college tuition.

Apologists for the Common Core seek to allay fears of creeping nationalization with appeals that seem to invoke the blessing of Alexis de Tocqueville, who admired the energetic voluntary associations Americans once formed in almost every field of endeavor. Tocqueville’s been making a

comeback of late, so this defense of the Common Core isn't in itself surprising. But what happens, we must ask, when state leaders, private donors, and voluntary associations embark on initiatives that don't align with the principles of federalism necessary for sustaining America's constitutional order?

### **All the Best Kinds of Experts**

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In many ways, the Common Core coalition's rapid sweep of the country in four short years resembles nothing so much as the social movement for Prohibition a century ago, which led to the passage of the Eighteenth Amendment in 1919 (a police power fiasco that was repealed by the 21st Amendment in 1933). The best sorts of professional experts in education and government are on board, as are philanthropic and corporate America. The motives seem pure: Who doesn't want schools held to higher standards?

The core fact of the Common Core, though, is that it's a relentless and coordinated push by philanthropic and bureaucratic experts to shift authority and responsibility from local citizens and independent school districts to the far-removed high cover of central authorities. The Obama administration quickly tied Race to the Top dollars to Common Core adoption by the states, not only tainting the appearance of the Common Core's voluntary roots but compromising the reality, too. State officials faced new external incentives: Rush to adopt the Common Core standards in order to submit applications for Race to the Top grants. Another carrot was added to the mix: States adopting the Common Core could receive administrative waivers from certain requirements imposed upon them by the much-touted No Child Left Behind legislation passed by Congress in 2001.

Indeed, the campaign for passage and implementation of the Common Core—which now includes a concerted (and corporate-sponsored) advertising campaign—epitomizes the trend toward cartel federalism described by Michael Greve in *The Upside-Down Constitution* (2012). In contrast to constitutional or competitive federalism, which works to discipline government at all levels, Greve describes cartel federalism as a form of bargaining among state governments and local elites that works to

strengthen and centralize the national authority in return for attractive political and revenue returns. “A cartel federalism that empowers government at all levels is pathological, and quite probably worse than wholesale nationalization,” writes Greve.

The spring 2013 issue of *Philanthropy* magazine, published by the erstwhile-conservative Philanthropy Roundtable, recounts the “Common Core’s Uncommon Rise” and depicts the now all-too-common ways cartel federalism and its helpmate, philanthro-policymaking, work to generate and promote policy bandwagons.

In 2008 the American Diploma Project, heavily funded by the Gates Foundation, convened state officials and education reform groups, many of whom saw national standards as a key move to promote greater equity of educational processes and outcomes. “[F]rom those meetings,” *Philanthropy* reports, “emerged the idea of leveraging the cross-state work that the governors and chiefs had been working on with the voluntary mechanism that the American Diploma Project had been using to help states benchmark standards to college and career readiness.”

The new coalition began to make promises to donors, with apparently little attention to what voters in their respective states might have to say in the matter.

“In the early stages of conversation with the foundations, there was a lot of skepticism about whether the states could do this and would do this,” explains Gene Wilhoit, who was until recently executive director of CCSSO. “We didn’t have the entire support we needed when we started the process. So when we sat down with the philanthropic community we had to make some pretty specific promises to them—like having so many states agree to participate in the process, and that those states would sign on to the adoption.” Cash-strapped states did not have the funds necessary to undertake the Common Core project on their own, and funding from the federal government wasn’t desirable from the states’ perspective—governors and education commissioners knew that if voters were to embrace national benchmarks, they would need to be convinced that states were in the driver’s seat.

Once the voluntary sector was co-opted, the rest was politics.

The debate over the Common Core is exposing new fault lines in America's reigning political coalitions. Instrumental in the Obama presidential victories, teachers' unions have been emerging as opponents of the Common Core. On the right, meanwhile, opposition to the Core is mounting from more libertarian- and Tea Party-oriented groups, while more neoconservative groups join in support for the new standards. In the National Review Online, Kathleen Porter-Magee (Thomas B. Fordham Institute) and Sol Stern (Manhattan Institute) recently tried to set conservatives straight, complaining:

Common Core offers American students the opportunity for a far more rigorous, content-rich, cohesive K–12 education than most of them have had. Conservatives used to be in favor of holding students to high standards and an academic curriculum based on great works of Western civilization and the American republic. Aren't they still?

Such arguments miss the fundamental problem, however, which is that even if national standards could improve education for American students—and this is by no means certain—the rush to join in the national standards movement further alienates responsibility for education from the people whose lives are most intimately tied to what goes on in schools: teachers, students, and parents.

Officials in my state, Indiana, have wisely decided to review the state's decision to adopt the Common Core, but as these things go, the odds are very long for a complete reversal. Nevertheless, the deliberations in this state and others may help us elevate the conversation beyond debates over the projected impact of these new standards. It opens the door to asking fundamental questions, such as, whom is education really for? Is education primarily a tool of social control? Is education merely a benchmark for assessing state-to-state and international competitiveness? Or is education more properly the cultivation, student by student, of the knowledge and personal capacity for self-governance? An auspicious moment is arising for political leadership in helping citizens re-examine both the principles of federalism and the role of education in promoting liberty.

Regardless of the merit of the proposed standards, it still matters who decides and whether there are rights of exit from the influence of the interlocking directorates of educational “experts,” government agencies, and companies standing to reap the rewards from selling new curriculum-aligned materials and tests to thousands of local school districts and families.

This is exactly the sort of debate over the very possibility of freedom in America that should be enjoined by those who would renew the federal vision of the American founders. Returning to a federal system that promotes liberty does not mean returning to educational arrangements that fail to provide access and opportunity for all children. But it does require renewing one of the perennial questions of a self-governing people, articulated here by Robert B. Hawkins, Jr.: “How can a society so constitute itself that its members will be free participants in a self-governing order and not merely the subjects of the state?”

In considering the role of education today, we must also take account of the ways in which the progress of both liberty and knowledge share dependence on trial-and-error discoveries. Schooling and public policy, therefore, need more of what we have learned about the mechanisms that best support the creation, diffusion, and validation of knowledge.

We understand today through the work of social theorists such as Ludwig von Mises, F. A. Hayek, Michael Polanyi, Michael Oakeshott, and others that the methods of scientific rationality are not applicable to the management of social problems in which human persons are actors.

Writing in *The Freeman* on behalf of a freer market in education in 1995, Sheldon Richman deftly brought to bear the contrast between a closed universe of knowledge and an open universe, in which discovery remains possible. Richman observed that in government school systems, neither contracting out nor even charter schools were likely to help us make education better, for “the ends of the educational system are still set by the same small group of officials, who are protected from competition.”

Common Core would build an “aligned” national infrastructure on the basis of what educators “know” at the present time with little apparent room for future competition as to the ends or the means or the methods of education. While educators may increasingly speak a standardized language, the children still may not learn. Worse, treated as educational

subjects rather than as human persons, the rising generations may become even less capable of self-governance.

In “Individualism, True and False,” Hayek, invoking the insight of Lord Acton, offers us an antidote to the Common Core’s we’re-all-in-this-together boosterism: “While individualism affirms that all governments should be democratic, it has no superstitious belief in the omnicompetence of majority decisions, and in particular it refuses to admit that ‘absolute power may, by the hypothesis of popular origin, be as legitimate as constitutional freedom.’”

American debate over education should be, in the spirit of genuine American federalism, less concerned with global competitiveness and more attuned to the questions of what social arrangements most contribute to the capacity of a people for liberty.

Vincent Ostrom points out the hollow victory of democracy if federalism is abandoned:

Those who continue to assume that the national government, because of its “federal form,” is competent to determine all matters that pertain to the governance of American society have fallen into two errors: that of neglecting the limited capabilities of those occupying positions of national authority; and that of considering citizens to be “more than kings and less than men” (Tocqueville [1835] 1945, 2:231), so that they are presumed to be competent to select their national rulers, but incompetent to govern their own local affairs. The “federal form” of the national government is no substitute for a federal system of governance.

But the principles of federalism can be left behind in other ways than outright nationalization of policy. Tocqueville wrote in admiration of America’s voluntary associations, but he saw as well that these associations depended on certain habits of the heart, which he thought were cultivated across America by the prevalence of local institutions of self-governance. Such smaller political communities may indeed include schools of all sorts, where people are engaged in both instrumental and civic ends together.

A national curriculum shaping the educational institutions available to American children for the first two decades of their lives might be a wonder, if it could work. If it does not, shall we celebrate that at least we

gave our habits of liberty away voluntarily, with great philanthropic ideals of equity and excellence in mind? Maybe we should consider hedging our bets.

# Collectivized Children

## All Your Kids Are Belong to Us

JUNE 05, 2013 by Max Borders

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*As a proud public school parent, I stand with the current students of the district and for decades to come in supporting this year's school bond proposals. While it may be momentarily cathartic to exact my revenge for past indiscretions on the district's current staff and board, generations of kids will suffer if I unproductively vent my anger. School leaders who have so disappointed me and thousands of other parents will be long gone when the benefits of these bonds are fully realized.*

—Jason Sabo, lobbyist

In the interest of full disclosure, my wife is head of an innovative private start-up school in Austin. My son is a student there, along with six other great kids. Last week we celebrated the school's first anniversary. My wife was glad to break even. Maybe next year she'll be able to pay herself a small salary. But she isn't really in it for the money.

In our city, however, voters just approved two bonds for the government schools totaling \$489.7 million. Yet despite having to compete with "free" and being forced to subsidize her competition, my wife goes on. You see, she is a true believer—in her educational philosophy, in her school community, and in our son.

Perhaps you can imagine our consternation when we saw this:

We have to break through our kind of private idea that kids belong to their parents or kids belong to their families and recognize that kids belong to whole communities.

Those are the words of Melissa Harris-Perry, a Tulane professor of political science and television personality, speaking in a controversial MSNBC spot.

There is probably no greater threat to real community than the conflation of community with State power. Yet look around: You can see this conflation used almost daily to justify all manner of injustices. And many of these injustices are committed against children.

I realize evoking “the children” is almost always a cheap rhetorical tactic—a conversation killer, maybe the punch line of a joke. But education is as personal for my wife and me as it is an issue of general principle. All around us, people are using the vagaries of community not only to achieve any of a thousand illiberal ends, but to perpetuate the government school system and specifically to propagate the idea that *children are the property of the State*.

At *The Freeman* we’re familiar with all sorts of collectivist bromides. Still, if I had read Harris-Perry’s sentence above in isolation, I might have been tempted to give her the benefit of the doubt—especially if we think of community not as the State, but as what it is and should be: the voluntary association of people who find one another, work together, and provide assistance to each other in times of need.

Community is not something that can be fashioned by elites or simply coerced into being. It is an emergent phenomenon. It is the product of intertwining commitments. Community is built by a free people and held together by invisible bonds—bonds of love, charity, and trust. Community cannot be fashioned by State largesse, central planners, or police power. So, yes, communities can certainly participate in the development of children.

But Melissa Harris-Perry is not talking about *real* community:

We have never invested as much in public education as we should have because we've always had a private notion of children; your kid is yours and totally your responsibility. We haven't had a very collective notion of these are our children.

Let that settle for a moment.

Award-winning education reformer John Taylor Gatto, who understands real community, has written volumes about the effects on children of 12 years in government schools:

Inevitably, large compulsory institutions want more and more, until there isn't any more to give. School takes our children away from any possibility of an active role in community life—in fact, it destroys communities by relegating the training of children to the ends of certified experts—and by doing so it ensures our children cannot grow up fully human. Aristotle taught that without a fully active role in community life one could not hope to become a healthy human being. Surely he was right. Look around you the next time you are near a school or an old person's reservation if you wish a demonstration.

I don't have to look. I remember it well: "Line up." "Remain in your seats." "Raise your hand." "Open your books..." "Head down on your desks." "The bell is about to ring." "Today we're covering..." "You're tardy." "Tests up to the front." "You passed." "You failed." "CAT" "ACT" "SAT" "State standards" "No talking." "Pass up your work." "First period, second period, third period, lunch." "No, you can't go to the bathroom." "You were so obedient today; here's a sticker." It often seems more like an internment camp than a community.

But if Harris-Perry had been talking about a more Aristotelian idea, we might have concluded she was speaking figuratively, perhaps idiomatically about the relationship between families and communities. After all, we human beings need each other to develop fully, and a good-neighbor ethic is perfectly consistent with an individualism that respects freedom of association. I call it "rugged communitarianism."

But Harris-Perry's worldview is not rugged communitarianism. It is ruthless collectivism. It's a worldview that compels people to sustain a system that cartelizes teachers and alienates children from the very communities in which they will eventually have to live.

What's most troubling to me is that Melissa Harris-Perry claims State ownership of children before a very nice camera, in a most unapologetic fashion, so as to be piped into the living rooms of a lot of people. She represents millions. Her words and image were taken and packaged up by complicit producers, color-treated, and allowed to represent the ethos of an entire television network.

I try to distance myself from TV rhetoric, hysterical talking points, or the otherwise squirrely narratives of an increasingly polarized media. But Harris-Perry's words chilled me to my bones. I knew once I saw that commercial I could never let my child set foot in a government school.

It's not just because I think of my son as belonging to *me*, though admittedly he's mine in some limited sense. I think of my son as also belonging to *himself*, more and more every day. He is in the process of becoming the captain of his own life. He is not the product of a five-year plan. Nor is he a bucket into which any expert's contrived curriculum should be poured like so much thin gruel. My son is an amazing person ready to undertake learning pursuits that could go down any of a million forking paths. At six, he is certainly no pliable drone to be molded by standardization and trained to serve Harris-Perry's collective. And he won't be at 16 or 26, either.

My son, like almost every other child, is an autodidact. Unlike other children, though, he is a member of a dynamic school community that includes people of all ages. He is not the product of a State contrivance—a Skinner Box that requires he sit at attention at one desk arranged 5 x 5 while a State employee reads from a script. My son's school community is much more robust than any institution that purports to prepare children for life by taking them out of it. And his community is as unique as he is, because each member of that community is unique and their collective actions are the product of intimate, localized processes. The pedagogy offers a living quest, not standardized tests.

In Melissa Harris-Perry, I had seen the face of statist collectivism. It was soft, sweet, and delivered at very low cost to millions in a glossy TV ad. Thankfully, a lot of people were outraged by that MSNBC spot. But some weren't.

In fact, people who think like Melissa Harris-Perry are legion. Many are parents. Generally, they work in education, at all levels, feeding like parasites on the wider economy. In fact, *they are educating most people's kids*. And that is why, year by year, more people sound like Harris-Perry. She is the product of an ideology forged in Bismarck's Germany, refined in Mussolini's Italy, and given expression in our U.S. school system. I'm sure a great chunk of Americans saw the Harris-Perry ad on television and nodded their heads as if someone—*finally*—had brought clear articulation to what they'd secretly believed all along: *Government is our parent*.

As Gatto reminds us: "Institutional leaders have come to regard themselves as great synthetic fathers to millions of synthetic children, by which I mean to all of us. This theory sees us bound together in some abstract family relationship in which the state is the true mother and father; hence it insists on our first and best loyalty."

The public school system—planned for your kids by central power elites—is the status quo. It has been for a long time thanks to the fully subsidized childcare it offers. Those who express any skepticism about this scheme are painted as radicals, or worse—uncaring, atomized individualists. People like Gatto, whom I quoted above, are considered fringe. Why? Because, as Gatto himself reminds us, "The sociology of government monopoly schools has evolved in such a way that a premise like mine jeopardizes the total institution if it spreads." Gatto describes teacher innovation or system critiques of the schools cartel as a "bacillus" the system must eradicate.

Any system is composed of agents who benefit from the system, so the system wants to protect and perpetuate itself. And you know, that's kind of understandable. But behind this dangerous conflation of community and State in education, there is also an ideology. It is like a religion, only its adherents worship government.

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### Postscript

As my wife enters her second year of operation, she will go forward undeterred. As she competes with government schools, she has a lot working against her. People like Jason Sabo, quoted at the opening of this article, join Melissa Harris-Perry in conflating community with State power despite the high costs of exit and voice. Sabo laments:

The Austin school district has made me literally sit for hours in the cold rain for one of a handful of golden tickets necessary to address the district staff and board for three minutes 12 hours later. The district has continued to demonstrate an inability to meaningfully partner with parents to steer its schools into the future.

Despite all his lamentations, Jason Sabo is willing to have more of your money taken and dumped into a system that makes him stand in the rain for golden tickets. It reminds me of a family of faith healers wondering why their child's cancer isn't improving. I will leave any Willy Wonka allusions and simply ask: What makes people like Sabo think the system that rations feedback is going to get any better?

Meanwhile, my wife has no problem "partnering with parents." And that is exactly why I am optimistic.

Most people love their kids more than the State. More and more people are seeing that, despite having already to pay for government schools, they want more for their kids and for their neighbors' kids, too. They, like my family, are no longer willing to participate in the Soviet factory model of education and its tendency to alienate children. They, like my family, see there are better, relatively inexpensive alternatives—even if we have to create them ourselves. It's just another way that an alert community can outcompete Leviathan.

We have to. It's for the children.

# IRS Targeting: As Predictable as Politics

**JUNE 06, 2013 by Bruce Yandle**

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On May 14, 2013, Washington was much astir over the news that the IRS had deliberately targeted Tea Party groups for deeper investigation and justification prior to approving applications for non-tax status.

Feeling pressure to make a statement about the matter, President Obama had this to say:

If in fact IRS personnel engaged in the kind of practices that have been reported on and were intentionally targeting conservative groups, then that's outrageous. And there's no place for it. And they have to be held fully accountable. Because the IRS as an independent agency requires absolute integrity, and people have to have confidence that they're ... applying the laws in a nonpartisan way.

The President said what most people were thinking, but his comment about IRS independence came as a shock to Washington insiders.

Shortly thereafter, the talk shows were buzzing over Obama giving the IRS independent agency status, when in fact the IRS is a part of the U.S. Treasury, an executive-branch agency headed by a member of the Obama Cabinet. Editorial cartoonist Robert Ariail captured the essence of the situation that left many Americans wondering who is in charge, and if no one is in charge of this independent agency, what might be a taxpayer's fate when doing lonely battle against the IRS. (Ariail also included a hit on the Department of Justice investigation of Associated Press reporters' private conversations and communications, but that is another story.)

Even more disturbing news surfaced after Congress entered the fray and held multiple hearings on the matter. On June 2, 2013, House Oversight and Government Reform Committee Chairman Darrell Issa (R-Calif.),

speaking on the talk show "State of the Union," revealed the following exchange between his committee and an IRS witness:

Q: In early 2010, was there a time when you became aware of applications that referenced Tea Party or other conservative groups?

A: In March of 2010, I was made aware.

\*\*\*\*\*

Q: Okay. Now, was there a point around this time period when [your supervisor] asked you to do a search for similar applications?

A: Yes.

Q: To the best of your recollection, when was this request made?

A: Sometime in early March of 2010.

\*\*\*\*\*

Q: Did [your supervisor] give you any indication of the need for the search, any more context?

A: He told me that Washington, D.C., wanted some cases.

President Obama expressed shock that government agencies would ever operate systematically to punish the enemies or reward the friends of sitting presidents.

But students of Public Choice, that discipline that uses economic logic to explain political action, were not surprised at all. And why should they be? Public Choice studies tell us that all government action is best seen as political. All of it. Special-interest influence seeps through in unusual but systematic ways. And it doesn't take written orders from the top or telephone calls from the Oval Office to make these things happen. People in politics understand the game; they know which side of the bread receives butter.

On the IRS specifically, Jim Couch and colleagues at the University of North Alabama published research in 1999 that focused on statistical treatment of IRS audit activities as conditioned by political variables. The 1995 audit data were part of annual summaries for IRS districts reported in the Transactional Records Access Clearinghouse (TRAC) at Syracuse University.

The Couch statistical model explained the frequency of those audits across states. Their explanatory variable included whether or not a state senator sat on the IRS senate oversight committee or a representative sat on the house oversight group, the share of votes cast for President Clinton in 1992, and other variables that are thought to be positively associated with audit activity, such as higher levels of earned income tax credits as proxied by the state poverty rate and gambling income.

A direct quote from and summary of the work and findings are shown below. As indicated by the plus and minus signs over the variables, audit rates fell when senators or congressmen sat on IRS oversight committees. They fell when a larger share of a state population voted for Bill Clinton and rose for those states with a poor Clinton record. More agents in a state and more gambling mean more audits, as does a higher share of poverty. In short, politics seem to matter in explaining IRS audit behavior.

These statistical results parallel others that have focused on federal antitrust activity, presidential declarations of national disasters (actions that trigger a flood of federal support), decisions to send combat troops to the front lines in the Vietnam War, and even where Chrysler dealerships would most likely be canceled when the federal government called the shots during Chrysler's 2009 reorganization.

The antitrust study shows that, all else equal, actions are taken less frequently against firms headquartered in the states and districts of congressmen who sit on antitrust agency oversight committees. The national disaster study examined FEMA activity, adjusted for severity of disasters, state population, and other variables. The researchers found greater frequency of disaster declarations for politically important states than for others. The authors reported that some 45 percent of FEMA actions were motivated by politics instead of by disaster severity. The Vietnam study showed the seniority of a state's House and Senate delegation matters. Higher seniority meant lower troop death rates. The study also found that the stronger a state's linkage to defense industry contracts, the less likely it

was that troop units from that state would experience casualties. And the Chrysler study found that the state share of dealerships closed was smaller in states that provided stronger support for Obama's election, but larger otherwise.

These Public Choice statistical findings suggest two things. First, all human beings, even politicians, respond to incentives, whether they are supplying houses, food, or politically determined actions. Second, since this is common knowledge, we must take action to reduce occurrences that corrupt the political process. But how? First, by limiting the domain of government action. Then, when the domain is limited, by requiring transparency and regular agency reports that demonstrate choice neutrality, by encouraging competition from the loyal opposition, and by showing constant vigilance.

# Grave Robbers: Anti-Competitive Regulations for the Dead

**MAY 07, 2013 by Eric Boehm**

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HARRISBURG, Pa. – The monks of St. Joseph Abbey in Covington, Louisiana, leave this world in the same simple way as they live in it.

And when public interest in their basic, handmade wooden caskets grew, the monks proved to have a shrewd business sense, too. They opened a woodworking shop in 2005 to produce caskets that they sell for about \$2,000 each, far below the average price for a casket in the state.

But where the monks saw an opportunity, a state cartel of funeral home owners and funeral directors saw unwanted competition.

In 2007, the Louisiana State Board of Embalmers and Funeral Directors—eight of the nine members of which are licensed funeral directors—voted to ban the abbey from selling its caskets. Under state law, only licensed funeral directors are allowed to sell caskets, and they are only allowed to do so from state-licensed funeral homes.

Those two simple requirements buried the monks in a tangle of red tape.

To get a license, St. Joseph Abbey would have to build a funeral parlor with room for 30 people, a display room for at least six caskets, an arrangement room, and an embalming room. They also would have to hire a funeral director and pay him a full-time salary.

The monks launched a petition to the state legislature to change the regulations. When that failed, they took the board to court.

In March, a panel of federal judges upheld a lower court ruling in the monks' favor. In a scathing rebuke to the state board, the judges of the 5th U.S. Circuit Court of Appeals wrote that "funeral homes, not independent sellers, have been the problem for consumers with their bundling of product and markups of caskets."

## Open-Market Funeral

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The casket-selling laws in Louisiana are unique, but there are regulations on the books in almost every state designed to protect funeral homes from competition and lower prices.

Joshua Slocum is the executive director of the Funeral Consumers Alliance, a Vermont-based organization that favors a more open market for funeral providers and customers. He says the funeral industry is unlike most other businesses in two key ways.

“For one, there are no repeat customers,” Slocum says glibly. “I have but one life to give to my funeral director.”

Having no repeat customers means there is little in the way of competition for the best services. And since literally everyone has one life to give, there is no shortage of customers.

There is also little market pressure on the establishments because it is rare for anyone to “shop around” for a funeral home in the way he or she might seek the best deal for a cruise or any other once-in-a-lifetime purchase.

This is partially psychological—we have a natural aversion to thinking or talking about the inevitable end of our lives, and cost is rarely in the front of mourning family members’ minds.

But do a dead body’s final moments above ground or a family’s last goodbyes to a loved one require a three-story Victorian home, a \$30,000 embalming room, a Mercedes hearse, and a \$4,000 casket? In most places, you’d have a hard time finding an alternative.

That is slowly starting to change, thanks to entrepreneurs like Verlin Stoll, who believe there is an untapped market for affordable, no-frills funerals that would appeal to those with modest means.

Stoll opened Crescent Tides funeral home in St. Paul, Minn., in 2006. He offers low-cost funerals in a nondescript building in an office park that does not have a viewing chapel or other amenities. The basic package at Crescent Tides starts at \$250, about 10 percent of the average Twin Cities funeral.

His model has been so successful that Stoll wants to open a second location in nearby Minneapolis, but in order to do so, he has to comply with costly state regulations—like one that requires that he build a \$30,000 embalming room in the second location, despite the fact that he outsources

embalming services to a third party and specializes in cremations and other types of funeral services that do not require embalming.

And Stoll already has an embalming room at his St. Paul location; he uses the room for storage because he does not need it.

“This additional expense has forced him to delay expanding his low-cost model to a new community,” said Katelynn McBride, an attorney with the Institute for Justice, a national libertarian public-interest law firm that is fighting the law on Stoll’s behalf. “We just don’t think where funeral homes have no interest in embalming that they should have to build useless facilities.”

The Minnesota Department of Health has argued that embalming rooms are necessary as a matter of public health.

His case is currently awaiting a ruling before a state judge, following oral arguments in early March.

But in many places, onerous regulations on funerals are in retreat.

In Pennsylvania, a federal judge struck down 11 parts of the state’s Funeral Director Law—including an embalming room requirement similar to the one in Minnesota—for being unconstitutional. Like in Louisiana, the rules were written by an unelected panel controlled by licensed funeral directors.

The Keystone State is perhaps the funeral home capital of America. There are more than 1,600 funeral homes in the state, and each performs, on average, fewer than two funerals per week.

In a truly free market, Slocum says, that many funeral homes would never be able to stay in business. After all, how many businesses in other sectors would be able to survive on a single job per week?

But thanks to rules that keep costs high and discourage head-to-head competition that would drive costs down, all those funeral homes remain open and consumers have no idea they are being overcharged.

John Eirkson, executive director of the Pennsylvania Funeral Directors Association, disagrees with the idea that the industry has been captured.

Eirkson also doesn’t see regulations as anti-competitive. Rather, they are important protections that keep unscrupulous owners from taking advantage of grieving families. Eroding long-standing regulations on the industry means fewer inspections of funeral homes, including inspections of funeral homes’ finances, he warns.

But it is the funeral board that is taking advantage of customers, says Ernie Heffner, who owns a dozen funeral homes across Pennsylvania. He was one of several plaintiffs who brought the challenge that ended some of the state's regulations last year—including such minutiae as restrictions on the names of funeral homes and a prohibition on serving food during visiting hours.

"Now I can offer continental breakfast visitations and I can offer dessert visitations in the evening. Is that a bad thing? I don't think so," Heffner said.

The changes also open the door to high-efficiency, low-cost funeral homes in Pennsylvania that could adopt Stoll's successful Minnesota model.

Death may not be proud, but it might finally be getting a little less expensive.

# Coca-Capitulation

## Coca-Cola Confronts the Politics of Obesity

**JUNE 03, 2013 by Wendy McElroy**

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Is Coca-Cola being a “conscious capitalist” or is the company capitulating?

A headline on the advertising and technology blog *Ad:Tech* prompted the question for me. “Why Coca-Cola will voluntarily stop marketing to kids,” it read.

“In an entirely voluntary move,” Coca-Cola announced that it would “cease all worldwide marketing efforts to children under 12, put calorie counts on all packaging and labeling and ensure that low-calorie and no-calorie … beverages are available in every nation on earth where Coca-Cola is sold.”

How “voluntary” are decisions made in an environment that is defined as much by politics and legal penalties as it is by market forces? The evolution of Coca-Cola’s relationship to obesity politics is instructive.

### **Obesity: The Public Health Obsession**

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In 1952, Dr. Lester Breslow advised a meeting of the American Public Health Association that obesity was “America’s No. 1 health problem.” America’s official obesity rate was then estimated at 10 percent. By 2008, *The Journal of the American Medical Association (JAMA)* found the adult obesity rate to be 32.2 percent for U.S. men and 35.5 percent for U.S. women.

Experts disagree about why obesity rates have increased. Some argue that greater prosperity encourages consumerism. Others point to an expanded definition that subsumes more people, and often arbitrarily so. The dominant explanation today, however, is that the prevalence of high-calorie and unhealthy convenience food causes obesity.

Take McDonald's. In 1952, there was only one McDonald's in the world, according to the McDonald's website. By 2012, however, there were more than 14,000 spread across the country. To consumer and public-health advocates, this is proof positive of junk food's guilt. The solution? They want government to control food production and distribution in order to achieve better health outcomes.

As the world's leading source of sugary drinks, the Atlanta-based Coca-Cola company has received much of the criticism over the years. Over the last decade, a barrage of studies have claimed that products like Coke's are responsible for both obesity and a surge in health problems such as childhood diabetes. For example, in 2005, a Tufts University paper titled "Preliminary Data Suggest That Soda and Sweet Drinks Are the Main Source of Calories in American Diet" got widespread coverage. And as Jack Winkler, professor emeritus of nutrition policy at London Metropolitan University, commented to *The Wall Street Journal*, "Soft drinks are the devil product at the moment."

### **Coca-Cola's Clash with Obesity Politics**

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Coca-Cola is a politically active corporation. In 2010, it reportedly spent \$4,890,000 on lobbying efforts in the United States, largely to fight the imposition of increased taxes on sugary drinks. In late 2012, when New York City was poised to ban the sale of sodas larger than 16 ounces, Coca-Cola was one of the parties in a successful lawsuit to block the regulation.

The Obama administration is far from the first White House to crack down on health risks. But the Obama years have been a game-changer for the issue of obesity. The soda devil has loomed large in the First Lady's signature organization Let's Move, a government-funded drive to promote health among American children. "[Childhood obesity] isn't just a policy issue for me. This is a passion. This is my mission," declared Michelle Obama. "I am determined to ... change the way a generation of kids thinks about food and nutrition." A part of her mission has been to use monetary rewards to "encourage" states and public schools to remove sugary drinks from school menus and vending machines. In 2011, the U.S. Department of Agriculture (USDA) announced an allocation of \$5.5 million for such motivating "grants."

The soda-removal campaign is just one facet of a much broader attack by government upon the producers of certain foodstuffs.

A common maneuver in the attack is to establish tax-funded studies that document a public health risk. (Note: Tax funding does not invalidate results, but it should raise the same concerns about bias as corporate funding does.) Then, once health risks are established, the discussion turns quickly to targeting the risk and controlling the problem through regulation. For example, *The New England Journal of Medicine* conducted a poll on whether sugar-sweetened beverages should be regulated by government. Results from the studies are also used to promote tax-funded “awareness” campaigns to alert the public.

This lays the groundwork for the health problem to be addressed by laws or regulations on the federal, state, and local levels. Typical solutions include raising the cost of a good through additional taxes and/or restricting access to it. At the same time, “healthy” alternatives can be encouraged through subsidies or favorable regulation.

The specter of lawsuits also helps obtain “voluntary” compliance by corporations like Coca-Cola. Often the lawsuits revolve around a violation of regulations rather than the health risk itself. A *Bloomberg* headline (March 1, 2013) reported on a recent example: “Coca-Cola Must Face Lawsuit over Orange Juice Labeling.” This growing legal trend has created a new field of experts: namely, obesity and junk food lawyers who compare sugar to tobacco.

Thus, many corporations are pre-emptively conforming to threats of government control in order to avoid expensive lawsuits and bad publicity.

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### **Obama Ups the Ante**

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Companies like Coca-Cola and McDonald’s are wildly popular. So how are politicians and pressure groups able to whip up support for pushing them around?

For decades, companies like Coca-Cola have been accused of driving up the cost of medical care for Americans. The accusation has political teeth because the taxpayer has assumed more and more of this cost through programs such as Medicare.

The universal health care program known as Obamacare has made highly personal decisions, such as diet, into a political concern of the

public. More health care than ever is paid for by government and it is thus likely to become scarce. This makes the public more favorable to policies that purport to drive down costs and ease access. Food politics fit the bill nicely.

The Obama administration has commended Coca-Cola for its recent adoption of health-promoting policies, but there is reason to believe that its voluntary embrace is more accurately viewed as reluctant compliance.

Consider Coca-Cola's introduction of vending machines that prominently list calorie counts. The move has been described as a voluntary response to consumer demand for fewer calories in soda. And, certainly, if people shift their money toward alternatives, businesses will respond. But the timing of the new vending machines is highly suspicious.

*USA Today* observes that the installation “comes ahead of a new regulation that would require ... vending machines to post calorie information” and in the wake of “the Supreme Court's decision ... to uphold President Obama's health care ... regulation that would require ... vending machines to post calorie information.”

The government is in the uncomfortable position of trying to back companies into *voluntary* compliance. The position is uncomfortable because if Coca-Cola's actions are a voluntary response to customer demand, then government regulation is unnecessary. Why waste the tax money? Why restrict the personal choices of the one person who is most impacted by food politics—the consumer?

### **Consumers: Lost in the Shuffle**

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The political assault on Coca-Cola is usually described in terms of health paladins using power to restrain an unscrupulous corporation. Whatever the truth of that narrative, food politics is also a brutal attack upon consumers who end up forcibly being “protected” from their own choices. Attempts by municipal authorities like Michael Bloomberg to limit salt intake and the size of sodas are but a glimpse of a nanny state writ large. Such moves inspire resistance from adult Americans who have retained enough rugged individualism to believe that consuming sugar is their own business.

It is no coincidence that government's greatest regulatory success with food has been with children, especially in the schools. Unlike adults, children are not viewed as capable of making informed decisions. Such a

view facilitates regulation. After all, if children's decisions *were* treated with respect, it would be difficult to dismiss reports from schools where children are throwing the mandated "healthy" lunches into garbage cans.

But even admitting (for the sake of argument) that children are incapable of informed consent, the notion of government taking over their choices is odd. That is the role of a parent. Government seems to be saying that parents are also incapable of informed decisions—or, at least, of decisions with which the government agrees.

## Conclusion

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There may be valid reasons to criticize the business practices of Coca-Cola and companies like it. But they can't be accused of failing to produce a good that people want to consume. In the presence of more health information than ever, and despite the risks, some consumers still choose sugary drinks because they are tasty and affordable. Delivering those drinks into customers' hands in a convenient and inexpensive manner shouldn't invite opprobrium. Coca-Cola's current policy to *not* deliver those drinks to customers is as much or more a response to gathering government power than to the marketplace.

# Did Capitalism Give Us the Laugh Track?

**MAY 30, 2013 by B.K. Marcus**

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The Internet has given new life to old TV shows, reminding us not only of how different things looked several decades ago but also how very different they sounded. If you watch old reruns of shows like *Hogan's Heroes* or *Get Smart*, you may notice that some of the jokes are still funny, but the artificial laughter that accompanies every gag on the sound reel can quickly alienate us from the humor.

"Most critics think that the laugh track is the worst thing that ever happened to the medium," says University of Minnesota art history professor Karal Ann Marling, "because it treats the audience as though they were sheep who need to be told when something is funny—even if, in fact, it's not very funny."

For many, the laugh track represents "commercial culture" in the second half of the 20th century, but was TV comedy's artificial audience really a product of the market? It looks more like market competition stemmed the tide of this forced frivolity.

The laugh track was originally developed as a radio editing technique to soften the transitions between scenes that were not recorded contiguously, or to enhance live laughter that was not picked up adequately during recording. This editing technique is still called "sweetening."

## **The Overdose**

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But in the indelicate hands of television producers, the audio sweetener turned into a sugar overdose, making sitcoms ever more cloying.

Even Bob Douglass, a laugh-track engineer and the son of "laff-box" inventor Charlie Douglass, recognizes this: "On some of the shows it was abused. They wanted to keep adding more and more laughs, and it would go way overboard. They thought it was going to be funnier, and it wasn't. A lot

of producers would have the laughter almost louder than the dialogue, and that ruins it."

Television writers from the peak of the laugh-track era stopped aiming for actual laughs and wrote instead for the timing required by the artificial audience: setup, punch line, pause for fake laugh, repeat.

Many writers and creators hated it, and some even fought against it, but the networks usually won these battles. In a 2007 interview, TV producer Lou Schemer spoke for his profession: "Why a laugh track? Because you feel that you are watching the program with a group of people instead of being alone" (*The Archie Show: The Complete Series*, DVD, disc 2).

And the suits seemed to have the numbers on their side: Whenever the studios previewed episodes with and without laugh tracks to test audiences, the laugh-track versions did better.

Dartmouth College psychology professor Bill Kelley studies the brain's response to humor. He explains, "We're much more likely to laugh at something funny in the presence of other people. Hearing others laugh—even if it's prerecorded—can encourage us to chuckle and enjoy ourselves more."

If capitalism is mass production for the masses, then perhaps the laugh-track-loving executives at the networks were just giving the people what they wanted. Maybe the critics are just snobs, blaming the market for the facts of supply and demand.

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### The Canned Laughter Cartel

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Greater competition in the pursuit of profit, however, has now actually pushed canned laughter into full retreat. The studio system that allowed the laugh track to dominate television had its roots in patterns of government intervention laid down before television even came about.

The earliest days of American radio in the 1920s looked much like the Internet of the 1990s: mostly hobbyists and hardcore techies, with an influx of more mainstream users and a vanguard of entrepreneurs vying to come up with the right models to make the new medium profitable.

Despite what you may have heard about an "anarchy of the airwaves" and the need for the federal government to bring order to the chaos, that is not how broadcasters, listeners, or even government officials perceived radio at the time.

Herbert Hoover, as secretary of commerce, deliberately disrupted the early free market in radio broadcasting. Then he created a cartel of favored cronies in its place. By the time television came around, the model of cartelized mass media was already firmly established.

The result, as Paul Cantor observes, "was a general uniformity in the values portrayed on the national television networks in the 1950s, 1960s, and 1970s and a tendency toward homogeneity in the programming" (*Gilligan Unbound: Pop Culture in the Age of Globalization*, 2003, p. 165).

That homogeneity began to subside in the 1980s, due largely to Rupert Murdoch's efforts to build a fourth network outside the cartel. To attract TV viewers away from ABC, CBS, and NBC, the Fox network had to air shows that were different, often edgier. At the end of the decade, Fox premiered *The Simpsons*, now the longest-running scripted show in television history and, according to *Time* magazine (December 31, 1999), the twentieth century's best television series. Notably, *The Simpsons* does not have a laugh track, except on the rare occasion when canned laughter is used briefly and ironically to satirize more traditional sitcoms.

And while researcher Bill Kelley emphasizes the social role of laughing along with a larger audience, when he compared the results of his subjects' watching *Seinfeld* (with a laugh track) to *The Simpsons* (without), his brain scans suggested that people found the same things funny whether or not they were prompted by the sound of laughter.

While Murdoch had skirted the edges of FCC regulations to create a fourth network, once established, Fox did have to play by the same rules as the big three. Cable television was a different story.

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### **Freedom Isn't Free**

For decades, the broadcast cartel had suppressed any emerging technology that threatened its dominance, but it couldn't halt progress forever. When the premium cable channel HBO began to produce original comedies in the 1990s, it needed to attract top talent from the television industry. One of the ways it did so was to offer writers and producers more creative freedom (and less censorship) than they could find at the broadcast networks. The new talent wanted to ditch the laugh track.

Viewers don't seem to miss it: HBO and Cinemax together (both owned by Time Warner) have over 100 million subscribers, and HBO alone

pulls in over \$4 billion a year, accounting for a quarter of Time Warner's profits.

Other networks followed their model, first on cable, then eventually in broadcast.

The trend away from engineered laughter can be seen through the Emmys: Of the five shows nominated in 2000 for the Emmy Award for Outstanding Comedy Series, four of the five used laugh tracks. In 2009, seven shows were nominated for the same award, and only one used a laugh track.

So it was outside competition that drove back the laugh track. Artists had resisted and critics had complained, but until the networks perceived a threat to the bottom line, they stuck with the process they trusted; and until large audiences had a real alternative, they stuck with the programming of the major networks.

The laugh track did emerge as the result of decisions made by private parties—entrepreneurs, entertainers, and engineers—in the pursuit of popularity and profit; no government agency imposed it on the television industry. But when advocates of free enterprise celebrate the blessings of free-market capitalism, competition, and the profit motive, we have in mind voluntary exchanges in a commercial context of secure private property, sound money, and little or no coercive regulation from the state. Recent history offers us no examples of unhampered markets, but some enterprises are certainly more hampered than others, and radio and television constitute one of the most regulated industries in the American economy.

Commercial television was like this from the beginning, having emerged from a fully developed and heavily regulated radio industry, but there was nothing inevitable in radio's seizure by the state. It was the result of a deliberate plan by big government and big broadcasters.

Contrary to the popular wisdom, the capitalist pursuit of the bottom line does not promote the lowest common denominator. Competition drives diversity (and vice versa). Cartels, like the one Hoover created in the broadcast media, create homogeneity.

Would the laugh track have existed in a free market? Almost certainly. But it took the uniformity imposed by the television cartel to let it dominate so thoroughly, giving artists few options within the industry—and leaving audiences little choice other than the "off" button.

# **Oil! Price Discovery and Regulation**

**MAY 20, 2013 by Jacob Borden**

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Market signals about the relative value of available materials are paramount for widely dispersed people to make rational decisions. Such was the solution to the “knowledge problem” elaborated by F. A. Hayek. A topical example of Hayek’s theory in practice is the decade-long adjustment in the prices of oil and products refined from petroleum. Oil is generally considered a fungible global commodity, and one frequently hears reference to global oil prices as reflecting global supply and demand. But a combination of factors over the past decade has substantively reduced the fungibility of this once-standard product.

Increasingly, oil is a design-specific product; the price you pay at the pump for a gallon of fuel more often reflects local design characteristics than the underlying price of a global commodity. These local design characteristics are exacerbated by regulations that disrupt the market’s price-discovery process.

As recently as December 2001, oil was trading at the 20-year average of \$20 per barrel, even despite the September 11 attacks and the ongoing recession. Over the next seven years, a series of disruptions drove up the price. It became more expensive to do business with the countries that held most of the world’s proven reserves, which two oil-intensive wars did nothing to help. Moreover, oil politics in Venezuela and surging demand from China and other developing nations helped push prices to record highs—over \$130 per barrel—by 2008.

By the time the economic crash brought prices back down to \$39 per barrel, major oil companies had already invested billions in research and development projects to bring new supplies online. These spanned unconventional tar sands, tight shale oil, unconventional natural gas, and even biofuels. As recovery slowly crept along in the United States, oil prices peaked again at \$110 in April 2011. Since then prices have stabilized between \$90 and \$100 per barrel. At that level for light, sweet Texas Tea, it

is profitable to fill the marginal barrel with a combination of cheaper and vastly available shale oil, tar sands, and Brazilian sugarcane ethanol.

## **Regulatory Barriers**

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But even as global price discovery for oil appears to be reaching equilibrium, in the United States today there is a growing knowledge problem in what actually drives the retail supply of gasoline and diesel. As the global oil slate has gotten heavier, regulatory burdens have only increased already-daunting costs and have kept the American refinery fleet largely inflexible.

Keep in mind that no two refineries are of identical design, capacity, or location, and no new U.S. refinery has been built since 1976. The result is that some refineries today are limited by the amount of asphalt they can accept in their crude, while others are limited more by the capacity to remove sulfur. Only a handful of refiners have elected for the extensive upgrades and regulatory approvals needed to process large amounts of oil shale or tar sands.

Increasingly stringent specifications simply cannot be met with the available refineries-and-crude mix, and regulatory bottlenecks keep other sources from picking up the slack. A recent example: Last October, one refinery in Southern California was idle for maintenance when a second refinery had to shut down briefly after a power failure. The second outage was enough to send California prices up \$0.53 per gallon above the national average. And since gasoline from outside the state doesn't meet California specifications, gasoline from the remaining California refineries had to be rationed. The United States is thus a patchwork quilt of discrete regulated markets, rather than a single market. This fact, of course, makes fuel prices higher than they would be in a single market.

Then there's ethanol. Since 2007, legislation has mandated increases in the amount of ethanol blended into gasoline. This year 14 billion gallons of ethanol will displace about 10 percent of a fast-shrinking U.S. gasoline market.

But the ethanol mandates confound a separate effort at smog prevention. Most major cities across the country are still considered non-attainment areas for ozone, a contributor to urban smog. Quite a bit of urban smog today comes from the small amount of gasoline leaking out of your

gas tank. Especially in the summer, small amounts of evaporated gasoline from each of millions of cars add up to a lot of fugitive emissions.

Ethanol makes evaporation even worse. As refiners have been required to blend in more ethanol, they have had to compromise already-constrained operating conditions and crude slate in order to meet EPA specifications. The result is an even lower yield of gasoline from each barrel, and even higher prices for summer-grade gasoline. The EPA evaporation standard also exacerbates wasteful incentives from artificial price barriers: Gasoline sold across state and county lines may not be subject to regulation and may therefore be cheaper, making it worthwhile to drive 20 to 30 miles just to buy gasoline.

## Diesel

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A similar set of regulatory constraints is affecting the supply of diesel. In 2007, the EPA lowered the sulfur limit for on-road diesel to 15 parts per million (ppm), and for the first time it applied the previous specification of 500 ppm to off-road diesel, such as railroad and marine fuels. Last year, the 15 ppm ultra-low-sulfur diesel (ULSD) specification was applied to off-road diesel as well. Having to meet new specifications has left refiners with three options: use only the lightest and sweetest crudes, operate existing equipment harder and sacrifice yields, or invest the necessary capital to maintain capacity.

The cumulative effect of all these regulations is to make oil less of an economic "commodity" and more and more a specialty product produced (and priced) based on a combination of source, local production, and refining constraints; regional and state-based environmental regulations; political mandates affecting blending; transportation and pipeline availability; and other factors.

After a decade of price discovery, the growing knowledge base about supplying unconventional fuels has converged on a price point of \$90 to \$100 per barrel of conventional crude. Eventually there will be a benchmark price for tar sands and shale oil, traded at some discount to West Texas Intermediate, the benchmark grade. But despite financial-market transparency for "standard" petroleum benchmarks, there is a growing disconnect between the price of oil and the price and supply of retail fuels in any specific market.



# Guitars, Eccentric Billionaires, and Space Travel

MAY 22, 2013 by Andrew Heaton

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Recently astronaut Chris Hadfield became a global music sensation without so much as a nipple slip. He jumped to stardom by a combination of guitar mastery and zero-g singing via a music video he made. *In space*.

It's certainly an odd way of carving a niche in the country-music industry. The standard career track is to develop guitar skills and a drinking problem simultaneously, then write songs about both until you wind up in Nashville. Very few astronauts ever wind up with Grammys—Neil Armstrong never even got nominated. Going through rigorous astronaut training in order to be blasted through the stratosphere in a billion-dollar tin can seems like roundabout career planning, but perhaps that's the standard course for Ontario musicians. I don't know.

While the spacefaring Canuck might have performed his orbital David Bowie tribute as a hobby and not for personal advancement in entertainment, his achievement nonetheless synthesizes a phenomenon that might define humanity's future: combining space travel with the entertainment industry. In fact the next big fusion of the two is already under way.

Most of the space program thus far has been funded with tax dollars. American space exploration began when the Eisenhower administration found itself with a surplus of Nazi rocket scientists. After defeating Hitler, the United States and the Soviet Union snatched up every *Raketenforscher* they could get their hands on, only to realize they had dozens of German guys in lab coats sitting on their hands all day doing nothing. Eisenhower couldn't stand layabouts, so he dared the co-opted Germans to see if they could launch random, blinking, metal objects—like a refrigerator, or a Winnebago—into space.

Four years later NASA leaped ahead in the space race when President Kennedy suspected that there might be women on the moon. We spent eight years and \$25 billion figuring out how to get to the moon and potentially

introduce its inhabitants to JFK. By the time we actually landed there, Nixon had become president, so the space program's main priority shifted to finding novel locations in which to play golf. Then, in the 1980s the Russians ran out of dogs to launch into space, thus formally concluding the Cold War.

Now, in the 21st century, space travel has reached a new and glorious apex: It has been privatized.

You might ask, "What does privatizing space exploration mean to me?" Well, it means that now *everyone* gets a crack at bagging moon babes. And because eccentric moguls are pairing their insane intergalactic ambitions with the profit motive, we will probably build a moon base before you can say "President Gingrich."

Elon Musk, the billionaire tech mogul who founded PayPal, intends to retire on Mars. And he means it. Richard Branson of Virgin Records has graduated from building trains to building rocket planes by forming Virgin Galactic. Director James Cameron and Google's Larry Page are combining forces and investment capital in an asteroid mining company, which will drag asteroids full of platinum and gold back to Earth.

While the startup costs are immense, the profit margin is likewise staggering. There are gold nuggets the size of Houston drifting around the asteroid belt, just waiting to cloak the teeth of Lil Wayne. Enough so that, somewhat ironically, if Cameron and Page pull it off, we could see gold become less valuable than copper within our lifetimes. Rappers would have to resort to other forms of swag, like wearing antique brooches.

An even more fascinating development is Mars One, which seeks to build a permanent settlement on Mars. The brilliance of Mars One is that they are combining the highest of human aspirations (real estate investment) with the lowest of human depravity (reality television). Mars One will acquire part of the funding needed to send four people to Mars in 2022 by offering the film and licensing rights to private investors.

Adam Smith (who did not live on Mars or the moon) stated that government has four functions, the last of which is to fund activities that could not be handled by the private sector, or for which the private sector could not aggregateably muster sufficient capital. Space exploration used to fit this bill: In 1957 no single company could have drummed up the necessary funding to launch probes into space. Only a government hell-bent on

beating the Russians at everything from chess to rockets could possibly have done so.

Now space exploration has matured and is swiftly becoming the purview of wealthy entertainment moguls. This is the best possible thing that could happen to mankind. Within our lifetimes we will have orbital rocket planes that render flights to Australia brief and palatable. Someday I could send my children to space camp *on the moon* if I want peace and quiet in my house over the summer.

And all of us, if sufficiently photogenic and entertaining, have a crack at living on Mars. I'm hoping Chris Hadfield will apply, because I think an album about traveling to Mars would be worth purchasing. I would definitely tune in to watch a show featuring him and Megan Fox on a rocket.

# The “Great” Writ

## The Power of Habeas Corpus in America

**JUNE 07, 2013 by Allen Mendenhall, Anthony Gregory**

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Anthony Gregory. *The Power of Habeas Corpus in America: From the King’s Prerogative to the War on Terror*. New York: Cambridge University Press for The Independent Institute, 2013. 420 pages.

The writ of habeas corpus—Latin for “you have the body”—is known as “the Great Writ.” It generally is a procedural remedy commanding a custodian, such as a sheriff, to bring a detained party, such as a prisoner, before the court to show cause for the detainment and to prove whether the detainment is lawful or justified. If the detainment is not lawful or justified, the detained party may be released.

Sir William Blackstone, whose jurisprudence so influenced the American founders and the course of American history that his four-volume book, *Commentaries on the Laws of England*, continues to sell more copies in the United States than in England, once called the Great Writ “the most celebrated writ in the English law.” The American colonists who studied and praised Blackstone believed that, as Englishmen, they were entitled to the protection of certain fundamental rights, which the British government, under King George III, had selectively recognized and in some cases disregarded in the colonies.

The right not to be detained against one’s will without a hearing or notice of the accusations against him had been recognized for centuries and formed the basis for the writ of habeas corpus. In 1215, King John signed the Magna Carta, which expressly prohibited him and his royal successors from imprisoning, disseizing, committing, or banishing freemen who had not received a judgment of their peers pursuant to the laws of the land. This principle received renewed expression in the Petition of Right during the reign of Charles I and, later, in the Habeas Corpus Act, which called for

speedy recourse in the event of an unlawful detainment. The habeas remedy then passed from England to America by way of the common law, and none other than Thomas Jefferson declared, “Habeas Corpus secures every man here, alien or citizen, against everything which is not law, whatever shape it may assume.”

Nevertheless, Anthony Gregory ably demonstrates in *The Power of Habeas Corpus in America* that the Great Writ has a spotted and inconsistent history as well as a reputation for hope and freedom that does not align with stark expectations or reality. “Questions have reverberated from England to the United States,” Gregory submits, “over who has the authority to suspend the writ’s privilege and the very meaning of suspension itself. In our own time, no less than in past generations, jurists and scholars have labored to determine who enjoys the writ’s protection, which executive officials must answer to which courts or judges, what defines habeas jurisdiction, and whether its boundaries should shift during emergency.” These vexing questions have become more urgent and complex in a shrinking world burdened with threats of terrorism.

### **Written Power**

Gregory’s scope is wide. He maps more than 400 years of legal history in roughly 400 pages and reminds us that the origin of the habeas remedy was not libertarian: “The king’s courts developed habeas corpus to centralize judicial authority and collect revenue.” His impressive sweep of history recognizes that “it took centuries before the writ was genuinely turned against the king’s oppression.” Ever since the Norman conquest, if not earlier, the writ of habeas corpus has been tied to royal or governmental prerogative. In the seventeenth century, in fact, the writ served as a procedural mechanism for ensuring that prisoners *remained* in prison rather than being released from prison; in our present era, the government has been able to circumvent the writ to indefinitely detain prisoners captured in the war on terror.

Michel Foucault made a career out of analyzing the paradoxical nature of power—that is to say, the ways in which the State enables forms of liberty in order to demonstrate its ostensibly unrivaled authority to suppress that liberty. Gregory adopts a similar approach, describing how prisoners petition for the writ and how courts and custodians respond. “For every vindication of a custodian’s power,” Gregory explains, “the authority to

detain is upheld. For every undermining of a custodian's power, there is the affirmation of another official's power—a judge's power, to say nothing of the state's general power to decide whom to detain.”

This Foucaultian line of reasoning surfaces elsewhere in the book and provides a profound challenge to libertarians who would dismiss Foucault's thinking out of hand. In an astute and potentially groundbreaking moment, Gregory briefly discusses Foucault vis-à-vis the theories of Robert Higgs, Murray Rothbard, and Franz Oppenheimer; the connection between these men might surprise those unaware of the fact that Foucault himself, late in his career, advised his students to read Mises and Hayek.

At once a tool of liberation and authority, the writ of habeas corpus undermines State authority even as it validates and solidifies that authority. In other words, it enables the very power that it subverts. Because it destabilizes institutionalized power ultimately to sustain that power, the writ is, in Gregory's words, “mythical” and retains an “idealistic mystique.” That makes it all the more important not just to trace the history of this storied remedy, but to “demystify” it and expose it for what it is: a “tool of usurpation and centralization.” In this regard, Gregory's book is not merely a history but a call for awareness.

## **Productive Irritation**

If Gregory's Foucaultian method is successful, as I believe it is, then it should cause productive irritation among libertarian jurists and jurisprudents who appear to be moving toward stodgy consensus on a number of pressing legal issues. It might be that other pet favorites of these legal libertarians—say, incorporation of the Bill of Rights against the states—are really short-term techniques serving as vehicles to long-term, centralized power. That is not to accuse any particular libertarian of having bad intentions, only to suggest that good intentions can be bound to discursive systems that we do not fully understand. Power is dangerous not because it's obvious, but because it develops gradually out of good intentions and seemingly innocuous actions. All students of spontaneous order ought to know better than to design or embrace abstract legal theories that endow the instrumentalities of a centralized State judiciary with more nationalized powers, even if those powers seem, at first blush, favorable to liberty.

Sometimes it takes a non-lawyer like Gregory to remind lawyers of the philosophical implications of the practical and everyday functions of the law. Likewise, it takes a philosopher, again like Gregory, to show that a series of small legal victories is really one big loss in a larger scheme. Although focused on a single issue—the writ of habeas corpus—Gregory’s book has potentially vast ramifications for all areas of libertarian jurisprudence. It is a timely corrective and an impassioned warning to libertarian lawyers, think tanks, and policy analysts who have lost their way and in the name of liberty brought us deeper into statism.

Yet the question remains: What is a better alternative to the Great Writ that could protect individual rights against unwarranted detention and at the same time avoid the production of power? Gregory doesn’t answer this question, but he does suggest that if the writ is to be a liberating remedy, society itself must be more libertarian. In other words, the writ is worthless in a society that does not value freedom; it is a tool that can lead to oppression or liberty, depending on the prevailing ethos of the time and place.

Therefore, for the writ to be an instrument for good, society writ large needs to shift its values toward libertarianism. Of course, that solution pertains to all social problems and would remedy any number of governmental harms. Gregory may not have indicated specific alternative remedies that could replace the Great Writ, but he has shown us that received opinion about government-backed protections can impede our search for liberty.

# Hollow Men

**MAY 10, 2013 by Sarah Skwire**

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F. Scott Fitzgerald. *The Great Gatsby*. New York: Charles Scribner's Sons, [1925] 1953. 159 pages.

In whatever afterlife awaits fictional characters, F. Scott Fitzgerald's Jay Gatsby is probably feeling very much at home. After all, with Baz Luhrmann's movie about to debut, everyone is talking about him again. And in Fitzgerald's novel, everyone is always talking about Gatsby. When narrator Nick Carraway first experiences one of Gatsby's famed parties he notes that amid all the gossip about Gatsby's wealth and mysterious past, and Gatsby's equally mysterious businesses, no one actually seems to know Gatsby at all. "I made an attempt to find my host, but the two or three people of whom I asked his whereabouts stared at me in such an amazed way, and denied so vehemently any knowledge of his movements that I slunk off in the direction of the cocktail table."

Even when Nick finds Gatsby and meets him, he finds himself observing him as if from far away, "standing at the top of the marble steps and looking from one group to another with approving eyes. . . . No one swooned backward on Gatsby, and no French bob touched Gatsby's shoulder, and no singing quartets were formed with Gatsby's head for one link." Gatsby is unknowable and untouchable. It is probably no accident that for all his public display, this most famous inhabitant of West Egg is, to paraphrase M. F. K. Fisher, as private as an egg before it is broken.

In much the same way that the novel's characters are frustrated and critical of Gatsby's unknowability, Kathryn Schultz's widely circulated piece, "Why I Despise the Great Gatsby," asserts, among other charges, *The Great Gatsby* is less involved with human emotion than any book of comparable fame I can think of. None of its characters are likable. None of them are even dislikeable, though nearly all of them are despicable. . . . It is possible, of course, to deny your readers access to the inner lives of your characters and still write a psychologically potent book: I give you *Blood*

*Meridian*. But to do that, you yourself must understand your characters and conceive of them as human.

Fitzgerald fails at that, most egregiously where it most matters: in the relationship between Daisy and Gatsby. This he constructs out of one part nostalgia, four parts narrative expedience, and zero parts anything else—love, sex, desire, any kind of palpable connection.

But I have never thought that the story of Jay and Daisy was supposed to be that kind of story—a story where a great love saves people from lives gone wrong. And that certainly doesn’t seem to be the story Fitzgerald gives us. Instead, we get something much more complicated and much closer to the kind of criticism of the “glamorous dissipation of the rich, [and our] cheap satisfaction of seeing them fall” that Schultz says she cannot find in the novel.

Gatsby’s distance from us and the distance that separates all the novel’s characters from one another is not a failure of Fitzgerald’s powers. It is a demonstration of them. These are hollow people, with hollow lives, and hollow ambitions. Fitzgerald sees the “glittering swinishness” of the nouveau riche who crowd Gatsby’s parties, and of the old-money Tom and Daisy Buchanan, and of the grasping Myrtle Wilson as all the same. While Gatsby’s early ambitions suggest that he began better than they, any potential he had is destroyed when he meets Daisy, “and all of a sudden I didn’t care. What was the use of doing great things if I could have a better time telling her what I was going to do?” he says. With Daisy as his goal, he heads off to fight in WWI. When he returns from the war to find her married, he is soon good for nothing more than making money through various and unspecific unsavory deals, in order to spend it wildly to try to attract Daisy’s attention. And, as my favorite American literature professor has remarked of Daisy, “She’s the perfect demonstration of Gertrude Stein’s comment. There’s no there there.”

The novel is filled with famous images of exactly this kind of hollowness. The towns of East and West Egg, with their “shells” crushed flat on one end; the unseeing eyes of Doctor T. J. Eckleberg, abandoned and dimmed and surveying the ashpiles; the books in Gatsby’s library with their uncut pages; Daisy and her friend Jordan floating as if “on an anchored balloon;” and always, always, Gatsby’s enormous house—filled with complete strangers at the beginning of the novel, then lit up and empty, and

then empty of even the light. If Fitzgerald's characters have no human emotions, it is because their world has none. Cars run off roads. Noses are broken. Couples divorce. Women are dumped into pools. And it all happens amid endless hilarity. No one mourns for Myrtle. No one goes to Gatsby's funeral. If Shultz reads Gatsby and finds it empty, she is reading it right. Gatsby may well be "worth the whole damn bunch of them put together." But the whole damn bunch of them put together isn't worth an empty eggshell. And Fitzgerald knows it.

We are not meant to admire Daisy or Tom or Jordan or even Gatsby. We are not meant to emulate Gatsby's ceaseless longing for Daisy. We are not meant to find it romantic and redemptive when he stretches his arms out to that tiny green light at the end of the dock. We are meant to understand the bitter hollowness of coming back from a war to find out that the visions that sustained one are empty, and that the world one fought to protect offers nothing more than a valley of ashes and some parties filled with "happy and vacuous laughter."

# Take Me Out to the Cleaners

## Crony Capitalism and Stadium Funding

JUNE 12, 2013 by Michael Nolan

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For years, taxpayers have been shaken down for money to build ever-fancier stadiums for professional sports teams. It's probably not the most expensive example of cronyism out there. But since it forces everyone to set up tidy little business-and-vanity ventures for guys who are already rich, it's among the most egregious.

According to *Deadspin*, 78 stadiums were built from 1991 to 2004, at a cost of \$85 billion. Taxpayers are on the hook for 61 percent of that. To see just how bad it's gotten, check out the animated charts they put together.

The lion's share of the revenue created by the stadiums goes right into owners' pockets. Maybe they pay a nominal rent. Maybe they share some money from the concessions, since it's sort of grimly funny for the cities to be paid in literal peanuts.

Owners are notoriously loath to discuss the profitability of their franchises, except when they need leverage while negotiating new collective bargaining agreements with players. The revenue streams created by stadium deals, however, determine teams' values, according to *Forbes*. And team values, as *Deadspin* explains, have doubled in the past decade or so.

Meanwhile, whatever scheme is originally cooked up to pay for the bonds—usually soaking tourists, or people who engage in fancy rich-people stuff like eating at restaurants and buying lottery tickets—turns out to have been a pipe dream. Or the interest on the bonds goes up. Or the economy cratered. Or maybe some mixture thereof. In other words—and sports likes

nothing so much as cliché—they wind up overcharging on bread to provide the circus.

How do all these guys pull this off? Usually, a team threatens to leave unless they get new digs—or at least renovations that add more luxury boxes. Fans get loud because that's what they do, politicians sniff some easy votes, and Bob's yer uncle.

It doesn't always work this way, if you believe the Indianapolis Colts, a team with a pretty checkered past when it comes to stadiums and moving. I really want to believe them, because they're responsible for the single greatest event in the history of human achievement. But even if they didn't stiff-arm the city into their new stadium, the stadium deal itself still constitutes making some people's leisure-time preferences a matter of law.

It also involved eminent domain abuse. Other stadiums have been built as much on eminent domain as on bedrock. Setting aside whether eminent domain can ever be anything but abusive, combining it with this legislation of preferences produces deals that always stink.

And I say this as a sports fan myself. I'll be the first to admit that sports fandom partakes of very little rationality. And when it comes to tastes, rationality can get stuffed—you likes what you likes. That's all the more reason why none of us should be forced to underwrite anyone else's preferences. That it keeps happening beggars belief. If you're in Cincinnati, you'd be lucky if only belief was being beggared.

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### **The Hail Mary**

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Of late, though, there have been some faint signs of hope for us liberty types.

You might have heard about the first one. In May, the Florida state legislature refused to hold so much as a vote on a bill to use tax proceeds to renovate SunLife Stadium, home of the NFL's Miami Dolphins. The team

got huffy, issuing a threat to move that was veiled only in the sense that cellophane veils sliced cheese.

The Dolphins' owner, Stephen Ross, says he had no idea the stadium was in such bad shape when he bought the joint in early 2008. You'd think a guy who made his fortune in real estate would have done some due diligence, but only if you'd been in a coma since about August of that same year.

Incidentally, it's not surprising that Ross would feel entitled to tax dollars. His first big business move, after wall, was to launch a company that sold tax shelters made from federal housing projects.

Besides, everyone else has been doing it. Writing in *Bloomberg*, Aaron Kuriloff and Darrell Preston report that in 1986, Congress touched off the publicly financed building boom by trying to do exactly the opposite. They tried to end the use of tax breaks aimed at helping cities build schools and hospitals and such. "Lawmakers' revisions instead unintentionally encouraged local officials to borrow even more for pro sports," write Kuriloff and Preston.

If that sounds like a line from a Public Choice study, you ain't seen nothing yet. "You have the costs spread out, with small losses to hundreds of thousands—maybe millions—of people," Dennis Zimmerman, a former economist for the Congressional Research Service, told Kuriloff and Preston.

Those small losses come from shifting money from voluntary transactions into the pockets of the politically connected. But it's hard to see the unseen when you've got a giant stadium blocking your view. And there's no reason to look for it when you're hanging onto \$4 billion extra (like the bondholders) or trying to keep track of all the new revenue streams while this gigantic asset goes about doubling in value (like the team owners). If you own a bar that lives on gameday receipts, you're too busy pouring drinks; if you're leaving that bar after the game, seeing anything at all is probably a dicey proposition.

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## The Squeeze Play

Beyond the Miami deal, though, there has been some recent pushback.

Around the same time the Dolphins were getting the Gerald Ford treatment, the Minnesota Vikings were showing off the artists' renderings of their new stadium. It's a doozy, too—but what would you expect for a cool billion dollars?

Not exactly a victory for free markets, then. But at least the fight over funding was long and bitter (insert winter pun). It almost didn't even get approved in the first place, and that's with Los Angeles, which already snatched the NBA's Lakers away from Minneapolis, allegedly hungry for a football team.

At least L.A.'s stadium, according to news reports, would have been privately funded by AEG group, to the tune of \$1.2 billion. The NFL didn't believe AEG could make enough money to pull off the deal anyway. The next time the NFL worries about that with a tax-funded proposal will be the first. The NFL, after all, is a nonprofit seemingly set up for the express purpose of obtaining publicly funded stadiums.

Still, Minnesota got the Vikings' owners to split the tab. In the sports world, that's called a "moral victory," distinguishing it from the kind that gets people paid. In real life, though, both the Dolphins and Vikings episodes represent a kind of progress.

Miami, for instance, got to strike another retaliatory blow for the Marlins Park debacle. Taxpayers found out after the funding was approved that it was actually going to cost them *\$2.4 billion* over the 40 years it would take to pay off the bonds. This for a team that was turning healthy profits all through the recession, no matter how the team was doing. Voters sacked two mayors and a handful of flunkies as soon as they got the chance.

What's more, the Marlins' Little Havana palace hadn't even lost that new-ballpark smell when the team set about letting the fans know exactly what they thought of them. The manager said some nice things about Fidel Castro just as the season was starting. Then the team had a lousy season,

and then it dumped every player who might have given fans some hope for the next year. One wonders if they sell those foam “We’re #1” fingers at Marlins Park—and if so, which finger exactly is sticking up. The fans seem to have a pretty good idea.

The NFL’s San Francisco 49ers got a new stadium recently as well, but the team is putting up 88 percent of the cost, according to *Forbes*. Of course, that new stadium helped the city land the gig as the host of Super Bowl L, which will mean, if Bay-Area residents are really lucky, no net effect on the economy at all.

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### The Airball

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I want to hope that at some point all of this, plus the stories about how Olympic host cities tend to fare after the games, will add up to one almighty big kibosh being put on these funding deals. It seemed like a sign of progress when, one morning, I saw the *Indianapolis Star* running a column about the city’s deal with its NBA team, the Pacers. They’re on a year-to-year lease—only it’s the city paying the team \$10 million to get them to stay. They’d just won a big playoff game against their main rival, and yet here came the wet blanket.

I mean, get a load of this: “The owners of sports teams arrive at [stadium] negotiations with outrageous demands and tremendous egos—with a deep belief in the idea that taxpayers are there to subsidize their businesses.”

I was ready for the owners to get it with both barrels. But then came the usual pitch, including this howler, explaining that if the Pacers left for, say, Seattle, “[Indianapolis] would lose one of those few things around which the community bonds. Sports provides that bond.” Get that? The community might crumble without this bond, which the State provides. Politicians probably don’t mind the insinuation that they are, in a sense, creating the community, but the suggestion is risible, to say the least.

People who sign off on these deals, however, have to rely on things like equating transfers to team owners with “civic pride” or “community bonds” because they don’t have any actual numbers on their side. They can claim that consumers get some goods, so the stadium funding isn’t just a straight transfer. If you happen to like the local team and are willing to spend some money on them, this looks sort of valid.

But elevating one group’s preferences for entertainment into law turns the irrationality of fandom into something more insidious. It’s akin to using patriotic-sounding language to demonize dissent and push through, say, an all-powerful surveillance State. The relatively small amounts of money involved (check out Tom Coburn’s sideshow about the NFL dodging \$91 million in taxes, which is what Congress loses in the couch cushions between campaign events), and the certainly tiny amounts taken from each individual taxpayer, might make this issue relatively small beer on the national scale. Even *Deadspin*’s \$85 billion figure isn’t enough to buy a decent invasion, even if it was a yearly budget instead of a cumulative total. But neither this logic nor the per-capita version—“hey, it’s only a couple bucks here and there from each taxpayer”—simply excuses something blatantly corrupt. Each time it’s accepted, the number of times it will be used in the future increases, probably exponentially. So it’s small beer, sure. It’s also, as far as reducing the corruption and oppression of the State goes, low-hanging fruit.

And there’s very little risk to a city as a whole if a team storms off in a huff. Los Angeles, Seattle, and St. Louis, to cite some recent examples, have all managed somehow to exist and thrive both before and after professional sports came to town. Montreal built the second-most expensive stadium in history for the 1976 Summer Olympics, ultimately paying about 10 times the initial estimated costs. The stadium hasn’t had a primary tenant since baseball’s Expos left for pastures in D.C. made greener by layers of public-financing fertilizer. As far as anyone knows, Montreal still exists, and people still like it. Even Winnipeg, which lost the Jets to the hockey hotbed of Phoenix in 1996, was allegedly a place both before and after professional hockey came to town. Hockey returned last year, well after Winnipeg started getting recognition for its thriving economy.

The next time this issue comes up in your area, keep an eye out for politicians, PR types, and reporters who start talking about unquantifiable (maybe even “priceless”) things like civic pride and community bonds (the kind you have to swap at a discount for the ones that pay tax-free interest to investors for a few decades). It’s the sign to check your pockets. You might be surprised whose hands you find in there.

# Outside the Complex

## For those in Guantanamo

JUNE 10, 2013 by Philip Metres

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Close enough to see  
only their shadows  
flickering in distant  
    metal cages against  
prison searchlights.

Close enough to hear  
    the recorded call  
to prayer, sounded  
over loudspeakers,  
    crickets and crashing  
surf, human voices  
gathering. He could  
    not see, aiming his  
microphone at scraps  
of their singing.

If he could hear them,  
would their hearts tick  
like timers, soft  
    as plastique, hard-wired  
to blow apart? If he could  
see them, would he see  
    the ghosts of faces  
he thought he might know  
but not place in time?

The embers of their song  
lifted from the licks

of some fire invisible  
to him, untranslatable  
as taps on the underground  
pipes hammered by sailors  
in the crippled *Kursk*.  
Were they trying to  
open a hull into certain  
death? Were they saying  
we can't breathe much longer  
in the depths of this sea,  
and lift us back to surface?  
He drove back home,  
played the tapes he made  
outside the complex, and heard  
only the surf exploding  
against rocky shore, wind  
whipping the sand.

# Discipline

JUNE 20, 2013 by Tarfia Faizullah

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What kind of disciple  
is the girl who learned  
    how to splint her own  
spine? Who can teach her  
    anything more about  
the pliability of bone?

    Where is the day she stood  
in the nave of a church  
    overlooking a sea and found  
in herself the ancient hymn  
    of oceanwater? Where is  
the room large enough  
    to reveal to her this thin  
peril between land  
    and water, between  
the crooked tilt of her  
    body and the salted panic  
of waves from which it rises?

## About Lenore Ealy

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## About Max Borders

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Max Borders is editor of *The Freeman* magazine and director of content for The Foundation for Economic Education (FEE). He is also author of *Superwealth: Why we should stop worrying about the gap between rich and poor*. A writer and innovator with a decade of experience in the non-profit world, Max works daily towards a condition of peace, freedom and abundance for all people.

## About Bruce Yandle

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## About Eric Boehm

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## About Wendy McElroy

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## About B.K. Marcus

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B.K. Marcus is managing editor of the *Freeman*. His website is [bkmarcus.com](http://bkmarcus.com).

## About Jacob Borden

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Dr. Jacob R. Borden is assistant professor of chemical engineering at McNeese State University. Borden holds a PhD in chemical and biological engineering from Northwestern University and an MBA from Spring Hill College. His academic focus is the development of advanced energy technologies, including petroleum and renewables. Borden has more than a decade of experience working in industry, most recently as principal engineer for BP Biofuels.

## About Andrew Heaton

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## About Allen Mendenhall

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Allen Mendenhall is a staff attorney to Chief Justice Roy S. Moore of the Supreme Court of Alabama, a doctoral candidate in English at Auburn University, an adjunct professor at Faulkner University, and author of *Literature and Liberty: Essays in Libertarian Literary Criticism*.

## **About Anthony Gregory**

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## About Sarah Skwire

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[\*\*Sarah Skwire\*\*](#) is a senior fellow at Liberty Fund, Inc. She is a poet and author of the writing textbook [\*Writing with a Thesis\*](#).

## About Michael Nolan

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## About Philip Metres

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Philip Metres is the author of several books of poems, including *Sand Opera*, winner of the 2013 Beatrice Hawley Award from Alice James Books, *A Concordance of Leaves* (Diode 2013), *abu ghraib arias* (Flying Guillotine, 2011) and *To See the Earth* (Cleveland State, 2008). His work has garnered two NEA fellowships, four Ohio Arts Council Grants, the Arab American Book Award, and the Cleveland Arts Prize, among other honors. He is a professor of English at John Carroll University.

## About Tarfia Faizullah

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Tarfia Faizullah is the author of *Seam* (Southern Illinois Univ. Press, 2014), winner pf the 2012 crab Orchard Series in Poetry First Book Award. Her honors include fellowships from the Fulbright Foundation, Kundiman and Vermont Studio Center. SHe is an editor at *The Asian American Literary Review*.?