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A Review of Religion, Politics & Culture

JULY 12, 2013

CHILDREN OF NIGHT

Valerie Sayers



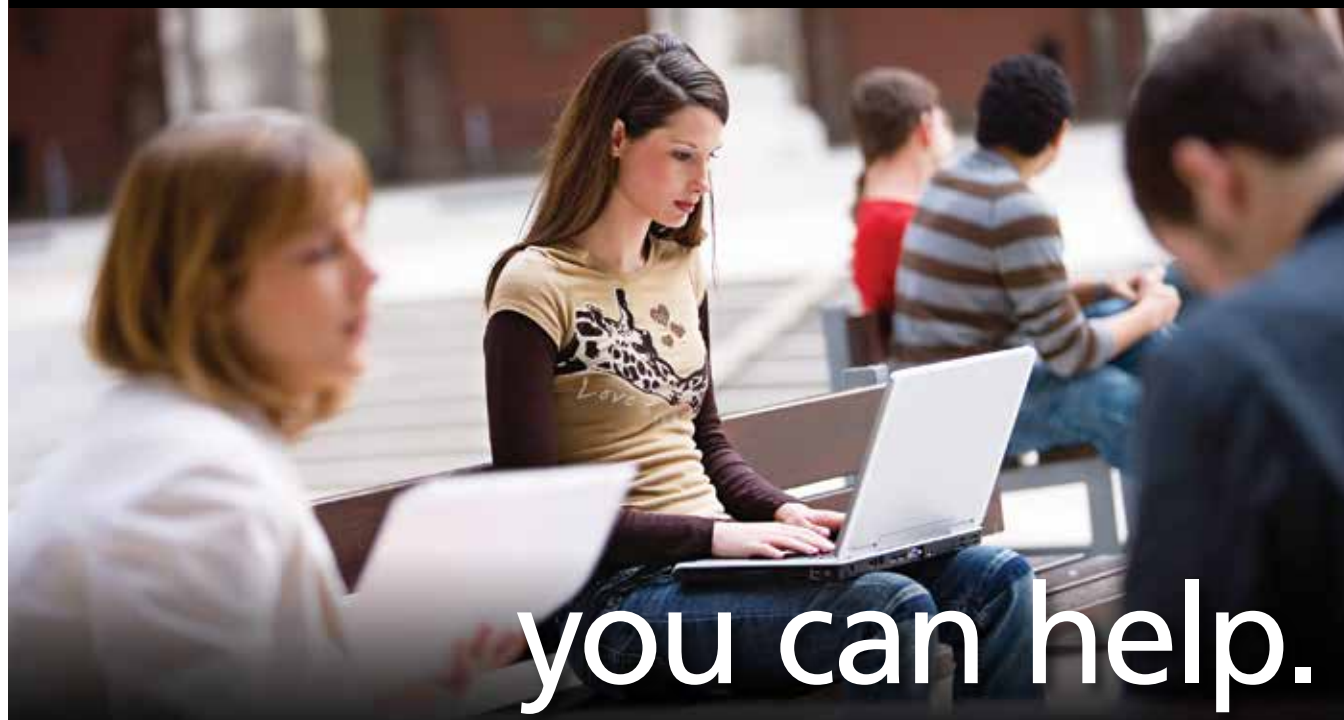
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THE EDITORS ON THE NSA

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LETTERS

Abortion & law, the makings of a saint

A PIECE TO BE PROUD OF

"Beyond the Stalemate" is a very fine piece that *Commonweal* should be proud to have printed and Steinfels happy to have written. Its great strength is its clarity about the differences that separate: (1) taking a position to be true and important; (2) thinking that there are arguments that ought to convince everyone of its truth and importance; (3) thinking that the coercive force of positive law ought to be used against those who do not find the position true and important. On all sides of the debate these things get run together, even though it's axiomatic for the Catholic intellectual tradition that we ought not attempt the writing of everything we take to be true and important into law. Deciding when to do that, and when not to, is a matter of prudence. I agree with Steinfels that abortion is the taking of human life, and that it is very important to think so and to act as if one thought so. I agree with him, too, that it is in the nature of the case that we should not expect everyone to think so. If we care about changing hearts as well as minds, about reweaving the fabric of our culture both within and without the church, and about reducing the number of abortions in this country, Steinfels's way forward is the way to go.

PAUL GRIFFITHS
Chapel Hill, N.C.

BEYOND PENALTIES

I applaud Peter Steinfels for his carefully reasoned and comprehensive treatment of the difficult topic of abortion from the viewpoint of faith ("Beyond the Stalemate," June 14). It is not easy to engage in such a discussion. The conversation slips crazily from biology to doctrine to theology to philosophy to law to culture. A religious tradition can adopt a discovery of biology for the start of human life, but that is still a biological position, subject to the vagaries of further discovery. The same with ensoulment, a religious belief beyond any empirical research. In philosophy the issue of when personhood be-

gins is still an open question. Least helpful is the legal perspective, which tends to dominate in an overly legal culture. To reduce the important issue of abortion to a discussion of legality, penalties, restrictions and the like is an ugly part of contemporary American culture.

Recently I was engaged in a Muslim-Christian dialogue, and we had an animated discussion on abortion. The group of Muslims (mostly professional people) was unanimous in being profamily and prolife. They were also unanimous in concluding that abortion should be permitted only in the early weeks of pregnancy—and in regarding this as a prolife position, aware that abortion always has been and always will be with us. I was intrigued by their realism and absence of legal reference. Throughout the history of abortion, most people have agreed that the further along a pregnancy, the greater the need to safeguard and treasure that pregnancy. And I submit that a united effort on all the culture-of-life issues (not just abortion) is the only consistent and convincing path.

KEN SMITS, OFM, CAP.
Fon du Lac, Wisc.

MAKE ROOM FOR DANNY

Kathleen Cummings's interesting article "Making Saints" (June 1) demonstrates how at this time in our national life much of the effort to canonize Americans is divided by ethnic and ideological aims. It may be more fruitful to consider persons of high sanctity known in the general culture. My candidate would be Danny Thomas. He maintained a faithful marriage as husband and father while working in an entertainment industry that encouraged licentious behavior, started St. Jude Children's Research Hospital, and came out of retirement to help save the hospital from bankruptcy. His life was a remarkable American Christian witness that deserves to be recognized by the universal church.

CORNELIUS MURPHY
Valencia, Pa.



Securing Our Liberty

Edward J. Snowden, the thirty-year-old former National Security Agency contractor who handed over a treasure trove of classified documents about U.S. government surveillance to the *Washington Post* and Britain's *Guardian*, is a hero to some and a traitor to others. He claims to have acted out of a sense of outrage over the NSA's indiscriminate collection of the phone and internet records of Americans, decrying the danger such intrusive government oversight poses to democracy and privacy. Snowden subsequently fled to Hong Kong, and from there to Moscow. His eventual destination appears to be Ecuador, Cuba, or Venezuela.

Snowden's efforts to elude U.S. authorities cast an ambiguous light on his motives; the countries where he has sought refuge are not known for upholding the sort of democratic values he claims to be defending. While demanding accountability from the U.S. government, he appears to be seeking immunity for his own actions. Snowden's purposes and fate, however, should be of secondary concern. However misguided his actions may have been, they have reopened a much-needed debate about the reach and authority of what is often called the National Security State. While defending the NSA programs, even President Barack Obama seems to welcome that debate. "You can't have 100 percent security and also then have 100 percent privacy and zero inconvenience," Obama noted when asked about Snowden's leaks. "We're going to have to make some choices as a society.... There are trade-offs involved."

Administration officials and members of Congress say the government's extensive surveillance programs are crucial to preventing terrorist attacks, and that Snowden has done real damage to efforts to keep Americans safe. Because almost all the relevant information remains classified, it is difficult to assess that claim. NSA officials have now promised to make public details of some of the dozens of terrorist plots they say the massive data-collection effort, called Prism, has helped thwart. That sort of disclosure is long overdue. Although Prism was approved by the Foreign Intelligence Surveillance Act court and is monitored by the intelligence committees of Congress, many Americans were shocked to learn that the government now stores their phone and internet records for possible use in future investigations. While the government is prohibited from listening to the tracked calls, it uses sophisticated algorithms to trace calling patterns. If a

series of related calls seems suspicious, the NSA or FBI then gets a warrant from the FISA court to investigate further. No abuse of those procedures has come to light. Still, the mere existence of such records in the government's hands, information that might easily be exploited for political purposes, should concern every American.

It is axiomatic that fighting clandestine terrorist groups requires clandestine methods. Sources and allies must be protected; in preemptive actions the element of surprise must be preserved. Secrets about ongoing investigations cannot be compromised without jeopardizing counterterrorism efforts. It is harder to justify keeping such details secret after the fact. Judgments about the trade-offs between privacy and safety cannot be made unless the American people know what the government has done in our name. Even if everything the government does to combat terrorism is technically legal, not everything legal is prudent, wise, or morally justified.

As a nation, we rely on a system of checks and balances to prevent an excessive concentration of state power. Those checks and balances are strained to the breaking point during times of war, and especially during a war as ill-defined and open-ended as the fight against terrorism. Congress is notoriously pusillanimous when it comes to national-security issues. The courts, meanwhile, are loath to intervene, preferring to leave the conduct of "war" to the other two branches. The executive rarely passes up an opportunity to expand its war-making powers. The result is the steady accumulation of influence by the nation's security agencies. As political philosopher and former Clinton administration official William A. Galston recently observed, "It may be true that as currently staffed and administered, the new institutions of surveillance do not threaten our liberties. It is also true that in the wrong hands, they would make it much easier to do so."

Devising checks and balances that will reduce that threat should be a goal that unites all Americans. Given the complexity of the issues, perhaps a first step would be to convene a truly credible bipartisan study commission. Bring together representatives from the legislative, executive, judicial, military, and security branches, as well as members of the fourth estate. The commission's mandate should be to inform the American people about the hard choices we face. The trade-offs between liberty and security should not remain a secret any longer. ■

June 25, 2013

SMILE. IT'S FREE—AND PROFITABLE

From the dotCommonweal post "Solidarity, Subsidiarity, and the Problem of Good Customer Relations," by Unagidon:

At the Catholic University of America's business-school blog, Professor Brian Engelland writes: "The more we learn about the implementation of the Affordable Care Act... the more we realize that the act ignores the core principles of solidarity and subsidiarity that make organizations and systems function effectively." Catholics must take seriously any accusation that a major social program violates the principles of solidarity and subsidiarity. But how does Engelland define these things?

"Solidarity is the principle that recognizes that individuals are happiest when they develop lasting personal relationships with other humans." For example: "Think about the greeter who welcomes you to Wal-Mart.... [The greeter and the customer] are edified through the practice of solidarity: the receiver obtains needed assistance; the giver obtains the merits of Christian charity." Solidarity (so defined) improves the efficacy of the transaction: "Companies have prospered by developing good customer-relationship strategies that put an individual face on customer contact."

So, what matters is not real solidarity, which is about the actual conditions of the parties involved, but rather the *appearance* of solidarity. Obamacare is doomed because "a government entity stands in the middle of the exchange, breaking the connection between the giver and the receiver." Wal-Mart may be

a large bureaucracy, but because it creates a "relationship" between greeters and customers it becomes a model of solidarity (and profitability).

As for subsidiarity, Engelland says it's "the principle that respects individual freedom, initiative, and control of one's own sphere of responsibility." He continues: "Years of management research...has shown that individual workers are happier and produce more effectively in situation where higher-level management...cedes responsibilities to local-level control." But again he's talking about the appearance of control; actual control would look like socialism. His version of subsidiarity requires decentralized management. Obamacare flunks that test too: "Individuals are much happier when they can make decisions in conjunction with their own selected physician rather than have the decision forced on them by some distant insurance company...or government bureaucrat." Never mind that he's describing our current medical system. What's the difference between a government bureaucracy putting a friendly face on the interaction and a large private company doing the same thing?

Engelland seems to think that laissez-faire capitalism is the most efficient bearer of the Catholic principles of solidarity and subsidiarity, and that the appearance of a personal relationship meets the principles as long as the underlying relationship is hidden. Solidarity and subsidiarity don't rest on one person's actual relationship with another. On his account, Obamacare fails because it doesn't have a good Catholic customer-service model. ■

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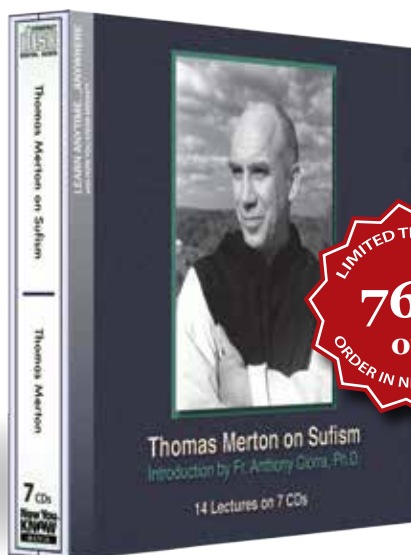
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Jo McGowan

‘Like a Shadow’

A TRAGEDY TESTS PROLIFE CONVICTIONS

Maya is a young woman who works at the foundation I direct. Until a few months ago, she also worked part-time as my adult daughter’s babysitter. (Moy Moy has special needs and requires constant care.) I play a sort of mother role to Maya. Her own mother died three years ago, her father abandoned the family long ago, and she has no elder woman in her life.

Maya quit when she became pregnant. She and her husband were thrilled about becoming parents and each time we met, I got an update on the morning sickness, the weight gain, the items they were collecting for the baby.

A few weeks ago, she called me in a panic. She had just had an ultrasound and the results were bad. The baby—five months along—had anencephaly, a condition in which the skull does not form properly and which is generally “incompatible with life.”

I went immediately to meet her. My heart was pounding as I neared her home, a tiny two-room place with a hand-pump in the front yard and no running water inside. I knew she would do whatever I suggested she should do.

Before coming, I had Googled anencephaly. I found a website that profiled families who had decided to carry the pregnancy to term, to give their babies as long a life as possible and to make their inevitable deaths peaceful and calm. One family had hired a photographer who specialized in documenting such traumatic situations. The woman, beautiful in her pregnancy, was photographed in various positions. The child, born full-term, was also photographed lovingly and sensitively. As I thought of Maya, these photographs made me unreasonably angry.

She was tearful and frightened when we met. She showed me the ultrasound images in which her baby’s head was clearly malformed, and she informed me matter-of-factly that the doctor had al-

ready given her a pill to induce an abortion—the follow-up procedure would happen the next day at the hospital. I felt a strange sense of relief, a mixture of guilt and gratitude: the decision had already been made. There was no moral stand to be taken, no need to convince her to see the pregnancy through.

Had I been in her position, that’s what I would have done—see it through, just like the woman on the website. And just like her, I probably would have made a big fuss about it with photos and heartfelt prose. But neither of us would ever be in Maya’s position. Neither of us lives in a slum; neither of us would ever give birth to a dying baby in a dingy, unhygienic hospital.

“You’ll come with me tomorrow, Didi?” Maya asked. There was really no doubt in her voice. There was no doubt in my mind, either. Yes, I—the first person to go to jail in the United States for protesting abortion—would be there. I would hold Maya’s hand and help her through a process she didn’t choose and would have given anything not to endure.

I have attended many births but this was the first time I had to help a woman deliver a baby we both knew would be dead. In the end, an emergency at home prevented me from being there at the moment the baby emerged, but I was back twenty minutes later. Maya was dozing; her husband and mother-in-law sat quietly beside her. The baby was in a plastic bag, lying on the floor behind the bathroom door.

I asked Maya if I could look at her and she said yes. The nurse took the baby out of the bag and held her out for me to see. She was the exact length of my hand and, except for the head, she was perfect: fingers, toes, hands, and feet—all in miniature, all lovely and complete.

“Maya! Look at her!” I said. “She’s so beautiful.” Maya’s eyes filled with tears. “Would you like to name her?” I asked.

In India, babies are named several months after birth, so I knew this was pushing things. Maya shook her head. “Oh, go on.” I said gently. “She’s your first born. She’s your little daughter.”

“I want to name her Chhaya,” she said. (“Chhaya” means shade.) “Because she came like a shadow and she went like one.” The speed of her response surprised me. She had clearly been thinking about it already, and I was suddenly confronted with the assumptions I had made about Maya, about how the daily burdens of a life without a safety net would have determined her decisions. Maybe she, too, would have preferred to go through with the pregnancy. Now we’ll never know.

That evening I Googled the drug Maya had been given and learned that it could not have been effective at inducing an abortion so late in a pregnancy. I think I had half-suspected as much all along but hadn’t wanted to know for sure. I think I had been trying to protect Maya from the horror she would feel while delivering a baby with an open skull. (The old textbooks called such babies “anencephalic monsters.”)

The paternalistic approach to medicine that prevails in India, particularly for the poor, ensured that Maya was guided toward the abortion while remaining completely ignorant about her options. The doctor simply told her the baby needed to be “cleaned out.” There was no discussion about the baby’s future or Maya’s right to decide if she wanted to meet her at least for the few days she had to live before her inevitable death.

The hospital was going to bury the baby along with a few tumors and other surgical debris. Instead, we took her home and buried her in our garden with a simple ceremony: we said a prayer; my nephew sang “Amazing Grace.” We planted impatiens around the tombstone—those colorful flowers that grow so beautifully in the shade. ■

Fr. Nonomen

Wedding Crashers

WHY PRIESTS PREFER FUNERALS

They paraded into the church for the wedding rehearsal like a Kardashian posse—all twenty of them, eight groomsmen, nine bridesmaids, and three toddlers. When I welcomed them, one smiled faintly, two others kept texting important messages, and the young lady with the wrist-to-shoulder tattoos sat down in a pew, made herself at home, and started touching up the polish on her nails. The rest simply ignored me. It was clear none had been inside a church since confirmation and hadn't the slightest clue how to behave in a place of worship. We could just as well have been knocking back some tequila in Eddie's Pool Hall and chatting about the Bruins.

I suppose this shouldn't surprise me. After all, I was warned about it many years ago, by an old and seasoned pastor who told me that he would much rather preside at a funeral—even the most tragic funeral—than at a wedding, any day of the week. At the time, I didn't understand. But now I know exactly what he means.

I learned the lesson over the years, not all at once but gradually, on an installment plan. I learned when a couple asked me, in all seriousness, if their American Alsatian named Clyde (housebroken, they told me, and an all-around good pup) could carry their rings—on his collar!—down the aisle in the procession. I learned when I read the wedding program that listed every saloon and tavern between the church and the reception hall, inviting guests to bar-hop their way to the party. I learned whenever I stood next to a flower arrangement more expensive than my car, or watched a photographer belly-crawl on the ground like a photojournalist in combat, or found a discarded diaper on the choir loft steps. Finally, the mother of one bride changed the music for the ceremony a week before the wedding and printed it into the



programs without bothering to tell the music director or musicians—and I officially took up the mantle of the cranky old pastor who hates weddings.

I know that a religious ceremony remains meaningful to a lot of couples. But it seems to me that more and more of them see a church as just another venue: a place that will look pretty in the pictures. Don't get me wrong, I'm all for welcoming an engaged couple and working with them. It's just that, lately, I feel more "used" than "worked with."

What is to be done? Should we get out of the wedding business entirely? That would be tricky; and besides, who wants to cut off Catholic women from yet another sacrament? I'm thinking about another way, something proposed to me by a charming couple I met a few weeks ago—a couple I liked instantly and truly want to marry. They mentioned married peers of theirs who warned them that they would not remember much about their wedding because of all the excitement and hoopla. This rather shy couple was worried that the part of the day they valued most—the wedding vows

and nuptial blessing—would be lost. They suggested a simple and elegant solution. They wanted to be married in the church on a Tuesday evening, at a wedding Mass attended only by their parents and siblings, with a small dinner to follow. Then, on the following Saturday, they would renew those vows at a wedding hall, in full regalia and with a cast of thousands. Already married, they supposed they would be less nervous, and because it was a "renewal" of vows, their godparents might be able to lead the prayers right there at the place of the reception. In any event, the memory of "the wedding that counts" (to use their words) would be clearer and dearer to them.

I think they're on to something. Giving the wedding its own day might make it seem less like a preliminary to the reception. And it certainly makes this priest feel less cranky and a lot more sacramental. ■

Fr. Nonomen is the pastor of a suburban parish. He has been a priest for more than twenty years.

Eduardo M. Peñalver

Lawyer Up the Prey

HOW TO STOP PREDATORY BANKING

In the wake of extraordinarily sloppy record-keeping during the mortgage spree that created our national housing bubble, many of the banks that have subsequently foreclosed on millions of homes have done so without producing the requisite documents. Instead of slowing things down to get their paperwork in order, these banks frequently foreclosed despite lacking proof that they were entitled to do so—in some cases knowingly submitting false affidavits to state courts. As a result, up to hundreds of thousands of properties have been sold by banks improperly. Laws in the majority of states allow lenders to foreclose without significant judicial involvement, putting the burden on homeowners to sue the bank and prove that a lender is not entitled to foreclose. Lacking the resources to hire a lawyer, the great majority of homeowners facing foreclosure were in no position to expose the banks' fraud.

Fifty years ago, in *Gideon v. Wainwright*, the Supreme Court ruled that the Constitution required criminal defendants to be given access to legal counsel. If a defendant could not afford a lawyer, the Court held, states must provide him with one. Explaining why, the Court quoted the opinion in *Powell v. Alabama* (1932):

Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence.... He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence.

Virtually everything the Court said in both *Powell* and *Gideon* about the challenges facing a criminal defendant representing himself also holds true for those seeking to vindicate their *noncriminal* legal rights. Legal counsel is as crucial for success in civil matters as it is in criminal ones; anyone who can afford to hire a lawyer in an important civil case does so. A study published this past February in the *Harvard Law Review*, for example, found that tenants facing eviction in housing court were only half as likely to be evicted if they were represented by counsel. But few tenants facing eviction can afford to hire a lawyer, and so landlords easily win most eviction proceedings, even when the legal merits actually favor the tenant's right to remain in the dwelling.

In the foreclosure context, banks have insisted that their sloppy record-keeping and fraudulent affidavits are mere



“formalities” irrelevant to the homeowner’s right to be in the home. No doubt some people think that if a homeowner defaults on her mortgage, her loss of a home is a simple consequence of contract—that unless a homeowner can show that she did *not* in fact default on the debt, she deserves foreclosure, even if the procedural niceties are not observed. But such procedures are designed to ensure that the entity foreclosing on a property is actually entitled to do so. Indeed, as a consequence of banks’ sloppiness, some homeowners whose payments were timely and complete nonetheless were forced out of their homes.

When considering the role played by access to civil representation—or the lack of it—we should also remember that foreclosure is not the only possible consequence of a homeowner’s defaulting on a loan. Faced with the cost of properly litigating a foreclosure, some banks might well have opted instead to negotiate with homeowners to modify the underlying loans. Finally, it’s worth pointing out that respect for the consistent application of procedural rules—even those derided as mere formalities—constitutes an important dimension of the rule of law. When foreclosed homeowners lack access to civil counsel, however, banks are in a position to disregard formalities that burden them while insisting that the homeowners comply with every rule that favors the banks.

Perhaps partly as a result of watching so many TV crime procedurals, Americans understand and accept that criminal defendants enjoy a constitutional right to counsel—after all, they face imprisonment at the hands of the state. Yet the

stakes in civil litigation are often nearly as high: the loss of a home; deportation; the loss of an income or custody of a child. In order to navigate our legal system and defend these crucial personal interests effectively, all but the most exceptional individuals will need a lawyer. And that takes resources. It is difficult to generalize about the expense of a “typical” civil lawsuit, but some estimates put the cost of litigating a not-overly-complex civil action in the tens of thousands of dollars. For many families this figure will be impossible to meet. They can either represent themselves in a process stacked against them or quietly acquiesce in a violation of their rights.

It is true that certain kinds of cases provide the means of defraying the high cost of civil counsel. For accident victims, the contingent fee arrangement—frequently criticized for encouraging ambulance-chasing—gives many plaintiffs access to representation. Where federal civil rights are involved, federal statutes permit courts to order losing defendants to pay the plaintiffs’ attorney fees. These mechanisms, however, still leave an enormous amount of legal need. According to one frequently cited study by the Center for Law and Social Policy, 80 percent of the noncriminal legal-service needs of poor Americans go unmet.

There are other consequences. Lack of access to lawyers makes the poor—and even many in the middle class—tempting targets for abuse by crooks who can easily evaluate what costs the victim will have to incur to enforce her rights. Victims unlikely to be able to bear such costs are at risk. As law professors Gideon Parchomovsky and Alex Stein astutely argued in a recent law-review article, this information will encourage opportunists to exploit victims and disregard their legal rights. If such exploitation does not constitute a criminal act, there is little to deter it. The absence of a right to civil counsel therefore encourages a kind of low-level predation on the poorest, most vulnerable citizens. The foreclosure-fraud problem is the most visible and widespread manifestation of this dynamic in recent memory, but it is hardly the only one.

In thinking about the problem of access to civil justice, it is important to recognize that some genuine benefits are associated with the high expense of going to court. Sonia Katyal and I have discussed some valuable side effects of the under-enforcement of property laws in our book, *Property Outlaws*. In many kinds of property disputes, high enforcement costs lead owners to tolerate relatively harmless infringements of their rights, and the results overall are probably happier than they would be if everyone sued each other at the drop of a hat. Costly enforcement encourages neighbors to talk things out and resolve their differences informally, without going to court—and any proposal to subsidize access to civil justice and reduce the cost of going to court will likely impede these efforts. It will also bring an increase in frivolous lawsuits.

But all in all, this is a price worth paying, and there are

ways to target legal aid to minimize these side effects. The benefits of under-enforcement are more likely to arise in situations where, as in many conflicts between neighbors, the parties are relatively equally situated. On the other hand, where pervasive inequality in access to legal resources leads entire categories of individuals to suffer systematic disadvantages in conflicts with powerful adversaries—as in foreclosures—under-enforcement no longer looks so benign.

With this in mind, subsidized legal aid should be targeted at categories of disputes where three criteria are most likely to be met: (1) the stakes are high; (2) conflicts are characterized by predictable resource inequalities; and (3) because of the absence of significant money damages, a contingent fee system is unlikely to develop. Mortgage foreclosures are one obvious example. Eviction proceedings are another. Cases where the government is a party—eminent domain actions against individual property owners, deportation proceedings, parental-rights cases, and disputes over eligibility for welfare—are all situations in which the superior resources of the state can work enormous harm on unrepresented individuals. These are therefore all good candidates for targeted legal aid.

Given the importance of access to civil counsel, some kind of government support is warranted to assist people in defending their rights against private, noncriminal aggressors. Unfortunately, legislators have shown little interest in voluntarily enhancing the poor’s access to civil counsel. Since the beginning of the recession, and despite soaring demand for legal aid, Congress has cut federal spending on legal services for the poor. States have followed suit. The other major source of funding for legal assistance to the poor, the Interest on Lawyer Trust Account (or IOLTA) programs, have seen their funding drop dramatically since 2008, due to historically low interest rates.

The fairness of our civil-justice system is too important to be left to the vagaries of the economy and the political process. Since legislatures have proven themselves unequal to the task, the courts must rise to the challenge. Some have begun to take notice: a federal trial court in California, for example, recently ordered the immigration courts in three states to provide legal assistance to mentally disabled people facing deportation. To its credit, the Obama administration has embraced the ruling and plans to implement compliance on a nationwide basis. Broader judicial recognition of such rights in cases where the indigent face deportation, the loss of a home, termination of parental rights, or deprivation of crucial income would go a long way toward eliminating the most obvious injustices. A full half-century after recognizing the fundamental nature of the right to counsel in criminal proceedings, our legal system must grant civil litigants similar rights. ■

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A Good *Gatsby*

Baz Luhrmann Undomesticates Fitzgerald

Paul Giles

One curious biographical connection between Scott Fitzgerald and Baz Luhrmann, director of the new film adaptation of *The Great Gatsby*, is that they went to a school with the same name. Fitzgerald attended St. Paul's Academy in Minnesota, while Luhrmann, an Australian, was briefly a student at St. Paul's Catholic College in suburban Sydney. Indeed, the exterior shots of *Gatsby*'s mansion were filmed at the archbishop's residence, a.k.a "the Cardinal's Palace," on the grounds of Luhrmann's old school. "It was grand enough to look like how F. Scott Fitzgerald describes it," commented the film director. "It looked like the Normandy Castle."

In this sense and in other, more important ones, Luhrmann has quite literally restored *The Great Gatsby* to a Catholic setting. It is sometimes forgotten that Fitzgerald was a Midwesterner born to practicing Catholics of Irish descent, and regarded himself as an outsider in the WASP worlds of Princeton and New York. "I am half black Irish and half old American stock," he wrote to fellow Irish-American author John O'Hara, in 1933—adding that "if I were elected King of Scotland tomorrow after graduating from Eton, Magdalene, and the Guards, with an embryonic history which tied me to the Plantagenets, I would still be a parvenu." As I argued twenty years ago in *American Catholic Arts and Fictions*, a Catholic aesthetic sensibility, displaced into cultural and secular forms, crucially shaped Fitzgerald's most famous novel. Indeed, in its very first draft Fitzgerald envisaged a prologue that sought to explain *Gatsby*'s early life by recounting a confession he made when young to a priest; though this idea was ultimately dropped, the fragment was published in 1924 as the now well-known short story, "Absolution."

Given recent interest in the multicultural ethnic strands of American literature, it might seem surprising that Fitzgerald is not regarded as a forerunner of Gish Jen or Jhumpa Lahiri in the way he explores boundaries between immigrant cultures and the American mainstream. But such critical

blindness to *The Great Gatsby*'s Irish-Catholic dimensions testifies to how thoroughly institutionalized the book has become in its role as a mainstay of the American high-school curriculum. There is an analogy here with Nathaniel Hawthorne's *The Scarlet Letter*, another dense and ambiguous novel that has not necessarily been served well by its ubiquitous domestication within school curricula, where, as the scholar Lauren Berlant has observed, the pedagogical validation of Hester Prynne as an embattled feminist hero has become the stuff of oversimplified national allegory.

Of course, such processes of normalization do speak aptly to one side of *Gatsby*, the one emphasizing conventional paths to success in American society. This aspect draws overtly on Benjamin Franklin's *The Way to Wealth*, the model that inspired the youthful *Gatsby*'s rigorous daily routine, inscribed as readers will remember on the flyleaf of his dog-eared copy of *Hopalong Cassidy*. But such educational norms have also had the effect of glossing over the more disjunctive, violent undercurrents of Fitzgerald's masterpiece. It is precisely these



F. Scott Fitzgerald, 1926

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more sinister elements that Luhrmann's film successfully restores. In Jack Clayton's 1974 adaptation, the white-suited Robert Redford represented Fitzgerald's hero invested, as Richard Allea noted in his June 14 *Commonweal* review, "with the unruffled cool of a successful CEO," and the film's soft-focus emphasis on the romantic stars (Redford and Mia Farrow) produced a sentimental biopic thoroughly compatible with the conventional understanding of Gatsby as all-American hero.

Luhrmann's interpretation, in contrast, emphasizes the darker tones in Fitzgerald's novel, in the process drawing on the association of Leonardo DiCaprio with the world of immigrant gangsters depicted in Martin Scorsese's *Gangs of New York* and *The Departed*. Luhrmann integrates World War I newsreels to highlight the shared military background of Gatsby and narrator Nick Carraway, and pays more attention than Clayton did to Tom Buchanan's racism, an outlook signaled explicitly in Fitzgerald's novel by Tom's reference to "*The Rise of the Colored Empires* by this man Goddard" and by his fear that "if we don't look out the white race will be utterly submerged." James L. West III, who edited the text of *Gatsby* for Cambridge University Press, reports that Luhrmann emailed him with questions about the likely ethnic provenance of Buchanan's servants and whether or not African Americans would have been invited to Gatsby's parties on Long Island. Such inquisitiveness suggests an attention to detail not common among Hollywood directors adapting famous novels, and testifies to one of the director's aims in this film—namely, to resituate *The Great Gatsby* within a more densely allusive and historically nuanced context.

Luhrmann specializes in reworking classic works in unfamiliar contexts. In *Romeo + Juliet* (1996)—also starring Leonardo DiCaprio—he transposed Shakespeare's play from Verona, Italy, to "Verona Beach," California, and, by actually shooting on location in Veracruz, Mexico, he chose to foreground what critic Andrew Dickson has called an "in-your-face Catholicism," whose flamboyant imagery of candles and crucifixes highlighted the religious iconography customarily overlooked in Anglo-American realizations of the play's Italian setting. Luhrmann's film of *The Great Gatsby* similarly uses a style of jarring displacement—the fact that Tom Buchanan is played by Australian actor Joel Edgerton, or the disorienting shots zooming down from the top of skyscrapers—to radically defamiliarize *Gatsby*, jolting viewers out of their customary angles of perception and conventional preconceptions about the novel. Some of

Luhrmann's 3D innovations seem characteristically overplayed, but in general this style of strategic dislocation underscores Fitzgerald's sense of ethnic and religious marginality.

This, of course, is why some American critics view Luhrmann's adaptation as simply unfaithful to the book; having been taught the somewhat anodyne version of *Gatsby* canonized in the second half of the twentieth century, they fail to grasp that by going back to the original sources Luhrmann has in fact produced not only a more provocative but also a more fully rounded reading of Fitzgerald's great novel. Just as his celebrated production of Benjamin Britten's *A Midsummer Night's Dream* relocated the opera to an

Indian colonial setting in order to elucidate political aspects latent in Britten's work, so the repositioning of *Gatsby* within a transnational context, one inflected by an antipodean idiom and also by the mannerisms of Italian grand opera, effectively illuminates an ethnic and religious element in American life that remains partially resistant—as was Fitzgerald himself—to what cultural historian V. L. Parrington termed the "main currents in American thought." Among these currents is a faith in the providential, exceptionalist association of democratic freedom with a spirit of national independence.

Though in interviews Luhrmann has chosen to draw analogies between the Wall Street Crash of 1929 and the America of today's Great Recession, both the novel and the film of *Gatsby* are actually about much more than the follies of financial excess or celebrity culture. In a 1924 letter to the author, Fitzgerald's editor, Maxwell Perkins, praised the novel for having "a sense of eternity," and Fitzgerald was clearly aspiring to write not just a social commentary on 1920s America but a much broader critique of American romance. The overriding theme of the book is not greed or money, but the nature of perception: how Gatsby projects and distorts Daisy, and how Nick Carraway, the novel's narrator, in turn interprets Gatsby. After Gatsby's death, Nick records that the East has been "distorted beyond my eyes' power of correction"—echoing a billboard for an optician's practice that looms over the Valley of Ashes, the highway community midway between Long Island and Manhattan where Tom Buchanan's mistress, Myrtle Wilson, lives with her garage-mechanic husband. Via this industrial wasteland, where smoke is said to rise only "with a transcendent effort," Fitzgerald consciously projects an ironic slant on the kind of Puritan-inflected idealism that has consistently shaped American culture. As Harvard professor Sacvan Bercovitch famously argued in his book *The Puritan Origins of the*

Fitzgerald observed in his 1936 essay "The Crack-Up" that "the test of a first-rate intelligence is the ability to hold two opposed ideas in the mind at the same time and still retain the ability to function," and his own novel perfectly fulfills that objective.

SACRAMENTS IN THE FIELD

A layman can baptize when *in extremis*
or give the last rites. Here's how I perform them.
I can't confess you, consecrate a wafer,
but I can say hello, goodbye in Latin,
and frankly, my boss is the Holy Spirit.
Ego te baptismo I tell the infants,
Apaga, Satanas, I tell the parents,
Requiescat in pace, I tell the dying.
Lacking extreme unguent, I use saliva,
crossing a forehead when the priest is tardy.
Of course with kids, there's lots of time for mayhem
now that the church has done away with limbo,
but with a dying friend, another matter.
Enfold him in your arms, and whisper Latin.

—Timothy Murphy

Timothy Murphy's books include Mortal Stakes and
Faint Thunder and Hunter's Log, both from the
Dakota Institute Press.

American Self, such an impetus has run consistently from the days of the Pilgrim Fathers to the visionary poetics of nineteenth-century Transcendentalists such as Ralph Waldo Emerson and Walt Whitman, for whom the romantic sublime involved reducing the external world, as Emerson said in *Nature*, to “only a realized will,—the double of the man.”

Fitzgerald's novel maintains a double-edged attitude toward this set of ideas, exemplifying a capacity to be, as Carraway says about himself, “within and without, simultaneously enchanted and repelled” by it all. This, of course, is one reason *The Great Gatsby* is so difficult to film: the book shifts between two views of Gatsby, portraying him as both a corrupt bootlegger—a “common swindler,” as Tom Buchanan calls him—and a grand visionary. On the last page of the book, Carraway links Gatsby's capacity for giving material form to abstract hypotheses with the “Dutch sailors' eyes” encountering a sense of “wonder” at what they found after crossing the Atlantic in the seventeenth century in search of religious freedom. On one level, of course, it is absurd to juxtapose the “green light at the end of Daisy's dock” with the Puritans' apprehension of the “fresh, green breast of the new world,” but Fitzgerald's style involves elements of distortion and forced juxtaposition characteristic of surrealist art of the 1920s. Early in the book, Carraway relates the perception of Long Island as “a source of perpetual wonder to the gulls that fly overhead” to “the Columbus

story,” whereby Columbus confounded his audience, who maintained that an egg could not be stood on its end, by cracking the shell and flattening it. *The Great Gatsby* is testimony to the power of the human mind to frame the world differently, but it always holds such aspirations in check, by playing the Promethean imagination off against a sense of the world's ontological limitations. This dichotomy is the source of the book's philosophical irony, where the mind's abstractions are contrasted with the material world, and it suggests ways in which a metaphysical dimension is always an implicit presence within the narrative. In the last pages of the novel, Carraway imagines West Egg “as a night scene by El Greco,” thereby relating how the lights at Gatsby's parties “grow brighter as the earth lurches away from the sun” to the somber spirit of the Spanish painter, in whose work partially luminous religious shades are constantly hovering. Medievalism is another specter in *Gatsby*: Daisy's maiden name, Faye, echoes that of Morgan Le Fay in Arthurian legend, while Gatsby's house is said to make a “feudal silhouette against the sky,” both invoking nostalgia for a lost era.

This is not to suggest that *The Great Gatsby* is a religious book in any strict theological sense. Fitzgerald himself was not a practicing Catholic in adult life, though he attended church while at Princeton. Yet coming as he did from an Irish-Catholic cultural context, he remained interested in exploring how commercial culture might be embodied within the American Dream, rather than being seen merely as a vulgar debasement of it. Just as the evening sun is said to provide a “benediction over the vanishing city,” metaphorically incorporating New York within a sacramental gesture, so the guest lists of Gatsby's parties in Chapter 4 express something like a liturgical or ritualistic sense of community, a sensibility and outlook worlds away from the self-authenticating individualism of an Emerson or a Thoreau, whose works were grounded on an ethic of spiritual retreat and pastoral purity.

Fitzgerald greatly admired his fellow lapsed Catholic James Joyce, whom he met in France in the early 1920s, and his own novel was heavily influenced by Joyce's *Ulysses*. As Joyce seeks to adduce parallels between daily life in modern Dublin and the legends of classical Greece, so Fitzgerald's first version of *Gatsby*, titled “Trimalchio in West Egg,” sought to analogize contemporary Long Island with ancient Rome. Trimalchio, whose career is recounted in Petronius's *Satyricon*, was renowned in Nero's Rome as a former slave who worked his way into the upper echelons of society and became notorious for holding orgies. Acting on the advice of Max Perkins, Fitzgerald eventually eliminated most of these classical parallels, although one allusion remains in Chapter 7, when Carraway remarks of Gatsby that “as obscurely as it had begun, his career as Trimalchio was over.” Luhrmann, however, makes extensive use of “Trimalchio”—even restoring a scene, not contained in the final version of the novel, where Gatsby confesses the story of his past to Carraway



Leonardo DiCaprio, Carey Mulligan, Joel Edgerton, and Toby Maguire in Baz Luhrmann's *Gatsby*

on the night after the fatal car accident that kills Myrtle Wilson—and in so doing, succeeds in representing *Gatsby* as a modernist text, one embedded in the culture of the 1920s but also related to more expansive horizons.

Such a move amounts to an assertion that standard readings of *Gatsby* have not acknowledged the cultural sources of its philosophical compass. In Chapter 5, Carraway remarks, seemingly in passing, that “there was nothing to look at from under the tree except Gatsby’s enormous house, so I stared at it, like Kant at his church steeple, for half an hour.” The reference to Immanuel Kant, the German philosopher who was a prime influence on the Transcendentalist movement, contemplating the church in his native Königsberg is no throwaway; it underlines the questions of perception upon which Fitzgerald built his novel. Kant argued that human perception structures natural laws, that space and time should be understood merely as extensions of human consciousness, and that, as he put it, “objects must conform to our cognition.” Fitzgerald’s novel offers a sustained consideration of both the power and the limits of a human being’s capacity to remodel the world, with Gatsby’s effort to arrest time—“Can’t repeat the past?” he cried incredulously. “Why of course you can!”—running alongside various episodes where characters play with self-consciously fake forms of transformation. One such example occurs in the first chapter, when the slyly provocative Daisy, welcoming Nick to the dinner table, says he reminds her of “a rose, an absolute rose,” a comment that elicits inward skepticism: “This was untrue. I am not even faintly like a rose.”

The structure of Fitzgerald’s book is elaborately patterned along similar lines, with various scenes echoing each other in a dance of reduplication—as when Tom’s adultery with

Myrtle Wilson mirrors Daisy’s affair with Gatsby, or the formal dinner at the Buchanans’ residence on Long Island is subsequently reflected in the drunken party held at Myrtle’s apartment in New York. All this mirroring has the cumulative effect of introducing into *Gatsby* a half-suppressed tone of parody, as if the narrative can never quite decide whether to believe in its own fanciful analogies. In this sense, *The Great Gatsby* is positioned ambiguously, invested in the American Dream and, at the same time, alienated from it. Fitzgerald observed in his 1936 essay “The Crack-Up” that “the test of a first-rate intelligence is the ability to hold two opposed ideas in the mind at the same time and still retain the ability to function,” and his own novel perfectly fulfills that objective, always remaining, like Nick Carraway, both “within and without” the world it describes.

Fitzgerald’s cultural Catholicism, modulated both through the social theme of the outsider and the philosophical mode of analogy, helps preserve this sense of ironic distance in *The Great Gatsby*. To its credit, Baz Luhrmann’s film, by restoring the sense of a specific ethnic subtext, illuminates the edgy, alien aspects of Fitzgerald’s novel so often overlooked in the book’s sentimental American reception after World War II. All cinematic interpretations of novels constitute critical readings of them, but Luhrmann is consciously in touch with contemporary scholarship that understands *The Great Gatsby* as a text of its time, written by an author positioned ambiguously on the margins of the American establishment. Not for the first time, a transnational re-reading of classic American literature has succeeded in highlighting textual dimensions that the institutional formations of its home culture had unwittingly suppressed. ■

Children of Night

Fiction

Valerie Sayers

F*rancis, blind, blesses his blindness. Francis, blind, blesses...*
The mantra streams for hours, seeping from some deep cavern of my brain. A poem? A song? Definitely from the peace-and-love days—sounds like Leonard Cohen or one of those flowers-in-her-hair folkies—but I can't summon a tune and without handhelds or chips there's no way to check the source.

Why are you holding your head? Andy signs from his corner of the garage, because it's dusk outside and people might still be about. When daylight comes again, we'll throw caution to the nonexistent winds and whisper. We keep the old hours—we kept them even before we went into hiding—but the rest of Greenglass obeys the mandatory reversal, and in daylight, everyone goes inside to sleep. If they can: since Climate Control locked the air systems, everyone tosses and turns. The old garage, of course, has no air system whatsoever and reaches hellish heat by mid-day. If not for the ancient oak drooping over our roof, we would have shriveled.

I don't know, I sign back, though I do know, I know perfectly well. I'm holding my head because I have no other way to contain my rage at Francis for reminding me of blindness. When I was young and romantic and religious, I actually routed prayers through Francis, but that was long, long ago. Strange. This very morning, Andy said I'd cried out prayers in my sleep.

Wouldn't that be rich? he whispered, not unkindly, as dawn was breaking. *Betrayed by your involuntary prayers.* His little fugitive joke.

Noreen comes at high noon with three days' meals disguised in a thick standard-issue garbage bag. It's risky: noon is the new midnight, but neighbors could still look out their windows to wonder why she's emptying her trash at that ungodly hour. She wears a huge sunhat and eyeshields, so when the old deadbolt slides open and she slips the bag in the waiting can, we see mostly bobbing hat. She's begged us not to blow kisses or wave, not to acknowledge her in any way, so we avert our eyes assiduously, good parents disappearing into the seams of the garage. Tonight, if I've counted right, is her licensed provisions night, so we'll have a longer look at her when she drives off in only twelve hours.

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After she leaves, Andy and I inch toward the food from our corners, prizefighters approaching worthy opponents. At the barred windows, we duck creakily: even in the dark interior we might be detected. Foot patrols scan the alleys three or four times a week in daylight, less at night when everyone's out and about and doing their dirty work. In the dark, children instructed to look everywhere for fugitives sometimes peer in. It won't help to tell a spying child that we're just a couple of geezer wise guys who said the wrong thing to a Constitutional Guard.

That is, *I* said the wrong thing to a Constitutional Guard.

Andy always reaches the food bin first and doesn't seem to know I let him win. He raises his fists—the champ—and dances a restrained victory jig. That's how I know we're going to get out of here. It may be the last sign of hope I see for the next three days, so I savor it. It's all I can do not to lay a hand to his when I reach him, but I know that my touch would be as creepy as a black widow's to him now.

He doles out the water reluctantly, as if he's afraid I'll take more than my three jars. Have I been that grabby during our life together? I marvel again at the weight Noreen must surreptitiously haul across the yard to keep us alive. The first week, she sent cheese-laden palm leaves, succulent with the caramelized carrots she bought on the black vegetable market for my eyes. The plan was for us to eat a home-cooked meal the first day, then subsist on little cans of farmed herring and xerophyte chips—but you try forcing down herring that tastes like old tires in an airless garage. We left the cans unopened. Now she sends us green bananas from the Ohio groves and coconut bars coated in local chocolate. We've become our daughter's children, grabbing up the sweets and gobbling them first.

She promised she'd put a red napkin in the food-pack if anything changed, if we should hold out hope of a miraculous removal of our names from the Fugitive List, so Andy shakes the empty bag upside down as he always does, looking for the sign. Both of us know no red napkin will flutter to the concrete garage floor, only Simon and Noreen's old unitunes, meant to be our change of clothes. We go commando underneath. My tunic's hot pink, sleeveless, and low-cut, a sorrow on a woman my age. Over my left breast—or where my left breast stood twenty years ago—the logo says TECHNOLOGY RULES, INC. On the back it says *Nuclear is forever*.

I'm glad I'll never see my sorry reflection in this shirt, not that I trust my own vision. I was scheduled for the flash cataract removal the week we went into hiding and now, as the months pass, everything grows indistinct. I fret that it's not just cataracts making my vision fuzzy, that it's the retinopathy that blinded my mother. Andy and I are both covered with arthritic knobs and cysts. Our ears ring, our hearts race, our hands tremble. Our bodies

smell so rank we've lost the sense of smell. Andy's beard has grown biblical (though there are still bald patches on his cheeks, so he's a comic prophet). I should talk: wiry whiskers sprout from my chin. Wild-eyed elders, we'll be relegated to the Permanently Disabled List and sent to live in automated care centers, where my world will dim to darkness and strange phrases will pop into my head to torment me. I grab up my supplies and retreat to my corner, that line playing on an endless loop. *Francis, blind...*

What sort of fugitive am I, living in a two-car garage, that old temple of middle-class respectability? That first night we arrived safely, Simon almost sneered: *You're not exactly Anne Frank, you know. You're not runaway slaves.*

I think I hear wind, though it's only March and the windstorms don't usually start till April. Everything comes earlier and earlier, but I never adjust, and it's hard to keep track of the passing months. All February I knelt by the door, even on these knees, to catch the scent of roses. *Smell the roses!* I whispered to Andy, another little fugitive joke. Noreen has somehow managed to save one bush, maybe the last rosebush in the Midwest. Until she got enough cacti for camouflage, her neighbors accused her of hoarding water—little do they know how much she's hoarding now. We can't afford to wonder how she manages. Today may be the day we come up with a plan to escape, to stop putting her at risk. Today may be the day the insurrection throws everything into a chaos that will cloak us. We've heard more sirens lately, though God knows our imaginations trick us.

Of course we know the garage by heart: would that there were more to know. Brick walls—another reason we've made it this long, that and the slate roof—and handsome oak rafters inside, refurbished elegantly like the rest of Noreen and Simon's tasteful landmark house. Nothing hangs from those rafters. No work table like Andy's, cluttered with tools and gadgets, rests against the walls. An antique sled—the children can't fathom what it's for, no matter how many times their parents explain—hangs on the wall alongside one expensive rake and one expensive hoe, those too unused, but Noreen's a multivalent quantum engineer who values tools. A forty-pound bag of cactus food: that just slays us. And of course the Wiggy. Only the most expensive model glider car for Noreen and Simon, regulation neon yellow. It's on my side of the garage, and as I inch along the wall I'm glad to trace the curve of its roof, the cliff that drops behind two little seats, the tiny tires, the tightly folded wings: it's a clown-car, but I can make out its shape without panicking again about impending blindness, and so I feel affection. Once we all thought these gliders would save us, but the Wiggys—like the eyeshields, like Climate Control—came too late.



can't bear to think about how she manages that either.

I really can't fathom why we don't just lie down in the dust to die, but we curl up instead on bamboo yoga mats we found rolled on the shelf. I see Andy holding his head now, and I make the same *Why-are-you-holding-your-head* sign he made to me. He points directly to his partially-completed implant site, *partially* another stroke of luck that's kept us alive and free. We were the last holdouts, though Simon and Noreen swore there was nothing to fear from the Gibson chips: they were such a convenience. The chip would see for me if my vision went! But blind or sighted, I want my own organic brain to be the only witness to my secrets and sins. For a while it looked as if Andy would be my partner in paranoia, but he's always been a sucker for gizmos.

At least at his age he had to wait to check for rejection before the chip went live. On the trip home from the insertion, I prayed that sometime in the waiting period he'd change his mind. I didn't like the way he looked, head bent forward, stunned from the implant. Since we still drove the old pavement-only solar see-

through we were already the object of attention, and a CG on foot patrol waved me over. The guard trotted up but kept his distance, clicked his palm amplification button, barked that he'd just seen my vehicle two hours before. I hollered my responses through the open window. I told him about our special permit, but I was flustered as always before authority and searched a little wildly through the handheld for the license. I wasn't used to driving in the middle of the night, wasn't used to the reverse hours everyone else kept, wasn't used to being so frightened.

The CG pointed to my handheld—probably he'd never seen one so old—and under his visor-light I thought I could see beads of shiny terror forming on his own thin upper lip. *Drop that!* He thought I had an explosive.

When we first moved in at Christmastime, we thought the Wiggy was our magical carriage. We planned to sleep upright behind its tinted glass, but it's torture to bend our old backs into the mini-seats and anyway, we might expire from the stench. Andy's rigged up porta-potties for us, clever stands he made from the neat bundles of ancient garden stakes. We insert a dusty little magicello garden bag and, when we can squeeze anything out, tie it up immediately—sometimes tough dogs that have survived the ban roam the neighborhood, sniffing. Even the dogs, fellow fugitives, would betray us. Day or night, we crawl over to put the bag behind the Wiggy's seats. On her shopping trip Noreen will glide our waste wherever she takes it, another dangerous act. I

Don't be a knucklehead, I called. It just popped out, the same silly phrase I directed at Noreen when she told us she was marrying Simon, the most ridiculous thing I could have said to a daughter who promptly ran straight into the arms of the man who'd agreed to marry her without her data. Now I'd said it to a CG who held my freedom in his hands.

Even in the nightlight I could see veins bursting on the guard's ruddy face. He was a kid, the kind of self-important, marble-white kid they recruit for the hot boredom of night foot patrol. He tapped his blue-veined forehead, his own knucklehead, to make a transmission. "Bringing in two OWOs," he told whoever listened at the other end, but I was still not used to autophone. Even I knew the CG's acronym for old folks, but Andy and I weren't *On the Way Out*. I liked to think we were generously middle-aged. I still scrolled recklessly, searching for the license.

Beside me, Andy muttered, *Gun it*. I thought he was hallucinating from the brain-stun, but gradually it dawned on me: Andy was telling me to *gun it* because he thought we'd never get out of an interrogation without being subjected to some kind of torture session, even once they'd located our license, even if we were *On the Way Out*. I'd dissed a Constitutional Guard. They would scan our files and discover open-channel comments we'd sent after we drank too much palm wine.

It's not as if you have time for rational thought at a time like that. By then, I'd gunned it and jettisoned the handheld out the open window. Air roared in from the blast furnace outside. Andy lifted his head and directed me down back alleys. He knew more about CG facilities than any of us—before we went into hiding, he was a defense lawyer who heard the worst interrogation stories. I did as he said.

Big screens haven't been around for years, but that day, as I raced the solar to the outskirts of town, I starred in a 2-D big-budget Hollywood production. We ditched the car, then huffed and puffed a mile into an abandoned barn that reminded us of our past. If we'd had any sense of decency, any impulse to save our daughter the danger we now cause her, we would have politely dehydrated in that hayloft. But no. Living beings cling to life. For a few days we survived on old scraps of spilled animal feed and rancid rainwater pooled in rusty cans. Andy tasted rock-hard dung—we were desperate—and spat it out. Finally, another stroke of good fortune: one of the western volcanoes erupted yet again, and in the dark spew of her ash drifting eastward we were able to scurry in daylight from alley to alley, stealing fistfuls of water from the winter barrels. The theft of even a handful would have given a CG permission to shoot us on sight, but we were in a part of Greenglass that's ashy with or without volcanoes and short on CGs. The dark-skinned

poor inhabit those streets, half their young men zapped in the frontal lobes. It's our version of lobotomies: everything old is new again, even in end times. We were spotted, I'm sure we were, but nobody turned us in—with your frontal lobes out of commission, it must be hard to summon the energy.

Finally we moved through more prosperous zones, too exhausted to appreciate the irony of the wealthy in the inner city, and wept when we finally saw the sign:

***The Personal Responsibility=Personal Wealth Authority
Welcomes You to
Old Town: A Healthy Individuation Community.***

We dragged our haggard, dehydrated, individuated selves to Noreen and Simon's stately pickled house under cover of ash. At the back door, Simon's jaw snapped like a pit bull's under his thick red beard, and he pretended not to know us, but Noreen yanked the door open wide enough for us to crawl through.

The CGs had no way to link us to our daughter: Noreen's records had been lost when one of the early floods destroyed a primitive data center. No one would come round to question her, not in this part of town, and we thought we could hide in their basement and bide our time reading—Noreen's our child, data or no data, with enough spirit to keep a box of the old texts hidden away in a dark recess. But Simon was sure our grandchildren would spot us, and it wouldn't be fair or even sane to expect them to keep such a secret. *You're not runaway slaves.*

I admit I haven't been a good grandmother to the triplets: all three girls are a little remote, a little superior to our strange old-fashioned ways. I'm jealous of the way they took Noreen from us so completely, how they finished that job that Simon started. I can't always tell one triplet from the other. I can't follow the games they tap on their foreheads.

What could we do? We skulked off to the garage. Once we rehydrated, we'd think of a plan—but now we have no plan, no more volcanic ash to hide our flight. We considered stealing the Wiggy, but neither of us knows how to glide and even now, we're not desperate enough to betray Noreen.

The wind picks up through the day—I haven't imagined it. Anticipation seeps in through the cracks. Andy does jumping jacks against the wall, which alarms me: his flapping arms might attract a day patrol. Does he think he's urging the wind along? He hasn't tried that kind of exercise in weeks, and I've very nearly given up any movement beyond sitting, standing, racing Andy to the porta-potty. It's desperately hard to not-think of water. Thinking will lead me to empty the three jars prematurely, and I mustn't do that if I want to live. Do

I want to live? Every joint stings, humiliated like the rest of me.

If it weren't so dangerous to summon memory, I could distract myself by turning the past, too, into a Hollywood production. But it is dangerous. Not-thinking about our past's as hard as not-thinking about water. I wince at Andy, who's touching his toes now, looking ridiculous, a tattered tunic on a stick. The new unitune he's taken from the food bag has big block letters that might say GET REAL or GEE WHIZ or GOD DAMN. Strange shadows have fallen on our concrete floor. The hot wind outside stokes my old fury and I can't stop the scenes of our youth from flashing.

Who needs a Gibson chip? I see those days bright and clear: the old dove-gray farmhouse, the sagging barn, the struggling crops. We spent the early days of our marriage in an idyll, Children of Light, an *intentional community* our mimeographed newsletter said. *More like unintentional*, Andy used to say. We knew less than nothing. We were hippies with a spiritual bent and we thought we were frolicking through paradise. Everyone at Children of Light agreed on faith, but faith in what, exactly, was not entirely clear. We crowded into the kitchen at all hours of day and night to out-sanctify each other and got each other hot instead.

If we wanted privacy, Andy and I lay up high on the rude planks of the barn loft, where touching each other on a summer afternoon left us slick as seals. The goats wandered between barn and farmyard, devouring everything in their path, and we called them the way we imagined Francis would have—*Sister Goat, please don't eat those work gloves*—but the gloves were goners. When we drank her thick warm milk for the first time, we gagged. Poor Sister Goat. We killed her unintentionally, the way we killed the chickens, and the kale and the spinach yellowing even then in the angry sun. The turnips and potatoes lay desiccated under the earth, its core already bubbling upward to destroy us. None of us at Children of Light knew the least thing about farming. Andy used to say God sent the intelligent life to other planets and gave earth the know-nothings. As the crops and animals failed, Children of Light descended into breast-beating piety and forced cheerfulness, and I knew my fellow communards were shedding their faith like winter fur. I felt my own falling off.

I watched Andy fall in love with one of the singles. I'd been cranky, I admit—you try living with a bunch of religious nuts—so my handsome young husband picked a paragon of patience. I suppose her long skirts and long sleeves were meant to signify her modesty in an age of sexual license. I could sense him mooning over her golden braids as she stood at the sink, washing our dishes, cleaning our mess, no self-sacrifice too large for her sunny saintliness. Her name was Mary: of course. She wove

flowers into those braids—that made me gag, too—and when it was her turn to lead us in hippie-dippie prayers, I had to leave the table. There. That was it. I rewind blessings-at-table and hear her chirp *Francis, blind, blesses his blindness*.

Now I windmill *my* arms. Andy thinks he can summon a storm? I wish the hot air outside would knock these brick walls down. I know how tricky memory is, but I've convinced myself I've found the source of my torment, and my arms beat out the rhythm of St. Mary's mantra: *Francis, blind. Francis, blind. Francis, blind*. I might burst with venom.

And that, of course, was exactly how I felt near the end at Children of Light. The hotter I burned, the more Andy drifted into Mary's cool orbit. Finally, one sweltering August night, I heard the two of them creep out for some assignation: an innocent walk-and-talk, I thought, but still it enraged me. I fled in the commune's old pickup to my mother's house in Greenglass, where I sobbed the whole betrayal story.

You should have some faith in him, my mother said mildly. And then, as if it weren't completely contradictory: *And even if he did take up with her, he's very young. You'll just have to forgive him*.

When Andy hitchhiked after me, and I asked if he'd fallen in love with Mary, he said: *Not intentionally*. A little Children of Light joke. His look was so strange I didn't know if it signaled his innocence or guilt, but I knew how to read the silence that followed. Forgive that.

Somehow we got past it: I don't know if you call that forgiveness. As the years passed and the earth heated, belief itself seemed more and more childish and hypocritical to me, false innocence in a dangerous age. When Noreen began to study quantum mechanics, and delighted in parallel universes, I soaked it up with her. How could I believe in God after the God-particle, the Trinity after triad-beams? What sort of God would create a lush earth only to fry it? Even Andy quit eventually, because he refused to belong to an institution whose clergy, he said, out-authoritarianed the Constitutional Guard.

Another memory flickers: chandelier light. Andy and Simon in the elegant dining room around Noreen's big oak table. Sunday dinner with the aged parents. Bored out of their wits by our conversation, the little girls tapped their foreheads surreptitiously, watching flickies, and Andy tapped his forehead too, not realizing he was mimicking the children, trying to contain his frustration. *My God, Simon*, he railed. *Don't you get the joke, protecting liberty by taking it away?*

Simon stared out, another creepy habit. His gray eyes never made contact: no wonder he didn't recognize us at his door. That Sunday he was expressing mild sympathy for the Guards, for putting up with arrogant Old Towners,

for keeping his daughters safe from the shadowy figures who make their way into even his fortified sub-city. He had a piece of packaged protein stuck between his teeth, or anyway I put a piece of protein there when I picture him. I watch Simon, too spineless to argue his point, rise to land a big sloppy protein-laden kiss on the top of Noreen's head. That showy gesture, too, repels me.

The real torment of this garage is that I live too much in the past. I drift until I realize that Andy's waving his arm across the room, this time to get my attention. *Listen*, he signs. I hear the old oak tree creaking wearily above us. Andy's eyes flash at the thought of an out-of-season storm, and as if in answer the sky slits itself open and spills down hail. Hail! We haven't seen such a thing in five years, and the sound of it ricocheting off the slate is almost as good as being able to see it. Thunderbooms rattle our tattered-stick bodies, and I watch Andy slide down the wall to the floor in thanksgiving for water in any form. The temperature drops by the minute.

I'm giddy with joy, my bitterness swept away. Lightning rips through Noreen's cactus garden. I'll bet the little girls are crowded at the window—I can't tell, in the storm, if it's day or night anymore, if my grandchildren are asleep or awake, but I have the strangest urge to pick them up to the glass and tell them how hailstorms used to form. How they form this very instant.

We feel the great shudder, the old oak riven when lightning strikes above. It takes a long time for the splintered branch, stubborn as the rest of that death-defying tree, to come down. Its weight could flatten us when it finally descends, but we sit there grinning like clowns—at least I do. I can't make Andy out at all in the dimming light, so when he reaches me—he's crawled across the garage—I let out a little yelp of surprise. The fury outside drowns the sound, and Andy throws his body over mine (a little melodramatically, a little cinematically) to shield me from the thick creaking branch that will land any minute, bringing the roof down with it. I haven't felt his dry skin in so long I think at first that I'm touching tree bark. We wait and we wait. We wait so long that Andy must finally peel his arthritic self off. I'm touched by the chivalry, but it's a relief when he hoists his overripe body up. I haven't lost my sense of smell after all.

The instant Andy rises, the big branch breaches the roof, glances off, crashes onto the cacti. We rush to the hole above, liquid rushing down, both of us opening our mouths like newborn birds. It's not hail but warm water now, thick with organic matter. We gulp down all we can, so greedy we don't even hear at first the desperate jiggling of the door. Noreen, who always punches the code so precisely, so discreetly from her Gibson chip, can't get in.

Andy opens the deadbolt the old-fashioned way, but we both freeze when the door swings open. It's Simon who

stands on the threshold. I can hardly make him out, much less recognize him, but I see his beard soaked into a burlesque mask. *Get into the Wiggy*, he chokes so fiercely that I almost forget this man is sympathetic to the Constitutional Guards, and I move toward the glider.

But Andy holds me back. *What's the plan?* He begins a lawyerly interrogation, the two men hissing at each other in the clattering rain, the door not even properly locked behind them. I can't hear any better than I can see. I stand beneath the newly rent hole in the roof and try to make out the horrific gash in the tree, the open wound. Beyond, a green sky pocked with scarlet cloud pustules descends. It must be twilight, or stormlight, or maybe it really is end times. We shouldn't have joked about that.

Simon, a desperado heading off the posse, looks straight into Andy's eyes when he answers him, and I hear shards of his answer: *Resisters...provisions*. Maybe those are the syllables I want to hear. He turns to me again and barks: *Fold yourself up behind the seats*. He means atop our waste bags. I've never heard him so resolute before. Has Noreen come up with a plan? The black market's one thing, but resisters are quite another, and Simon could well be delivering us to the guards. I have never trusted this man Noreen trusts.

Noreen, I whimper, but he shoos me toward the Wiggy. *The girls*.

Safe, safe inside. Go. Go!

Every resentment I've ever felt—at Andy for cheating, at Simon for being Simon—surges through my body. How many fugitives have prayed for deliverance, only to be delivered to the enemy? Wouldn't that be rich, if I must have faith in Simon to leave this prison, and then must forgive him at another prison's door?

Now Andy stands by the passenger door, waiting for me to join him. We know nothing, less than nothing. I'm not sure I can trust anyone's judgment, after all these months of hiding, but I climb into the back of the Wiggy and stretch myself face-down over the bags of our excrement. Liquid seeps onto the overhang of my hands, and I gag. *Inter urinas et faeces nascimur*. Already I'm twisted into a torture position. I've lost track of day and night, light and dark, and I know now that I'm losing my sight even faster than I feared. At least I've stopped gagging. I remember incongruously how much I loved gliding when Noreen first treated me to a ride.

Simon is backing up the Wiggy, moving forward, speeding up. I feel the wings unfold themselves. We rise, and I let myself imagine that wherever Simon is driving us, prison or refuge, the low green sky will eventually lift too. Maybe, from some slit of window, I'll catch dim sight of the cool moon, the stars I haven't seen for so long, the distant planets bursting with intelligent life. ■

Richard Alleva

Misdirection

'DECEPTIVE PRACTICE' & 'NOW YOU SEE ME'

Unlike those legendary magi—Faustus, Simon Magus, etc.—who claimed contact with the spirit world, modern magicians merely prove that their hands are quicker than our eyes. Yet, as they snatch coins from thin air and produce the very cards we thought about but never named out loud, don't they make us doubt, for a few seconds at least, the daylight solidity of the world and our ability to perceive simple physical realities?

Ricky Jay (born Richard Potash) is one of the great living magicians, specializing in but not limited to card tricks, and in the documentary *Deceptive Practice: The Mysteries and Mentors of Ricky Jay*, directors Molly Bernstein and Alan Edelstein keep their camera very tight on his face during the interviews, as if by registering every blink and facial tic

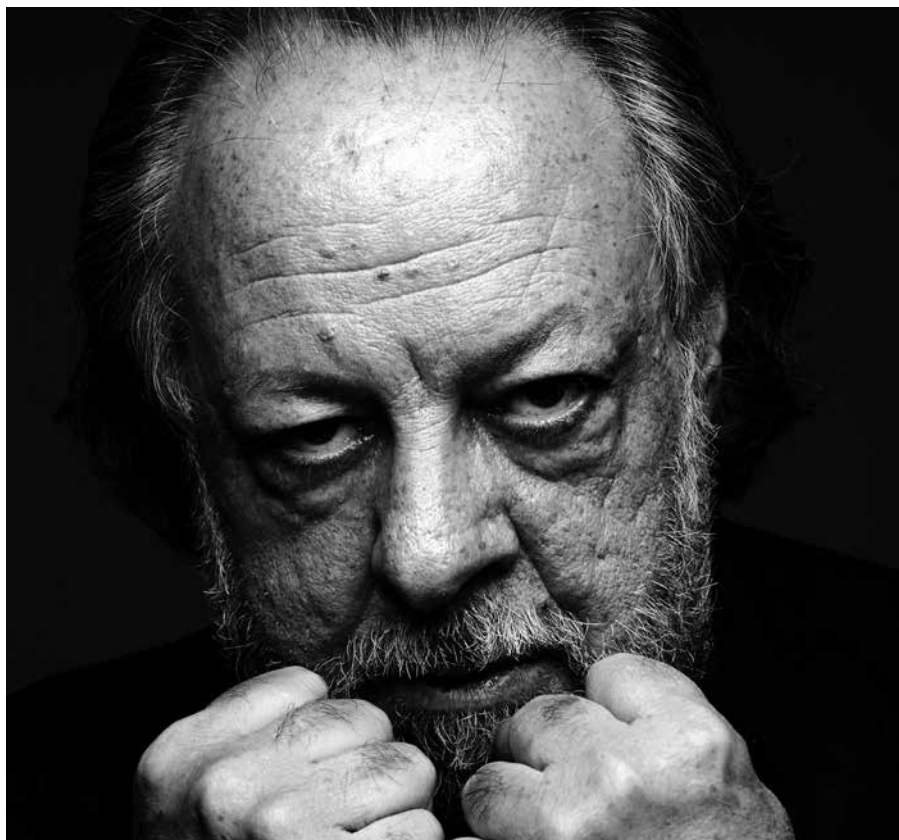
they could establish some undeniable psychological truths, no matter how reality-disorienting his tricks are. Yet his countenance turns out to be no easier to read than the movement of his hands. Round, plump, bland, and bearded, his face could be that of, say, a streetwise New York actor of a savvy and amiably aggressive disposition—the sort of workaday thespian who might be offered roles turned down by Paul Giamatti. (In fact, Jay has acted in films, notably *House of Games*, directed by David Mamet, who staged some of Jay's shows and is one of the commentators in this film). There's certainly nothing threatening in his features, yet on stage Jay becomes gloriously dangerous in the way all great performers are. While his hands are busy confusing our eyes, his own eyes stare us down. How, they seem to ask us, can you

disbelieve that you've seen what you've just seen, especially when, thanks to the camera, you've seen it in close up? Yet... how can you believe it?

The most astounding feats are two that aren't on camera but are only reported. Ricky's Akido instructor tells of bringing a couple of friends by the magician's place just after Jay has stepped out of the shower. The instructor demands that Jay perform his trick of turning two \$1 bills into one \$2 bill. Instantly, the feat is achieved. We know that the \$2 bill must have been on the magician's person, but where? Presumably, Jay was wearing a bathrobe or a towel about his loins, so...in a pocket? And could he have been so prepared to perform the trick if he had just been in the shower and wasn't expecting guests?

When British reporter Suzie Mackenzie is seated across from him in a restaurant, Ricky lowers his menu to reveal a large block of ice on the table. Possible clues: he chose the restaurant, took a long time driving there, and the block is fast melting. So obviously the restaurant's management was in cahoots and had the ice out of the freezer (a little too early). But when Mackenzie looks under the table, she sees a dry floor. What kind of container was the ice in, and how was it conveyed to the table?

Since I'm more interested in storytelling and psychology than in prestidigitation, two themes in this documentary impressed me at least as much as any of Jay's tricks. The "mentors" of the subtitle are, of course, senior magicians the young Ricky latched onto for instruction. Everyone has had teachers who displayed truculence even as they shared their expertise. But among magicians, this familiar situation is exacerbated, since a good magic trick is, almost by definition, something not to be explained, even to other magicians. Several of Jay's masters taught



Ricky Jay

him a great deal, but at least one took some secrets with him to the grave. Did he selfishly deprive posterity or is confounding everyone forever an inalienable instinct of the profession?

But a much more disturbing note is struck in regard to Jay's family. Young Ricky learned magic from his grandfather, a talented amateur, but his parents also apparently indulged their child, even hiring a nationally famous performer to entertain at one of the boy's birthday parties. Yet, at age twenty, Jay turned his back on his father and mother. He tells us only that they "didn't get" him and had "no rapport" with him, banal phrases that could describe any teenage rebellion—except that Ricky's familial rupture has persisted for forty-five years. It's as if he felt his parents had insulted his spiritual core. Considering that he was occupied with magic from the age of four, was his vocation a factor in the break? Even close friends don't know the answer and sense they must steer clear of the subject if they want to preserve their friendship. This may be a secret that Jay himself will take to the grave.

Deceptive Practice got me fired up to see another movie about magicians, *Now You See Me*, but this fiction wasn't as magical as the documentary. Nothing wrong with the concept: bring together four tricksters, each with a very distinct specialty, who pool their skills to stage a big heist that will punish some piggish tycoons. Assembled are a David Copperfield-type showman with flashy props and blinding lights, a slight-of-hand artist, a female Houdini, and a mind reader. So, let the games begin! And let the contrast of methods and clash of backgrounds, techniques, and personalities ratchet up the drama.

It's impossible to know at what stage this promising concept was ruined, since there are so many detours a big-budget production can take, but perhaps doom was inevitable when Louis Leterrier, a French manufacturer of digital noise and dazzle (*Transporter 2*, *Clash of the Titans*) was given the helm. At any rate, what's left on screen is mostly swirling

camera work and narrative confusion. A story like this is meant to be full of plot reversals that keep you guessing, and I don't mind it if they make no sense as you think them over in the lobby on the way out. But here they don't even seem to make sense while you're watching them. Meanwhile the idea of different kinds of illusionists working together gets lost. The escape artist doesn't do any more escaping than her confederates, and their getaways are banal—crashing through windows or plunging down garbage chutes. The sleight-of-hand artist's big scene is a martial-arts combat so stupidly edited that we can't really see the fight; and the mentalist—though Woody Harrelson brings some charm to the role—turns out to be completely unnecessary since one of the big revelations at the end of the film would have been spoiled by mind-reading. (Did Harrelson ever wonder why he'd been hired?)

Just before the climactic heist, we see the four robbers squabbling nervously among themselves because they don't really know the identity of the mastermind giving them orders from behind the scenes. This moment briefly injects real drama into the movie: the four smugly invincible magicians become vulnerable enough for us to feel doubt about their ultimate success. Result: suspense. But soon we're stuck once more within the point-of-view of bumbling detective Mark Ruffalo (a fine actor wasted yet again) falling into one trap after another while grunting, sweating, cursing, and screaming stuff like "Oh no! Now they've got my cell phone!" Meanwhile, a cool French lovely (Melanie Laurent) from Interpol stands to one side pursing her lips or rolling her eyes at the American clod.

Even if the execution had been a thousand times better, *Now You See Me* would still suffer from an insuperable problem. In a real magic act performed in a documentary like *Deceptive Practice*, the skill is right there before your eyes, baffling and delighting you. In any fiction like *Now You See Me* all the dazzlement is the work of post-production digitalization. Where's the magic in that? ■

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R. Scott Appleby

Reclamation Project

Academic Freedom and the *Telos* of the Catholic University

Kenneth Garcia

Palgrave Macmillan, \$85, 230 pp.

A crisis is looming within American Catholic higher education,” read the diagnosis, issued in 2006. “As Catholic colleges and universities analyze their position and set a course for the future, they are faced with a structural reality that threatens their ability to continue as institutions with vibrant religious cultures.” With these sobering lines Melanie M. Morey and John J. Piderit, SJ, opened their account of the challenges facing Catholic higher education (*Catholic Higher Education: A Culture in Crisis*, Oxford). Their interviews of senior administrators at thirty-three Catholic institutions revealed a widespread inability to articulate the relationship between the Catholic intellectual tradition and the academic disciplines of the modern university. The presidents and provosts were positively eloquent, on the other hand, in expressing their commitment to building a faculty that could compete with leading secular institutions for students, prestige, federal grants, and other sources of public funding. This quest for high-yield faculty, Morey and Piderit warned, could come at the cost of the Catholic identity of institutions already displaying “a rather weak Catholic culture.”

Kenneth Garcia’s *Academic Freedom and the Telos of the Catholic University* provides a thoughtful if ultimately unsatisfying program of action in response to this warning. Briskly reviewing and analyzing the nexus of

Christian epistemology, inquiry, and education, Garcia proposes an understanding of academic freedom more constructive and capacious than the definition imported wholesale from secular institutions. That definition, formulated initially by the American Association of University Professors in 1915 as the right of scholars to publish “without fear or favor,” was developed—or narrowed, as Garcia would have it—in Arthur O. Lovejoy’s decisive statement of 1930, as the freedom from meddling by “political or ecclesiastical authority” in the conduct or findings of research and teaching. For any scholar working in the American university system, the only legitimate arbiters of academic freedom, Lovejoy declared, are “qualified bodies of his own profession.”

Garcia objects to this formula on two grounds: first, because it frames academic freedom as a negative (freedom from, not freedom to), and second because it reinforces the secularizing trend whereby academic disciplines are treated as sovereign fiefdoms controlling fragments of knowledge but unable or unwilling to help integrate them into a unified whole. In its place he proposes a “theonomous” understanding of academic freedom as “the freedom to follow the mind’s telos toward an ultimate horizon and the freedom to prescind from going there.” Tracing this epistemological claim in the writings of Augustine, Bonaventure, and Aquinas and their modern interpreters Henri de Lubac, Karl Rahner, and Michael Buckley, Garcia summarizes it as follows: “There is at the heart of all inquiry, whether the inquirer is explicitly aware of it or not, a dynamism (a spiritual and intellectual *eros*, in the words of many church fathers) whose source and

goal is the divine.” To allow and even encourage scholars to dwell solely within specialized domains, in the realm of the finite, without venturing out beyond their “Kantian islands” of bounded empirical investigation to explore the transcendent, Garcia complains, ignores “an inner teleology driving us toward ever greater understanding, toward completeness of understanding within an ultimate horizon.”

It’s a resounding formulation. Yet questions abound. If a vibrant Catholic university must have a sufficient number of faculty in every discipline who are willing to pursue this “ultimate horizon,” how are university leaders to achieve this goal? How, exactly, might Catholic educators restore the drive toward the integration of all knowledge that characterized the first modern university—the University of Berlin—and its distinguished faculty of German idealists such as Fichte, Schelling, and Schleiermacher? How might they aspire to the ideal of “permeation” of the disciplines with Christian wisdom, while avoiding a “heteronomous” imposition of ecclesiastical prerogatives and the resulting insularity of Catholic intellectual life?

Garcia’s proposed solution is to integrate Catholic theological and philosophical principles into the curriculum of each academic discipline “so that the potential for [human-divine] union is available to *every* student” (italics in the original). But promoting the transformation of academic culture through a game-changing interpenetration of Catholic principles and, say, neoclassical economics (or developmental psychology or molecular biochemistry) entails hurdling formidable barriers—and doing so, by Garcia’s own reckoning, without a sufficient number of Cath-

olic thoroughbreds in most faculty stables. As a result, Garcia acknowledges, “fostering the movement beyond finite disciplines to theology will require hiring faculty with expertise in Catholic philosophy or theology *as well* as their own discipline” (italics added).

Good luck with that!

Herein lies the dilemma facing Catholic educators in the current climate: Do you take the money, or run? Do you accept the federal and state funding necessary to keep the doors open—and with that funding, the metrics of legitimation set by largely secular standard-bearers—or run instead into the arms of a few private mega-donors, if you can find them and live with their standards? It’s not exactly a win-win outlook, since one path leads to tigers (the gradual erosion of religious identity) and the other to dragons (the paradox of sectarian, world-renouncing Catholicism).

The turning point in Garcia’s history comes, as in so many narratives of Catholic institutional decline and rebirth, during the 1960s, when the church endured simultaneous endogenous and exogenous shocks. The internal tumult was triggered by the decision of reformers, following Vatican II, to reject the self-inflicted isolation of a neoscholastic subculture that Garcia rightly describes as a dead end. The external shock came via a series of legal cases that challenged the eligibility of explicitly religious colleges and universities to receive direct government assistance. Two of these cases were ultimately decided by the U.S. Supreme Court: *Tilton v. Richardson* (1972) and *Roemer v. Board of Public Works of Maryland* (1976). In a pivotal chapter titled “The Consequences of Caesar’s Gold,” Garcia shows how the precedents set by these rulings “led Catholic college leaders to downplay the spiritual dimension of academic life, to sever their colleges’ ties with their founding religious orders, and to keep theology as a separate, autonomous discipline rather than incorporate it into the cross-disciplinary dialogues of all disciplines.”

From that moment on, the paths

to Catholic educational excellence diverged. The Catholic institutions following the “take the money” path include such major universities as Georgetown, Boston College, and Garcia’s (and my) own Notre Dame, all of which strive to compete with secular universities while influencing the national conversation from a recognizably Catholic perspective. In this milieu the cost of staying in business is so staggering, the culture of disciplinary specialization so pervasive, and the ever-expanding requirements of knowledge in any *one* (sub)discipline so demanding, that it is virtually impossible to hire faculty with the requisite expertise in theology or philosophy *and* in a different discipline, or to bring willing faculty up to speed in a second discipline. Generalists have a better chance of thriving, perhaps, in the new “run for cover” colleges such as Christendom or Thomas Aquinas. But those institutions face nagging questions of financial viability, the competitiveness of their graduates on the job market, and their relevance to the secular world—presumably a desideratum of Catholic higher education.

To address this dilemma, Garcia provides a list of coping measures (e.g., sabbaticals or summer seminars for faculty in the Catholic intellectual tradition) that will be familiar to those professors and administrators already fighting the good fight to retain a vital Catholic presence on campus and in the classroom. If they are not winning, exactly, these stalwarts of faith and reason are nonetheless enabling their still-thriving Catholic institutions to demonstrate that George Bernard Shaw was wrong to call a Catholic university an oxymoron. Fighting this battle is a noble vocation and by no means quixotic. Maintaining the balance between disciplinary specialization, professional credibility, and “integration toward truth” is a formidable task, and American Catholic educators cannot afford to relax. Church officials do not make it any easier when they fail to appreciate the subtlety and precision required to pull it off.

Garcia generally underplays the withering impact of intra-ecclesi-

The Power of Prayer



Meet Sister Rose
Bernard Gallagher,
MM, who has spent
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behalf of women and
children who’s futures
are not their own.



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al power dynamics and the stifling of internal Catholic diversity. He does call attention, however, to the lingering effects of the misreading of Aquinas, and of the Catholic intellectual tradition more broadly, by the church bureaucrats and theologians who battled liberalism and modernism around the turn of the twentieth century. In their campaign to defend the authority of the magisterium against the encroachments of Catholic thinkers promoting more bottom-up processes of doctrinal development, neoscholastic philosophers posited the existence of a state of “pure nature” abstracted from its divine milieu, and advanced a concept of grace as “extrinsic” to human nature and ordinary experience. In so doing, these antimodernists detached philosophy and theology from the social sciences and the natural sciences, a move that gave an unintended boost to the ascendancy of “mere empiricism” within the academy. Thus did hegemonies of the church conspire unwittingly with hegemonies of the academy.

The legacy of this antimodernist campaign subtly affects the church’s self-understanding—and thus Catholic higher education—to this day. To study “the world” as an island set adrift from the Love which permeates, sustains, and redeems it is to commit the most fundamental category error. Nature and society are more than the sum of their parts, reality more than “the world.”

Though he may not know exactly how to accomplish it, Kenneth Garcia certainly comprehends that what the church and the academy have set asunder, Catholic scholars, teachers, and provosts are called to reunite. Doing so in a historical context that does not produce Catholic intellectuals with ease or regularity is both exceedingly difficult and vitally urgent. Summer seminars and sabbaticals will not suffice. Only a whole-of-church effort has a reasonable chance of success. ■

R. Scott Appleby is a professor of history at the University of Notre Dame and coeditor of *Catholics in the American Century* (Cornell University Press).

Kent Greenawalt

Between the Lines

America’s Unwritten Constitution

Akhil Reed Amar
Basic Books, \$29.99, 615 pp.

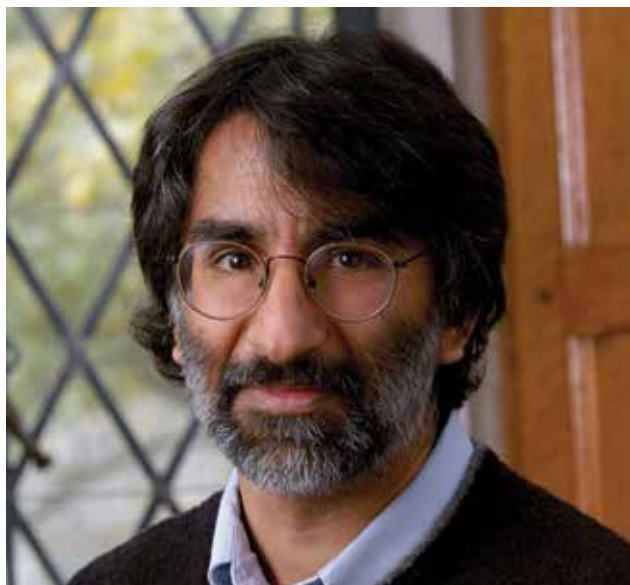
Akhil Reed Amar’s *America’s Unwritten Constitution* is full of fascinating history, as well as novel and often persuasive analysis of how our written Constitution blends with an unwritten one to form a coherent whole. Amar argues convincingly that constitutional interpretation cannot rest exclusively on the actual text of the Constitution and the original understanding of its provisions. But he also argues that Supreme Court justices act inappropriately if they impose legal doctrines that are genuinely inconsistent with the written text. Such decisions, he asserts, will almost inevitably be abandoned.

America’s Unwritten Constitution can be read as a supplement to Amar’s earlier book, *America’s Constitution: A Biography* (2006), which was about the *written* Constitution—the circumstances of its composition, what it meant then, and what it has come to mean since. The new book concerns the binding constitutional principles that reach beyond the clear words of the text. These principles fill in gaps in the written document, show how important amendments bear on earlier provisions, and take account of other historical developments that reflect changes in ideas about government and rights. Amar has called

himself a “textualist,” but he believes that the written Constitution needs to be understood broadly. In his view, many important legal decisions are correct in their conclusions but mistaken in their justifying theory. He also believes that there are constitutional limits that have yet to be acknowledged.

Amar writes that he is aiming at “general-interest readers who care about the Constitution.” Such readers should be warned about two things. First, the author does not explain in any detail the many varieties of “unwritten constitution” until four pages before the end of the book. Second, a fair number of his claims about what counts as a proper reading of the Constitution are far from obvious; indeed, a few of them struck this reader as a stretch. In his preface to *America’s Constitution*, Amar explicitly acknowledged that his is “an *opinionated* biography of the document,” and his postscript noted the deliberate omission of “quibbling qualifiers.” He is no less opinionated in this book, and no more disposed to qualify all his claims.

“Unwritten constitution” turns out to be a fuzzy concept. Great Britain,



Akhil Reed Amar

HAROLD SHAPIRO

for example, is often said to have an unwritten constitution. In modern centuries, the principles of this “constitution,” based on past practices and fundamental values, have affected judicial development of the common law and interpretation of statutes; but the British constitution does not preclude new legislation, since Parliament has the authority to override whatever the constitution encompasses. Similarly, considerations that are not legally binding can exist alongside a written constitution, and certain principles that Amar develops fit squarely into this category. He writes, for example, that it would be wrong to deny Puerto Rico statehood if that’s what a majority of its citizens want, though the Constitution provides no guidance in the matter. Likewise, he claims that the number of members in the House of Representatives will not be sharply altered, that the two-party system is firmly settled, and that a “responsibility” of citizens to “look forward in time and make our constitutional donation” is “an integral part of America’s unwritten constitution.” None of these things is required by our written Constitution, nor even by any law. Rather, they are implied by our established practice and political philosophy. Such considerations may bear on the legal resolution of certain issues, such as voting laws. Among the principles that do carry a kind of legal force are obvious implications and aims of the written document (such as “separation of powers”), more subtle implications of its terms and structure, matters the text has left genuinely open and that have been filled in by later developments, and standard legal techniques of interpretation.

To demonstrate that the text of the Constitution is not always a safe guide to its application, Amar points out that if a vice president were being impeached, he would obviously have to relinquish his normal position as presider over the Senate—this despite the fact that the text of the Constitution does not mention this eventuality. It would happen anyway because of the various constitutional provisions

that *do* preclude persons from judging their own cases. Amar then makes the more debatable claim that, from the very beginning, it was not only the federal government that could not forbid political speech but also the states, even though the Constitution does not say so explicitly. Instead, according to Amar, it is implied by the fact that the Constitution was established by “the people,” by the safeguards of congressional speech, and by the First Amendment’s reference to *the* freedom of speech (implying a preexisting right).

As for the Ninth Amendment, which states that “the enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people,” Amar regards its protections as robust. He also proposes that the phrase “by the people” implies that new rights developed over time should be afforded constitutional status only *after* they are widely accepted. (One could, alternatively, interpret those words to mean that the amendment covers only the rights of *people*, not those of states or other entities.) Objecting to the Supreme Court’s use of the Fourth Amendment to require the exclusion of illegally seized evidence in criminal cases, Amar points out that no such understanding was widely accepted within the states at the time of the Constitution’s ratification. Amar regards this doctrine as benefitting “*only* guilty persons,” but a defender could respond that if the Fourth Amendment successfully deters searches against anyone *suspected* of a crime, it will effectively protect many who are in fact innocent.

Amar offers a rigorous defense of *Brown v. Board of Education*. Whatever may have been the prevailing opinions about racially segregated schools when the Fourteenth Amendment was adopted, by 1954 it was obvious that such schools effectively denied blacks “equal protection of the laws.” Even many who agree with Amar on this basic point, however, find it harder to justify the extension of *Brown* to the federally controlled District of Columbia. After all, the Bill of Rights, which applies to D.C., lacks any explicit

equal-protection guarantee like that which the later amendment applies to the states (but only to the states). Amar’s answer—resting on the Ninth Amendment’s protection of unspecified rights, the Fourteenth Amendment’s extension of citizenship to “all persons born or naturalized...in the United States,” and a highly expansive understanding of what a “republican form of government” entails—is that all branches of government must accord equal treatment. He argues that when one regards the Constitution as a whole, one should conceive rights against state and federal governments as essentially the same.

In a fascinating chapter titled “America’s Feminist Constitution,” Amar accords a sweeping status to the Nineteenth Amendment, which guarantees women the right to vote. Starting from the uncontroversial premise that the amendment must be seen as a correction of past injustices, he urges that it has a pervasive effect on how the rest of the Constitution should now be viewed. He contends, for example, that the right of women to serve on juries should have been seen by the Supreme Court as an implicit aspect of their right to vote rather than derived from the Fourteenth Amendment’s equal protection clause, which, according to Amar, safeguards “civil” rights, not “political” rights such as jury service.

Given Amar’s belief that novel constitutional rights that can’t be derived from the text itself should not be established prior to widespread recognition, *Roe v. Wade* poses a serious problem. Here, surely, was a case of the High Court moving beyond what the text of the written Constitution explicitly provides before public opinion had been settled. In his discussion of *Roe*, Amar offers an imaginary dialogue between a married couple, Adam and Eve, in which Adam defends laws forbidding abortion and Eve points out all the ways in which such laws impose burdens related to the costs of having children on women instead of men. The suggestion is that laws forbidding abortion impose unjust, unequal, and therefore unconstitutional burdens on women. But Amar’s imagi-

nary dialogue does not really address what many regard as *the* fundamental issue at stake. What if one recognizes that any law forbidding abortion inevitably burdens women much more than men, while also believing firmly that a fetus is already a human life warranting legal protection? Amar does not acknowledge, much less answer, the fundamental question of whether in this context gender equality should take precedence over the protection of human life.

In a chapter titled “Conscience,” Amar addresses a subject overlooked in most discussions of the Constitution: the right of jurors to “nullify” a law’s application by refusing to convict someone whose guilt is clear. That this has been a fundamental aspect of our jury system throughout history is clear, but Amar’s insistence that judges should routinely inform jurors of this power does not necessarily follow. The problem is twofold. First, reminding jurors of this option could lead to hung juries in too many cases. Second, if juries are informed that they can “nullify” a law’s application, does it follow that lawyers should be able to argue for nullification—a practice that could divert many trials from their main focus. Amar’s argument for always telling jurors about this right is compelling, but practical complications make it doubtful that the practice could ever be widely adopted.

America’s Unwritten Constitution is an ambitious book, and an impressive one. It tackles many of the most important and controversial issues in constitutional law. Amar’s arguments are uniformly informative and ingenious, even if they aren’t all equally convincing. This book demonstrates with force and clarity that the relation between authoritative written texts of the past and conceptions and practices that have developed over time is a central concern not only of religious doctrine but also of secular law. ■

Kent Greenawalt is University Professor at Columbia University, teaching in the law school. He is the author of *Statutory and Common Law Interpretation* (Oxford), among other books.

David J. O’Brien Plot Twists

Catholics in the American Century Recasting Narratives of U.S. History

Edited by R. Scott Appleby and
Kathleen Sprows Cummings
Cornell University Press, \$21.95, 218 pp.

Historical narratives are important. They give meaning to both personal and public experience. Like everyone else, Catholics use such stories to make sense of their religious experience. For example, when some bishops questioned the University of Notre Dame’s Catholic integrity because it invited President Barack Obama to give the 2009 commencement address, a particular narrative about how Catholics have become too assimilated by secular American society was invoked. Notre Dame risked losing its Catholic soul, critics argued, in its quest for secular academic success.

That story of alleged moral decline and cultural surrender gives a new meaning not just to the present but to the past. Few Notre Dame graduates, or other middle-class descendants of earlier European Catholic immigrants, noticed that the attack on the university’s “secular” academic achievements and cultural prominence called into question their own fidelity to Catholi-

cism. I would argue, however that Notre Dame Catholics like me lived by a different story about our personal and family history. That story is about family aspirations, dreams of economic, social, and educational advancement and access to the centers of American society and culture. Ours were experiences of freedom, even liberation, not a false accommodation to a pernicious larger culture. The economic and social freedom won by our families, thanks to the opportunities available in our country, has brought with it new personal, social, and religious responsibilities. Some of us, certainly many Notre Dame graduates, are now insiders. America is really ours. We can no longer blame others for its problems, and we now have a full share of responsibility for its common life. There is, I would argue, no going back. American Catholics are now, always have been, Americans, and once again we are challenged to make religious sense of that side of ourselves, and of our church. How we tell our story matters; it will determine how the story turns out.

The Cushwa Center for American Catholic Studies at Notre Dame has for thirty-five years helped American Catholics examine, correct, and rewrite their historical narratives. Its founder, Jay P. Dolan, reshaped the



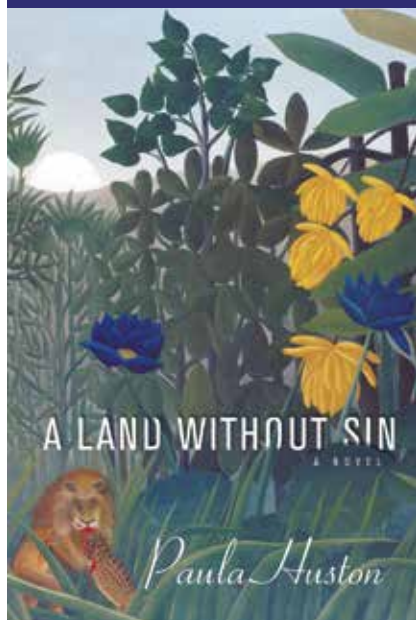
President Obama delivers the 2009 commencement address at the University of Notre Dame

CNS PHOTO / CHRISTOPHER SMITH

study of American Catholic history by attending to the grassroots experience of immigrant Catholics and their descendants. Cushwa conferences, seminars, publications, and research grants have supported an explosion of scholarship. A decade ago Cushwa leaders Scott R. Appleby, Timothy Matovina, and Kathleen Sprows Cummings, the current director, along with historian John McGreevy, launched a project to encourage further research on the lives of American Catholics in the twentieth century. One of the goals of the project was to correct the lack of attention given Catholics in the work of many American historians. What would happen if historians paid attention to Catholics, with their distinctive ideas, imaginations, and practices? After all, there are and always have been a lot of us.

The twentieth-century project has produced first-class scholarship, including studies of Catholics and contraception, local histories of Catholics in St. Paul and Providence and on the New York area docks, an essay collection dealing with Catholic devotions, and another dealing with Mexican-American Catholicism. Now *Catholics in the American Century* brings together essays exploring how Catholic experience and perspectives enrich our understanding of the broader American experience. Robert Orsi, past president of the American Academy of Religion, has done more than anyone else to bring Catholics to the attention of American Studies scholars. His creative and immensely influential work on Italian immigrants in New York City and on the devotion of Catholic women to St. Jude, has given voice to people long neglected if not dismissed by historians. Here he suggests how the Catholic emphasis on the meaning of suffering, from missionary martyrs to the agonies of migration, poverty, and exclusion, stood in sharp contrast to the assumptions guiding American “modernity.” Orsi reminds us that Catholics had their own angle on things American, and were always important participants in making, if not writing, the nation’s common history.

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In Memoriam

ANDREW M. GREELEY
1928–2013



The University of Chicago Press

Lizabeth Cohen, another influential social historian, points to developments in American historiography that emphasize local, even ethnographic studies while placing seemingly unique American experiences in an international context. She supports her argument with a case study on urban policy in 1950s Boston. The Catholic archdiocese, Boston College, and some key Catholic individuals were central players in the city's revitalization. Cohen explains how their power, connections, and ideas made a difference.

The other essays are equally rich and suggestive. Thomas Sugrue demonstrates how close attention to Catholics has brought about revisions in our understanding of the tumultuous 1960s. Sugrue explores the move of urban Catholics to the suburbs, as well as their crucial role before and during the 1960s in the development of modern political and economic conservatism. Sugrue thinks much work remains to be done examining the fully assimilated world most Catholics now inhabit. R. Marie Griffith shows how recent work on Catholic women, and especially women religious, broadens our understanding of gender and sexuality. David Gutierrez considers how Mexican-American history can enrich cultural studies. Despite being a self-professed secular historian, he insists that religious beliefs and practices must be understood if we are to fully appreciate Chicano experience. Wilfred McClay offers scholarly support for the argument of the late Richard John Neuhaus and others that there is now a "Catholic moment." Catholic ideas, especially Catholic social teaching and Catholic insights about natural law, can contribute to the renewal of American political and social thought. Here as elsewhere the inclusion of Catholics in historical narratives helps preserve or recover those practices and ideas that distinguish Catholics from other Americans.

Historians John McGreevy and Scott Appleby, whose research and reflections are central to the revival of Catholic

Studies, bookend these essays with commentary on more contemporary concerns. McGreevy describes the American Catholic community as "the world's most multilingual and multicultural Catholicism" which grew "happily in the United States but not quite of it." At the end of the "the American century," however, McGreevy worries that the Catholic community, in "an uncertain environment" and with "a fragile institutional structure," has about it an "atmosphere" of "fractious Catholic decline." For the moment "discussion of a coherent Catholic complement to mainstream U.S. society" seems "less plausible" than in the past. But, he concludes, "the engagement between the world's most powerful nation and the world's most important global institution" remains unfinished.

Scott Appleby shares Orsi's view that Catholics have always been part of the American "mix, and have always been different." For Orsi "carefully exploring the difference is key to understanding U. S. Catholic history." Toward that end, Appleby argues that for U. S. history to fully incorporate "Catholic presences" scholars must "come to comprehend something of the inner world of Catholic Americans—the alternative cosmology of the Catholic imaginary." Catholics must remember who and what they have been: "we eagerly await the new American histories to be written in the wake of this remembering."

Catholics looking for a "usable history," one that will help us make our way in the future, will find in this book a lot of support for the "secularization" narrative beloved by conservative churchmen everywhere. For much of the last century, American Catholics told that secularization story about the declining churches of Western Europe while celebrating our American Catholic exception. No longer! As Orsi puts it: "By the 1960s and 1970s Catholics in the United States seemed to have become indistinguishable from their fellow Americans." Now even detached scholars as well as churchmen seem to lament the erosion of the ever-so-interesting Catholic subculture and decay

the "Americanization" of the immigrant church.

So conservative Catholics are not the only ones who think that if something like the old Catholic subculture is not recreated, and quickly, Catholics will be lost—they will become, well, Americans. Some Catholics might think that is not so bad. They might recall Andrew Greeley's expectation, or, further back, Isaac Hecker's, that the American experience of Catholics might be a providential Catholic opportunity. After reading these essays, they might open a different conversation about what, after all, is the life we Catholics have lived, and are living, and what is the story we can tell? ■

David J. O'Brien, author of *Isaac Hecker: An American Catholic*, is *Loyola Professor of Catholic Studies Emeritus, College of the Holy Cross, and Distinguished Professor at Large, University of Dayton*.

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Book

The Tears I Couldn't Cry: Behind Convent Doors by Patricia Grueninger Beasley, pub 2009 AuthorHouse, ISBN 9781438962900

Available at Amazon bookstore. Author's memoir recounts her experiences as a Catholic Sister 1955–78. Story raises questions: Was it not sacrilegious to degrade women in the Name of God? Was the gross inequality of the genders justified? Pat has MA in Religious Studies from Providence College in R.I. (1975).

Take & Eat *Harold Bordwell*

The supermarket, that cornucopia of modern life, has no greater gift to the shopper than the apple. Tiered bins of Granny Smiths, McIntoshes, Fujis, Braeburns, and Delicious, among others, coyly wink at us—they would not be out of place in the Garden of Eden. Their rich colors make that first big bite seem almost inevitable. Even if few of us still believe that the world began in 4004 B.C., the Fall, as described in the third chapter of Genesis, continues to have a strong hold on our imaginations. “Now the serpent was more subtle than any of the beasts of the earth which the Lord God had made....”

The Old Testament (Douay version) tells us that Adam and Eve were allowed to eat “of the fruit of the trees that are in paradise,” but not of the fruit “in the midst of paradise.” It was the “more subtle serpent” that showed its wiliness by asking Eve why she and Adam couldn’t eat “of every tree in paradise.” Under the circumstances, perhaps an unanswerable question. We know what happened next, and from that first misstep have come not only Original Sin but also our first fashions in clothing. First it was those fig leaves, then God made Adam and Eve “garments of skin.” After that the plot really thickened. Cain and Abel were not far behind.

Neither the Douay nor the King James version of Genesis specifically speaks of apples as the forbidden fruit. According to some early writings, the fruit in the Garden of Eden was a grape or a fig, even wheat or palm. How the apple, rather than the grape or the fig, became the fruit in the Garden of Eden is complicated, involving, among other things, pagan Greek mythology, folklore, and ancient vase paintings showing serpents wrapped around apple trees. A linguistic accident confirms the association: the Latin word for apple, *malum*, can also mean evil.

Art, more than anything else, has helped give the apple its pride of place in our Edenic imaginations. Such fifteenth- and sixteenth-century artists as Albrecht Dürer (some of whose famous paintings and drawings of the Fall can be seen at the Morgan Library & Museum in New York) or Lucas Cranach the Elder (whose two paintings of Adam and Eve facing each other can be seen at the the Art Institute of Chicago) are more interested in telling the story than in the apple itself. In Cranach’s paintings we notice Adam’s pensive eyes and Eve’s coy look rather than the bitten apple in her hand. The apple is almost a minor prop, neither delectable nor tempting. Our attention is held by the event itself, and our eyes search for and find a serpent entwined around a tree branch over Eve’s head.

It was in the nineteenth century that an apple worthy of the



The Basket of Apples, Paul Cézanne, c. 1893

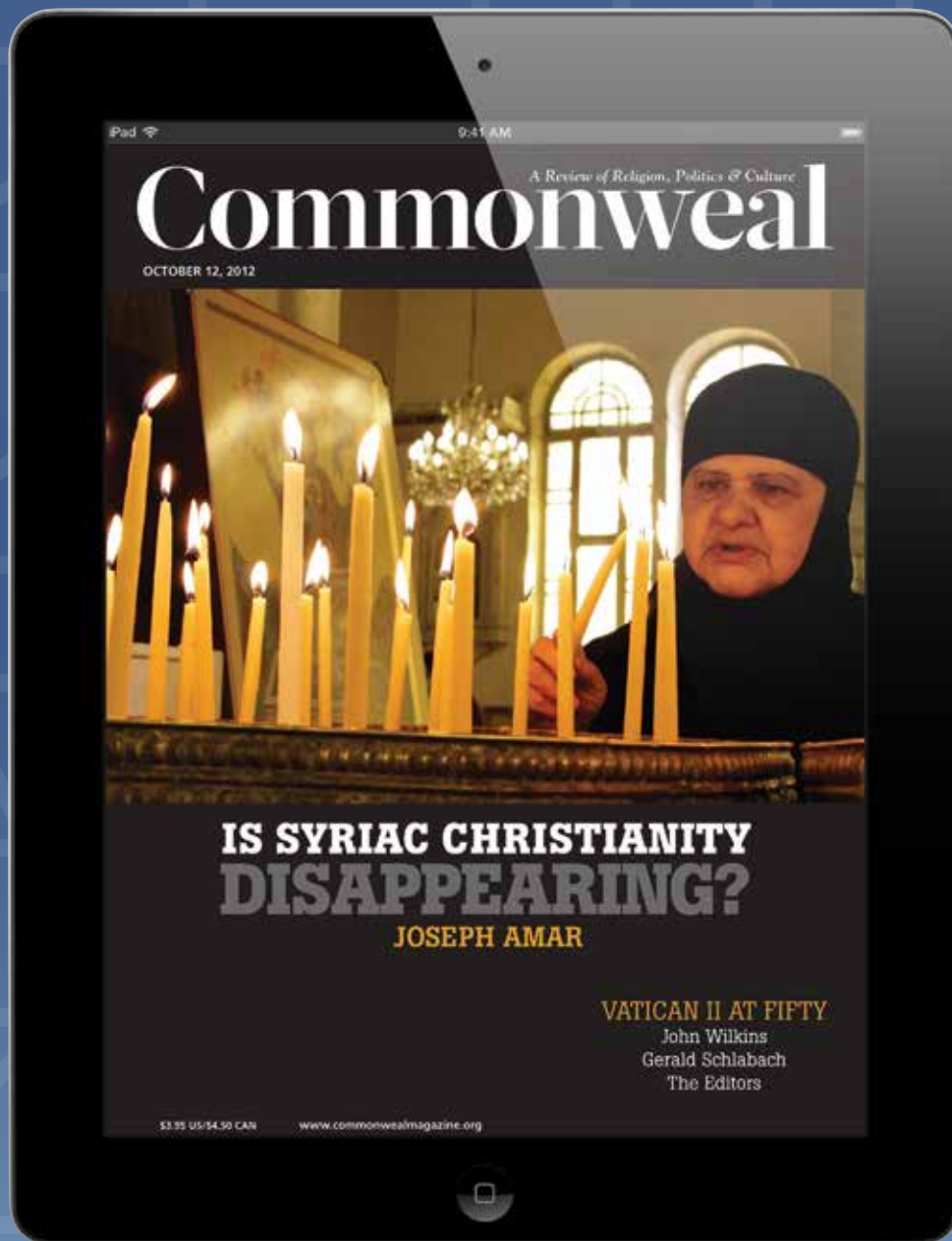
Garden of Eden made its appearance—and at a time when old beliefs and practices were dying. No other painter has so enlarged our feelings for the apple, or so complicated them, as Paul Cézanne (1830–1906), who told an admiring critic that he wanted to astonish Paris with an apple. He succeeded, astonishing more than Paris. One of his paintings, *The Basket of Apples* (c. 1893), shows about thirty apples. Another, *The Big Apples*, painted between 1890 and 1894, has six apples rising in a pyramid on a blue plate, with one-and-a-half apples to the side. Still another makes just two apples as exciting as the discovery of new planets. The colors and shapes of all Cézanne’s apples bewitch, glow rather than shine, tempt the mind rather than the appetite. Even when they resemble the color of peaches or oranges, they beg to be visually caressed, not eaten. In his essay “The Apples of Cézanne,” the art critic and historian Meyer Schapiro wrote, “In paintings of the apples he was able to express through their more varied colors and groupings a wider range of moods, from the gravely contemplative to the sensual and ecstatic.” Artists like Dürer and Cranach set the table, but Cézanne provided the fruit and gave us a feeling for the temperature in the Garden of Eden.

I often have a hard time selecting which kind of apple to buy. Maybe it’s all that seductive waxing, those overhead lights, or memory’s faulty taste. Our first parents didn’t have that problem, but the bigger one of deciding whether they “shall be as Gods, knowing good and evil.” Today we like to think we know the difference between good and evil, though the wish to be as gods is no longer part of our pantheon. Perhaps we should, like the poet Dylan Thomas, just wish to feel “young and easy under the apple boughs,” and leave it at that. ■

Harold Bordwell is a retired editor living in Evanston, Illinois.

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