

In this issue:

Cultural Broken Windows

Voter Ignorance

The Nanny State

The Adversarial System

Cultural Broken Windows

In 1969 Professor Zimbardo and his students placed a 1959 Oldsmobile in a slum area adjacent to a college in New York City and another on a street in Palo Alto across from Stanford in an affluent area. The license plates were removed and the hoods propped open to indicate the cars were abandoned. Within three days the car in New York was completely stripped, the result of twentythree separate incidents of vandalism, while the car in Palo Alto was unmolested for a week. Zimbardo and his students then proceeded to bash the Palo Alto car with a sledgehammer, prompting observers to shout encouragement and join in the vandalism until the car was completely wrecked. Lawlessness promoted more lawlessness.

In 1982 Harvard professors James Wilson and George Kelling writing in the Atlantic Monthly presented their theory about criminal law enforcement dubbed "broken windows". The idea was that if you tolerated on a regular basis the commission of petty crimes you set the stage for more serious crimes and ceded control of the area to the criminals. If you didn't repair the "broken windows", the neighborhood disintegration signalled that there was no "adult" supervision and "anything goes".

This was one of those rare sociological theories that was actually very soon to be put to a real life test. When Rudolph Giuliani became mayor of New York City in the 1990's he adopted the "broken windows" theory and implemented its recommendations. Petty crimes such as "turnstile jumping" (not paying) on the subways that had previously been ignored were vigorously prosecuted. The petty crimes of the "homeless" were prosecuted and the ubiquitous forceful automobile windshield washers and panhandlers were taken off the streets. And "broken windows" and deteriorating buildings were repaired. Vandalism was prosecuted and graffiti erased. Subway cars were cleaned up. And it worked! Wilson and Kelling had been right. Though demographic changes resulted in decreased crimes rates throughout the United States, the drop in New York City was precipitous. The cleaner

face of the city was less inviting to the serious criminals and many of those incarcerated for petty crimes were unable to graduate to more serious ones.

Toleration of "broken windows" promotes more serious criminal activity. Equally, toleration of "broken windows" in the cultural sphere promotes more serious social pathology. Over the last fifty years traditionalists have tolerated each minor wound in the social fabric as too insignificant to resist and they have suffered, as a result, the "death of a thousand cuts". Court decisions declaring unconstitutional unenforced and dormant laws prohibiting the dissemination of information on contraceptives were made, using a newly created "right to privacy". This "right to privacy" metamorphosed into a right to abortion and this right to abortion allowed no restrictions on access even to minors, free not only of a need for parental consent but even parental notification. And this right to abortion extended even to imminent birth and for what looked to all the world like infanticide. An inch was given, a mile was taken.

The removal of legal restrictions on homosexuality were followed by the flouting of such behavior in "gay pride" parades, the inability to implement public health measures such as closing bath houses or doing contact notification in the AIDS epidemic, the creation of homosexuals as a protected victim class in "hate crime" legislation, the insertion of a homosexual agenda into the schools, and, finally, the assault on traditional marriage.

At first prayers were removed from the schools and now not only all evidence of Christianity but even mention of it is forcibly removed from the public square. History is distorted to remove Christianity as a building block of our civilization and founding documents are edited to delete mention of God or religion. Currently an attack on the Boy Scouts of America as a religious organization seeks to remove an organization universally acknowledged to be a social and cultural asset from the use of public facilities. In fact, the only religions allowed in the public square are Islam and the pseudoreligion Kwanza, neither of which had any part in creating our culture and both of which are hostile to it.

What started out as an effort to protect students from overly zealous teachers at school has evolved into protecting students as a victim class. The schools, in many cases, became physical and cultural battlegrounds with an absence of respect for teachers. The acquisition of knowledge as a goal for our schools was replaced with social engineering and the instillation of politically correct viewpoints. And our educational achievements became among the worst in the developed world. The loss of authority by teachers in the schools has now moved into the home where courts intervene to decrease parental authority over children.

As all restrictions on obscenity and pornography were eliminated, scenes that were once too risqué for Playboy Magazine appear regularly in popular cinema and situations

that once were rarely addressed in polite society are the essential plot devices in commercial television. We have turned the world on its head. Conduct and speech that the majority finds offensive may not be prohibited, but conduct and speech that a minority finds offensive may. So, we have “hate crime” legislation, “speech codes” on college campuses, and “sensitivity training”, sensitivity to women not men, to blacks, browns, and greens not whites, to homosexuals not heterosexuals. We must be sensitive to the cross-dresser, the trans-sexual, and those of indeterminate gender. We must be sensitive to the homeless. We must be sensitive to the mentally retarded, oops, I mean the developmentally challenged. We must be sensitive to dwarfs and midgets, oops, I mean the vertically challenged. We must be sensitive to the insane, oops, I mean the inhabitants of alternate universes. The reader may ask if all this is merely hyperbole. No, actually virtually all of our media provide instruction manuals to their employees on the required use of sensitive euphemisms. It is impossible to exaggerate the inherently absurd.

And there is the elevation of diversity for diversity’s sake so that instead of a “melting pot” we have a Tower of Babel, not only in language but in the acceptance of cultures, no matter how primitive or hostile to our values, to an equal place at the table. We must not only tolerate but glorify intolerant Islam as its adherents threaten our very survival.

The “broken windows” we have permitted threaten the survival of our culture and civilization. A destructive conglomeration of social rebels and America haters have not only broken the windows and peeled the paint from the edifice that we have built, but now threaten the very foundation of American civilization, as they even deny its unique existence. As military commanders in days of old exhorted their troops facing barbarian hordes, “not one more inch”. *R.B.*

Voter Ignorance

Widespread voter ignorance is a fact. Repeated polls using a wide variety of criteria show an amazing lack of knowledge, not only about current issues and candidates but about the basic structure of our government. Surveys show that 70% of American adults don’t know Congress recently passed a prescription drug benefit for seniors, 75% know little or nothing about the USA Patriot Act, and 65% don’t know that Congress has banned partial-birth abortion. The majority of Americans don’t know the name of their congressman, the responsibility of the different branches of government, and the basic differences between liberalism and conservatism. This is not a problem of recent origin as in 1964, at the height of the Cold War, the majority of Americans thought the Soviet Union was a member of NATO, in 1970 only 24% could name the Secretary of State, and in 1996 94% didn’t know who William Rehnquist was. Nor are the elites attending Ivy League universities immune as a 1993 poll indicated half of the students interviewed couldn’t name their US senator. As an indication of the relative importance given to knowledge about politics or government, while in 2000 only 6% of the public could name the speaker of the House, 66% could name the host of “Who Wants to be a Millionaire?”.

Though it clearly depends on what criteria one uses, a reasonable estimate is that not more than 20 to 30 percent of the voting populace is somewhat knowledgeable about politics and government. We are constantly being told that we should seek to increase voter knowledge and make voting easier so we can increase voter participation. There are two problems with increasing voter knowledge. The first is that a sizeable portion of the adult population is too intellectually challenged and too uneducated to be capable of the acquisition of the pertinent knowledge. The second, and far more important reason, is that voter ignorance is for the most part perfectly rational. In spite of what happened in Florida in 2000 or the recent election for Governor in Washington,

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as a general rule our individual vote is of little significance. Very few seats in the House of Representatives involved real contests with incumbency virtually assuring reelection, absent death or redistricting. Not one of California’s 153 Congressional and state legislative seats changed party in the last election. In our own San Ramon Valley, gerrymandering led to the guaranteed reelection of State Senators, Assemblymen, and Congressmen and since, in overwhelmingly Democratic California, there was no contest for the Presidential electors or for United States Senator, one could argue that voting was a waste of time absent interest in local elections or ballot initiatives. As to local elections voters are even more ignorant of the candidates and ballot initiatives are deliberately so obtuse that even more effort is required to understand them. Many also do not perceive that there are significant differences between the candidates or that political decisions ultimately effect their lives. Therefore, the effort required to understand the issues is not perceived as being warranted and voter ignorance appears to be quite rational.

If a significant percentage of the electorate is ignorant, why encourage them to vote? Every effort we make to make it easier to vote (motor voting, absentee ballots) allows a higher percentage of the ignorant to vote. As part of the Civil Rights movement, educational tests for voting (used in the South to deny Blacks the vote) were eliminated and are not likely to return in the future. We are destined to have a majority of the electorate voting with no idea of who or what they are voting for or the consequences of the election. It is sometimes asserted that the vote of the ignorant tends to cancel itself out because it is distributed by a process of random selection allowing the knowledgeable to decide elections. There is not the slightest evidence that this assertion is true.

One can not even be sanguine about the vote of the knowledgeable for a sizeable portion of this group consists of dogmatists and ideologues as impervious to reasoned argument as the ignorant voters are indifferent to it. The very small number of voters open to reasoned arguments and interested in having them do not decide elections. Elections are not decided by the knowledgeable political junkies engaged in reasoned debates on the issues but by demagogic appeals to the large number of rationally ignorant

and uninvolved voters who casually make their way to the polls.

The Karl Roves, Dick Morris', and James Carvilles make their living engaging in the demagoguery necessary to sway the voters. American Blacks vote overwhelmingly Democratic though reason would indicate that Democrats are an albatross around the neck of the Black community, keeping many of their number in the uneducated and welfare dependent underclass; Jews vote Democratic and liberal and fear right wing fundamentalists, who are more pro-Israel and less anti-Semitic than the left for whom they habitually vote; urbanites and most women irrationally fear guns and vote for gun control laws in spite of data indicating gun carry laws decrease violent crime and are especially useful to protect women. Demagoguery and emotional appeals are necessary to convince voters to vote for those advocating positions contrary to their interests. Often a politician presents a picture to his electorate completely different than the one he draws at the seat of power, witness Daschle a conservative in South Dakota and a liberal in Washington.

There is no use complaining about reality. Appeals to reason based on knowledge most of the electorate doesn't have are fruitless. For those of us who believe that who is elected matters in times of global terrorist threats and domestic culture wars, skills in appealing to emotion rather than reason and catch phrases rather than logic must be mastered. Rather than complain about demagoguery we must learn to master it. *R.B.*

The Nanny State

Starting with Franklin Delano Roosevelt's "New Deal" and really hitting its stride with Lyndon Johnson's "Great Society" the modern American Welfare State has evolved into the Nanny State. Though much of the world readily accepts this turn of events, Americans, with their more independent spirit and sense that their rights are God not state given, are more resistant to governmental intrusion. But resistant or not, as time goes by we have become more accustomed to obeying the dictates of government bureaucrats.

Late night television hosts and other humorists regale us with jokes about ridiculous attempts to protect us from imaginary dangers. Last year's contest winner for ridiculous product instructions was the admonition on a toilet cleaning brush advising that it was not for personal hygiene. Other pieces of useful information appearing on products were such gems as instructions to unwrap foods before putting into toasters, to not iron clothes while still wearing them, and the warning on bicycles that they may move when being used. Inspired by a notorious recent lawsuit, instructions have appeared on cups designed to hold hot beverages warning users to not hold the cups between their thighs while driving. All these absurdities are designed to both stave off zealous government regulators and avoid lawsuits. Though we may think them funny and have a hearty laugh over them, they unfortunately reveal an underlying mindset of the nanny state that isn't at all funny.

The ultimate irony of the nanny state is its effort to protect us from the dangers lurking in life itself. Either intuitively or

expressly, we engage in life in a series of risk-benefit analyses that only each individual, not a bureaucrat of the nanny state, can make for himself. Should we fly or drive to our mother-in-law's house? Should we buy that cute sports car or that sturdy SUV? Should we go down the expert or the intermediate ski slope? If we are to be free to make the choices than simple justice requires us to bear the risks associated with those choices.

One of the early battles of the nanny state seeking to safeguard the health of its reluctant citizens was compelling motorcycle riders to wear helmets to avoid catastrophic head injuries. When this battle for individual liberty was lost, a new battle was launched and lost compelling automobile occupants to wear seat belts. The discussions about these requirements concentrated on the health benefits to the individuals subject to the new mandates. These benefits are certainly real but entirely irrelevant. The risk-benefit decision should be made by the individual concerned not the state. Those same people who favor choice in other moral debates allow no choice here.

If one brings up the individual liberty issue in these cases, the advocates for state imposition of compulsory safety regulations, where the risk is to the individual only, play their trump card. The regulations are justified because of the public health costs imposed on society as a whole when the costs attributable to injuries caused by ignoring them exceed the accident victim's individual resources. The success of this argument sounds the death knell of individual liberty. There is no human activity that doesn't ultimately effect one's health. If the state as the payor of last resort for health care can intervene in an individual's behavior in an attempt to reduce possible future health care costs, there is no liberty. The recreational activities with no obvious societal benefits that cause health risks are legion. Why should the nanny state not ban outright skiing, sky diving, mountain climbing, etc.? Why not regulate food consumption, both as to ingredients and quantities permitted? How about mandating exercises? What a "brave new world" the nanny state will give us to insure our health and safety!

The nanny state is not above concocting and distorting facts to impose its will. Thus, the bizarre and distorted statistics on secondhand smoke allowing regulations on where smoking is permitted. Here the regulations are designed to protect innocent third parties making it important to vigorously distort the data. Now the nanny state bureaucrats are realistic enough not to wish to ban smoking outright with memories of alcohol prohibition and their desire to continue to receive the taxes derived from smoking. This way the government can continue to milk the cow while it enjoys beating it unmercifully.

The ultimate in nanny state absurdities involve prescription drug approvals by the Federal Drug Administration. Here the protected consumer has his own expert, the prescribing physician. But this does not prevent the nanny state from invoking safety standards that are straight from "never-never land" and promoting more misery than safety. Instead of disseminating information, it spreads pain. Absolute safety is absolutely impossible, but the risk-benefit analyses are beyond government bureaucrats more interested in covering their behinds than in alleviating suffering. So we have seen drugs designed to relieve pain and prolong life in patients dying of advanced cancer denied

approval because of "safety concerns" instead of allowing patients with the advice of their physicians to decide whether the safety risks are worth taking.

Perhaps we should allow the last word on the nanny state to that remarkable observer and commentator on men's foibles from mid-twentieth century America. H.L. Mencken observed that the urge to save humanity is almost always a front for the urge to exercise power over others. *R.B.*

Adversarial Law

There is a tendency for men to believe that whatever is must be. We have become accustomed to having a legal system where decisions are reached after being thrashed out by adversaries in the courtroom and we have come to believe that it is the only method worth considering. But this method of decision making is counterintuitive and if one was designing a legal system from scratch one would be unlikely to select an adversarial system as the method of choice. Actually, most of the world's legal systems operate differently and it is worth while going back in time to see how our system evolved and what alternatives there are.

Law is an attempt to resolve disputes other than by the use of force. But as legal systems developed it became necessary to resolve disagreements as to facts. In those days when God was assumed to be intimately involved in the affairs of men, a method of resolving such disagreements evolved of putting the defendant to a physical ordeal with the expectation that God would intervene if the defendant was being truthful. So, for instance, a woman accused of witchcraft would be bound hand and foot and tossed into a river in the belief that God would intervene to save her if she was indeed innocent. Given a "conviction" rate in these circumstances approaching 100%, it was obvious that alternate means had to be found to discover the facts.

There arose, at least for those who could afford it, a procedure for allowing the protagonists in a legal dispute to select a champion to engage in mock combat in, once again, the belief that victory in combat would be the result of divine intervention and that would assure that justice was done and the truthful side prevailed. And, fundamentally, we have inherited this belief that combat (this time in a courtroom) between adversaries (legal champions of both sides) would result in the discovery of truth and justice being done, though we no longer invoke God's intervention as the cause.

In the adversarial system that we and most of the English speaking nations have inherited from English law, each side has an attorney dedicated to his client with a judge acting as referee to see that the rules are followed. A jury (sometimes the judge) ultimately decides which side has prevailed in the courtroom "game". Though it is often said that both attorneys are officers of the court, in reality the attorneys are to act vigorously to promote the interests of their respective clients not only independently of where the

truth actually lies, but often in spite of the truth. An attorney for a criminal defendant may argue contrary to the existence of facts he knows are true and must conceal damning facts of which he is aware.

Most legal systems in the world are very different; they are inquisitorial in nature rather than adversarial. All parties in such a system, including both attorneys, the judge himself, and sometimes even the jury, are active seekers after the true facts to which the judge applies the law. Unlike the adversarial system as it currently exists in the United States, where the rules of the "game" are of paramount importance and the true facts of only secondary importance and evidence of those facts may actually be excluded from consideration, the inquisitorial system is concerned with reality not gamesmanship.

Given the fact that the attorney under our system is compelled to be a zealous uncompromising advocate for his client, we have had attorneys plea bargain for their client using information about where his victims are buried for leverage, while at the same time denying his guilt in a courtroom and offering alternate explanations for the crime they know are not true. We have had a jury convinced of the innocence of a murder defendant after being deluged by a sea of misleading scientific evidence and irrelevant prejudicial asides as a mute and "brain dead" judge presided over the debacle.

With all the faults and absurdities of our adversarial system, with its quality of being more like a sporting event than a search for the truth, is the inquisitorial system better? Though at first glance it would seem that the inquisitorial system is preferable, a second glance reveals another side to the issue. Though the inquisitorial system is better at getting at the facts, it is also more subject to central direction and tyrannical control. In such a system all parties are really on the same side and though they are primarily all seeking to get at the truth, they may also all act as agents of the state. Under such a system there may be no one to speak vigorously for an unpopular accused, no one to prevent the overreaching of authority.

Though the adversarial system has resulted in many absurdities and often tries our patience, it stands as an impediment to totalitarian rule. Dictators arise in states that have inquisitorial legal systems and promote such systems, which make it easier for them to rule. The tradition of individual liberty we have inherited from England is also the tradition of adversarial law and jury trial. We can and should improve our system by making the legal rules more sensible, but, since John Adams defended the unjustly charged English soldiers accused of the Boston Massacre, the vision of the attorney fighting for his unpopular client and appealing for justice over the head of tyrannical rulers or the ignorant mob is one of the glories of our legal tradition. *R.B.*

