

SECURITY, TERRITORY AND POPULATION PART 6: PASTORAL POWER AND INTERIM CONCLUSION OF SERIES

A brief look at the implications of Foucault's concept of pastoral power in Western governments, and a new direction in the wake of the election.

SECURITY, TERRITORY AND POPULATION: FOUCAULT ON POWER

The focus of *Security, Territory and Population* is power as exercised by government. In a November 1980 interview, Foucault discussed his thoughts on power informally.

THE JETZON'S SELF DRIVING AUTO CAR DRONE AINT HERE YET



History shows again and again
How nature points out the folly of men.

Yeah, truer words never spoken. Even if in relation to Godzilla. And you can apply that to the relentlessly ballyhooed “autonomous driving automobiles”.

Seriously, this stuff is Henny Youngman type of slapsick comedy. It ain’t happening.

Okay, I am cribbing from Atrios, but dammit, what the hell do you think us conspiracy propagators are supposed to do??

I’m just saying these cars won’t ever (in our lifetimes – sure, eventually the singularity might arrive) really work as hyped and certainly don’t deserve all of the press they’re getting. I also don’t think that even if they did work they’d be a big improvement for all (some) of the reasons people think they will be, but those are more debatable issues which I rarely bother to debate because the fact is the things aren’t going to work. Okay, I’ll define “work.”

Basically, you have to be able to tune out 100% over 90% of the time. I’ll even allow for a “last mile” kind of “time for you to drive” thing as long as the rest of the time you can kick back and read your book or whatever. Because if you have to pay attention but usually not doing anything, what’s the point?

It's just better cruise control. A neat feature for some, but nothing more than that.

Ya. I am sure that all of you out there driving their Tesla 3's will squawk [oh, wait, they are not out yet!]. As I am sure all of you on the waiting list for Tesla 3's [good luck with that!] that is already years behind technical and production capability at Tesla are oh so defensive of the giant Elon Musk dream. Surely the dream will catch up to reality, it must!

Also, the supertrains between Los Angeles and San Francisco (okay, forget the "cheaper" stuff, that was a joke!) and between New York and Washington DC are totally gonna be ready to roll after New Year's Eve.

When the candidates talk about their totally awesome "infrastructure and jobs" proposals, maybe ask what the hell they are talking about. Because it is probably bullshit. Hold them to it.

AMERICA, FRIDAY NIGHT LIGHTS AND DITKA IS AN ASS TRASH

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sat, and then kneeled, for the Star Spangled Banner. Not sure he knew or fully intended the scope of reaction he generated, but generate it

he did. It has led to much consternation and discussion across sports, media and the nation's conscience. Not yet to the significance of the #BlackLivesMatter effort, but remarkably substantial.

"I am not going to stand up to show pride in a flag for a country that oppresses black people and people of color," 49ers quarterback Colin Kaepernick said of his decision to kneel during a pregame performance of the national anthem.

The action, which Kaepernick said was intended to draw attention to the way law enforcement, and American society in general, treats minorities, has since been adopted by other athletes, professional and otherwise, around the country.

Critics, like Donald Trump and Ted Cruz, have upbraided Kaepernick and others for an action that they say is disrespectful and unpatriotic. Kaepernick recently shot back, saying "there's a lot of racism in this country disguised as patriotism."

I always had some doubts about Kaepernick as an upper tier QB in the NFL, but nobody who has listened to him talk about his basis for doing what he has, and read about his backstory, can doubt his sincerity and motivation in what he is doing as to seeking social commentary, action and remediation.

Oh, and before you get too wrapped up in your flag, patriotism and the holier than thou national anthem, take a gander at the third verse Francis Scott Key wrote, and that is now oh so conveniently omitted from the hallowed singing of it:

And where is that band who so vauntingly swore
That the havoc of war and the battle's

confusion,
A home and a country, should leave us no
more?
**Their blood has washed out their foul
footsteps' pollution.**
**No refuge could save the hireling and
slave**
**From the terror of flight, or the gloom
of the grave:**
And the star-spangled banner in triumph
doth wave,
O'er the land of the free and the home
of the brave.

Yeah. Our precious national anthem, from the conveniently omitted third verse, to other descriptions of only "free men", was really a racist ode to slavery and oppression. Go figure. How *dare* Colin Kaepernick, or any other citizen possibly object??

Now there is a distinction, often poorly understood, between free speech, and free speech that is protected by the Constitution. The former is what we pretend to ascribe to, the latter is that which the Constitution, mostly, protects from from impingement from government law and/or censorship. There is a difference. And, no, please, do not even think about netsplaining to me that there are limits because "fire in the theater", lest I have to reach through the inner tubes and strangle the last ounce of life out of you.

Even the craven cop unions which have predictably displayed their belligerence and ignorance over national anthem protests are likely not government actors per se impinging on Kaepernick and others free speech. Unamerican jerks who have no clue what the founding principles (including life other than those in blue) stand for, sure, but that is it.

Before this morning, I might have ended there with a few more words about the dubious antics of jacked up militarized police unions. But then Hall of Fame coach and player Mike Ditka went

off in full ignorant racist bigot mode:

Anybody who disrespects this country and the flag, if they don't like our flag then get the hell out," he said on Dallas' 105.3 The Fan. "That's what I think. So if you're asking me, I have no respect for Colin Kaepernick.

Yikes. That is not the lovable, if cantankerous, "Da Bears" guy Ditka has made a living existing on. Not to be impolitic or anything, but Mike Ditka can go fuck himself. And, since we are all entitled to our opinion without having to leave the country of our birth and residence, there will be no call here for him to go elsewhere. But I'd sure rather have a thoughtful human like Colin Kaepernick, concerned about racism and fundamental rights, than a blowhard fat jackass like Mike Ditka if it came down to a choice for a neighbor.

And then I saw the story of Coach Preston Brown and the Woodrow Wilson Tigers of Camden, New Jersey. The Tigers don't play on Sunday like the oh so important NFL, nor even on Saturday with the NCAA elite. They play on Friday nights (okay, sometimes Saturdays), and make it through the week to get there through grit, determination, character and the love of their coaches, led by Preston Brown.

As the head coach of the Woodrow Wilson High School Tigers, he took on the 24-hour-a-day job of being a mentor and a father figure to 68 young men and boys who are growing up in one of the poorest cities in the US. The 31-year-old spends his own money to feed them when they're hungry. He gives them a place to stay when they have nowhere to go.

So why do so many strangers want him out of a job?

"You are a disgrace to your high school and a coward."

"I will help them fire you ... I hate you with all my heart."

"Get the f*ck out of this country if you don't like it you anti-American asshole."

Brown – a married father of three – wakes up every morning to emails, Facebook messages and voicemails questioning his intellect, his humanity, his patriotism.

For the past two weeks, the Camden City School District has received dozens of calls from across the country, calling for Brown's dismissal. A local radio personality denounced his "ignorance, shame and stupidity" on the air.

The sin that Brown committed: on 10 September, at the Woodrow Wilson Tigers' first game of the season, Brown refused to stand for the playing of The Star-Spangled Banner. Instead, he took a knee in a silent protest.

With the exception of two players, the entire Tiger football team joined him. A local sports reporter captured the incident on video – a row of players kneeling in their black and orange uniforms – and posted it online. By evening, the story had gone viral.

Ain't that America? It is not all little pink houses and white picket fences. The American ethos will not succeed from the top down. Decades of income inequality, land barons, corporate depravity and arrogant Trumpism have proven that. It will come, if at all, from the streets and ground up.

Read the full story. I implore you, read the thing. It is long, but oh so worth it. Preston Brown is a man, a teacher, a leader, and everything that is America. At least that we are supposed to cherish and that we deign to claim with the drumbeat of "American exceptionalism".

Colin Kaepernick and Preston Brown clearly don't know each other in the least. but while Kaepernick started a valuable conversation, let the story of the Preston Browns, and the students he is shaping, be the bigger story. And that is the thing, a single man like Brown or Kaepernick can start a fire, even tend it somewhat, but it is up to those it touches to absorb the heat and take it further. So, for all the focus on Preston Brown, let the admiration also be for the students and players at Woodrow Wilson High who are buying into the message and taking it to heart. This is how a difference is made, both small and large.

Okay, moving along to the games, there are a few good choices in the NCAA. The best of the lot is probably Wisconsin at Michigan State. Sparty, despite their 2-0 record looks off this year, and the Badgers look on. But the game is in East Lansing, so I rate it a pick em. Georgia is at Ole Miss, and I will take the home team in an upset. Jim White's Gators are at Neyland stadium to take on the Vols. Shaky on this, but will take another home team for the upset. And then there is the Stanford Trees at UCLA. There is an old joke that goes "what happens when the smog lifts in Southern California"? The answer is "UCLA". Okay, lame joke, can't pick against a McCaffrey, but this has trouble for the Trees written on it.

In the pros, Jacoby Brissett and the unstoppable Patriots have already dispatched Houstonians. But Brissett injured his thumb, and I am calling for the signing of Tebow to play and win the next game. That would *truly* cement the Belichick legacy. Broncos at Bengals and Lions at Green Bay will be critical games. The Cheese has looked Swiss with holes early on this season. The Kittens look dangerous. We shall see. The really exciting matchup is the Steelers versus the Eagles in Philly. Carson Wentz and the revamped Iggles under Doug Peterson have been great so far. But Big Ben, Antonio Brown and D'Angelo Williams are rolling. This should be a great game, but have to take the Stillers.

Lastly, Honey Badger and Pat Peterson are coming for these two clowns.

Music this week by John Mellancamp. That is it. Go, set forth, and make America great again (by voting against Trump).

9/11: A STORY OF ATTACKS, HORROR, VICTIMS, HEROES AND JINGOISTIC SHAME

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, 2001 is now 15 years in the mirror of life. Like the two Kennedy assassinations, the Moonshot and a few other events in life, it is one of those “yeah I remember where I was when...” moments. Personally, being on west coast time, I was just waking up thinking all I had was a normal morning court calendar. When my wife, who gets up far earlier than I, shouted at me to rub out the cobwebs and watch the TV because something was seriously wrong in New York City. She was right. It was a hell of a day, one of unspeakable tragedy and indescribable heroism. It was truly all there in one compact day, unlike any other, save maybe December 7, 1941.

2,996 people lost their lives, and their families and history were forever altered in the

course of hours on an otherwise clear and beautiful day in Manhattan. Most were simply innocent victims, but many were the epitome of heroes who charged into a hellscape to try to salvage any life they could. There were other heroes that altered their lives in response, and either died or were forever changed as a result. One was a friend of mine from South Tempe, Pat Tillman.

No one can speak for Pat Tillman, and, save for his family, those who claim to only prove they never met the man. All I can say is, I wish he were here today. The one thing that is certain is he would not give the prepackaged trite partisan reaches you are likely to hear today. It would be unfiltered truth. Which the US did not get from its leaders after September 11, 2001, and is still missing today.

Instead of rallying and solidifying the oneness of the American citizenry that was extant immediately after September 11, 2001, the Bush/Cheney Administration and GOP told us to go shopping and that we needed to invade Iraq, who had nothing whatsoever to do with 9/11. It was a fools, if not devil's, errand and a move that threw away an opportunity for greatness from the country and exploited it in favor of war crimes and raw political power expansion and consolidation.

Instead of gelling the United States to make ourselves better as the "Greatest Generation" did sixty years before, America was wholesale sold a bill of goods by a determined group of unreformed and craven Neo-Con war criminals left over from the Vietnam era, and we were led down the path to a war of aggression that was an unmitigated disaster we have not only not recovered from today, but are still compounding.

The 2000's will prove to be a decade of American shame when history is written decades from now. Not from the attacks, but from our craven response thereto. So, pardon me if I join Colin Kaepernick and choose not to join, every Sunday, just because the Madison Avenue revenue

generating NFL of Roger Goodell cravenly exploits it, the jingoistic bullshit of rote dedication to a racist National Anthem. Also, too, shame on opportunistic and Constitutionally ignorant whiny police unions who scold free speech and threaten to abandon their jobs in the face of it.

But
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Taking
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, nee the world, to a forever war on the wings of a craven lie is universally recognized, condemned and scorned, right?

No. The Neo-Cons are unrepentant and still trying to advance themselves on the lie that their once and forever war justifies more than their prosecution and conviction in The Hague. Here is a belligerent and unrepentant Dick Cheney passing the torch of evil to his spawn Liz Cheney in the august pages of the Wall Street Journal:

We are no longer interrogating terrorists in part because we are no longer capturing terrorists. Since taking office, the president has recklessly pursued his objective of closing the detention facility at Guantanamo by releasing current detainees—regardless of the likelihood they will return to the field of battle against us. Until recently, the head of recruitment for ISIS in Afghanistan and Pakistan was a former Guantanamo detainee, as is one of al Qaeda's most senior leaders in the Arabian Peninsula.

As he released terrorists to return to

the field of battle, Mr. Obama was simultaneously withdrawing American forces from Iraq and Afghanistan. He calls this policy "ending wars." Most reasonable people recognize this approach as losing wars.

Times may change, but the bottomless pit of Cheney lies and evil do not. As Charlie Savage pointed out on Twitter, the two terrorists the Cheneys refer to were actually released back to the "field of battle" by Bush and Cheney, not Obama. Was Obama involved in the story? Yes, he would be the one who actually tracked them down and killed them.

And then there is the failure to learn the lessons of the failed torture regime Bush and Cheney instituted as the hallmark of the "War on Terror". Our friend, and former colleague, Spencer Ackerman has a must read three part series over the last three days in The Guardian (Part One, Part Two and Part Three) detailing how the CIA rolled the Obama Administration and prevented any of the necessary exposure, accountability and reform that was desperately needed in the aftermath of the torture regime and war of aggression in Iraq. It will take a while, but read all three parts. It is exasperating and maddening. It is also journalism at its finest.

And so, as we glide through the fifteenth anniversary of September 11, what are we left with from our response to the attacks? A destabilized world, an ingraining of hideous mistakes and a domestic scene more notable for jingoism and faux patriotism than dedication to the founding principles that America should stand for.

That is not what the real heroes, not only of 9/11 but the totality of American history, died to support and protect. In fact, it is an insult to their efforts and lives. If America wants to win the "War on Terror", we need to get our heads out of our asses, quit listening to the

neocons, war mongers, and military industrial complex Dwight Eisenhower warned us about, and act intelligently. This requires a cessation of adherence to jingoistic and inane propaganda and thought, and a focus on the principles we are supposed to stand for.

SURROGATING THE 2016 AMERICAN PRESIDENCY

Tonight was the opening of the Democratic National Convention. It was a rather stunning difference from the scenes on the street yesterday and today, where there were minimal and well behaved cops in Philly as contrasted with the warrior cop oppressive stormtrooper presence in Cleveland. From my reporter friends from the Arizona Republic, the food is totally better in Philly too. Hey, armies move on food, and cheesesteaks rule.

Is everything coming up roses? Nope. There was the whole Debbie Wasserman Schultz thing. She was well advised by our friend David Dayen to stay away and excommunicate herself from the convention podium. But, crikey, the rest simply looks beautiful. Sanders supporters marching in the streets for change, mostly unfettered and unoppressed, other voices being heard, and all relative delegates meeting and co-existing in the halls. This ain't the dysfunctional RNC bigoted shit show. That, in and of itself, would be worth this post. There is more.

Don't let cable coverage and the relentless yammer of their panels of self interested toadies fool you, the few true camera pans at the RNC showed more than a few empty seats and a far smaller crowd (especially in the upper decks) than displayed tonight at the DNC.

The real tell, in difference, was in the quality

of the speakers and presentation. The only lasting memory from the RNC's opening night was the embarrassing plagiarism in Melania Trump's speech. Honestly, my bet is that is not on her, but the understaffed and idiot handlers her narcissistic, yet bumbling, husband provided. That said, it was a *res ipsa loquitur* deal and, in the end, spoke for itself. What else do you remember from that night other than Tim Tebow did not appear? I got nuthin.

The first night of the DNC in Philly, however, came with a litany of decent and well presented folks presented to a full and energetic hall. Emphasis on full. The dynamics in staging and presentation were stark. As were the quality and mental coherence of the speakers. The first electric moment came when Sarah Silverman, who along with Al Franken, was doing a bit and intro to Paul Simon singing (a geriatric, albeit mesmerizing) Bridge Over Troubled Water. Silverman and Franken had to kill an extra 120 seconds or so and she blurted out some hard, and real, truth that her fellow Bernie Sanders supporters who refuse to help Clinton defeat Trump are flat out "being ridiculous". Truer words have never been spoken.

But soon came Michelle Obama to the podium. I am not sure I have the words to describe how good Michelle was. As a convention speaker, a surrogate, a leader, a mother and as a First Lady embodying all of the above. Michelle Obama killed it. She blew the joint up. I don't know how else to describe it, but if you did not witness it live, watch the video up at top. Just do it.

Frankly, at the conclusion of Michelle Obama's speech, it was hard to see how the last two key speakers, Elizabeth Warren and Bernie Sanders, could possibly top the moment. Sadly, they could not. Liz Warren gave a great, and often in depth, speech. One that absolutely slayed Donald Trump in nearly every way. On its own, it would have been noteworthy. But sandwiched between the brilliance of Michelle Obama and Sanders, with

his acolytes cheering and hers still reeling, it seemed good, but not great.

Bernie Sanders caught a little more fire, but mostly because of his young contingent of supporters. And that is not just a good thing, it is a great thing. Sanders did everything, and more, he should have done in this speech by ginning up the classic points and issues his campaign, and its followers, were built on...and then transferring them to Clinton.

It did not work perfectly, but this will be a process up until the election date on November 8. Bernie went a long way, gracefully and patiently, tonight. And, while the cheering crowd appeared to be much more than just the "Sandernistas", all of the hall seemed to get on board. That, along with Sarah Silverman telling holdout Bernie Busters to wake up and not be ridiculous, were giant steps in unifying support for Clinton over Trump.

Listen, I have been around the block a few times, and know I am supposed to lead with the headline. Sorry, this one worked up to it, and here it is. The RNC and Trump got their lousy bounce because the media, once again, cravenly portrayed what happened in Cleveland as normal, and tit for tat, with what is happening, and will happen, in Philadelphia. That is simply a ratings and craven click germinated lie. The difference is stark.

Nowhere is it more stark than in the picture painted as to the surrogates who will come out of the respective conventions to campaign for their respective candidate between now and November 8.

Um, let's see, for the GOP we have Newt, Carson, Melania, Thiel, Flynn, Joe Arpaio and Chachi Baio. I excluded Ivanka because she might actually be competent. Seriously, that is basically it for Trump surrogates. From the whole convention. Even Clint Eastwood's chair took a pass in this, the year of the Orange Faced Short Fingered Vulgarian Bigot.

Let's compare that with what came out of the Democratic Convention's first night. Sarah Silverman, Al Franken, Paul Simon, Eva Longoria, Corey Booker and, then, the big three...Michelle Obama, Liz Warren and Bernie Sanders. That is just the first night folks.

See a bit of a dichotomy in personality and credibility there?

Then picture that Clinton's road warrior surrogates will include not just the above, but also Joe Biden, President Barack Obama and the Big Dog himself, Bill Clinton.

Elections are won in the trenches. Say what you will about Hillary Clinton, and I will probably join you on many negatives, but the Clintons do have a ground operation. And their surrogates are like the 1927 Yankees compared to the Bad News Bears for Trump and the RNC. How will Trump bolster his bench, by bringing in Roger Ailes to molest the women of America? Is there another ground plan for the Trump Juggalos?

Sure, Clinton can still muck it up and lose. She, and the DNC, have been beyond pathetic in how they have treated nearly half their party, and much of their activist base, during the primaries and aftermath. Not just ugly, but stupid. They deserve any hell they get for that, whether it comes from appropriately enraged Sanders supporters or from press reporting on hacks (THE RUSSIANS ARE COMING, THE RUSSIANS ARE COMING!!!)

Bottom line is this: Which set of surrogates would you think would do a better job spreading out over the country: Crazy Newt, Racist Flynn, Bigot Arpaio and Chachi, ... or Michelle Obama, Liz Warren, Bernie Sanders, Barack Obama and Joe Biden?

Think I will go with the latter, and I think they will reach a heck of a lot more voters who will actually engage than will the trite and petty bigots Trump will have on the public offer.

And the Dems have a laundry list of other quality surrogates who will stand up. Trump has apparent Klan worthy members like Jeff Sessions, felons like Don King and Mike Tyson, and people who seek to be them.


Who you gonna call when it comes time to vote?

Seems like an easy decision, especially when you consider that the next 30 to 35 years of ideological control of the Supreme Court hang in the balance.

THERE'S NO [EASY] EXIT

Not an European scholar or sage. Have tried to pay attention to the Brexit question across the pond, but unsure how well I have done so. Generally, however, it has struck me that, given real problems either way for the Brits, the best choice was to stay in the EU.

Really, there was a definitive majority to join then, so what is the plan now?



Tell me why the secrets have disappeared
cover up the traces of wasted years,
the traces of wasted years
...
build it up
alibies for the damned
hide away
don't ever reveal your plan.


So, what is the plan now for the always diminished, but oh so egotistically adventurous Brits, given they are woefully short on empire and hegemonic power? Oh so much like the terminally behind the queue United States?

Isn't that a lesson the US ought not heed? If not decades ago, maybe finally now?

The UK may be leaving the collective, but do

they really have an exit plan? The number of modalities in which they simply cannot have a great and immediate plan are too number to plow through.

There is no easy exit. Despite the vote in the UK. Germany and France make it clear this is not easy.



Lock it up,
standing behind closed doors
give it up,
no hiding place anymore

The value of the British pound and stock prices in Asia plummeted as financial markets absorbed the news.

I don't know how it is going to be in the UK going forward. But if the vote is what it looks, the Brexit has definitively occurred, the only question now is what happens.

On the whole, pretty scary proposition, and the effort to get there seems much like the brain dead Trumpian movement afoot here in the States; i.e. shortsighted, uninformed and stupid. Hope I am wrong.

But here we all are, on both sides of the pond, looking inordinately stupid and shortsighted.

The world is being consumed by Trumpalos and Juggalos.

There is no exit.

[If you don't know this band in the video featured, you should. They are The Angels, and this song is perfectly prescient for today even if from long ago.]

REAGAN'S REPUBLICAN REVOLUTION AND THE DEATH OF THE AMERICAN DREAM

On August 3, 1980, Ronald Reagan delivered a watershed speech (pdf) as the presidential campaign entered its final three months. The most often-quoted passage of the speech is his siren call to states' rights:

I believe in state's rights; I believe in people doing as much as they can for themselves at the community level and at the private level. And I believe that we've distorted the balance of our government today by giving powers that were never intended in the constitution to that federal establishment. And if I do get the job I'm looking for, I'm going to devote myself to trying to reorder those priorities and to restore to the states and local communities those functions which properly belong there.

As William Raspberry noted on the occasion of Reagan's death in 2004, both the call for states' rights and the location chosen for delivering the speech had powerful racial overtones:

Philadelphia, county seat of Mississippi's Neshoba County, is famous for a couple of things. That is where three civil rights workers – Michael Schwerner, James Chaney and Andrew Goodman – were murdered in 1964. And that is where, in 1980, Republican presidential candidate Ronald Reagan chose to launch his election campaign, with a ringing endorsement of “states' rights.”

It was bitter symbolism for black Americans (though surely not just for black Americans). Countless observers have noted that Reagan took the Republican Party from virtual irrelevance to the ascendancy it now enjoys. The essence of that transformation, we shouldn't forget, is the party's successful wooing of the race-exploiting Southern Democrats formerly known as Dixiecrats. And Reagan's Philadelphia appearance was an important bouquet in that courtship.

Raspberry rightfully notes the Southern strategy preceded Reagan, originating during the Goldwater and Nixon campaigns and he even noted that when considering Reagan, Raspberry "used to find myself almost believing he wasn't truly responsible for the bad outcomes of his policies." But the bottom line is that the movement Reagan catalyzed had horrific racial consequences. Even worse, the Reagan movement also initiated changes that in the intervening 36 years have resulted in the virtual destruction of the middle class and the transfer of most of America's wealth into the hands of a very select few.

Even the pivotal Philadelphia, Mississippi speech sowed the the seeds for this destruction, as well. The very next paragraph in the transcript after the snippet quoted above shows how the process started:

I'm going to try also to change federal regulations in the tax structure that has made this once powerful industrial giant in this land and in the world now with a lower rate of productivity than any of the other industrial nations, with a lower rate of savings and investment on the part of our people and put us back where we belong.

Going back to look at the historical record on

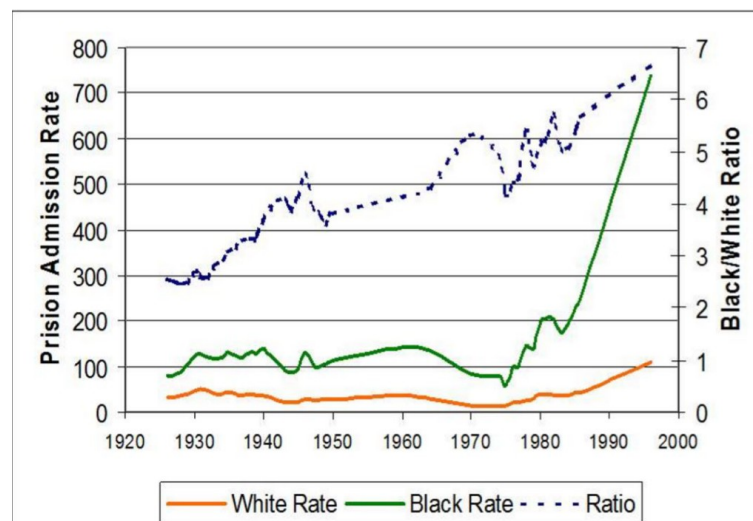
several fronts shows how these basic tenets of Reaganism from his Philadelphia speech resulted in massive institutional racism and the destruction of the middle class.

Racism

The powerful Republican dog-whistle of states' rights was implemented in the Reagan era on many fronts, but is illustrated most succinctly when we look at data on imprisonment of Americans.

The figure below, from the Prison Policy Initiative, has been making the rounds recently as the Sanders and Clinton camps have argued over the effects of the 1994 crime bill passed during Bill Clinton's first term:

There is an uptick in state prison population in the 1970's that is attributed to Nixon's War on Drugs, but the rate doesn't exceed historical bounds until the momentum from the wave of Reganism hit the states after the 1980 election. States began filling prisons at an unprecedented rate. But states were not imprisoning people randomly. The racial breakdown of those imprisoned is staggering:




Again, as seen in overall state prison populations, the increase in incarceration of black citizens starts in the 1970's but only exceeds historical bounds in the 1980's and beyond. [Note: I am fairly certain that this figure is based on Bureau of Justice Statistics data and have included a link to the blog from

which I lifted it, but I have not been able to find a credit for who prepared it. If anyone finds the original source, please provide a link in comments.]

It's not a huge stretch at all to see the implementation of states' rights here. States chose to use their rights imprison blacks. At the same time this was happening, the newly racist Republican Party was making massive gains in the south. This figure from Ballotpedia summarizes the process very well:

So as more Dixiecrats became Republicans in the south, Republicans came to dominate elections there. And prospects for that changing are very bleak, as their overwhelming majorities are now ensured through gerrymandering. Stephen Ansolabehere of Harvard and Maxwell Palmer of Boston University analyzed gerrymandering over the past 200 years (pdf). They found that currently, about 20% of districts are gerrymandered as badly as the original that lent the process its name:



This pattern has been fairly steady over the past 200 years, but has worsened since the 1970s. We also show a strong relationship between non-compact districts and Democratic vote share in Congressional elections; Democratic districts tend to be less compact than Republican districts.

In cementing their power, southern Republicans have gerrymandered districts to the point that very few elections in the south are closely contested any more. By making very non-compact Democratic districts, they have cut minority votes out of districts where they could provide some balance and moved them into districts that are very few but overwhelmingly Democratic.

Tax Rates and Wealth Transfer

Reagan was able immediately to carry through on his stated desire to change tax rates. And his impact on rates has been lasting:

In two steps, Reagan lowered the highest marginal tax rate from 70% to less than 30%. This was a massive windfall for the wealthy. Even worse, before Reagan left office in 1988, the tax rate for the lowest income group went up from the zero level when he entered office.

Of course, income tax policy alone doesn't account for all of the wealth transfer that has taken place since Reagan took office, it is merely one facet of the overall process. The end result, though, is staggering and wealth transfer from the lower 90% of Americans to the top 0.1% most definitely began its devastating current effect in 1980:

Note that from the 1940's to the early 1970's, wealth for the top 0.1% held steady while the bottom 90% saw a steady increase in their overall wealth. The top 0.1% took a slight hit in the later 1970's, but then reversed course just before 1980, with their increase really accelerating in the Reagan years. Remarkably, the lower 90% still saw their wealth increase early in the Reagan years, but began a precipitous decline right as the lowest income earners began being taxed again late in Reagan's second term.

The end result today of this process of wealth transfer is devastating. With no more middle class, we have seen a recent uptick in deaths from drug use and suicide among the former working class whites as the stark lack of options becomes clear:

The least educated also had the most financial distress, Dr. Meara and Dr. Skinner noted in their commentary. In the period examined by Dr. Deaton and Dr. Case, the inflation-adjusted income for households headed by a high school graduate fell by 19 percent.

Dr. Case found that the number of whites with mental illnesses and the number reporting they had difficulty socializing increased in tandem. Along

with that, increasing numbers of middle-aged whites said they were unable to work. She also saw matching increases in the numbers reporting pain and the numbers reporting difficulty socializing, difficulty shopping, difficulty walking for two blocks.

With the pain and mental distress data, Dr. Deaton said, "we had the two halves of the story." Increases in mortality rates in middle-aged whites rose in parallel with their increasing reports of pain, poor health and distress, he explained. They provided a rationale for the increase in deaths from substance abuse and suicides.

Given the desperate state of affairs for most Americans, it seems no surprise that two of the three highest polling candidates in the 2016 election are seen as revolutionary figures. Both campaigns of revolution seem to depend quite a bit on the realization that the middle class has been excluded from both wealth and political power. The Trump and Sanders campaigns, however, have very different takes on how we got where we are. This tweet by Dan Froomkin quoting and responding to one by Greg Sargent sums it up perfectly:



Given the dire state of affairs for the bulk of Americans and the increasing realization that

the current status quo allows little or no hope of improvement, it's hard to see how 2016 doesn't become another inflection point on many fronts of society. It is my sincere hope that this time the huge changes result in better conditions for our fellow citizens, but there is no way to predict how it will play out.

Closing Caveats

I'd take Raspberry's early musings about Reagan a bit further and say that we don't have to declare whether we think Reagan intended for his political movement to have the devastating consequences that followed. In fact, as mentioned, much of the early racism of the Southern strategy predated Reagan's run. But we cannot be mistaken about the fact that the political climate created by Reagan's movement did indeed bring about these changes and that many of the more recent participants seem to be much more overt about their intent.

Many will also argue that the few fronts on which I've chosen to present data are not the only moving forces that got us to where we are today and that many factors beyond Reaganism are responsible. The fact remains however, that at least for the areas discussed here, there is a remarkable coincidence in time between the Reagan movement ascending to power and these measures of well-being starting their horrific decline.

EL NINO SCALIA

Antonin Scalia is dead. Say what you will, there is no rejoicing from me. Was Nino a malefactor in Supreme Court jurisprudence over the decades since his confirmation on September 26, 1986? Yes, and an irascible one as well. Once Bork got Borked, Scalia was the whipping post for all liberals, on the continuity of the spectrum. Did

he earn that status? Yes, and maybe then some.

The hagiography of Nino is already quite well underway. I was out shopping for garden/landscaping things and had no idea until called by Marcy. It still took me a while to get back and dive into this. There are a million takes already underway on the net and in the press, such as the press may be these days. If you want a recap of the same old, this ain't it. And, for now, what I have to say is not all that long or extricated.

First off, let's talk about Scalia the man and Justice. As said above, once Bork got Borked, there was going to be a piñata for liberals (like me) to pound on. And, over the years, boy have I, and we, done just that. And for, mostly, good reason.

But anybody can blabber about what a prick Nino was. Fairly. But, in the current context, I want to do something different. As loathsome as Scalia often was, he was still somewhat of a hero to people that practice actual criminal law. No, not across the board, but enough that it ought be mentioned and left as a part of his legacy.

Why? Okay, this is a quick take:

Fourth Amendment: There is actually a long thread of Scalia decency on Fourth Amendment issues over the years. I have had occasion to quote him from both majority and dissents frequently. But, most recently, you can probably relate most easily to *United States v. Jones*, *Riley v. California* and, significantly, *Kyllo v. United States*. Now Scalia only penned *Jones* and *Kyllo*, but his fingerprints were all over *Riley* too. This is just my opinion, but I am not sure that a lesser conservative justice on the court would have seen these decisions through, and allowed them to be as consensus as they were.

One law professor, Tim MacDonnell, put it this way:

■ Since joining the United States Supreme

Court in 1986, Justice Scalia has been a prominent voice on the Fourth Amendment, having written twenty majority opinions, twelve concurrences, and six dissents on the topic. Under his pen, the Court has altered its test for determining when the Fourth Amendment should apply; provided a vision to address technology's encroachment on privacy; and articulated the standard for determining whether government officials are entitled to qualified immunity in civil suits involving alleged Fourth Amendment violations. In most of Justice Scalia's opinions, he has championed an originalist/textualist theory of constitutional interpretation. Based on that theory, he has advocated that the text and context of the Fourth Amendment should govern how the Court interprets most questions of search and seizure law. His Fourth Amendment opinions have also included an emphasis on clear, bright-line rules that can be applied broadly to Fourth Amendment questions. However, there are Fourth Amendment opinions in which Justice Scalia has strayed from his originalist/textualist commitments, particularly in the areas of the special needs doctrine and qualified immunity.

I do not agree with everything in MacDonnell's article, but it is quite good and his dubious context is spot on. Scalia has been more than prominent in Fourth Amendment jurisprudence since his time on the court. I have serious issues with many of the "exceptions" he has bought off on in the name of police expediency, but I can, and do, imagine a different justice being far, far, worse on the Fourth (can you say "Alito"? Of course you can). So, there is that. But, by the same token, I remember coming out of court and getting informed of the *Kyllo* decision. Several drinks were hoisted to Scalia that afternoon and night.

Then, there is the Sixth Amendment. This is an area on which Scalia gets scant attention and credit for. And, yes, if you practice criminal law, it is one of critical importance, whether pundits or the press realize it or not. Because if you happen to actually do criminal jury trials (or bench for that matter), you know the critical importance of being able to confront and cross-examine the witnesses and evidence against your client, the defendant. I have cited Scalia's words, both successfully and unsuccessfully, for a very long time on confrontation issues. But the successes I, and clients, have had owe in large part due to Scalia. Here is a bit from David Savage, of the LA Times, from 2011 that summarizes Scalia's Confrontation Clause championing about perfectly:

The 6th Amendment to the Constitution says the "accused shall enjoy the right ... to be confronted with the witnesses against him." To Scalia, this clause not only gives defendants the right to challenge actual witnesses, but also the right to bar testimony from all those "witnesses" who did not or cannot testify in court. He takes this view even if the witness is dead.

Three years ago, Scalia led the court in reversing the murder conviction of a Los Angeles man who shot and killed his girlfriend. A police officer testified the victim had reported that Dwayne Giles threatened to kill her. Scalia said that testimony violated Giles' rights because he could not confront or cross-examine her.

"We decline to approve an exception to the Confrontation Clause unheard of at the time of the founding," Scalia said for 6-3 majority. This went too far for liberal Justices John Paul Stevens and Stephen G. Breyer.

Two years ago, Scalia spoke for a 5-4

majority reversing the conviction of an alleged cocaine dealer from Massachusetts because prosecutors did not bring to court a lab analyst whose test confirmed the bags of white powder were indeed cocaine. The dissenters, including Chief Justice John G. Roberts Jr. and Justices Anthony M. Kennedy and Samuel A. Alito Jr., said a lab technician who conducts a test is not a “witness” in the ordinary sense of the term.

In June, the court went one step further. The Scalia bloc, by a 5-4 vote, overturned the drunken-driving conviction of a New Mexico man because the lab analyst who testified about his blood alcohol did not actually work on the defendant’s blood sample. He put together an odd-couple coalition with Justices Clarence Thomas, Ruth Bader Ginsburg, Sonia Sotomayor and Elena Kagan.

“This is not a left-right split. This is principle versus pragmatism,” said University of Michigan law professor Richard Friedman.

Frankly, Scalia has only reinforced that since late 2011 when Savage wrote said words. If you practice in a criminal trial courtroom, you owe a debt of gratitude to Antonin Scalia for your ability to still confront and cross-examine witnesses and evidence. I don’t think it is hyperbole to say that, without Scalia, this fundamental procedural right would be totally shit right now.

So, this is but a nutshell of the greater whole, and I am still trying to catch up. But those are my thoughts for now. Do not get me wrong, Antonin Scalia was never, nor will ever be, my favorite, nor even an overall positive Supreme Court Justice in my eyes. There is too much malignancy and caustic history from Scalia, on

far too many fronts, for that to ever be the case. But the man is not yet even in the ground, and there were a couple of important positive things to say before the ultimate obituary is written.

And, on one other note, let's keep in mind that the warm and fuzzy stories of Scalia with Ruth Bader Ginsburg, from court interaction, to opera to shooting at animal trips is not the only history of Nino Scalia and women on the Supreme Court. He was, certainly less famously, in some instances, a frat boy jerk to Sandra Day O'Connor. So, take the lionization of the Kagan relationship with a healthy grain of salt.

Antonin "Nino" Scalia was a flawed, but important man. He is now gone. So, the biggest issue is, what happens now? Republican leadership did not have to announce that they will stall their asses off and try to prevent the confirmation of ANY nominee that Obama would put up. Frankly, that went without saying in today's Congress.

But, can they do that, will there be no Obama SCOTUS nominee confirmed, no matter what? I would not be shocked if that were not so. By the same token, the longest a confirmation battle has ever taken to confirm a SCOTUS Justice is 125 days (Obama has 361 left).

Obama has already said he will make a nomination, and I believe he will. If I had to bet right now, my bet is that the nominee is Sri Srinivasan. I have long thought this, and Sri, while being a decent guy, is a dead nuts centrist, barely a "liberal" at all kind schlub that Obama loves. But I doubt the crazed GOP led Senate would confirm even a milquetoast centrist like Srinivasan. Let other speculation begin now even though the chances of confirmation of any nominee are close to nil.

Irrespective, the primary, and certainly the general, elections just got FAR more interesting. Frankly, this is the only part of the election I was really worried about from the

get go. Now it is squarely on everyone's plate.

CHRISTMAS AT THE WHEELHOUSE, AND A GIVING OF THANKS

Here we are at yet another Christmas. We have been doing this a long time now, and even longer for those that go back to The Next Hurrah. Yes, we are all getting old together. But let that be painfully, fitfully and difficult for the government, corporate and political forces. And that battle is not done yet.

We are all for the better for gathering here. So, to one and all, thank you. It means everything to us. Seriously. And the Merriest of Christmases to one and all, no matter what your faith or following. It is a season for sharing and love, and we send that to one and all.

With that said, let's give thanks to one and all, not only here, but who have come and left. There are so many friends that have come and, sadly, departed there is no good way to cover one and all. There have been so many.

We can only say thanks to one and all. It is one thing to have a forum to talk to people. It is yet another where people both listen and interact positively and brightly better than what you ever hoped. That has been the hallmark here from the start. Thank you for that. And, a Christmas Eve should never go without a mention and thank you to our early friend and colleague, Mary, who left us on Christmas Eve 2011. Vaya con dios Mary Beth Perdue, you are still remembered and missed.

For all, sincerely, thanks, both for the year that was, and the time to come. Be well.