Scalia and the Intent of Law

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A crucial, systemic, and deadly element of constitutional fraud, permeates and subsumes the most notable rulings bearing upon criminal justice, political, and economic issues, among those uttered by the U.S. Supreme Court's Associate Justice Antonin Scalia. For reasons I shall identify here, Scalia's avowed doctrine of "textualism,"[1] if continued in practice under presently onrushing conditions of deep financial crisis, leads, quickly, either to a self-doomed fascist dictatorship, or a rapid descent of society directly into chaos.

If Scalia's dogma were to continue to define the majority view of the U.S. Supreme Court, an early slide into chaos could occur simply as a result of a specific political inability of the incoming government: its inability to muster the kind of political support needed for any of those kinds of legislative and other measures, by means of which our nation could be saved from the now rapidly accelerating threat of financial and economic chaos. No effective measures to deal with this present crisis, could be taken, without overriding promptly virtually every principle which Scalia has presently come to represent in that Court.

1. Speech at Catholic University of America, October 1996, entitled "A Theory of Constitutional Interpretation." See ***EIR,*** Dec. 22, 2000, p. 48. Nominal Catholic Antonin Scalia thus situates himself as following English radical empiricists such as Hobbes, Locke, Hume, Bertrand Russell, et al., to the same general effect as we see among those currents of nominally Catholic thought influenced by fascist ideologues such as Friedrich Nietzsche and Nazi philosopher Martin Heidegger, and the influence of F.K. Savigny's Romantic School of law in Spanish-speaking circles. Thus, the fascist streak in Scalia is to be precisely identified as belonging to the British school of Romanticism, whereas Carl Schmitt typifies the continental school of Romanticism.

During the recent thirty-four years, since the 1966 launching of the pro-racist, Nixon Southern Strategy, there has been an accelerating trend toward rabid irrationality in U.S. political life. Under that influence, the drift of political practice, the tendency has been to refuse to perceive any reality which might tend to forewarn one against doing whatever one has chosen, more or less arbitrarily, to do. The slogan which most often expresses that lunatic view today, is the middle to late 1960s campus draft-resister's catch-phrase, "I don't go there!"

More and more fanatically, the leading factions in U.S. political life, have relied upon concocted fairy-tale images, false to reality, but which serve to reassure both errant policymakers and a duped public opinion. The victims of such fantasies then ignore reality, and proceed with inspired confidence in fanciful, wishful images of the outcome of their improvidence. This is notably the case with the Baby-Boomer generation now in leading executive positions in public and private life: "I don't go there," he says, ignoring the warning that that bridge, which he is defiantly accelerating to drive across, has been washed out.

The recent trend could be summed up: "No matter what you say, we are going to do it. It will happen, because that is the only outcome which is consistent with our fantasy." Such were the "new economy" and "soft landing" delusions spread during the crucial ten months of the recent Presidential election-campaigns. Such, at least at the present moment, are the hell-bent inclinations of what we are reasonably assured will be the new Bush Administration. So, in wiser times past, it was often said, that buckwheat is likely to break, because it will not bend to the forces of reality. It stands upright, proud and stubborn, saying, "I don't go there!" until the moment the next gust comes, when it then falls, silent forever. So, the

sullen wind blows gently across that wasted field, where candidate Gore once stood.

The same deluded state of mind, characterizes the trend in the current majority of the U.S. Supreme Court. "The Earth will stand still because we order it to do so," fairly describes the aroma from those Olympian quarters. Such has always been, to the present day, the fatally tragic character of Aeschylus' Zeus.

The practical political question of law, as of other measures of statecraft, then becomes: By what methods are such pitiable consequences of Scalia's dogmas to be prevented?

I broadly concur, as far as they go, with the choices of those leading points of argument against Scalia's method, which were presented by the dissenters to the recent majority position of the Court.[2] However, the defenders of our republic could not deal effectively with the danger to our republic which Scalia's argument represents at this time, without going much more deeply into the issue than those dissenting members did on the admittedly hasty occasion of the Court's summary ruling in the matter of the Florida election.[3] The indispensable role to be played by adding my specific arguments on those issues, will be made clear in the course of these pages.

The nub of the matter is, summarily, this.

Given the implications of the grave financial crises faced by the U.S.A. today, the crucial fact of greatest importance concerning Scalia's doctrines on law, is that his political and legal outlook is identical, on all crucially relevant points of comparison, to the legal dogmas used to bring Adolf Hitler to power during a roughly comparable period of grave financial crisis in Germany. Specifically, Scalia expresses the same explicitly Romantic dogmas of the pro-fascist "conservative revolution" of G.W.F. Hegel, Friedrich Nietszche et al.,[4] which Scalia has imitated, in keeping with the model precedent of the so-called "Kronjurist" of Nazi Germany, Carl Schmitt. That is the Schmitt who was the legal architect of the doctrine creating those dictatorial powers given, with "finality," to the Nazi regime of Adolf Hitler.[5]

2. See Edward Spannaus, "Fact Sheet: LaRouche on U.S. Supreme Court Election Ruling," ***EIR,*** Dec. 22, 2000, which outlines LaRouche's points of agreement, and disagreement, with the dissenting opinions in *Bush v. Gore*. Most notable with respect to Scalia's method, were two points made in the dissents. Associate Justice Stephen Breyer explicitly criticized Scalia's method of resorting to "plain text" in his interpretation of the meaning of the U.S. Constitution. Associate Justice John Paul Stevens cited the majority's decision to terminate the Florida recounts "in the interests of finality."

3. The timetable for the Supreme Court's ruling was extraordinarily rushed. On Friday, Dec. 9, the Florida Supreme Court issued its ruling ordering an immediate manual recount of tens of thousands of ballots. Bush's campaign immediately appealed to the U.S. Supreme Court, seeking an emergency injunction to halt the recounts. On Saturday, Dec. 10, the U.S. Supreme Court issued a stay, terminating the recounts; Scalia issued a highly unusual concurring opinion, declaring that the very fact that votes were being recounted in Florida threatened "irreparable harm" to Bush, "by casting a cloud upon what he claims to be the legitimacy of his election." The court ordered briefs to be filed by Sunday afternoon, and scheduled oral argument for Monday morning, Dec. 11.

After what was obviously highly contentious debate among the Justices, the Supreme Court's ruling was issued at about 10:00 p.m. on Tuesday, Dec. 12. Accompanying the unsigned, majority ruling, was a concurring opinion by Chief Justice Rehnquist, joined by Scalia and Clarence Thomas, and separate dissenting opinions written by each of the four dissenting Justices; for the most part, the dissenting Justices joined each's others dissents.

4. Dr. Armin Mohler, ***Die Konservative Revolution in Deutschland: 1918-1932*** (Darmstadt, 1972).

5. On February 28, 1933, Hitler issued his *Notverordnungen,* or Emergency Decrees, suspending the constitutional rights to freedom of opinion, assembly, association, and press, and allowing for unrestricted searches, seizures, and wiretaps, "beyond all legal limits," against his political opponents. The decrees were issued, "to protect the people and the state." Hitler based his authority to do this on Carl Schmitt's legal doctrine of "decisionism." Schmitt, in his best-known work, ***Political Theology,*** said that sovereignty is deciding in exceptional circumstances and in defining enemies of the state. Schmitt earned the title "Crown Jurist of the Third Reich" because he provided the legal rationales for each step in the devolution of the Weimar Republic into the Nazi state.

At this juncture, that importance of *that* issue of Scalia's personality, must not be avoided, and my warning should not be considered as in any way an exaggerated one. Even allowing for the secondary differences in method between that British radical-empiricist school, which is followed by Scalia, and continental European forms of philosophical Romanticism of Schmitt and his predecessors, Scalia's radically nominalist form of legal philosophy, is implicitly fully as evil in its inhering effects, and shares all of the crucial features, which were the worst implications of the way in which the doctrines of Schmitt were used to confer dictatorial (*Notverordnung*) powers upon Adolf Hitler. Indeed, from the standpoint of philosophy of law in general, Scalia's doctrine is intrinsically even more hideous than that of Schmitt.

Even from the standpoint of Scalia's specifically British, radical-empiricist dogma of "textualism," it is already clear, that under the relatively gravest conditions of international banking crisis, such as those of 1932-1933 and the worse crisis of today, the application of the legal doctrines of either a Schmitt or a Scalia must tend to result, equally, in either the early imposition of the most hideous modern form of dictatorship, as ferocious as that of Hitler, within the U.S.A. itself; or, as I have already said, in the more likely alternative, the attempt to enforce Scalia's or kindred doctrine, would lead to the simple disintegration of the U.S. as a nation, a disintegration like that of Shelley's *Ozymandias*.

I recapitulate that just-stated point for clarity, as follows. *It were inevitable, that if the doctrine expressed by Scalia, were to continue to prevail at the highest levels of the U.S. government, that under the conditions of crisis now confronting the U.S.A., and also the world at large, the result must either be a form of a dictatorship in the U.S.A. as bad as, and probably worse than that in Germany under the Hitler dictatorship, or, should such a dictatorship fail, as is likely, the worst dark age in the recent memory of our planet.* I am not predicting an Armageddon; I am Jonah delivering a warning to the U.S. Nineveh, warning of the available choice before us all.[6] Unless Scalia's influence is effectively resisted, such dismal prospects were virtually inevitable for the near future.

That taken into account, the threat to our Constitution, the threat which Scalia's philosophy constitutes today, must not be treated with the typical populist agitator's mere barroom or street-demonstrator's epithets. We can defeat the menace represented by Scalia's dogma, only if we understand its more deeply embedded mechanisms.

We must recognize not merely the obvious, mephistophelean quality of perversity in Scalia's public expression of his intention, but also the impact of his radically populist doctrine on the suggestible minds and wills of a very large part of our population.[7] Therefore, against his virtually satanic philosophy, such expressions of rage as mere populist slogans and fists will tend merely to aggravate the situation. As the history of similar developments in past history should have forewarned us, an influence such as his, must be destroyed by the weapons of reason armed with its appropriate resolution, not those forces of blind rage which would simply play into his game.

If considered from the standpoint of formal logic, Scalia's sophistry is to be recognized, as to its form, as a fraud of the same specifically British type underlying the empiricist dogmas of Venetian Paolo Sarpi and his lackey Galileo Galilei, the same dogmas continued by the consummately evil Bertrand Russell, et al., upon which the teaching of the pathetic, but, unfortunately, popular, modern ivory-tower varieties of mathematical physics are premised, still today. To understand Scalia, perhaps much better than he himself does, you must unearth that underlying, axiomatic assumption which he does not identify explicitly, but on which all of the relevant pathological features of his expressed thought depend absolutely.

At a later point in this report, I shall examine the formal, epistemological, features of Scalia's method. However, be-

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Schmitt, a law professor in Bonn and, then, Berlin, was a philosophical Romantic and follower of Mussolini. He published numerous popular polemical tracts, and advised Weimar officials, advocating rule by decree under Article 48 of the Weimar Constitution, in the face of the economic collapse in Germany under the Versailles reparations regime.

According to Schmitt, all politics consists of the relationship between friend and foe, and the state achieves legitimacy through its ability to identify and exterminate foes. True democracy consists of the complete identity between the ruler and the ruled, requires an ethnically homogeneous population, and can be better served by a dictator, ruling by decree and subject to periodic popular plebiscites, than by parliamentary democracy. Under Schmitt's theory, the sovereign decides what the law is, through a "primal act" of "decision" about revolutionary or exceptional moments. Schmitt identified "equality" and protection of "property" as primary values, simultaneously advocating total political control of the population and free enterprise. His dogma of law can be glimpsed from the titles of his books: ***Political Romanticism,*** 1919; ***Political Theology,*** 1922; ***Constitutional Law,*** 1928; ***Legality and Legitimacy,*** 1932.

Like Friedrich Nietzsche, Schmitt has been the subject of a recent popular academic revival, particularly among "conservative revolution" figures in U.S. politics. Andreas Buch, "Über die Willkür im Recht," ***Ibykus*** 14, 1995 (e.g., Buch: "Was macht die Fazination des Mannes aus, den manche den 'Kronjuristen' Hitlers nannten, der in den zwanziger und dreissiger Jahren mit seinen Schriften der Weimarer Republik des ideologische Grab schaulfelte, als er das parliamentarische Cäsarismus predigte?"); F.A. Freiherr von der Heydte, "The Thornburgh Doctrine: The End of International Law," ***EIR,*** June 1990; and, a book review, "Carl Schmitt und das Elend der deutschen Jurisprudenz," ***Ibykus*** 45, 1993.

6. Cf. Lyndon H. LaRouche, Jr., "Politics as Art," ***EIR,*** Nov. 17, 2000, note 1, p. 20: "Apostolic Letter of Pope John Paul II, Proclaiming St. Thomas More as Patron of Statesmen and Politicians," Vatican, Nov. 4-5, 2000.

7. As in his 1996 address at Washington's Catholic University. Scalia's choice of tricks of sophistry in his use of "textualism" to promote death penalties while opposing abortions, typifies his attempted imitations of the Mephistopheles of both Marlowe's and Goethe's treatments of the Faust theme. That such a man would attempt to pass himself off as a Christian, and appear to be tolerated in such perversity, must be taken into account as a sign of our sorrowful times.

fore examining such formalities, we must first look more deeply into the modern historical antecedents for the specific type of political pathology he represents.

I therefore turn, first, to pointing out, summarily, the historical roots of Scalia's radically nominalist doctrine of law, and, after that, to the deeper, epistemological foundations of his pathological world-outlook. Look at him, always, as a modern parody of the character Thrasymachus, as of the type presented in the pages of Plato's ***Republic***.

1. Nazism and the Romantic School

First, we must focus upon the historical origins of Scalia's method. We must recognize in him, the qualities of that modern Romantic school of law, which was brought into being by the successive developments of the 1789-1794 Jacobin Terror in France, and the lawful heir of that Terror, the reign of that modern Caesar, the first modern fascist dictator, Napoleon Bonaparte. For the case of Scalia himself, our attention is directed to the contemporary British version of that Romantic school. There are certain differences between these respective British and continental schools, but the likely general effect, fascism, is predominantly the same.

It was from the impact of those political developments of 1789-1794, that the Romanticism of Immanuel Kant and G.W.F. Hegel's theory of the state, became the adopted basis in philosophy of law for fascist ideologues such as Hegel's leading accomplice of the post-Vienna Congress years, the neo-Kantian Romantic, Friedrich Karl Savigny. This combined influence of Kant and Hegel, is what is expressed as the Romantic doctrine of law transmitted from Savigny to Carl Schmitt. It was from this Romantic school, so situated historically, that the Nineteenth and Twentieth centuries' modern fascist movements and regimes, have been brought into being.

For example, one of the most likely ways to identify an actively or incipiently fascist movement or regime lurking under the bed of the states of the Americas, or western Europe, still today, is to search among the channels of influence in matters of law associated with the names of Savigny and Schmitt. Today, the name of Antonin Scalia is to be added to that list of usual suspects.

It is within the specifically English school of Romanticism, that of Venice's Paolo Sarpi, Thomas Hobbes, and John Locke, that the potential lies for a specifically English-language form of something like either the past Confederacy, or the present threat of American fascism. Scalia, with his rabid emphasis on the notion of "shareholder value," typifies the English-speaking version of the kind of legal philosophy, in the tradition of Locke, which tends to foster a fascist coup d'état, like the Hitler legal coup d'état, under the kinds of conditions of crisis welling up within the U.S.A. today.

We in the U.S.A. today would probably lose the battle for freedom, as the Germans did under Hitler, unless we are forewarned now by the invaluable lesson of the role of Carl Schmitt in bringing the Hitler dictatorship to power in Germany. Rather than relying upon only the obvious points of similarities in the textual formulations of Scalia and Schmitt, we must look into the functional characteristics expressed in the historical origins of the specific variety of evil which Scalia typifies for today. We must understand the Scalia phenomenon historically, rather than by limiting our attention to the merely idiosyncratic features of that kind of sheer perversity which controls the behavior we have seen from him, on the bench, so far.

Historically, it is scientifically precise, not the slightest exaggeration, and also imperative, to classify Scalia as ideologically a fascist. Such language can not be avoided, given the practical implications of the case for today's conditions of world crisis. It would be fraudulent, to attempt to deny that specificity of his philosophical world-outlook. I do not use "fascism" recklessly; I mean fascism as strictly defined for purposes of law, as the most extreme variety of those modern, post-feudalism forms of imitation of the axiomatic features of the Romantic legacy of ancient pagan Rome.

Typical of that modern legacy, as I have already noted above, is the functionally uninterrupted metamorphosis of the Jacobin Terror of 1789-1794, fascism's worm-state, into the later dictatorship of Napoleon Bonaparte, its crawling-predator-state. This is also the fascism of Prince Metternich's Holy Alliance and the Metternich-sponsored Carlsbad Decrees. This is the fascist theory of the conservative revolution as argued by G.W.F. Hegel, in his defense of his own notion of the theory of the post-Vienna Congress Prussian state. The Emperor Napoleon Bonaparte, so situated historically, is the model from which Twentieth-Century fascists such as Benito Mussolini and Adolf Hitler were derived as witting imitations.

Justice Antonin "Verdict First, Trial Perhaps Later" Scalia, is such a fascist ideologue.[8]

This is not limited to what most would consider as "right-wing" varieties of fascism. Hegel's argument, as copied by his crony F.K. von Savigny, and by Carl Schmitt after Savigny, is

8. The recent rash of exonerations of death-row inmates, through DNA testing, merely points up the fact that the entire system of U.S. criminal justice has undergone a hideous moral degeneration in practice and doctrine during the period since the 1966 launching of the Nixon Southern Strategy. Nothing makes this clearer than the study of the recent pattern of executions, especially in Texas and Virginia. It was not the lack of DNA testing which is shown up by the relevant cases; the DNA tests simply illuminate the barbarity of the quality of criminal justice in general. The application of the fascist dogma of "finality" by the Scalia-led Supreme Court, to death-penalty cases, illuminates the existence of a Jacobin-terrorist sort of principle of "Verdict First, Trial Perhaps Later" in the practice of judicial murder, ritual human sacrifice, under a Scalia-inspired Supreme Court majority.

the model for that doctrine of the Conservative Revolution from which both Freiburg University Nazi Philosopher Martin Heidegger and his left-wing Frankfurt School cronies, such as Theodor Adorno, Walter Benjamin, and Hannah Arendt, derived their own respective versions of fascism, as also reflected in the left-wing dogmas and dramas of a Bertolt Brecht.

In other words, fascism, a term which points explicitly to the ancient symbol of the Roman Legion, signifies a modern form of political dictatorship derived, like Napoleon Bonaparte's imperial dictatorship, from the model of the customs and law of ancient pagan Rome. This model is to be recognized, as like Tiberius, Nero, Diocletian, and so on (as I shall show in the following section of this report), as in deadly opposition to the Christian conception of both the nature of man and to that Christian model of society which is expressed by both the Declaration of Independence and the Constitution of the U.S.A. It is in deadly opposition to a U.S. which takes the legacy of Solon's and Plato's Classical Greece, as its starting-point of historical reference.

This opposition between these two models, defines the only literate use of the terms "Romantic" and "Classical" in all historically truthful and meaningful applications today.[9] Here, precisely, lies the historically defined, practical meaning of the term, the Romantic School of Law, as that term applies, commonly, to Hegel, Savigny, Schmitt, and Scalia.

The birth of fascism, is also to be recognized as the form of Romantic dictatorship which has appeared in Europe, in response to a perceived specific threat which insurgent republicanism has represented to the old pro-feudalist order. Excepting such notable cases as the great Austrian reformer, Emperor Joseph II, this was the European oligarchy's enraged view of the U.S. Declaration of Independence. This was the view, as emphasized by Henry Kissinger, of the Habsburg dynasty of Austria and the Iberian peninsula. It is that enraged, pro-oligarchical hatred of the type of republicanism implicit in our Declaration of Independence and Constitution, which has always defined the very historical existence of the U.S.A. to be a hateful object, a hateful view expressed since the very beginnings of our republic.

In the eyes of the British monarchy and Austrian Chancellors such as von Kaunitz and Metternich, and also Henry A. Kissinger,[10] the perceived threat against which their oligarchical faction is reacting, still today, is the threat which had been set into motion by the victorious outcome of the 1776-1783 struggle of the United States against the evil system represented by the British monarchy of Lord Shelburne's time; with the appearance of President Abraham Lincoln, the old oligarchy's hatred of the "American intellectual tradition" comes to the proverbial "white heat" expressed by the Ku Klux Klan legacy.

The first appearance of the specific form of fascism leading into the regimes of Mussolini and Hitler, occurred as the London-directed effort of Britain's sometime Prime Minister Lord Shelburne, and his leading lackey, the British Foreign Office's Jeremy Bentham, to prevent the implementation of those pro-U.S.A. constitutional reforms of the French monarchy, which were attempted by the Marquis de Lafayette during the period of "The Tennis Court Oath," in June 1789.[11]

The French Revolution's Jacobin Terror, was organized and directed by London's Foreign Office, against the influence of the Marquis de Lafayette et al. This was done by such agents of the British Lord Shelburne and Jeremy Bentham as Jacques Necker, the Duke of Orléans, Danton, Marat, et al. This dates the birth of fascism, retrospectively, from the storming of the Bastille on July 14, 1789, that by joint action of the British agents Orléans and Necker, that against the constitutional reforms adopted by the circles of Lafayette. The Jacobin Terror of 1789-1794, first launched at the Bastille on that day, was the first, so-called "left" (worm) expression of the political form known since (in its crawling predatory form) by such terms as bonapartism and fascism.[12]

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9. Typical are the differences between "Classical" and "Romantic," as these terms are applicable to axiomatic differences in methods of composition of music during the Eighteenth and Nineteenth centuries. Bach, Haydn, Mozart, Beethoven, Schubert, Mendelssohn, Schumann, and Brahms typify Classical composers, whereas the legacy of Rameau, Berlioz, Liszt, and Wagner, typifies the contemporary adversaries of Classical methods of composition and performance from Bach through the death of Brahms. The argument of the Romantics Kant and Savigny, that reason performs no function in art (i.e., Savigny's separation of *Naturwissenschaft* from *Geisteswissenschaft*) typifies the axiomatic irrationalism of the Romantic school in art, and also in politics and government.

10. Henry A. Kissinger, ***A World Restored: Metternich, Castlereagh and the Problems of Peace 1812-1822*** (Boston: Houghton-Mifflin, 1957). Also, Kissinger's May 10, 1982 keynote address to a London conference of Chatham House: "Reflections on a Partnership: Address in Commemoration of the Bi-Centenary of the Office of Foreign Secretary." Kissinger's patriotic role in U.S. public life, as aptly typified by both referenced sources, compares him, unfavorably, to Benedict Arnold, and as a die-hard advocate of the oligarchical principle against everything for which the U.S. 1776 Declaration of Independence and Constitution stand.

11. See Pierre Beaudry, ***Jean Sylvain Bailly, A True French Revolutionary,*** unpublished ms. (Leesburg: Oct. 30, 2000). This is one of the best-researched reviews of the crucial developments of the June-July 1789 turning-point and their immediate aftermath. What must be taken into account, as historic context, were the tumultuous 1782-1790 conflicts between the forces represented by Frederick II of Prussia and Joseph II of Austria on the one side, and the "conservative" imperial princes of the Holy Roman Empire, as represented by Chancellors von Kaunitz and Metternich, as well as Maria Theresa and Leopold II, on the other. The death of Frederick the Great of Prussia, in 1786, dealt a mortal blow to Joseph II's efforts at pro-American kinds of humanistic reforms in the Empire. These circumstances, combined with the scandal of the Queen's necklace and the influence of the Physiocrats, turned the French monarchy sour, to the effect of the King's folly in the events of June-July 1789.

12. Jacques Necker, sometime Finance Minister and Prime Minister of France, had been picked up by the same Lord Shelburne whose lackeys included Adam Smith, Jeremy Bentham, Edward Gibbon, and many others. It was Shelburne, political representative of the British East India Company

Former Speaker of the U.S. House of Representatives Newt(on) Gingrich clearly set forth his witting quality of agreement with that specifically fascist view of the Jacobin Terror of 1789-1794. Gingrich did so most energetically, and with an eye-opening degree of attempt at historical precision, during a celebrated meeting in Washington on January 20, 1995.[13] We shall return to that topic in due course, shortly.

Hegel, Schmitt, and Hitler

Crawling predator Napoleon Bonaparte, originally a hatchling protégé of the brothers Robespierre (typical of the worms in that French nest), emerged as a consistent outgrowth of the Jacobin Terror. Such is the metamorphosis through which the pro-Jacobin leftist becomes worm-turned-conservative. Worm-turned-conservative G.W.F. Hegel, saw matters precisely so; so did the notorious Twentieth-Century follower of Hegel's school of history, Carl Schmitt.

Now, to summarize, and develop further the historical points we have considered here thus far.

The modern doctrine of fascism, as expressed by the role of Carl Schmitt in bringing the Hitler dictatorship to power under the *Notverordnung* of February 28, 1933, is a consistent expression of a doctrine, based upon the Napoleon Bonaparte model, set forth by the official Prussian state philosopher, and sometime Bonaparte enthusiast G.W.F. Hegel, as Hegel's Metternichean theory of the Prussian state.[14]

That model of transition, from wormy Jacobin lynch-mob-tactics, to the crawling-predator form of the totalitarian conservative state, as typified by Napoleon's Caesarian rule, is the common characteristic of the doctrine of the so-called "conservative revolution," both in Hitler's time, and today. Hegel and Savigny are among the earliest to define that "conservative revolution," and Schmitt and Scalia are, like Newt Gingrich, expressions of that same Romantic reactionary's hatred against the principles of the U.S. Declaration of Independence and Preamble of our Constitution.

Specifically, Carl Schmitt's Romantic doctrine of law, is a direct copy of the theory of the state set forth in Hegel's argument for what became known as the mother of all Twentieth-Century fascist movements, the so-called "conservative revolution" which later produced the popular instruments of the Hitler dictatorship.[15] Both Savigny and Schmitt, and most among the continental European apostles of the conservative revolution, still today, derive the philosophical authority for their views of history either from both English Seventeenth and Eighteenth centuries' empiricism, or, on the continent of Europe, from the attack by (former British empiricist and Romanticist) Immanuel Kant on the work of Gottfried Leibniz, and against such followers of Leibniz and J.S. Bach, as the Classicists Abraham Kästner, Gotthold Lessing, and Moses Mendelssohn.

I refer, as Heinrich Heine did,[16] and as Friedrich Schiller warned before Heine, to Kant's famous series of *Critiques*, those virulently pro-irrationalist writings of Kant[17] to which

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and of Baring's Bank, and sometime Prime Minister (1782-1783), who prepared and directed the events leading into the French Revolution. It was Shelburne's creature, Jeremy Bentham, who controlled the "secret committee" within the British Foreign Office, which trained and deployed agents such as Danton and Marat, and which orchestrated most of the developments during the 1789-1794 interval of the reign of the Jacobin Terror. (See report of Pierre Beaudry on events of June-July 1789, op cit.) It was the storming of the Bastille, organized by the Duke of Orleans as the leading feature of Orleans' campaign to have Necker appointed Prime Minister of France, which actually began the Reign of Terror.

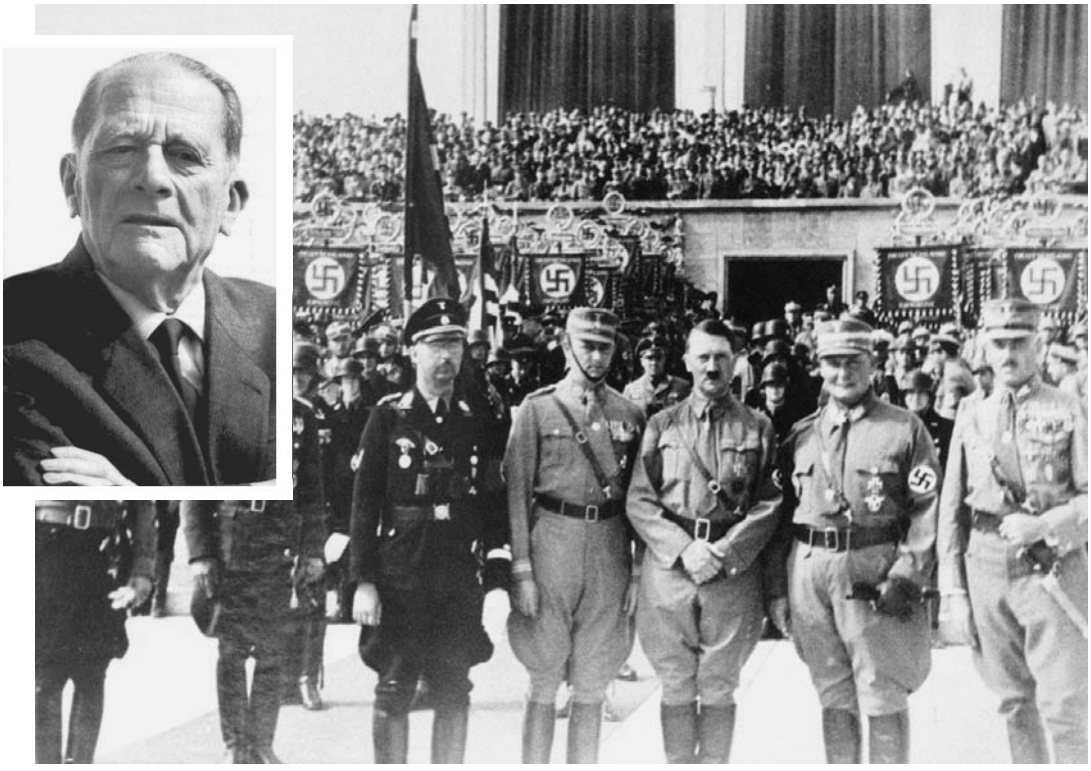
13. On January 20, 1995, Speaker of the House Newt Gingrich delivered a call to arms before the Republican National Committee in Washington, D.C. in which he explicitly equated himself with Robespierre and Danton: "We need to understand that the scale of revolution that we need is so great and it is so dramatically different. . . . This is a real revolution. In real revolutions, the defeated faction doesn't tend to convert. It tends to go down fighting. . . . I mean, if you look at the Bourbons, in France, they didn't rush in and say, 'Oh, please, can I join the revolution?' They remained Bourbons. In fact most of them learned nothing and forgot nothing, and 50 years later were still locked into a world that was dead. . . . I am a genuine revolutionary; they [the Democrats] are the genuine reactionaries; we are going to change their world and they will do anything to stop us, they will use any tool, there is no grotesquerie, no distortion, no dishonesty, too great for them to come after us. . . . The future of the human race for at least a century rests on our shoulders. If we fail . . . then Bosnia and Rwanda, Haiti and Somalia are the harbingers of a dark and bloody planet."

14. Georg Wilhelm Friedrich Hegel, ***The Philosophy of History*** (New York: Dover, 1956); ***Philosophy of Right*** (Amherst, N.Y.: Prometheus Books, 1996); and in many other locations in Hegel's work. The triumph of Napoleon, especially after the 1806 twin battle at Jena-Auerstadt, unleashed a rage of pro-Napoleonic Romantic enthusiasm in Germany. The takeover of the Prussian court by the pro-British Romantic faction, and the fascist-like persecution, under the Carlsbad Decrees, of the works of German patriots such as Friedrich Schiller, by Metternich's tools, such as Hegel, fostered waves of Romanticism and related forms of cultural pessimism (e.g., Schopenhauer) from which German culture has not been healed to the present day. Hegel was typical of those former enthusiasts for Jacobinism who served as early prototypes of fascist agents in post-Vienna Congress Berlin. Savigny, the direct forerunner of Carl Schmitt's work, was Hegel's chief collaborator in the pro-Metternich political repression conducted against faculty and students at the Berlin university.

15. Schmitt's position was not that of being a Nazi himself, but of being the gate-keeper who ushered Nazism into a position of dictatorial power. The highest rank of evil, is not the Nazis, but rather those, like Schmitt and Bertrand Russell, who use movements such as the Nazis as their stock-in-trade, and may as quickly destroy such movements, when the occasion seems timely, as usher them into power. Schmitt's argument to this effect, should be clear from his own efforts to make it clear.

16. ***Works of Prose, by Heinrich Heine,*** Hermann Kester, ed., Ernst Basch, trans. (New York: L.B. Fischer, 1943); ***Religion and Philosophy in Germany: A Fragment,*** John Snodgrass, trans. (Albany, N.Y.: State University Press of New York, 1986); ***The Romantic School and Other Essays,*** Jost Hermand and Robert C. Holub, eds. (New York: Continuum, 1985).

17. Mendelssohn played a leading role, in collaboration with Kästner pupil and collaborator Lessing, in defending Leibniz and Johann Sebastian Bach against the vile influence within the Berlin Academy, of the networks which had been organized by the then-recently-deceased Paris-based Venetian, Abbot Antonio Conti. At that time, in Berlin, the principal agents of the network which had been established by Conti, were the notorious Maupertuis and his confederate Leonhard Euler. Kant was among those associated with Maupertuis and Euler in this matter. So effective was Mendelssohn, that Kant did



Carl Schmitt (inset) was the legal architect of the doctrine creating those dictatorial powers given, with "finality," to the Nazi regime of Adolf Hitler.

all among the principal Nineteenth-Century forms of continental European Romanticism, including that of Savigny, have been largely indebted.[18]

The core of the argument for this Romantic doctrine, is that an arbitrary, irrational force, "The Revolution," such as Hegel's *Weltgeist*, a powerful, irresistible force, beyond the powers of human rational comprehension, causes a new form of state to be created according to its arbitrary desire. This is accomplished by rallying a mob, in the image of the *vox populi* of pagan Rome, to install a new Caesar appropriate to its tastes.

That is the core of the Hegelian theory of the conservative revolution, of the state, and of the derivation of law from the authority and interest of the conservative-revolutionary state, argued explicitly by Schmitt, and as echoed in the mouths of Scalia and Gingrich. The Romantic's view of the metamorphosis of evil, from its worm-state in the Jacobin Terror, to its conservative, adult, predatory form, as the Emperor Napoleon Bonaparte, is the essence of that so-called "conservative revolution" from which fascism sprang originally, as a reaction against the establishment of our U.S.A. as a republic. The historical uniqueness of the U.S.A. Declaration of Independence, is the object of hatred to which the modern fascists since, like Metternich's Habsburgs, have taken "exception," as in their tirades against what they sometimes refer to, with foam-flecked lips, as "the American exception."

That is the stated nature and goal of what Gingrich proposed as his "revolution," in the Atlanta events of January 1995. That is what Gingrich et al. did, in attempting to bring down the government with their mob tactics. That is what the radical right faction in the Republican Party is attempting to do at the present moment.

Such was the pre-Summer 1934, *Sturmabteilung* phase of the Hitler movement. The creation of the new state by those street-bully forms of mob actions, then assumes its intended, Caesarian form, under a Caesar assuming more or less the absolute, arbitrary authority of a Roman *Pontifex Maximus,* as the Emperor Napoleon Bonaparte did, that in parody of the depraved "Sun King," Louis XIV, before him.[19] Then, the conservative state appears with full, irrational force, as the conservative dictatorship admired by such as Hegel, Savigny, Schmidt, and imitated by Scalia's argument in support of a doctrine of "finality." The fascist view, as that of Schmitt, argues that the revolution makes the state, and the state creates the law according to the state's own adopted self-image.

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not dare publish his series of *Critiques,* until the powerful mind of Mendelssohn had been quieted by terminal illness and death.

18. Although the German Jews, as typified by Moses Mendelssohn and Heine, were, together with the Yiddish Renaissance Jewry of eastern Europe, the foremost targets of Hitler's campaigns, Hitler's venom, like that of his predecessor Friedrich Nietzsche, was hatred against the alleged crime of the Jews, to have produced Christianity; to have thus, through Christianity, ruined that pagan Rome which was so beloved of Napoleon Bonaparte, Benito Mussolini, Hitler, et al. Had Hitler not lost the war, he would have celebrated his victory by proceeding to exterminate the Christians.

19. Such was the transition under Hitler, from SA to SS.

To restate that important point: This current in legal-historical philosophy, is known as "The Romantic School of Law," of which Kant, Hegel, Savigny, and Schmitt are among the most notable German figures. Justice Antonin Scalia's cult of "textualism," is a special, English-speaking kind of derivative of the same fascist dogma otherwise arrived at by the continental varieties of Romantics such as Hegel, Savigny, Schmitt, et al.

Thus, summing up what has been stated on this point thus far: Among this century's leading ideological defenders of fascism, the form of fascist dogma leading into regimes such as Hitler's, usually self-identifies fascist movements based on the Romanticism of Kant, Hegel, Savigny, Schmitt, et al., by the code-term "conservative revolution." The terms "Romantic School of Law" and "conservative revolution," are essentially interchangeable terms. The first signifies the doctrine of law congruent with the pro-fascist "conservative revolution," while the latter defines the political-philosophical movements consistent with the Romantic School of Law.

Scalia and the Brutish School of Law

There is, as I have repeatedly stressed here so far, a specific quality of difference between the continental Romantics, such as Kant, Hegel, Savigny, Schmitt, and Nazi judge Roland Freisler, on the one side, and Scalia, on the other. Scalia, in keeping with the Thornburgh Doctrine denounced by leading international law figure Professor Freidrich A. Freiherr von der Heydte, represents that English-speaking current of fascism, which is derived from a more virulent root than continental Romanticism. That root is the English empiricism of the chief ideologue from whose work both the Confederacy and Nixon's Southern Strategy were derived: the notions of slaveholder and shareholder values traced to the influence of England's John Locke among what are often outrightly treasonous currents within U.S. public life.[20]

In other words, Scalia differs philosophically from continental European fascists, only in one respect, that he typifies a British, radical-empiricist variety of ideology, which, as von der Heydte argued in early 1989, makes the variety of fascism implicit in Locke even far worse in its potential than the continental European fascist movements have been. The modern followers of Locke are more radical than the continental fascists, in the respect that they had shed all care for even a semblance of custom. This quality verging upon a quality of ultimate evil, is to be recognized in Scalia's radically empiricist extreme, his emphasis on text.

The significance of Scalia's intervention into the Presidential elections, of the recent days, is best recognized by reviewing the proceedings of the already referenced, January, 1995 conference, on the subject of conducting a conservative revolution, held by then-incoming Speaker of the U.S. House of Representatives Newton Gingrich. Gingrich was acting in a manner consistent with his earlier role, as a late-1970s close confederate, in the "Third Wave" movement of both later Vice President Al Gore and the dubious Alvin Toffler. Gingrich's performance on that 1995 occasion, was a rhetorical medley from the tunes of British Foreign Office terrorists Danton and Marat. He compared his effort to destroy the existing constitutional form of U.S. government, as taking the French Revolution as its precedent.

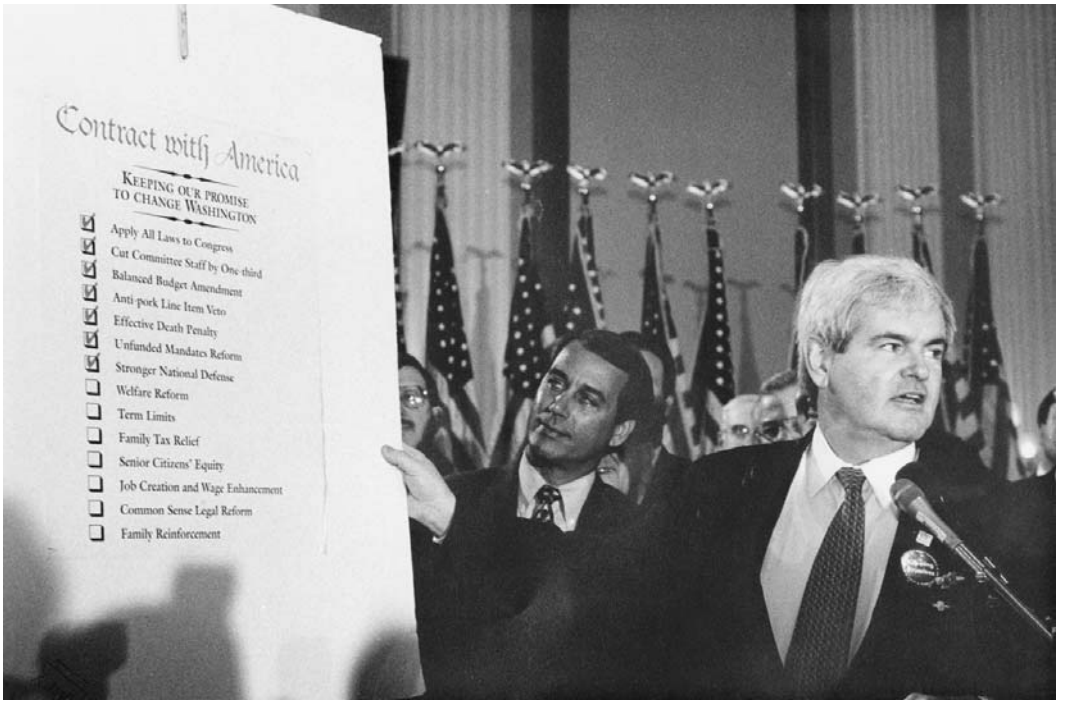
Gingrich's notion of a populist revolution as the hammer-blow to create the conditions for establishing the intended "conservative" state, is pure fascism in motion. He adopted, thus, as his own, the doctrine which is the center-piece of the Romantic School of Law and the concept of "the conservative revolution." He thus exposed himself on that occasion and what followed, not only as a follower of the example of the French Jacobin Terror, but as using that tactic as a terrorist's method for bringing about the kind of "conservative revolution" whose meaning, in plain text, is fascism.

As to whether Gingrich is a racist by disposition, or not, I have presently no conclusive indications. However, the movement which he represents, the Southern Strategy of Richard Nixon et al., is explicitly racist (minus or plus an Uncle Tom or two); more to the point, its reason for being is racist. However, the question whether, or not, Gingrich carries the burden of racist feelings against those called African-Americans, is not the decisive issue here. It is Gingrich's conception of the nature of man in general, which is the issue. He has made clear, beyond all doubt, that his conception of man is the fascist conception; once a man has descended to such depths as that, there is nothing left worth debating on whether he is racist as such.

Thus, such Southern Strategy fanatics as U.S. Representative DeLay (R-Tex.) and U.S. Senator Trent Lott (R-Miss.), typify, according to the Gingrich doctrine of 1995, the Robespierres, Phillipes Égalités, Neckers, Dantons, Marats, and Saint Justs of the 1966-2000 U.S. political scene. Presently, ironically but not accidentally, they, in their capacity as "maximalists" of the Gingrich Revolution, are now more or less as much of a political threat to prospective President George W. Bush's efforts to form a stable U.S. government, as they had been to President Clinton. They are the Jacobin mob, perhaps one awaiting the consummation of their usefulness in the Moloch's fires of a new bonapartism, as the expendable political cannon-fodder to be used up in creating the kind of fascist state which Scalia's implicit doctrine of Caesarism requires.

Hegel's theory of the Prussian state accords entirely with this view of the notions of law underlying the dogmas of Savigny and Schmitt, and also the so-called "conservative revolution" and fascist movements generally. Scalia is in accord with those Romantic notions of law. Once we situate the movement on which the relevant, present majority of the U.S. Supreme Court is premised, the movement launched as the "Southern Strategy" of the Richard Nixon campaign for his

20. See von der Heydte on the Thornburgh Doctrine, op cit.



Newt Gingrich on Capitol Hill, Feb. 22, 1995. His notion of a populist revolution is pure fascism in motion.

1968 election, the clear and present danger of that form of fascism implied by Scalia's argument, should begin to become clear.

At this point, we must interrupt that line of historical argument, to focus, as promised earlier, upon the principles which underlie any rational notion of law. After that, we shall return to the historical side of the account, at which point we shall reexamine the central of those issues addressed above, from the standpoint of a systemic notion of the principles of law governing proper conduct of statecraft.

2. What Should 'Law' Mean?

In the case of the ivory-tower versions of modern mathematical physics, certain assumed definitions, axioms, and postulates concerning space, time, matter, and so on, are picked out of the air, so to speak. No actual proof is given, or claimed, for any of this axiomatic dogma; traditionally, the classroom dupe is taught, instead, that the truth of such beliefs is "self-evident." In fact, speaking scientifically, none of these allegedly "self-evident" definitions, axioms, and postulates, are true.[21] Yet, fool after fool, will go to the blackboard, actually or figuratively, insisting that he, or she, can show, that a mathematical physics based upon those fraudulent, so-called "Euclidean" assumptions, can prove almost anything, even if what is claimed as proven is, in fact, demonstrably false.

What is at issue in the case of such quasi-Euclidean, ivory-tower aberrations, is the attempted substitution of ivory-tower axioms for universal principle of law. In that case, the emphasis is upon those laws otherwise known as experimentally validated discoveries of universal physical principles. Nonetheless, contrary to Hegel's crony Savigny, and to Carl Schmitt, the principles of all law, including the Constitutional law of the U.S.A., have the same origin and nature as universal physical law.[22] The common name for the use of the term "law," in the case of either science, or art and statecraft, is *natural law*. It is from the standpoint of that notion of natural law, that the problem of fascism, as posed once more by the case of Scalia, is to be efficiently understood.

Keeping attention, for a moment, on the situation at the classroom blackboard, a similar popularity of the "ivory tower" faith in sense-certainty among his populist dupes, led to the legendary success of the famous hoaxster P.T. Barnum, of modern circus fame. This is the popular method of the carnival side-show, the tea-leaf reader, of John Locke, David Hume, Dr. François Quesnay, Bernard Mandeville, Adam

21. Bernhard Riemann, ***Über die Hypothesen, welche die Geometrie zu Grunde liegen***, in ***Bernhard Riemanns Gesammelte Mathematische Werke***, H. Weber, ed. (New York: Dover Publications, reprint edition, 1953).

22. This principle, whose German form was introduced as the central feature of Kant's *Critiques*, was adopted by Karl Marx's law professor, F.K. von Savigny, as a doctrine of absolute irrationality, Savigny's dogma of a hermetic separation of *Naturwissenschaft* from *Geisteswissenschaft*. That irrationalist dogma is often encountered as the glazed-eye stare accompanying the ritual scrap of litany of "art for art's sake." The effects of the same doctrine on the English-speaking world, were the occasion for the relevant writings of British author C.P. Snow, ***Two Cultures and the Scientific Revolution*** (London and New York: Cambridge University Press, 1993 reprint).

Smith, Bertrand Russell, Norbert Wiener, John von Neumann, and kindred devotées of exotic auspices. It is also the radically nominalist method of the avowed "text-maniac" and Associate Supreme Court Justice, Antonin Scalia. Look up the proverbial sleeve of Justice Scalia, when he claims he has nothing but text in either hand. As I shall show, in the exposition which shall conclude this report, for the case of Scalia, we must substitute for the term "sleeve," "invisible hand."

This leads the reader, once again, into territory which he or she may have already explored with me, in a substantial number of earlier items of my published work.[23] Despite the risk and burden of such repetition, certain truths must be restated, repeatedly, especially these days, until they have become established as the common knowledge our nation's most vital interest requires them to be. On that account, I now proceed as follows.

From this point on, although references to earlier history may be required, our subject must be defined as science and law from the vantage-point of the history of globally extended modern European civilization. This rule must be maintained, since the revolutionary changes in institutions introduced by the Fifteenth-Century Renaissance, have changed everything to such a degree that there is no subject-matter of modern history which can be competently defined within the context of earlier history. This statement by me here, will be recognized by some professionals as the principle of *historical specificity,* a notion to which I have given what is fairly described as a "Riemannian" form, as in the sense of Riemannian manifolds.[24]

Historical specificity takes us far beyond the recognition that some important changes were introduced by that Renaissance; everything was changed by that Renaissance. The axiomatic changes introduced then and there, have had such an impact on every part of the world touched by them, that the very notion of society itself, society as a species, underwent a revolutionary change, akin to a shift from a lower to a higher species. Preferable, would be to say, *a shift to a manifold of a qualitatively higher order*.

Although we must take into account the earlier developments of a process leading into that revolutionary change, it would be incompetence to treat the new features of modern European culture as simply additions to the old; they must be apprehended as transformations of everything that had been true earlier. The very existence of the notion of the modern, sovereign form of nation-state republic, and the associated role of scientific progress, changed everything. The change is comparable to the superseding of marsupial by placental mammals.

So, for example, the idea of laws of nations, as attributable to society prior to that century, and the principled features of law under the impact of the existence of the modern sovereign form of nation-state, are systemically different. Nothing demonstrates that qualitative difference, more simply and more generally, than the fact that, despite merely academic sorts of encounters with exaggerated references to Aristotle, the very notion of modern political-economy did not exist, in theory or practice, until the impact of the establishment of the idea of the modern sovereign nation-state during that and the immediately following centuries.

The knowledgeable definition of law upon which all of the successful development in that now globally extended, modern European civilization, has depended, especially since Europe's revolutionary, Fifteenth-Century Renaissance, is typified by the Christian reading, as typified by the Gospel of John and Epistles of Paul, of four crucial writings of Plato, his ***The Republic***, ***Timaeus***, ***Critias,*** and ***The Laws***.[25] When these are read in the light of certain points of clarification supplied by the Apostle Paul, for example, a notion of law cohering with that brought to realization during the Fifteenth-Century Renaissance, as in the setting of the great ecumenical Council of Florence, is supplied its provable axiomatic basis. It is on this basis, that the first existence of the form of the modern sovereign nation-state was brought into being, that in the forms of approximation expressed by France under Louis

23. This is not to overlook the indispensable contributions from many collaborators, from various parts of this planet, such as Dr. Jonathan Tennenbaum and Bruce Director, who played a crucial role in educating readers in the revolutionary discoveries in Keplerian astrophysics by Carl Gauss. The fact that I assume personal responsibility for what I claim to be true, should never be taken to imply anything more than just that. I have sufficient successes in original discoveries of principle to my personal credit to gratify me for a lifetime, that, although my appetite for new discoveries continues to be omnivorous, I have neither need nor desire to ignore the contributions by others. However, for whatever I adopt as it were my own, I must assume personal intellectual accountability, whether I or someone else were my original source of that knowledge.

24. This means, for example, that the entire span of European civilization, since approximately the time of Solon of Athens, is to be treated as having specific functional peculiarities, but that, within that span, the emergence of the modern sovereign nation-state governed by a principle of self-government known as the general welfare or common good, is a specific manifold within the context of European civilization as a whole. This principle was recognized by all great Classical tragedians, such as Shakespeare or Schiller, who would never allow one of their tragedies to be shifted from a locale of one historical specificity to another. Modern directors, such as the late Orson Welles of Mercury Theater notability, who violate that principle of historical specificity, are exhibiting either stupidity, or, as they do, malice against both the author and the audience.

25. The first four of these are to be read aloud, as Classical drama, not simply read as text. When read as spoken drama, the relevant principle of Classical dialogue, *geometry of position*, is brought into play. It is only from that vantage-point, that the full impact and meaning of the term *idea* is brought home to the student of those works. The significance of geometry of position for law in general, and for exposing the fraudulent character of Scalia's argument, in particular, is addressed below. Much of what is said at this point is repetition of arguments made repeatedly at length in locations published earlier; but, as I have said, until certain essential notions become common currency of knowledge, they must be imparted repeatedly, whenever they are integral to an essential principle of the case to be argued.

XI and by revolutionary England under Henry VII.[26]

The most crucial literary works from that Fifteenth Century, associated with the creation of the modern sovereign form of nation-state, are two leading writings by that Cardinal Nicholas of Cusa whose 600th birthday we are about to celebrate. Most crucial are Cusa's early ***Concordantia Catholica***, on the necessary nature of the sovereign nation-state, and his later ***De Docta Ignorantia***, the latter the founding work of all modern European experimental physical science. Both of those works of Cusa, like his many others bearing on the same themes, are underlain axiomatically, by the Platonic conception of the nature of man and God, as this conception may be apprehended from the Christian standpoint of Paul and John.

The principles underlying the authorship of the 1776 U.S. Declaration of Independence and the Preamble of the 1789 U.S. Federal Constitution, are rooted, without exception, in the legacy of those two Fifteenth-Century works of Cusa.

The special significance of the founding of the U.S. republic, sometimes called the "American Exception," is that it was done here, because it was impossible, at any time during the tumultuous period 1510-1783, to undertake within Europe itself, the consolidation of that form of society, under such principles of law, which had been begun earlier under France's Louis XI and England's Henry VII. Contrary to U.S. Romantics such as Frederick Jackson Turner and Teddy Roosevelt, the set of ideas on which the U.S. was premised, was not something specific to the physical conditions of the U.S. frontier life; the ideas came, almost entirely, from the greatest traditions and minds of "old" Europe's Greece-rooted Classical tradition.

During the course of the Eighteenth Century, the principal intellectual influence responsible for the launching and success of that American Revolution, was the influence of the European followers of Gottfried Leibniz and Johann Sebastian Bach, such as the leaders of that new Classical renaissance which occurred during the middle- through late-Eighteenth Century, as typified by the seminal such influence of Abraham Kästner, Gotthold Lessing, and Moses Mendelssohn. In Europe of the 1770s and 1780s, the supporters of the cause of U.S. independence were the greatest intellectual figures of Europe, merely typified by the composers Wolfgang Mozart and Ludwig van Beethoven. It was Leibniz, not Locke, whose philosophy is expressed so clearly by that 1776 Declaration of Independence written under the direction of, chiefly, Kästner's 1760s Göttingen University guest Benjamin Franklin.

That much said to situate the points now to be examined, we proceed as follows.

As in a Mirror, Darkly

For reasons referenced, if somewhat superficially, in C.P. Snow's once-celebrated essay under the title of "Two Cultures," today's practice of statecraft, including the application of law, suffers greatly from a popularized, cultish form of widespread academic and other mystification of the subjects of mathematics and physical science.[27]

The usual errors in statecraft resulting from that widespread classroom and other ignorance of the nature of physical science, is the tendency to prefer journeys through the thickets of highly reticulated mathematical constructs, such as those of so-called "mathematical modelling," thus evading the intellectually and emotionally more challenging task of focussing upon the elementary, and exciting features of the successes of combined ancient and modern developments of physical science.

Impacted by such wrong-headedness among the non-scientific observers of what passes for scientific work today, the relative amateur is usually, either in flight from such topics, or so fascinated by, and also perplexed by the complexity of science's skyscraper-like edifices of detail, that he, or she disregards what is often the impending collapse of the skyscraper being viewed, a collapse inhering in some great, axiomatic, or kindred fault in the foundations upon which it has been erected. Thus, the so-befuddled Nobel Prize committee awarded a great prize for that particular edifice of mathematical folly known as the Black-Scholes formula, the formula whose intrinsic incompetence was at the root of the great financial collapse among hedge funds during August-September 1998.[28]

For reasons related to this aspect of the "Two Cultures" syndrome, a great confusion has been fostered among legal authorities and other relevant policy-shapers, respecting the concept of law as such. Today's popular reluctance to acknowledge the notion of law, as that notion is to be properly applied to the subjects of physical science, has a double relevance for all practice of law and related expressions of statecraft.

More narrowly, the problem is the frequent incompetence among lawmakers and others, in assessing the legal and related significance of what is presented, rightly or wrongly, as scientific evidence bearing on some matter under consideration. More profound and general, are the difficulties this "Two Cultures" pathology introduces to the use of the very term "law" itself, even in the most general way, including ways far beyond what are usually acknowledged to be the

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26. The fact that this Fifteenth-Century creation of the sovereign nation-state was unprecedented in all known history, was first argued satisfactorily, to my knowledge of the matter, by the late Professor Friedrich A. Freiherr von der Heydte, in his ***Die Geburtsstunde des Souveränen Staates*** (Regensburg: Druck und Verlag Josef Habbel, 1952). I came to the same conclusion from a different, economic standpoint, but the two views, mine and Professor von der Heydte's, coincide in all crucial respects.

27. Snow, op cit., footnote 22.

28. John Hoefle, "One Derivatives Disaster after Another; Will They Never Learn?," ***EIR,*** Oct. 9, 1998.

relevancies of physical science as such.

This source of error among lawmakers and related persons and agencies, tends, today, to express itself in the most immediate and important way, in matters of economic and closely related policy-matters. The issues of policy which are tending more and more, either to come into the Federal courts, or should come into that province, typify this connection of issues of economy to the notions of lawfulness associated with physical science. The issue of that deadly, current pathology, the lunatic notion of so-called "shareholder value," is most notable on this account.

On this account, Justice Scalia, and those who have shared his relevant delusions on such matters, have done great harm to this nation, and to the world at large, through their role in enthroning what is perhaps the most deadly threat to the existence of our national economy, and even the nation itself, today. The impact is most notable in effects upon those areas of policy-shaping which are most imperilled by the ricocheting impact of the increasingly aggressive application of an absolutely anti-scientific and immediately destructive fallacy, the doctrine of "shareholder value."

What stands out, as a result of that existential, systemic calamity in our present Federal judicial system, is the implicit lack of a competent notion of the boundaries of reason within which Federal judicial and related decisions must be confined, if our nation itself is to survive the crisis now unfolding. Thus, on this account alone, if no other, the connection of the notion of law in general, to law as a subject of physical science, must, at last, be made clear to our relevant institutions, once again.

On that account, we proceed here as follows.

The central distinction of the three great monotheistic religions, Judaism, Christianity, and Islam, is the notion expressed in the first book of Moses, of man and woman as made equally in the image of the Creator of the universe, and made in such a special way as to be assigned authority for power over all other things in that universe. Together with Moses, Christianity and Islam abhor the hateful, Babylonian and kindred traditions of idolatry, and abhor as intrinsically immoral, the bestial view of mankind as just another form of animal life, or, even in some nooks of molecular biology, a poor substitute for future inorganic robots.

When the Christian, or corresponding ecumenical view of human nature, such as that of the great Moses Mendelssohn, is situated against the background of the Classical Greek legacy of Solon and Plato, the mere phrase, "man made in the image of God," ascends, up and out from the gutter of the ranting preacher's babble, and thereby ceases to be merely some apparently arbitrary sort of received doctrine. It becomes knowledge of a quality otherwise associated with the certainties of the best usage of the term "scientific knowledge."

On this point, Scalia, as in addressing his 1996 audience at Washington, D.C.'s Catholic University, broke flatly with Christianity. Perhaps, it is because no claw reached up from Hell, on that occasion, to pull him down, as in Mozart's ***Don Giovanni***, that he has continued to walk the surface of the Earth, like some wandering piece of unclaimed merchandise. Perhaps he deludes himself, like some corrupt and credulous Faust, that the filth he taught at that university, then, may be repeated, with impunity, at all relevant occasions of births, weddings, funerals, and public executions.

Sufficient proof of this argument against Scalia, is to be found in Paul's ***I Corinthians*** 13, where the Apostle's summary of the principle of *agapē* is most famously uttered. According to the Apostle, radical nominalist Scalia's letter of the law, is the way of folly. The same point is the word of Jesus Christ, as in ***Matthew*** 6:2 and 7:22. For all Christians, in particular, the essence and body of the law, for Christianity, and also, as I shall state that case here, for all mankind, lies in *the intent of the law, not the text*.

Contrary to Scalia's remarks on that occasion, the right to human life can never be degraded to a property-title of the merely positive law's legal text, a "single issue." Human life is a pervasive, universal principle, which must be thus applied as the *intent* of law, as a universal principle, or, otherwise, it is degraded to a folly of hypocrisy, whose outcomes are to be abhorred on that account. So, the Apostle writes of such matters in the referenced location. The right to life must be understood as the Leibnizian 1776 Declaration of Independence and the Preamble of the Federal Constitution prescribes it, as the fundamental principle of U.S. Constitutional law, as the intent of the meaning of *general welfare*; otherwise, all is hypocrisy, as the Apostle condemns such pettifogging reliance on the mere text of particular law. As I shall demonstrate, the superiority of *the universal intent of law* to any mere text, could not be other than that.

It is on that point, that Scalia breaks clearly and flagrantly from all of Christianity. Since his reputation as being, on the other hand, a confessing Catholic (with clearly a very great deal to confess), is part of the counterfeit currency on which toleration of his implied claims to sanctified authority, as at Catholic University, depend to some significant degree, he must be exposed for the fraud he is on that account, as on others, too. In dealings with mountebanks such as Scalia, matters such as "other hands," especially invisible ones, must be carefully considered.

On the same point of natural law, there is another crucial element of ***I Corinthians*** 13, the famous verse 12, where the Apostle invokes Plato's allegory of the shadows cast on the wall of a firelit cave, as if images in a mirror set within a darkened room. There, in that ontological paradox, lies the essentially rational meaning of the word *law*. It is upon that passage, so situated in its given context, that we shall examine the question of the proper definition of law here.

It is *the intent of law*, law so defined, to which we rightly bind our will, and to nothing different. Here, as in the opening three paragraphs of the 1776 U.S. Declaration of Independence and the "general welfare clause" of our Federal Constitution, we meet the principle of *intent of law*, as the founders

Scalia's depraved doctrine signifies, "Wait until after they are born, before killing them." Here, Francisco Goya's etching, "There Is Plenty To Suck."

of our republic adopted that Christian notion of *intent*, as the most essential, governing principle of a sovereign republic. On this point of principle of law, Scalia's 1996 address to Catholic University implies, that he would take our nation back to the depravity of pagan Rome, or perhaps even to Moloch: *wait until after they are born, before killing them*.[29]

The basis for the notion of a principle of law, is set forth by Plato's attack on the falseness of reliance upon sense-certainty. In what is known popularly as his ***The Republic***, Plato confronts the audience for that dramatic dialogue, with the paradox of the firelit cave. He compares what we attribute to the evidence of our senses to the shadows on the wall of that cave. The ironical character of the images seen in a darkened mirror, as the Apostle wrote, makes the same general point. The proposition is: What is it that we are seeing? What is the reality behind what the poor savage may mistake as the self-evident reality experienced by his sense-organs?

Is what our senses portray to us an illusion? If an illusion created by the senses, is it, then, perhaps, merely an illusion? Or, is the shadow cast by something real, but something sensed only as a shadow, rather than its substance as such? Such are the questions posed by Plato's and the Apostle's allegory.

The solution to such paradoxes lies in the proof of the individual mind's cognitive powers, powers expressed by the experimental validation of discoveries of what are rightly esteemed as universal principles. Typical are universal physical principles. The proof that this is a solution for such a paradox, is shown most efficiently from the standpoint of my professional specialty, the Leibnizian science of physical economy. *It is through the validatable discoveries of universal physical principle, and by no different means, that the individual member of the human species is able to contribute a willful increase of the potential relative population-density of the entire human species, as no other form of life can do that for its species*. Such, specifically, is human nature, from knowledge of which, the natural law is derived.

The point to be demonstrated by exposition here, is, that, although the efficacy of the discovered principle can be demonstrated experimentally, even by aid of the senses, *the principle itself, the principle as a mental object,* is not an object of sense-perception. That discovery is an object of the cognitive processes of the individual mind, not of the senses. Moreover, it can be communicated, by replicating both the cognitive act of discovery of that principle, as by Classical-humanist policies and methods in public education, and also by demonstrating its efficacy in the terms of an experimental physics.

Kepler and the Mars Orbit

Thus, although the events corresponding to dots on the horizon of the astronomer's sense-perception actually occur, either in the real world, or as illusions, the connections among those dots are neither straight lines, nor, as the Mars orbit showed Kepler, lines of constant curvature. The dots are but as shadows, corresponding, at their best, to the occurrence of actual events occurring within a different universe than that which appears to us to be the universe defined by sense-perception as such. It may appear to the naive mathematical modeller, such as Ptolemy, Copernicus, or Tycho Brahe, that the connections exist in the shadow-world; however, the actual causes of the movement of the shadows exist in a real world, which is not that of sense-perception as such, but, as Kepler adduced and proved, rather, the universe corresponding to those cognitive processes in which discovered universal physical principles lie.

Hence, in that sense, we have the implied projective relations between the two worlds, the world of shadows, called sense-perception, and the real world, that of cognition. The

29. In no sense is this an exaggeration. Witness his sophistry on the subjects of abortion and the death penalty, in his referenced address at Catholic University. Here, he reduces even nominalism itself to its ultimate self-degradation, as virtually "dictionary nominalism." Under his law, so presented by him, one must wait until the infant is born, before it is lawful to kill it.

difference between the quality of the two worlds is, that it is only in the world of cognition, that the efficient causes connecting the events corresponding to dots actually occur, that the causes of the reflected transformations actually occur.

Thus, we are obliged to consider two distinct kinds of mental objects: those objects which reflect sense-perception, and those objects of higher authority for truthfulness, which exist as replicatable, and fully efficient objects of the individual's cognitive processes. *Ideas*, in Plato's sense, are objects of that second, higher class.

This efficacy of the class of *ideas* associated with validated universal physical principles, the ideas of the universe of cognition, can not only be known, but can be measured. The measurement can be made in terms of man's power over nature, per capita and also per square kilometer. The measurement can be made in terms of improvements of the ranges of life-expectancies and other demographic characteristics of populations. The method by which this effect is produced, is well defined, especially since the unprecedented successes of the revolution in statecraft effected by the Fifteenth-Century, Italy-centered Renaissance. The proof of that fact is already richly demonstrated, through the method of the Socratic dialogue, by Plato.

Thus, Cusa located knowledge of physical reality, not in sense-perception, but in such modes of measurement: hence, experimental physical science, rather than ivory-tower mathematics. In those locations, such as his ***De Docta Ignorantia***, Cusa corrected the error of Archimedes, by introducing, for the first time, the notion of the transcendental nature of π.[30] Cusa's method, in this case, was the method associated with what Leibniz later named *geometry of position*.

The point of this argument just described, is that such ideas are not only knowable and communicable, but also of measurable efficacy, as demonstrated, most conveniently, for the case of physical science, by two exemplary discoveries, Kepler's discovery of the founding principle of astrophysics, in his ***The New Astronomy***, and Fermat's discovery of the principle of *least time*.

As in the method of inversions developed by J.S. Bach, as typified, for convenience by his ***A Musical Offering*** and his ***The Art of the Fugue***, the rigorous method for provoking *ideas*, as Plato defines *ideas*, is through a tactic termed by Leibniz *Analysis Situs*, or, in other words, *geometry of position*. This ruse, which is the essence of the principle of Classical thorough-composition in music, also sets the methods of physical science above and apart from merely formalist, ivory-tower varieties of so-called mathematical physics at the blackboard.[31]

In Classical art-forms, for example, geometry of position occurs as what is termed *irony*, whose ultimate expression is what is termed *metaphor*. In the method of Classical thorough-composition of Bach, Mozart, Haydn, Beethoven, Schubert, Mendelssohn, Schumann, and Brahms, the rigorous application of inversion, has the typical effect of implicitly generating *lawfully* a transcendent quality of key, that latter located typically in a series of Lydian intervals.[32]

In physical science, the same method of generating *ideas* through geometry of position, is aptly illustrated by the referenced cases from Kepler and Fermat. In both art and physical science, the method is demonstrably exactly that of Plato's Socratic dialogues.

That principle of composition of ideas, is the essence of anti-Romantic Classical European culture since ancient Greece, and most emphatically so since the work of such giants as Cusa, Leonardo da Vinci, Raphael Sanzio, Shakespeare, Kepler, Rembrandt, Leibniz, J.S. Bach, Wolfgang Mozart, Friedrich Schiller, Beethoven, Carl Gauss, and Riemann. In earlier published locations, I have shown, repeatedly, how this same notion, of geometry of position, applies to the generation and assessment of the Classical form of *ideas* specific to the arts of statecraft, such as those of economics and law in general.

The working point here, is that the notions of other principles of natural law, and their derivatives, are also subject to classification as validatable universal principles, that on the same basis as universal physical principles. The idea of the special nature of man, and of the existence of God the Creator, are prime examples of such *ideas* of law.[33]

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30. On the measurements of the circle and the parabola.

31. The failure of music critics to understand the qualitative difference between well-tempering and equal-tempering, arises from their typical ignorance of the fact that Bach's contrapuntal system, as summarized by the role of inversions as presented in his ***The Art of the Fugue***, is a determination based upon the principle of geometry of position, rather than mechanistic, intrinsically linear constructions. However, these involve a discussion of the implications of Florentine bel canto voice-training for vocal and other polyphony, a matter to be referenced to suitable other locations.

32. This is illustrated by Mozart's discovery of the way in which Bach had employed this principle in ***A Musical Offering***. As a typical result, we have Mozart's K. 475 keyboard ***Fantasy***, and a relatively vast array of compositions such as his compact ***Ave Verum Corpus***. This Mozart discovery from study of Bach, became the most quoted germ-material in the entirety of the repertoire of Classical thorough-composition. Beethoven's Opus 132 string quartet, is among the most notable expositions of this principle. This is typical of musical *ideas*, in the Platonic sense of *idea*. On this account, Classical composers of the Eighteenth and Nineteenth centuries, such as Bach, Haydn, Mozart, Beethoven, Schubert, et al., through Brahms, are set apart from, and in opposition to their contemporaries, the Romantics, such as the composer of musical Currywurst, Rameau, and Liszt, Berlioz, and Wagner, in which the symbol-mindedness of sense-certainty, not ideas, is the stock in trade.

33. Thus, as to law, Scalia's reductionist doctrine of text defines him implicitly as of the same general category as the notorious *mortalist* Pietro Pomponazzi. Since the *idea* of law, an *idea* subsumed by an *intent*, does not exist for Scalia, those objects which are of the class of *ideas* also do not exist, and, hence neither the human soul, nor God himself. It might be concluded, thus, that such a fellow has about the same reason for being in church as a spider, perhaps less so, since the spider is probably acting according to the intent assigned to a member of its species. On the subject of the nature of Classical artistic principles as complementary to universal physical ones, see, for example, my "Statecraft as Art," ***EIR,*** November 27, 2000.

As I shall proceed to show this, yet once again, as in earlier writings on such matters, this method of investigation called geometry of position, when used as the proper substitute for the ivory-tower methods of at-the-blackboard mathematical physics, has enabled modern physical science to solve, repeatedly, the riddle of Plato's Cave. By these means, we are then enabled to know, with certainty, the meaning of principles of law expressed by verse 12 of the Apostle's ***I Corinthians*** 13. There lies the key to the principle of statecraft known as the proper *intention of law*.

That said, reference the case of the crucially revolutionary discovery central to Kepler's ***The New Astronomy***, his discovery of the principle of universal gravitation.

What Is Dotty About Statistics

The central feature of Kepler's discovery of a principle of universal gravitation, was the implication, for him, of a proposition stated in the form typified by what Leibniz later described as a problem in geometry of position. On this account, Kepler warned the reader, and proved, experimentally, that the methods common to the writings of Claudius Ptolemy, Copernicus, and Tycho Brahe, represented an unscientific approach expressed in their attempt to plot astrophysical orbits descriptively, as what are commonly called "mathematical models" among today's science-illiterates. In summary, the crucial features of Kepler's argument relevant for our mission here, are as follows.

The pivot was Kepler's recognition of the evidence, that the orbit of Mars is elliptical, rather than circular. This recognition defined an experimental paradox, occurring in the form of an ironical problem in geometry of position. Kepler's stroke of genius, was to recognize this paradox as reflecting a principle which was already a central, implicit feature of Cusa's ***De Docta Ignorantia***, a principle also explored by such avowed followers of Cusa's work in physical science as Luca Pacioli and Leonardo da Vinci.[34] Since, as Kepler, explicitly a follower of the work of Cusa, Pacioli, and Leonardo, recognized, this Mars orbit signified that that planet followed a pathway of *non-constant curvature*, that posed the question, how could the planet "know" where next to go from its direction of motion in any immediately preceding interval? After Kepler's discovery on this matter, his successors, including Huyghens and Leibniz, explored the panoply of higher-order forms of non-constant curvature, such as catenary functions. The Leibniz calculus was based on notions of non-linear, as distinct from Leonhard Euler's linear, differentials expressing the functional existence of such higher orders of curvature; the Leibniz integral calculus addressed the task of defining the trajectories to be associated with such non-linear differentials.

This paradox already demonstrated, that the pathway connecting successive dots did not lie along the lines drawn as "action at a distance" between successive points, as dots are connected in a so-called mathematical model. There must be a functionally definable connection which lies outside the domain of sense-certainties. There, in that consideration, lies the origin of paradox in geometry of position for that case. There lies the root of what became the successive work of Gauss, Dirichlet, and Riemann, in defining the urgency of a physical hypergeometry, to supersede the ivory-tower practices of the relatively simple-minded reductionists.

On account of this paradox, Kepler introduced terms such as the *Mind* of the planet, the *Mind* of the Sun, the *Mind* of the Solar System as an entire organization. In other words, where does the manifestly existent, *lawful intention* governing the motion of the planet lie? How does the Creator embed the appropriate *intention* within the objects of His creation? Since this intention can not be adduced from a description of the merely apparent connection between the dots of individual observations, no attempt at adducing a general rule from mere statistical studies, from so-called mathematical modelling, could be a competent answer to the paradox so posed. Kepler's original discovery, then and there, of the principle of universal gravitation, was developed exactly, thus.

That is what is to be understood, as exemplary connotation of the notion of *intent of law*, both in physical science, and in statecraft generally.[35]

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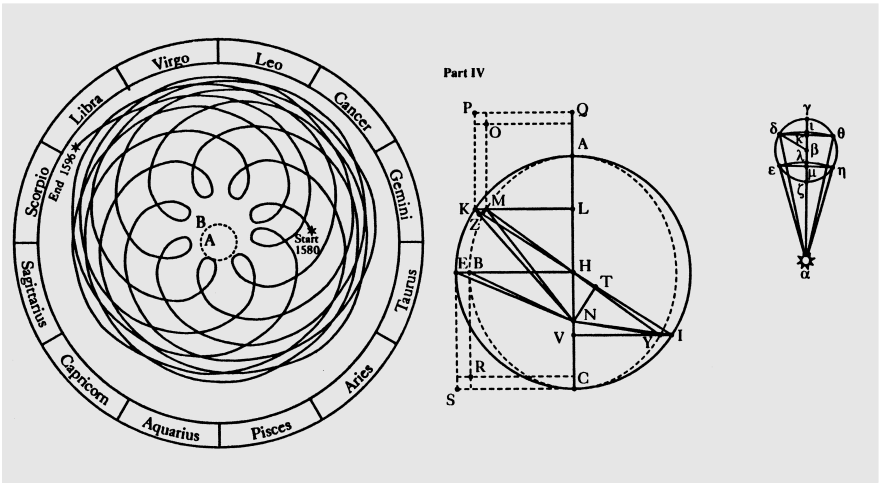
34. In modern times, the issue posed in Kepler's ***The New Astronomy***, is known as the principle of *non-linearity*, the principle of those notions of magnitude which can not be derived from the standpoint of the methods of a radical reductionist such as Leonhard Euler, Bertrand Russell, Norbert Wiener, or John von Neumann. In the work of Fermat, Pascal, Christiaan Huyghens, Leibniz, Bernouilli, the anti-Euclidean geometry of Kästner, Kästner's student Carl Gauss, and the 1854 habilitation dissertation of Bernhard Riemann, this involves the notion of processes subsuming the generation of a formally unbounded succession of successively higher, non-constant curvatures. In Leibniz, as in his uniquely original definition of a differential and integral calculus, the purpose is to define the solution to the task which Kepler had bequeathed to future mathematicians, in which the differential has an absolutely non-linear quality, but whose integral corresponds to the determination of a Keplerian quality of trajectory from that differential.

That principle is otherwise known as the principle of non-linearity, but only as the term non-linearity was implicitly defined by Cusa, and as it was explicitly defined by the successive work of Leibniz, Gauss, and Riemann. The notion of non-linearity is never competently reported as an arithmetic principle, but only as a purely geometric one. This notion is found in that branch of geometry called synthetic geometry, as distinct from popular classroom use of "Euclidean," and was first adequately defined by Bernhard Riemann, beginning his 1854 habilitation dissertation on the subject of physical hypergeometries. See my "On the Subject of Metaphor," ***Fidelio,*** Fall 1992, for Cusa's treatment of the quadrature of the circle.

35. Bernhard Riemann continued the work of Gauss's teacher Kästner, and Gauss himself, on this account. By the methods of geometry of position, such as those which Kepler applied to the case of the Mars orbit, we effect a strict definition of certain paradoxical discrepancies between any previously established system of reference in mathematical physics, and the experimental phase-space actually corresponding to the matter at hand. This paradox indicates a required discovery of an efficient universal principle. That principle, if its discovery is validated experimentally, constitutes a newly discovered universal physical principle, whose existence overturns the previously extant mathematical physics of relevance.



Johannes Kepler, with illustrations from his The New Astronomy. *On the left, Kepler's depiction of the "pretzel-like" motions of Mars from 1580 until 1596, as they would have to be drawn, from the unscientific geocentric conception of Ptolemy and Tycho Brahe. On the right, two of Kepler's working diagrams, through which he demonstrated the actual ellipticity of the Martian orbit.*

The relevant argument, as expressed in terms of the science of physical economy, which subsumes Kepler's solution to this paradox, runs as follows.

1. Man is the only species whose individual member is capable of an action, cognitive discovery of a universal principle, increasing the characteristic potential relative population-density of its species as a whole. This occurs solely through the application of validatable discoveries of universal physical principle.

2. Thus, mankind is uniquely qualified as a species, to exert thus the increasing power of its species within and over the universe.

3. This power, expressed in terms of the discovery of such universal physical principles, has the effect of committing the universe, as if by pre-design, to submission to commands given by mankind in the form of discovered, validatable universal physical principles.

4. Thus, man is shown to be made in the functional image of the Creator of the Universe, and a reflection of the intent so embedded in mankind's existence by the Creator.

5. This power of the member of the human species resides solely within the cognitive domain of *ideas*, not sense-perceptions as such.

6. This is a quality of the individual personality which is superimposed, in what is termed formally a multiply-connected way, upon the individual person as a merely biological existence. Hence, the essential human individuality resides not within the bounds of its biological existence as such, but, rather, within the domain of its superior, cognitive existence. This quality of the personality is also defined by the efficiency of its relevant actions upon the domain its biological existence occupies.

7. Thus, in addition to those ideas which belong to the domain of universal physical principles, we have, also, the class of ideas specific to the relations among the cognitive processes of persons. The latter types of ideas are of the quality of validatable universal principles of Classical artistic composition. Statecraft, including proper law as such, is properly subsumed by, and subject to, the same class of ideas as Classical artistic composition.

8. Hence, the notion of intention, of the Creator, and of the organization of the universe. Hence, the notion of the intent of natural law and the forms of positive law subsumed by it.

Thus, Kepler, in ***The New Astronomy***, attacked the methods of Ptolemy, Copernicus, and Tycho Brahe, as intrinsically incompetent scientifically. No orbital system of non-constant curvature, could be defined on the basis of extrapolation from the observed curvature of that preceding interval of action represented by a merely statistical connection of the dots selected as specific, normalized observations of position. Whence, might they have derived a determination of the *intention* of the planet to change the curvature of its own pathway, that in a way consistent with what must be adduced as the relevant intention of the Creator? Therein lay the common incompetence of Claudius Ptolemy, Copernicus, and Tycho Brahe.

Thus, the paradoxical character of the situation presented

Kepler's discovery of a universal physical principle, gravitation, from recognizing this kind of paradox, typifies the method of all successful methods of fundamental scientific investigation after him.

Such a discovery, if made according to the methods of Gauss and Riemann, implies a change in the characteristic mathematical-physical curvature of the universe. This change can not be predetermined by aprioristic mathematical methods, but must be adduced experimentally, as Riemann emphasizes this point in the concluding portion of his habilitation dissertation.

by the elliptical character of the Mars orbit, represents a truly Classical case of the way in which the cognitive discovery of *a lawful idea* is provoked by the ironical methods of geometry of position.

The idea, in this instance, proved to be Kepler's discovery of a principle of universal gravitation, an idea borrowed clumsily by plagiarist Isaac Newton, through the latter's circles' reading of the publication of Kepler's ***The New Astronomy***.

Notably, most revealing, the paradoxical character of the "three-body problem" generated by Newton's attempted plagiarism, showed that he could not have comprehended the idea he had attempted to plagiarize and pervert. The attempt, as by Newton, to substitute empiricist Galileo's notion of action at a distance, for a principle of gravitation, as Kepler had discovered this principle of gravitation, reveals Newton's hand as the hand of the thief who is perplexed by his inability to comprehend the workings of the wonderful invention he has stolen.

The fuller impact of Kepler's discovery of this notion of efficient intent of law, waited upon a subsequent, kindred quality of revolutionary scientific discovery, Fermat's celebrated discovery of a principle of "shortest time," as superior to the notion of "shortest distance."

For Fermat, the fact, that refraction, under conditions of changes in a medium through which light is transmitted, conforms always to a principle of "least time," rather than "shortest linear distance," was the discovery which, added to the impact of Kepler's work, set Christiaan Huyghens and Leibniz onto the track of development of what became modern relativistic physics, through such later work as that of Gauss and Riemann. This track has produced the only valid form of modern physical science. The extension of this principle of "least time," or "quickest path," produced Leibniz's original discovery of the calculus (contrary to the nonsense claims of the so-called "Newtonians"), and led into Riemann's Gaussian definition of physical hypergeometries.

Fermat's discovery exhibits the same principle of geometry of position as Kepler's discovery of universal gravitation. So, does Leibniz's original discovery of the calculus. And so on. The method, in all cases, is the method of Plato's Socratic dialogue.

These methods of physical science, as distinct from, and opposed to ivory-tower mathematical physics at the blackboard, are traced in European civilization from ancient Greece, and from a Platonic method of study of those discoveries which the Greeks adopted from earlier work in astronomy and other subject-matters, from, chiefly, ancient Egypt. However, physical science as we know it at its best today, is a creation of the Fifteenth-Century, Italy-centered Renaissance. The central figure of that development is the Nicholas of Cusa whose ***De Docta Ignorantia*** was the founding work of modern experimental physical science.

From that Renaissance on, the development of physical science occurred in the form of ongoing interactions between two antagonistic factions within the practice of scientific progress and teaching. On the one side, there was the Classical method of Plato, Cusa, Leonardo da Vinci, Kepler, Leibniz, and so on. On the opposing side, were the philosophical reductionists, such as the mortalist Pietro Pomponazzi, and the modern empiricists, Cartesians, positivists, and existentialists.

The latter belong, generally, to the Romantic school in philosophy and method. The so-called Leibniz-Newton controversy is typical of the immiscible qualities of the opposing Classical and Romantic factions, just as the Classicists of the Ecole Polytechnique, Fresnel with the help of Arago, discredited the Romantics Newton and Poisson, experimentally, on the matter of the propagation of light. Similarly, Classicists Gauss, Weber, and Riemann, validated the work of Fresnel's collaborator's, Ampère's principle of electromagnetic angular force, against the rabid reductionism of Romantics, such as Grassmann and stubbornly reductionist J. Clerk Maxwell.

The persisting axiomatic issue in that continuing controversy, is the reductionists' fanatical defense of the same statistical method of "connect the dots" which is the source of the fatal incompetence common to the work of Ptolemy, Copernicus, Tycho Brahe, Galileo, Newton, Euler, et al., as of Bertrand Russell and such Russell acolytes as the hoaxsters Norbert Wiener and John von Neumann.

However, this is not, at root, a controversy within physical science narrowly defined. It is a difference on matters of science which takes its root in a deeper difference, respecting the nature of man. Here lies the source of the evil in Scalia's interventions.

Science and Human Nature

Those among us who have been engaged in dialogue with sundry varieties of dedicated reductionists over as much as half a century or more, probably recognize from such experience, that the cause of the passion which that Classical-versus-reductionist scientific controversy evokes, has nothing to do with any actual scientific sincerity on the part of the reductionists of the Romantic school of Galileo, Newton, Euler, et al. The root of the issue, is purely political in nature. The issue is the political definition of the nature of man.

The reductionist, in his more essential sense of his personal identity, as a Romantic, is obsessed with the compulsion to deny, axiomatically, as Bertrand Russell and his circles have been, any evidence of physical science which he fears may lead to a Classical conception of the cognitive nature of the human individual mind. It is the political implication of that issue, so defined, which excites the hateful passions of the Romantic against the Classical tradition. Scalia merely carries that typical pathology of the Romantic's hatred to a radically nominalist ideological extreme.

Thus, that issue, as typified by the hysteria with which

the popularized follies of mathematical modelling have been imposed in the attempt to eliminate science today, is the obsessive zeal of the oligarchical mind, the Romantic mind, to concoct almost any axiomatic explanation for the existence of the universe, other than acknowledging those principles of individual cognition upon which validatable discoveries of universal physical principles depend absolutely. Thus, that zeal often assumes the guise of arbitrarily imposed law.

This is reflected in the Romantics' hysterical determination, as expressed by Galileo Galilei's student Thomas Hobbes, to attempt to outlaw metaphor, for example. It is expressed as an hysterical effort to deny the existence of those paradoxes of geometry of position which impel us to follow the pathway of Plato's Socratic dialogues. It means, an hysterical commitment to that empiricist dogma which insists that everything must be explained in terms of "connect the dots."

It is often expressed, even by otherwise gifted, but frightened experimental physicists, in words to the effect: "You must prove it at the blackboard in terms of today's generally accepted classroom mathematics." Those expressed fears are not without grounds, as knowledge of certain of the influential reductionist fanatics the celebrated Kurt Gödel faced, in the person of John von Neumann, or at the Princeton Institute, attests. In the worst extreme, submission to fear of the factional methods deployed by such thuggish academic fanatics, means the degradation of the notions of man and law, alike, to such banalities as radical nominalist Scalia's professed, implicitly schizophrenic obsession with mere text.

The issue between the scientists and the reductionists on this count, is that, once we admit the proof that man is, by nature, set apart from and above all other living species, by virtue of those cognitive powers of discovery of universal principle, then it were no longer possible to justify the perpetuation of forms of society in which a relatively few, may willfully degrade the many to the status of virtual human cattle. In other words, if we accept the physical scientific evidence, that each person is made in the cognitive image of the Creator, all of those U.S. and related policies which are derived from the presently rampant notion of "shareholder value," become unlawful abominations under the morally informed administration of justice.

More directly to the point at issue, ask the following question. What is the consequence, if we premise the constitution of public affairs of our republic, upon the notion of the necessary development of each and all persons as cognitive beings, whose realized individual cognitive potential brings about the increase of mankind's power in and over the universe? If we order our affairs accordingly, the relatively fullest development of the cognitive potential of the newborn individual, over the course of the approximately twenty-five initial years of maturation, and correspondingly suitable opportunities for employment, signify certain required conditions of life for the family household and community at large.

These required conditions, then, become matters of rightful claims on that which society is presently capable of providing in a sustainable way, a right defined in terms of the intended effect of the corresponding law respecting the common good, the general welfare. The location of that right, as a right, lies not within the mere individual will of the person, has no similarity to a mere property-right, but is a right with which the person is endowed in the interest of society, of humanity as a whole. Thus, this individual right, so afforded under law, should be enforced as a matter of the vital interest of the society which shall outlive the mortal members of today's population. The individual right, so defined, becomes a universal principle, rather than merely a property title of the individual, and is thus binding upon the notion of intent of law.

In other words, the court would not protect this individual right, merely on the premise of some implied contractual arrangement with the individual. It would be obliged to honor the individual right, because the imperative lies not in the right possessed by the individual claimant, but rather in the self-interest of the republic and its truly lawful court itself. In the words of such architects of our national accomplishment as Cotton Mather and Benjamin Franklin, the essential right of the individual person, and of the society as a whole, is both the obligation, and the right to do good, as the notion of common good implies in the case of the martyred Saint Thomas More. Cotton Mather and Benjamin Franklin would agree: *Society must not deny the individual either the obligation or the right, to do good*. So, the natural law teaches.

This notion of right, and of intent of law, is located, as to the derivation of such a conception, within the domain of geometry of position. That is to emphasize, that that notion is one which is prompted by the kind of paradox which the allegory of Plato's Cave implies, a paradox which is solved only by means of the validated discovery of a universal principle of the same qualitative distinction as a valid universal physical principle. It exists in the quality of an *idea,* in the same sense that all validated discoveries of universal physical principle, each exist, as objects of thought, solely in the form of such Platonic *ideas*.

Look back, once more, to Plato's Cave, and reflect on what we should have come to agree upon thus far. Now, choose to view the statistical pictures given by Claudius Ptolemy, Copernicus, and Tycho Brahe, as the efforts to substitute shadows on the wall of the cave, for the reality which casts those shadows upon sense-perception. Now, introduce Kepler's notion of universal gravitation as a statement of the Mind of the Solar System as a whole, as, in other words, the adducible, and demonstrable intent of the Solar system, the intent which instructs the planet to submit its apparent will to that persistence of successive changes in curvature of its orbital pathway. *Could you point out the image of that efficient*

principle of gravitation, as Kepler correctly defined it, and Newton did not, on that wall by means of your senses!? You can not succeed in such an attempt; yet, the efficient existence of Kepler's principle can not be avoided, since it is an existence superior in efficacy, to all knowledge attributed directly to the senses.

The following interpolation should be inserted at this juncture in the argument.

What Is Life, For Example?

Since we are dealing with a human being, we must always take into account two special qualities, the one relatively distinct from the other, which combine to define the existence of that person. These qualities are, respectively, those of living beings, but also the quality unique to the living being of mankind, the cognitive processes of the individual human mind. It is this person, so defined, which is the subject of all proper law and legal proceedings.

Thus far, we have considered the cognitive side of the matter. What about the distinction between living and non-living processes? How should cognition view the principle of life itself? What is life? How does it differ, on principle, from non-living processes? Are these connections, between cognition and life, not an integral consideration for law-making? Therefore, challenge ourselves: What have we, as a society, done lately, to better understand life as expressing a universal physical principle, which is distinct from non-life? What, then, is the lawful meaning of the life of the fetus, of the new-born infant, of the individual person gripped by acute, crippling physical disorders of the living body, and so on? Where are the principles on which lawful answers to such questions depend?

Look at this matter from the standpoint of geometry of position, as Louis Pasteur did. On what authority dare we propose that living processes have been self-developed out of non-living ones? What evidence do we have, excepting the foamings from the rabid advocacies uttered by the most extreme reductionists among today's molecular biologists and others? *Wendy, where's the beef?*

Through the work of Louis Pasteur and Vladimir Vernadsky, we were confronted with measurably "aperiodic" distinctions of certain living from non-living processes, and with comparable evidence respecting the relationship of development of the biosphere to the planet. From the work of those who followed them, we have a continuing accumulation of evidence, showing us what must be examined as potentially crucial evidence to the effect that life represents a distinct physical principle, distinct from the physics of non-living processes. Biophotonic effects, and magnetic-wave effects, in inducing changes of state in living processes, have been added to the repertoire in such connections. Some of this work, such as that of Russia's S.E. Schnoll and his colleagues, carries the study of the distinctive principles of living processes, into encounters with deep-going challenges to certain among the most fundamental current notions of non-living physical processes.[36]

"What, have we, as a society, done lately, to better understand life as expressing a universal physical principle, which is distinct from non-life?"

In the midst of such continuing concerns, we are presently confronted by the most ominous threats to life from combinations of new and old pandemic and epidemic qualities of infectious diseases. Although much of this global strategic menace to civilization, is directly the result of the introduction of promalthusian population-control policies to governments and supranational institutions, and to related developments as the U.S.A.'s HMO and "free trade" policies, the fact is, that the increasingly strategic quality of threat from infectious diseases is among the major menaces to humanity, and to cattle and wildlife, too, today.

It might appear, for example, that the benefits of that anti-biotics revolution associated with the introduction of so-called "sulfa drugs" and penicillin, about sixty years ago, are falling into a zone of diminishing returns. Whether that trend could be reversed, or not, the fact of the problem exists, and is worsening. In any case, the very fact that such a threat exists, ought to impel us to build up our medical and research facilities, in addition to other dimensions of public-health defenses, in recognition of the fact, that what are touted today as our governments' so-called "emergency fall-back" programs, are a farce, under the conditions in which our nations' former capabilities for coping with pub-

36. In other words, treat such evidence as Kepler treated the anomaly of the Mars orbit and as Fermat et al. treated the anomalous evidence of a principle of least time, as overriding shortest distance. The combining of such classes of anomalous evidence, from pasteurizing of beer, on up, must be examined as potentially the kind of geometry of position anomaly which implies life to be a distinct universal physical principle, distinct from merely non-living processes.

lic-health threats are being destroyed, that in an increasingly savage emphasis on protecting the interest of so-called shareholder value.

It ought to be our present intention, under law, to recognize an overriding national and global interest in reversing those measures, especially the pro-malthusian and monetary policies, which have directly increased this terrible threat to the existence of large parts of populations, even the virtual existence of entire nations as functioning nations. This concern should also spur us to put high priorities on seeking "crash-program sorts of science-driver" breakthroughs on the frontier represented by the notion of life as being, in and of itself, a universal physical principle distinct from non-living processes as such.

Beyond those practical matters as such, there is also a deeper principle involved.

Relative to the evidence tending to show that life represents a universal physical principle external to non-living processes as such, we have the more certain proof of principle, that human individual cognition, is a principle superior to all living processes otherwise defined. Thus, in making law, that from the standpoint of natural law, how shall we, then, define human nature?

The human cognitive individuality, is, in a certain sense, physically immortal by nature. That individual combines the cognitive processes, which are unique to the human individual, unique to the individual member of mankind, with a living organism, whereas the latter organism is, individually, a highly mortal form of individual being. That is to emphasize, that the replication of an individual's sovereignly individual original act of valid discovery of universal principle, enables the individual responsible for inducing that replication in others, to extend his or her efficient intervention, as a sovereign individuality, into the existence of not only future humanity, but to change thus the outcome of the past. In theological language we speak, thus, of the simultaneity of eternity of the identity of individual human existence, as distinct from the mortal frailty of that medium, the biological vehicle, which cognition inhabits.

It is in that respect, the individual as a cognitive being, that the quality of human rights is to be considered as integral to individual human cognitive nature. However, since the cognitive being is supported by the living organism it inhabits, the rights specific to the cognitive individual spread their protective umbrella over the living one. Thus, and only thus, are we set apart from, and above the living material we consume as food.

Thus, attempt to pass as many anti-abortion acts and related, so-called "pro-life" decisions as you choose. You will thereby accomplish nothing good, but only your conceited pleasure in what the Apostle denounced as your practice of hypocrisy, as long as you do not touch the core of the matter. What is the prevailing conception of the nature of an individual human being *as a cognitive personality*? Given, the presently prevailing conception of man in society, and neither legislation, nor acts of desperation, will determine what society practices upon itself. *Shibboleths* will never make angels of devils.

If one wished to object to my argument on that point of law and policy, he or she should be asked, how many people died because of current HMO policy last year? How many people in the world died of preventible deaths from disease last year? How many innocent persons have been judicially murdered, in Federal states such as Virginia and Texas, because someone in the Federal court system thought "finality" was more important than truth?

Put to one side the so-called traditional cultures of Asia. The source of the spread of the culture of death within globally extended modern European civilization, during the recent thirty-five years, has been chiefly the result of the propagation of the cult of neo-malthusian population-control, as had been specified by the monsters H.G. Wells and Bertrand Russell in their public commitment to the policies of Wells' ***The Open Conspiracy*** back in 1928.

This so-called cultural paradigm-shift, launched on a mass scale about 1963, with Dr. Alexander King's OECD education report, and with such related developments as the appearance of the British Beatles on a CBS television broadcast a bit later, unleashed a sweeping change in the legal and moral conception of the human individual in society. As attrition slaughtered the ranks of the older generations, and brought the more corrupted, more defectively educated, younger ones into greater influence, the anti-human, so-called "environmentalist" cultural paradigm-shift, took over. The deaths and suffering caused by this change in cultural paradigms, cause a vastly greater loss of life than all abortions. Indeed, the increase of abortions during this time has been merely a reflection of the same mass killing which, as in the name of "free trade," "environmentalism," and "shareholder value," has unleashed, like conservative revolutionary Adolf Hitler's "useless eaters" policies, upon this planet, that which now threatens to become the greatest slaughter in modern times, perhaps, in absolute terms, in all times before this.

For a concluding example on the matter of this specific subject, consider the following. There exists among leading European nations today, a three-element formula for a policy-doctrine of practice, which reads as follows.

At the highest level of institutions in a fully privatized economy, this policy asserts, there is "shareholder value." It puts into second place that victim known as the paying customer. In last place, it puts the continued existence of the institution, such as the medical profession, which provides that which is sold. Usually, there is little left over for the third element of this triad; the institutions afflicted so, are themselves expiring at increasing rates. The mass-murderous, in fact "useless eaters" doctrines, respecting morbidity of the

HMO system, commits daily mass murder on no different basis than that triadic dogma.

Under a general-welfare policy, exactly the reverse applies. Those institutions which provide a good to the society in general, may be rewarded and encouraged to grow; whereas, those institutions and practices which do not perform according to the principle of the general welfare, were better, and justly taxed and priced out of existence.

Let there be no sophist's protest against this point. The change which the world has undergone in the aftermath of such calamities as the ouster of Konrad Adenauer, the attempted assassination of Charles de Gaulle, and the assassination of President John F. Kennedy, has been a shift from a productive to a neo-malthusian policy. The consistent trend of these policy-changes, including the 1966-1968 launching of the Nixon campaign's Southern Strategy, has been to degrade the labor-force of the world, more and more deeply into the status of virtual human cattle, and, at the same time, to impose a malthusian management on those portions of the population, the "human cattle," permitted either to increase, or even merely to continue to exist.

The imperative behind this radical reversal of every aspect of the policies consistent with our Constitution's original intent, has been to undo the American Revolution and what it represented then for the world as a whole. By no stretch of the imagination, could any honest court uphold such reversals as "constitutional." The effective intent in the "conservative-revolutionary" direction of policy-changes during the recent thirty-five years, has been to turn back the clock of history to Europe's Fourteenth Century, back to a system under which the brutish rule of a mass of human cattle, by an oligarchy and its armed lackeys, reigned over humanity forever.

Let the popularized lies, such as the lies called "generally accepted public opinion," cease, and the truth be told again.

If the law condones policies, including what are called "environmentalist" or "economic" policies, such as "shareholder values," which strip people of those rights which inhere in the notion of the general welfare, then the lawmakers make themselves an abomination. Scalia's conduct has been, essentially, disgusting.

The Implications of Riemann

Above, I have illustrated the fact of the axiomatic fallacy intrinsic to all efforts to reduce science to a matter of mathematical modelling. To gain effective insight into that problem, spend a moment in developing a fresh approach to such matters. Follow my following summary of a certain crucial accomplishment, one to which I have already referred, by Bernhard Riemann, the father of modern relativistic physics.

Consider what Riemann has to say on such matters. Look at Riemann's 1854 habilitation dissertation from the vantage-point of both Fermat's discovery of a universal principle of least time, and the application and development of that discovery in the broader way undertaken by Huyghens, Leibniz, et al. Even at first glance, Fermat's discovery makes pitiable hash of all assumptions, such as those of Galileo, Descartes, and Newton, in their efforts to degrade the universe, by reputation, to the level implied by the usual classroom definition of an aprioristic form of Euclidean geometry.

Clearly, if Fermat is right, then such misuses of Euclidean geometry are, at their best, or least worst, pretty much rubbish. Already, with the work of Kästner in developing the foundations of a modern anti-Euclidean geometry, the work in physical science by Kepler, Fermat, Huyghens, Leibniz, et al., had laid much of the groundwork for the opening paragraphs of Riemann's 1854 dissertation. It was implicit, no later than Kepler's discovery of universal gravitation, and certainly after the added contributions of Fermat, that all linear notions of *a priori* space, time, and matter, must be abandoned to the graveyard of superstitions, and only a geometry premised upon validated universal physical principles, could be tolerated as a basis for mathematics in science.

The physical universe, as its image has been bequeathed to us by Riemann and others, presents us with a process in which further explorations in any direction of inquiry, must lead us into new paradoxes expressible in the form of geometry of position, and into corresponding new discoveries of universal physical principle. Thus, there is no completeness, no "finality," in our physical-scientific knowledge of the universe, but, rather, we have only the means for being certain that some known universal physical principles are true.

What remains unknown, under such constraints, is a factor we must anticipate. Thus, while we recognize as folly any pretense to know the universe with what some erring members of the Court have named "finality," we proceed in confidence on the basis of an informed distinction between what we know, and have yet to discover. This may seem unsatisfactory to the amateur in such matters, but for those of us who are older and happier in such respects, we are content that we know the direction of *intent* we must adopt, if we are to bridge the way into the future.

Thus, it is the intent of law, as that Riemannian view of physical lawfulness which obliges us to act with confidence in respect to matters on which we are competently knowledgeable, which is always a higher authority for us than an explicit language of given law. Such is the knowable intent of law, whether in science, or in statecraft. This never represents a necessary failing of the principles which we have proven, but warns us not to reach recklessly into the unknown, and never to imagine that there are no practical reasons for the sake of which we might safely ignore the unknown.

The matter of serving the general welfare, may be sufficient illustration of the working point at issue here. Consider what is certainly recognizable as a general case, the matter of meeting the obligations implicit in the notion of the general welfare. What do we presently know, and yet do not know,

respecting the measures which our society must take, if it is to meet its responsibilities for the education of the young?

We know, or should know, a great deal. We should know, that an avoidance of a policy of following Classical humanist methods of education, where such methods are available options, is a violation of the intent of law implied by the general-welfare principle. Yet, even given the best we know on that account, there is much of relatively immediate importance, for which we plainly do not have answers yet.

It is the same in other areas. Standard of living, for example. Real wage-rates. All sorts of things. On some aspects we can know, to a certain degree, what is right, and what, to a certain degree, is morally wrong; but, much, we do not yet know. On all these accounts, the sundry branches of statecraft, and of private practice, can be held accountable for reasonable behavior, but there is no last word, no so-called "finality," available. In all such matters, we proceed wisely by acting according to the adducible intent of law, in the degree that intent may be made knowable for us.

The model for making and applying the law, should be the wisdom implied by considering the history of scientific and technological progress in fostering not only the increase of mankind's power per capita in and over the universe, but a correlated responsibility for improvement of the demographic conditions of family household-life and of society in general. Our notions of statecraft should be premised, similarly, on knowledge of Classical scientific and artistic principles. In keeping with the notion of an underlying imperative for progress, we must recognize in practice that no good law can function without the impetus supplied by a people's and government's shared sense of mission-orientation for progress into the future.

To restate that latter point, the law must never be degraded to the kind of oligarchical abomination which feudal and modern Europe inherited from the Code of Diocletian, or from the pagan Roman conception of law in general. Good law could not be derived from contractual relations, nor should it aim at such foolish goals as perfecting itself as a completed scheme of literal law. The essence of law is the notion of the intention of law; in practice, this signifies that societies organized in accord with the intent of such law, are recognized by their adoption of a choice of mission-orientation, an expressed, concretized intent of law.

A declaration of war, or simply the conduct of war, expresses such an intention. To what end is the war to be fought? How else, could the mobilization of resources occur, by means of which to conduct a war? There must be a mission, an intention. A justified war must have a lawful intention; by the nature of man, as the case of the 1648 Treaty of Westphalia should remind us, justified war's intention must be a durably peaceful and just outcome, and be necessary to that outcome.

War for the sake of war, could never be tolerated, although some errant and relevant persons within the U.S. establishment today, would not accept such a restriction. They would, as we see, rather seek to invent an enemy against which to arm, to attack, as Zbigniew Brzezinski does, than give up their desire to have a new war, somewhere, somehow, just to demonstrate to the world at large, how much we are to be feared.

Similarly, consider the specifically American genius in the matter of the creation of public credit. The ability to utter such credit with confidence in its worthiness, depends upon a mission-orientation, an intention to employ that created credit for those missions of development of the society which will supply it timely worth, in real terms, not merely monetary ones, at some appropriate, future time.

The purpose of law is not that of perfecting a fixed order of relations within society. The purpose of law is the development of man as man, and of the development of society, from generation to generation, in a manner which expresses that mission-orientation. The purpose, or, in other words, the proper *intent of law*, is the promotion and protection of unending progress in the human condition, including that increase of productivity which only new breakthroughs on the frontiers of fundamental scientific progress can assure. The question to be posed to any important issue of law, is, therefore: "What mission on behalf of mankind brings you before this court?"

The points I have just made are not merely generalizations. There is a crucial issue at stake here, the same issue posed by the horrible errors of Justice Scalia and others like him. The need to define a principle of intention respecting all important issues of law, requires that we concentrate now on the issues implicit in the qualitative difference between the law of European civilization prior to the Fifteenth Century, and the new quality of law established, as a revolutionary change in the definition of law and the state, by the Fifteenth-Century, Italy-centered, Renaissance.

By that means, we may seek to prevent future recurrence of the kinds of illiterate barbarities on the subject of the history of law by U.S. Representative Henry Hyde speaking before the Senate proceedings in the attempt to impeach President Bill Clinton. We must define law in terms of centuries which Henry Hyde apparently has yet to assimilate, six centuries of modern civilization's progress above and beyond the world of rule of law, feudal law, such as that Norman barons' tyranny, the pro-oligarchical Magna Carta, which Henry has avowed himself devoted to perpetuate forever.

Contrary to Mr. Hyde, the best in modern European civilization, bases its law on adoption of appropriate missions intended to bring about a betterment of the general welfare of both our nation and of all mankind. Without a sense of mission, that in the sense that Riemann's discoveries imply a sense of mission, the law itself becomes a dead thing, suited better, like the poor relics of archaic, pre-Classical plastic art, to the tombstones of dead cultures, than the inspiration of living generations.

3. Economy and Law

In this concluding section of my present report, focus upon those matters of law which bear, as statecraft, upon economy, by which I signify, most emphatically, physical economy, rather than money economy.

Although the type of argument I have been making up to now, was always implicit in the very existence of mankind, I must emphasize, once again, that these principles were not established as an adopted principle of practice of statecraft, until the great Fifteenth-Century Renaissance. Until the establishment of the requirement, that states have no moral right to govern except as they are efficiently committed to promoting the general welfare, all known earlier forms of civilization were of the morally illicit form of organization according to the oligarchical principle.

Under the oligarchical principle of ancient Babylon, of the Delphi cult of the Pythian Apollo, and of pagan Rome, a relatively small class of people cultivated the far more numerous classes of people as virtual human cattle, as did the slaveholder system, as the feudal system of all pre-Renaissance Europe did, and as the shareholder-value system does so implicitly today.

As von der Heydte has shown in his already referenced 1952 dissertation, under the types of oligarchical society associated with ancient Mesopotamia, the Delphi cult of the Pythian Apollo, and pagan Rome, the power to make law was restricted to the person of an imperial authority, such as the Roman *Pontifex Maximus*. Kings might have had awesome powers over administration of their assigned domains, but, under the oligarchical principle which prevailed in evil Babylon and the Achaemenids, the power to establish law, was confined to the more or less capricious privileges of the imperial authority or its equivalent.

Under those depraved arrangements, the society existed primarily for the pleasure and convenience of the ruling oligarchy. However, the manner of management of those numerous persons relegated to the status of virtual human cattle, was a prime practical concern of the imperial authority. The use of cults, such as the Apollo cult, and of "Big Brother"-like mechanisms such as the Roman *vox populi*, or the wicked Walter Lippmann's prescriptions for popular opinion, illustrate the point. The use of custom as a method of mass-manipulation, illustrates the point in a general way.

The intention of the oligarchical state, of whatever form this took, was to perpetuate the oligarchical institution. Thus, the Fifteenth-Century launching of the first sovereign nation-states, as committed to what is called the common good, or general welfare, has been a revolutionary transformation in the essential nature of organized society, and of the notion of law itself.

If we know the connections which link that Fifteenth-Century political revolution, to what is reflected in our Declaration of Independence and Constitution, we know the intended meaning of our law accordingly. All that happened prior to the Fifteenth-Century revolution in statecraft, is to be judged by the standard of the sovereign form of modern nation-state republic, and never the reverse.

We may find good works, and good intentions within earlier forms of society, but the existence of the society based truly on the principle of doing good, is unique to the best from modern times. Maudlin infantile or adolescent dreams of imagined past utopias, are to be ridiculed as just that. As every intelligent and honest U.S. practicing attorney can attest, the progress of mankind has been achieved largely by such means as the sacrifice of the blood of political and other martyrs. So, the past is to be judged; so matters continue to go, in the U.S.A. and abroad, still today.

Although the intent of the Renaissance is clear, the issue so posed is not yet a settled one. Within the scope of today's globally extended modern European civilization, humanity is dominated by a great conflict between good and evil, between the forces represented, on the one side, by the good, the respectively Classical, republican, and, on the other side, the evil, Romantic, pro-oligarchical, currents, the latter as typified by the viewpoint of Justice Scalia. By republican, I mean the constitution of society and its self-government according to the principle of what is known variously as the general welfare, or common good.

This difference between republican and oligarchical forces, is a fundamental difference between two opposing conceptions of man and nature. This difference is expressed by the republican view of man's nature as specifically cognitive, the republican or Classical-humanist view, as opposed to man as the Romantics oppose the notion of man as essentially cognitive in nature.

This conflict within today's globally extended, modern European civilization is not the limit of controversies, of course. There remain the residues of extensive cultures, older than European civilization, which have not yet accepted those principles upon which was founded of the sovereign form of nation-state, during Europe's Fifteenth-Century Renaissance.

Nonetheless, our responsibility is to act toward such other cultural currents as our proper conception of our law prescribes, and to approach the matter of the differences in policy so encountered according to that ecumenical principle which has been, happily, embedded in that Renaissance. Toward those other cultural currents, we must proffer the benefits of the principle of the general welfare, for them, as for ourselves.

The Creation of Credit

Respecting economy, given the poorly understood principles of law bearing upon economy, still today, we must rely on the fact that the only proper basis for the growth of national

and world economy, is the role of what may be called, for emphasis, Hamiltonian forms of state-created credit, and related national banking. Unfortunately under the influence of world-wide ignorance of the history of the U.S.A., the nation where this principle of credit-creation was developed, and because of the ignorance spread world-wide by the influence of liberalism, the economic principles which have accounted for every notable success of the U.S. rise to world economic leadership, are virtually unknown, even inside the U.S.A. today.

Since I am presently the leading figure among a relative handful of professionals competent to account for that principle today, it is important that I explain to judges and other relevant parties, their obligations in fact, as to law, and as to the practice of statecraft more generally, to promote this principle.

The essence of modern economy, is the fact that the existence of the future is largely dependent, and indispensably so, upon the expenditure of presently available efforts and resources for future benefits. The pivotal feature of that connection, is chiefly twofold, governmental action and promotion of private enterprise.

First, there is the economic obligation which lies chiefly within the responsibility of government itself. This obligation emphasizes the indispensable role of governmental economic activities, for creating and sustaining what is called basic economic infrastructure. This features what might be called "hard" infrastructure, the development and maintenance of the land-area as a whole, and "soft infrastructure," such as educational and health-care systems, the maintenance of the population as a whole.

Second, it is the responsibility of government, as under the tradition underlying the U.S. Federal and subsidiary state constitutions, to regulate trade and other matters to related purposes of nation-wide and state-wide interest. It is urgent, on this account, to undo today, what President Jimmy Carter did to destroy the U.S. economy, with his policy which was formally labelled, by Federal Reserve Chairman Paul Volcker, and other associates of Carter National Security Advisor Zbigniew Brzezinski, as "controlled disintegration of the economy."

Thirdly, there is division of labor between government, and private entrepreneurship, in medium- to long-term investment in deployment of productive forces, to satisfy the remainder of the requirements of the society as a whole.

It is purely myth, to suppose that the capital requirements required for even relatively short-term investments in such essentials can be assembled in adequate degree from pre-existing private financial and related resources. While the mechanisms for the rise of modern European civilization above the relative moral depravity of all earlier forms of society, are as I have indicated in earlier portions of this present report, the mustering of otherwise idled resources for the great accomplishments of modern nations has depended crucially upon the willingness of the government to incur the debt corresponding to those crucial margins of credit on which an adequate rate of development depended. The relative volume of such state-generated credit, relative to private sources, is relatively large; indeed, the margin of state-generated credit has always been crucial for periods of economic success.

So, in the reconstruction of western Europe, at the close of World War II, it was not the amount of money supplied to Europe which was crucial, but rather the organization of the flow, and regeneration of government-backed credit, as the case of Germany's *Kreditanstalt für Wiederaufbau*, and the role of Jean Monnet and the Schuman Plan illustrate the point. This is presented, as a matter of principle, by the first U.S. Treasury Secretary, Alexander Hamilton, as in his celebrated series of reports to the U.S. Congress.

This conception comes freshly to the fore, and in the most dramatic way, in the now onrushing collapse of the world's present financial and monetary system.

At the present moment, very few persons, even in so-called high places, world-wide, have yet grasped the magnitude, and other leading implications, of the financial collapse now plummeting down upon the world's economies as a whole. The lack of such knowledge in such circles, is more the result of refusing to see what should be plainly visible, than any innocent lack of relevant evidence. Safe to say, not only is the so-called "new economy" doomed, but virtually every central banking system of the world today, is not only bankrupt, but hopelessly so. Moreover, the ability of the combined resources of the leading news media, governments, central bankers, and others, to continue their fraudulent concealment of that awful fact, is running out rapidly.

Although, when the recent U.S. role as the world's "importer of last resort," tumbles soon into the past, the chain-reaction economic side-effects of the world's present financial crisis, will be clear even despite the most stubborn efforts at denial. This is the greatest financial collapse, in both absolute and relative terms in modern times, perhaps the greatest since the mid-Fourteenth-Century collapse of the Lombard banking-system into a vast, deeply genocidal New Dark Age.

Nonetheless, we do have knowledge of the methods by which this financial crash and its economic effects can be mastered. *The difficulty is, that the present majority of the U.S. Supreme Court, if it continues its recent course, would never permit an economic recovery of the U.S. economy to occur. There lies the crux of the problem faced by the incoming President, and also the U.S. Supreme Court, today.*

The form of the solution we have available to us, provided the Supreme Court decides to behave itself, is threefold. First, we have the lessons of the relatively successful actions taken under President Franklin Roosevelt, to get us through the Wilson-Coolidge-created economic depression with our

Constitutional form of government intact. We have, under the same title of recovery measures, the mobilization for World War II launched by President Roosevelt beginning approximately 1936, one of the most highly successful economic mobilizations in history. Second, we have those elements of the design of the post-war monetary system, launched under Roosevelt; in the admittedly reduced form of the Bretton Woods agreements, they were carried forward by Roosevelt's immediate successors. Third, we have the drastic reorganizations of the currencies and related systems of war-torn western Europe, which were essential, under the protective umbrella of the old Bretton Woods System, for the joint benefit of the U.S.A. and its western European partners, during the 1945-1965 interval. These experiences provide an implied model of reference for the successful kinds of emergency action which must be taken promptly in face of the presently onrushing crisis.

There are, however, certain special points of difficulty to be considered. I address but a few of those, the most crucial ones, here.

The two leading measures to be taken by the government of the U.S.A., in concert with partners abroad, are the following.

First, we must, as the leading responsible partners in ownership of the existing International Monetary Fund, put that monetary fund itself into bankruptcy reorganization, under the authority of a majority of the relevant owners of the system, the governments. The latter majority of those governmental partners, must return the system immediately to the successful rules of operation functioning prior to 1965, and closely matching the strict arrangements of the initial decade of post-war reconstruction. This means a system of fixed exchange rates, capital controls, exchange controls, and related regulation.

Second, we must put the central banking systems of leading nations, themselves, into bankruptcy reorganization under the relevant sovereign national governments. In the U.S. case, that means, chiefly, under the U.S. Treasury. In the U.S., for example, that means that the takeover of the bankrupt Federal Reserve System by the supervisory authority of the U.S. Treasury, has the functional effect of converting the Federal Reserve System into a national banking facility of the type established under Treasury Secretary Alexander Hamilton and ruined by Wall Street's puppet-President Andrew Jackson.

The only way in which the bankruptcy of the financial system can be prevented from unleashing a chain-reaction of economic, social, and political chaos within even the U.S.A. itself, is to do the obvious thing. Put everything relevant into bankruptcy reorganization, and manage what passes for assets, in a way consistent with the fundamental principle of our Constitution, the so-called "general welfare clause." Certain categories of financial obligations, such as "financial derivatives," should be cancelled immediately. More respectable claims should be treated compassionately, if not promptly honored in every case. Yet, it will be the general case, that the debt will be more honorably served, than it was, in many cases, usuriously incurred.

In assessing those kinds of measures and their effects, the citizen in general, as well as the sundry public and private officialdoms, must keep the following fact of the situation clearly and continually in view. The wonderful phrase which will serve best to maintain the sanity of a frightened population is, "Remember, it's only paper." The object of policy is to keep essential physical forms of economic activity functioning, including levels of useful administrative and productive employment, payments of pensions, and so on, and the delivery of power, essential services, and groceries. As long as each and all survive, and continue to perform useful functions, we can proceed with confidence to build our way out of the mess. Don't worry so much about the paper losses, worry only that some of the physical realities of life might be negligently overlooked in the scramble.

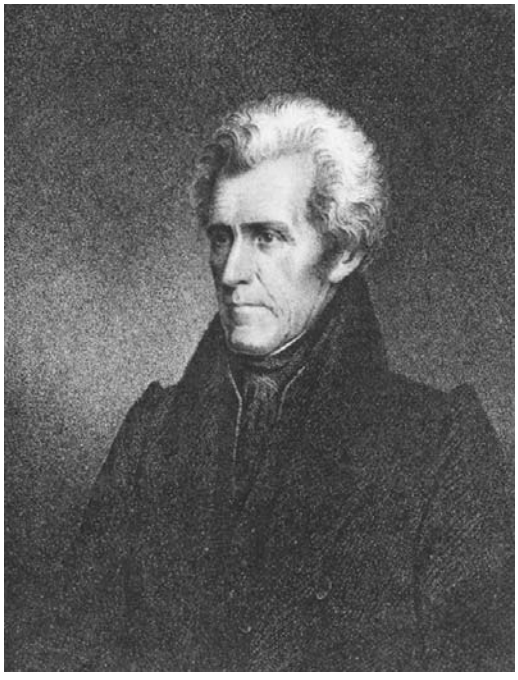
Take the case of the mythical but typical East Podunk bank, for example. How should government react to the fact, that that bank is being pulled down into bankruptcy by the collapse of paper values which it had been counting as security? The answer, usually, will be, keep that bank open and functioning, almost as if nothing had happened. How? The chief instrument of administration deployed for that remedial action will be the role of the U.S. Treasury in administering the bankrupt Federal Reserve System. We need the continued function of the local bank as a service institution; we need the relevant banker on the job during business hours, as usual. Therefore, we shall take legislative and related action to ensure that that arrangement is secured.

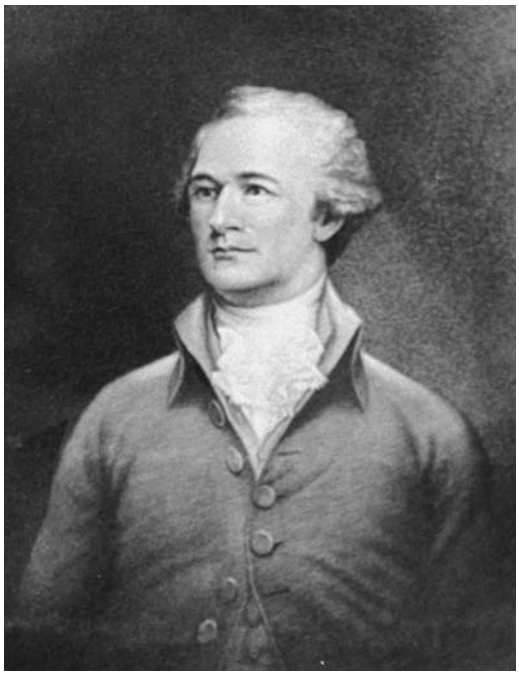
What does that mean? It means, that by freezing the greatest part of the non-debrided portion of financial claims against the system, we have created an arrangement which protects the U.S. government's credit against a chain-reaction of financial foreclosures, and thus enabled the government to act, in concert with the Congress, as the Constitution prescribes, to generate new issues of financial credit through the system, either in the form of actual issues of U.S. Treasury currency-notes, or credit against the commitment, created, by act of Congress, but held in reserve, for that purpose.

The principal functions of that new issue of credit against U.S. currency notes, are two. First, to ensure the continuation of essential and otherwise useful functions of the public and private sectors. Second, to provide the mass of credit designated for large-scale programs of economic expansion, programs whose most immediate, narrowly defined purpose is to bring the level of physical output of the U.S. economy as a whole above the physical-economic breakeven level.

Implicitly, it is all in Hamilton.

Think Tennessee Valley Authority! The principal stimulus for growth, will be relatively large-scale investments in development and maintenance of basic economic infrastructure, both of the hard and soft varieties. The production of





Andrew Jackson (left) and Alexander Hamilton. The takeover of the bankrupt Federal Reserve System would have the effect of converting it into a national banking facility, of the type established by Hamilton—and ruined by Wall Street's puppet-President Jackson.

energy, for example, thus addressing a shortage which has become critical for the nation as a whole. Such undertakings, launched under the impetus of public credit, stimulate related expansion of private contractor's activities. The allocation of the scheduled phases of such programs to areas of regional and local economic crisis, became the mechanism of administration through which pockets of economic crisis are managed.

Apart from urgent work in health-care and education, the leading role of government in such programs will be physical improvements in basic economic hard infrastructure.

However, with that part of the initial economic-recovery effort set into motion, we must add other expansion programs. These will be, in large degree, relevant to the future streams of U.S. high-technology exports. However, in turn, that program of orientation toward high-technology exports will require that the U.S. launch an expanded version of something akin to the Kennedy space program: a science-driver crash-program effort, whose intended economic effect is to ensure a growing stream of ever more advanced technologies into the economy as a whole.

The importance of such science-driver crash programs, is a fact which has been increasingly neglected, to say the least, during the recent thirty-odd years of national policy-shaping. The issue is, that the continuing source of real profit in an economy is nothing but the effect of introducing validated new discoveries of universal physical principles into production and distribution, through the medium of investments in the new technologies generated, through proof-of-principle designs of experiments associated with the validation of the discovery of new physical principles.

Primarily, the potential rate of growth of the productive powers of labor, per capita, in a national economy, is determined by the rate at which investments in such technological progress occur. This benefit requires the credit needed for the medium- to long-term investments such changes in technology require, and also requires the improvements in education and circumstances of family household life on which the population depends for its ability to assimilate technological progress at relatively high rates.

Hence, the medium- to long-term rates of profitability and growth of the U.S. economy, per capita, depend upon stimulants of the type of science-driver crash programs. Such crash programs, on such a scale, can be undertaken only with a large degree of participation by the government, including such forms as government credit and other support for the related educational and research and development functions of universities.

This export-related aspect of the recovery effort, requires the creation of a very large-scale system of long-term export and related trade credit. This credit, which the U.S. will mobilize in partnership with cooperating nations, must be based on a return to the kind of fixed-exchange-rate, highly regulated system used for the early decades of the post-war Bretton Woods system. This means long-term credit rates of not higher than 1% per annum simple interest charges. This would be impossible to sustain, except under a system of fixed exchange-rates.

It should be unnecessary, at this point, to do more than mention the fact, that the greatest potential threat to such recovery measures from an already inevitable global financial collapse, comes, as the experience of Franklin Roosevelt with

the 1930s U.S. Supreme Court might remind us, from an excess of conservatism of the Scalia type within the current Supreme Court.

Scalia's Invisible Hand

Perhaps, you are among those who once sensed that a strange hand might be touching your wallet's pocket while you were riding in a crowded New York subway? That recollection might make one think about Adam Smith's "invisible hand," or perhaps that of Justice Antonin Scalia. More important, on this account, is the ruin that invisible talon might bring, not so much to your purse, as to the continued life of our nation, and its civilization as a whole.

On the subject of the invisible hand concealed within Justice Scalia's intellectual sleeve, I have addressed this matter repeatedly, in various previously published locations. However, because of the relevance of that subject to the issues which reality is submitting to the President, Congress, and Supreme Court now, at least a fair summation of the point should be supplied in concluding the present report.

The proximate origin of Scalia's chief axiom, is the rantings of a gnostic religious figure of medieval vintage, known as William of Ockham, or, Latinized, as Occam. This queer fellow, Ockham, was lifted from his richly earned, slumbering obscurity, by the nastiest figure of the late Sixteenth and early Seventeenth centuries, Venice's virtual dictator of that period, Paolo Sarpi, whom Galileo Galilei served as a household lackey and ideological assistant, that in such enterprises as the concoction of one of the most vicious hoaxes of modern times, English (and, later British) empiricism.

This same empiricism, in a slightly dressed-up form, became the stock in trade of another Venetian ideologue, Abbot Antonio Conti, who created a vast, Europe-wide network of salons, all centered on Conti's principal base of operations, in Paris. Conti's salons are otherwise known under their official title as the British and French Eighteenth-Century, or so-called "materialist" Enlightenment.

It was the continuity of the effort of empiricists Sarpi and Conti, which gave modern Europe the curious and exotic metaphysical dogma called by Adam Smith and his followers "the invisible hand." I prefer to refer to it as the doctrine which argues, in effect, that the universe is run by "little green men operating from under the floor-boards." The best evidence at hand indicates that the worship of those little green gnomes is the actual religious belief of Justice Scalia, at least when he is speaking, as if *ex cathedra*, from his seat on the Federal bench.

That particular piece of lunacy permeates modern liberalism, in every academic department, including the mathematics concoctions associated with such Bertrand Russell acolytes as the late Professor Norbert Wiener and John von Neumann. In the economics departments, it is most frequently associated with the names of Bernard Mandeville, François Quesnay, Adam Smith, and the British utilitarians from Jeremy Bentham on.

I quote a passage from Adam Smith's 1759 ***The Theory of the Moral Sentiments***, which was the writing which gained Smith the position of lackey to the notorious Lord Shelburne.[37]

"The administration of the great system of the universe . . . the care of the universal happiness of all rational and sensible beings, is the business of God and not of man. To man is allotted a much humbler department, but one much more suitable to the weakness of his powers, and to the narrowness of his comprehension; the care of his own happiness, of that of his family, his friends, his country. . . . But though we are . . . endowed with a very strong desire of those ends, it has been intrusted to the slow and uncertain determinations of our reason to find out the proper means of bringing them about."

Then, beginning the immediately following sentence, Smith identifies those "proper means":

"Nature has directed us to the greater part of these by original and immediate instincts. Hunger, thirst, the passion which unites the two sexes, love of pleasure, and dread of pain, prompt us to apply those means for their own sakes, and without any consideration of their tendency to those beneficent ends which the great Director of nature intended to produce by them."

Two conclusions are to be adduced from that foretaste of what was to reappear as the central theme of the anti-American propaganda-tract, which Smith published, at Shelburne's direction, in 1776, the piece of plagiarism of the French Physiocrats published under the short title of ***The Wealth of Nations***. First, Smith's doctrine is clearly plain irrationalism, and shameless hedonism. Secondly, buried within that prose, a certain axiomatic assumption is lurking under the floorboards, so to speak. An alert and intelligent reader would inquire, after reading such stuff: What is the agency cloaked in the phrase "great Director of nature"? Little green men under the floorboards, perhaps?

There are two earlier, well-known sources, which Smith either did consult, or were likely to have consulted in concocting his mythical "great Director of nature." One, which he certainly did employ for that purpose in his ***Wealth of Nations***, was the French Physiocrat, the Conti salon asset Dr. François Quesnay. Much of Smith's ***Wealth of Nations*** was pure plagiarism of the French Physiocrats, under whom Smith had studied in France for much of the interval 1763-1776. The other, probable source, was a celebrated British piece,

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37. I am quoting from the excerpt which I published with some assistance from co-author David P. Goldman, under the title ***The Ugly Truth About Milton Friedman*** (New York: New Benjamin Franklin House, 1980). The work on the history of monetarism used for that book was chiefly the work of Mrs. Kathy Wolfe, then and now, of the weekly ***Executive Intelligence Review***.

The Fable of the Bees, of that Bernard Mandeville who serves otherwise as a model figure for the England of Walpole and of Hogarth's pictures.[38]

Quesnay's apology for his doctrine of *laissez-faire*, which Smith copied as "free trade," was the insistence that the gain in wealth of the titled landlord's estate was an epiphenomenon of the aristocrat's title to the estate; this argument depended upon Quesnay's assumption, that the role of the serfs in producing the relevant product did not differ from the role of non-human cattle. This is pure and simple oligarchism unbuttoning itself in public.

In the case of Quesnay, the antecedents are clear. The prolonged influence associated with the Norman feudal system, and its expression as the French *Fronde*, indicate the leading source of the tradition of moral decadence expressed by France's Louis XIV, and during the minority of Louis XV, accounts for Quesnay's depravity.

The case of Mandeville has several special relevancies bearing upon the continued influence of British Eighteenth-Century liberalism on the intellectual life of the U.S. today. Notably, Friedrich von Hayek, formally the principal co-founder of the Mont Pelerin Society, and a leading influence on the ideological circles of Scalia, explicitly derived his dogma from Mandeville. Von Hayek's definition of "freedom," is a singularly perverse one, and of some bearing upon the kindred perversity to which I have already referred here earlier in the case of Scalia. Mandeville, as endorsed by von Hayek, insisted that perversity must be given license to do pretty much as it desires.

The argument was, and is, that through magic of what must be considered nothing other than the equivalent of little green men under the floorboards, wickedness is transformed into a cause of what is ultimately good! The same argument was made, in a vile 1998 attack on Malaysia Prime Minister Mahathir bin Mohamad, by now-outgoing Vice-President Al Gore.

In all of these and related empiricist forms of philosophical liberalism in political-economy, the same pagan mysticism pervades.

Who, what is the god for whom Scalia speaks from the Federal bench? What is the rationale for an oligarchical tyranny exerted by "shareholder value"? Could it be anything better than the attribution of supreme magical power to some pagan entity which hates the God of the monotheists? Is it not a dogma which prefers a pagan deity better approximated by the image of little green men, working from under the floorboards of reality, pushing and pulling between the cracks of the infinitesimal?

For much of this, Sarpi's resurrection of Ockham is much to blame. From the argument on this point, which I shall supply here, now, the reader should recognize the historical origins and sociological implications of the specific kind of fraud upon which Scalia's defense of so-called shareholder value depends. The significance of the resurrection of Ockham by the empiricists, is then made clearer.

Ockham's most essential fraud, for sake of which the term "Occam's Razor" has been circulated, is that he, like those hoaxsters known to today as "mathematical modellers," denies thus the existence of that upon which the essential premise of his entire argument depends absolutely. Thus, he denies you the right to take notice even of the existence of the central premise upon which the entire structure of his argument depends. Like a true Venetian stiletto, the point is delivered, as by custom, by an invisible hand.

Ockham's argument is to the following effect. There exists a higher principle, which you may not know, which you, therefore, may not criticize, or even mention, but which, nonetheless determines the way in which things happen. This unmentionable is Smith's "great Director of nature." Hence, the "invisible hand," in any of the sundry guises the resort to this swindle is made as premise for an argument.

Think back, for a moment, to an emperor of the Babylonian style, whose word is law, simply because it is his word. You are not permitted to question his word, but only to observe it, and to submit, as you may suspect that will please him, or at least, persuade him to do something which you think would please you. Perhaps you simply desire that the Battle of Armageddon is concluded to your personal satisfaction before next month's rent comes due, and, hopefully, that you will not expire in the meantime. By the same kind of logic, the unmentionable mind of that emperor, then, becomes the analog of an invisible hand. The god of that emperor and his faithful subjects, alike, is the god of Iago's soliloquy in Verdi's operatic setting of Shakespeare's ***Othello***.

Now, contrast to that, the image of science and law which I have employed in the foregoing portions of this report.

From the standpoint of science, there are no invisible principles in the universe, but only knowable ones available to be discovered. There is also, a moral principle of one's relationship to the Creator of the universe, inhering in those principles and the manner in which they are discovered, and the ends to which they are to be employed.

Choose between the two views. Whose god is the god of "shareholder value"?

Are mine the terms with which to describe a person occupying a position of the solemnity of Justice of the U.S. Supreme Court? Since the profession of shareholder value, or of "finality," like the argument of Smith or Mandeville, is premised upon a denial of the existence of knowable truth, and the superseding of truthfulness by the blind passion of amoral, or even immoral hedonism, what must any onlooker say of anyone who shares the specific sort of immorality expressed by Justice Scalia's outstanding pattern of behavior on that bench?

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38. Bernard Mandeville, ***The Fable of the Bees, or Private Vices, Public Benefits*** (London: 1934, reprint of 1714 edition).