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Financial Crisis Report

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Advancing in a Time of Crisis

Words of Wisdom: "We are going to have peace even if we have to fight for it." Dwight D. Eisenhower

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Except for the Great Depression, we are experiencing the most economically unstable period in the history of the modern world. This period will be marked with extreme fluctuations in the stock, commodity and currency markets accompanied by severe and sometimes violent social disruptions. As is typical of such times, many fortunes will be made and lost during this period. After talking with many business owners, executives, professionals and government officials from around the world, the writer believes that for the financially astute investor, this is a time of unprecedented opportunity given the global trade unbalances and distortions in the commodity and currency markets. The *Financial Crisis Report* is a free compilation of the opinions of David Miyoshi as well as of those advisors he himself subscribes to (with appropriate credits given) on how to benefit during this time of crisis. The writer receives no compensation of any kind from any advisors whose articles or ideas may appear in this report. The reader is welcomed to check on all sources of information mentioned herein. Because the opinions and observations of this writer and other advisors are provided herein without charge, the reader is asked to make his/her own judgment on the contents.

One year ago, on Oct 1, 2017 the worst shooting in U.S. history happened in Las Vegas. There still is no full explanation or report of it. Sadly, "what happens in Vegas stays in Vegas" may be true.

U.S. Open Women's Final Sets Up 2020 Democratic Presidential Candidate

The U.S. Open Women's Final determined not only this year's best U.S. female tennis player but also who would be the 2020 U.S. presidential candidate for the Democratic party.



Except for people in Japan, most people in the world were not familiar with the name Naomi Osaka, the tennis player who beat Serena Williams in the finals of the U.S. Open. This is because the match involved perhaps the biggest spat between a player (Williams) and an umpire in tournament's history. Unfortunately, this marred and obscured the reality that Osaka is the first Japanese of either gender to win a major tournament ever.

During the match Carlos Ramos, the 47-year-old Portuguese umpire handed out three code violations to the loser Serena Williams, prompting a heated on-court argument with the 23-times Grand Slam champion and sparking a debate about sexism in tennis.

In his first public statement after the U.S. Open, Ramos said he was "good" despite the firestorm of controversy that followed his officiating of the match.

The International Tennis Federation (ITF), issued a statement describing Ramos as one of the most respected umpires in tennis and has appointed him to officiate the semi-final of the Davis Cup, the international men's team event, between Croatia and the United States.

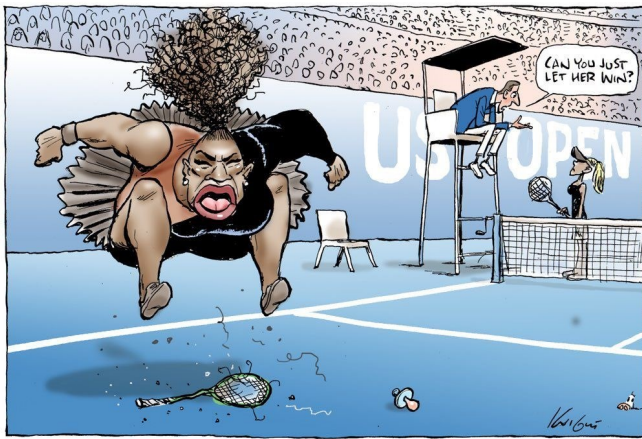
However, the United States Tennis Association (USTA) and Women's Tennis Association (WTA) both publicly backed the allegations of sexism levelled at Ramos.

Billie Jean King, the former world number one who founded the WTA in the 1970s, said all sides shared blame for the incident, saying Williams was "out of line" but that Ramos could have prevented the controversy with more leniency and clearer communication.

Ramos was unable to defend himself in public in New York as the row escalated over the weekend after the match as ITF rules prevent umpires from commenting on their matches.

Following the match, Herald-Sun's Australian cartoonist Mark Knight drew a caricature of a hulking Serena Williams stomping her racket

U.S. Open Women's Final Sets Up 2020 Democratic Presidential Candidate



into the ground. A discarded pacifier lies nearby, as if Williams is a toddler throwing a tantrum. In the background, umpire Carlos Ramos asks her opponent, Naomi Osaka, “Can you just let her win?”

In America the cartoon was immediately met with outrage and denounced with calls of racism.

Knight, and the editor Damon Johnston tried to explain, arguing that their critics missed the point.

“The cartoon about Serena is about her poor behavior on the day, not about race,” Knight said in an article on the Herald Sun website about the backlash.

“A champion tennis player had a mega-tantrum on the world stage, and Mark’s cartoon depicted that,” Johnston said. “It had nothing to do with gender or race.”

Many Australians argue that Knight’s work reflects a wider pattern. Australia has never fully confronted its own history of racism, and scholars say the conversation around race in Australia is not as robust and layered as it is in the United States.

Ideas like implicit bias are rarely referenced or widely understood, for example, and many people say Knight’s employer deserves a fair share of the blame.

“This is what Australia does,” said Shareena Clanton, an Aboriginal Australian actress and activist. “This is what it has always done to people of color and, in particular, black women who reach the top.”

“This whole cartoon is vile,” she added, saying that Ms. Williams’s opponent, Naomi Osaka, had been drawn as a white woman. “The fact that it was printed and passed the editor’s room speaks even more volumes about the landscape of our media here in Australia.”

But is it fair to hold an Australian to an American standard?

Not being American, some cartoonists argue, is no excuse.

“While Australia has its own unique colonial history separate from the United States, the Western world, including Australia, share an aesthetic history,” said Ronald Wimberly, an artist and designer known for his commentary on race and comics.

That history includes an effort “to dehumanize black and brown people by degrading their features into symbols of the subhuman,” Wimberly said, offering a detailed critique of the U.S. Open cartoon, which he described as a failure on many levels:

“Is this cartoon racist? First, what is this cartoon doing? What’s the object? The text is a pretty clear, if flaccid, punch line regarding Serena Williams’s poor sportsmanship. It alludes to Serena being childish and angry (I’d argue that the text relies on racist, sexist tropes, too).

But cartoons are a drawing medium. Now, I don’t want to blindly attribute intent, but setting aside the possibility that the cartoonist is just a poor draftsman, the drawings seem to ridicule Serena’s appearance. These aren’t very good likenesses. Mark isn’t using the medium to support his joke by, say, depicting Serena as a baby, in which case the pacifier should have been more prominently featured.

Cartooning uses the shorthand of symbols to depict things. This is the craft. Using symbols. The pacifier is a symbol of immaturity, it alludes to a baby throwing a tantrum. But Mark is also drawing from a different history of symbols here. Racist and sexist symbols. Mark critiques the appearance and performance of Serena’s body in relation to race and sex, not her sportsmanship.”

Wimberly said there was only one conclusion that anyone who knows anything about cartooning or race could come to: “Whether or not Mark intended to draw on the racist history of the symbols, he has. His intent is irrelevant. Either he is a deliberately racist cartoonist — or an incompetent and careless cartoonist.”

Does China Control Apple?

Whether the cartoon is considered in Australia an accurate caricature of what happened at the U.S. Open or in America as an expression of outright racism, the point is clear that these days, in America it is socially taboo to disparage a black celebrity, either in politics, sports or entertainment.

Today, to be called a “Nazi” in Germany or a “Racist” in America is the ultimate offense and most prevalent fear of the accused and those who dare do so tread on very treacherous grounds. But in any given case, whether there are valid grounds and justification for these accusations is an entirely separate concern. Too often such accusations are made without any basis in truth or fact and are used primarily as a weapon of political or social control. In the U.S. this is an all too often heard lament.

In my past newsletter of August 2018 (2020 Election OMG!) I cite the Las Vegas odds for who will be the Democratic candidate for president in the 2020 election. Those odds reveal that the top candidate is Kamala Harris, the black female junior senator from California.



Former President Obama is a huge fan of hers, and once described her in these words...

“She is brilliant and she is dedicated and she is tough. And she is exactly what you'd want in anybody who is administering the law and making sure that everybody is getting a fair shake. She also happens to be, by far, the best-looking attorney general in the country”.

For the Democratic Party, Harris is the right color, the right gender and the right (actually left) party.

Like Obama in 2008, Harris is taking all of the calculated steps a candidate with eyes on the White House would be taking at this early stage.

She's working on a new book that describes her underdog story and political agenda.

She's headlining sold-out political fundraising events, raising millions of dollars for the Democratic Party.

She's giving commencement speeches at left-leaning universities and appearing on highly viewed talk shows.

She's assembling a campaign team of former Hillary Clinton aides.

She formally rejected corporate political action committee (PAC) money and has even launched an online grassroots small-donor fundraising strategy.

Just about the only thing she hasn't done yet is announce her candidacy.

But far more important than all of this is that Kamala Harris is blessed in the U.S. with a natural shield against political and social attack. That is, she is a black female political celebrity. She knows this and enthusiastically exploits it.

As Serena is benefited, so is Kamala.

And so as before, the beat goes on.

D. Miyoshi

Does China Control Apple?





Does China Control Apple?

On 8/2/18 Apple became the first One Trillion dollar company in history.

On 8/8/18 (8 being a lucky number in Asia), China issued a warning that if the U.S. does not back off their tariffs, they (China) will take over the Apple factories and shut down its operations. Apple has all of their factories in China. This begs the question just how much control does China have over U.S. business operations in Asia?

On February 28, 2018 Apple formally transferred its Chinese iCloud operations to a local firm in southern China. Also, for the first time, it began hosting its iCloud encryption keys in China, instead of the US. The move has been expected since last year when Apple announced its partnership with Guizhou-Cloud Big Data (GCBD), a Chinese firm supervised by a board ran by government-owned businesses, with close ties to the government and Chinese Communist Party.

Apple users with iCloud accounts registered in China will now have their data hosted by the GCBD center. Users who don't want their data handed over can choose to delete their Chinese iCloud accounts. Apple has told Reuters that it won't transfer accounts over to the new data center unless users first agree to the updated terms of service.

Since the news was first announced, security experts, lawyers, activists like China's Chen Guangcheng, and multiple nonprofit organizations have all weighed in to point out the potential security risks. Experts say the move could force Apple to obey various government requests to access Chinese iCloud data.

Meanwhile, Apple has said that GCBD's close ties to the government are actually a perk. In emails to mainland Chinese customers last month, Apple said that the move enables "us to continue improving the speed and reliability of iCloud and to comply with Chinese regulations."

It is the latest development in a pattern of Apple acquiescing to Beijing's demands. Last July, Apple deleted VPN apps from the App Store that let mainland Chinese internet users evade censorship. Apple's lawyers have also added a clause in the Chinese terms of service that states both Apple and GCBD may access all user data. Apple has not responded to requests for comment.

Jeremy Daum, a lawyer and research fellow at Yale Law School's Paul Tsai China Center in Beijing, explained, "Search warrants in China are issued by police to police following internal review, not by an independent court." He added that since police are expected to maintain confidentiality of information, issues like personal privacy or commercial secrets are not considered barriers to police collecting information.

Meanwhile, Chinese laws do not protect internet users' privacy from government intrusion. In 2015, China passed a National Security Law, which included a provision to give police the authority to demand companies let them bypass encryption or other security tools to access personal data. The National People's Congress was not available to comment.

The 2017 Cybersecurity Law, which requires companies operating in mainland China to host all data within the country, was likely what led Apple to partner with the new data center. Those defending Apple say that acquiescing to the Chinese government is just the cost of doing business in China. Both Tencent and Alibaba host their data in China.

There may be some small upside to the move for mainland Apple users. "My guess is that Chinese iCloud operations could become faster in China, as they don't have to go through the firewall," says Nir B. Kshetri, professor of management at the University of North Carolina, Greensboro.

"Chinese users can supposedly enjoy faster download times and a more stable network by connecting to the GCBD."

According to the state-run Global Times, Chinese users will supposedly enjoy faster download times and a more stable network. Global Times published a piece in early September titled, "Reasons to be happy about Apple's local data deal."

"Some users seem to be concerned about the fact that the new data center in Southwest China's Guizhou Province will be operated by Apple's local partner - the government-owned Guizhou-Cloud Big Data Industry Co (GCBD) - fearing their personal data might be scrutinized," it wrote, "But such fears should by no means mask the positive effects of the venture."

The GT opinion piece says the Chinese government will "effectively ensure data security," and that, "Chinese businesses and institutions might no longer have to worry about the possible loss of Chinese data stored in overseas data centers and may accordingly increase their use of iCloud services."

"I do not doubt that the Chinese authorities can keep data secure—but that is not the problem."

Charlie Smith, a co-founder of anti-censorship sites GreatFire.org and FreeWeibo.com, says there's truth behind the data security claim the Global Times piece makes, but it's not the main issue. "I do not doubt that the Chinese authorities can keep data secure. Baidu could likely keep data secure from the prying eyes of the NSA—but that is not the problem," he said. "The problem is that the Chinese authorities can and will access this data whenever they deem it to be necessary. And the rationale for accessing this data is broad."

Apple's iCloud data is end-to-end encrypted and many experts point





Jobs That Will Soon Become Extinct

out that the concern isn't outsider hacking, but rather full government access. According to Apple's own transparency reports, between 2013 to mid-2017, the company shared a small amount of data with Chinese authorities, but caveated that it was only subscriber and transactional data and not photos, emails, or contacts. The percentage of data access requests Apple has approved has gone up over time. Apple provided data in response to 96 percent of requests during the first half of last year. It's unclear how much data Apple will give out now that the Cybersecurity Law of 2017 has taken effect.

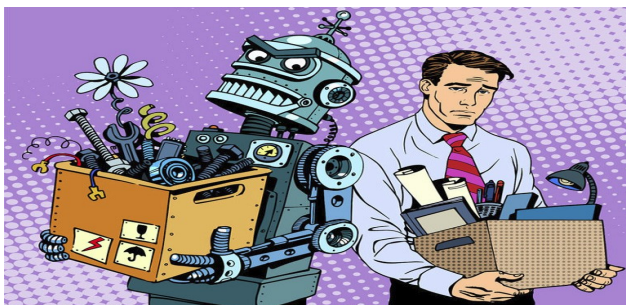
Amie Stepanovich, US Policy Manager for Access Now, an advocacy group dedicated to protecting users' digital rights, argues that Apple's use of data localization, especially of encryption keys, is wrong. "Encryption is still our best defense against unauthorized access to data, and policies that put keys into a single place provides an enticing target for bad actors," she told The Verge.

Many Apple users in China may not notice the transition. Meanwhile, Apple is telling customers their data will remain secure and private. "Apple has strong data privacy and security protections in place and no backdoors will be created into any of our systems," it said in a statement. Private, that is, until the Chinese government requests to see it.

Well, let's see how long that takes.

D. Miyoshi

Jobs That Will Soon Become Extinct



Metal men with metal feet march on the ashes of a ruined city.

The night sky is dark. The robots have won. And the human race is long dead.

This is the post-apocalyptic image conjured up by action blockbusters like Schwarzenegger's Terminator movies and vintage sci-fi

pulp.

A vision of a total societal collapse at the hands of a violent, unstoppable machine army — and a transparent warning on the potential dangers of technology and automation.

It's a little dark... and overly dramatic... but certainly not as far from the truth as most folks would believe.

A war between man and machine is on the horizon.

But it won't be fought on debris-littered battlefields or in dusty trenches. Nor will it be the result of a super-intelligent virus that turns our own machines against us.

It will be fought on factory floors... and in restaurant kitchens... and in boardrooms across the world... and the machines will be doing exactly what they were designed to do:

Take our jobs.

One hundred years from now, the history books will call it the Automation Revolution.

But we don't have to wait for 100 years to see some of our jobs go extinct. Last year The Huffpost published an article entitled "8 Jobs That Will Go Extinct by 2030". Here is what it said.

As technology continues to improve, future job forecasts will likely be dim for some workers.

Andrew McAfee, co-director of the MIT Initiative on the Digital Economy, addressed the future of jobs in developed economies in an insightful TED Talk. McAfee suggested that the increased productivity from sophisticated machine and computing power will lower prices and reduce "drudge" work. And Ira Wolfe, president of Success Performance Solutions and expert in workforce trends, estimated that close to 50 percent of jobs will be extinct within the next 20 years.

1. Utility Company Engineers

Thomas Frey, senior futurist at the DaVinci Institute, believes that the power industry will undergo dramatic changes in response to health and environmental issues. In a blog post, Frey predicted national grids will switch to micro grids to serve large cities and single homes. Power lines and coal plants will be replaced by cleaner technologies, and the role of utility engineers and transportation workers will shift. The good news is that an evolving power industry will initially provide new jobs to support the changes, such as installation





Jobs That Will Soon Become Extinct

crews, a new breed of engineers and more.

2. Delivery and Taxi Drivers

Deliveries of packages might soon be carried out by drones and driverless cars. Amazon is testing drones outdoors after receiving the go-ahead from the Federal Aviation Administration (FAA), reports *The Wall Street Journal*. And Frey wrote that driverless cars will replace limo and taxi drivers. He believes the U.S. legislation will agree that these cars are safer options. Delivery dispatchers, traffic monitoring systems, engineers, emergency crews and more will likely replace delivery and taxi drivers.

3. Some Teachers

Teachers are unlikely to become extinct. However, free online learning is revolutionizing teaching models, wrote Frey. The Massachusetts Institute of Technology (MIT) currently offers more than 2,000 courses online, and there have been more than 130 million downloads. The Khan Academy offers a similar number of courses, and downloads exceed 100 million. In the future, there might be fewer teachers and professors but more coaches, course designers and learning camps, according to Frey.

4. Travel Agents

Savvy sites that allow you to book your own vacation, such as Kayak and Airbnb, cater to the mobile user who prefers speed over personal service from a live representative. Fast Company ranked travel agents No. 5 on its list of the most endangered jobs of 2014, and Staff.com co-founder Rob Rawson wrote in a blog that websites provide a bespoke service that rivals the most efficient human travel agent. A computer can determine a traveler's needs, clarify questions via a website and deliver the cheapest or most suitable options quicker than a human travel agent and at a lower cost. Rawson predicted travel agents will no longer be needed by 2025.

5. Air Traffic Controllers and Pilots

Futurist, strategist and pilot John L. Petersen wrote that drones and other unmanned carriers will become part of the global aircraft fleet. Artificial intelligence agents will research and collect information such as the weather and flight plans — just like traditional pilots. Petersen also reports that the Navy has flown drones from aircraft carriers, and drone cargo helicopters are already in use in Afghanistan by the Marine Corps.

6. Bookkeepers and Accountants

Rawson also predicted that bookkeepers and accountants will be extinct by the year 2028. Chris Thompson of Wellers Accountants wrote that the business intelligence that bookkeepers provide by number crunching and reporting is key to strategic decision making. Software, such as QuickBooks, can capture and report data in real time. And artificial intelligence software, such as that created by Quill, can now analyze data and produce written reports integrating

various data sources.

7. Interpreters and Translators

The nuances of language make voice interpretation difficult for computers, as Kevin Rawlinson experienced on a recent trip to Bilbao, Spain. In an article for BBC News, he wrote that he found various Google language apps to be helpful but awkward in practice. But according to *The Economist*, which cites the consulting firm Common Sense Advisory, sales in the language interpretation industry are approaching \$37 billion each year. This implies that Google and other leading technology firms will continue to attempt to perfect their tools. One day soon, the need for interpreters could disappear.

8. Newspaper Reporters

CareerCast included newspaper reporters as a dying breed in its 2014 list of the most endangered jobs. Citing a report by NewspaperDeathWatch.com, CareerCast predicted the profession will decline by 13 percent in the coming years as consumers continue to read the news online and advertisers exploit online channels rather than print publications. Layoffs and furloughs will be the inevitable result of reduced funds from the advertising industry. And news apps will appeal to the mobile user, who can catch up on current events while waiting in line or riding public transportation.

With the success of Legal Zoom, it won't be long before lawyers will appear on this list (OMG). That is unless all those lawyers in Congress pass a law that forbids companies from laying off lawyers like them. But nothing is forever.

As described in the beginning of this article, much of the reason why certain jobs will become extinct is because of automation. Man will be replaced by machine.

The Fight for the Right to Work

Automation has been slowly chipping away at the job pool for years... but it's gone largely unnoticed because much of the "progress" has been made in industries that are outside the public eye.

Take for example the booming oil and gas drilling industry. Business took a sharp decline during the economic downturn post-2008, resulting in the loss of more than 440,000 jobs.

Things were looking grim for almost a full decade. But in the last two years, the industry has bounced back with a vengeance.

The number of U.S. oil and gas rigs doubled from just 509 rigs to a whopping 1,009. And with such a dramatic boom in rigs you'd expect an almost identical uptick in industry jobs.

Yet according to the Bureau of Labor Statistics, the number of jobs in the gas and oil industry is in a steady decline... and projections for the future see many of these jobs disappearing entirely in the





Aretha Franklin Died Without A Will

next few years.

This is due to the rise of the “iron roughnecks” — advanced, automated drilling rigs that require just 25% of the manpower to operate.

Most of the day-to-day business of the roughnecks is performed by machines and automated processes. Which means they only need a handful of humans to “supervise” the work.

And all this happened in just two years. A decade from now, the oil and gas industry will be an automated goliath operating with a skeleton crew of just a few thousand people.

And other industries are following in its footsteps.

Zachary Lerner, New York Communities for Change’s senior director for labor organizing, told *The Guardian*:

Many truckers are very fearful of driverless vehicles. Trucking is not the best job but it pays the most in lots of rural communities. They worry: Are they going to support their families? And what will happen to all of the small towns built off the trucking economy?

Working-Class Jobs Under the Knife

Automation has been nipping at the heels of the hardworking American for decades now. But recent advances in robotics and artificial intelligence have hit the fast-forward button on “progress.”

According to a study by the McKinsey Global Institute, over 70 million U.S. jobs, and a total of 800 million jobs globally, will be eradicated by automation in the next 12 years.

Even industries once thought untouchable — like medicine — will see at least partial automation... and those who refuse to automate will be left in the dust by their competitors.

You see, while an automated unit might have an initial cost of tens or even hundreds of thousands of dollars... you never have to pay that robot a salary... pay for its health care... match its 401(k)... train it... or replace it when it finds a better job.

And they’re not just a more cost-effective option. Automated workers can perform the same tasks as humans much faster and more efficiently. Which makes automation a no-brainer for companies looking to maximize their profit margin.

The industries that will take the biggest hit will be accommodation and food services, manufacturing, transportation and warehousing, agriculture, retail and mining. But aspects of automation will slowly seep into elements of all industries, filling roles once held by folks like you and me.

What Does This Mean for You?

If you’re working in a position that’s likely to be automated in the next few years, it’s time to start working on your plan B.

Shore up your emergency fund in case you are forced out of your job suddenly. Retrain with an eye on taking on roles that are harder to automate — think managerial roles or something like teaching that requires true human interaction to be effective. Or you could start a side income so that you have multiple income streams at your disposal.

Creativity is the byword here. Economic survival is the goal.

May your work continue to satiate both your curiosity and your appetite.

D. Miyoshi

Aretha Franklin Died Without A Will



More than half of all American adults don’t have a will, and that can cause all kinds of problems if tragedy strikes. Consider Aretha Franklin. She died without a will.

And in her case, it will likely cause big problems for her heirs since her estate is estimated at around \$80 million.

Aretha Franklin was a deeply private person. But because she did not have a will her estate will be laid bare in court for all to see. Not to mention the Federal estate taxes that will be due on her estate. By having a will she could have given some of her property to charities reducing a great portion of these estate taxes. By using a trust her estate could have avoided large probate fees. But it is now too late to avoid these.

Documents filed by her four sons in Oakland County Probate Court on Tuesday acknowledged the absence of a will and named themselves as parties interested in her estate. The relevant clause reads: “The decedent died intestate and after exercising reasonable diligence, I am unaware of any unrevoked testamentary instrument relating to property located in this state...” Additionally, Franklin’s niece, Sabrina Owens, asked to be appointed as the estate’s personal representative (effectively the executor).

There’s no indication that any of the parties are in conflict and, at least for the moment, the family seems to be on the same page, which is vital when potentially large estates (Franklin’s exact net worth is unknown, but it’s estimated at roughly \$80 million and





Aretha Franklin Died Without A Will

includes the rights to a number of her hit songs) pass through intestacy. That being said, even if family strife is avoided, the complete lack of wealth transfer planning on Franklin's part will likely result in Uncle Sam taking a huge tax bite out of that figure.

In an interview with the *Detroit Free Press*, Franklin's long-time entertainment lawyer Don Wilson (the estate's lawyer is David Bennet) doesn't paint a particularly optimistic picture. "I was after her for a number of years to do a trust," he said. "It would have expedited things and kept them out of probate and kept things private." Wilson continued, noting, "I just hope (Franklin's estate) doesn't end up getting so hotly contested. Any time they don't leave a trust or will, there always ends up being a fight."

Whether Bennet's fears come to pass remains to be seen, however, what is certain is that Franklin should have followed her own advice and taken some time to "Think" about her estate plan—or lack thereof.

For the rest of us who still have some time, here are some of the most common – and destructive – estate planning mistakes you should be aware of.

Set it and forget it. A common error – and it's a big one – is that too many people establish an estate plan and then forget about it. Estate planning experts advise that an estate plan is reviewed every five years or sooner, if there is any change in circumstances. Do it sooner if you move to another state, say Florida or Arizona for retirement. In that case, don't forget to consult an estate planning attorney when you move, and the sooner the better. State laws can differ substantially both in document execution formalities and in tax structures, and those changes need to be addressed.

Keeping bad records. Not having good financial records is another estate planning no-no. With incomplete, error-ridden, or out-of-date financial records (or worse, no records at all), chaos is sure to ensue after you go. Imagine trying to leave your rental property to your children through an executor who, for whatever reason, cannot oversee your estate. Or leaving property to a loved one without accurate tax records. The best solution? Make sure you review and update your estate plan every few years, at least.

Not talking to your heirs. Many people don't take the time to discuss their estate with their heirs, thereby setting up potential problems after they are gone. Consider a couple with two sons: one a doctor and one an out-of-work underachiever. The couple decides to cut the layabout a break and give him the family home. Years later the doctor is forced out business after a malpractice suit and the ne'er-do-well son bucks up and starts a flourishing small business. Upon the second parent's passing, it's the son who doesn't need the house that gets it, leaving the son who could use the property out of luck. By keeping your heirs in the loop, and by considering their needs and interest, such problems can be avoided.

Relying on an inexperienced executor. It's only natural to want to appoint an executor to your estate who knows you, knows your family, and can be trusted. And that's all good. But one mistake plenty of people make when it comes to real estate is to tap an executor who doesn't understand key personal financial issues. Take real estate, for example. You don't want an executor who doesn't have a handle on the tax issues that come into play with real estate in estate planning, or doesn't understand the way you set up your property. Your best move? Make sure you talk to a potential executor and see if they are up to the job. If not, find someone else, or at least recommend that your executor consults with a bank officer, certified public accountant or attorney trained in estate planning management.

Ignoring a will when titling property. Most people planning their estate don't realize it, but unlike a will or a revocable trust, a transfer of an interest in any real estate you own is irrevocable. Translation? That could prevent you from changing the disposition if your financial situation pertaining to your real estate changes before your death. In addition, titling your family home jointly can trigger a partial loss from your property's capital gain exclusion if it is sold before you pass away.

As the saying goes, a little planning goes a long way. So keep the above mistakes in mind, when you're establishing your estate plan. You'll feel better knowing your assets – and your loved ones – are protected, and there won't be a need to get Uncle Sam into the mix, after all.

So, at the very least see your attorney about planning your estate. Note, I am not writing this article to drum up business for myself. I am writing this to help people avoid the most common legal mistake that is made by those living or residing in the U.S. with more than \$150,000 in assets (smaller estates can use a simplified legal process to pass assets to heirs). Therefore, be sure to see an attorney you are comfortable with who is experienced in estate planning. To acknowledge one's own mortality is not pleasant. But like taking out life insurance, for your heirs it is one of the most worthwhile things you will ever do in your life, guaranteed!

D. Miyoshi



The Real Reason Millennials Hate Capitalism

Real Reason Millennials Hate Capitalism



As a Vietnam Veteran, I sometimes wonder if the Communists were supposedly the victors of the war, why do the Vietnamese of today love capitalism?

Also, I sometimes further wonder if the U.S. is supposedly the champion of free trade in the world, why do the U.S. millennials of today hate capitalism?

In 2011, the Occupy Wall Street movement gave the world its first real glimpse into the anti-capitalist angst of today's U.S. youth. Chants of "We are the 99%" shed light on the manifesting divide between the purported haves and have-nots of American society.

In 2016, widespread fervor over "democratic socialist" and presidential candidate Bernie Sanders only further confirmed the growing anti-capitalist sentiment among millennials. During the primaries, Sanders won more votes among people under 30 than both Clinton and Trump combined.

That same year, a Harvard University survey confirmed what by then seemed obvious enough: only a minority (42%) of adults between the ages of 18 and 29 now supported capitalism. It's a stunning statistic considering that prior generations widely recognize the economic system as the greatest wealth generator in history.

Jason Stutman, the editor of *Wealth Daily* is a millennial himself and admits he finds the angst of the millennials a bit bewildering. At a moment in history when Venezuelan children are literally dying of hunger en masse and its average citizen is losing 24 lbs in body weight a year, many of his peers are decrying the fact that college and medical treatment are not "free."

At the same time, he understands where much of the ire comes from. Millennials undeniably drew the economic short straw of our time, and many are looking for something to blame. Justified or not, capitalism turns out to be an easy target for those who are struggling to succeed within it.

Millennials were hit with a financial crisis in 2008, as many were

first entering the workforce. They were corralled like sheep into a system of "higher" education as academic debt doubled between 1996 and 2006. They're also the first generation in modern history to be worse off than their parents in terms of income.

These factors aside, a long list of other reasons have led folks like those at *The Atlantic* to dub millennials the "Unluckiest Generation," and, in a relative sense, it's an accurate characterization.

What gets lost in that framing, however, is the fact that economics is not a zero-sum game. The reality is that millennials are living in what is objectively the most prosperous period in history.

The BBC has summarized this point succinctly in its reporting:

Life expectancy has risen more in the past 50 years than the previous 1000; the likelihood of a violent death has never been lower; on average, we're better educated than ever, and childhood mortality has plummeted. Among the most striking changes, the last few decades has brought remarkable successes in tackling global poverty: in 1981, almost half the people in the developing world lived below the poverty line; as of 2012, that figure had dropped to 12.7%.

Yet despite these absolute truths, many millennials can't stop comparing themselves to the wealthiest members of society and declaring that something just isn't right. After all, if Jeff Bezos is worth \$139 billion and John Doe is working for minimum wage, there must be something inherently wrong with our economic system, right?

Well, Stutman says not necessarily.

But if you try to debate these individuals, they simply won't have any of it:

The self-imposed blinders should say enough about the legitimacy of the ideology at work here. But rather than bash socialism as a tribalistic bubble, Stutman offers an olive branch and recognizes a legitimate grievance these people have with modern capitalistic society: materialism.

Perhaps the epitome of this socialist grievance is the \$1,000 24K gold ice cream sundae, a product of capitalism that's been recently cited by leftist figureheads and activists as a surefire indicator that something is truly rotten with capitalism.

The basic premise is that there really is no reasonable justification for eating gold-covered ice cream, and, quite frankly, Stutman (as well as many others) have to agree. You're either pretentious or just plain dumb (at least in his opinion) if you ever spend that much money on a sundae.

Wasting IQ's

Yet where a socialist sees this as a direct failure of capitalism, it seems more to Stutman that this is a failure of society and individual decision-making. In a free market, the reality is that the only things that thrive are the things we feed.

Another way of putting it is this: Millennials aren't necessarily upset at capitalism itself; they're upset with the decisions being made within it.

Ultimately, this touches the core hypocrisy of most millennial socialists. They hate opulence but can't keep their eyes off the Kardashians. They despise corporate consolidation but only buy Apple products. They decry oil companies but spend significantly more on gas than older generations.

At the end of the day, there really are only two solutions to this problem. Solution #1 is to have the government compel different consumer choices. Solution #2 is to compel those decisions collectively.

Stutman mentions this in light of the recent victories of progressive candidates in primary elections, namely Alexandria Ocasio-Cortez and Ben Jealous. The former has called for the complete abolishment of ICE, while the latter is the latest to push for a universal health care system within his respective state.

No doubt these candidates were lifted by young voters who are grabbing more weight every election cycle. And while still few in number, such representatives do pose a potential threat to the free market if this trend is to continue, as they and their constituents are directly against the idea of it.

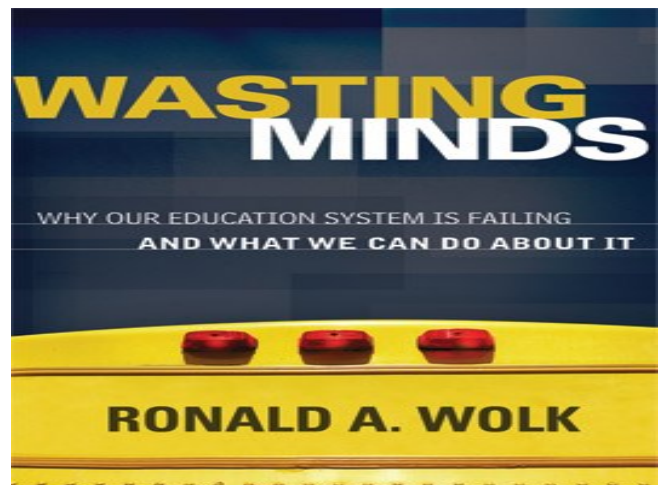
To be clear, this shouldn't strike any immediate fear into investors' hearts, but it's enough to proceed with a sense of awareness. Should voters ever fully embrace the rising democratic socialist movement, the long-term bull case of U.S. stocks (which has remained solid for two centuries now) would simply fall apart.

For now, though, there are more pressing threats to the free market coming from the complete opposite side as fears of the aftermath of trade wars persist. We're operating in polarizing times with threats from both ends, so we must stay both aware and active as an investor.

And never lose the faith. Because we now can see that the U.S. actually won the Vietnam war after all.

D. Miyoshi

Wasting IQ's



In the July 2018 edition of the *Financial Crisis Report*, I featured an article wherein I gave my opinion that Harvard's admissions policy is not racist against Asian Americans. My opinion is contrary to the charge being made by a group called Students for Fair Admissions that alleges that Harvard University uses highly subjective personality ratings to penalize Asian applicants. It is widely alleged that Asians tend to outperform white applicants on every measure except for so-called personality. However, the number of Asian-American students at Harvard has fallen relative to the Asian-American population, while during the last 25 years the number for white students has risen. Defenders of the admissions policy, meanwhile, say that the personality ratings are necessary to account for the different challenges students face growing up.

Well, contrary to my opinion, on August 30, the U.S. Department of Justice announced that it had filed a statement of interest in support of the students against Harvard. The statement read "Harvard has failed to show that it does not unlawfully discriminate against Asian Americans." Specifically, it has failed to evidence that it is not in violation of Title VI of the Civil Rights Act of 1964, which forbid discrimination on the basis of race, color, or national origin in programs that receive federal funding.

The Department specifically highlighted Harvard's use of the subjective "personality rating" as evidence of its discriminatory practices. It also notes that the evidence shows, that Harvard admissions officers and committees consistently monitor and manipulate the racial makeup of incoming classes, which has resulted in stable racial demographics in Harvard's admitted classes from year to year. Such attempts to racially balance classes were declared "patently unconstitutional" in a 2003 Supreme Court case.



Wasting IQ's

While the case is sensational because of the allegations of racism, fundamentally it's about a deeper question that writer Noah Smith in *Bloomberg* exposes with great clarity. That question is does meritocracy still make sense as a guiding principle for the modern American economic system?

Smith states that the notion that college admissions should be based on objective standards of individual achievement — grades, test scores and performance in extracurricular activities — is predicated on the idea that it's good for society to identify and funnel educational resources to its brightest, most capable people.

But, Smith argues, showering smart kids with educational resources isn't an end in and of itself. Education is costly to society. Where's the benefit? The idea of meritocracy is that education both identifies and cultivates the future working elite — after the smart kids get good educations, they will go on to occupy the social roles where their talents are most needed, whether in business, academia or government. But if that link is broken — if the best and brightest are wasted after they graduate — then educational meritocracy was for naught.

The U.S. economy still does make use of meritocracy, as indicated by the fact that college graduates get paid higher wages. But there are troubling signs that talent is being squandered in large amounts.

For example, many graduates from elite schools end up working on Wall Street. In 2007, half of Harvard seniors took jobs in finance or consulting. That share fell after the financial crisis, but it is still more than a third. It isn't just Harvard, either — big banks draw large percentages of their workforces from top schools, both public and private.

Some of those workers will be producing real value. But since the 2008 crisis, there has been a growing sentiment that much of what the finance industry does involves siphoning value — which economists call “rents” — from the rest of the economy. Economists such as Thomas Philippon argue that the industry has gotten less efficient. There are many reasons for this — implicit government guarantees propping up unproductive banks, trading activity that wastes resources, and excessive money management fees.

The upshot is that many of the country's best and brightest are either exerting their talents trying to beat each other out in a zero-sum trading game, or exploiting legal and behavioral loopholes to part investors from their money. The Dodd-Frank financial reforms probably helped the situation a bit, but those reforms are

even now being eroded.

Since the turn of the century, a large productivity gap has opened up between leading companies and the rest. Research indicates that a few elite companies in each industry are becoming superstars, using their talent and intellectual property to muscle out the rest. The advent of the internet, which gives companies a wider marketing reach, may be contributing to the trend.

Industrial concentration is worrying for a number of reasons. It suppresses wages for workers, raises prices for consumers and reduces overall economic output. This means that the most gifted Americans, working for superstar companies, are increasingly using their talents to deepen and entrench an inefficient economic system, by figuring out more effective ways to kill off competition.

Meanwhile, many potentially important positions are being starved of the talent they deserve. In countries such as Japan, many top graduates traditionally entered the bureaucracy, though less so in recent years. In Finland, which has one of the world's best education systems, teaching is a highly prized profession. But in the U.S., talented individuals have little incentive to go into government. Low salaries and low prestige are causing young Americans to flee the federal workforce, leaving the civil service starved for talent. Inefficient and ineffective government is the inevitable result (not to mention corruption). Meanwhile, salaries for American teachers continue to stagnate, which can't be helping the country's flagging education system.

This all adds up to a picture of a broken American meritocracy. The U.S. does a great job of finding the ablest students and giving them a top-notch education, but it then employs many of these capable, well-trained individuals in low-value or even counterproductive roles. The civil service and the educational system sink slowly into inefficiency as skilled people flee for the higher salaries of the finance/technology industries as well as monopolistic companies.

Thus, making the university system a little more meritocratic is mostly a sideshow. The real threat to American meritocracy comes from poor incentives in the working world. To make it great again, fixing those incentives must be a top priority for America.

President Trump went to Penn. He should know that.

D. Miyoshi



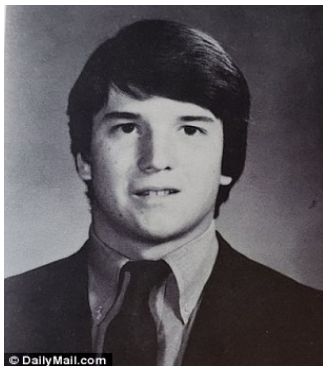
Men Shut Up and Step Up

Men Shut Up and Step Up



“ And I just want to say to the men in this country: Just shut up and step up! Do the right thing for a change.” Senator Mazie Hirono (D-HI)

The *New York Times* called it “an explosive charge.”



It was 36 years ago. The accusation: There was a party, alcohol. A 17-year-old boy was drunk and started groping a 15-year-old girl, pinning her down and covering her mouth so she couldn't scream. Today, she doesn't remember some (if not

most) of the details. Supreme Court justice candidate Brett Kavanaugh insists it didn't happen at all.



Christine Blasey Ford – the accuser – decided to do her public duty. Why she thought the Senate should know about Mr. Kavanaugh as a 17-year-old is not clear.

But she set off an uproar... at least, a Washington-style uproar, circa 2018.

Also, another accuser has emerged with "foggy" details of an alleged drunken sexual encounter with Kavanaugh.

As Christine Ford's allegations against Judge Kavanaugh are seemingly imploding, new "foggy" recollections have surfaced as recounted by a woman who claims to have had a drunken encounter with Kavanaugh.



As reported by *the New Yorker*, Debbie Ramirez described being "on the floor, foggy and slurring her

words' during a drunken dorm party" when Kavanaugh made an unwanted sexual advance toward her. Until recently, she had "gaps in her memory" of the alleged encounter that became clear after spending 6 days with her attorney. Ramirez, like Ford, holds anti-Trump views. She is also calling for the FBI to investigate.

Stormy Daniel's attorney Michael Avenatti says he has a client Julie Swetnick (still anonymous) who claims she attended parties where she saw Kavanaugh try to get girls drunk so the men could gang rape them.

I do not know Judge Kavanaugh, nor any of the women accusers. Also, I have not researched any of Kavanaugh's legal decisions. But I have seen a bedroom more than once and sometime after the Civil War, was once 17 years old myself. I have even attended a drunken party or two along the way.



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But if every public servant were disqualified on the basis of what Judge Kavanaugh did (or is alleged to have done) in high school or college, Washington would be an empty place. This is simply hypocrisy at its extreme. And it's a crying shame.

The Real Reasons for Delaying Kavanaugh's Confirmation

The real reasons the Democrats wanted to delay the confirmation was not because of Kavanaugh's sexual mores but because they just don't like his judicial decisions and they resent the white male entitlement he represents.

First, and foremost they don't want any conservative on the court because they really want to be able to maintain control over a woman's womb, and they want to be able to determine what happens to occupants of a woman's womb. And they're afraid that Kavanaugh will come along and overturn *Roe v. Wade*, which is not going to happen. But they can't take the chance that it won't. Because for the left (at least at this time of history) it's all about abortion.

The women on the left want to be able to continue uninterrupted with their behavior when it comes to abortion. Sex without consequence, life without consequence. They are terrified that a Republican or a conservative majority will overturn *Roe vs. Wade*.

As for Democrats resentment of white male entitlement, it continues. Stephen King, the noted author and ardent leftist succinctly expressed it in two recent tweets.

"If 'white male entitlement' was in the dictionary, it could be illustrated by Brett Kavanaugh's photograph. The thought of this closed mind on the Supreme Court for the rest of my

life sickens me," wrote King in a tweet.

In a nutshell, Kavanaugh is loathed by the Democrats because he is a successful white male, unable to claim any victimhood credit. The judge belonged to a frat, he played football, he's religious, he claims he was a virgin until well after high school, he was popular and had lots of friends, graduated at the top of his class and has achieved real success.

How can the Left not hate this cisgender white male all-American conservative?

King followed it up with another charge: "While in college, Brett Kavanaugh was a heavy drinker and an enthusiastic party-boy. Those behaviors change with age, but the attitudes and assumptions which drove the behaviors rarely do," he wrote.

It seems the Democrats sincerely believe that Kavanaugh, due to his skin color and gender, is somehow undeserving of his success. (King himself is in the clear because he hates himself — a yucky white, successful, rich male — and superficially panders to the Left when he should.) So taking away this deserved Supreme Court seat from the judge is justified. It's "social justice," actually, for all the wrongs white men have done in the past.

The Democrats rationalizing query is "what's not fair about doling out punishment for others' past sins onto an innocent "entitled" "white male"?"

The Outlook for the Mid Term Election

It is likely that the Democrats really believe they are going to win the mid term election as if what they are doing now to Kavanaugh and the judicial system is not enraging the





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Republicans. They believe the Democrats have all the motivation, inspiration and eagerness to vote.

In mid September, we saw a harbinger in a Texas special election where a Republican won a Democrat seat that the Democrats have held for 139 years and the polls did not indicate this to happen.

It's instructive to see what David Gergen said to Anderson Cooper in a recent interview on CNN. Cooper said "This call from Democrats for an FBI investigation. It's a delay tactic, some people say."

To which Gergen replied "This vital last step about who's going to investigate is crucial to the outcome. What's most important for the country here, Anderson, is when this is all said and done, if Judge Kavanaugh's going on the Supreme Court and it's gonna tip the balance of the court for years to come, uh, it's really essential that he go forward without a big cloud over him. To have Judge Kavanaugh go up there and join Clarence Thomas, you're going to have two people who have been accused of sexual harassment on the court deciding whether *Roe v. Wade* should be sustained or not — precedent ought to rule — that is not a helpful situation."

To the Democrats, the infuriating thought is that there will be two people on the court with sexual harassment allegations who are able to control whether a woman can or cannot have an abortion.

But isn't it a bit incredible that un-credible accusers came forth at the very last minute in obvious set-up schemes to try and taint both Clarence Thomas and Brett Kavanaugh?

Neither Clarence Thomas nor Brett Kavanaugh were

known as sexual anything until the last days of their confirmation hearings.

The Wall Street Journal has quoted Senator Mazie Hirono as saying that a core tenet of American law is not being applied to Kavanaugh. The Journal quotes her as saying "The Democratic standard for sexual assault allegations is, they should be accepted as true merely for having been made. The accuser is assumed to be telling the truth because the accuser is a woman. The burden is on Mr. Kavanaugh to prove his innocence." (i.e. believe the woman because she is a woman). Well, the last time I was in Dubai, they told me they have to believe the man because he is a man.

In America, this statement of Senator Hirono is astounding. Actually, this could be the second* most ludicrous statement of the decade.

*On March 25, 2010 Representative Hank Johnson Democrat from Lithonia, Georgia questioned Admiral Robert Willard, about a proposal to move 8,000 Marines from Okinawa to Guam. In the course of that questioning Rep Johnson expressed concern that adding that many Marines and families on the island could cause it to tip over and capsize. This could be the top most ludicrous statement of the decade.

In our country, the practical problem we face is that decent people (in both parties) do not know how to deal with this. Decent people do not focus on how to literally destroy the lives of people they disagree with, and that's what we're facing. The far left is literally trying with great effort to destroy the lives and the careers and the reputations of anybody they don't agree with.

And they do it without any concern whatsoever. And all the while the Democrats claim they're the ones with the big hearts and compassion, they're the ones with caring,





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they're the ones that are the social justice warriors concerned about discrimination and unfairness! And yet they (the far left) wantonly, eagerly and happily seek to personally destroy anybody who gets in their way! To wipe them out financially, destroy their families, ruin their reputations and careers!

To be fair, I am only referring to primarily far-left Democrats, as most in the Democratic party are like most Republicans, decent and honorable people.

The bottom line is decent people don't know how to deal with this and therefore they just avoid it. That's why Trump was elected, and that's why people that support Trump don't care one whit what he says in a tweet or a tweet. They don't care one whit what he tweets. He is the lone person fighting back against any of this. He's the only person that people that voted for him think has a chance of standing up to these people and stopping them. That's why they supported him, that's why they elected him, and that's why they don't abandon him now.

The Confirmation Hearing



On September 27, the Senate hearing of Dr. Ford and Judge Kavanaugh was conducted. It was historic.

Everyone knew it would come down to a she said, he said contest. Although it was not a formal case in court, it was a case before the court of public opinion. But the final decision to confirm Judge Kavanaugh was up to 11 Republicans against 10 Democrats

who were against the confirmation. If any one of the Republicans did not vote to confirm, there would be no confirmation much to the delight of the Democrats.

In the morning Dr. Ford appeared and in the afternoon Judge Kavanaugh made his appearance. It seemed like a Super Bowl contest because there were two halves. But the goal was not really to find out the truth but to make a politically compelling showing. If Dr. Ford won and the confirmation was defeated, the chances for getting a conservative justice on the Supreme Court before the 2020 elections would be nil. In the afternoon if Judge Kavanaugh won he would (or should) be confirmed to the Supreme Court.

Everyone expected that certain Democratic Senators (i.e. Kamala Harris and Cory Booker) would use this opportunity as a kick off for their presidential campaigns. Other Senators such as Richard Blumenthal and Mazie Hirono used the forum to directly attack the credibility of Judge Kavanaugh.

Dr. Ford came off as innocent, girlish and credible. Dr. Ford stated someone drove her to the party near Washington DC in the summer of 1982 but did not remember the place, the date or time of the party. She stated her most vivid memory of the party was Judge Kavanaugh and his friend Mark Judge laughing as one of them (she did not know which one) lay on top of her. Her testimony about the actual assault was very detailed. But still there are no corroborating witnesses.

Dr. Ford appeared with two attorneys and for some questions, the attorneys interjected that the questions would violate an attorney client privilege.

The Democrat Senators focused on Dr. Ford's memory of the incident and to almost a person, congratulated her for her courage to appear at the hearing which was an inspiration and motivation to all women who have suffered sexual



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assaults.

The questioner for the Republican Senators Ms. Rachel Mitchell was very gentle in her questioning of Dr. Ford. In a way, this helped to support Dr. Ford's credibility.

After the questioning of Dr. Ford was completed, it was apparent she and the Democrats won the first half.

Judge Kavanaugh had a huge challenge to "prove" a negative (that the incident did not happen or that he was not the perpetrator). In a way the hearing was a Twilight Zone-like circus of accusations and last-minute attempts to derail the Kavanaugh nomination. But, this was expected by everyone.



In his interview Judge Kavanaugh came off as strong, definite, clear, coherent, articulate, fair, honest, emotional and angry in

his denial of everything Dr. Ford said. This was not consistent with his usual mild demeanor. But his testimony was well delivered and riveting and a game changer. It was extremely effective just like that of Justice Clarence Thomas' closing argument against Anita Hill's accusations.

His disclosure of the Democrat's "dirty" tactics of character assassination was very effective. "What goes around comes around and I fear for the future of America" (I say amen to that). He said he would not be intimidated into withdrawing from this process and that due process means listening to both sides. He categorically and unequivocally denied all the allegations of Dr. Ford and stated that all the people who Dr. Ford said were present had refuted the occurrence of the event. He asked to be judged the same way we would all judge our own fathers, husbands, broth-

ers, and sons. Especially concerning was Judge Kavanaugh's statement "The consequences will extend long past my nomination. The consequences will be with us for decades. This grotesque and coordinated character assassination will dissuade competent and good people of all political persuasions, from serving our country." He also said the Senate had turned the process of judicial confirmation from "advise and consent" into "search and destroy." Maybe this militarization of the Senate occurred because of Senator Blumenthal's "experience in Vietnam" that he imaged once upon a time. Later, an ironic moment occurred when Senator Blumenthal lectured Judge Kavanaugh on the significance of "credibility." I wonder about the level of self-awareness of the good Senator.

Perhaps the high point of the session was when Senator Sheldon Whitehouse (a nice name for a Senator) questioned Judge Kavanaugh on his references in his high school yearbook to farting. The take away of this is for all high school students aspiring to high government office to be very careful of what you write in the yearbook. The other high points were provided by the meaningless, antagonistic, self-serving and insufferable grandstanding questions propounded by Senators Hirono, Harris, Booker and Blumenthal.

After Judge Kavanaugh's interview it became apparent he is precisely what the far-left Democrats fear and resent (i.e. the ideal white male who is unable to claim any victimhood credit except for his Senate confirmation experience, who belonged to a fraternity, played football and basketball, is religious, claims he was a virgin until well after high school, was popular and had lots of friends, graduated at the top of his class at an elite school, has achieved real success and lastly, enjoys drinking beer). Yes, there is a lot there to envy.



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Senator Lindsey Graham brought down the house (not to mention the Senate) by his on fire, open and honest critique of the sordid sham process that the Democratic Senators were putting Judge Kavanaugh through. Graham stated “if you want a fair process, you came to the wrong town at the wrong time.” In his four-minute outburst he revealed in stark reality the actual goal of the Democrats on the Senate Judicial Committee was not to bring justice to a victim of sexual assault but to delay the confirmation of a Supreme Court Justice until after the Mid-Term elections. Graham’s tirade stopped Rachel Mitchell’s methodical questioning and brought back a stark political approach to the hearing process. Afterward, Knute Gingrich said this single diatribe had justified Senator Graham’s entire political career.

After the Kavanaugh interview concluded president Trump tweeted that Kavanaugh proved himself well and demanded that the Senate confirm him.

The next day Sept 28, by the thinnest of margins (11 v 10) the Senate Judicial Committee voted to recommend Judge Kavanaugh for confirmation. However, not surprisingly, Senator Jeff Flake, the “Never Trump” lawmaker said he would vote “yes” provided that a supplemental FBI investigation into the sexual assault allegations would be concluded before the Senate votes to confirm Judge Kavanaugh. Senators Susan Collins and Lisa Murkowski also said they wanted an FBI investigation. President Trump thereupon ordered an FBI investigation (the 7th of Judge Kavanaugh) into the matter limited in time and scope. At the time of this writing, the investigation is to be one week in length. Therefore, if all goes as planned (not at all a sure thing) sometime during the first week of October, the Senate will vote on the confirmation of Judge Kavanaugh. If, and it’s a big if, that happens and Judge Kavanaugh is confirmed, it would be a truly historic day that should change

the Judicial approach to social issues in America for generations to come.

But There are Real Limitations

Strangely, in the past, Supreme Court nominees weren’t asked how they treated their wives or what they did as teenagers. Many were probably cads or scoundrels; but somehow, the Republic survived. One more rascal is probably not going to make that much difference.

The real problem is that the Supreme Court has been derelict in its duty for the last 80 years. It has failed to defend the Constitution against what Eisenhower called “unwarranted influence,” and what we now call the “Deep State”.

And today, nobody who would pose a serious threat to the Deep State – Republican or Democrat – would be allowed anywhere near a seat on the Supreme Court. That sounds cynical because it is.

One of the occupational hazards of being an attorney is that of becoming skeptical and suspicious, if not practical and realistic. Thus, my take on what a Supreme Court Justice can actually accomplish on the court is somewhat restrained by certain real limitations that I have come to recognize over the years of practicing law.

Beyond the practical limitations of time and money, we must realize that Supreme Court Justices are only allowed to choose from what is brought before them, cases having survived tedious, time-consuming and expensive lower court scrutiny. So if Justice Kavanaugh wanted to reverse *Roe V. Wade* he would have to wait for a case that would allow that. Theoretically that could take a lifetime—if at all.





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If Congress passed a law that all nine justices personally believed to be unconstitutional they possess no power collectively or individually to themselves bring it before the high court for review. There exists in the Constitution no judicial general review or oversight of the legislative branch; only in laws contested by a litigant proving damaged by it, or treaties. The Constitutional Convention nixed this notion because it would give the court too much power. Nor were they allowed an advisory position with respect to legal issues, each branch could do this for itself. They were to be an independent branch existing solely to adjudicate cases brought to the court by others.

Should no one oppose a law or treaty outside the Constitution because opposition to it is too expensive, time-consuming, and tedious it becomes constitutional by default becoming, in time, the bases for additional law that should be equally unconstitutional. Still, it remains a lesser problem than had the court oversight of all legislation.

In the second place justices are limited to just nine classes of cases in which they can adjudicate, as was the Legislative Branch to just 18 areas where they were empowered to write law (Article I, Section 8), and the Executive branch to just eleven listed areas of performance (Article II, Sections 2-3). Remember the purpose of the Constitution was to limit government from ruling everybody and everything.

Article III, Section 2 begins: "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority." The Supreme Court is limited to nine case

types. These are: "- to all Cases affecting Ambassadors, other public Ministers and Consuls; - to all Cases of admiralty and maritime Jurisdiction; - to Controversies to which the United States shall be a Party; - to Controversies between two or more States; - [between a State and Citizens of another State;-] between Citizens of different States, - between Citizens of the same State claiming Lands under Grants of different States, [and between a State, or the Citizens thereof;- and foreign States, Citizens or Subjects.]" Constitutionally every case before the Court had to first meet one of these or the Court must decline adjudication.

Why the list of case types? Why can't the Supreme Court adjudicate everything? Because they could adjudicate only conflicts in federal law and treaties as decided in the Constitutional Convention and as per congress's list of areas for approved law (Art. I, Sec. 8). Because when the Constitution was created two co-equal existing governments were recognized called federalism with the states governing domestic and the federal branch governing national and foreign. Because state courts were to adjudicate everything else not listed as federal power in the Constitution and as noted in Amendment 10.

Then the Founders divided this list into original and appellate jurisdictions—one total the other only partial. "In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction."

Why? Because the first deals entirely with matters of foreign consequence and the second, the state, is the head of the other co-equal governments under federalism.

The Constitution continues, "In all the other Cases be-





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Advancing in a Time of Crisis



Financial Crisis Report



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fore mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." Now Congress is in charge and clearly can participate should it choose to. "You may not take up this case at this time" or "you may do so given the following regulations." This is an essential part of the "check and balances" of the Constitution which has unfortunately never been used.

Unfortunate is Congress's failure to provide this balance, worse is the failure of many justices to pay any attention to the list provided, which has been the case for most of the past century. Far worse is the tendency of so many justices to just make up an interpretation based on no law.

Supreme Court Justice Clarence Thomas said. "Let me put it this way; there are really only two ways to interpret the Constitution—try to discern as best we can what the framers intended, or make it up." On making it up, he added: "No matter how ingenious, imaginative or artfully put, unless interpretive methodologies are tied to the original intent of

the framers, they have no more basis in the Constitution than the latest football scores." (Wall Street Journal Opinion, Oct. 20, 2008).

So, then I suppose if Ohio State beats Michigan, that doesn't mean that a baker can refuse to make a wedding cake for a gay couple. But if USC beats Notre Dame, does that mean the states can remove voters from their rolls when they fail to vote for two years?

Well, maybe it's not that simple.

But what is clear is our politics (and to some extent our judicial system) are in shambles. Never has America been this polarized and adrift.

And, no matter who is president, or in congress or sitting on the courts, unless we all work together to make America great again, we will simply stumble into becoming a socialist outpost of a one world government.

So at this point, it actually does make a hell (pun intended) of a difference.

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