

December 21, 2009

[WSJ editors](#) comment again on the end of the DC voucher program. Among those who acted dishonorably were the National Education Association, who care more about protecting union power in a mediocre school system than helping students get ahead.

The waiting is finally over for some of the District of Columbia's most ambitious school children and their parents. Democrats in Congress voted to kill the District's Opportunity Scholarship Program, which provides 1,700 disadvantaged kids with vouchers worth up to \$7,500 per year to attend a private school.

On Sunday the Senate approved a spending bill that phases out funding for the five-year-old program. Several prominent Senators this week sent a letter to Majority Leader Harry Reid pleading for a reconsideration. Signed by Independent-Democrat Joe Lieberman, Democrats Robert Byrd and Dianne Feinstein, and Republicans Susan Collins and John Ensign, it asked to save a program that has "provided a lifeline to many low-income students in the District of Columbia." President Obama signed the bill Thursday.

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A couple of [Corner posts](#) on the health care bill. [Mark Steyn](#) found the best line. I like the way this guy puts it: "[Cash for cloture](#)."

This line from Congressman Cantor caught my eye:

They're allocating taxpayer dollars as if those dollars belonged to the senators. It borders on immoral. Just look at the way Senator Landrieu put her vote up for [sale](#). Senator Nelson did the same.

You can't even dignify this squalid racket as bribery: If I try to buy a cop, I have to use my own money. But, when [Harry Reid](#) buys a senator, he uses my money, too. It doesn't "border on immoral": it drives straight through the frontier post and heads for the dark heartland of immoral.

[David Warren](#) discusses Copenhagen, and waxes philosophical on related topics, which you may read in his full article.

The farce in Copenhagen continues. As I have intimated before, I am not without hope for this "earth summit." I see more and more evidence that people -- "electorates" in all the western countries, where we do have elections, and can throw the bums out, which is about the only pleasure we have as "electors" -- have seen through this imposture completely. ...

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accomplishment will be denied to them, for they are falling out among themselves, and Barack Obama's big galvanizing speech has impressed nobody. ...

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David Warren references [Gerald Warner's](#) blog in the [Telegraph, UK](#). Mr. Warner is about to become one of our favorites.

When your attempt at recreating the Congress of Vienna with a third-rate cast of extras turns into a shambles, when the data with which you have tried to terrify the world is daily exposed as ever more phoney, when the blatant greed and self-interest of the participants has become obvious to all beholders, when those pesky polar bears just keep increasing and multiplying – what do you do? ...

...This week has been truly historic. It has marked the beginning of the landslide that is collapsing the whole AGW imposture. The pseudo-science of global warming is a global laughing stock and Copenhagen is a farce. In the warmist camp the Main Man is a railway engineer with huge investments in the carbon industry. That says it all. The world's boiler being heroically damped down by the Fat Controller. Al Gore, occupant of the only private house that can be seen from space, so huge is its energy consumption, wanted to charge punters \$1,200 to be photographed with him at Copenhagen. There is a man who is really worried about the planet's future. ...

In the [Club For Growth](#), [Michael Connolly](#) reports on the club president's sarcastic response to 'meaningful accord' reached in Copenhagen.

The Club for Growth today hailed President Obama's announcement in Copenhagen of a "meaningful accord" with China, India, and South Africa about climate change and green house emissions. Club President Chris Chocola made the following statement after the accord's announcement:

"Like most Americans, I feared President Obama went to Copenhagen to sign a binding, job-killing, economic suicide pact.

"I am greatly relieved that the last-minute agreement President Obama negotiated is being widely described as 'meaningful.' When politicians call something 'meaningful,' that means it isn't.

"Without even reading the accord, pro-growth, limited government conservatives today can celebrate the word, 'meaningful.' Today that adjective probably saved thirty million jobs."

[Howard Bloom](#), in the [WSJ](#), gives a few glimpses of a number of factors that affect earth's climate, none of which are 'human-caused'.

Climate change activists are right. We are in for walloping shifts in the planet's climate. Catastrophic shifts. But the activists are wrong about the reason. Very wrong. And the prescription for a solution—a \$27 trillion solution—is likely to be even more wrong. Why?

Climate change is not the fault of man. It's Mother Nature's way. And sucking greenhouse gases from the atmosphere is too limited a solution. We have to be prepared for fire or ice, for fry or freeze. We have to be prepared for change.

We've been deceived by a stroke of luck. In the two million years during which we climbed from stone-tool wielding Homo erectus with sloping brows to high-foreheaded Homo urbanis, man the inventor of the city, we underwent 60 glaciations, 60 ice ages. And in the 120,000 years since we emerged in our current physiological shape as Homo sapiens, we've lived through 20 sudden global warmings. In most of those, temperatures have shot up by as much as 18 degrees within a mere 20 years.

All this took place without smokestacks and tailpipes. All this took place without the desecration of nature by modern man. ...

You would think it's an exhausted subject, but you will learn it is not. In the National Journal, [Stuart Taylor](#) reports on Duke University: the hatred directed at the lacrosse players in 2006 still festers in academia. Actually, it is hatred towards our country.

*...Vanderbilt (**University**) was so proud to have signed up Baker, a professor of English and African and African-American studies at Duke, in April 2006 that it prominently featured a photo of him on its website for months. This was shortly after Baker had issued a March 29, 2006, public letter pressuring the Duke administration to dismiss the lacrosse players -- whom he deprecated 10 times as "white" -- and all but pronouncing the entire team guilty of "abhorrent sexual assault, verbal racial violence, and drunken white, male privilege" against a "black woman who their violence and raucous witness injured for life."*

For such conduct, the official Vanderbilt Register admiringly characterized Baker as Duke's "leading dissident voice" about the administration's handling of the rape allegations.

In June 2006, Baker falsely suggested that Duke lacrosse players had raped other women. In a pervasively ugly response to a polite e-mail from the mother of a Duke lacrosse player, he called the team "a scummy bunch of white males" and the woman the "mother of a 'farm animal.'" "

In 2007, Cornell proudly lured another of the 88, Grant Farred, with a joint appointment in African studies and English.

This, after the following events: In September 2006 and before, Farred produced such faux scholarship as a nonsensical monograph portraying Yao Ming, the Houston Rockets' Chinese center, as representing "the most profound threat to American empire." In October 2006, Farred accused hundreds of Duke students of "secret racism" for registering to vote against Nifong, who was subsequently disbarred for railroading the indicted lacrosse players. In April 2007, North Carolina Attorney General Roy Cooper declared the players innocent. Then Farred smeared them again, as racists and perjurers.

Cornell elevated Farred this year to director of graduate studies in the African-American studies department. ...

...The fact that these five people of questionable judgment have subsequently won glorification by Duke or advancement to other prestigious positions may reflect the interaction of academia's demand for more "diversity" with the small supply of aspiring black professors who are well credentialed in traditional disciplines. These factors, amplified by politically correct ideology, have advanced many academics who -- unlike most African-Americans -- are obsessed with grievances rooted more in our history of slavery and racial oppression than in contemporary reality. ...

In Volokh Conspiracy, [Harvey Silverglate](#) has a dark commentary on government prosecutorial abuse and press collusion. This blog post has interesting questions to ask about the whole government case against Blagojevich.

In a [discussion on WAMU Radio](#) yesterday, host Kojo Nnamdi noted that vagueness in the federal criminal law has recently made “strange bedfellows” of the political left and right. This same “emerging consensus” was also the subject of an insightful November 23 [article](#) by Adam Liptak, The New York Times’ Supreme Court reporter.

What has occasioned this coming together? As I mentioned here on [Monday](#), individuals and organizations of all political stripes are realizing the danger to all when prosecutors are empowered with exceedingly broad and—worse—hard-to-define federal laws. A diverse coalition of groups—including the [Heritage Foundation](#), the [Federalist Society](#), the [Cato Institute](#), the [National Association of Criminal Defense Lawyers](#), and the [ACLU](#), among others—have been sounding a clarion call against this species of executive expansion. They have pointed out that, from [webmasters](#) to [fund managers](#), no segment of civil society is safe.

But this phenomenon is not new. As I document in *Three Felonies a Day*, the proliferation of vague laws—and prosecutions under them—began [in the mid-1980s](#). Why has widespread recognition, especially from the American public, taken so long?

For one thing, the Department of Justice has a very effective public relations machine. With every major indictment, there is a [press release](#) and, not infrequently, a press conference that major national media typically attend with bated breath. Flanked by FBI, IRS, DEA, SEC, and members of the other myriad supporting agencies, prosecutors feed reporters the government’s side of the case, often a matter of hours after a hapless defendant has been roused out of bed and paraded in the infamous “[perp walk](#)” (much to the delight of press photographers who have been tipped off in advance). At the end of this prejudicial circus-like performance, prosecutors often refuse to answer media questions on the ironic ground that they are bound by the federal court’s rules against [pre-trial publicity](#) and, in any event, they do not want to cause the public (especially potential jurors) to prejudge the case! ...

[John Stossel](#) writes about the electric car tax credit.

...Colangelo says: "I never, in my entire life, got anything back from the government, and I've always paid taxes. Why shouldn't the people who worked hard for their money get something back?"

Because government shouldn't be in the business of taking money and giving it back! That just gives the venal cretins more power over our lives. ...

...The electric-vehicle subsidy is ludicrous not just because it is a form of industrial policy — which almost always picks losers — it's also destructive because it creates more pollution, not less. That's because much of the electricity needed for their operation comes from burning coal. As the National Research Council puts it:

"Although they produce no emissions during operation, they rely on electricity powered largely by fossil fuels for their fuel and energy intensive battery manufacturing."

...Congress makes life worse every time it meets, and green hysteria sucks so many good things from the country.

Government is a meddling presumptuous pain in the neck. The sooner we get it to stop manipulating us through tax laws, the better.

WSJ - Editorial

'Duplicitous and Shameful'

Democrats vote to send poor kids to inferior schools.

The waiting is finally over for some of the District of Columbia's most ambitious school children and their parents. Democrats in Congress voted to kill the District's Opportunity Scholarship Program, which provides 1,700 disadvantaged kids with vouchers worth up to \$7,500 per year to attend a private school.

On Sunday the Senate approved a spending bill that phases out funding for the five-year-old program. Several prominent Senators this week sent a letter to Majority Leader Harry Reid pleading for a reconsideration. Signed by Independent-Democrat Joe Lieberman, Democrats Robert Byrd and Dianne Feinstein, and Republicans Susan Collins and John Ensign, it asked to save a program that has "provided a lifeline to many low-income students in the District of Columbia." President Obama signed the bill Thursday.

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Senator Dick Durbin, who heads the subcommittee that oversees funding, has been saying for the better part of a year that he's open to supporting the program's continuation if certain conditions were met. In retrospect, this looks like bad faith.

Earlier this year, Mr. Durbin said the local D.C. Council needed to sign off on the program before Congress could reauthorize it. The council did exactly that, sending Congress a letter expressing solid support for the scholarships. Senator Durbin then said he wants participating schools to administer the same exams to voucher students that D.C. public school students take. Done, said proponents.

The program's supporters now feel they've been had. "Durbin has engaged in that classic game of moving the goal posts," says Kevin Chavous, a former D.C. council member and one of many local Democratic leaders who back school vouchers. "He's just been less than honest. He's made promises to colleagues and school leaders—like Michelle Rhee, our schools Chancellor—saying, 'All I need is this.' But the reality is that they've been finding reasons not to support the program."

The voucher program is closed to new students. "It's duplicitous and shameful," says Mr. Chavous. Strong language. But if you're a kid in D.C. trying to escape its awful schools, maybe not strong enough.

The Corner

[Cantor: A Look Ahead](#) [Robert Costa]

If the Senate passes its health-care bill this week, it'll head to the House of Representatives. Once there, will Republicans have any chance of stopping it? NRO asked Rep. Eric Cantor (R., Va.), the House minority whip, for answers.

"Once in the House, it will be about what Nancy Pelosi wants to see happen," says Cantor. "If it goes to conference, the public will have a better chance to understand what this bill means and to open up some discussion. We need to do that on a wide variety of issues, from life to the real costs inside this bill. The conference process would allow for a lot more deliberation. If not — if Speaker Pelosi tries to ram this through — that would be a real game-changer. That would be an extraordinary letdown for the American people."

Cantor predicts that abortion would be the key issue in the House's debate of the Senate's bill. Pro-life Rep. Bart Stupak (D., Mich.) "has outlined very clear language" on abortion and "has made it clear that if it's not included then he will vote against the bill," he says. "There is a lot of reticence among many moderate Democrats. It's unfathomable to think that pro-life Democrats would go for the Senate version. They know that the Senate's bill is a 30-year record-breaking move to allow taxpayer dollars to fund abortion. I can't imagine any of them supporting it."

Cantor also notes that he's kept a close eye on the Senate during its health-care debate. "What disappoints me is all of their deal cutting and horse trading," he says. "They're allocating taxpayer dollars as if those dollars belonged to the senators. It borders on immoral. Just look at the way Senator Landrieu put her vote up for sale. Senator Nelson did the same."

Public opinion from both sides of the aisle, he adds, will be crucial going forward. "The Left knows that this bill does nothing but expand the existing system for insurance companies. The Right knows that it has nothing in terms of liability reform. In terms of a consumer health-care model, it's an anathema to free-market conservatives. And, because it keeps insurance companies in the game, it's also an anathema to progressives."

For now, Cantor says he'll be watching the 1 a.m. cloture vote at home in Richmond and rooting for his Republican colleagues in the Senate. "Mitch McConnell, Jon Kyl, and the rest of their team have put up deliberative, constant efforts to thwart this bill. They're still at it."

For more on the health-care battle, visit NRO's ["Doctor! Doctor!"](#) blog.

The Corner

[Re: Cantor: A Look Ahead](#) [Mark Steyn]

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Ottawa Citizen

What Copenhagen exposed

by David Warren

The farce in Copenhagen continues. As I have intimated before, I am not without hope for this "earth summit." I see more and more evidence that people -- "electorates" in all the western countries, where we do have elections, and can throw the bums out, which is about the only pleasure we have as "electors" -- have seen through this imposture completely. My column today cannot be the best one on this subject. For that, I must refer the same reader to the London Telegraph, and Gerald Warner's column from yesterday. Rather than trying to improve upon it, let me quote his own "lead graf":

"When your attempt at recreating the Congress of Vienna with a third-rate cast of extras turns into a shambles, when the data with which you have tried to terrify the world is daily exposed as ever more phoney, when the blatant greed and self-interest of the participants has become obvious to all beholders, when those pesky polar bears just keep increasing and multiplying -- what do you do?"

He goes on to examine a farce-within-the-farce, an attempt to "leak" -- through Greenpeace, no less -- an already much-circulated "secret document" from the usual UN press-releasers, suggesting global temperatures may rise "even higher" than the delegates are already shouting from under Copenhagen's blanket of snow. As Warner says, it was a crass trick, but, "the climate alarmists are no longer in a position to pick and choose their tactics."

But as I say, this gives me reason for hope. The environmentalists have taken the "global warming" imposture so far, have pushed it with claims so ridiculous, and are by now so well exposed, that some real good is being achieved.

The participants in Copenhagen may or may not succeed in burning through another trillion or five in borrowed money, to fuel new environmentalist bureaucracies. At the moment of writing, it appears even this accomplishment will be denied to them, for they are falling out among themselves, and Barack Obama's big galvanizing speech has impressed nobody.

But even if they are able to stitch up a plastic-surgical agreement, we may well be experiencing, in Copenhagen, the event that puts an end to environmental scare-mongering for a generation. The perpetrators of this scare-mongering (and I have listed so many earlier examples in previous columns) have finally overplayed their hand.

Strange to say, my delight in this is mixed. For the planet has real "environmental issues" that have gone unaddressed at Copenhagen, and will now be harder to address in light of the fallout.

The creation of new "carbon credit" schemes to reduce "greenhouse gas emissions" was not going to alleviate any of these problems. It was only going to line the pockets of some of the world's most corrupt bureaucrats and businessmen. Their pockets were already well-lined, and if they can't profit from Copenhagen deals, they will find other ways to be paid for useless services, and continue living like Al Gore. We needn't pray for them too earnestly.

But we do need to think about ways to reduce our actual "environmental footprints," strange as this must sound coming from me. We do have major pollution problems, coming out of China and through all the "third world" as massive populations are raised out of abject poverty, wherever old-fashioned capitalism is permitted.

For the most part, even the most primitive of "third world" dictators saw through the Copenhaggling immediately, and joined in only as a way to board the latest gravy train of western guilt money. This is by

now a venerable suckering operation, that began the morning after each backward country became nominally independent. It has kept their politicians rich and their peoples poor.

We can't do anything about that, unless we are prepared to invade and occupy these countries. And given our reluctance to continue even in Afghanistan and Iraq against terrorists, I see no prospect of restoring the old imperialist order.

But we can, in more than principle, move ahead of our imitators again, by setting a better example of how to live, one man and one woman at a time. We could -- I know this sounds a little idealistic, but bear with me -- try to export the best of our old Christian civilization, instead of the worst of our post-Christian one. For my reader may recall that civilization had nothing to do with conspicuous consumption, and put more of its money in cathedrals than into personal and corporate display. To say this would be "good for the environment" is an understatement: there is so much joyful life we could recover, by simply discarding what is not genuinely useful, and getting on with the root human task of salvation, through the advancement of the good, the beautiful, and the true.

Telegraph, UK Blogs

[Copenhagen climate summit: 'most important paper in the world' is a glorified UN press release](#)

by Gerald Warner

When your attempt at recreating the Congress of Vienna with a third-rate cast of extras turns into a shambles, when the data with which you have tried to terrify the world is daily exposed as ever more phoney, when the blatant greed and self-interest of the participants has become obvious to all beholders, when those pesky polar bears just keep increasing and multiplying – what do you do?

No contest: stop issuing three rainforests of press releases every day, change the heading to James Bond-style “Do not distribute” and “leak” a single copy, in the knowledge that human nature is programmed to interest itself in anything it imagines it is not supposed to see, whereas it would bin the same document unread if it were distributed openly.

After that, get some unbiased, neutral observer, such as the executive director of Greenpeace, to say: “This is the single most important piece of paper in the world today.” Unfortunately, the response of all intelligent people will be to fall about laughing; but it was worth a try – everybody loves a tryer – and the climate alarmists are no longer in a position to pick and choose their tactics.

But boy! Was this crass, or what? The apocalyptic document revealing that even if the Western leaders hand over all the climate Danegeld demanded of them, appropriately at the venue of Copenhagen, the earth will still fry on a 3C temperature rise is the latest transparent scare tactic to extort more cash from taxpayers. The danger of this ploy, of course, is that people might say “If we are going to be chargrilled anyway, what is the point of handing over billions – better to get some serious conspicuous consumption in before the ski slopes turn into saunas.”

This “single most important piece of paper in the world” comes, presumably, from an authoritative and totally neutral source? Yes, of course. It's from the – er – UN Framework Committee on Climate Change that is – er – running the Danegeld Summit. Some people might be small-minded enough to suggest this paper has as much authority as a “leaked” document from Number 10 revealing that life would be hell under the Tories.

This week has been truly historic. It has marked the beginning of the landslide that is collapsing the whole AGW imposture. The pseudo-science of global warming is a global laughing stock and Copenhagen is a farce. In the warmist camp the Main Man is a railway engineer with huge investments in the carbon industry.

That says it all. The world's boiler being heroically damped down by the Fat Controller. Al Gore, occupant of the only private house that can be seen from space, so huge is its energy consumption, wanted to charge punters \$1,200 to be photographed with him at Copenhagen. There is a man who is really worried about the planet's future.

If there were not \$45trillion of Western citizens' money at stake, this would be the funniest moment in world history. What a bunch of buffoons. Not since Neville Chamberlain tugged a Claridge's luncheon bill from his pocket and flourished it on the steps of the aircraft that brought him back from Munich has a worthless scrap of paper been so audaciously hyped. There was one good moment at Copenhagen, though: some seriously professional truncheon work by Danish Plod on the smellies. Otherwise, this event is strictly for Hans Christian Andersen.

Club for Growth

[Club for Growth Hails Copenhagen Climate Accord \(No, seriously...\)](#)

by Michael Connolly

WASHINGTON – The Club for Growth today hailed President Obama's announcement in Copenhagen of a "meaningful accord" with China, India, and South Africa about climate change and green house emissions. Club President Chris Chocola made the following statement after the accord's announcement:

"Like most Americans, I feared President Obama went to Copenhagen to sign a binding, job-killing, economic suicide pact.

"I am greatly relieved that the last-minute agreement President Obama negotiated is being widely described as 'meaningful.' When politicians call something 'meaningful,' that means it isn't.

"Without even reading the accord, pro-growth, limited government conservatives today can celebrate the word, 'meaningful.' Today that adjective probably saved thirty million jobs."

WSJ

[Climate Change Is Nature's Way](#)

It's our good luck one of Earth's ice ages ended 12,000 years ago.

by Howard Bloom

Climate change activists are right. We are in for walloping shifts in the planet's climate. Catastrophic shifts. But the activists are wrong about the reason. Very wrong. And the prescription for a solution—a \$27 trillion solution—is likely to be even more wrong. Why?

Climate change is not the fault of man. It's Mother Nature's way. And sucking greenhouse gases from the atmosphere is too limited a solution. We have to be prepared for fire or ice, for fry or freeze. We have to be prepared for change.

We've been deceived by a stroke of luck. In the two million years during which we climbed from stone-tool wielding Homo erectus with sloping brows to high-foreheaded Homo urbanis, man the inventor of the city, we underwent 60 glaciations, 60 ice ages. And in the 120,000 years since we emerged in our current physiological shape as Homo sapiens, we've lived through 20 sudden global warmings. In most of those, temperatures have shot up by as much as 18 degrees within a mere 20 years.

All this took place without smokestacks and tailpipes. All this took place without the desecration of nature by modern man.

The stroke of luck that's misled us? The sheets of ice in whose shadow we made a living for two million years peeled back 12,000 years ago leaving a lush new Garden of Eden. In that Eden we invented agriculture, money, electronics and our current way of life. But that weather standstill has held on for an abnormally long amount of time. And it's very likely that this atypical weather truce shall someday pass.

Why? What's the real cause of the Earth's norm—a climate that rocks back and forth from steamy tropical heat to icy freeze? A climate that deposits fossilized seashells on mountaintops and makes dry land into seas and swamps?

The Earth is a traveler. Its angle as it sweeps around the sun produces the massive weather flips we call seasons—the dance from summer to winter and back again. But there's more. Our planet has a peculiar wobble—its precession. And that precession produces upheavals in our weather, weather alterations we cycle through every 22,000, 41,000 and 100,000 years. This is called the Milankovich cycle, named for the Serbian engineer and geophysicist who discovered it.

But the wobbles in our trip around the sun are just a start. The sun is a traveler, too. It circles the black hole at the galaxy's core every 226 million years. And it takes its tiny flock of planets with it. That means us. The result?

The journey around the galactic core is fraught with dangers. For example, every 143 million years we pass through a spiral arm of the galaxy, an arm that tosses tsunamis of cosmic rays our way. Those rays produce massive climate change. Then there's the innocent-sounding stuff astronomers call galactic "fluff," massive clouds of cosmic dust lurking in our solar system's path that also cause dramatic climate change.

Meanwhile, the sun itself is going through a cycle from birth to death. As a result of its maturation, good old reliable sol is 43% warmer today than it was when the Earth first gathered itself into a globe of planetesimals 4.5 billion years ago.

The bottom line? Weather changes and the occasional meteor have tossed this planet through roughly 142 mass extinctions since life began 3.85 billion years ago. That's an average of one mass extinction every 26.5 million years. Where did these mass die-offs come from? Nature. There were no human capitalists, industrialists or cultures of consumerism to blame.

We do not want to be the victims of one of these extinctions. Nor do we want to see whales, elephants and pandas go the way of trilobites and dinosaurs. We need to prepare for far more than just the changes we think we make. We need to prepare for the challenge that forced us to evolve into our modern, highly adaptable form. We have to realize that nature tosses us tests, and that we grow by outwitting her. We have to prepare for fire and ice. And we have to realize that Mother Nature is not nice.

Mr. Bloom is the author, most recently, of "The Genius of the Beast: A Radical Re-Vision of Capitalism," published last month by Prometheus Books

National Journal

[The Rot At Duke -- And Beyond](#)

Much of academia appears to have a disregard of due process and a bias against white males.

by Stuart Taylor Jr.

You might think that a university whose students were victims of the most notorious fraudulent rape claim in recent history, and whose professors -- 88 of them -- signed an ad implicitly presuming guilt, and whose president came close to doing the same would have learned some lessons.

The facts are otherwise. They also suggest that Duke University's ugly abuse in 2006 and 2007 of its now-exonerated lacrosse players -- white males accused by a black stripper and hounded by a mob hewing to political correctness -- reflects a disregard of due process and a bias against white males that infect much of academia.

In September, far from taking pains to protect its students from false rape charges, Duke adopted a revised "sexual misconduct" policy that makes a mockery of due process and may well foster more false rape charges by rigging the disciplinary rules against the accused.

Meanwhile, none of the 88 guilt-presuming professors has publicly apologized. (Duke's president, Richard Brodhead, did -- but too little and too late.) Many of the faculty signers -- a majority of whom are white -- have expressed pride in their rush to judgment. None was dismissed, demoted, or publicly rebuked. Two were glorified this month in Duke's in-house organ as pioneers of "diversity," with no reference to their roles in signing the ad. Three others have won prestigious positions at Cornell, Vanderbilt, and the University of Chicago.

(Disclosure: I co-authored a 2007 book on the case, *Until Proven Innocent*, with historian KC Johnson of Brooklyn College and the City University of New York's Graduate Center. His scrupulously accurate blog details the events summarized here.)

The two stated reasons for the revised sexual-misconduct rules, as reported in the student newspaper, *The Chronicle*, almost advertise that they were driven by politically correct ideology more than by any surge in sexual assaults.

"The first was... fear of litigation, as expressed by Duke General Counsel Pamela Bernard," as Johnson wrote in his blog, *Durham-in-Wonderland*. "Yet the policy Duke has developed seems like a lawsuit waiting to happen. The second factor was a development that those in the reality-based community might consider to be a *good* thing: Over a three-year period, reported cases of sexual misconduct on college campuses as a whole and at Duke specifically (slightly) declined."

But for many in academia, Johnson explains, "these figures must mean something else -- that a plethora of rapes are going unreported." Indeed, Sheila Broderick, a Duke Women's Center staff member, told *The Chronicle* without evidence that Duke had a "rape culture." And Ada Gregory, director of the Duke Women's Center, said that "higher IQ" males, such as those at Duke, could be "highly manipulative and coercive."

The revised policy requires involving the Women's Center in the disciplinary process for all known allegations of sexual misconduct and empowers the Office of Student Conduct to investigate even if the accuser does not want to proceed.

Duke's rules define sexual misconduct so broadly and vaguely as to include any sexual activity without explicit "verbal or nonverbal" consent, which must be so "clear" as to dispel "real or *perceived* power differentials between individuals [that] may create an *unintentional* atmosphere of coercion" (emphasis added).

The disciplinary rules deny the accused any right to have an attorney at the hearing panel or to confront his accuser. The rules also give her -- but not him -- the right to be treated with "sensitivity"; to make opening and closing statements; and to receive copies of investigative documents.

The revised policy, among other things, shows that Duke is still in the grip of the same biases, indifference to evidence, and de facto presumption of guilt that led so many professors and administrators to smear innocent lacrosse players as rapists (and as racists) for many months in 2006 and 2007. The centerpiece was the full-page ad taken out by the "Group of 88" professors, as critics call them, in *The Chronicle* on April 6, 2006, about three weeks after the woman claimed rape.

This ad stopped just short of explicitly branding the lacrosse players as rapists. But it treated almost as a given the truth of the stripper's claims of a brutal gang rape by three team members amid a hail of racist slurs. It praised protesters who had put lacrosse players' photos on "wanted" posters. It associated "what happened to this young woman" with "racism and sexism." It suggested that the lacrosse players were getting privileged treatment because they are white -- which was the opposite of the truth.

And in January 2007, after the fraudulence of the stripper's rape claim and of rogue Durham District Attorney Mike Nifong's indictments of three players had become increasingly evident, most of the 88 also signed a letter rejecting calls for apologies while denying that their April 2006 ad had meant what it seemed to say.

Among the most prominent signers of both the ad and the letter were Karla Holloway, an English professor, and Paula McClain, a political science professor. They also slimed the lacrosse players in opaquely worded, academic-jargon-filled individual statements full of innuendo.

This disgraceful behavior apparently did not trouble Duke's Academic Council, which in February 2007 made McClain its next chairwoman -- the highest elected position for a faculty member.

And just this month, the university's in-house organ, *Duke Today*, heaped special attention and praise on Holloway and McClain and featured their photos in a gushing five-part series titled "Diversity & Excellence," focusing on Duke's efforts to hire more black faculty members.

None of the five articles mentioned the roles of Holloway, McClain, and most of the African and African-American studies faculty (the vast majority of whom signed both the ad and the subsequent letter) in smearing innocent Duke students -- not only the lacrosse players but also the many others whom the letter fatuously accused of fostering an "atmosphere that allows sexism, racism, and sexual violence to be so prevalent on campus."

The three Group of 88 signers hired away by other leading universities are Houston Baker, Grant Farred, and Charles Payne.

Vanderbilt was so proud to have signed up Baker, a professor of English and African and African-American studies at Duke, in April 2006 that it prominently featured a photo of him on its website for months. This was shortly after Baker had issued a March 29, 2006, public letter pressuring the Duke administration to dismiss the lacrosse players -- whom he deprecated 10 times as "white" -- and all but pronouncing the entire team guilty of "abhorrent sexual assault, verbal racial violence, and drunken white, male privilege" against a "black woman who their violence and raucous witness injured for life."

For such conduct, the official *Vanderbilt Register* admirably characterized Baker as Duke's "leading dissident voice" about the administration's handling of the rape allegations.

In June 2006, Baker falsely suggested that Duke lacrosse players had raped other women. In a pervasively ugly response to a polite e-mail from the mother of a Duke lacrosse player, he called the team "a scummy bunch of white males" and the woman the "mother of a 'farm animal.' "

In 2007, Cornell proudly lured another of the 88, Grant Farred, with a joint appointment in African studies and English.

This, after the following events: In September 2006 and before, Farred produced such faux scholarship as a nonsensical monograph portraying Yao Ming, the Houston Rockets' Chinese center, as representing "the most profound threat to American empire." In October 2006, Farred accused hundreds of Duke students of "secret racism" for registering to vote against Nifong, who was subsequently disbarred for railroading the indicted lacrosse players. In April 2007, North Carolina Attorney General Roy Cooper declared the players innocent. Then Farred smeared them again, as racists and perjurers.

Cornell elevated Farred this year to director of graduate studies in the African-American studies department.

Also in 2007, Chicago gave an endowed chair to Charles Payne, who as Duke's chairman of African and African-American studies had inappropriately authorized use of university funds to pay for the Group of 88 ad.

The fact that these five people of questionable judgment have subsequently won glorification by Duke or advancement to other prestigious positions may reflect the interaction of academia's demand for more "diversity" with the small supply of aspiring black professors who are well credentialed in traditional disciplines. These factors, amplified by politically correct ideology, have advanced many academics who -- unlike most African-Americans -- are obsessed with grievances rooted more in our history of slavery and racial oppression than in contemporary reality.

Try imagining a white male professor who had smeared innocent black students enjoying a similar path of advancement in academia today.

Volokh Conspiracy

[How the "Independent" Fourth Estate Has Failed in its Critical Duty](#)

by Harvey Silverglate

Fourth installment in a five-part series on Silverglate's book, [Three Felonies a Day: How the Feds Target the Innocent](#).

In a [discussion on WAMU Radio](#) yesterday, host Kojo Nnamdi noted that vagueness in the federal criminal law has recently made "strange bedfellows" of the political left and right. This same "emerging consensus" was also the subject of an insightful November 23 [article](#) by Adam Liptak, *The New York Times'* Supreme Court reporter.

What has occasioned this coming together? As I mentioned here on [Monday](#), individuals and organizations of all political stripes are realizing the danger to all when prosecutors are empowered with exceedingly broad and—worse—hard-to-define federal laws. A diverse coalition of groups—including the [Heritage Foundation](#), the [Federalist Society](#), the [Cato Institute](#), the [National Association of Criminal Defense Lawyers](#), and the [ACLU](#), among others—have been sounding a clarion call against this species of executive expansion. They have pointed out that, from [webmasters](#) to [fund managers](#), no segment of civil society is safe.

But this phenomenon is not new. As I document in *Three Felonies a Day*, the proliferation of vague laws—and prosecutions under them—began [in the mid-1980s](#). Why has widespread recognition, especially from the American public, taken so long?

For one thing, the Department of Justice has a very effective public relations machine. With every major indictment, there is a [press release](#) and, not infrequently, a press conference that major national media typically attend with bated breath. Flanked by FBI, IRS, DEA, SEC, and members of the other myriad supporting agencies, prosecutors feed reporters the government's side of the case, often a matter of hours after a hapless defendant has been roused out of bed and paraded in the infamous "[perp walk](#)" (much to the delight of press photographers who have been tipped off in advance). At the end of this prejudicial circus-like performance, prosecutors often refuse to answer media questions on the ironic ground that they are bound by the federal court's rules against [pre-trial publicity](#) and, in any event, they do not want to cause the public (especially potential jurors) to prejudge the case!

But the press corps itself is ultimately responsible for the one-sided coverage of what I call "three-felonies-a-day" cases (a reference to my new book, [Three Felonies a Day: How the Feds Target the Innocent](#)). The fact is that there is an unseemly relationship between the Department of Justice and much of the news media. While in some areas the press and the DOJ have developed an [appropriately adversarial](#), or at least skeptical relationship, by and large the DOJ plays the press corps like a fiddle.

Consider the *Houston Chronicle's* slanted coverage of the arrest, indictment, and trial of former Enron President Jeffrey Skilling, [convicted in May 2006](#) on charges of conspiracy, securities fraud and depriving the now-defunct Houston-based energy company of his "[honest services](#)." Vitriol for Skilling was not limited to the *Chronicle's* opinion pages; news articles, sports stories, and [columnists](#) vilified Skilling well before his day in court. Despite affirming his conviction, the Fifth Circuit Court of Appeals ruled that the media coverage created a community prejudice against Skilling. The three-judge panel wrote ([PDF](#)) that the *Chronicle* published "nearly one hundred...personal interest stories in which sympathetic individuals expressed feelings of anger and betrayal toward Enron," and that even "the *Chronicle's* 'Pethouse Pet of the Week' section mentioned that a *pet* had 'enjoyed watching those Enron jerks being led away in handcuffs.'" (Emphasis in original) In Houston, the so-called Fourth Estate played the role of prosecutorial lapdog.

The Supreme Court decided on October 13 to [review the Skilling case](#) as part of its trio of honest services cases this term, and one of the issues on appeal is the extent to which jury prejudice affected the verdict. But, if the [previous hearing on honest services](#) is any indication, the justices will use the *Skilling* case to look at the broader constitutional due process question surrounding the infamously vague [28-word fraud provision](#). Oral argument is set for [March 1](#).

Another public figure, disparaged in the public eye even before he was indicted (much less convicted) will be intently watching the high court's decisions in all three honest services cases. The prosecutor's press machine has been so effective that even mentioning his name causes some to chuckle with derision. But the case of former Illinois Governor Rod Blagojevich deserves a closer look.

Illinois U.S. Attorney Patrick Fitzgerald framed the case, from the start, as an altruistic Department of Justice mission to clean up state and local politics. At a [December 9, 2008 press conference](#), held shortly after Blagojevich's early-morning arrest on a variety of political corruption charges, Fitzgerald announced his most sensational allegation: The governor deprived Illinois' electorate of his "honest services" when he sought to sell to the highest-bidder the Senate seat vacated by Barack Obama. The headlines were, predictably, nationwide, in large type above-the-fold (or the on-line equivalent).

This discovery from the wiretap and bug planted by Fitzgerald's agents in the governor's office and home was deemed so threatening to the public weal that the prosecutors, rather than give the plot time to play itself out and result in an outright sale-and-purchase of the Senate seat, pulled the plug and arrested Blagojevich before any deal was consummated—or so the nation was told. At the press conference, Fitzgerald informed a rapt audience of newsmen that he had to act precipitously to prevent the governor from carrying through this "most appalling conduct" that was the pinnacle of the governor's "political corruption crime spree."

So the prosecution is for a "conspiracy," or plan, to sell the Senate seat, rather than for an accomplished act. Without having to show that Blagojevich *actually sold* the Senate seat, and with the notoriously vague federal conspiracy law, securing a conviction is much easier. In a sense, no real crime is required. Yet neither the media nor the public questioned Fitzgerald's motives for failing to wait until the Obama seat was actually sold. (Had such a sale taken place, of course, the Senate would surely not have seated the governor's nominee. Hence, there was no good reason for Fitzgerald to fail to wait for the completed crime—except, as I suggest, that no such sale was in fact going to take place.)

Blagojevich has some quite different perspectives on his pre-arrest political machinations, which he sets out in a remarkable, even if unbalanced and in some places downright silly, memoir published after his indictment, entitled [The Governor](#). The former governor claims that his motive for choosing Obama's successor had to do with getting his political enemies out of the way of his legislative agenda. If Blagojevich's account is to be believed, Fitzgerald pulled the plug prematurely not to serve the people of Illinois, but to save his own case. Had the matter been allowed to play itself out, says the former governor, it might have become increasingly obvious that what Blagojevich was doing was perfectly legal—even if unsavory to some refined sensibilities—Chicago politics. Indeed, Blagojevich tried, without success, to obtain the full, unedited eavesdrop tapes to play at his impeachment trial, claiming they would exonerate

him, but was unable to do so due to [Fitzgerald's objection](#). At the very least, the tapes might have portrayed conduct deemed lawful, or at least acceptable under Illinois state law.

Blagojevich's benign (even if unrefined) political explanation is lent credence by something Fitzgerald said during the December 2008 press conference. He noted that an Ethics in Government Act was pending in Illinois, scheduled to take effect January 1, 2009 that, according to Fitzgerald, "would bar certain contributions from people doing business with the state of Illinois." And so, explained Fitzgerald, Blagojevich and his cronies "were working feverishly to get as much money from contractors, shaking them down, pay-to-play before the end of the year." In other words, Fitzgerald appeared to be conceding that at least some of Blagojevich's conduct was in accordance with *state law as it stood at the time*. Not a single reporter, however, pointed out that this "crime spree" was apparently occurring *before* the new ethics laws were enacted, and that the governor's actions therefore conformed to and were permissible under state law.

Were these "crimes" the work of an arch criminal, or merely the machinations of a master political opportunist doing what Illinois law allowed? While it is true, of course, that the honest services fraud statute enables the feds to prosecute state officials for conduct allowed under state law—this is one of the statute's problems that the Supreme Court presumably will rule upon in the upcoming cases—it is, or should be, difficult to brand a politician as on a "political corruption crime spree" if he is scrupulously adhering to the statutes and codes duly enacted by a sovereign state legislature.

Until we have a more skeptical press corps, the public discussion of whether and how federal prosecutions on the basis of vague statutes should be reined in is going to have to be conducted without the essential participation of an educated citizenry. This Fourth Estate cheering gallery is not what [Thomas Jefferson envisioned](#).

Jewish World Review **[Free Stuff From Sam](#)**

by John Stossel

I just got a free golf cart.

Actually, it cost me \$6,490 — but the dealer, Colin Riley of Tucson, Ariz., points out that there's a \$6,480 federal tax credit on such vehicles. Riley runs ads that say: "FREE ELECTRIC CAR.!"

Some consumers probably assume it's a car-dealer scam, but it's not. It's an Uncle Sam scam.

The tax code is outrageously complex and damaging in many ways, but it is made especially complex and damaging when congressmen use it "creatively" to manipulate us into doing things they deem "socially constructive." These are things that always bestow advantages on some politically connected manufacturers at the expense of others. After all, you were either planning to buy a golf cart or you weren't. If you were, the policy is unnecessary. If you weren't, you were induced to spend money on that product rather than something else. The unseen victim is whoever would have sold you the alternative product.

Such manipulation is at the heart of the entire "green" strategy.

The Wall Street journal reports that business is busy taking advantage of the tax credit. "Is that about the coolest thing you've ever heard?" Roger Gaddis of Ada Electric Cars in Oklahoma said.

I thought "free" golf carts were outrageous enough that the publicity would embarrass Congress into killing the tax credit. I thought the media would be all over it. But even though Riley has received thousands of calls for cars — and sold hundreds — he hasn't seen much media attention. The Journal commented, "You can't blame a guy for exploiting loopholes that Congress offers."

In Florida, Tony Colangelo also sells subsidized cars. He said the golf-cart credit is — good for politicians:

"It's all (about) going green. They want all those gas vehicles off the street. They'd rather have the electric than anything."

The golf-cart boom follows an IRS ruling that many golf carts qualify for the electric-car credit. A credit is better than a subsidy since you keep money the IRS would have taken. Still, it is an insidious form of manipulation used to benefit some forms of industry at the expense of others.

Colangelo says: "I never, in my entire life, got anything back from the government, and I've always paid taxes. Why shouldn't the people who worked hard for their money get something back?"

Because government shouldn't be in the business of taking money and giving it back! That just gives the venal cretins more power over our lives.

After I drove the car onto my first Fox Business Network show last week, viewers wrote in asking how they could get one.

But others got the concept.

Sirsickofit writes: "People, please stop asking for information on the golf carts. ... Stossel is trying to make a point!! If you purchase these carts you will be adding to the problems."

True.

I'd like my taxes (and government spending) cut, too, but I don't want a manipulative favor from government — I'll give my cart to charity.

The electric-vehicle subsidy is ludicrous not just because it is a form of industrial policy — which almost always picks losers — it's also destructive because it creates more pollution, not less. That's because much of the electricity needed for their operation comes from burning coal. As the National Research Council puts it:

"Although they produce no emissions during operation, they rely on electricity powered largely by fossil fuels for their fuel and energy intensive battery manufacturing."

In addition, check out the complexity of the credit:

"(1) \$2,500, plus (2) \$417 for each kilowatt hour of traction battery capacity in excess of 4 kilowatt hours. Section 30D(b)(1) limits the amount of the credit allowed for a vehicle to amounts ranging from \$7,500 to \$15,000, depending on the gross vehicle weight rating of the vehicle."

How many hours will accountants and tax lawyers waste over that?

Congress makes life worse every time it meets, and green hysteria sucks so many good things from the country.

Government is a meddling presumptuous pain in the neck. The sooner we get it to stop manipulating us through tax laws, the better

Donut Seeds





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SANTA GORE'S INCONVENIENT CHRISTMAS

