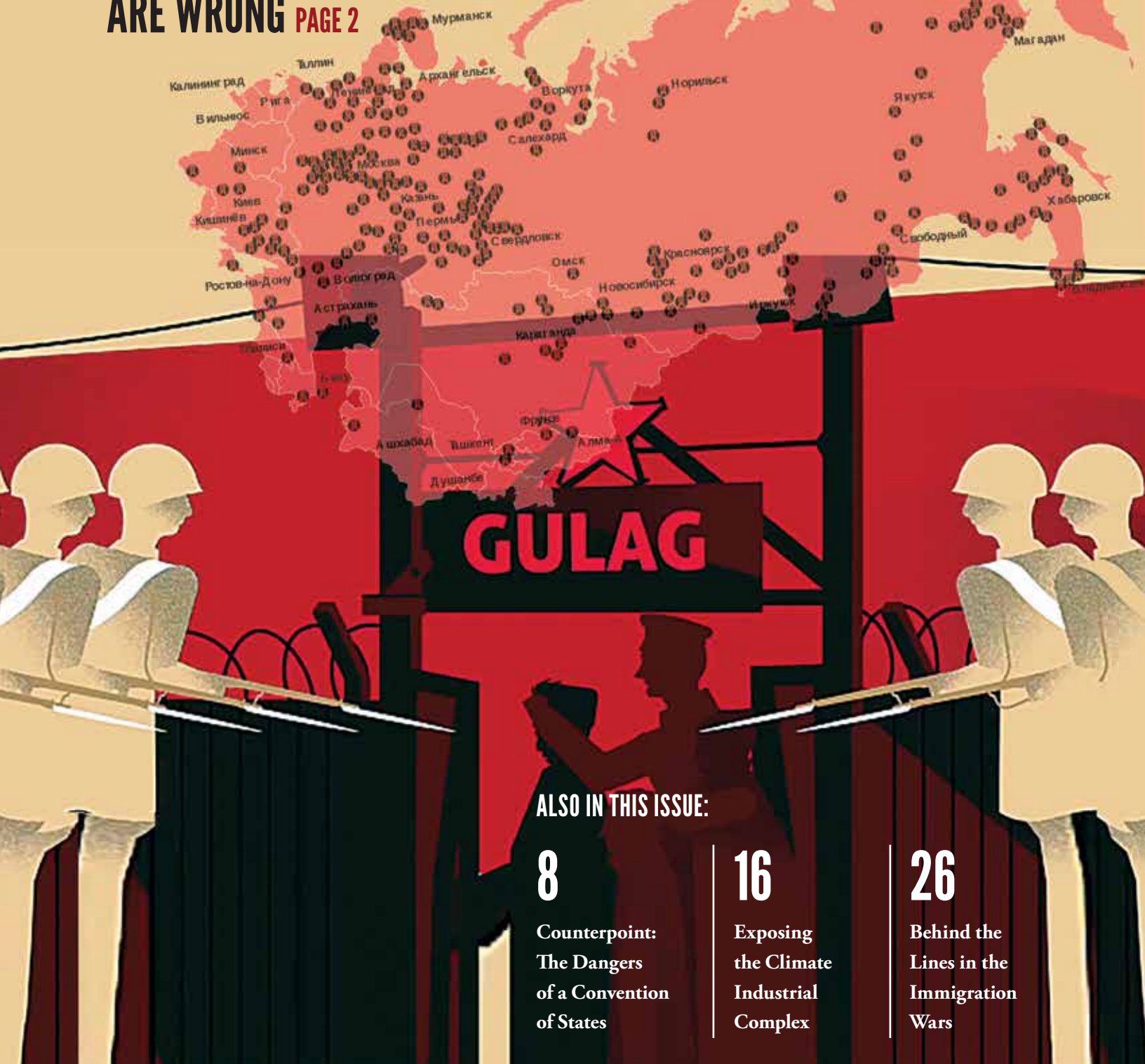




CAPITAL RESEARCH

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CRC was established in 1984 to promote a better understanding of charity and philanthropy. We support the principles of individual liberty, a free market economy, and limited constitutional government—the cornerstones of American society, which make possible wise and generous philanthropic giving.

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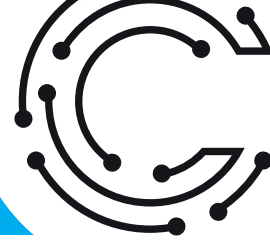


CLIMATE DOLLARS

HOW ONE FLAWED STUDY FOOLED THE MEDIA AND
POISONED THE DEBATE ON CLIMATE CHANGE

In a widely cited 2014 study, sociologist Robert Brulle purportedly exposed a “climate change counter-movement” of center-right groups “distort[ing] the public’s understanding of climate change.” He calculated that from 2003 to 2010, these nonprofits recorded revenues averaging “just over \$900 million” annually—a number that led to media claims that, “Conservative groups spend \$1bn a year to fight action on climate change.”

A Capital Research Center study cuts Mr. Brulle’s calculations down to size: Not only is Brulle’s assessment off by 93 percent, the resources of environmentalist groups and government agencies overwhelmingly dwarf those of skeptics. To learn more about the climate debate, visit www.ClimateDollars.org.



WHY MY COMMUNIST CRITICS ARE WRONG

By Jake Klein

On Thursday, January 11th, the Capital Research Center released a video written, narrated, and produced by me entitled “Communism will ALWAYS be Violent.” The video was a refutation of the claim that peaceful communism is possible and of the idea that the Soviet Union failed because the Soviets’ goal wasn’t “real communism.” In the video, I argued that the goal of peaceful “real communism” is impossible to attain, and that atrocious acts of violence are inevitable components of any attempt to achieve that goal.

Overnight, the video went viral. In less than 24 hours, it became our most widely viewed video of its type. In less than a week, it was shared 25 thousand times and viewed over 1.4 million times. (You can watch it on CRC’s YouTube Channel.)

The video was our most popular piece of content ever. It was also, by far, our most criticized. The video received over 4,000 comments on our original posting of it. In my estimation, the majority of comments came from communists or communist sympathizers disputing my ideas. It has taken every fiber of my being not to respond to every single one of them and spend all my waking hours in social media arguments; I don’t think the Capital Research Center would enjoy my spending the workday on that!

Rather than respond to each comment, I’ll respond to the most common arguments made by critics of the video. Here are those arguments, and why they’re wrong.



Credit: Graphics by Black Shift Studio

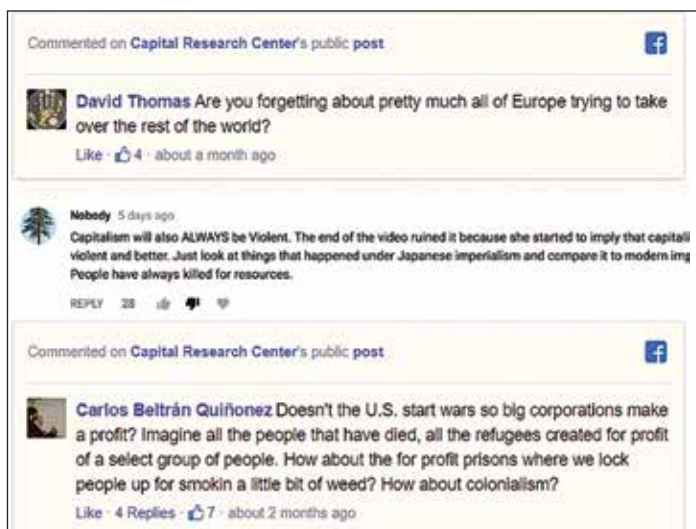
Jake Klein’s video, “Communism will ALWAYS be Violent,” has been CRC’s most popular piece of content as well as the most criticized.

Argument 1: Capitalism is more violent than communism and kills many more people.

A number of commenters alleged that capitalism is responsible for more deaths than communism. (Others declared a moral equivalence—that, while communism is violent, so is capitalism.) It is true that people are violent and we don’t live in utopia, and there will be violence under any system. But there is a difference between violence and death that happens under an economic system and violence and death that is caused by that system.

Many commenters used colonialism, the United States’ alleged “war for oil” in Iraq, or other wars for resources as examples.

Jake Klein is media producer at the Capital Research Center.

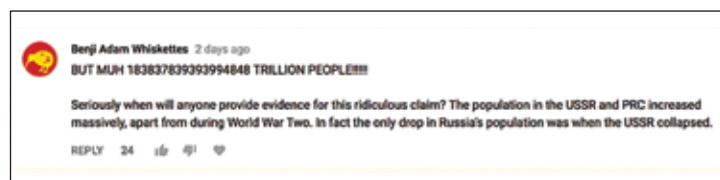


Put aside the fact that the United States imported more oil from Iraq in the years immediately before the Iraq war than it has since. And consider: even if a capitalist nation were to go to war strictly to obtain resources, capitalism would not necessarily be the cause of that war.

My communist critics seem to be operating under the notion that capitalism is nothing but the pursuit of private profits by any means necessary. Rather, amongst other characteristics, capitalism is a system of private ownership and voluntary exchange. Going to war in order to steal other people's stuff is a violation of capitalist principles, not a fulfillment of those principles. Theft of resources, or, more broadly, the initiation of force, is directly contrary to capitalist beliefs.

To those who might accuse me of a double standard for discussing my fantasy of capitalism rather than "real" capitalism, only need to look to Switzerland, a nation ranked substantially more capitalist than the United States and that has not been in a foreign war since 1815, to see that peace is compatible with capitalism.

A related argument downplays the violence associated with communism. Some critics of my video claim that we inflated the number of communism-caused deaths. In fact, the number of deaths we used in the video, 85 to 100 million, is based on a number of estimates that are credible and are not seriously challenged. The work that's considered the best



source for these statistics is the one we sourced the numbers at the start of the video from, *The Black Book of Communism* (Stéphane Courtois, 1997), published by Harvard University Press. The numbers are of deaths directly caused by communism, not simply of deaths that happened in communist countries, as some commenters alleged. That book has its critics and the numbers may not be perfectly accurate. I'm open to debating if it's a few million less, but non-historians claiming only a tiny fraction of that amount died and the numbers are propaganda are conspiracy theorists tantamount to Holocaust deniers.

Another line of argument attributing deaths to capitalism was that capitalism deprives the poor of material goods necessary for their survival as the bourgeoisie hordes them, leading into...

Argument 2: Capitalism causes poverty and hunger, communism alleviates them.



Many of my communist critics seem to believe that their utopia would have enough resources to fulfill everyone's needs and that scarcity would not be a problem. One commenter even suggested that under communism people would only need to work four hours a day four days a week! They seem to believe that capitalists hoarding wealth at the top is the only thing standing in the way of bringing this about. This notion is absurd. Capitalism does not create poverty and death, reality creates poverty and death. Capitalism is the system that has provided us with the material wealth to lessen and delay it.

Since *Homo sapiens* evolved 315,000 years ago we have been poor and hungry. What needs explaining is not poverty—that's the state of nature. What needs explaining is how we became so wealthy. And humanity has become massively wealthy. I shouldn't need to convince Marxists that capital-

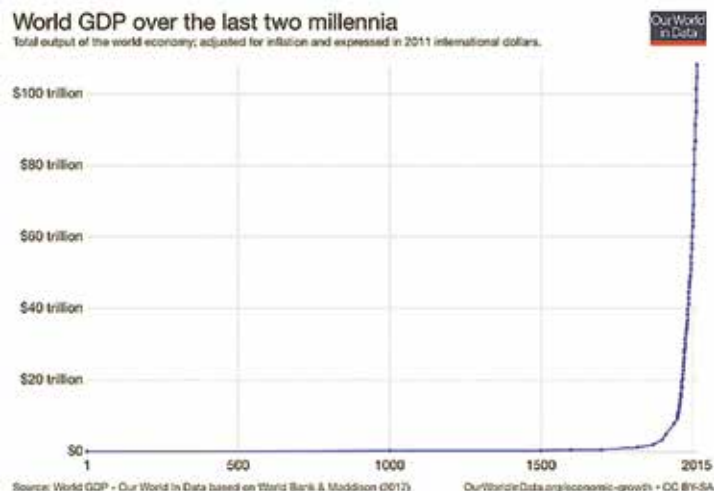


ism is responsible for this given that Marx himself believed it. Though Marx of course believed and desired that capitalism would be replaced by socialism at the right point in history, he also viewed capitalism as an inevitable and necessary economic system to accumulate wealth.



It's true that humanity produces more food than we need to feed the world, a common left-wing talking point, but the problem is not that the bourgeoisie is hoarding all of it. Even looking away from the first-world, Africa produces enough food for its own population. The problem is we have issues storing food and getting it where it needs to be.

Some argued more broadly that the first-world bourgeoisie has exploited the third-world proletariat, but this is not true.



First-world trade with third-world nations helps relieve their poverty. Trade helps the poor overcome their state of nature.

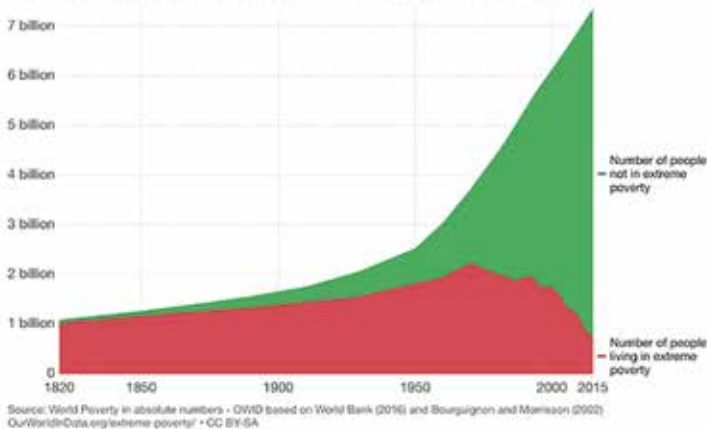
The mental model that many socialists work under that causes them to believe that the opposite is the case is what I call the "fixed pie" model of economics, which is that under capitalism, for the rich to get richer the poor must get poorer. That the rich can only get rich by taking what would otherwise belong to the poor. But there is not a fixed pie of wealth in society, rather there is a *growing* pie. In fact, while the rich have been getting richer, the poor have been getting richer too! And the rich getting richer helps the poor get richer. If one knows this, still considering income inequality a major problem appears to be nothing but jealousy.

50 years ago, South Korea was as poor as Ghana. Under capitalism and free trade with the first-world, it has become the 11th richest country in the world just under Canada. Meanwhile, communist and economically isolated North Korea (isolated in part because of sanctions and in part because of its Juche philosophy of self-reliance) ranks at 113, five spots below war torn Afghanistan.



World population living in extreme poverty, 1820-2015

Extreme poverty is defined as living at a consumption (or income) level below 1.90 "international \$" per day. International \$ are adjusted for price differences between countries and for price changes over time (inflation).



Also note the dip in absolute poverty in the 1990's after the Soviet Union collapsed.

Claiming that communism or socialism could possibly work better at alleviating poverty seems absurd from that one statistic alone, but there's also the vast number of deaths from hunger under communism (*The Black Book of Communism* estimates 11 million in the Soviet Union alone), in certain cases leading people as far as cannibalism. Many commenters were quick to point out that there have been famines and deaths from poverty under capitalism as well, but the degree is not even close. In 1984, life expectancy in Russia was six years lower than Western Europe, infant mortality was three times higher, and 17 percent of Soviets lived below the poverty line.



Many claim that Western European or Scandinavian nations are socialist and have a high standard of living, but they are far from socialist.

All Western economies are mixed economies that have some socialized elements and Scandinavia is no different, but Sweden is ranked the 19th most capitalist nation in the world, just two positions less economically free than the United States. This mistake is aided by the confusion between social democracy and democratic socialism, helped along by Bernie Sanders' use of the term democratic socialism to incorrectly describe Scandinavia. Social democracies have some income

redistribution and welfare state policies but are otherwise capitalist. Democratic socialism is socialism brought about and managed through democracy rather than dictatorship. Even arch-capitalist economist F.A. Hayek believed that modest social insurance programs could be compatible with capitalism, so long as they followed the rule of law and couldn't grow endlessly.

There's a reason socialism can't succeed at creating economic growth in the long-run, and that's because socialism is missing the basic building blocks that allow for successful economic planning. Primarily, prices derived not by fiat, but by the real information of supply and demand which can only be learned through market exchange. And that's not the only way in which Marx was wrong about economics...

Argument 3:

It's under capitalism that people don't keep what they make, not communism.



I see now how "people don't get to keep what they make" could be wrongly interpreted as applying to capitalism under the Marxist notion of "surplus value." That idea claims that because capitalists make profit from the work of those they employ, that profit is surplus value that rightfully belongs to the workers who supposedly created it, not the capitalist who "extracted" it from them.

But that so called "surplus value" is not surplus at all, rather it's paying for vital economic functions. Firstly, there is the role of the entrepreneur, the person who is being paid for coming up with the idea without which the workers wouldn't have anything to produce. Second, profit tells capitalists where resources are needed and incentivizes them to shift more resources into it, in the long run bringing prices down and reducing profit via competition. Third, profit is a potential payment in the future to capitalists for forgoing money in the present (a return on investment). Without capitalists forgoing money in the present to pay wages to their workers, workers wouldn't be able to afford to produce things that take a while to earn money (some companies don't even see revenue let alone profit for years).

Of course, many companies also fail to turn a profit and go bust, in which case the capitalist paid workers' wages yet saw no profit or "exploited" surplus value all.

Moreover, the notion that one's labor even has a specific value is wrong. The idea of surplus value is subsidiary to Marx's "labor theory of value," which to his credit, was also the approach of many classical economists of the 18th and 19th century including Adam Smith and David Ricardo. It holds that the value of a product comes from the amount of labor put into it. But if there's any reason that Marxist economics is rejected by the mainstream, which it is, it's that it still holds on to this outdated premise.

For well over a century, mainstream economics has subscribed to the "subjective theory of value," which holds that the value of a product is determined by how much it's desired by people. This is obviously correct, as if the labor theory of value was true, someone could dig a ditch in the woods for no purpose and expect their useless hole to have the same value as any other use of their time. On the subjective theory of value, one's labor only has value because there is a market of employers willing to buy it (or for the self-employed, purchasers of their products); without that there is not only no possibility for surplus value, but no possibility for any value at all.

Argument 4: It was not real communism!

Lastly, perhaps the majority of critical comments didn't accept that the video was a critique of communism at all. I was accused of not understanding communism, not having read Marx, or criticizing state capitalism instead of "real" communism. To these people, I have little to say besides reiterating the point of the video to attempt to get through their cognitive dissonance.



It doesn't matter if the Soviet Union or other so-called communist nations were indeed communist per-Marx's definition. Clearly, they were not. But if you do not believe that the goal of their revolutions was to institute socialism, which would then turn into communism, and if you do not believe that they were genuine in their desires, simply re-read Lenin, Mao, and the others and ask yourself why so many communists would rally around them if they were ingenuine.

No. Their intent was clear. Any single failed example could be excused, but when every nation that called itself communist has failed to achieve it, it signals that's because communism cannot be achieved. Their attempts to fight against reality have only been sustained through violence until they inevitably crumble. ■

A project of CRC's Dangerous Documentaries

ADAM CAROLLA

DENNIS PRAGER

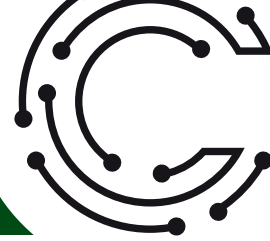


No Safe Spaces, a documentary starring Adam Carolla and Dennis Prager and co-financed by CRC's own Dangerous Documentaries, will expose the safe space culture that is undermining American universities. *No Safe Spaces* will expose the sad state of free speech, the unwillingness of students to be challenged by new ideas, and "the grievance culture" of "safe spaces" that are undermining the intellectual foundations of American higher education.

Carolla—a well-known stand-up comedian, podcaster, and radio personality—and Prager—a syndicated radio talk show host who has been on the air for more than four decades—will travel to college campuses across the country interviewing students, professors, and commentators from both sides of the political spectrum.

No Safe Spaces is set to release in 2018. It will be directed by Justin Folk and produced by Mark Joseph. Scott Walter and Jake Klein are executive producers.

NOsafespaces.com



EXPOSING THE TOTALITARIAN ROOTS OF THE CLIMATE INDUSTRIAL COMPLEX

Book excerpt of Green Tyranny

By Rupert Darwall

Summary: As Darwall illustrates in his 2017 book, *Green Tyranny*, “Climate change was political long before Al Gore first started talking about it.” In Chapter 18, he explains how California became a bedrock of ecofundamentalism. In Chapter 19, Darwall exposes the West Coast billionaires, the foundations, and nongovernmental organizations that use their environmentalism to signal their virtue.

Chapter 18: Golden to Green

The earth does not belong to mankind, according to Paul: “For the Earth is the Lord’s, and the fullness thereof.” *Arne Ness*¹

A Buddhist economy would make the distinction between “renewable” and “non-renewable resources.” ... The former co-operates with nature, while the latter robs nature. The former bears the sign of life, while the latter bears the sign of death. *Fritz Schumacher*²

The power of the Clerisy stems primarily not from money or the control of technology, but from persuading, instructing, and regulating the rest of society. *Joel Kotkin*³

German energy policies, French labor regulation, Italian public debts, and a Scandinavian cost of living premium: Subtract Silicon Valley and Hollywood, and America’s most populous state has distinctly European features. California had been a pioneer in the preservationist movement dating back to John Muir and the founding of the Sierra Club in 1892, and for the better part of a century California had it both ways. Preservation of the Yosemite Valley, the Sierra Nevada, stretches of the coastline, and its redwoods did not put a brake on the state’s booming economy.

An oil-well blowout six miles off the coast of Santa Barbara in 1969 began to change the balance between growth and environmental protection. Although the long-term environmental impacts of the spill were minimal, it led to



California had been a pioneer in the preservationist movement dating back to John Muir and the founding of the Sierra Club in 1892, and for the better part of a century California had it both ways.

the creation of the Californian Coastal Commission and an indefinite moratorium on offshore drilling within three miles of the coast. Topography also played a role in the development of Californian ecofundamentalism. Geography and weather patterns give Southern California its sunny climate and some of America’s worst urban air quality. Cold ocean currents and nearby mountains lead to frequent temperature inversions, when warm air traps cooler—often

Rupert Darwall is a strategy consultant and policy analyst. He read economics and history at Cambridge University and subsequently worked in finance as an investment analyst and in corporate finance before becoming a special adviser to the Chancellor of the Exchequer. He has written extensively for publications on both sides of the Atlantic, including the Wall Street Journal, National Review, the Daily Telegraph and The Spectator and is the author of the widely praised The Age of Global Warming: A History (2013). This excerpt is reprinted from Green Tyranny ©2017 by Rupert Darwall published by permission courtesy of the publisher, Encounter Books, 900 Broadway, New York, New York.

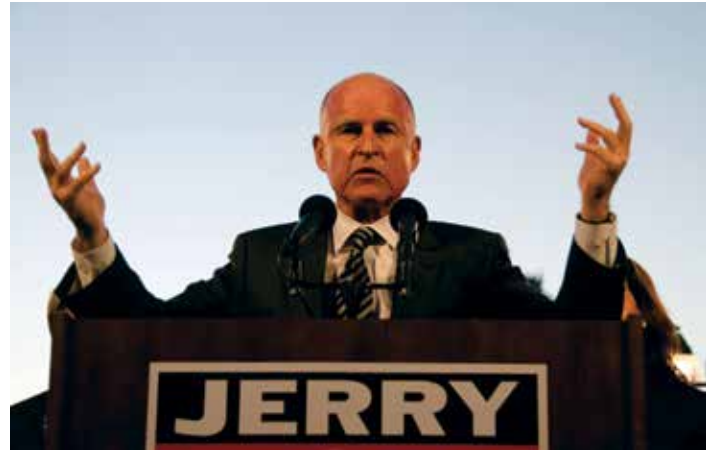
polluted—air. Meeting the standards prescribed in the 1970 Clean Air Act presented California with insuperable problems: Pollution from trucks and autos means that the big cities of Southern California could be completely deindustrialized and still suffer from poor air quality.

Something else was in the air in 1975, when Jerry Brown succeeded Ronald Reagan as governor. Reagan had supported economic growth and conservation, backing tougher auto emission standards, blocking development around Lake Tahoe and extending state parks. Brown, in the words of Manhattan Institute senior fellow Steven Malanga, proselytized radical antigrowth environmentalism drawn from ecological thinkers such as Norwegian philosopher Arne Næss and the author of *Small Is Beautiful*, Fritz Schumacher.⁴ Næss, a member of the resistance during the Nazi occupation of Norway, characterized conservation programs as “shallow ecology,” proposing instead a deep-ecology rollback of industrial development. Like Næss, Schumacher had been an anti-Nazi, fleeing Germany for Britain, where his reputation (and the royalties from his book of Buddhist economics, as he referred to *Small Is Beautiful*) disinfected the organic Soil Association movement of its founders’ pro-Nazi sympathies.*

Californian universities became seminaries of green ideologies raising up a secular clerisy, to borrow Joel Kotkin’s term, to propagate their values through the media and into the governing bureaucracies of the state. From 1965, Herbert Marcuse was teaching the Frankfurt School’s critical theory—the University of California, San Diego; Paul Ehrlich, author of the 1968 bestseller *The Population Bomb*, which predicted millions of deaths from mass starvation, had been teaching biology at Stanford since 1959; and Garret Hardin was teaching his antihuman population theories at the University of California, Santa Barbara throughout the 1960s. In 1969, Friends of the Earth was founded in San Francisco by the former executive director of the Sierra Club and vocal advocate of population control, David Brower, with, as we’ve already seen, oil-industry funding.

All this helped bring about a profound transformation in Californian politics. According to Kotkin in his 2014 book *The New Class Conflict*, the old plutocracy—notably energy, manufacturing, mass agriculture, and construction—generally supported the economic advancement of the classes below them. The consensus across the political spectrum in America that growth was good remained universal at least until the late 1960s.

*The origin of the Soil Association within a pro-German, English landowning circle is told in Rupert Darwall, *The Age of Global Warming—A History* (London, 2013), pp. 39-41.



Credit: Steve Rhodes. License: <https://goo.gl/Z2UPCA>.

California Governor Jerry Brown, in the words of Manhattan Institute senior fellow Steven Malanga, proselytized radical antigrowth environmentalism drawn from European ecological thinkers.

For all its many environmental and social shortcomings, the old economic regime emphasized growth and upward mobility. In contrast the new economic order focuses more on the notion of “sustainability”—so reflective of the feudal worldview—over rapid economic expansion.⁵

In California, it is being replaced by a new, deeply stratified social order. As Kotkin puts it, the oligarchs of a dematerialized economy who made billions out of information technology (IT), finance, and entertainment have shaped a new kind of postindustrial economy. Its lighter environmental footprint becomes a license to deny those less well adapted or unfortunate a share in its riches and its lifestyle.

Antipollution regulation accelerated California’s deindustrialization. Aerospace manufacturing shifted to states with lower energy costs and right-to-work laws. In the ten years to 2015, Southern California’s industrial base shed 60 percent of its workforce, from 900,000 to 364,000.⁶ Environmental progress is socially regressive in its application, Kotkin argues. California has America’s largest number of billionaires (111) and its highest poverty rate (23 percent) on the Supplemental Poverty Measure. With roughly 12 percent of America’s population, California accounts for roughly one-third of its welfare recipients.⁷ The clerisy’s no-growth planning policies increase downward mobility, particularly among Latinos. Shockingly, native-born Latinos have shorter life spans than their parents.⁸ Without broad-based economic growth, large parts of an emergent middle class risk becoming a permanent class of low-wage proletarians, Kotkin suggests.⁹ Technology replaces religious faith or civic virtue to provide a secular justification for increased



Joel Kotkin, the internationally-recognized authority on global, economic, political, and social trends, explains that environmental progress is socially regressive in its application.

social stratification in what Kotkin dubs “high-tech feudalism.”¹⁰ The proletarianization of the American middle class is not an unfortunate or unwelcome byproduct of green ideas. Killing the American Dream is necessary for the success of the Europeanization project because ever-rising material consumption—especially the burning of hydrocarbons—is the clerisy’s biggest prohibition.

California’s social stratification has a geographic dimension. The elites that run the state live within five miles of the coast, where air conditioning is a renewable resource provided by the cool waters of the California current. Rather like apartheid-era South African townships, the impoverished lower-middle class live out of sight and out of mind a hundred miles away, in the sweltering interior. When it comes to electricity bills, it pays to be wealthy. According to Kotkin, the average summer electrical bill in rich, liberal Marin County was \$250 a month, while in poorer, hotter Madera in the San Joaquin Valley, the average bill was twice as high.¹¹ Google chairman Eric Schmidt says people in Silicon Valley don’t talk about the concerns of the 99 percent because a lot of them are immune to those concerns. “We live in a bubble, and I don’t mean a tech bubble or a valuation bubble. I mean a bubble as in our own little world,” Schmidt acknowledged.¹²

As we will see, Schmidt’s and the valley’s indifference to the majority of Californians was manifested in their efforts to raise electricity costs by imposing wind and solar energy mandates and then defeating the 2010 Proposition 23 ballot initiative to partially reverse them. California’s path to energy ruin has been three decades in the making. Thanks in large part to green antigrowth ideology, hardly any new generating capacity had been built in the last two decades of the twentieth century. Between 1990 and 1999, California’s generation capacity decreased by 2 percent while consumption increased by 11 percent. Aging generators, a diminishing capacity margin, and aggressive environmental regulation set the stage for California’s 2000-2001 energy crisis.

Toward the end of 2000, a significant amount of generating capacity was undergoing maintenance. Low water levels in

the Pacific Northwest reduced hydroelectric output, and several gas-fired plants had used up their pollution credits and would be liable to fines if used. Preserving grid stability therefore necessitated rotating blackouts. The capacity squeeze also caused a huge price spike. By December 2000, wholesale prices were 11 times higher than a year earlier. To make matters worse, the state imposed retail price caps so electrical utilities couldn’t recover higher wholesale costs. Between June 2000 and April 2001, when it filed for Chapter 11 bankruptcy protection, the Pacific Gas and Electric Company incurred \$9 billion in costs that the state prevented it from recovering.¹³

Even so, California carried on down the path of energy incoherence. Between 2002 and 2014, coal, natural gas, and nuclear power station capacity—the most reliable generating technologies—fell by 8.5 percent while hydro capacity nearly halved. Overall, the proportion of non-weather dependent generating capacity fell from 95 percent of system capacity in 2002 to 80 percent in 2014. Over the same period, total generating capacity shrank nearly 9 percent but demand rose 27 percent. To keep the air-conditioning on, California more than doubled the electricity it imported from neighboring states in 2014, accounting for one-third of Californian demand.¹⁴

Politicians in Sacramento competed with each other to save the planet from global warming—and enrich wind and solar magnates. In 2002, the state legislature passed the California Renewable Portfolio Standard Program, setting a 20 percent renewables target by 2017. In 2003, it was brought forward to 2010 and put into law in 2006. In 2005, Governor Arnold Schwarzenegger proposed raising the target to 33 percent by 2020 and issued an executive order setting three greenhouse gas reduction targets: Back to 2000 levels by 2010—a target that was met thanks only to the 2008 recession; to 1990 levels by 2020; and 80 percent below 1990 by 2050. Silent on the means of meeting the targets, Schwarzenegger wasn’t silent on who would benefit: “California companies investing in these technologies are well-positioned to profit from this demand.”¹⁵ The targets became law with Assembly Bill 32, the California Global Warming Solutions Act of 2006.

As the damage caused by AB32 became better understood, spring 2010 saw the launch of a campaign to get the nearly half a million signatures necessary for a ballot initiative to suspend AB32. The initiative succeeded and became Prop. 23 but was defeated in that November’s general election by 61.5 percent to 38.5 percent. Flushed with success, in 2011 the legislature wrote Schwarzenegger’s 33 percent target into law, by which time Jerry Brown was back in the governor’s mansion for a third term. The definition perversely excluded

nuclear power and large hydro facilities. Like in Germany, tackling global warming is not the objective but an excuse to convert the grid to wind and solar. In January 2015, Brown upped the ante with the goal of a 50 percent renewables target by 2030. It was, the newly inaugurated fourth-term governor declared,

exactly the sort of challenge at which California excels. This is exciting, it is bold and it is absolutely necessary if we are to have any chance of stopping potentially catastrophic changes to our climate system.¹⁶

Zero-emissions nuclear power wasn't mentioned. Too exciting, too bold, too logical.

The crushing of Prop. 23 was a demonstration of the raw political power of environmentalism and California's elites. Schwarzenegger had slammed arguments made by Texan oil refiners that suspending AB32 would create jobs as like "Eva Braun writing a kosher cookbook."¹⁷ The Californian establishment was mobilized.

George Shultz was co-chairman of pro-AB32 Californians for Clean Energy and Jobs group. Conceding that some companies were worried about the cost of AB32, "the new regulations will boost the state's economy by creating 'clean-tech jobs,'" claimed Ronald Reagan's former secretary of state and Richard Nixon's director of Office of Management and Budget.¹⁸

What AB32 supporters lacked in intellectual edge, they more than made up with an overwhelming money advantage. They cried foul about out-of-state oil money when the real story was the money pouring in behind AB32 to defeat Prop. 32. The Rockefeller Family Fund chipped in \$300,000. In a display of gratitude to the legislators who had bankrupted it, Pacific Gas and Electric Company contributed half a million dollars. The usual suspects were unusually generous: the National Wildlife Federation (\$3m); the National Resources Defense Council (\$1.9m); the Sierra Club (\$1.7m); the League of Conservation Voters (\$1.3m); the Environmental Defense Fund (\$1.1m); Nature Conservancy (\$800,000); the Union of Concerned Scientists (\$113,005); and the National Audubon Society (\$100,000).¹⁹ The big bucks in the defeat of Prop. 23 came from eBay and TechNet, a tech lobbying group including Apple, Google (Wendy Schmidt, Eric's wife, gave \$500,000), Yahoo, Silicon Valley venture capitalist John

Doerr (\$2.1m), and billionaire Vinod Kholsa, formerly of Sun Microsystems (\$1.0m).²⁰ The biggest anti-Prop. 23 donor was hedge-fund manager Tom Steyer (\$5m), who co-chaired Californians for Clean Energy and Jobs along with Shultz.

These donor numbers disguise the upstream source of much of the anti-Prop. 23 NGO funding. A 2013 report by the Columbia School of Journalism notes a sharp rise in environmental funding from a handful of primarily West Coast funders. This followed publication in 2007 of a strategy report, "Design to Win," commissioned by six wealthy foundations.²¹ Written by researchers from California Environmental Associates and the Stockholm Environment Institute, the report argued that solving global warming required "a makeover of the global economy that is unprecedented in both scope and speed." Philanthropy could play a pivotal role in bringing this about, but "donors and foundations must be strategic and choose interventions with the most potential to set the world on a low-carbon course."²²



Zero-emissions nuclear power wasn't mentioned in 2010, when California worked to implement solutions to global warming. The technology was too exciting, too bold, too logical.

The report's message was heeded. In 2008 three of the wealthiest foundations in America—the William and Flora Hewlett, David and Lucile Packard, and McKnight foundations—committed more than \$1.1 billion to launch ClimateWorks. Hewlett alone pledged \$500 million, making it the single largest grant in the founda-

tion's history.²³ ClimateWorks—"our mission is to mobilize philanthropy to solve the climate crisis," according to its Twitter bio—directs the flow of foundation and hedge-fund dollars to maximize their impact.²⁴ Foundation dollars donated to ClimateWorks is rebundled and transferred to the secretive Energy Foundation, which in turn serves as a major source of grants to American NGOs.^{†25} The mixing and aggregation of climate dollars also has the effect of hiding the upstream source of the cash originating, in the words of the Columbia Journalism School, from a "small cadre of wealthy hedge fund owners and foundations headquartered primarily in California."²⁶

The strategy in the "Design to Win" report went beyond California and the United States. "The global community must overcome the collective action problems that have hob-

[†]The Columbia Journalism School authors state that representatives of the Energy Foundation would not speak to them (p. 32).

bled international climate agreements,” the report’s authors argued. “A cap on carbon output—and an accompanying market for emissions permits—will prompt a sea change that washes over the entire global economy.”²⁷ As well as putting \$900,000 into its own backyard in the fight against Prop. 23, ClimateWorks funded the European Climate Foundation to lobby for steeper cuts in greenhouse gas emissions.

What the media report—and what the public sees—is the downstream NGO activity the foundations buy. A 2014 minority staff report of the Senate Committee on Environment and Public Works (EPW) identified ten large foundations active in promoting environmentalism with reported assets totalling \$23.2 billion.²⁸ Between 2010 and 2013, the eight NGO donors to the anti-Prop. 23 campaign (excluding ClimateWorks) received a total of \$202.2 million in grants, the top two recipients being Nature Conservancy (\$58.6m) and the Environmental Defense Fund (\$53.9m). John Podesta’s Center for American Progress also received \$8.4 million in grants from them.²⁹ NGOs don’t have to be viewed as sock puppets for there to be something deeply troubling about the relationship between the visible activities of NGOs and their hidden dependence on a small group of hyperwealthy individuals and foundations. As the EPW minority staff observes, environmental NGOs that are heavily reliant on foundation funding for a substantial proportion of their budgets

begin to look much more like private contractors buying and selling a service rather than benevolent nonprofits seeking to carry out charitable acts.³⁰

Environmental groups portray themselves as guardians of undefiled nature and protectors of wildlife. Being in the pay of West Coast oligarchs means environmental groups can’t be genuine advocates for wildlife. In 2006, the then president of the National Audubon Society, John Flicker, wrote an article on wind power that was to become notorious. Wind was a good-news, bad-news story. “The good news is that many new wind-power projects are being proposed across the country,” Flicker wrote. “The bad news is that wind turbines sometimes kill a lot of birds.” They certainly do. A 2013 study estimated 888,000 bat and 573,000 bird fatalities a year, including 83,000 raptors, not counting those killed by the extra power lines and pylons required to connect wind farms to the grid.³¹ “On balance,” Flicker continued, “Audubon strongly supports wind power as a clean alternative energy source that reduces the threat of global warming” before blaming Congress for incentivizing wind-power investors to cut corners by not making the wind-energy-production tax credit permanent.³² “We very much appreciate Audubon’s leadership on this issue,” the executive



Credit: National Renewable Energy Lab. License: <https://goo.gl/Lj6pPN>.

A 2013 study estimated 888,000 bat and 573,000 bird fatalities a year, including 83,000 raptors, not counting those killed by the extra power lines and pylons required to connect wind farms to the grid.

director of American Wind Energy Association purred.³³ Was it money talking? Audubon would receive \$11.2 million between 2010 and 2013 from the ten funders identified in the EPW minority report.³⁴ It would also contribute \$100,000 to defeat Prop. 23 and keep covering California with wind farms.³⁵

Solar, too, is a bird killer. The 377 MW Ivanpah solar project, in which Google invested \$178 million and the U.S. government chipped in \$1.6 billion of loan guarantees, uses 300,000 mirrors in the Mojave Desert to reflect solar rays onto three boiler towers. Birds flying across the 3,500-

acre site risk having their feathers burned in the 800 degree Fahrenheit solar flux. Workers call them “streamers,” reporting an average of one streamer every two minutes. A 2014 analysis by the National Fish and Wildlife Forensics Laboratory found that severe singeing caused catastrophic loss of flying ability, leading to death. Less severe singeing has led to impairment of flight ability and increased vulnerability to predators and reduced ability to forage. Ivanpah is an equal opportunity killer. Seventy-one different species were identified, ranging in size from hummingbirds to pelicans. “Ivanpah may act as a ‘mega-trap’ attracting insects which in turn attract insect eating birds,” the researchers thought.³⁶ (At the photovoltaic site they examined, bird fatalities resulted from impact trauma from birds flying into PV panels.) Commenting on the Ivanpah deaths, Audubon’s renewable energy director for California said they were alarming. “It’s hard to say whether that’s location or the technology,” Garry George told the Associated Press. “There needs to be some caution.”³⁷ Caution? The precautionary principle isn’t invoked by environmentalists when it comes to their favored forms of energy production and the mass slaughter of birds in eco-friendly ways.

By contrast, the American Bird Conservancy took the Department of the Interior to court to overturn its decision to give wind-energy companies 30-year permits to kill protected bald and golden eagles. The court found that federal authorities, who were joined in the suit by the American Wind Energy Association, had not followed federal rules when deciding to extend wind farms’ permits-to-kill from 5 to 30 years. Research funded by the conservancy found that 30,000 wind turbines had been installed in areas critical to the survival of federally protected birds and that more than 50,000 more were planned in similar areas.³⁸ The conservancy is cautious about accepting wind and solar: “We strongly believe that renewable energy sources should not be embraced without question.”³⁹ Throwing caution to the wind, Audubon, on the other hand, “strongly supports” wind.⁴⁰

Chapter 19: Capitalism’s Fort Sumter

Great nations are never impoverished by private, though they sometimes are by public prodigality and misconduct. *Adam Smith*¹

In lobbying for wind and solar energy, environmental NGOs were faithfully reflecting the views of California’s green oligarchs. As Mark Mills puts it, Silicon Valley believes that Moore’s Law—that computer processing power doubles every couple of years—applies to renewable energy technologies and will make them economic.² A myriad of



Climate change is ethics for the wealthy: It legitimizes great accumulations of wealth.

venture capital speeches and pitches analogized clean tech as an emerging revolution akin to the digital disruption in computing and telephony, Mills says. In over a decade, more than \$25 billion was invested in clean-tech ventures, plus another \$50 billion in federal grants and gifts. Nearly everyone lost money. Clean tech became a dirty word in most venture capital circles. The limitations of physics and the chemistry of energy impose fundamental constraints that are not analogous to the miniaturization that has driven the exponential growth of IT speeds. Making clean tech viable depends not on technology, which is amenable to results-oriented managements of Silicon Valley, but on fundamental scientific breakthroughs. As Mills points out, often these occur serendipitously and frequently from unexpected people and venues. They can’t just be ordered up.³

There is another Moore’s Law. The second one says the richer you are, the more likely you are to support green causes. In 2000, the eponym of the first law and cofounder of Intel, Gordon Moore, and his wife set up the Palo Alto-based Moore Foundation with five billion dollars and later would spend one million dollars on the anti-Prop. 23 campaign.⁴ Climate change is ethics for the wealthy: It legitimizes great accumulations of wealth. Pledging to combat it immunizes climate-friendly corporate leaders and billionaires from being targeted as members of the top one-tenth of the top one percent. This signifies a profound shift in the nature and morality of capitalism. In the famous passage on the invisible hand in *The Wealth of Nations*, Adam Smith wrote of individuals who, intending their own gain, promote an end that was no part of their intention. “By pursuing his own interest he frequently promotes that of society more effectually than when he really intends to promote it.”⁵ Less well known are the two sentences that immediately follow:

I have never known much good done by those who affected to trade for the public good. It is an affectation, indeed, not very common among merchants, and very few words need be employed in dissuading them from it.⁶

One can be pretty sure that if supporting renewable energy harmed their interests, they would, as Adam Smith suggests, drop it in a nanosecond. The acquisition of green virtue does harm everyone else, especially the least well-off, and



Credit: Gage Skidmore. License: <https://goo.gl/wb9mG>

Since 2006, activist Bill McKibben has led three campaigns: Step It Up, against coal-fired plants; 1Sky, for renewable energy; and 350.org, to “fight iconic battles against fossil fuel infrastructure” (e.g., the Keystone XL pipeline).

represents an existential threat to the energy-intensive economies of the Midwest from the Great Lakes down to Texas. As Kotkin puts it, this as a conflict between an economy that makes tangible things and one that deals in the intangible world of media, software, and entertainment—you can add finance—thereby squandering America’s unique advantage in being a powerhouse in both the material and nonmaterial worlds.⁷

This economic civil war fought by the two coasts against the American heartland is also a civil war within American capitalism, waged as part of environmentalism’s war on hydrocarbon energy. Silicon Valley and the IT industry generally refute Schumpeter’s prediction of the atrophy of the entrepreneurial function by salaried managers. It does accord with Schumpeter’s larger prediction regarding the ultimate demise of capitalism and bears out his aphorism of capitalism paying the people that strive to bring it down.

Capitalist wealth had been used to fund the Frankfurt School decades earlier (Chapter 5). Disbursing the billions of dollars being raised to fund environmentalists in America’s economic civil war has become a big business in its own right. The 2014 EPW minority staff report revealed how green grant making had become increasingly prescriptive and centrally coordinated. In 2011, around \$1.13 billion of all foundation giving to environmental causes was made by members of the New York-based Environmental Grantmakers Association (EGA). Like the Energy Foundation, the EGA is a secretive organization—it refused to disclose the identities of its near 200-strong membership to Congress or the public—that coordinates grant giving to maximize the strategic impact of green dollars. West Coast foundations

were three of the top four EGA donor members in 2011: the Gordon and Betty Moore Foundation (\$134.4m); the David and Lucile Packard Foundation (\$121m), and the William and Flora Hewlett Foundation (\$53.4m).⁸ One recipient is Earthjustice, a public-interest law firm (“Because the Earth needs a good lawyer”) spun out of the Sierra Club, which litigates against fossil fuel companies and advocates on behalf of renewables investors, in a vivid example of the weaponization of Silicon Valley dollars.

Spontaneous antibusiness campaigns, rather like Soviet-era manifestations, turn out to be centrally funded too. Since 2006, activist Bill McKibben has led three campaigns: Step It Up, against coal-fired plants; 1Sky, for renewable energy; and 350.org, to “fight iconic battles against fossil fuel infrastructure” (e.g., the Keystone XL pipeline). In a 2010 article, McKibben boasted that

with almost no money, our scruffy little outfit, 350.org, managed to organize what *Foreign Policy* called the “largest ever co-ordinated global rally of any kind” on any issue.

It turns out that McKibben’s scruffy little outfits were front organizations. Far from being a bottom-up, grassroots campaign, an investigation by Canadian researcher Vivian Krause found that four grants accounted for two-thirds of 350.org’s budget and that McKibben’s three campaigns had received more than 100 grants totaling \$10 million from 50 charitable foundations, over half coming from three—the two big Rockefeller funds and the Schumann Center for Media and Democracy.⁹ Other donors to 350.org included ClimateWorks and the Tides Foundation.¹⁰

Tides is an especially significant organism in the ecosystem of anticapitalism. Since it was founded in 1976, Tides has funneled money from sub-billionaire West Coast liberals to fund progressive causes. It funded the nuclear winter conference satellite hookup with Moscow in 1983 (Chapter 10). According to Jarol Manheim, its grant giving emphasized the creation of an infrastructure to support progressive activism,

whether in the form of anti-corporate or pro-social responsibility research, message construction, social networking, policy development, strategy formation, or recruitment.¹¹

Progressive philanthropist and networker par excellence Joshua Mailman, whose Threshold Foundation merged with Tides, outlined the strategy in a 2002 essay:

As social activists interested in the future of social change, it is often necessary to seek the straw that

breaks the camel's back, the most effective way to leverage our small resources to make major change.¹²

The progressives' goal was to create a narrative of the People vs. Polluting corporations. Murray Edelman explained the progressives' logic in 1988. To define the people one hurts as evil is to define oneself as virtuous.¹³

In the philanthropic funding stakes, the left enjoys a structural advantage thanks to the tendency of conservative money to spawn progressive causes. The \$19.7 billion of assets (2011) of the three West Coast environmental foundations adds to the firepower of longer established progressive foundations, many of which had been endowed by supporters of free markets. The Pew Memorial Trust had been endowed by Joseph N. Pew Jr. in 1948. By 2014, the Pew Charitable Trusts had \$6.2 billion of total assets, but Pew himself had been an opponent of the New Deal and a bulwark of conservative positions within the Republican Party.¹⁴ In its early years, his foundation supported conservative think tanks such as the Hoover Institution and the American Enterprise Institute. During the 1980s, Pew's political orientation was flipped so that, as Manheim explains,

a foundation that was established by prominent advocates of free trade and limited government is now a leading funder of policy initiatives that generally are opposed by advocates of those same positions today.¹⁵

Environmental organizations were prime beneficiaries of Pew's political reorientation. In 1998, the Pew Charitable Trusts established the Pew Center on Global Climate Change as a global warming think tank, which in 2011 would morph into the Center for Climate and Energy Solutions (known as C2ES). In 2001 a Pew trust made grants to the Sierra Club (\$280,000), Friends of the Earth (\$300,000), Earthjustice (\$571,000), and the Environmental Defense Fund (\$1.07m).¹⁶

Something similar happened to the John D. and Catherine T. MacArthur Foundation. MacArthur was a small-government businessman with an animus against environmentalists, who had opposed some of his real estate developments in Florida. His foundation's original 1970 deed states one of its purposes as supporting "ways to discover and promulgate avoidance of waste in government expenditures."¹⁷ After MacArthur's death in 1978, his son waged a legal battle against the foundation, ousted most of the board,

and turned MacArthur's mission into ways of supporting progressive causes. At the end of 2013, it had \$6.3 billion of assets and in 2011 was one of EGA top ten donors to environmental causes, making \$24.2 million of grants to environmental groups.¹⁸ In 1982 it established the World Resources Institute (WRI) with a \$15 million grant. One of WRI's first reports was on acid rain in the western states of the U.S. "The things that give the West its beauty are what

makes it so vulnerable," one of the report's authors told *Science*.¹⁹ The report recommended tighter emissions controls and limiting the use of cars.

Three decades later, WRI had become Washington's go-to

global warming think tank, reflected in the size and sources of its income. Of its \$51.6 million income in 2013, just \$2.6 million (five percent) came from foundations (those included the European Climate Foundation, ClimateWorks, and the Energy Foundation), compared with \$5.3 million from the U.S. government. In turn, the U.S. government's contributions were dwarfed by payments from European governments, which totaled \$28.7 million—over half WRI's income that year—including €1.5 million (\$1.9m) from the European Commission for "designing the 2015 global climate change agreement."²⁰ What were the Europeans buying—influence or expertise? Both, probably.

Environmentalism was the key that unlocked the fortress gates of capitalism. There is a lot of make-believe in Silicon Valley's espousal of renewable energy, which crosses the line into outright dishonesty when claims are made that its data centers rely 100 percent on intermittent wind and solar energy. There's also more than a dash of hypocrisy. Google's fleet of private jets based at San Jose airport burned the equivalent of 59 million gallons of oil between 2007 and 2013. "Of course, the wealthy of the past, and more traditional plutocrats today, also consume at a high level," Kotkin comments on Google's Gulfstreams and Boeings, "but they at least do so without lecturing everyone else to cut their consumption."²¹

Green billionaire philanthropy upends traditional notions of charitable giving to help those most in need. For sure, there is a certain amount of going through the philanthropic motions of looking after the neediest. Eric and Wendy Schmidt's foundation supports Oakland's People's Grocery, which calls itself "a leader in the evolving food justice movement" by growing food in inner cities. Tom Steyer and his wife, Kat Taylor, have pumped money into the San Francisco-based TomKat Charitable Trust, which funds organizations that envision "a world



The results have all the authenticity of folk dancers dressed in colorful ethnic costumes greeting a communist party dignitary.

of climate stability, a healthy and just food system, and broad prosperity.”²²

Ethanol policy and the Renewable Fuel Standard (RFS) provided a test for the West Coast’s billionaire philanthropists. If there’s one thing worse for the poor than higher energy costs, it’s spiraling food prices. As Kathleen Hartnett-White and Stephen Moore write in *Fueling Freedom*, bioethanol is a prime example of counterproductive and “ethically offensive” energy policy.²³ In 2007, Congress strengthened the ethanol mandate with the Energy Independence and Security Act. The following year, the price of corn rose from \$2.50 a bushel to nearly \$8 a bushel, driving up food prices because of the increased cost of feed grains for livestock and poultry. Ethanol now accounts for 40 percent of the U.S. corn crop. In a June 2015 address to the Food and Agriculture Organization in Rome, Pope Francis questioned the nonfood use of agricultural products for biofuels.²⁴ Even Friends of the Earth opposes it. The big West Coast foundations could have mobilized to fight King Corn. Instead they sat on their philanthropic billions, except for Tom Steyer, who supported ethanol in the war on the hydrocarbon economy.‡

Foundation dollars have also been deployed to manufacture eco-consciousness among blue collars and minorities. The results have all the authenticity of folk dancers dressed in colorful ethnic costumes greeting a communist party dignitary. The phoniness of the Blue-Green Alliance was exposed in January 2012 when it came out against Keystone XL and the Laborers’ International Union of North America (LIUNA) quit in disgust. When AFL-CIO president Richard Trumka said that the labor movement was divided over the project, LIUNA general president Terry O’Sullivan thundered:

That is an understatement. That divide is as deep and wide as the Grand Canyon. We’re repulsed by some of our supposed brothers and sisters lining up with job killers like the Sierra Club and the Natural Resources Defense Council to destroy the lives of working men and women.²⁵

In September 2015, 21 Democratic assembly members of the Californian legislature—including 11 blacks and Latinos—crossed party lines to vote with Republicans to stop

‡ In August 2014, Steyer’s NextGen Climate praised the RFS: “The RFS supports 73,000 good-paying, clean energy jobs in Iowa and is helping us reduce our dependence on fossil fuels.” Ben Geman, *National Journal*, August 19, 2014, <http://www.nationaljournal.com/energy/2014/08/19/Tom-Steyer-Takes-Side-Environmentalists-Ethanol-Fight>.

a bill requiring steeper cuts in greenhouse gas emissions. “Who does it impact the most? The middle class and low income folks,” one of them shot back.²⁶

Environmentalism fueled by West Coast billionaires and philanthropic foundations meant that working people lost the political party that was meant to represent them. Money can’t buy me love, but it had bought the soul of the Democratic Party. ■

Read previous articles from the Green Watch series online at CapitalResearch.org/category/green-watch/.

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ORGANIZATION TRENDS



BEHIND THE LINES IN THE IMMIGRATION WARS

A look at the groups influencing the outcome of the latest debate over borders

By Michael Watson

Summary: Donald Trump burst onto the scene as a Presidential candidate gripping one of the “third rails” of American politics: immigration. Using harsh rhetoric against existing immigration policy, which he accused of being soft and unsound, Trump seized the Republican nomination and won the Presidency. Meanwhile, his opponent, Hillary Clinton, tiptoed around the question of whether the United States and other developed countries should have any effective immigration regulations whatsoever.

Few areas of public policy are as viscerally divisive as immigration. As an issue it implicates national culture and sovereignty, national security and crime, economic progress and opportunity. Combined with multi-million and multi-billion-dollar interests pushing for incompatible changes, the result is a policy mess that satisfies no one, not moderates, restrictionists, or liberalizers.

Immigration policy is viscerally divisive. Liberal advocates for increased immigration denounce what they see as obvious racial animus from a dying, terrified white America clinging to undeserved political power; the same advocates seek to use the immigration debate to gain the votes of new citizens for the entire liberal agenda. Conservative restrictionists, some of them funded by elements of the population-control movement, point to criminal elements who generally prey upon their own immigrant communities and to terror attacks committed by foreign nationals. They accuse liberals of placing expected future political payoffs ahead of security and the welfare of the nation. Moderates object both to what they see as extremist demands for a total clampdown on immigration from the Right, and to radical demands for all-but-open borders from the Left.

Behind this day-to-day firestorm of a debate stand numerous influence peddlers who seek to influence policy in four specific areas: What to do with the current illegal immigrant population; how to manage border and visa policy; whether to base the immigration system principally on family unification or on individual immigrant merit; and where to set the total level of immigration.



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Liberal groups want more expansive immigration and tend to oppose border security and visa enforcement—a combination of policies that can be called “liberal expansionism.” In addition to single-issue advocacy groups like the National Immigration Law Center, the liberal side also includes ethnic-based interest groups advocating on behalf of not only Latin American immigration but also immigration from Asian and African nations and even Ireland. Backing up the single-issue and identity politics-based advocates are labor unions and left-wing multi-issue policy groups, most prominently the Center for American Progress. Meanwhile, the left-of-center foundation infrastructure—the Ford Foundation, the Open Society philanthropies associated with George Soros, the Warren Buffett-funded Susan Thompson Buffett Foundation, the Carnegie Corporation of New York, and others—ensure that such advocacy groups are well funded.

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On the restrictionist side, conservative multi-issue policy advocacy entities like the Heritage Foundation and *National Review* magazine coexist with an interconnected network of single-issue groups committed to reducing immigration. The largest funders keeping the single-issue groups afloat, however, are not ideological conservatives but population-control environmentalists—some with an affinity for Planned Parenthood.

Meanwhile, the business community hovers on the outskirts of the debate. Generally seeking a liberal expansionist policy, groups like the U.S. Chamber of Commerce and the American Farm Bureau Federation have sought to increase temporary worker authorizations, often in connection with granting legal status to currently illegal immigrants.

Despite protestations to the contrary by advocates from all sides, prospects for any sort of mutually agreeable “deal” to create a sustainable immigration system in the national interest are dim. Each faction in the debate receives allegations of dishonesty from ideological opponents. Left-wing groups talk carelessly about immigration as a path to perpetual political victories for themselves; right-wing restrictionists occasionally talk with equal carelessness in a fashion that, their opponents claim, indicates they harbor ethnocentric animus against non-European peoples. And the business community sometimes admits its purportedly liberal policy goal is motivated by a desire to pay lower wages than those that might prevail in a world of regulated and managed immigration.

The Four Core Areas of Immigration Policy

Since the 2016 election, the debates over immigration have dealt with four broad issues. Policymakers debate what to do with the illegal immigrant population already here, estimated to be anywhere from 11.3 million (as estimated by the center-left Pew Research Center) to 12.5 million (as estimated by the immigration restrictionist group Federation for American Immigration Reform).

In addition, spurred by President Trump’s campaign promise to build a wall or other physical barrier on the United States-Mexico border, policymakers consider measures to increase border security and interdict human smuggling as well as to curtail the chronic overstaying of legal time-limited admissions. In recent months, especially after U.S. Senators David Perdue (R-Ga.) and Tom Cotton (R-Ark.) introduced proposed legislation, debate has also turned to the principles of immigrant selection and total immigration levels.



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Dealing with Illegal Immigrants

The estimated 11 to 12.5 million people residing in the United States without legal authorization I will call “illegal immigrants” for simplicity’s sake. The question of what to do with this population is understandably fraught. Current law calls for their removal from the United States, but as most are employed (the left-leaning Pew Research Center estimates 8 million illegal immigrant workers) and a vast army of law enforcement officers would be required to detain and remove a population of that size, few support deporting all illegal immigrants.

Recent arguments surrounding the government funding authorizations known as “continuing resolutions” in winter 2017–2018, have focused on a subpopulation of illegal immigrants: In 2012, then-President Barack Obama reversed his prior position that only a legislative action could adjust the status of illegal immigrants; he issued a policy dictating that illegal immigrants who applied for legal protection and had arrived in the United States before their 16th birthday and before 2007 and met certain other requirements would not be subject to deportation. They would instead be eligible for legal employment for a renewable period of time. This became known as “Deferred Action for Childhood Arrivals” or DACA, and its recipients came to be called “dreamers” by the media and others on the Left. (A later policy, known as “Deferred Action for Parents of Americans,” would have expanded these protections to the dreamers’ parents, but it was enjoined by a federal court and rescinded by the Trump administration before it ever took effect.)

Citing separation-of-powers concerns, the Trump administration has rescinded DACA on a time delay, with no new protections to be issued or renewed after March 5, 2018. (This has been complicated by a court decision out of California, which enjoined the ending of DACA and ordered the federal government to continue issuing permits.) In announcing the reversal, the Trump administration called on Congress to agree to a deal that would formalize legal status for DACA recipients and allow them to stay.

Public opinion polls suggest strong support exists for granting the DACA recipients legal status or a pathway to citizenship, with support at or above 70 percent depending on the poll wording. An impasse over DACA led Senate Democrats to filibuster a government funding bill in late January 2018, causing a (brief) partial government shutdown.

Border Security and Visa Enforcement

Central to President Donald Trump's campaign was a promise to build a wall on the United States-Mexico border to curtail the movement of illegal border-crossers. Since the election, Trump has walked back the need for the wall to cover the entire border, noting, "There are certain places you don't need a wall, because you have mountains, you have other things. You have large and rather vicious rivers." The President has also stepped back from insisting that the Mexican government will pay for a U.S. border fortification.

At the same time, Congressional Democrats (whose votes will be needed for a successful immigration deal, as all legislation requires 60 votes to clear the Senate's filibuster rule) are loath to support any border security improvements involving barrier construction. According to the Democrats, this might appear to give President Trump a political victory—even as they look increasingly likely to make advances in the November 2018 midterm elections. Also, perhaps due in part to prospective migrants expecting tougher immigration enforcement by the Trump administration, estimates of illegal border crossings showed a substantial dip from 2016 to 2017.

Alongside the question of illegal border crossings is the problem of visa overstays. A person can lose legal authorization to live in the United States if he refuses to return home after a student visa, a temporary work authorization visa, or other temporary admission to the country expires. Estimates suggest that roughly 40 percent of illegal immigrants initially entered the United States legally and lost authorization by overstaying their visas.

Unlike the common-border zone in Continental Europe and some Latin American countries including Brazil, Argentina,

and Uruguay, the United States does not have "exit controls" at air and sea ports of entry. In other words, travelers do not need to present their passports for inspection by immigration officers when leaving the country. The 9/11 Commission recommended that the U.S. implement an entry/exit tracking system; this sensible recommendation has not been implemented.

Both issues are complicated by a lack of rigor in the current system for verifying whether or not an employee is legally authorized to work in the United States. The Form I-9 currently mandated by the Department of Homeland Security (DHS) for establishing legal work authorization relies on employees providing documents establishing identity and work status to the employer, who then retains the information subject to inspection by DHS. Some states require employers to use the DHS's alternate system, E-Verify, which uses Social Security Administration and other records to confirm an employee's documents match the employee. Restrictionists tend to favor expansion of E-Verify requirements to prevent fraud and counterfeiting; business groups contest that the system is imperfect and may deny a legal worker the right to begin work.

Family Unification vs. Merit Selection

In August and with the backing of the Trump administration, U.S. Senators Tom Cotton (R-Arkansas) and David Perdue (R-Georgia) introduced proposed legislation titled the "RAISE Act." The bill would, in the words of President Trump, constitute "the most significant reform to our immigration system in half a century."



Under a system some call "chain migration," a foreigner can be sponsored for immigration by certain close relatives already residing here.

The most notable reform proposed by the RAISE Act is a fundamental change in how the United States chooses who should be permitted to immigrate. Under current law, it is extraordinarily difficult for people who do not have close family ties to the United States to immigrate here. Under this "family reunification" system, called "chain migration" by the President and other critics of the current system, a foreigner can be sponsored for immigration by certain close relatives already residing here. There exist two classes of

family reunification immigrant visas: *immediate relatives* and *family preference*. These grant entry to the U.S. for an immigrant who will eventually receive permanent resident status or a “green card.”

Only U.S. citizens may sponsor a foreigner to immigrate as an immediate relative; that foreigner must be the sponsoring U.S. citizen’s spouse, parent, or child. Immediate relative processing is the fastest path to a green card, with no limits on the total number of immediate relative admissions.

Family preference immigration is open to the siblings, minor and adult children of U.S. citizens, and the immediate relatives and unmarried adult children of green card holders. The U.S. government maintains limits on the number of family preference visas issued annually and caps family preference admissions for certain countries of origin.

Both family unification programs include a probationary period: if the foreigner in question hasn’t committed a crime or engaged in terrorist or political extremist activities for a certain number of years, he can legally immigrate, receive a green card, and later become a citizen.

Critics of this “chain migration” note that an immigrant can sponsor his immediate family and a sibling; after they receive citizenship they can do the same, creating an unending “chain” of immigrants. In practice, restrictions are placed on the emergence of such a chain: Each immigrant must spend up to a decade as a permanent resident, and can only sponsor immediate family. Additionally, quotas on total sponsorships of the family preference classes remain in place, meaning that a sponsored foreigner may have to wait up to another decade before entering the United States.

These family admissions are the keystone of the current American immigration system. Most immigrants entering the country are admitted using a family reunification visa; about two-fifths of immigrants arrive as immediate family members while an additional fifth are admitted under family preference.

The RAISE Act would fundamentally reorient the purpose of American immigration policy. While U.S. citizens would still be able to sponsor their minor children and spouses for immigration, other family preferences would be abolished, and parents of Americans would only be eligible for temporary residence visas. In place of the family-based “chain migration” system, the RAISE Act would institute a “points-based” system, by which skills (such as English proficiency) and personal attributes related to a prospective immigrant’s earning potential (including age) are scored and those immigrants with the most points would gain admission. The immigration systems of the United Kingdom, Australia, and Canada all follow a points-based selection process.

Immigration Levels

While some commentators on both sides of the immigration debate found the merit-selection points-based system in the RAISE Act to be an intriguing policy idea, the bill contained a second, far more controversial provision. Currently, the United States issues lawful permanent residence to approximately 1 million immigrants per year. Roughly half of green cards are issued to people already living in the United States on a visa (students, temporary workers, refugees, fiancées, and so forth) to mark a change in status; slightly less than half are issued to new arrivals on immigrant visas.

The RAISE Act would cut the number of green cards issued annually to 500,000 by 2027. Even some relatively restrictionist commentators have questioned the need for a drastic cut in legal immigration, especially as the merit-based system RAISE envisions would ensure that immigrants are net contributors to the public treasury and to civil society as well. A merit system would also ease foreign-born competition with lower-skilled native workers, which many restrictionists see as the principal reason for migration.

Public opinion polling on immigration levels and other issues surrounding immigration remains confused. Gallup, which has tracked Americans’ views on immigration levels since 1966, found in its most recent survey that 38 percent believe immigration levels should be kept the same, 35 percent believe they should be decreased, and 24 percent believe they should be increased. The proportions supporting increased levels are near their high water mark in Gallup’s series of polls; those supporting reductions are near their lowest levels. However, the Harvard Harris poll found that 72 percent of Americans chose a preferred level of legal immigration lower than the current level of roughly one million per year, although that poll did not offer any contextualization of the present immigration rate.

The Power Players

We can divide the principals involved in the immigration debate into three basic actions. Two of these—one left-wing and one center-right—favor liberalizing reform; the third—generally right-wing but funded in large part by the Malthusian wing of the environmentalist movement—favors restrictionism.

Ideological Left-Wing Expansionists

The liberal expansionist position, which proposes reduced enforcement of immigration laws and higher immigration



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levels (in extreme cases, no restrictions at all, known as “open borders”), is endorsed by a number of left-wing ideological, single-issue, and ethic-interest groups and their funders.

Ideological groups on the left are key supporters of expanded immigration and opposition to enforcement of immigration laws. The Center for American Progress (CAP), a multi-issue liberal think tank founded by John Podesta, former senior Obama and Bill Clinton White House official and chair of Hillary Clinton's unsuccessful presidential campaign, is a key advocate for higher immigration levels. Needless to say, CAP opposes President Trump's border enforcement programs.

CAP strongly advocates in favor of the “DREAM Act.” This proposed legislation allows for illegal immigrants who entered the United States as minors who received or will receive a high school diploma or its equivalent and have resided without legal status in the United States for four consecutive years to receive legal authorization to remain.

Permanent residency and future citizenship would be extended to these legalized immigrants who then worked for three years, completed two years of college education, or served two years (or until honorable discharge, whichever came first) in the military. The DREAM Act as so defined would grant legal status and a path to permanent residence and citizenship to between 1.1 and 1.9 million people depending on the enrollment projection used; this is several hundred thousand more authorizations than DACA granted.

The single-issue groups supporting the DREAM Act, which include the American Immigration Council, Migration Policy Institute, National Immigration Law Center, and the National Immigration Forum, provide research and advocacy for a number of left-of-center liberal expansionist immigration efforts. All receive substantial funding from the left-wing Ford Foundation, which is a major funder of liberal policy advocacy efforts.

Migration Policy Institute conducts research on international migration not only in the United States, but also abroad. The American Immigration Council conducts policy research and advocacy supporting liberal expansionist policies; it also operates a program in support of international exchange visitors under the federal J Visa (nonimmigrant) program, connecting them with internships in the United States. National Immigration Forum conducts advocacy in support of liberal expansionist legislation and policy. The National Immigration Law Center conducts litigation, research, and advocacy on behalf of immigrants to advance the liberal expansionist effort.

Standing firmly behind these advocacy groups are the major left-wing funders, including George Soros's Foundation to Promote Open Society, the Carnegie Corporation of New York, the Susan Thompson Buffett Foundation of Warren Buffett, and the Tides Foundation. The National Immigration Forum and National Immigration Law Center have additionally received substantial funding from the Service Employees International Union; the National Education Association and Unite Here, the hotel workers' union, have also provided funds to the National Immigration Law Center.

Alongside the main ideological and single-issue groups are a handful of ethnic-group and country-specific advocacy groups. The most notable of these is UnidosUS (formerly the National Council of La Raza). The group had pressed the Obama administration to “go big” in its controversial and legally suspect DACA and “Deferred Action for Parents of Americans” executive actions; its former president, Raul Yzaguirre, was President Obama's Ambassador to the Dominican Republic. UnidosUS has received grants totaling over \$10 million since 1999 from the Bill and Melinda

Gates Foundation and the Ford Foundation; other big donors to the group include the W.K. Kellogg Foundation, the MacArthur Foundation, and the Walton Family Foundation. Other notable contributors include the corporate foundations associated with PepsiCo, Walmart, UPS, and Bank of America.

UnidosUS and other groups focused on Hispanic American interests are not the only ethnic- or country-specific players in the immigration debate. Irish immigrants, of whom an estimated 50,000 or so are currently illegally present, have a country-specific lobby, the Irish Lobby for Immigration Reform, a small group that shares office space with Irish America magazine, a publication that received funding from the Bricklayers and Allied Craftworkers Union. Left-of-center groups promoting the interests of South Asian Americans, Filipino Americans, and other ethnic and national groups also push for more liberal immigration policies.

Conservatives and Immigration Restrictionists

As one might expect given the enthusiasm shown by left-wing funders and advocates for expansionist immigration policies, conservative-leaning organizations tend to support restrictionist policies and stricter enforcement of immigration laws. There is a philosophical division on the capitalist right between, on the one hand, libertarians (including liberal bogeymen philanthropists Charles and David Koch), who tend to believe that infringements on individuals' freedom of movement are morally suspect abuses of government power and therefore support expansionist policies, and on the other hand, conservatives who take a more restrictionist line, citing potential risks of crime, terrorism, and loss of national cohesion or identity. Notable conservative institutions taking a restrictionist position include the Heritage Foundation and *National Review* magazine.

Alongside these conservative institutions are a number of single-issue groups advocating for more restrictions on immigration. The Center for Immigration Studies, Federation for American Immigration Reform, NumbersUSA (and NumbersUSA Education and Research Foundation, its associated 501(c)(3) group), and Californians for Population Stabilization together conduct research, mobilization, and advocacy for tougher immigration enforcements and legal changes to reduce immigration—both legal and illegal.

Although they align with conservative institutions for tactical reasons (CIS executive director Mark Krikorian is a *National Review* contributor) the single-issue groups have

an unusual history and their principal funders are far from the usual right-of-center, free-market interests. CIS, FAIR, and NumbersUSA all arose from the work of controversial population control advocate John Tanton, a 1970s-vintage neo-Malthusian who espoused anti-Catholicism and served on the board of a local chapter of Planned Parenthood. Later in life, Tanton expressed apparent support for eugenics, writing, "Do we leave it to individuals to decide that they are the intelligent ones who should have more kids?"



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While the groups have in recent years distanced themselves from Tanton and his anti-life ideology, their funders continue to come from the Malthusian wing of the environmentalist movement. The largest contributor to single-issue immigration restriction groups is the Colcom Foundation, perhaps the most unusual of the Scaife family philanthropies. Colcom was controlled by Cordelia Scaife May until she died in 2005; May was an advocate of population control and environmentalism about whom a friend once said, "She loved animals almost more than people." May also reportedly idolized Planned Parenthood founder Margaret Sanger and kept a portrait of the eugenics-linked birth control pioneer in her living room.

Colcom continues to follow its donor intent: In addition to multi-million-dollar annual grants to immigration restrictionist groups, the Colcom Foundation has in recent years spent tens of thousands of dollars supporting anti-natural-gas and anti-coal groups like the Clean Air Council, Environment America Research and Policy Center, Earthworks, and the Center for Coalfield Justice. Colcom also gave a six-figure grant to Planned Parenthood of Western Pennsylvania, the local chapter of the Sanger-founded national Planned Parenthood network of abortion clinics in Colcom's home city of Pittsburgh, in 2013. Colcom's 2015/16 fiscal year tax filing even shows a \$40,000 grant to New York University for its Margaret Sanger Papers Project.

The same tax filing shows a total of \$16.6 million in grants to CIS, NumbersUSA Education and Research Foundation, FAIR, and Californians for Population Stabilization. Colcom funds other immigration restriction groups as well, including the American Immigration Control Foundation, the Immigration Reform Law Institute, and Progressives for Immigration Reform.

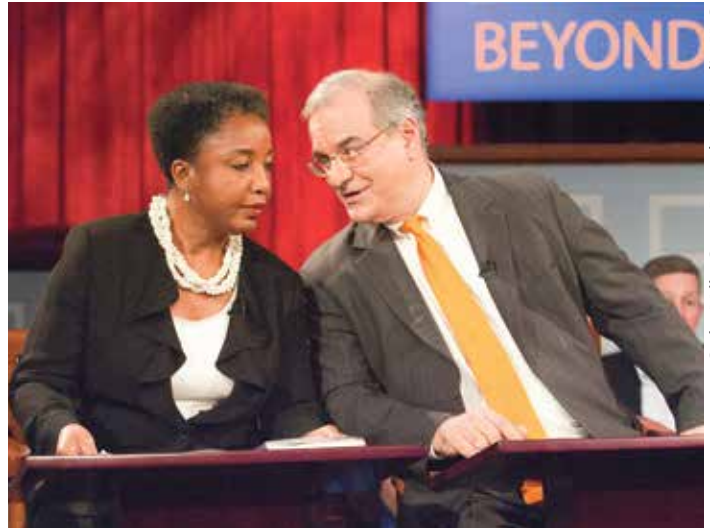
Colcom is not the only funder of immigration restriction that has associations with environmentalists, pro-abortion groups, and population control movements. The Weeden Foundation is also a funder of the immigration restrictionist movement. It is run by Don Weeden, who also sits on the board of NumbersUSA. Weeden has held positions with the International Planned Parenthood Federation and has involved the Weeden Foundation in expanding abortion services in Latin America.

But Weeden is substantially smaller than Colcom: It provided CIS, NumbersUSA, and FAIR with a combined \$100,000 in 2015, the most recent year with available records. In addition to funding immigration restriction groups, Weeden also funded numerous left-wing-aligned groups including the dissident “Catholic” Catholics for Choice pro-abortion lobby, the environmentalist Natural Resources Defense Council (NRDC), and the militant atheist advocacy group Freedom from Religion Foundation.

The Business Community and the Libertarian Movement

Business groups are generally reliable supporters of liberalized immigration laws. In previous rounds of immigration reform negotiations under the substantially less restrictionist George W. Bush administration and the very liberal Obama administration, the U.S. Chamber of Commerce, the largest and most prominent cross-industry trade association of American businesses, backed policies that would grant legal status to large numbers of illegal immigrants, enact modest increases in border security, and broadly increase immigration levels. Today, the Chamber identifies four goals: Expanding temporary worker programs, establishing a “workable” national work status verification system, “improved” border enforcement that does not disrupt legal trade and travel, and a “tough but fair” process to allow currently illegal immigrants to gain legal status and remain in the country.

In addition to the four major policies, business groups also take a special interest in temporary worker authorization programs called H visas. The U.S. Chamber of Commerce has expressed a desire to see increases in the number of H-1B (professional, college-educated) temporary workers and the number of H-2B (seasonal nonagricultural) workers available. The American Farm Bureau Federation additionally seeks increases in agricultural work visas, ideally by the creation of a new program to replace the current seasonal-worker-only H-2A scheme.



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*The executive director of the Center for Immigration Studies Mark Krikorian (right, pictured with Angela Maria Kelley) argued the case for reduced immigration in his 2008 book, *The New Case Against Immigration Both Legal and Illegal*.*

As a result of their desire for more liberal immigration policy, business groups have provided support to some of the liberal single-issue immigration groups. For instance, the Chamber of Commerce’s 501(c)(3) arm and the Walmart Foundation have in the past provided support to the National Immigration Forum. Some high-tech billionaires, most notably Microsoft’s Bill Gates and Facebook’s Mark Zuckerberg, have also formed FWD.us, their own single-issue advocacy group pushing for expanded immigration.

Business-backed liberalization arguments are often supported by ideological libertarians, who tend to see restrictions on international migration as unjust impositions on the right to travel. Groups like the Cato Institute, Reason Foundation, and Mercatus Center all engage in advocacy supporting open international migration. A few ideological libertarians—perhaps most notably George Mason University economist and Mercatus Center research fellow Bryan Caplan—openly advocate for removing all international migration restrictions whatsoever.

Allegations of Nefarious Motivations

The debate over immigration policy is notoriously divisive. In part, that is because all three major factions are accused by their rivals of holding the positions they hold in the interest of a nefarious purpose. The Left accuses restrictionists of racism while the business community accuses them of

ignorance. Business advocates are accused by restrictionists of an animus against American workers. Meanwhile, the Left all too willingly admits that it sees expanded immigration and citizenship for the presently illegal alien population as paths to electoral success.

Allegations Against Restrictionists

The restrictionist side faces nearly constant attacks from the left-wing that it is motivated principally by ethnic hatred. Taken to an extreme, these allegations can become farcically absurd. To choose one example, the Latino Victory Project, a left-wing political action committee funded by Democratic political committees and liberal mega-donors, attacked U.S. Senator Marco Rubio (R-Florida) and New Mexico Gov. Susana Martinez (R) for campaigning for Republican candidates in the 2017 Virginia state elections, claiming they “contribute to the Latino community’s oppression.” (Martinez is Mexican-American, and Rubio is Cuban-American; both are considered moderates in the Republican Party on immigration matters.) Republican candidates in those elections had emphasized the need to counter the threat of MS-13, a transnational organized criminal gang based in El Salvador, by increasing immigration enforcement and policing.

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However, not all the allegations of ethnic-interest motivations are insane. John Tanton, the environmentalist activist who co-founded the immigration restrictionist group FAIR, asserted in a 1993 letter: “I’ve come to the point of view that for European-American society and culture to persist requires a European-American majority, and a clear one at that.” These and similar sentiments saw Tanton criticized by the Center for Immigration Studies he had helped found, though he served on FAIR’s board until 2011. Impolitic statements about immigrants’ countries of origin by leading restrictionist politicians also help contribute to these suspicions.

Business community organs tend to tread more carefully in imputing bad faith to restrictionists; they prefer to allege mere ignorance or error. The effect of immigration on wages and employment, especially low-skill immigration’s effects

on wages at the low end of the income distribution, is hotly contested: Business groups embrace findings that support a null effect. Others, such as George Borjas, the Robert W. Scrivner Professor of Economics and Social Policy at the Harvard Kennedy School, produce research that shows immigration is lowering wages for native-born laborers.

Allegations Against the Business Community

Restrictionists, who emphasize the negative effects of immigration on wages or native employment, suspect the business community supports liberal immigration policies in order to reduce their own labor costs.

Agricultural groups, which support permissive guest-worker authorizations, have written in fear of labor shortages. One particularly impolitic report, by the business- and municipal-government-backed Partnership for a New American Economy, stated that “Farmers [...] faced a hard time finding sufficient numbers of laborers and have had to bid up wages to attract and retain workers.” The implication of the report was stark: Agricultural employers seek to increase the number of guest workers because farm labor was not a job that Americans would perform for the offered wage.

Evident in prepared policy reports, this attitude can also be seen in the funding that passes from some businesspeople to pro-liberal expansionist groups. The National Immigration Forum, a liberal expansionist single-issue immigration group, has received multiple six-figure grants from Vista Hermosa, a Washington state-based foundation that is funded by Broetje Orchards and is controlled by the Broetje family. Broetje Orchards made news in 2015 for paying a then-state-record \$2.25 million in civil penalties to Immigration and Customs Enforcement (ICE) for failing to properly verify whether its workers were legally authorized to work in the United States. Even as it settled the dispute with ICE, Broetje Orchards issued a preachy pro-immigration statement reading in part “...this case nevertheless highlights what is clearly a dysfunctional and broken immigration system.... The agricultural labor shortage needs to be fixed, and now.”

Allegations Against the Left

Left-wing pro-liberalization groups are widely suspected of using their supposed moral crusade on behalf of low-income immigrants to cloak a cynical electoral calculus. Liberals have put their faith in a theory about the electoral future

that posits a “Rising American Electorate” that will bring forth an “emerging Democratic majority.”

The “Rising American Electorate” is said to consist of single women, Millennials, and ethnic and racial minorities—all growing, left-leaning blocs of voters. Ruy Teixeira, now a senior fellow at the Clinton family- and Democratic Party-aligned think tank Center for American Progress, and John Judis, a journalist and editor-at-large for the liberal blog Talking Points Memo, wrote a book first published in 2002 titled *The Emerging Democratic Majority* which posited that Democrats could create a realignment by using Clinton-style policies of “progressive centrism” and waiting on demographic change to build up the numbers of the “Rising American Electorate.”

As Real Clear Politics statistical elections analyst Sean Trende has observed, this last element of the theory (determinist demographic change) dominated the thesis’s prescription of a liberal centrist politics. Judis would repudiate the theory after the 2014 elections on the grounds that “progressive centrism” had been abandoned. Yet as Trende noted after the 2016 elections, in a piece amusingly titled “The God That Failed,” the Emerging Democratic Majority hypothesis was handed a harsh rebuke by the election of President Donald Trump and Republicans to majorities in both Houses of Congress.

Since the “Emerging Democratic Majority” has not emerged quickly enough for their liking, Democratic and liberal operatives have expressed a desire to expedite demographic change through manipulating immigration policy. In a memo prepared for the 501(c)(4) arm of the Center for American Progress, former Hillary Clinton campaign flack Jennifer Palmieri dryly assessed that “The fight to protect Dreamers is not only a moral imperative, it is also a critical component of the Democratic Party’s future electoral success.” (Interestingly, Palmieri estimated the number of “Dreamers and their families” as “millions,” substantially greater than the number of recipients of DACA, who are usually estimated around 800,000, or those eligible for but not part of DACA, who number less than two million.) The memo proposed a government shutdown strategy—“Democrats should refuse to offer any votes for spending bills that do not protect Dreamers”—based on the cynical expectation that Hispanic voters would reward Democrats electorally. Latinos have supposedly done this in California after Republicans passed a measure, later struck down, that was intended to bar illegal immigrants from receiving public benefits.

Conclusion

The myth of a California transformed by immigrants—as seen in Palmieri’s memo—haunts the imagination of immigration debaters on all sides. Where liberals and Democrats see an emerging majority, conservatives and Republicans see a fateful precedent. The pseudonymous “*Publius Decius Mus*” (later revealed to be the California-born Republican foreign policy operative Michael Anton) argued that California’s experience showed that the 2016 Presidential election presented a “Flight 93” scenario demanding support for then-candidate Donald Trump.

The Left’s desire and the Right’s fear of what one might call “National Californication” hinders the immigration debate as a whole. But the history of California’s politics on which this analysis relies is incomplete. While immigrant communities do tend to vote Democratic, other substantial population migrations have shifted California’s politics—which were never all that conservative to begin with. Republicans have not held a “trifecta” of the Governorship and both houses of the state legislature in California since 1970; California has not voted more Republican than the national average since 1980, when Californian Ronald Reagan was on the ballot. The state’s

Republicans (think former governors Earl Warren of the 1940s and Arnold Schwarzenegger of the 2000s) have also been socially liberal, increasingly out of sync with conservative norms.

Since the end of the Cold War, middle-class families have exited California en masse. Anglo middle-class families have not been replenished in the Golden State; Anglo in-migration has focused on college educated members of what sociologist Charles Murray calls the “New Upper Class”—progressive-minded gentry liberals. The state’s suburban home-owning classes, the core of Republican Parties of most states, have left the building. As a result, in 2014—a strongly Republican year—exit polls show Republican gubernatorial nominee Neel Kashkari still would have lost an all-white California to incumbent Democratic Gov. Jerry Brown by 54 percent to 46 percent.

But California doesn’t represent the only possible future. Many of those Golden State middle-class exiles—one estimate puts the number since 2005 at 156,000 of 800,000 total—have gone to Texas, the prototypical Republican state of the Obama era. According to the demographics-are-destiny view of the world, Texas should already show deep blue.

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exited California
en masse.*

Anglos are no longer a majority of the population there and are only narrowly a majority of the electorate. Instead, President Trump won the state by ten points, even while a center-right third-party candidate, Libertarian former New Mexico Gov. Gary Johnson, took three percent of the vote.

Issue driven polls clearly show that Americans have mixed views on immigration. Some polls indicate a strong desire to legalize the status of illegal immigrants and provide a path to citizenship; others show an overall desire to reduce immigration levels. Americans take pride in their history as a nation founded by immigrants but many are concerned over mass lawlessness created by widespread illegal immigration. Driven by fears of an immigrant-dominated Third

World American future, many conservatives seek to slow immigration to a trickle. On the other side, the Left desires to remake the nation as a multi-cultural immigrant-heavy mosaic, with little consideration for the integration of immigrant communities into American cultural and civic norms. These polarized views ensure an impasse.

Alas, fundamental reform with a sustainable immigration system operating in the national interest remains out of reach. ■

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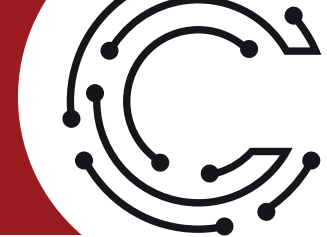
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Jaquelin Hume Foundation

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—Linda Childears,
President and CEO, The Daniels Fund



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THE BITTERSWEET TASTE OF THE MILTON HERSHEY SCHOOL

What happens when a foundation has too much money?

By Martin Morse Wooster

Summary: In this expansion of a March 2003 article, Martin Morse Wooster updates the complicated history of the Hershey Trust which runs and funds the Milton Hershey School. The 109-year-old organization, originally founded to provide aid and comfort to young orphans at the turn of the century, controls two profit-making enterprises, a unique situation in the foundation world. Not only does this tale offer a case study on how best to retain donor intent, it also portrays the sad decline of a great institution, presenting a record of recent scandal, financial impropriety, and sexual misconduct that has tarnished one of the most famous names in American philanthropy—and candy making.

In August 2016, Mondeléz International, a global snack-foods maker that owns Nabisco and other notable brands, called off an attempt to take over the Hershey Company. The companies Mondeléz and Hershey were uniquely compatible: Mondeléz makes Cadbury chocolates in every country except the U.S., where Hershey makes Cadbury bars under license.

The merger was rejected even though Mondeléz—a \$30 billion-a-year enterprise compared to the Hershey Company's \$7 billion annual revenues—promised a signal act of self-abnegation: The combined company would be named “Hershey” would make its corporate home in Hershey, Pennsylvania.

The collapse of the merger, noted *Wall Street Journal* reporters Annie Gasparro and Dana Cimullca, “will likely reinforce the notion among analysts and investors that Hershey is unattainable as an acquisition in light of its majority ownership by a trust that for years has been reluctant to sell.”

The organization controlling the Hershey Company is the Hershey Trust, devoted to protecting the interests of the Milton Hershey School, founded as an orphanage in 1909 by Milton Hershey. (Today, the school is a cost-free boarding school for children from lower income families.) With an endowment of over \$12 billion, the Milton Hershey School is wealthier than any secondary school in the U.S. If the Milton Hershey School were a foundation, its



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Milton Hershey wanted to help poor, struggling children succeed in life. He did not intend for his wealth to be spent on lavish buildings, fancy clothes, expensive land deals, first-class travel, and white-shoe lawyers.

endowment would make it the third largest in the U.S., with its endowment of \$12.2 billion slightly less than the Ford Foundation's \$12.4 billion endowment.

The Hershey Trust currently controls 81 percent of the voting shares of the Hershey Company and completely controls Hershey Resorts and Entertainment, which owns a lot of property in Hershey, Pa., including the Hersheypark amusement park.

This unusual arrangement means that the Hershey Company might well be the only *Fortune 500* company (it's

Martin Morse Wooster is a senior fellow at the Capital Research Center. He has written extensively on the history of philanthropy. In addition to the three previous editions of this book, Wooster is the author of Great Philanthropic Mistakes (Hudson Institute), Should Foundations Live Forever? (Capital Research Center), Games Universities Play: And How Donors Can Avoid Them (Pope Center for Higher Education Policy).



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The Hershey Trust controls Hershey Resorts and Entertainment, which owns a lot of property in Hershey, Pa., including the Hersheypark, which would probably be illegal today, because the Tax Reform Act of 1969 prohibits a charity from owning more than 20 percent of the shares of a corporation.

currently ranked #369) controlled by a charity. The Hershey Company is almost certainly the only major American company where a state attorney general, as the chief regulator of charities in Pennsylvania, has veto power over any potential merger.

The arrangement where a charity controls two profit-making enterprises would probably be illegal were it proposed today, because the Tax Reform Act of 1969 prohibits a charity from owning more than 20 percent of the shares of a corporation. Although the Hershey Trust now only controls 24 percent of Hershey common (including the non-voting shares) there has been no attempt to force the trust to give up control of the Hershey Company.

Unfortunately, in the past decade the Trust, has been rife with scandal, intrigue, and corruption. A seat on the trust's board has proven quite lucrative, particularly for those members who simultaneously hold one of the three seats the trust maintains on the Hershey Company board. But the collapse of the Mondeléz deal should cast a strong light on the activities of the Hershey Trust, possibly leading to the conclusion that the current complicated relationship between the trust, the school, and the company is not the best way to preserve Milton Hershey's charitable intentions.

Consequences of the Failed Wrigley Merger

The Hershey Trust and the Milton S. Hershey School's problems are those of an organization that has far too much money for its intended purpose. Under the terms of the 1909 Deed of Trust, the Milton Hershey School is the sole beneficiary of Milton Hershey's vast fortune. The courts have allowed one major deviation from the will, when in 1963 they permitted 25 percent of the Hershey School's endow-

ment to be used for the creation of a hospital now known as the Penn State Milton S. Hershey Center. Except for that deviation, courts have upheld Milton Hershey's desire that the wealth created by the Hershey Company be used to support the school.

In its 2014 Form 990, the Milton Hershey School reported an endowment of \$12.2 billion. Under the rule that states that foundations have to spend 5 percent of their endowment, this meant that if the school were a foundation, it would have to give at least \$611 million in grants. However, the school's annual budget is \$259 million. The remaining \$352 million sits in the Hershey School endowment.

In my March 2003 *Foundation Watch*, I explain the events leading up to a 2002 failed merger between the Hershey Company and the W.S. Wrigley Jr. Company. This merger was not only costly to the company and to the charitable sector in general,¹ it led to a protracted and costly legal battle.

For the opening salvo of the conflict, Pennsylvania Attorney General's office launched an investigation of the Hershey Trust (paid for by the Milton S. Hershey Alumni Association, an independent nonprofit group of Milton Hershey School alumni that has no formal affiliation with the school). As a result of their investigation, the three entities—the association, the trust, and the attorney general's office—entered into an agreement, which mandated the following:

- The overlap in the boards of the Hershey Trust, Hershey Foods, and Hershey Resorts and Entertainment would be eliminated, with no one being allowed to serve on more than one board.
- The school would stress the admission of needy children.
- The school would implement a foster care program.



Credit: Penn State Health. License: <https://goo.gl/jjEmoC>

The \$50 million phone call. In 1963, The M.S. Hershey Foundation offered \$50 million to The Pennsylvania State University to establish a medical school and teaching hospital in Hershey.

- Academic standards for admissions and expulsions would be reformed.
- Land transfers and sales would be severely limited.
- The school would have to file biannual reports with Pennsylvania's Attorney General.

But in 2003, the Attorney General's office said that these clauses were tabled and would not be enforced. The Milton S. Hershey Alumni Association then sued the Milton Hershey School and the Hershey Trust to have the provisions of the agreement enforced. The resulting case, *In re Milton Hershey School*, took three painful years to work its way through Pennsylvania state courts. But in December 2006 the Pennsylvania Supreme Court unanimously dismissed the case on a legal technicality, declaring that only the Pennsylvania Attorney General had standing to sue.

The alumni association, the court ruled, lacked standing because it was not created by Milton S. Hershey and therefore could not act as a check on the Hershey Trust's power. "The Association's intensity of concern is real and commendable, but it is not a substitute for an actual interest," the

court declared. "The Trust did not contemplate the Association, or anyone else, to be a 'shadow board' of graduates with standing to challenge actions the Board takes."

Mismanagement at the Hershey School

In 2007, the Hershey Company entered a precipitous decline, with its shares falling 20 percent in six months. Six members of the Hershey Company board resigned, and two others quit. But the Milton Hershey School announced that it would continue its expansion, despite the fall in the value of Hershey Company shares.

The 2009–2010 academic year was the Milton Hershey School centennial. But it was also the time when Bob Fernandez, in a series of reports for the *Philadelphia Inquirer*, exposed many of the school's management problems.

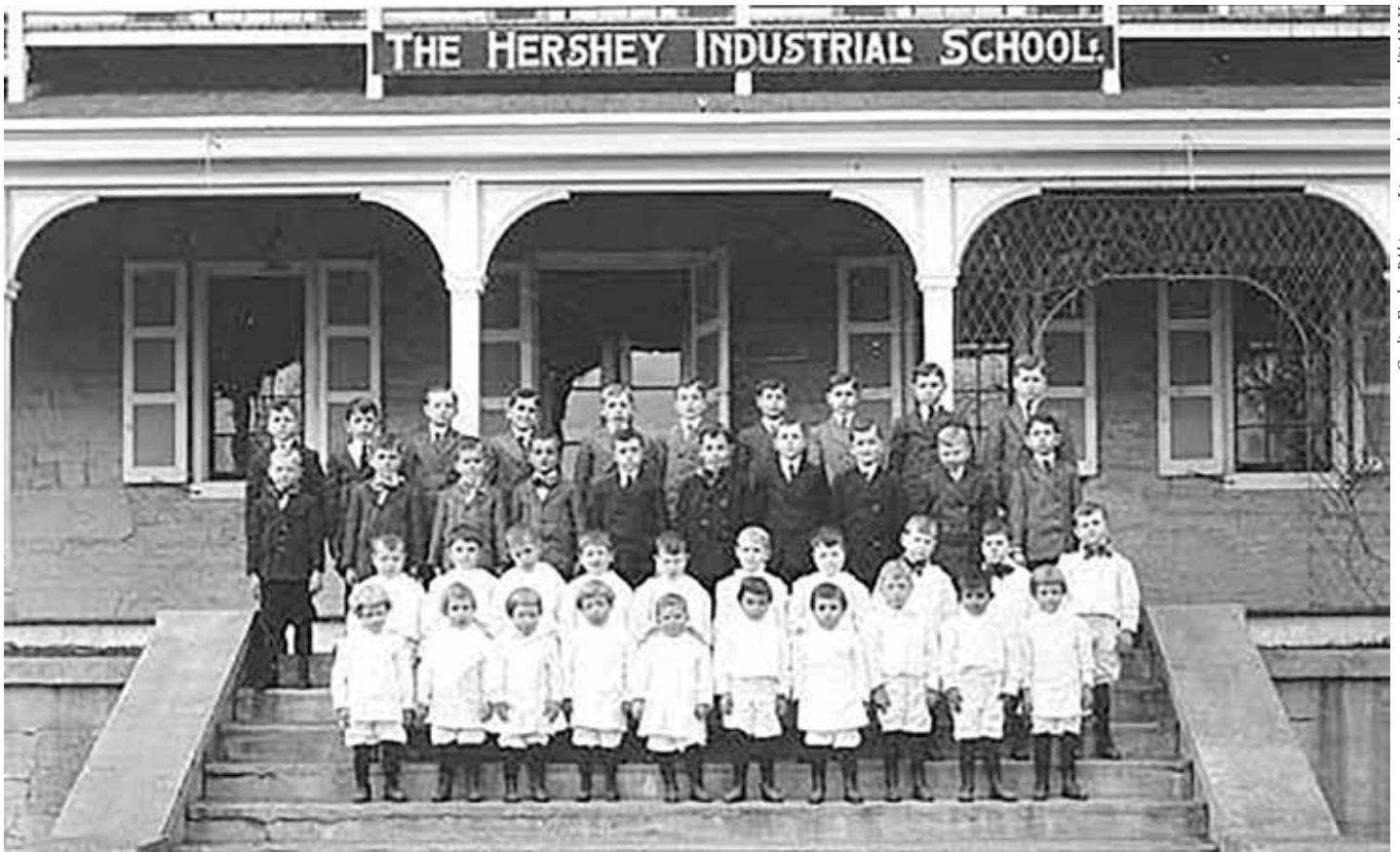
In March 2010, Fernandez noted that the Hershey School had decided to implement a series of budget cuts in response to the Great Recession, including eliminating plans for building a new set of group homes, closing a residence for the Hershey School president opened in 2003, and eliminating a program that had paid for the removal of students' wisdom teeth. Critics of these cuts noted that the Hershey School endowment in 2008 was \$7.3 billion, which would have placed it eighth among the nation's universities—less than Harvard, Yale, or Stanford, but more than Northwestern or Columbia.

Dilworth Paxson partner John W. Schmehl, who represented the alumni association in their failed case against the school, declared it "nonsense for the trust to blame the economy for subjecting children to program cuts while...sitting on \$7 billion."



In the past decade, the Hershey Trust as been rife with scandal, intrigue, and corruption.

The Springboard Academy, a semi-autonomous part of the Hershey School campus was also scheduled for elimination. At Springboard, which featured what Fernandez called "an eco-friendly main lodge with a bamboo floor" troubled students could spend extra time hiking and camping as a way of easing into more regimented Hershey School pro-



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The organization controlling the Hershey Company is the Hershey Trust, devoted to protecting the interests of the Milton Hershey School, founded as an orphanage in 1909 by Milton Hershey.

grams. The cost to the Hershey School for Springboard was an additional \$9,000 above the whopping \$100,000 per student already spent by the school.

News of Sexual Molestation Settlements

Fernandez's next scoop came in May 2010, when he reported that the Hershey School had paid \$3 million to five victims of Charles Koons II, who molested five boys at the Hershey School from 1987 to 1989. Prosecutors deemed three other cases too old to come to trial, and an additional victim died before his case could be considered. Koons' mother, Dorothy, was a relief house parent at the Hershey School, usually working every other weekend from 1985 to 2008, when she was fired after her son's arrest. Koons would usually accompany his mother to campus. He's serving a 35 to 100-year sentence for molesting 17 other non-Hershey boys in the area.

The Koons case came to the attention of Derry Township (which includes the town of Hershey) police in 1998, when the mother of one of the victims filed a notarized complaint

that her son had been molested. Records Fernandez obtained showed that the Derry Township police then contacted the Hershey School—to no immediate effect. The case was closed in 1999, only to be reopened with Koons' arrest nine years later. Hershey School officials couldn't explain their earlier inaction and promised to implement new procedures to ensure prompt follow-up for complaints of child molestation.

The Pork Barrel and Its Pigs

Another troubling aspect of Hershey's complex organization that drew Fernandez's attention involved the financial compensation for various organizational leaders. Hershey's largesse knew no partisan divide; both Pennsylvania Republicans and Democrats reaped fat salaries from the Hershey conglomerate over the years. Case in point: LeRoy S. Zimmerman, Pennsylvania attorney general under Republican Governor Dick Thornburgh, was appointed to the Hershey Trust Board in 2002. Fernandez noted that, at the time of his appointment, annual compensation hovered at around \$35,000. In 2003, the Hershey Trust was awarded

three seats on the Hershey Company board, and Zimmermann began to draw two salaries. He subsequently became a member of the Hershey Entertainment and Resorts board, drawing a third salary. In 2009 and 2010, Zimmermann earned \$500,000 each year for his three board seats, and \$1.9 million between 2002 and his retirement in 2011. In 2010, Zimmerman, 75, was appointed to another six-year term for his position at the Hershey Trust, a highly unusual move as Pennsylvania regulations urged corporate directors to retire at 72.

Other corporate leaders were also well-compensated. James S. Nevels, who served on the Hershey Trust and Hershey Company boards, earned \$1.2 million from 2006 to 2010. Two more prominent Republicans—who secured their appointments as a result of Zimmerman’s assistance—also benefited. Former Pennsylvania Governor Tom Ridge became a member of the Hershey Company board earning a yearly salary of \$200,000, while Lynn Swann, a former Pittsburgh Steeler who was the losing Republican nominee in the 2006 Pennsylvania governor’s race, was appointed to the Hershey Resorts and Entertainment board for \$100,000 per annum.

Meanwhile, Fernandez noted administrative expenses for the Hershey School rose from 14 percent of the school’s budget in 2001 to 28 percent of the school’s budget (or \$55 million) in 2009. By contrast, the well-regarded Lawrenceville School (a private school in nearby New Jersey) held its administrative expenses to 15 percent of its budget.

Wheeling and Dealing

The final Zimmerman scandal broke in 2010. This time it concerned the Hershey School’s purchase of two neighboring properties: the Wren Dale Golf Club and Pumpkin World USA. The school had purchased Wren Dale in 2006 for \$12 million; that year tax assessors placed a \$4.5 million fair-market-value on the property. Hershey then spent an additional \$5 million renovating the Wren Dale clubhouse, re-opening the golf course as Hershey Links, under the control of Hershey Resorts and Entertainment at a total cost of \$17 million.

But in its purchase of Wren Dale, Hershey had bought itself a world of woe. Wren Dale itself founded as a nonprofit, had quickly encountered financial trouble. Why? Its business plan, based on attracting at least 300 wealthy central Pennsylvanians who could afford \$25,000 membership fees, proved faulty: In the end, only 50 ponied up the money and the club foundered.



Credit: Todd Van Hooser. License: <https://goo.gl/Fu4Fm>.

Under the terms of the 1909 Deed of Trust, the Milton Hershey School is the sole beneficiary of Milton Hershey’s vast fortune.

Hershey’s Wren Dale purchase and the subsequent failure of the golf course revolved around two salient points: The first, a clause in the Deed of Trust stating “All revenues must be spent directly on the care and education of the children. No monies are allowed to be or are spent for any other purpose; there are no grants to other organizations or non-MHS [Milton Hershey School] related spending.”

The second concerned the role of Richard Lenny, Hershey Company CEO and also a member of the Hershey Trust board at the time of the Wren Dale purchase. As it happened, Lenny had been one of the 50 former Wren Dale Golf Club members who had loaned the club \$50,000 a piece back in 2002. Of course, he was repaid upon the club’s sale to the Hershey Trust, though the latter denied Lenny involvement in any of the votes leading up to the Wren Dale purchase. The golf course closed in 2013; the school still owns the property which has been converted to student housing.

Like the Wren Dale Golf Club purchase, Hershey’s acquisition of Pumpkin World in 2006 for \$7.5 million, substantially exceeded the property’s assessed value of \$900,000. Like the golf club, the property was leased back to its original owners. After the sale, the trust sold the land to developer Nick Pendolino for \$2 million but four months later re-acquired the property for \$3.1 million, thus enabling Pendolino to earn more than a million-dollars in quick profit.

When asked to explain the two questionable deals described above, the Hershey Trust offered an unsatisfactory response: They had been faced with a brief period of time in which to acquire these adjacent properties, deemed necessary for the school’s expansion.



LeRoy S. Zimmerman, former Pennsylvania attorney general, at one point earned a combined \$500,000 a year for his seats on the Hershey Trust, the School and the Company boards.

In early 2010, Attorney General Tom Corbett, a Republican who went on to win the 2010 Pennsylvania governor's race, announced that his office was investigating the Hershey Trust. Critics noted Corbett's long-time ties both to Tom Ridge and LeRoy Zimmerman. In July, Zimmerman hosted a private dinner for Corbett and seven other people, although attendees denied any fundraising occurred. But in February 2011, Bob Fernandez noted that just before Corbett became governor, he held a "benefactors dinner" at the Hotel Hershey, owned by Hershey Resorts and Entertainment, which cost attendees between \$5,000 and \$50,000 a person. Spokesmen for Corbett later insisted the hotel had been fully reimbursed for services they provided.

2011–2012: The Scandals Continue

In February 2011, at age 76, LeRoy Zimmerman announced his retirement. In the same month, Robert Reese, a grandson of the man who invented Reese's Peanut Butter Cups (a company Hershey Chocolate acquired), submitted a petition to the Orphans' Court accusing the trust and its board of financial irregularities. However, Reese withdrew his petition two months later, saying that his failing eyesight prevented him from pursuing his case.

In October of that year, Fernandez reported that William Charney Jr., who had overseen residential life at the Milton Hershey School from 2001 to 2008 as a house parent, was sentenced to seven years in prison for possessing "almost 700 images and 43 videos of child pornography." America Online, who reported his activities to the FBI under the Protect Our Children Act, uncovered Charney's activities. The Hershey School reported they had fired Charney in February 2010 upon being informed of the FBI allegations against him. (Charney was married and had two children.)

Compared to the terrible scandal-filled year of 2011, in 2012 the Hershey School only had to deal with a single major problem. In December 2011, it rejected an HIV-positive student who used the pseudonym "Abraham Smith." The student's

parents and the AIDS Law Project of Philadelphia immediately filed a lawsuit against the school, citing discrimination under the Americans With Disabilities Act (ADA). The Hershey School cited an exemption under the ADA when an individual "poses a direct threat to the health and safety of others." The threat in this case, they said, being the possibility that "Smith" would engage in unprotected sex.

The "Smith" case made national news. Predictably, AIDS activists launched a national boycott of Hershey Company products on St. Valentine's Day, 2012, with an additional boycott of Hershey chocolates on Easter alongside protests in San Francisco, New York, and the town of Hershey itself.

By August 2012, the Milton Hershey School publicly apologized to "Smith" and announced that it would henceforth admit students with HIV. A month later, the Justice Department announced that the school had settled with "Smith," paying him and his mother \$700,000, on top of a \$15,000 penalty to the government.

Another AG Investigation

The continuing Hershey Trust case influenced the 2012 Pennsylvania attorney general's contest, with Republican David Freed promising to appoint an independent prosecutor to handle the case *because his father-in-law was LeRoy Zimmerman*. Democrat Kathleen Kane responded, "I am an independent prosecutor, and Mr. Freed would have to hire one." She won the election.

In May 2013, Kane announced that the state's investigation of the Hershey Trust had concluded. The state found no improprieties in the trust's purchase of the Wren Dale or Pumpkin World properties, but still imposed a requirement that it should notify the state of any property purchase that cost more than \$250,000 or had a lease of more than three years. Compensation for members of the Hershey Trust board was reduced to \$30,000 a year, with the chair of the trust being able to earn an extra \$10,000. The ability of board members to serve on more than one board was sharply curtailed, and board members were required to fly coach while engaged on any Hershey business. Finally, the state said the trust should use its "best efforts" to find experts on at-risk students or residential education to serve on the board.

The Lancaster *New Era*, in an editorial, approved Attorney General Kane's decision, but added that the decision didn't explain why the Hershey Trust felt compelled to spend a lot of money on land that the Milton Hershey School might never need. "The Trust's wheeling and dealing up to this

point has emitted an odor,” the newspaper said, “and it doesn’t smell like chocolate.”

The settlement between the Pennsylvania Attorney General’s office and the Hershey Trust lasted only three years.

From Settlement to More Lawsuits

Ridiculously, the chief accomplishment of the Hershey Trust board from 2013 to 2015 was to spend vast amounts of the trust’s funds suing each other.

As Fernandez reported in May, one issue concerned Robert Cavanaugh, a Hershey Trust board member since 2003 who had also occupied one of the three Hershey Trust seats on the Hershey Company board, earning him an annual compensation of \$332,633. Cavanaugh was also the beneficiary of a \$3.8 million deferred compensation account and received over \$80,000 a year in reimbursed expenses from the Hershey Trust for flying to board meetings in Pennsylvania from Los Angeles. These levels of compensation continued despite the aforementioned 2013 settlement, which limited Hershey Trust board compensation to \$30,000 annually.

In April 2015, Cavanaugh sought a summer internship for his son, also named Robert, a Bucknell University junior. He asked Hershey Trust CEO Eric Henry for recommendations. Henry recommended two firms: Legato Capital Management, which managed \$25 million of Hershey Trust investments, and JKMilne Asset Management, which oversaw \$584 million of Hershey Trust assets. Henry emailed JKMilne Asset Management CEO John K. Milne, forwarding Robert Cavanaugh Jr.’s resume and making a reference to “our board chair’s son” wanting an internship.

Ten days after Robert Cavanaugh Sr. made his request, JKMilne Asset Management hired the younger Robert Cavanaugh for a 13-week internship, for which he was paid \$13,000. (Most college internships are unpaid or only modestly compensated.)

After other board members complained about Cavanaugh Sr.’s nepotistic efforts to use his position with the Hershey Trust to get his son a summer job, they hired the law firm of Weil, Gotshal, and Manges to investigate the matter. The lawyers eventually released a 17-page report stating “we do not believe undue influence was applied” to get Robert Cavanaugh Jr. an internship, and that John Milne “followed his typical hiring process” in awarding the internship to him. Weil, Gotshal then billed the Hershey Trust \$650,000 for their work!

Meanwhile, Robert Cavanaugh Sr., according to the *New York Times*’s David Segal, continued his machinations. Segal obtained a memo written by Hershey Trust chief compliance officer Marc Woolley in which Woolley summarized a conversation he had with Cavanaugh in September 2015. In the memo, the content of which Cavanaugh disputes, Woolley said that Cavanaugh claimed he wanted to “take out” board members who were conducting a “smear campaign” against him. Woolley also claimed that Cavanaugh was going to use a “suicide parachute,” although it’s not clear what Cavanaugh meant by this.



In 2015, the Trust’s chief compliance officer wrote that one board member allegedly wanted to “take out” board members who were conducting a “smear campaign” against him.

Cavanaugh’s more serious charge was that two Hershey Trust board members, Joan Steel and James Nevels, were profiting from insider trading of Hershey Company stock. The Hershey Trust hired several law firms, led by Zuckerman Spaeder, who found no wrongdoing and billed the trust \$3 million. The Hershey Company retained two WilmerHale partners, former FBI director Robert Mueller III (the same individual now investigating President Donald Trump) and former Securities and Exchange Commission enforcement director William R. McClucas; both investigated and found nothing amiss.

Woolley was then fired by the Hershey Trust in July on the grounds that he was a “disgruntled employee” who had repeatedly badmouthed his employer. But he wasn’t the only member of the Hershey Trust legal staff pushed out the door. Bob Estey, the trust’s general counsel, resigned after he plead guilty to one count of wire fraud. Estey, a top adviser to Democratic Gov. Ed Rendell from 2003-07, had been enlisted in an FBI sting operation that took place shortly before being hired by the Hershey Trust in October 2011. The FBI operation had Estey posing as a lobbyist handing out corporate campaign contributions—an activity forbidden by Pennsylvania law. Prosecutors also charged Estey with taking \$20,000 from the government for these “campaign contributions” and keeping \$13,000 of that money. He has not been sentenced as of this writing.

The Hershey Trust, again per Fernandez's reportage, is also currently facing lawsuits concerning student conduct at the Milton Hershey School. These include:

- A federal investigation as to whether the school secretly worked to prevent physically disabled students (such as students in wheel chairs) from attending the school, thus violating the Americans With Disabilities Act.
- Two lawsuits from former students who say the Milton Hershey School does nothing to support students with depression. The parents of Abbie Bartels, a Hershey School student who was expelled after the 2012–13 school year and then committed suicide, are suing because they say the school did a poor job in handling their daughter's depression. Adam Dobson, who was expelled in the summer of 2013 after announcing he was depressed and considering suicide, is suing the school. He also claimed that when he came out as a homosexual, his houseparents made him watch "a religious-based video...intended to 'cure' him of being gay."
- A third case involved 11 former students at the Hershey School who sued for invasion of privacy over the activities of school employee Marcus Burns. Burns, fired in 2015 for secretly filming teenage boys in a shower, was sentenced in September 2015 by a Dauphin County, Pennsylvania, judge to a year in prison for invasion of privacy and for illegal possession of three guns on campus. The former students' case was settled

The 2016 AG Agreement

In July 2016, the Pennsylvania Attorney General's Office issued a new agreement regarding the Hershey Trust and the Milton Hershey School. Among the new provisions of the agreement:

- Term limits of ten years for Hershey Trust board, with an additional year possible "to assure continuity of leadership" or to respond to other exceptional circumstances.
- Compensation for board members set at \$110,000 per year with an additional \$30,000 per year for the board's chairman, and annual increases tied to Social Security cost of living increases. Hershey Trust board members could only serve on one other board, and those who served on the Hershey Company or

Hershey Entertainment and Resorts board would have pay for their Hershey Trust service reduced to \$80,000 per year.

- The board would expand to 13 members with five current members of the board ordered to retire, including Robert Cavanaugh and James R. Nevels, both of whom had to leave the board by December 2016.
- The attorney general's office must receive 30 days' notice of any new appointment to the Hershey Trust board.

The Hershey Trust board was asked to "use their best efforts" to find new board members "whose education, training, and experience reflect the full range of the board's responsibilities, including, but not limited to: at risk/dependent children; residential childhood education; financial and business investment; and real estate management."²

What Should Hershey Spend Its Money On?

The 2016 Hershey Trust settlement, like the earlier ones in 2013 and 2003, instituted marginal reforms that did not address the fundamental problem of the arrangement Milton Hershey set up back in 1909: that the Milton Hershey School, whose endowment is currently 25 percent larger than that of the University of Pennsylvania, had far too much money for its intended purpose. As Florida State law professor Robert H. Sitkoff told the *Philadelphia Inquirer* in November, when a charity "has resources out of proportion to its mission, you invite waste and mismanagement because there is all this slack. The trend in the law is to expand the charitable purpose, not buy golf courses."

In March 2017, the Hershey Trust picked three new board members: Melissa L. Peebles-Fullmore, a Milton Hershey School alumnus, retired Goldman Sachs banker James C. Katzman, and health-care executive Jan Loeffler Bergman. The new board members received compensation of \$110,000 per year.

One month later, two Hershey Trust board members, former Pennsylvania insurance commissioner M. Diane Koken and James Brown, who had served as chief of staff to both Democratic Gov. Bob Casey and his son, Sen. Bob Casey Jr. (D-Pennsylvania) were nominated to the Hershey Company board. Unlike past practice, Koken and Brown agreed to only accept the \$240,000 Hershey Company board fee as compensation, as they declined to double-dip and accept the additional \$80,000 fee from the Hershey Trust board.

In August 2017 the Hershey Trust announced it was selling 4.5 million of its Hershey Company shares for \$475 million, reducing its holdings in the chocolate company by 6 percent. The trust still owned 8 percent of the voting shares of Hershey Company common, worth \$7.8 billion.

The Trust's fundamental problem is in the way of a negative-positive: It has too much money for its intended purpose. Milton Hershey wanted to help poor, struggling children succeed in life. He did not intend for his wealth to be spent on lavish buildings, fancy clothes, expensive land deals, first-class travel, and white-shoe lawyers. (Indeed, the alumni association stated in one 2006 court document that the Milton Hershey School could serve 8,000 students instead of the 1,750 it was enrolling at the time and that if the school had "prudently husbanded its resources" and expanded its scope it "could today end Pennsylvania foster care as it is now known.")

But if the Hershey Trust has to do something with its billions other than run the Milton Hershey School, what should it spend its money on? What should be done about the Hershey Trust?

The spirit of donor intent stresses that modifications to a will should be done *cy pres*, or as close as possible to what a donor would have wanted were he still alive. With that in mind, the 1909 Deed of Trust should be modified in two ways:

CC —————
The Hershey Trust's fundamental problem is that it has too much money for its intended purpose.

First, Hershey's will limited the Trust's spending to Derry Township, which includes the town of Hershey. One modification would be to expand the spending limit to encompass all of southeastern Pennsylvania, an area that would include the cities of York, Lancaster, Harrisburg, and Philadelphia. That said, the recipients of the Trust's grants should not expand beyond these cities. Milton Hershey did not want to create a national organization with his fortune, he wanted to help his fellow southeastern Pennsylvanians.

Second, Milton Hershey's will further limited grants to the Milton Hershey School only. This grantmaking restriction should be removed, as long as his mandate that the funds be use for the benefit of deserving low-income children remains in place. Hershey's fortune should be used to create a private operating foundation, albeit one where the Milton Hershey School remains its largest single recipient. Here's a suggestion: Hershey's wealth could be used to enable a needy student to pay half the tuition at a qualified private school, even if that school isn't Hershey. Since the goal of donor intent here is to distort Milton Hershey's wishes as little as possible, such scholarships make a more superior vehicle than creating new charter schools or funding schools in Pennsylvania with a similar mission.

Without these simple changes, the vast endowment of the Hershey Trust will continue to be squandered on frills Milton S. Hershey could not imagine and would not want.

The trust needs to be modified, in relatively small but necessary ways. The goal should be to help children—not mismanage the organization and benefit. ■

Read previous articles from the Foundation Watch series online at CapitalResearch.org/category/foundation-watch/.

Footnotes

1. A 2008 analysis in the *Columbia Law Review* by University of Pennsylvania law professor Jonathan Klick and Florida State law professor Robert H. Sitkoff calculated that the Milton Hershey School's endowment lost \$2.7 billion by keeping the Hershey Foods shares rather than selling them.
2. Ironically, Attorney General Kane could not make the public announcement of the most recent settlement with the Hershey Trust: she had been disbarred. In August, she was convicted of nine counts of perjury, criminal conspiracy, and obstruction of justice over a 2014 incident. The *Philadelphia Inquirer* found she had shut down a sting operation which found Democratic elected officials from Philadelphia accepting gifts, money, and jewelry from undercover operatives. Kane retaliated by leaking grand jury testimony to the *Philadelphia Daily News* about the finances of former Philadelphia NAACP leader J. Wyatt Mondesire, who was never charged with a crime. Kane then lied about leaking the testimony. As of February 2018, Kane is appealing her conviction and has not spent any time in prison.



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