

201009 OBITER DICTA: A MONTH OF MARCHES 2010
Steven Alan Samson

Monday, March 1

<http://www.debka.com/article/8619/>

Israel's defense minister fires a shot across the bow, promising to go after Hezbollah's sponsors if Hezbollah attacks.

<http://www.express.co.uk/posts/view/160765/Wads-of-cash-and-free-ski-trips-on-the-EU-gravy-train>

I wish American conservatives could get as much serious press coverage as Mats Persson and Open Europe get in London. Open Europe is in leading newspapers several times a week.

Wednesday 3

http://works.bepress.com/steven_samson/3/

<http://www.jcpa.org/dje/articles2/recovampol.htm>

Attached are two pieces that I believe set out a framework for understanding what is called American exceptionalism. Our original federal system offers a means for negotiating some of the issues that beset us. The titles of these two articles are so similar they might be mistaken for a series, but I will claim priority only for the title I gave my own article. Daniel Elazar's piece was published later, but his article is a good distillation of what may be found in over a dozen earlier books he wrote. I have been familiar with his and Donald Lutz's work for about three decades. Two of my former students from the 1980s use Elazar's and Lutz's works in classes they teach at Liberty. One of them, Gai Ferdon, has published a book entitled *A Republic if You Can Keep It*.

The common ground Europeans and Americans share and the common cause they can make should be based on a biblical federalism or covenantalism, as well as on an understanding of Althusius's symbiosis, Kuyper's sphere sovereignty, and the Catholic subsidiarity. An affirmation of such common principles should be accompanied by the negation of a rival ideology: a rejection of the sort of Rousseauism (Francis Lieber's term) that appears to be what the Eurocrats mean by federalism. We must steer away from what Elazar calls the "unconditional autonomy of the new morality" (which he shows in the short section "Federal Democracy and Its Rivals" to be rooted in Jacobinism) and move toward a return to the biblical covenant tradition, which can help foster the deliberative atmosphere that the Senate was designed to encourage but which it has now forgotten.

What our political elites in DC and EU are pursuing is not the populist view of a plebiscitarian democracy of temporary majorities but, instead, an even more dangerous rival that closely resembles J. L. Talmon's idea of a totalitarian democracy. The obnoxious Progressive political establishments in both places have embraced Rousseau's patronizing notion of a despotic general will (a regime under which we can be "forced to be free") whose effects are stultifying if not arteriosclerotic.

Here I am reminded of that series of books from the mid-1970s written about "The Best Interests of the Child." A lot of mischief grew out of the children's rights movement - along with the earlier Universal Declaration of Human Rights and the later Cairo Declaration. The opening of P. J. O'Rourke's "It Takes a Village Idiot" perfectly captures the PC mentality of the new morality: "It takes a village to raise a child. The village is Washington. You are the child." The first section of my Late February Obiter Dicta pursues a similar line of thought about public education. Our country has now granted asylum (at least for now) to a family of German homeschoolers.

http://www.forbes.com/2009/05/20/bill-of-federalism-constitution-states-supreme-court-opinions-contributors-randy-barnett_2.html

This is a postscript to my previous note. Randy E. Barnett has some interesting proposals for amending the Constitution. Most of them would be a distinct improvement over the current state of affairs. I would add a repeal of the Seventeenth Amendment as well as a nullification of *Juilliard v. Greenman* and all subsequent examples of "resulting powers," but Barnett's list would give us a good start.

http://online.wsj.com/article/SB10001424052748703807904575097183149979138.html?mod=WSJ_newsreel_opinion

I am passing along a clear-eyed, sober assessment of Iraq's prospects written by Fouad Ajami, who is not given to hyperbole: not even in his highly critical assessment of our president in early February. Here are two samples:

"The rulers around Iraq tax this Iraqi order with illegitimacy, dismiss it as a handmaiden of the Americans. But from one end of the Arab world to the other, countless regimes are in the orbit of the Pax Americana. Wily survivors, the Arab rulers frighten us with the scarecrow of a Shiite state in Baghdad."

I will hope he is correct in his conclusion: "We can already see the outline of what our labor has created: a representative government, a binational state of Arabs and Kurds, and a country that does not bend to the will of one man or one ruling clan."

<http://pryce-jones.nationalreview.com/post/?q=NGM4ZDdjNzMyNjAxNzVkYjEzZDI3OGMyYzQ3YmZiODk=>

The Turkish military, which is sworn to protect Ataturk's secular republic, is apparently playing dead. Islamism by stealth may soon enough be replaced by Islamist triumphalism.

Thursday 4

http://townhall.com/columnists/VictorDavisHanson/2010/03/04/no_allies_-_but_plenty_of_enemies?page=full&comments=true

This president has shown a level of hostility toward Britain consistent with the old Anglophobic wing of our political establishment. But the country's return to Progressive internationalism could not happen at a more dangerous historical moment. I expect that those dangers will continue to mount and most likely tie the hands of future Administrations. The American exceptionalism to which Victor David Hanson refers still has considerable practical value to the world as a whole, although that fact is not likely to be fully appreciated until it is lost. It is to the reversal of this country's drift into the horse-latitudes of foreign and domestic policy that *Obiter Dicta* is dedicated.

<http://www.debka.com/article/8626/>

It would appear from this DEBKA piece that a vacuum of leadership is opening up on both sides of the Israeli-Palestinian conflict. The entry of the Arab League into the process may leave even less of the "peace process" to salvage. For at least half a century after the Second World War, the chief function of the Arab League appears to have been to maintain primary, secondary, and even tertiary trade boycotts against Israel. I wrote a class paper on the subject about forty years ago.

Saturday 6

<http://pajamasmedia.com/phyllischesler/2010/03/05/the-goddess-that-failed/?singlepage=true>

Phyllis Chesler is one of two radical feminists (the other being Camille Paglia) to whom I will always gladly pay attention. I am sure that there must be others. I believe that one thing we share is a real affection for western civilization: a civilization that, for all of its horrors down through history, is still the cultural vine to which we were grafted at birth. It also is the umbilical cord that nurtures us toward maturity, the towline that draws us into ever larger worlds of experience, and the reel-line that continues to guide us through the remarkably varied trajectories of our lives.

Yesterday, at a law school conference entitled "Abortion as Genocide," one of the speakers made reference to Friedrich Schleiermacher. Although I would not emulate Schleiermacher's theological liberalism, which did little if anything to deter the return of an atavistic paganism, I believe it is time to update his most famous title: *On Religion: Speeches to Its Cultured Despisers*.

In the tradition of Eugen Rosenstock-Huessy and his intellectual heirs, it is time for the guardians of western civilization to rebuild the ramparts against its Deracinated Despoilers. The task at hand calls to mind George Forgie's title, *Patricide in the House Divided*. Our internal barbarians would bury their mother civilization with the very implements with which she supplied them. Instead of a celebration of Goethe's *Ewigweibliche* (eternal womanly), what we

witness today is perhaps a con-founding ritual matricide performed at the twilight of Spengler's Faustian civilization.

Thus it is particularly moving to hear Phyllis Chesler (who had a fateful encounter with radical Islam at a very early age) issue her own Declaration of Independence with a salute to an earlier generation of ex-Communists (of *The God That Failed*):

"A friend wants to give me a seventieth birthday party later this year. First, I said 'I won't come.' She persisted and asked me for a guest list which spanned the last fifty years. I remained poignantly silent. Said she: 'If you don't give me a guest list I'll start inviting . . .' and she named twenty people, none of whom I wish to see in an intimate, social setting ever again in this lifetime.

"This sobered me right up. This is not me. Indeed, I've changed. Hallelujah!

"I now understand that when political intimates betray their own ideals in a way that endangers real people, destroys real lives – this cannot be glossed over. There is no going back. There is only a war to fight. Totalitarianism either stands or it falls. Barbarism is defeated or it overcomes civilization. Either Western values (which include human rights, women's rights, religious tolerance, freedom of speech, etc.) prevail or they are lost."

http://townhall.com/columnists/ThomasSowell/2010/03/05/alice_in_medical_care_part_iv?page=full

Thomas Sowell discusses the hidden costs of our health care system and why (without getting into all the details) it will lead to a decline in the quantity and quality of medical practice. Part of Sowell's last sentence appears to be missing, but perhaps fittingly so. Too many medical professionals are calling in sick or missing in action. They are taking down their shingles and joining the Progressive brain drain. Our social engineers, who have chosen to adhere strictly to the regimen prescribed by Gresham's Law, now wish to underwrite a low-calorie medical-depletion diet for the whole country. And so we return to that old standard of past medical wisdom: Bleeding.

http://townhall.com/columnists/RichTucker/2010/03/05/a_closet_conservative_in_the_times?page=full&comments=true

Thomas Friedman comments on some of the reasons for the de-industrialization of America. We have been losing our competitive edge because we do not really believe in competition. Diane Ravitch has written a book that deplores competition in education. We do not even have two-party competition in Congress. In the drive toward "reconciliation," the only party I recognize is the Incumbency Party and, these days, a lot of the incumbents are headed for the exits and even a number of Kennedys have decided against running. All of this further illustrates Thomas Sowell's point about our on-going medical brain drain. It is time to lower the lifeboats.

Sunday 7

<http://pajamasmedia.com/blog/homeschooling-vs-howard-zinn/?singlepage=true>

A home-school father notes that the treatment of American history in the public school classroom is often inadequate if not distorted. He cites Howard Zinn's *People's History* is cited as an example of the way American history is distorted for ideological purposes.

My experience as a teacher with such ideological axe-grinding came immediately during my very first years as an adjunct at a community college in Oregon. The books that were assigned included Michael Parenti's *Democracy for the Few* and Edward Greenberg's *Serving the Few*, both Marxist in character. During this same period, Greenberg became chairman of the political science department at the University of Colorado, my alma mater. It was at this university in the 1980s that my mentor, Edward Rozek, who had long been systematically subjected to vilification by campus leftists, was targeted by a campaign of legal harassment during which a special prosecutor was named and more than fifty felony charges were lodged against him. He was ultimately exonerated, but how many others in a similar position simply gave up and left teaching? Thomas Sowell's recent piece on health care raises the same point about medical doctors. We are winnowing "the best and the brightest."

I should add that what I learned about academic bias as a teacher in the late 1970s I had already experienced for nearly a decade as a student at the University of Colorado.

The writer also cites a report that educrats in North Carolina are considering a curriculum change that would substitute global studies for world history in the ninth grade and start American history at 1877 in the eleventh grade. Indeed the trend for decades has been away from concrete subjects - such as history, civics, and geography - toward an indistinct and generalized social studies. When I attended a teacher's college in 1976, I learned that teaching positions in social studies typically carried coaching duties. I also realized that such had been the case at my high school in Denver in the mid-1960s.

This last observation leads very naturally to the next. The writer observes, correctly, that professional schoolteachers are often poorly prepared to teach the subjects they are assigned. I witnessed the process from the inside, both as a student on a social science education track who already had a master's degree in political science and as an itinerant college teacher and substitute teacher at the secondary level. Granted that teachers' programs vary in quality, but I found that the greatest emphasis was placed on the technology of presentation rather than the content of the subject matter. Such a system discourages initiative, independent thinking, and scholarship. These experiences confirmed me in the view that students should first master an academic discipline (and also pursue interdisciplinary studies) before being awarded a teaching certificate.

Does the writer exaggerate about a lack of teacher preparation? Perhaps. It depends. I have seen some very sophisticated material in the public school classroom and have used some of it in my own teaching. I benefited from having challenging teachers and books in the Denver public schools, which had a tracking system. But there is also no doubt that, over all, the public education system is failing to produce an educated citizenry. I see the fruits of failed public schools in my own classroom. I recently ran across a box full of essay exams

from one of the community colleges where I taught in 1979. The results were, for the most part, gratifyingly articulate.

Yet, even back then, the drift was evident. One size does not fit all. The public education establishment – and that is exactly what we have – has presided over declining standards and diminished expectations. It was only four years later in 1983 that a presidential commission issued the report, *A Nation at Risk*. Its most memorable line bears repeating:

"If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war."

Monday 8

http://townhall.com/columnists/KenBlackwell/2010/03/08/brits_messing_with_texas_w_hy_are_we_messing_with_the_falklands?page=full&comments=true

Our president seems to have farmed out the foreign policy prostration detail to Madame Secretary. So the preemptive sycophancy has resumed with a feminine twist of the knife.

Remember the Falklands! Columbia the Gem of the Ocean is sinking faster and lower than the Maldives where, last Fall, a cabinet meeting was held underwater. Will the uncrowned and insolvent heads of Europe start mocking Perfidious Columbia?

Not only may Hillary Clinton's interpretive glosses on Saul Alinsky's *Rules for Radicals* win her a twin Nobel Prize for Peace and Literature, her latest diplomatic performance may yield Olympic gold. She attempted the unprecedented reverse-Grenada triple axel with a back flip and just nailed it -- with a smile.

Tuesday 9

http://www.americanthinker.com/2010/03/obamas_iran_policy_collapses_t.html

Joel Strayregen displays some of the fruits of the last few years of Amateur Hour in American diplomacy. The weakness of the present Administration ensures the following: that America will inspire little fear and even less respect, that a very hot war with Iran is becoming unavoidable, and that, like the war against Hitler, it will be delayed until western strength and resolve has further deteriorated. We already know who is playing the role of Neville Chamberlin this time around, but who is prepared to be Winston Churchill?

Wednesday 10

<http://cslr.law.emory.edu/people/person/name/witte-jr/>

Yesterday I showed John Witte's McDonald lecture on the separation of church and state. The Webcast link is located near the bottom of the page.

Thursday 11

<http://blog.beliefnet.com/roddreher/2010/03/the-brothers-hitchens-make-peace.html>

Work has been mounting during the last few weeks but I plan to relax the relentless pace next week while traveling to Savannah and, I hope, Lakeland. Sally and I celebrated our anniversary, a month of Marches, tonight at Milan, an Indian restaurant. We had curried potatoes, salmon, and jumbo shrimp.

Here is an excerpt from a much longer piece by Peter Hitchens, Christopher's Christian brother. I have used the opening of his book, *The Abolition of Britain*, in class.

Friday 12

<http://www.orthodoxytoday.org/articles/FonteCultureWar.shtml>

Here is one of John Fonte's pieces on the ideological struggle (between the children of Gramsci and the children of Tocqueville) that divides America today. You might say that it is a culture war between European hegemonists (to use Gramsci's term) and American exceptionalists, who wish to liberate people and not merely exchange one set of "privileged" oppressors for a new set of formerly "marginalized" oppressors. The contrast Fonte draws may be useful to a discussion of American exceptionalism. Fonte has another piece on-line about transnational progressivism.

<http://blog.skepticaldoctor.com/2010/03/08/down-the-rabbit-hole.aspx>

Having read aloud the Alice books to my children, I enjoyed Theodore Dalrymple's musings on Lewis Carroll's wit and wordplay in "Down the Rabbit Hole," published in *National Review*. Here are excerpts.

<http://michaelmakovi.blogspot.com/2010/02/place-of-religion-in-liberal-democracy.html>

I made this interesting discovery while surfing the internet. It is gratifying to note that some of my articles continue to be read. The two articles cited here are drawn from my dissertation, *Crossed Swords: Entanglements Between Church and State in America*. Once I find a clear copy, I plan to post it.

Earlier this week I updated a piece entitled "Assassination and the Death of Politics," then sent it to be published in a Romanian journal, *Geopolityka*. The new title is "Yitzhak Rabin and the Price of Peace."

<http://pajamasmedia.com/blog/climategate-once-respected-nature-now-staffed-by-moaning-ninnies/?print=1>

Lord Christopher Monckton spoke at a dinner here at Liberty University earlier this week and then addressed the students during the Wednesday convocations. Here is a sample of his sharp wit. He helped derail the proposed Copenhagen Climate Treaty that was designed to establish a world socialist government. Plan

A has failed for now but our president is working furiously to ram Plan B for a national socialist government through Congress. The United States has long been regarded by the rest of the world as an inconvenient exception: the wild card in an otherwise stacked-deck, a wide-ranging bull in a China shop, a clumsy Gulliver who must be lashed down by an emergent global Nomenklatura.

Anyone who believes that Lord Monckton is exaggerating should read some of the following, which has been posted on the U.S. Senate Committee on Environment and Public Works website.

http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.Blogs&ContentRecord_id=B6A8BAA3-802A-23AD-4650-CB6A01303A65+

The following study by the World Bank attributes most of the price rise in grains to the conversion of a large part of the grain stocks to biofuels. It is followed by an article from the Environmental News Service, one of several on the internet that concern biofuel and food riots.

<http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2008/07/28/00002043920080728103002/Rendered/PDF/WP4682.pdf>

<http://www.ens-newswire.com/ens/apr2008/2008-04-28-03.asp>

Saturday 13

<http://liberty-virtue-independence.blogspot.com/2008/12/foundation-of-english-common-law.html>

This piece on the Foundation of English Law provides a quick overview of its Christian and other sources.

<http://liberty-virtue-independence.blogspot.com/2010/02/eye-witness-testimony-of-isaac-potts.html>

I ran across this blog yesterday. The particular incident of George Washington at prayer I had heard, but here is a source. The blog contains documents and summaries relating to the Christian roots of our constitutional tradition.

<http://www.dr-fnlee.org/docs6/alfred/alfred.pdf>

The frustrated semanticist and philologist within me rejoiced to run across this piece by Francis Nigel Lee, with whom I have been acquainted in passing. This article on King Alfred the Great and the common law is a good place to start in studying the Christian character of the English legal tradition.

The word sōpfæst (soothfast) may be translated truthful but it is made up of two parts: sooth (truth) and fast (secure). Thus it also implies truthkeeper. Two of the chapters of my dissertation were on the Supreme Court as Guardian and the Supreme Court as Vanguard. The second of these chapters focuses on the Court's extra-judicial legislation. Who will guard the Constitution today now that it

has been, as the historian George Bancroft put it, "wounded in the house of its guardians"?

From King Alfred:

"Shun thou aye leasings" means: Do not lie! The phrasing appears to indicate that we are not to lend (perhaps sell) our consent. Thus it seems perfectly natural that in this day of Pitirim Sorokin's chaotic syncretism that David Kupelian should begin his new book, *How Evil Works*, with a chapter entitled "In Government We Trust: Why We Elect Liars as Leaders."

We should post the following on the door of Congress: "You must never accept bribes [alias 'meed-monies']!" The votes of reluctant members of Congress are being very publicly purchased by their own leaders and by the White House. It is time to drive out these moneychangers who would shackle us to the General Will of the least common denominator. These uncouthly (unrighteous) "leaders" deserve our imprecations, not our votes.

Alfred the Great should serve as a model for our times. Dr. Lee here draws on J. R. Green's history of England:

"Tradition told of his genial good-nature, of his chattiness over the adventures of his life, and above all of his love for song. In his busiest days, Alfred found time to learn the old songs of his race by heart – and bade them be taught in the palace-school. He found comfort in the music of the Psalms.

'What he aimed at, was simply the education of his people. Alfred desired that at least every free-born youth who possessed the means, should abide at his book till he can well understand English writing.' Thus Professor Green.

Alfred himself superintended a school which he had established for the young Nobles of his Court. He resolved to throw open to his people in their own tongue the knowledge which had till then been limited to the Clergy. He took his books as he found them. They were the popular manuals of his age: the compilation of Orosius (which was then the one accessible book of Universal History); the English History of his own people, by Bede; the Consolations of Boethius; the Pastorals of Gregory.

Alfred translated these works into English. But he was far more than a translator. He was an editor for the people. Here he omitted; there he expanded. Simple as was his aim, Alfred created English literature."

This is the kingly vocation of one who would found or re-form a civilization. As it says in Proverbs: "It is the glory of God to conceal things, but the glory of kings is to search things out" (Prov. 25:2).

<http://www.amarketplaceofideas.com/richard-feynman-last-journy-of-a-genius-video.htm>

<http://new.music.yahoo.com/moondog/> (there are clips of some of Moondog's music).

I have added the links above in order to introduce a couple of remarkable eccentrics, the physicist Richard Feynman and the musician Moondog. They too were among the natural children of what Remi Brague calls our *Eccentric Civilization*. The first is a marvelous video below about Feynman's quest for Tannu Tuva. Like Feynman, I can say: "I am an explorer." The glory of kings is to search things out.