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INTRODUCTION

This is the third issue of Matters of Conscience for which we have adopted a somewhat different format which is lighter in tone and more varied in its editorial coverage. Our purpose, however, remains constant in that we attempt to inform and energize public opinion about matters which appear to be treated incompletely, unfairly or inaccurately by the politics of our time, and which all too frequently reveal a failure by both private and public institutions to adequately protect those whom they were designed to serve.

The size, reach and wealth of the media in our country today is a dominant force in our culture and our politics with the power to prevent, as well as to create, open channels of communication between the nation's people and its institutions. Any effort on any scale to move public opinion, even one as small and recent as ours, must confront the dual nature of our media as both part of the problem and the solution.

M.O.C. hopes to provide information and opportunity to view major issues untainted by the spin of the two major political parties, the media and the ubiquitous financial contributions of corporate and special interests.

To not frame these issues as Republicans = good and Democrats = bad (or vice-versa) and to decouple them from political advantage seems to us to be a first and necessary step in cleansing our "noble experiment" in government and returning our country and its future to its citizens.

Please note the important announcement at the end of this issue regarding future formats.

**"God Bless Us, Everyone" - Tiny Tim
A Christmas Carol, by Charles Dickens**

We have arrived at that time known as year-end, with its mixed pleasures and penalties. We will be subjected to endlessly repetitive playing of Rudolph the Red-Nosed Reindeer in all manner of public places. We will find the impact of holiday decorations put up in late October lessen as we become acclimated to their presence. We will have bought lit Christmas cards and wrapping supplies at least once and perhaps, a second or third time. We will have made lists for all kinds of purposes - shrinking them as we complete each task and yet watching them continue to grow, as more tasks are required.

We will bear annoying witness to the mass media's filling time and space with "the year in review" print articles and broadcast programs that serve the purposes of requiring minimal preparation, allowing staff to have time off for holiday festivities and creating low cost "Special issues" with a celebratory flavor to be sold to advertisers.

And yet, year-end has its less commercial, more human pluses, for, while it is a time of endings, it is also a time of beginnings and of social and spiritual joy. We can look forward to two Christmases (occidental and orthodox), Chanukah, Boxing Day, and three New Years according to the Chinese, Orthodox and Gregorian calendars).

In all these events we open ourselves to the ever present and amazing potential of love and spirit between free human beings.

In addition to all these seasonal joys, however, we were faced with a rather hard choice. We had previously said that we would limit our free mailings to two issues, after which the trial period would terminate unless readers chose to subscribe. As Christmas approaches, that seems a bit severe, and so please accept this issue as our gift.

In the more mundane aspects of early twenty-first century life in the USA, looking back over the past year, we are more likely to strike a note of warning than celebration and, accordingly, in this issue we have included some brief glimpses of life that remind us of how uneven and fragile our progress can be and how much work lies ahead if we are to reclaim the moment and the prize of our incredible birth.

Some of what we offer here is outrageous, but there is also humor, empathy and cause for celebration in short, like humanity, it's very much a mixed bag.

ON PARLE KLINGON ICI

Klingon is a made-for-TV language created by the TV program Star Trek. On May 11 of this year in Oregon, Multnomah County's mental health division advertised for speakers of Klingon because, as reported by the county Dept. of Human Services, "We have to provide information in all the languages our clients speak." Further support for Klingon came from the county's purchasing administrator who stated, "There are some cases where we've had mental health patients where this (Klingon) was all they would speak."

As media coverage and public comment spread, county officials insisted that a mental health patient speaking Klingon obligated them to provide a Klingon-to-English interpreter, apparently unaware that it consisted of a limited number of sounds designed for a few characters to use as a secondary language.

Within a few days the ripples of laughter across the country drowned out the bureaucratic gaffe, the ads were terminated and with a straight face the state of Oregon returned the speaking of Klingon to the world of TV fantasy where it had originated.²

POLITICAL PREDICTIONS FOR 2004

As the coming year is a presidential election year, here are two predictions that are guaranteed to be 100 % accurate: 1) Politicians, when referring to their home state, will increasingly employ the word “great”, as in “the great state of Ohio”. This practice will reach its zenith, of course, in an orgy of “greatness” at the Republican and Democratic conventions in the summer and will continue at a high level throughout endless campaign speeches until November when all 50 states will revert to their normal, somewhat less than great status.

2) In American political elections, no matter how close or lopsided the result, there is a law as immutable as the law of gravity that the winner cries “mandate” and the loser calls for “bipartisanship”. If you’re looking for a political sure bet, this is it.

HARD TO BELIEVE POLITICAL CORRECTNESS IN EXTREMIS

Last Easter, English school children were denied their traditional hot cross buns because the cross might offend others of non-Western culture or origins. Here is a classic example of how the dominant culture of a host country can be suppressed in favor of the cultures of recent arrivals. This carries over into the curricula of schools and colleges where sociology, economic and historical courses are flavored in a way so as not to appear insensitive to minority cultures.

No country can look back upon its history with complete satisfaction. There are just too many incidents where human judgment or nature, in the service of what seemed the right cause at the time, failed both a nation’s purpose and its citizens. But history, to be of any use to those who make it or those who inherit it, has to be a “warts and all” study, and the act of hopefully rendering it bland enough to appeal to all and to offend none can have an equally dilutive effect on both a nation’s future and its past.

And that’s our nutrition note about hot cross buns on British school menus.

HARD OF HEARING

There is a seemingly endless supply of information, from both government and private sources, indicating that the government’s present attitude towards immigration may constitute one of the great policy follies of our nation’s history, but, sadly, while the voices opposing it are raised with increasing volume and frequency, our political leadership cups its hand to its ear feigning neither to hear nor to notice the public’s concern.

This reality disconnect is translated into numbers in a report issued by the Center for Immigration Studies (CIS) in December 2002.³ You may recall that in our previous issue, which was devoted wholly to the Immigration/Population problem, we presented a variety of numerical measurements to show its impact on our national and individual lives. Many of these numbers were in the magnitude of millions and billions.

“...as important as any published statistic you may read...”

The following sets of percentages are probably as important as any published statistic you may read regarding national issues.

The CIS poll found that 60% of the public regards the present level of immigration to be “a critical threat to the vital interests of the United States”, while only 14% of the nation’s leadership shares this view. The public and its political leaders on the issue of illegal immigration revealed an even

greater difference in responses, where the CIS study stated that 70% of respondents claimed “reducing illegal immigration should be a very important foreign policy goal of the US” and only 22% of the political elites were found to agree with the public. In the first instance the difference between citizens and politicians was an amazing 46% and in the second case an even larger 48%.

These two numbers explain quite clearly why legislation to reduce immigration, although clearly favored by the public, is not given wide and serious attention by the political leadership of both major parties.⁴

Further evidence of this massive gap in perception is contained in a Roper poll commissioned by Negative Population Growth in which 85%⁵ of the people it polled, favored greatly reduced immigration, whereas we estimate from public statements and voting patterns that only 30% of the members of Congress view it as a problem.

There’s a message here that seems not to be getting through. Its name is representative democracy!

THE CURIOUS FIGURES AT LEVI STRAUSS

On September 11, in one column on one page of our local newspaper the following job cut announcements appeared⁶:

1) International Paper Co. plans to cut 3,000 jobs, or about 3.5 % of its work force, in the next year to help improve profits. 2) Levi Strauss said it will cut up to 650 jobs in the US and Europe to reduce expenses. This cut amounts to 5% of the Company’s worldwide work force of 12,500 employees and continues a corporate restructuring that has eliminated thousands of jobs.

3) 3Com Corp. will reduce it’s work force by about 1,000 jobs as it hires others to handle all its manufacturing and distribution to save money and improve efficiency. This reduction is equal to about a third of 3Com’s most recently reported (May) work force.

All job losses are regrettable, but Levi Strauss’ circumstances deserve closer attention.

Levi Strauss is an amazing success story of an American company with origins in our frontier days of the “old west”. In the post WWII generation it underwent a miraculous transformation in the marketing of its products’ image from regional work apparel to a worldwide, upscale fashion line. But the greater its marketing success and sales increase, the more it became the target of low cost labor competition.

Exactly two weeks after the 9/11 job loss statement, Strauss announced that it would close its last manufacturing plants in the US and Canada and thereby eliminate nearly 2,000 jobs. The facilities to be closed are two sewing and finishing plants in San Antonio, TX with 800 workers and 3 plants in Canada, employing just under 1,200 people. Strauss, which was described in this release as “the struggling jeans maker” said it will use foreign contractors to replace the production from the closed plants.⁷ It has transferred most of its U.S. production to offshore facilities over the past decade and has experimented with multiple changes in its pricing and product line to remain profitable.

Business is a fast and tough game. Only it is not a game; it can be a life or death pursuit and, sometimes both. The race goes to the swift, the score changes rapidly and, occasionally, the rules too.

Less than a week after its 9/25 release, on 10/ 1, Strauss reported that its profit in the latest quarter had nearly doubled from \$13.7 million to \$26.7 million due largely to the introduction of a discount clothing line that offset falling sales of the Company’s more famous brands.⁸ Could this be a return to the rugged, low-priced line of Strauss’ early days? It sounds that way and yet it must have a hollow ring to the

employees whose terminations are scheduled to take place in coming months.

As the pressures of globalization intensify, the capitalism we developed under conditions that no longer exist is increasingly being viewed and experienced, both at home and abroad, as a form of economic Darwinism; and, while “survival of the fittest” is great for the fit, it is very painful for those who are lost in transit, whether quickly or slowly.

It is probably sad, but true, that in our world of instant communication, the great mass market, for whom this drama is produced and plays out, knows little and cares less about what occurs backstage when making a purchase decision.

ALL POLITICS ARE LOCAL-NY VERSION

In New York Governor George Pataki, confronted with an \$11.5 billion budget deficit, proposed freezing the budget at last year’s level of \$90.8 billion and ruled out any tax increases.

The state legislature found this kind of sensible restraint unacceptable and passed a budget \$2.2 billion larger than Pataki’s that included \$200 million in pork projects and increases in both sales and income taxes that would have created the largest tax increase in NY’s history.

The governor took a lot of political heat, but stood fast and exercised over 100 vetoes to eliminate revenue increases sought by the legislature. That would have been a happy ending, but it was not to be, as the legislature overrode all the vetoes and produced a \$93 billion budget.⁹

POLITICS MAY BE LOCAL BUT PORK IS NATIONAL

The Congressional Pig Book is issued every spring by Citizens Against Government Waste. This year it reported a long list of local projects that the country simply cannot do without including \$90,000 for the Cowgirl Hall of Fame (TX); \$5 million for the McGruff, the Crime Dog, Program; \$900,000 for the revitalization of the El Paso (TX) Plaza Theatre; \$382,000 for Multi-colored Scenic Byway Signs along Idaho’s Historic Back County Highways; \$2 70,000 for construction of a theatre for the Garth Fagan Dance Studio in Rochester (NY); \$300,000 for construction of Iowa State University’s Universal Kitchen Design Project, etc.¹⁰ There were 9,362 pork projects costing \$22.5 billion in the last year and both the number and dollar value of these expenditures increased at the rate of 12%.¹¹

Another congressional action that might raise eyebrows and questions was the Senate’s overwhelming approval (95-of an economic growth package that called for \$20 billion to help bail out state governments.

The need for federal funds by the states was largely due to their having greatly increased their spending during the good times and high revenues of the ’90s and by having made lingering commitments which are no longer sustainable as a result of the recent recession. One source has indicated that state expenditures are now \$600 more per person today than they were in 1990.¹²

The concept of the federal government bailing out state governments is not your normal “states’ rights” argument, but then again it is the states that Congress represents.

MULTICULTURALISM, ANYONE?

In early September officials at Amsterdam airport traced a strong and unpleasant odor to an abandoned suitcase that contained 2,000 baboon noses in the process of decay. They were en-route from Lagos, Nigeria to the US, apparently intended for an immigrant market. Although baboons are protected under international law, their noses are used in traditional medical treatment in parts of Asia and Africa.¹³

Baboons are one of the most intelligent animal species in existence and have evolved a complicated and strict code of social behavior and communal relations, marked by tenderness and a seeming quality of justice in their discipline, which stands in strong contrast to the barbarism of those who painfully mutilate them to use and traffic in their parts. It’s hard to imagine any animal surviving in its jungle habitat lacking its sense of smell, and we can only assume that these unfortunate creatures met their death either shortly before or after their mutilation.

POPULATION NOTE

The US is the fastest growing industrialized nation in the world with a population that increases by about 3 million people each year. Or, looking through a different lens, every five years we add population equal to that of Los Angeles, New York City, Chicago and Houston combined. This has not always been so, as prior to our present period of acceptance of illegal immigrants, our population had remained in balance due to approximately equal rates of births/arrivals and deaths/departures.¹⁴

MOVING TIME

Over the past few years the nation’s currency has undergone a process of redesign for security purposes. The portraits of presidents and other prominent Americans that were formerly centered on the faces of most denominations have been moved off-center to the left. There is no evidence any figure moving to the right! Not even Hamilton! Is there a message here?

SUBJECT TO INTERPRETATION

We must cite Executive Order # 13166 again, issued in the last days of the Clinton administration. This order mandated that all government agencies and other entities that receive federal funds provide service in any foreign language demanded by a client party.

Although the US Supreme Court ruled two years ago that no one has a right to demand government services in languages other than English, the law remains “on the books” because it has not been repealed by either presidential or congressional action.

Enter the Department of Transportation’s Motor Carrier Safety Administration, which interpreted EO 13166 to mean

that it could not require commercial drivers to understand English and issued a proposal to that effect! The response from trucking companies, insurers, labor unions and some state governments was so loud and clear that the DOT/MCSA was brought around to recognize that its proposal had created a very strong public safety issue.

Freeway driving requires a continuous and rapid processing of a variety of information regarding warnings, limits, locations, access, egress, emergency facilities/procedures, etc. which would not be possible for someone unable to read or communicate in English.

The ACLU and some other groups claim this common sense/safety issue is discriminatory and unconstitutional, but the DOT stands firmly on the ground that English is required for public safety and commercial drivers should be able to communicate in it.

Perhaps, we should start all over and everyone learn Klingon, but for now, thankfully, English has the right of way for commercial drivers.

GRAY AREA

The country was recently treated to the spectacle of California's gubernatorial recall, in which Governor Gray Davis and his highly controversial just plain terrible to most Californians) record was recalled from office and replaced by Arnold Schwarzenegger with no political record. Davis' record as Governor left him little on which to campaign except that he had learned a lot and would try to do better.

You may recall Dick Morris as Bill Clinton's media and campaign advisor before the revelation of an extramarital affair at the same time as the Lewinsky scandal proved more than even the nation's capital could absorb.

Morris, in a recent book, throws light into a not so well known corner of Gray's term in stating that "in an effort to avoid cutting his outrageous state spending, he has taken the money the tobacco industry was forced to pay to California to run anti-smoking ads and used it to paper over his budget deficit. But, not only has he done it for this year, he has obligated all of the anti-tobacco money for the next 20 years to pay for the borrowing that he is doing now..."¹⁵

One wonders whether other states may have used this particular budgeting process in "planning for our future".

WHO ME?

Corporate employers continue to use foreign consultants to provide offshore workers at lower wages while laying off American employees.

Examples: In Connecticut, Cigna Corp., one of the nation's largest insurance companies, signed an employment contracting agreement with an Indian firm, Satyam, giving it "the right of first refusal for all consultants requests".

And in Florida, Siemens Corp. contracted with Tata Consultancy Services, part of the huge Tata commercial and industrial empire in India, to have its U.S. employees replaced by foreigners. A Siemens representative, when questioned as to wage discrepancies between US employees and the foreign workers who replace them answered, "They don't work for us. They work for Tata."¹⁶

There is no fixed rule as to this wage/salary differential. Each job and the person who works it, coming or going, is different, but from information provided to the House judiciary Committee by varied sources such as Forbes Magazine, UCLA and Cornell University it would appear that foreigners admitted under the H- I B and L- I programs receive from 20% to 33% less than US employees.¹⁷

CATCH 22

Luis Alberto Jimenez is a Guatemalan illegal immigrant who suffered severe brain damage in an automobile accident in Florida in 2000. He received in-patient treatment and care at the Martin Memorial Hospital, Martin County, where for a period of over two years his bill amounted to more than \$1.5 million.

A legal contest between the hospital, seeking to discharge him, and his attorney, who wanted him to remain at Martin Memorial, was decided in favor of Martin, and Jimenez was returned to Guatemala in the care of his family.

And now for the catch - after evaluation by two hospitals in Guatemala doctors there recommended that he have surgery to repair a valve that drains fluid from the brain. Hospital officials, however, released Jimenez on the basis that his family refused to give permission for the surgery, but family members countered that he was discharged because they could not afford to pay.

It's a curious comment that Mr. Jimenez was given free care under our system but is expected to pay in his native country. It seems unlikely that this situation will be resolved in a way that will satisfy both parties.

CATCH \$22 MILLION

And now back to corporate America for a look at a truly amazing "catch". James Broadhead is the former CEO of the FPL Corp. which was named Florida Power and Light before it undertook a series of acquisitions in the electric utility industry's recent period of consolidation.

Mr. Broadhead identified, and pursued with determination, a \$15 billion merger with Entergy Corp., which would have created the largest utility company in the country.

It has become common in large corporate mergers for companies involved to specify that "change of control" payments be made to certain named executives. There are 2 kinds of these payments - "single" and "double trigger". The former only requires that the merger be approved by a shareholder vote, while the latter holds that both shareholder approval and the completion of the merger must take place.

In the case of FPL, it had in place only the single trigger mechanism under which eight top FPL executives were to receive about \$62 million. Then CEO Broadhead and his successor, present CEO Lew Hay, were listed for \$22.7 million and \$6.7 million respectively.

In December 2000, shareholders of FPL and Entergy approved the terms of the merger as proposed by their managements and boards of directors and "change of control" payments were made.

However, in April of 2001 Broadhead called off the merger with the vague explanation that it threatened a clash of cultures which would make for an unsuccessful combination. Cultural harmony is an area to which serious attention is paid in the run-up to any merger, as management does not want to burden itself with prickly personnel or turf disputes.

In addition to canceling the merger, Broadhead refused to return his \$22.7 million "change of control" payment.

In the two and a half years since Broadhead's sudden "about face" the matter has attracted considerable conflicting comment from shareholders, attorneys, the media and both managements - some of it quite bitter - but so far Mr. Broadhead has not been forced to divest himself of his \$22.7 million.

This would seem to be a textbook case of how not to call off a merger. The reasoning was dubious and contested; the timing was suspicious; and the rather vicious and public aftermath is something that most parties to failed merger attempts make every effort to avoid.

In our original purpose statement in Issue #I we stated that one of the elements about which we are most concerned in our society has been the failure of both public and private institutions to protect those whom they were designed to serve.

Boards of directors are one of these institutions, as the rash of corporate scandals demonstrates. The primary responsibility of corporate directors is to represent the interests of the shareholders so that these interests are recognized and served by management in its operating role. Ideally, directors should be able to maintain an enlightened balance between management and shareholders, especially when their interests appear to, or actually, conflict.

In recent years too many directors have abandoned this balancing function and aligned themselves more closely with management which, through its operating control of corporate assets and compensation policy, can offer directors handsome awards for their services in stock, stock options or cash.

To some degree many of our “watch dog” agencies have become “sleeping dogs”. The Securities and Exchange Commission (SEC), which has received inadequate funding for much of its existence, is a prime example, as is the New York Stock Exchange. Both have oversight responsibility for the financial markets, and yet it was the attorneys general of New York and Massachusetts that took action to document and prosecute recent abuses in the securities industry involving brokerage firms, investments banks and mutual funds.

William Donaldson, the new Chairman of the SEC and an old Wall Street “hand”, has shown signs of taking his agency to new and higher ground, but only time will tell whether he will be able to overcome years of inertia.

But to return to FPL - in the storm of claim and counterclaim that has followed the failed merger, we have no way of separating truth from spin, or even outright falsity. The theory behind “change of control” payments is that mergers or acquisitions lead to higher value for the combined entity than the two separate companies are able to command, and that this higher value will provide further future enrichment for all shareholders for which management is entitled to immediate compensation.

A reasonable argument can be made that mergers/acquisitions are a basic part of any highly paid CEO’s job which he is expected to undertake and for which there is no compelling circumstance to provide additional compensation, as he will benefit through his share and option ownership to the same degree as all shareholders. But this is an argument unlikely to emanate from the boardroom.

Shareholder expectations have a way of outrunning management performance, although in recent years in negative ways this has been completely turned on its head by the excesses and abuses revealed at Enron, WorldCom, Adelphia, etc.

The corporate equity held by share owners represents the largest holding of wealth in our country, and for the most part their expectations are grounded in reality (until, of course, the next bubble comes along). In the FPL matter, in spite of the specific “single trigger” language, it would have seemed reasonable for them to expect that “change of control” payments not be made unless change occurred.

SPIN TIME

On September 4, eight Democratic candidates for the presidency (General Clark had not yet entered the race) held a nationally televised “debate” in Phoenix, AZ before a largely Hispanic local audience¹⁸. The questions and answers covered a wide range of domestic and foreign issues, one of which was whether illegal immigrants living here should be granted amnesty. All candidates took the position that they should, but not once during the questions and answers did a candidate or either of the two moderators use the word “illegal”, preferring instead “undocumented”.

Finally, a note about writing to your senator or representative in Congress. In our experience this has proved to be a most frustrating experience. If you write to state your preference in a matter or to comment on a vote, you are highly favored to receive a lengthy reply that takes both sides and only promises to “keep your thoughts in mind in the future”, or something similar.

The best way to obtain a definite response, and even then it’s not certain, is to ask a definite question such as “Will you sponsor and/or vote for legislation to The more specific you can be, the better the chance for a meaningful answer; if you know the name/number of a particular bill, it should be so identified rather than using “legislation”. Even so, you will probably receive a “one size fits all” reply.

Your inquiry will, however, entitle you to priority status for future campaign fund raising requests by both your congressman and others from outside your state that might share your views.

FUTURE FORMATS

NOT ALL OF OUR ISSUES WILL BE SINGLE TOPIC IN FORM AS THE FIRST TWO WERE. AT YEAR END, AND PERHAPS AT MID-YEAR, WE WILL MAKE USE OF A MULTI-TOPIC FORM SUCH AS THIS. WE WILL ALSO AVAIL OURSELVES OF A COMBINATION FORMAT WITH ONE MAJOR AND ONE, OR MORE, MINOR TOPICS. IT ALL DEPENDS UPON WHERE THE RESEARCH TRAIL LEADS US AS WELL AS THE UNFOLDING OF CURRENT EVENTS AND THE UNCERTAINTIES OF HUMAN NATURE THAT PRODUCE THEM.

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END NOTES

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Mr. Ault has a background in marketing of consumer products and financial services. For the past twenty years he has participated in early stage venture investing in products with the potential for environmental and social benefits. He a graduate of Yale University, a special limited partner of the Venture Capital Fund of America, NYC, NY of which he was co-founder, and the author of A Retail Food Study (La Roche & Co. NYC, NY 1957).