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## THEY SAID IT

But a government by discussion, if it can be borne, at once breaks down the yoke of fixed custom. The idea of the two is inconsistent. As far as it goes, the mere putting up of a subject to discussion, with the object of being guided by that discussion, is a clear admission that that subject is in no degree settled by established rule, and that men are free to choose in it. It is an admission too that there is no sacred authority – no transcendent and divinely appointed man whom in that matter the community is bound to obey. And if a single subject or group of subjects be once admitted to discussion, ere long the habit of discussion comes to be established, the sacred charm of use and wont to be dissolved. “Democracy,” it has been said in modern times, “is like the grave; it takes, but it does not give.” The same is true of “discussion.” Once effectually submit a subject to that ordeal, and you can never withdraw it again; you can never again clothe it with mystery, or fence it by consecration; it remains for ever open to free choice, and exposed to profane deliberation.

Walter Bagehot, *Physics and Politics*, Chapter V, “The Age of Discussion,” 1872.

## THE AGE OF DISCUSSION.

Okay, gentle reader. We are about to the answer all of your questions concerning what is wrong with America today, or at least what it is about America today that often makes you uneasy and concerned about its future. And we are going to do this in four pages. Obviously, if you are comfortable with America today, you need read no further. However, if you often worry about the country while watching the news or reading the newspaper, and you can’t quite figure out what is bothering you, you should read on, even though we are going to begin this discussion with an examination of a dumb statement made by someone you probably don’t like.

No surprise here, the person whose dumb statement we are about to examine is Bill Clinton. The statement had to do with his answer to the question of whether torture is appropriate when it might be the only way to prevent an imminent terrorist attack on the nation. In a nutshell, to borrow a highly suitable expression, Bill said that it would be appropriate, but that the torturer should personally suffer the consequences if he or she happens to get caught in this heinous act, or if he or she happens to torture someone who turns out to have been innocent, or if the cause was not as serious as originally feared and thus did not merit the action.

Bill admits that his model for this “solution” is Jack Bauer, a character in Fox Entertainment’s long-running, highly popular, action drama called “24,” who happens to be into torture big time, especially when it comes to terrorists who are out to destroy America, but also, on occasion, when he thinks a colleague or even girl friend might have some information that would be useful in finding the terrorist in question. Here’s what Bill had to say about Jack during an interview on “Meet the Press,” as reported in the *Baltimore Sun*.

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“It happens every season with Jack Bauer, but...in the real world it doesn't happen very much....If you have a policy which legitimizes this, it's a slippery slope and you get in the kind of trouble we've been in here with Abu Ghraib, with Guantanamo, with lots of other examples...I think what our policy ought to be is to be uncompromisingly opposed to terror – I mean to torture, and that if you're the Jack Bauer person, you'll do whatever you do and you should be prepared to take the consequences,” he said.

“And I think the consequences will be imposed based on what turns out to be the truth. If you look at the show, every time they get the president to approve something, the president gets in trouble, the country gets in trouble. And when Bauer goes out there on his own and is prepared to live with the consequences, it always seems to work better.”

Now, it should come as no surprise that Bill would appreciate this “let-the-other-guy-take-the-fall-if-you-get-caught” approach. It's vintage Clinton. “I didn't do it, but if I did it was all Monica's fault. It was her idea. I had only a minimal, nay a passive role in the whole thing.”

Nevertheless, one would think that Bill would have learned by now not to put too much stock in what “works” in the movies. When reading that quote, one can't help but wonder if he didn't decide that since the noxious dalliance between the 45-year-old Michael Caine and the barely legal Michelle Johnson in “Blame It On Rio,” “worked” so well that he and Monica could give it a try.

Anyway, the interesting thing about this basically dumb statement of Bill's is that it contains within it a tiny but highly important insight into the origins of that feeling that many Americans have today that something is not quite right with the society in which they live.

Simply stated, this uneasiness stems from the fact that during the past half century or so American society has largely freed itself from mankind's most ancient

and revered instruments of social order, these being its commonly understood and agreed upon, long-standing and time honored mores, moral standards, traditions, and customs.

To borrow a phrase from Bagehot, the “cake of custom” has been broken. And the result is that Americans have found this newly-obtained freedom to be unsettling, akin to the confusion that White Fang experienced when he returned briefly to “the wild,” and then found himself yearning for the sense of community and security he had felt among the Indian tribe with which he had lived.

Americans are now “in the wild,” free from what Rousseau called the “iron chains” of conventional morality. Shame, embarrassment, public approbation, and ostracism are a thing of the past for all but the lowly child molester. American society no longer has the moral authority to regulate conduct by approbation. Disgraced former presidents, parents of pregnant 13-year-olds, dope-addled athletes, celebrity tramps, crooked businessmen, senators with a penchant for sex with strangers in public toilets need have no fear of public condemnation. The concept of taboo, a foundational principle of civilizations since the emergence of man, has disappeared into the dustbin of history, replaced by an endless stream of highly codified laws, rules, regulations, and decrees. Nothing is wrong anymore, unless it's illegal, and not all that is illegal is wrong.

A young man wears a tee shirt to school with what would once have been widely regarded as a highly offensive message printed on it. The Principal tells him to remove it. He protests, saying that someone else's tee shirt is equally offensive. The dispute is adjudicated by the officials at the school, and then challenged in various courts, with the support of the boy's parents and the ACLU. The result is a legally sanctioned opinion, subject, of course, to future challenge by future rebels against established authority and by parents who are more interested in having their children learn about their “rights” than about their responsibilities as members of the community.

An editor of a college newspaper, suffering from an educational system that taught him neither imagination nor a sense of decency, pens a pedestrian, gratuitous, and highly offensive headline. Uproar follows.

The controversy becomes a legal question of what constitutes “protected speech.”

Any American over 60 remembers a different system, one that was based on respect for community standards and enforced by community approbation via a process that was widely respected and recognized across and among class and age lines. But that was yesterday. Today, we live in what Walter Bagehot described as the “Age of Discussion” in the above “They Said It” quote.

Torture, for instance, has, to borrow a term from that cite, been “subject to discussion,” and thus, Bagehot would argue, “open to free choice, and exposed to profane deliberation.” In the above-noted interview, Bill Clinton recognized this as troublesome. He described it as a “slippery slope.” He didn’t know it, of course, but when he proffered his “solution” to the tortured question of torture he was harkening back to a time past, one that he and his fellow liberals helped destroy, when it was customary to grant persons in a position of authority a certain degree of license to act according to an understanding of the standards and norms of the community, with the knowledge that the community would support their decisions if they reflected “good sense” and were made in good conscience.

These were times when torture, if administered, was administered just as Bill says he would have it done today, in unusual cases at the discretion of the individuals in charge. Only in those days such individuals would not have to fear prosecution unless they clearly stepped beyond what they had reason to believe was considered by the community they served as proper under the circumstances. Bill leaves no room for this kind of discretion, not, one assumes, because he would disapprove of it, but because he cannot conceive of it. And fewer and fewer Americans today could.

In this day and age, how could you have a rule that isn’t written down? How could you trust a school principal, or employer, or law enforcement officer, or soldier, or judge, for that matter, to enforce something as vague as “community standards,” to exercise discretion, to be governed solely by “common sense.” Wouldn’t that be subject to abuse?

Of course, the answer to this question is, yes. It would be subject to abuse. And it was subject to abuse, as Shelley noted. But the iron chains of the old system that Shelley hated and feared, which were made up of community standards, religious beliefs, time-honored customs and traditions, are garlands of flowers when compared to the legal and regulatory shackles that have become the centerpiece of the current one. These, it is fair to say, would make Shelley weep, just as they make those Americans today who are old enough to remember the old system, feel uneasy and concerned about the future of their country when they watch television news or read a newspaper.

The great social scientist Paul Nisbit was thusly concerned, and eloquently described the nature of this concern as follows in his classic 1975 study on American society *The Restoration of Authority*.

Pluralist society is free society exactly in proportion to its ability to protect as large a domain as possible that is governed by the informal, spontaneous, custom-derived, and tradition-sanctioned habits of the mind rather than by the dictates, however rationalized, of government and judiciary. Law is vital – formal, statute law – but when every relationship in society becomes a potentially legal relationship, expressed in adversary fashion, the very juices of the social bond dry up, the social impulse atrophies. The genius of the English common law lies not only in the social and communal roots of this law, as these are to be seen in the history of England during the Middle Ages, but also in its tacit concern, repeatedly expressed in judicial decision, that as little as possible be

transferred from the nonlegal, nonpolitical lives of human beings living in a social order to the necessarily legal and political lives of the same human beings conceived as subjects of the sovereign. Nothing, it would seem, so quickly renders a population easy prey for the Watergate mentality of government as the dissolution of those customs and traditions which are the very stuff of morality and, hence, of resistance to oppression and corruption.

We propose no remedy for the dissolution in America of the importance of custom and tradition. Like it or not, as Bagehot said, there is no return from the “Age of Discussion.” But sometimes it helps to understand how all of this came about when one becomes uneasy and concerned about the future of a nation that is increasingly governed by rules and regulations and laws and lawyers.

And as Bill Clinton seems to have discovered, we find that it also helps a little to watch Jack Bauer. He is the modern-day, television equivalent of Kurt Vonnegut’s Harrison Bergeron, who threw off the shackles imposed by the government of his day, and danced to his own piper for a brief moment before he was destroyed for doing so. Few people today have the courage displayed by Harrison and Jack. But, of course, Harrison and Jack are fictional characters. Someone needs to tell Bill.

## **UGLY IS AS UGLY DOES.**

Times are tough for big-time Washington players these days. Or at least that’s how it would appear, given some recent testaments to voter dissatisfaction. According to a poll released last week by the Associated Press, President Bush’s approval ratings have hit an all-time low at 31%, one point below his previous low-water mark, which was set this past June. It seems that the President’s much-discussed, post-surge was but a temporary phenomenon.

Of course, if things are bad for Bush, they’re even worse for his Congressional opponents, whose approval ratings are not only falling faster than his, but are falling farther – much farther. According to the same poll, public approval of Congress is now at an all-time record low of 22%, and has been steadily dropping “since Democrats took over in January.” Even self-identified Democratic voters give Nancy, Harry, and the gang poor marks, with only one in four professing support for their fellow partisans’ “new direction for America.” About the only thing that Democrats can be thankful for is the fact that this AP poll has received far more public attention than a similar poll, released last month by Reuters and pollster John Zogby, which showed Congressional approval at around 11%. Any port in a storm, we guess.

Now, we’re fairly certain that if they haven’t already, at some point in the very near future, a handful of political scientists will formulate a theory and develop a regression model that together will explain the public’s disgust with Washington’s elites and their increasing frustration with the pace of real reform. And we’re also fairly certain that this theory and model will completely miss the point.

You don’t need an elaborate hypothesis or sophisticated modeling to figure out what’s going on here. All you need, really, is to watch these guys (and gals) in action for a few brief moments. It really is pretty simple: the American people don’t like the elites in Washington – or anywhere else for that matter – because they’re simply not likable. Indeed, if Steven Spielberg or Mel Gibson or some other Hollywood big shot wanted to make a movie about arrogant, corrupt, self-involved, self-righteous political and cultural leaders, they wouldn’t dare cast the lot we have in this country today, for fear of having the studio accuse them of going “over the top” and having reviewers call the villains unrealistically obnoxious and implausibly unidimensional.

Just consider, for example, what these “peoples’ servants” spent last week doing. There is a war going on. Two, in fact. The Mad Mullahs of Iran continue

their unwavering march to nuclear weapons. The Syrians, apparently, had a nuclear weapons site of their own, which the Israelis kindly destroyed on behalf of the “global community,” which, in turn, is nice, since once again the American intelligence community was completely in the dark and completely unaware that this site existed. The housing market continues to tank. Social Security remains a mess. Et cetera, et cetera, ad infinitum. And how do our valiant and trusted legislators respond? By taking on the most dangerous menace first, of course, Rush Limbaugh.

On the off chance you spent last week on a deserted island, living in a cave, or just blissfully ignoring the gomerals who pass for “leaders” in this country, Limbaugh allegedly said something critical of the phony soldiers who publicly criticize the Iraq war (apparently calling them “phony soldiers” who publicly criticize the Iraq war), and this moved large swaths of the Democratic Party – including its presidential hopefuls – to pretend to rend their garments, to feign indignation, and generally to make fools of themselves. Senate Majority Leader Harry Reid did his very best to look hurt and to sound, well, like a male as he demanded that Limbaugh be removed from Armed Forces Radio, apparently believing that this nation’s soldiers, sailors, marines, and airmen are too stupid to know if and when they’ve been insulted. Reid and his counterpart in the House, Nancy Pelosi, drafted legislation condemning Limbaugh (and, one would assume, the First Amendment). Unfortunately for them, that legislation failed to generate enough interest to mandate floor time, and they were forced to settle for writing a nasty letter to Limbaugh’s boss. That oughta’ show him.

In their defense, we should note that the Democrats’ were merely looking to settle the score and to exact a little payback, a week after watching the *minority* Republicans muster enough votes to condemn Moveon.org for its full-page *New York Times* ad calling General David Petraeus “General Betray-us.” Of course, even if we were to overlook the obvious differences between the two situations – e.g. a political advocacy group associated with the Democratic Party slandering the general leading the nation’s troops in Iraq vs. a talk-radio host accusing phony soldiers

of being phonies – the obvious response to such a defense would be, “so what?” How, exactly, does the Republicans’ imprudent and extraneous use of their Congressional powers justify the Democrats’ similar improvidence? All that does is prove that both parties are equally comprised of morons and gasbags. Not quite exculpatory, we’d say.

In other big Washington news last week, the Democrats dragged out the old “Republicans hate children card” when President Bush refused to sign legislation expanding a federal children’s health insurance program (SCHIP) to nearly every single person in the world. OK. So that’s a slight exaggeration, but only a slight one. To prove their point about how awful and mean George W. Bush was to veto the low-income health insurance bill, the Democrats trotted out 12-year-old Graeme Frost, a Baltimore 7<sup>th</sup> grader, who had been in a terrible accident and who was going to lose his insurance because of Bush’s nastiness. Frost gave the Democratic rebuttal this Saturday to President Bush’s weekly radio address and pleaded with the President to change his mind and not to be such a jerk.

What the Democrats didn’t realize is just how well young Mr. Frost proved the point about SCHIP and the expansion of the program from “low-income” families to “working families.” You see, while the mainstream press fawned over the 12-year old and his plight, the right-leaning alternative media decided to do a little reporting on his parents. *The Baltimore Sun* describes the boy’s family thusly, “Bonnie Frost works for a medical publishing firm; her husband, Halsey, is a woodworker. They are raising their four children on combined income of about \$45,000 a year. Neither gets health insurance through work.” The inimitable Mark Steyn, however, collected a little more information about Bonnie and Halsey (from a variety of sources, including FreeRepublic.com) and described the “poor” Frosts a little differently:

Mr Frost, the ‘woodworker,’ owns his own design company and the commercial property it operates from, part of which space he also rents out; they have a 3,000-sq-ft home on a street where a 2,000-sq-ft home recently

sold for half a million dollars; he was able to afford to send two children simultaneously to a \$20,000-a-year private school; his father and grandfather were successful New York designers and architects; etc. This is apparently the new definition of ‘working families’

As the journalist/blogger Don Surber noted, it is “interesting that public schools aren’t good enough for their kids but public health insurance is.” The issue of health insurance for “working poor” thus becomes a lose-lose scheme for Washington big shots. To those in the public who are actually paying attention, it is clear that the Democrats are indeed using SCHIP to try to advance a socialized, single-payer system in phases, just as the Republicans claim. To those who are not paying attention (a group which includes most voters) Republicans are heartless jerks who spent lavishly on their own priorities while in power, but now that they are in the minority, they want to take “affordable” health care away from little kids. Both sides have only themselves to blame, Democrats for wanting socialized health care and Republicans for being public relations halfwits. And the public, for its part, only learns to dislike both parties all the more.

Lest you think that we’re picking exclusively on Democrats today, Washington’s atmosphere of self-absorption and detachment from the rest of the nation was probably advanced most this past week by the ongoing saga of Idaho Senator Larry Craig, who, you may recall, has had some troubles of late. In Larry Craig’s world, just because he likes to get jiggy with dudes in public restrooms, that doesn’t mean he’s gay; just because he pled guilty, that doesn’t mean he actually is; and just because he agreed to resign from the Senate effective September 30, that doesn’t mean he actually has to leave. Craig, who apparently has no one close to him with the good sense to tell him just to go away quietly, is still operating under the misimpression that anyone in the world actually cares what happens to him and to his political career. He’s wrong. And by insisting on sticking around long after he said he would go away, he is merely wearing thin the

public’s patience and squandering whatever sympathy may have existed for a confused and beleaguered old man who had been living what had to be a painful and complex double life.

Outside of Washington, things are not much different. Wherever cultural and civic leaders gather, it seems that whatever problem may exist is quickly and enduringly eclipsed by celebrity leaders’ desire to advance their own agendas, which usually consist of little more than self promotion.

Two years ago, in the aftermath of Hurricane Katrina, we warned that the issue of race in public policy would, over the next several years, continue to be an exasperatingly complicating force, not because of latent racism, but because of the “civil rights” establishment’s interest in perpetuating the notion of white oppression and in denying the real roots of the problems in black America. Enter Jesse Jackson and Al Sharpton, both of whom appear to believe that they have been out of the public spotlight for far too long and thus must do whatever they can to get their mugs back on the evening news. And so they’ve headed again to Louisiana, this time to Jena.

By now, most of us know a little bit about the background story in Jena: Some black kids at the local high school wanted to sit by a tree where only white kids sat and so they did. The next day, three white kids stupidly responded by placing a couple of nooses in the tree and received what many believe to be too lenient a punishment. Several months later, in what has been determined to be an unrelated incident, six young black men assaulted a lone white student, knocking him unconscious and sending him to the hospital. An overzealous county prosecutor charged the assailants with attempted murder, but then later reduced the charges against all but one. What followed then was a media circus.

Jackson headed quickly down to Jena, believing that Jena was yet another in a long line of sequels to “Selma.” Sharpton, unwilling to be eclipsed by his rival, headed down as well, determined that his protest

would be bigger and better than Jacskon's. Aging boomer pop singers, like John Melon Cougarcamp, longing for the days of old, followed as well, writing songs about racism and comparing the "Jena Six" to the civil rights pioneers of the 1960s.

What has largely been forgotten in all of this is the fact that the Jena Six viciously assaulted a young man and were justifiably, if overzealously brought to justice. While the celebrity leaders preen and pose for the cameras, the real tragedy here – as in New Orleans after Katrina – is simply swept under the proverbial rug. Jason Whitlock, a black sports columnist for the *Kansas City Star* has been one of the few mainstream journalists to discuss this real tragedy and the real problem in Jena, which quite clearly is the breakdown of civil institutions in the African-American community. To wit:

There was no "schoolyard fight" as a result of nooses being hung on a whites-only tree. Justin Barker, the white victim, was cold-cocked from behind, knocked unconscious and stomped by six black athletes. Barker, luckily, sustained no life-threatening injuries and was released from the hospital three hours after the attack.

A black U.S. attorney, Don Washington, investigated the "Jena Six" case and concluded that the attack on Barker had absolutely nothing to do with the noose-hanging incident three months before. The nooses and two off-campus incidents were tied to Barker's assault by people wanting to gain sympathy for the "Jena Six" in reaction to Walters' extreme charges of attempted murder.

Much has been written about Bell's trial, the six-person all-white jury that convicted him of aggravated battery and conspiracy to commit aggravated battery and the clueless public defender who called no witnesses and offered no defense. It is rarely mentioned that no black people responded to the jury summonses and that Bell's public defender was black.

It's almost never mentioned that Bell's absentee father returned from Dallas and re-entered his son's life only after Bell faced attempted-murder charges. At a bond hearing in August, Bell's father and a parade of local ministers promised a judge that they would supervise Bell if he was released from prison.

Where were the promises and supervision before any of this?

It's rarely mentioned that Bell was already on probation for assault when he was accused of participating in Barker's attack. And it's never mentioned that white people in the "racist" town of Jena provided Bell support and protected his football career long before Jesse, Al, Bell's father and all the others took a sincere interest in Mychal Bell.

Over the past few weeks, the Jena story has also become a tale not just about pervasive racism in the American South, but about the "injustice" in the American penal system, a system that incarcerates far more blacks than whites. As *The New Yorker's* Steve Coll put it last week, "Although some of the evidence in the Jena case is murky, a cumulative verdict of racial double standards lies beyond reasonable doubt." The real story, he claims, is about, "a here-and-now problem, one about which whites are mainly silent: the mass incarceration of black youths – America's 'school-to-prison pipeline,' as some scholars have christened it."

Here again, however, the "story" the celebrities and media types want to sell diverges greatly from reality. The fact of the matter is that the "mass incarceration of black youths" is not a problem of racism but of civic breakdown. Writing in *City Journal*, the brilliant Heather MacDonald notes the following:

The reason that the black incarceration rate is the highest in the country is that blacks have the highest crime rate – by a long shot. Don't trust the police, prosecutors, or judges to give a fair picture of black crime? Then go where the bodies are. Los Angeles is

representative. In the first seven months of 2007, blacks in Los Angeles were murdered at a rate ten times that of whites and Asians. Who's killing them? It's not whites and Asians. While a minor proportion of the assailants of blacks are Hispanic, the vast majority are black themselves. Nationally, blacks commit murder at about eight times the frequency of whites. In New York, any given violent crime is 13 times more likely to have been committed by a black person than by a white person, according to the reports of victims and witnesses. Though they are only 24 percent of the city's population, blacks committed 68.5 percent of all murders, rapes, robberies, and assaults in New York last year. Whites, who make up 34.5 percent of New Yorkers, committed only 5.3 percent of violent crimes. These ratios are similar across the country. In Los Angeles, blacks committed 41 percent of all robberies in 2001, according to victims' descriptions, though they constitute only 11 percent of the city's population. Robbery victims identified whites, who make up 30 percent of the Los Angeles population, just 4 percent of the time.

When attacking the justice system, racial agitators work mightily to change the subject from violence to drugs, using their flimsy argument that crack cocaine penalties are too high. But the vast preponderance of prisoners are in the pen for violence and property crime. In 2003, 52 percent of inmates in state prisons were serving time for violent offenses, 21 percent for property offenses, and only 20 percent for drug offenses. To be sure, black incarceration rates are off the charts. Black men were 41 percent of the more than 2 million men in federal, state, and local prisons at midyear 2006. At the end of 2005, there were 3,145 prison inmates per 100,000 black males in the United States, compared with 1,244 inmates per 100,000 Hispanic males and 471 inmates per 100,000 white males. Is that because violent and property crime is

overpenalized, as race advocates sometimes argue? No. Despite the advocates' constant complaints about three-strikes laws, the criminal justice system actually underpenalizes crime because of inadequate prison space. Prosecutors cut deals to lessen sentences; sheriffs overseeing local jails regularly devise new schemes for dumping offenders back on the street to make room for the next batch.

Does any of this matter to the likes of Jackson and Sharpton (and Clinton and Obama, for that matter)? Of course not. What matters is scoring points. Getting publicity. Perpetuating the need for celebrity race hustlers. Will this solve any of the black community's problems? Again, of course not, though we suspect that that might be the idea.

In any case, the net effect of all of this is to further anger both blacks and whites; blacks because they are once again told that all of their problems have their roots in white racism, and whites because they are once again blamed for problems over which they have little control and which hardly reflect their sentiments on race and racial integration. Is it any wonder then that the hustlers and publicity seekers who perpetuate and publicize incidents such as Jena are largely detested by average Americans? How could they not be?

In an op-ed piece published over the weekend, British historian Niall Ferguson lamented that today's political leaders simply don't have the power that their predecessors did. And though we understand his complaint, we're more concerned about the fact that these leaders don't have the integrity, honesty, and decency of their forebears.

Don't get us wrong, we're not exactly unhappy that Congressional leaders in Washington are too preoccupied with themselves to try to solve the world's real problems. As we've written many times in the past, gridlock is not a bad thing, especially if the alternative is trying to solve problems.

At the same time, the self-absorption of our so-called leaders is troubling, to put it delicately. Everything is about them; every issue, every debate, every sound bite. The concept of public service has been diminished by preening peacocks concerned with little more than advancing their own careers, accumulating power, and feeding their egos. You wonder why the country seems in such bad shape, despite the persistence of what can only be called “good times”? There you have it. Our celebrity leaders are distasteful at a bare minimum, and the desire to see them gone and to tune them out is both understandable and healthy.

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