

**CASES**

For the

**SIXTEENTH**

**INTERCOLLEGIATE ETHICS BOWL**

TAKING PLACE AT

THE ANNUAL MEETING OF THE

ASSOCIATION FOR PRACTICAL AND PROFESSIONAL ETHICS

IN

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## READING BETWEEN THE LINES

What do Ebenezer Scrooge, Charlie Chan, Alice, Huckleberry Finn and Sherlock Holmes have in common? Authors based these fictional characters on real people: Charles Dickens based Ebenezer Scrooge on a miser named John Elwes; novelist Earl Derr Biggers created his Charlie Chan character after learning of the exploits of Honolulu detective, Chang Apana; Charles Dodgson modeled Alice after Alice Liddell, the daughter of one his Oxford colleagues; Samuel Clemens based Huckleberry Finn on his boyhood friend, Tom Blankenship; Sir Arthur Conan Doyle created Sherlock Holmes in the likeness of his friend, Dr. Joseph Bell, who honed his ability to discern uncanny insights into people based on the minutia of their appearance.

Great works of fictional literature reflect reality, but through different methods. Type characters—characters who represent a particular class or group of people—populate literary works: Chaucer's *Canterbury Tales* reveals archetypal characters, representative of classes of people in fourteenth-century England, through the stories of a group of fictional pilgrims. *West Side Story*, a modern retelling of Romeo and Juliet, reflects the unwritten rules of gang warfare and the consequences to those who defy those rules.

Other literary characters are based on actual individuals. James Annesley, sold overseas as an indentured servant by his greedy and dastardly uncle who usurped his inheritance, was immortalized as David Balfour in Robert Louis Stevenson's *Kidnapped*. The actress Fanny Kemble related the sad tale of her brother, Henry Kemble, and Mary Anne Thackeray to her dear friend, the novelist Henry James. The true story of the prosaic and plain Miss Thackeray and the handsome, and greedy roué inspired James' *Washington Square*. Christopher Isherwood shared a lodging house in pre-Nazi Berlin with Jean Ross, an underground nightclub singer. Isherwood immortalized Jean as the decadent Sally Bowles in his book *Goodbye to Berlin*, which was transformed into the stage play and movie *Cabaret*. Reverend March, the protagonist of Geraldine Brooks' Pulitzer Prize-winning novel *March* is a re-imagined depiction of Bronson Alcott, father of Louisa May Alcott, depicted as Reverend March in *Little Women*.

Writers are encouraged to write about what they know to give their work authenticity. The fear of lawsuits, however, gives writers pause when they portray real people or create characters from them. The estate of J.R.R. Tolkien threatened to sue writer Stephen Hilliard for including Tolkien as a character in his book, *Mirkwood, A Novel About J.R.R. Tolkien*. Hilliard took the estate to court, claiming a first-amendment right to publish. He settled the issue by agreeing to add the disclaimer that *Mirkwood, A Novel About J.R.R. Tolkien* was a work of fiction, and that the J. R.R. Tolkien Estate did not endorse the book. Kathryn Stockett, the author of the best seller, *The Help*, was sued by her brother's nanny, Ablene Cooper. Ms. Cooper claims that Stockett based one of the book's main characters, Abilene Clark, on her without her permission. Ms. Cooper claims the portrayal humiliated and demeaned her. Stockett claims to have met Ablene only briefly and to have actually based the character of Abilene Clark on her own beloved nanny, Constantine. Ernest Hemmingway avoided legal entanglements by publishing *A Moveable Feast*, his juicy memoir of his early years in Paris—including salacious tidbits about Gertrude Stein and F. Scott Fitzgerald—only after his death.

## **SMOKE SIGNALS**

In 2009, the Family Smoking Prevention and Tobacco Control Act became law. It requires, among other things, that cigarette packages have more explicit and dramatic health warnings, and display emphatic health warning messages and graphic, color images meant to discourage smoking. The Food and Drug Administration (FDA) posted thirty-six images on the Internet from which the agency will select nine for use on cigarette packages. Among the messages is “Smoking can kill you”, and the images include a rotting lung, a diseased mouth, and a corpse. Business Week (November 10, 2010), quoted FDA Commissioner Dr. Margaret A. Hamburg: “When the rule takes effect, the health consequences of smoking will be obvious every time someone picks up a pack of cigarettes.”

Critics claim the packaging insults, embarrasses, and humiliates smokers and discriminates against them. They also claim that government should not impose its views about label content and that the legislation violates cigarette companies’ rights to free speech.

Supporters of the governmental approach claim that the traditional warning labels on cigarette packages have been much too small to offset the emotional appeals and glamorization of smoking in advertising. They also point to studies documenting the effectiveness of more explicit warnings. On the basis of these findings, many other countries have mandated that more package surface area be devoted to health warnings.

## **OH, BLAST AND DAM!**

To protect the once bustling trade town of Cairo, Illinois from ruinous flooding, engineers designed the Birds Point Levee. The Birds Point Levee breaches naturally, but if more breaching is required, explosives allow floodwaters to spread out over the floodway and reduce river levels upstream.

The Birds Point Levee forms a section of the frontline levee at the northern reach of the New Madrid Floodway. The New Madrid Floodway is an area of land enclosed by embankments or levees, except for a 1,500 foot gap near its southern-most point. Engineers included this gap to drain water from the floodway should it breach the levees. The New Madrid Floodway comprises some 200 square miles of Missouri farmland along the Mississippi River, stretching south from Cairo to New Madrid, Missouri.

In some ways “floodway” is a misnomer. The levees that surround the New Madrid Floodway primarily protect inlying river communities from annual spring flooding. Only during periods of calamitous flooding is the term apt. At these times the levees surrounding the floodway can raise floodwaters upstream to such a point that they threaten to overwhelm the flood prevention system around Cairo.

Because engineers expected such breaches to be rare and the farmland below Cairo to flood less after construction of the levees, the floodway project enjoyed popular support. In more recent years, support has grown for completely enclosing the floodway in the south to protect more farmland in the floodway. Here water flowing north seasonally enters the floodway and has, at times, covered the entire southern half of the floodway.

In the wake (no pun intended) of historic flooding along the Mississippi River in April 2011, the US Army Corps of Engineers announced preparations to blast a two-mile hole in the Birds Point Levee to prevent flooding in Cairo, now an impoverished town of 2,800, which is nearly two-thirds non-white. On 1 May, Missouri Attorney General Chris Koster petitioned the U.S. Supreme Court to bar the US Army Corps of Engineers from breaching the levee. Doing so would affect some 130,000 acres of farmland and displace the 230 residents who live in the floodway.

In Jefferson City, reporters asked the Missouri House Speaker, Steve Tilley, “Would you rather have Missouri farmland flooded or Cairo underwater?” Tilley responded, “Cairo. I’ve been there. Trust me. Cairo. Have you been to Cairo? Okay, then you know what I’m saying” (Huffington Post 28 April 2011).

Early Sunday morning, 2 May, US Supreme Court Justice Samuel Alito rejected the State of Missouri’s petition (10A1059). The next day Major General Michael J. Walsh, President of the Mississippi River Commission, gave the order for the Corps to set off the first blasts, causing water to rush into the floodway.

In the aftermath of the Corps’ decision to destroy the levee, debate has centered on the accountability of those in the position to decide the course of the river, including who, in fact, had final authority to destroy the Birds Point Levee. Within 24 hours of the Corps’ work, the river level at Cairo had dropped from a record of 61.72 feet to 59.4 feet.

## LOVE, VIRTUALLY

In the virtual world of Malton, two characters met and fell in love. Nurse HunnyBunches restored Major Longfellow to full health in the safety of a crowded and extremely heavily barricaded hospital. While awaiting the next zombie onslaught, they struck up a conversation.

ML: Umm. Nice description (Nurse HunnyBunches described herself in her profile as “Better than anything YOU ever saw in a centerfold, loser.”)

NH: Yeah, I can tell you like it. As Mae West asked, "Is that a gun in your pocket, or are you just happy to see me?"

ML: That’s for me to know and you to find out. (Major Longfellow’s profile says, “Eros’s gift to women, on one of his better days.”)

Other survivors joined in several rounds of suggestive chatter, after which zombies breached hospital barricades. All the survivors knuckled down to the task of “killing, healing, and barricading.” The next time HunnyBunches and Longfellow met, they picked up where they had left off. Within a few days, she dared him to meet her in a dark warehouse and “see what happens.”

An enormous number of people, all over the world, play so-called massively multi-user online role-playing games (MMORPGs). These games take place in imaginative virtual spaces, and range from text-based environments to high-quality 3-D graphics with sound. Most of them require substantial resources to run, and so charge users a monthly subscription fee. Some, however, leave more to the imagination by creating a virtual world with words, entirely without graphics. Malton, the setting of Urban Dead, is one such world. Players access Urban Dead through a browser, need install no special software, and pay nothing.

As the romance between HunnyBunches and Longfellow developed, the two real-life players longed for something more than story sex. They agreed to join Second Life to continue their affair. Second Life also charges no fees, but contains simple user-designed graphical avatars. Their relationship continued developing, both in terms of the psychological depth of the characters and the explicit sexuality of their lovemaking. Soon, however, they agreed that Second Life was far too tame. They next moved to a for-pay adult website with explicit, 3-D graphics that did not censor players’ activities.

Throughout all these moves, the two characters retained their original names and personalities from Urban Dead and never stepped outside their original roles. One day, Major Longfellow asked Nurse HunnyBunches, “So, what’s your real name?”

NH: Prudence HunnyBunches.

ML: No, I mean your real-world name. Mine is Harry.

NH: LOL.

ML: Sorry. I couldn’t resist. Could you at least tell me what city you live in?

NH: No can do. I’m happily married. If we exchanged real names, it would be the same as cheating on my wife.

## **TAKE IT OR LEAVE IT**

The modern United States estate tax dates back to the Revenue Act of 1916, which created a tax on inherited wealth. In 1932, Congress extended the tax to gifts, to prevent wealthy individuals from transferring assets during their lifetime to allow their heirs to avoid the estate tax. Finally, adoption of the estate marital deduction came in 1948. Since then, the estate tax and gift tax remained largely unchanged until 2001. During those intervening years Congress mainly focused on closing loopholes and making changes to exemptions and marginal tax rates.

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) provided for yearly easing of the estate and gift tax burden through 2010. The sweeping provisions of EGTRRA entirely eliminated federal estate and gift taxes in 2010. This provision led wealth managers to irreverently advise clients to “throw mama from the train” in 2010. If lawmakers failed to change the law, the estate tax and gift tax would return to 2001 rates in 2011 (an increase in the 2009 top-rate from 45% to 55%, and a decrease in the exemption from \$3.5 million to \$675,000).

Estate taxes have a long history, dating to ancient Rome. They traditionally have a twofold purpose. First, and most apparent, they provide revenue. For example, Congress passed the Revenue Act of 1916 primarily to fund military preparedness after the beginning of the Great War. Second, they prevent plutocracy by reducing the concentration of wealth in the hands of a few.

Estate taxes affect only 1% of all inherited estates, and generated only 1% of annual US tax revenue in the decade before the tax was eliminated in 2010. In a growing controversy over the US estate tax, its opponents are winning. Rhetoric that characterizes the estate tax as a “death tax” that will deprive the middle class of future riches stirs up opposition from those who would in fact benefit from it. The very fact that this controversy holds such a prominent place on the American political stage is in itself a success for tax opponents.

In 2010, despite opposition from those who opposed tax cuts to individuals earning over \$200,000 and families earning over \$250,000 annually, Congress passed a bill to extend the tax cuts through 2012. President Obama signed the bill, which also extended unemployment benefits through 2011.

## **JOB INNERVIEW**

Laura Moscone, Human Resources (HR) Director for a small firm, sits at her desk pondering applications of a set of finalists for an outside sales position. After screening dozens of resumes, she had requested her company's standard scan of social media by a designated HR research staffer who otherwise has no role in the hiring decision. The research staffer gathered publicly available information about applicants using Google, Facebook, LinkedIn and other such sites. This scan generally resulted in a specific set of information, on a form approved by the firm's lawyers and precluding any information "protected" under federal law (for example, gender, age, race/ethnicity, religion, and so forth). Laura uses the information presented in making a final hiring decision. All of the firm's application forms state that the hiring process includes a search of social media and certain other Internet resources.

Laura is considering four finalists she had interviewed. Jack Friendly, the standout applicant for the position, submitted appropriate credentials, presented himself well, and impressed the department manager. The information from the social media search on Jack, however, worries Laura. The researcher noted that Jack's Facebook profile picture is sexually suggestive and his wall contains posts regarding a recent drunken evening at a local ball game and a subsequent arrest for drunk driving. Other entries, clearly posted during working hours at Jack's current place of employment, suggest time taken from that job for social internet and non-work related activity. Google also revealed Jack's postings on his blog complaining about his current employer.

Laura's company requires collection of Internet information in all job searches. Laura knows that if she did not have the Internet information she would definitely offer the job to Jack. She wonders about the ethics of using information gained from sources that, though admittedly readily available, the candidate may have assumed to be private.

## **OUT OF AFRICA**

In the first four months of 2011, over 30,000 Tunisian refugees arrived on the island of Lampedusa, Italy's southernmost point. Lampedusa, with a population of 6000, is 70 miles from Tunisia and 127 miles from Sicily. Following the outbreak of the Libyan Civil War a few weeks later, thousands of Libyan refugees escaped to Italy. The number of refugees continued to swell as refugees from Somalia, Ethiopia, Egypt, and Eritrea joined other African refugees making their way to Italy. Under European Union law, the country where refugees first arrive is required to administer the asylum process. Italy, overwhelmed by the deluge of refugees and its own high unemployment rate, asked for help from the other 26 EU countries, particularly in resettling refugees who have family members in other EU countries. EU member states responded that Italy had the resources and the responsibility to deal with the crisis on its own.

In recent years, tensions over struggling economies, religious differences, and cultural assimilation have undermined European willingness to accept refugees. Many countries feared that giving shelter to refugees would only encourage illegal immigration, which in turn would take jobs away from citizens and stress existing social, medical, housing, and educational services. The 1997 Schengen Agreement guarantees free movement of people across European Union borders. Although 25 EU members have agreed to this guarantee, few have honored it, thus preventing immigration. The 2001 European Union Council Directive 2001/55/EC set standards for distributing the burdens and consequences of mass immigration among EU members. However, a majority of member states oppose the Directive and have prevented its activation.

On 5 April 2011 Italy issued six-month temporary residency papers and travel permits, granting 25,000 Tunisian refugees the right to travel to EU countries. In response, several countries asked the European Commission to denounce Italy's actions. Germany, Belgium, France, the Netherlands, Austria, and other countries set up border checkpoints to curtail immigration. France reduced the number of residency slots granted to foreigners by 10%.

Many Tunisian refugees wanted to go to France, in particular. Tunisia was a French colony until 1956, and many refugees speak French. During the 1960's manufacturing boom, France encouraged migration of workers from Northern Africa, despite stricter laws restricting immigration by former African colonials. The 1976 Regroupement Familial policy allowed foreign workers' families to join them in France. Consequently, many refugees have relatives in France. France is also attractive to refugees, as French law confers citizenship on all children born in France. Access to education and health care is not denied to even those who are in France illegally.

On 17 April, French riot police turned back scores of Tunisian refugees at the French-Italian border, preventing 10 trains from crossing the border, and closing ancient footpaths between France and Italy. French officials insisted they were not trying to undermine the Schengen Agreement, but responding to threats to public order.

Romania offered to resettle 200 Tunisian immigrants from Italy, and Germany ultimately finally agreed to host 100. The combined total represents only about 1% of the 30,000 refugees that arrived in Italy by mid-April. By mid-May, nine other countries, including the United States, offered to accept an additional 600. France eventually relented and agreed to take in some refugees. It stipulated, however, that it would host only those with the resources to live in France without the need for employment or financial assistance, in effect ruling out accepting any of the refugees.

## **FILM FLAM**

In April 2011, bills introduced in the Minnesota House and Senate, if passed, would outlaw making any unauthorized video or audio recording inside an animal facility. The bills would also make it a crime to possess such recordings. A first offense counts as a gross misdemeanor and subsequent offenses as felonies. The bills cover such facilities as hatcheries, kennels, livestock operations, and research facilities.

According to the 8 April 2011 Star Tribune of Minneapolis, Republican State Senator Doug Magnus, who is one of the main sponsors of the Senate version of the bill, described the bill as “aimed at people who are harassing and sabotaging these operations”. He insisted, “These people who go undercover aren’t being truthful about what they’re doing.” The same paper reports Daryn McBeth, President of the Minnesota Agri-Growth Council, as saying “We think it would be an important deterrent tool in our toolbox against trespassers. You’ve had these videos shot by fraudulently hired employees, that kind of thing.”

According to the 15 May 2011 High Plains Midwest AG Journal, an investigator from the Humane Society filmed workers at a Minnesota turkey hatchery tossing sick, injured, or surplus animals into grinding machines while still alive. A spokesperson from the hatchery admitted that, while the industry accepted the practice, it “appeared to violate the company’s animal welfare policies.” Such images as these have often inflamed animal rights activists into protests, boycotts, or even violence.

Critics of the proposed Minnesota legislation fear that it will have a chilling effect on whistle-blowers trying to uncover ongoing acts of animal cruelty that would not otherwise come to light. The bill might serve as a shield for the entire agricultural industry.

Florida, Idaho, and Iowa are also considering legislation similar to the Minnesota bills.

## **LAW AND DISORDER**

On 2 May 2011, American special forces unilaterally crossed into the Islamic Republic of Pakistan, a United Nations member country, with the intent of removing Osama bin Laden as leader of the militant Islamist group al-Qaeda. In the subsequent 40-minute ground operation, an American soldier killed bin Laden and military personnel evacuated his body to the North Arabian Sea. In the Resolution on Unilateral US Forces Action in Abbottabad on 2nd May 2011, the Pakistan General Assembly swiftly condemned the attack as “a gross violation of Pakistan’s sovereignty and territorial integrity.” Gerard Powers, Director of Catholic Peacebuilding Studies at the Kroc Institute for International Peace Studies at the University of Notre Dame, later insisted that such violation of sovereignty is “subject to moral review.”

Although the public may never know the exact details of the operation that resulted in bin Laden’s death, American officials have provided enough information about the raid to lead many to believe Mr. bin Laden could have been captured. Although some voices from the European Union, which does not sanction capital punishment, have tepidly condemned the killing, prevailing world opinion has generally come down on the side of the American action. British author N.T. Wright, however, chastised the world for not holding America accountable for the killing of Osama bin Laden. He blamed this state of affairs on American exceptionalism. We have, contends Wright in the 6 May 2011 Pangea Blog, accepted the myth that “the forces of law and order are inefficient...[that] the bad guys are getting away with [their misdeeds and a]... powerful hero [i.e., America] has to act outside the law, under cover, to perform the redemptive violence that will restore order to the embattled community.” Americans themselves often rely on a similar view of their country’s uniqueness to assert immunity to international law.

Another brand of American exceptionalism holds the United States government accountable to a higher standard of conduct. Political observer Michael Moore, speaking as an American to the Daily Mail shortly after the attack lamented, “We’ve lost something of our soul here in this country...[I] believe...in the American justice system, something that separates us from other countries. We say everybody has their day in court, no matter what sort of person, no matter what piece of scum they are. After World War II, we didn’t just go and put a bullet through the head of all the top Nazis, we took them to Nuremberg, we put them on trial.” On the lessons we should have learned from Nuremberg, but didn’t, Glenn Greenwald of salon.com attacks the hypocrisy of America by paraphrasing Benjamin Ferencz, a prosecutor at the Nuremberg Trials. “Nuremberg is so pre-9/11.”

## **LETTER PERFECT**

Jillian Dulnik, a graduating senior, asked her professor and advisor, Dr. Maunders, to provide a letter supporting her application for graduate school at Weiz University. Dr. Maunders, Philosophy Department Chair at Blander University, expressed to Jillian his reluctance to write the letter. As her advisor, he recalled her lack of initiative regarding her career, and he felt that he really did not know her very well. Consulting his grade book, he observed her B/C level work in his classes. He suggested that perhaps she should ask someone who knew her better for the letter. She asked again that he provide the reference, and Dr. Maunders produced the following letter.

To: Graduate Admissions  
Philosophy Department  
Weiz University

From: Dr. Maunders, Chair  
Department of Philosophy  
Blander University

I have been asked to write a letter of reference for Jillian Dulnik, who is applying to your graduate program in philosophy. Ms. Dulnik has been in three classes with me and received acceptable grades in each. Her attendance was satisfactory and her class participation adequate.

I would be happy to provide more information if you need it. I can be reached at 200-300-4000 x999.

Sincerely,  
Ernest Maunders, PhD.

## **PRISON BREAK**

In 1994, the state of Mississippi convicted Jamie Scott, 20, and her sister Gladys, 19, of robbery and sentenced them each to two life terms. The sisters denied any part in the ambush and \$11.00 robbery of two men.

Following a lengthy campaign by supporters from churches, radio stations, newspapers, the Internet, and the NAACP, Governor Haley Barbour considered the issue for over a year and finally, in late December 2010, signed orders suspending the Scott sisters' prison terms. A condition attached to the release required Gladys to donate a kidney to Jamie.

Jamie suffered from diabetes and high blood pressure, and required dialysis three times a week after suffering kidney failure in January 2010. According to the 4 January 2011 St. Louis Post-Dispatch, Jamie Scott's dialysis cost the Mississippi Corrections Department (MCD) about \$200,000 in 2010.

Governor Barbour said he considered the request carefully for a year before making his decision, and granted the request for many reasons: Jamie Scott's declining health, the cost to the state for her health care, the belief that the sisters no longer posed a threat to others, and Gladys Scott's offer to donate a kidney to Jamie. The MCD would not pay for a transplant; however, state officials said they believed the sisters would be eligible for Medicaid.

Jamie and Gladys left prison as free women on 17 January 2011.

An ethics committee of the United Network for Organ Sharing, which administers the organ transplant system in the United States, denounces as coercive organ donation by prisoners in exchange for reduced sentences. The committee asserts that such coercion disproportionately affects the poor and minorities, two groups overrepresented in prison populations and often the victims of a system of arbitrary sentencing. Critics of conditioning release from prison on organ donation argue that requiring organ donation as a condition of prison release constitutes a cruel and unusual punishment that opens the door to abuse of vulnerable prisoners. Opponents also raise concerns about prisoners' health, often compromised due to communicable diseases, poor diet, lack of exercise, and limited access to health care.

## **BUBBLE TROUBLE**

More and more websites now incorporate some form of personalization into their design. Pandora.com allows users to create highly personalized radio stations that play only the music the user likes. Amazon.com shows users books or items that are most likely to fit their interests, based on previous searches. Netflix makes movie suggestions based on the user's past activity and preferences. Google allows users to customize their online news pages. Companies that personalize their websites collect and use a great deal of data about the user's browsing behavior, location, preferences, previous interactions, and other user-specific information. They feed this data into an algorithm that automatically generates content tailored uniquely to the user. After repeated interactions over time, the web site and the user adjust to one another, presumably leading to a more efficient, pleasant, and engaging interchange, thus making the website ever more relevant to the user.

Advertisers, of course, want their ads to be effective. Before the Internet, the content of ads may have targeted certain groups of potential customers, but the nature of the print or broadcast media resulted in most ads being delivered to far more people than were interested in them. Billboard ads selling specialized products assaulted everyone driving on a certain stretch of road; television commercials interrupted everyone watching a program at a certain time; junk mail filled everyone's mailboxes. The logical extreme of non-personalized ads came with the advent of "spam" or unsolicited email ads. Spamming is so cheap that advertisers who use this approach don't care how many millions of people they spam—nor that spam irritates and often offends virtually every recipient—so long as just one or two people respond. In contrast, personalized ads irritate far fewer recipients and have a much higher chance of finding a receptive audience.

But personalization has its potential downside. While it has the obvious benefit of exposing us to things we will most likely find relevant to our interests, it has the side effect of concealing from us things we don't seem to like or haven't actively cared about. In other words, the more "relevant" a website, the less it pushes our horizons beyond the scope of our current interests. Thus, for example, people who have adopted some one-sided political stance may find themselves enclosed within an invisible bubble that isolates them from exposure to various views that could expand their perception and tolerance of alternate opinions.

Eli Pariser, Senior Fellow at the Roosevelt Institute and former executive director of MoveOn.org, has raised these and other issues in his recent book, *The Filter Bubble: What the Internet Is Hiding From You*. In an address to a TED conference (Technology, Entertainment, Design) on March 11, 2011, he said, "When I was growing up in a really rural area in Maine, you know the Internet meant something very different to me. It meant a connection to the world. It meant something that would connect us all together, and I was sure that it was going to be great for democracy and for our society..." But, instead, he finds that if one site after another makes itself highly relevant to us we run the risk of becoming isolated from things that are important, uncomfortable, challenging, or representative of other points of view. Pariser quotes Mark Zuckerberg, founder of Facebook, in explaining to a journalist the importance of news feeds, "A squirrel dying in your front yard may be more relevant to your interests right now than people dying in Africa." Pariser agrees with this, but wonders what implications this has at the societal level, "especially for the people in Africa."

## **TIL DEATH DO US PART**

A standard view of business ethics says that businesses have a contractual responsibility to clients and a fiduciary responsibility to investors. For instance, insurance companies have an obligation to pay all claims filed by beneficiaries, but also to make a profit for investors. Clearly, these two obligations pull insurers in opposite directions: every dollar paid to a beneficiary takes a dollar from an investor. While beneficiaries of life insurance policies are typically not clients, they do reap the benefit when the insurer fulfills its contractual obligation. Insurers aren't required to pay if no one files a claim, so there is little incentive to devote resources to identifying, locating, and paying the beneficiaries of unclaimed life insurance policies. Preliminary investigations by state agencies in Florida and California have raised the question of whether some insurance companies have identified deceased policy holders to whom they may cut off retirement payments, while, at the same time and from the same state-supplied lists, have conveniently overlooked the same dead policy-holders who might have beneficiaries.

The existence of unclaimed insurance policies presents an opportunity for states. States treat such policies as unclaimed property: they publish the names of policyholders on unclaimed property lists, and, after a certain amount of time, whatever remains unclaimed reverts to the state.

In 2009, Verus Financial LLC, a small company in Waterbury, Connecticut, began approaching state governments, offering, for a cut of any take, to seek out insurance companies that failed to pay out on life insurance policies. As of May 2011, Verus had signed up 35 states as clients and was actively looking at over twenty companies.

The Verus website ([verusfinancial.com](http://verusfinancial.com), accessed on 20 May 2011) contains little more than a two-sentence statement of its purpose, short biographical sketches of management personnel, contact information for the public, a login for clients, and a contact email address for whistleblowers.

## **YOU BETCHA**

Despite Shirley Jackson, lotteries have enjoyed a rejuvenation in America over the last half-century. The modern era of state-run lotteries began in 1964 when New Hampshire instituted what is today the oldest lottery in the United States. North Carolina runs the nation's newest lottery, not yet six years old. Only seven US states do not conduct lotteries, although some are considering legislation to join those that do.

In 2004, US lotteries generated \$14.5 billion for public coffers on sales of roughly \$53.2 billion. Proponents often tout lotteries as nothing more than a voluntary tax that, although inefficient to collect, precludes debate on the politically charged issues of need, fairness, and burden. Even so, state-run lotteries rarely escape controversy.

State-run lotteries generate myriad concerns. Some problems, like fraud, can be effectively addressed by adding safeguards that increase transparency. Other problems, such as the potential to exacerbate gambling addiction—even though a link to the lottery has not been demonstrated — generate support for public programs to address such problems.

Still other objections are not so easy to address. For example, data indicate that lotteries act as a regressive tax. Commonly proposed paternalistic remedies to the regressive tax problem raise even thornier questions over the appropriate role of government. Some question whether the government should promote the unrealistic expectation of wealth, a hope, incidentally, that undergirds support for conservative fiscal policies.

The new frontier in lottery legislation and litigation is the privatization of these games of chance. As states struggle with historic budget shortfalls, public officials increasingly propose to sell lottery enterprises to private groups as a way to trade long-term revenues for immediate infusions of cash. Privatizing lotteries mirrors the actions of legislatures that have sold future tobacco settlement payouts for an immediate lump sum. Most problematic for this strategy of selling lottery enterprises is that current federal law seems to forbid the practice.

In the end, it may be legislators' failure to keep faith with constituents over the issue of lotteries that may retard the expansion of lotteries. The diversion of lottery revenues from their intended purposes, burgeoning administration budgets and questionably targeted marketing campaigns represent but a few unkept promises to voters.

## **BRAIN DRAIN**

Physicians have used brain imaging for decades to diagnose brain injuries and disorders. Rapid and continuous advances in neuroscience have resulted in the introduction of new imaging technologies and applications in a number of fields. Nascent innovations bring with them not only the promise to improve lives, but also the threat of abuse.

Representative Goodhart, a conscientious legislator committed to proactively addressing concerns, called together an ad hoc committee to examine the foreseeable applications of brain scans, and to recommend legislation to prevent abuses of the technology. Professionals from science and medicine, education, law enforcement, sociology, and members of the legislator's constituency comprise the committee.

At the committee's first meeting, Dr. Noruen brandished a copy of the 10 September 2010 issue of *Science* magazine. "You should all read about the ground-breaking work of Nico Dosenbach. His research on imaging the process of brain maturity has exciting possibilities for early diagnosis and treatment of autism, schizophrenia, and neurodegenerative disorders. We can evaluate more subtle and complex brain processes, and tailor treatments accordingly. This stuff just makes my day!"

Dr. Fugue added, "In my field of psychology, we are also excited about these advances. We are beginning to understand the processes of memory, emotion, cogitation, decision-making, and language; in short, the essences of personality and identity. We can tell where a child is on the scale of brain development, and determine if the child's brain is maturing normally. It is helpful in treating children with emotional disorders if we are able to determine whether immature behavior is a function of choice or a developmental problem.

Officer Rushmore chimed in, "That same application is just what we hope to be able to use to determine if a young offender should be tried as a juvenile or an adult! There are so many ways brain scans will make our work more efficient."

Ms. Day cautiously broke in. "I'm not a scientist, but, as a mother, I have concerns about many of these uses. Can't taking information from someone's brain in criminal matters become a form of self-incrimination?"

"Actually," began Professor Newby, "The state university is considering requiring brain scans as part of the admission application. If we were able to give applicants, whose brain scans show a lower level of maturity, another year or two before admitting them, it would create a more productive and safer environment for our students."

Mr. Knight cleared his throat and commented, "Like Ms. Day, I don't represent a profession, but as an ordinary citizen, I also have concerns. If brain scans are acceptable for universities to use in the application process, would they also become part of the hiring process? Would parents demand scans of their children to give them a better chance of being accepted into certain colleges, or to ameliorate their supposed social deficiencies? I can see, though, that this technology would be helpful in determining the fitness of custodial parents in a divorce."

"You know," mused Professor Newby, "I can see the possibilities of using brain scans to ascertain if enemy combatants are telling the truth. Sure beats torture."

Representative Goodhart listened attentively, aware that there was a great deal to consider before proposing legislation to prevent abuse of brain scan technologies.