Cass Sunstein
As Homer tells us, when the Olympians come down from the heights to interfere with mere mortals, the consequences can be unpredictable at best and harmful at worst. Thus, I read Lincoln Caplan’s article about Cass Sunstein’s years in the crucible of the regulatory system and his years as head of the Office of Information and Regulatory Affairs (OIRA) with caution (“The Legal Olympian,” January-February, page 43). Sunstein and many other adherents of cost-benefit analysis fail to acknowledge that such analysis is far from objective but is in fact value-driven in its definitions of both costs—which regulated entities generally exaggerate—and benefits—which protect broad populations and future gen-

What would he think (even allowing for differences in construction costs and in other elements of the plan) of the Kennedy School’s 77,000-square-foot expansion and campus reconfiguration—expected to cost three times as much per square foot? The work will rightly be funded entirely by gifts. But it is a lot of money, and there are many competing demands at the school (its campaign goal is $500 million) and elsewhere. That is something for University leaders to think about.

A bit more institutional transparency might help, too. The Kennedy School has described its project’s finances, but that is exceptional. Did the art museums cost $350 million? More? Who knows? House renovation expenses dribble out in the footnotes to the dean’s annual report. The Smith Campus Center and myriad Business School projects are anybody’s guess. More illumination might inhibit excessive capital-project ambitions somewhat. That could be useful for a fortunate community that is, nonetheless, watching expenses; enduring some internal turmoil to restrain employee-benefit costs; and taking overdue steps to fund depreciation for its 25 million square feet of existing facilities—a valuable discipline, but one bound to pinch future academic budgets. Better to build that understanding now, along with all the new buildings on the drawing boards.

—John S. Rosenberg, Editor
operations and are difficult to articulate or measure. Attaching dollar values to lives as a proxy is particularly fraught with ethical pitfalls, leaving little room for equity considerations of education, race, income, (dis)ability, and intelligence. And some of us, like the readers of this magazine, are more able to be “nudged” than others.

In fact, the regulatory process is actually about power, not sweet reason, a process in which large corporations and their lobbyists often prevail. The recent successful pushback of strong regulation of coal ash and CO2 by Big Coal and Big Oil are recent examples. As Sunstein probably learned to his dismay, the White House makes the big decisions. Too bad he wasn’t able to nudge the powerful hard enough, as the admiring of his Olympian intellectual excellence might have wished.

Patricia Bauman '63
Washington, D.C.

Cass Sunstein, author of Why Nudge: The Politics of Liberal Paternalism, stated that his longtime aims for American governance were “to preserve individual freedom and strengthen the welfare of society.” If Sunstein had combined more history and more interaction within the people world and less within the world of theory, he would have recognized the glaring fallacies contained within his nudge approaches to bureaucratic governance.

First, by their nature politicians and government bureaucrats cannot “nudge”; they structurally and instinctively “coerce”—that is, they tax, fine, mandate, ban, or criminalize. Coercive federal nudges now already control everything from medical action. Think banking, healthcare, public accounting, financial-rating services, housing, student loans, K-12 education…the list goes on and on. Only the few largest organizations will ultimately be able to manage their way through the reams of regulation in Sunstein’s highly regulated economy.

The regulatory state is in direct conflict with the individual freedom which Sunstein purports to advocate. A vibrant, growing economy is replaced with stagnant, European-style growth.

John W. Jenkins, M.B.A. ’63
Dallas

While behavioral economists have been busy convincing their more orthodox peers that “we are not the rational self-interest maximizers that conventional economists have long assumed,” private enterprise has been busy exploiting such knowledge to manipulate our behavior for its own gain. Yes, we should be vigilant to ensure that when government nudging is used, it is both transparent and freedom preserving, and we should check to make sure that it achieves its intended societal objectives. We should also encourage continued debate on just what those objectives should be. I conjecture, however, that the greater part of the impassioned concerns expressed by Cass Sunstein’s detractors might be better directed toward the private sector, whose actors surreptitiously use nudging to further their own self-interests, rather than toward the bureaucrats. The constitutional balance of power among the legislative, executive, and judicial branches is upset. The people are left to the mercy of a fourth regulatory branch of government whose rules are murky and remedies are at best costly and unpredictable. Historically the tyranny of the State evolves.

According to the article, Sunstein is an avowed and devoted advocate of the modern regulatory state, yet he fails to realize that more regulations also create an environment for government-sanctioned or government-owned monopolies. The Sherman antitrust legislation has essentially been repealed by industry consolidations nudged and coerced by governmental action. Think banking, healthcare, public accounting, financial-rating services, housing, student loans, K-12 education…the list goes on and on.

The few largest organizations will ultimately be able to manage their way through the reams of regulation in Sunstein’s highly regulated economy.

Gretchen Bostrom
LETTERS

government’s use of nudging to promote the welfare of its citizens.

Stephen Darrow, J.D. ’09
Endicott, NY.

Did you intend the phrase “Defining democracy for the regulatory state” [on the cover] to be oxymoronic, or was it serendipity?

Scott G. Davis ’66, A.M. ’68
Prescott, Ariz.

It is ironic that Cass Sunstein now seeks to push the frontiers of aligning democracy and regulation at the same time that he declines questions about his government service. At OIRA (Office of Information and Regulatory Affairs), Sunstein refused to act on numerous agency environmental rules and public-health proposals authorized by Congress and backed by years of scientific research, cost-benefit analysis, and peer review by expert panels; often instead he sat on such proposals without explanation or comment for months and even years beyond what administrative law and practice required. It is difficult to distinguish his role at OIRA, on behalf of the president of the United States and all Americans, from that of independent regulatory agency appointees famously captive of those they were charged to regulate. This record undermines Sunstein’s standing and suggests he should not be lionized as a pioneer on behalf of the public interest—in theory or in practice.

Andrew Maguire, Ph.D. ’66
Former member of Congress
Ridgewood, N.J.

O happy day! From the heights of Olympus the good Professor Sunstein has turned his gaze upon us here below and (in between bouts of squash) deigned to inform we error-prone, benighted plebs exactly how we should live our lives. What would we do without Big Brothers like Cass?

Martin Comack, A.L.M. ’94
Somerville, Mass.

I suppose it is the duty of a feature on a Harvard professor to glorify him or her. But Lincoln Caplan’s piece on Cass Sunstein was an homage to progressivism itself. While research has diminished the idea of Homo economicus, it is unclear how central bureaucrats have both the incentives and knowledge to improve over the free choices of individuals. Hayek and Mises made clear that calculation of cost-benefit on a grand scale was always impossible, but today’s extreme pace of change exacerbates the problem exponentially.

Caplan dismisses those who have a presumption against so-called “reform” as conspiracy theorists and claims that our “objections are usually wrong.” But the liberal technocratic approach must be viewed as engineering within an ideology that is subject to debate. The specious notions that regulatory expansion should change how one interprets the Constitution and that a purpose of such a founding document is to “subject longstanding practices to critical scrutiny” deny the essence of what a constitution is. FDR’s “Second Bill of Rights” that Sunstein so admires are not founded in freedom but
in fear and constitute provisions to be obtained by coercion. That sounds nothing like the Declaration of Independence.

Andrew Sridhar, M.B.A. ‘10
Redmond, Wash.

The Harvard faculty of every era represent the reactionary establishment, and no one embodies that principle better than Cass Sunstein. His America is a land of moral death with no virtue, no beauty, no charity, and no liberty. Harvard students of our era shouldn’t despair when they survey that landscape, however, because Sunstein has inadvertently given them a gift: a great cause that will summon forth their best talents and require them ever bravely to live. That great cause is the long generational struggle to consign Sunstein’s inhuman regulatory state to its rightful place on the ash heap of history.

Robert J. O’Hara, Ph.D. ‘89
Fitchburg, Mass.

PUBLISHING PROBLEMS
Craig Lambert’s proposal (“The ‘Wild West’ of Academic Publishing,” January-February, page 56) that the ever-increasing share of university library budgets consumed by expensive journals could be decreased by means of “Open Access” journals, with “Article Processing Charges” paid by the authors out of their research funds rather than subscriptions paid for by the libraries, does not differentiate between the natural (and medical) sciences and other areas of research. “Page charges” have long been required by many natural-science journals and have long been paid for from their research grants. But scholars in the humanities and in many areas of the social sciences rarely have research grants to pay for such charges; at least in the humanities, even the most successful scholars win only a few research fellowships during their careers (Guggenheim, National Endowment for the Humanities fellowships, etc.), which provide only salary replacement (at best) for research semesters but no funds for page charges or article-processing fees.

Then again, humanities journals are not the problem: they charge libraries only a few hundred dollars a year for subscriptions, not the thousands or tens of thousands that many scientific and medical journals charge. Perhaps part of the solution should rather be that a larger portion of the overhead charges paid to universities from natural-science or medical grants should be going to the university libraries to pay for the expensive journals that the scientists need.

Paul Guyer ’69, Ph.D. ’74
Nelson professor of humanities and philosophy, Brown University
Providence

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article is cited as being realistic and currently typical. It is further proposed that half of this fee be borne by “the funders of the research.”

All of my academic career was devoted to teaching classics at a college that could not be considered a funder of research. Since retiring in 2003, I have had three articles published in print journals and a fourth accepted. Retirees such as I are not usually supported by funders of research.

By my calculation, had my published work to date appeared in open-access journals of the sort recommended in your article, I would have reached into my own pocket for a total outlay of $17,000. This does not strike me as an equitable solution of a very real problem, especially for the underpaid junior faculty who, as your article attests, have the most at stake.

CLIFF WEBER ’65
PORTLAND, ORE.

CRAIG LAMBERT presents a clear and vivid account of the complex problems facing academic writers and publishers these days. I would like to present a somewhat different angle on academic publishing, from one who is not an academic but writes scholarly books.

When I received my Ph.D. in philosophy from Harvard, I intended to become an academic, with some teaching stints at Brown and Penn. I like to write and almost immediately started doing so—but with the aspiration of doing scholarly books that were accessible to the serious reading public. In the meantime I also helped create a research organization, the Hastings Center, on ethics and medicine, thus moving out of the academic world. My publishing career, with such trade publishers as Macmillan, Scribner’s, and Simon & Schuster, was most immediately started doing so—but not at a pace that would be. If humans can be taught to love dogs and cows, they can be taught to love, respect, and care for their mothers and daughters, too, within a few years or a generation at the most.

Can it be done soon enough? Yes, it can be. If humans can be taught to love dogs and cows, they can be taught to love, respect, and care for their mothers and daughters, too, within a few years or a generation at the most.

I first heard the term “walk-on” when I left graduate school at Harvard to teach at a large public university with more or less semi-professional football and basketball franchises. I was then told that a “walk-on” was just an ordinary student who tried out for and made the team, as opposed to players who had been relentlessly recruited, let in under a special admissions policy, given “athletic scholarships” to pay their expenses, and, by and large, dwelt in an entirely separate subculture at the school.

Some of my colleagues, who had themselves gone to large public universi-
tories, couldn’t understand why “walk-on” was a new term to me. I tried to explain to them that there were schools where the students on every team were “walk-ons”: that is, regular college students who joined a team on just the same terms as others of their classmates wrote for the newspaper or sang in the Glee Club or acted in The Pirates of Penzance for the Gilbert and Sullivan Society. They weren’t recruited, they weren’t brought in on “athletic scholarships,” they were on the same academic and intellectual level as their classmates, and they’d made the team only by succeeding in an open try-out.

I’d been assuming all that was still true at Harvard. Does the writer of the Harvard-Yale piece know something I don’t?

W. C. Dowling, Ph.D. ’75
Professor of English, Rutgers University
New Brunswick, N.J.

Dick Friedman amplifies: Not only are Harvard (and other Ivy) athletes recruited, but they also are courted as aggressively as players in the Big Ten. They have been so coveted since football emerged as a major campus activity at the turn of the twentieth century. The major difference is that the Ivies do not offer athletic scholarships, though of course Ivy student-athletes are eligible for the same financial aid that non-athletes can receive. (A book providing an insightful look into the Ivy recruiting process is Playing the Game, published in 2004 by Chris Lincoln.) For an unrecruited player to make the football team is a tribute to his pluck; for him to crack the starting lineup is exceedingly rare; for him to become All-Ivy, as Scott Peters has, is the longest of long shots.

FAN MAIL
I’ve been meaning to write, honest. Loved the carbon-tax piece (“Time to Tax Carbon,” September–October 2014, page 52) and the predictable letters from superannuated grads going all grumpy about climate change. Learned a ton about Orlando Patterson and current trends in historiography [both, November–December 2014]. Smiled to read that Harry Lewis had actually volunteered to re-enter the realms of deanhood [Brevia, January–February, page 31]. Thank you for all that and more.

But what I need to tell you is how much I’ve loved the football coverage. Dick Friedman is a great acquisition. His articles offer the best accounts on Crimson girdiron fortunes since Percy Haughton bent elbows with the regulars at Cronin’s. Detailed, witty, and discerning. And fair-minded: Yale’s “crashing, slashing, dashing” Mike Varga becomes a worthy Hector to Andrew Fischer’s Achilles.

That’s it. Check’s in the mail.

Conn Nugent ’68, J.D. ’73
Washington, D.C.
the public and, ominously, the federal government, and wealthy donors generally come to the table with specific research objectives in mind and will not pay indirect costs.

But more important, federal funds will support fundamental research that years or decades later may provide the breakthroughs that prove to be transformative. Industry laboratories devoted to foundational research, like AT&T’s storied Bell Laboratories, are distant memories.

So, corporate-sponsored research can generate cash flows for universities, but those funds will not cover the full overhead costs—nor will they, with rare exception, fund fundamental research that will underpin the next breakthroughs. It is a pity the United States is decreasing its support of fundamental life-sciences research while other nations are increasing their investments in what they see as the foundation of future leadership and prosperity in the “Century of Biology.”

David Korn ’54, M.D. ’59
Professor of pathology
Formerly, inaugural vice-provost for research
Cambridge

Editor’s note: A longer version of the preceding letter, with more historical context, appears online.

John Muir
Readers who enjoyed the Vita about John Muir, by Steven Pavlos Holmes (November-December 2014, page 50), might be interested in Nature’s Beloved Son: Rediscovering John Muir’s Botanical Legacy, by Bonnie J. Gisel and Stephen Joseph—a sumptuous, oversize, but not overly expensive, appreciation of the great naturalist and conservationist, published in 2009 by Heyday, founded and led by Malcolm Margolin ’62. For the past 40 years, Heyday, in Berkeley, California, has been publishing extraordinarily beautiful books on California’s nature, history, and culture.

Marty Krasney, M.B.A. ’75
Sausalito, Calif.

Errors and Amplifications
A novice error appears at page 49 of the article on Cass Sunstein. The New Deal provided us with a Securities Act and an Exchange Act and a Securities and Exchange Commission. It did not provide us with a Securities and Exchange Act.

Dan Blatt, LL.B. ’62
Granite Bay, Calif.

Editor’s note: Geologist Thomas M. Cronin, Ph.D. ’77, an adjunct professor at Georgetown University, alerted us to an error in the January-February issue letters section (page 5), in the response to a letter from W.E. Keller. Dinosaurs went extinct about 65 million, not 50 million, years ago (Ma); we regret this editing error and have corrected the text online.

Cronin continues: “One or several periods of Eocene warmth did occur roughly 56-50 Ma, when there were elevated atmospheric CO2 levels. The Paleocene-Eocene Thermal Maximum (about 55.5 Ma) in particular is an intensely studied period of elevated CO2 levels and warm climate.

“What is most important, however, is that the topics raised in these debates—paleoclimate records of past climate, warmth, and elevated CO2 levels—are extremely relevant to the issue of modern climate change.”

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