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LETTER FROM THE EDITOR

Dear Readers,

Welcome to volume 3, issue 2 of the Binghamton Law Quarterly! Our second issue of the spring 2018 semester features various legal topics within the fields of corporate, criminal, and public interest law including articles about Big Tech, hate speech, Blockchain, Title IX, and criminal discovery, among many others. The Quarterly is proud to continue to be an outlet for students interested in the law to write about their topic of choice, and for students of all academic disciplines to learn more about legal issues in the modern world.

The Law Quarterly has been expanding as a publication and organization on campus with the continued help and support of the Philosophy, Politics, and Law department, the Harpur Law Council, and the Pre-Law office. This semester alone, the Quarterly got chartered by the Student Association, co-sponsored an event, and continued to publish new issues with the help of talented student writers, editors, and graphic designers.

This issue, we are honored to include an article about negotiations by Glenn Moss, an accomplished attorney and instructor in Binghamton University's School of Management. We hope to continue the tradition of accepting articles from attorneys in the community and distinguished alumni in the legal field.

For all readers, I welcome you to the content in this issue and hope that you can take away a better understanding of the law and its effects on the world around you. We are always looking for talented writers, editors, graphic designers, and legal enthusiasts to join our team and help contribute to this journal. With the publication of our fourth issue, we are proud of what we have accomplished and excited about the future of the Binghamton Law Quarterly.

Sincerely,

Alexandra Kiosse

Chief Editor

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GET SMART, CONTRACTS?

By Mathew Anekstein

Technological innovations that are commonly discussed and theorized are often met with diatribes concerning the loss of jobs following their implementation, or prophecies likened to the Terminator series, but rarely are seemingly more innocuous ideas given the air-time they should. In the past few months, Wall Street has become enamored of cryptocurrencies such as Bitcoin and Ethereum, which have become practically ubiquitous terms. However, the concept (Blockchain) underlying these cryptocurrencies is less commonly understood, with its possible applications unbeknownst to most. With Blockchain's possibilities expanding seemingly every day, and novel ideas for its application to various industries, it should come as no surprise that even the law is expected to be affected by it. But before the aforementioned fears begin developing in your mind, it must be clarified that this discussion will focus on Blockchain's ability to revolutionize contracts.

These so-called "Smart Contracts" utilize software to automatically process payments and verify the rendering of services or transfer of ownership—all under the scrutiny of the public through Blockchain. Blockchain, at its most basic definition, is a public ledger of activities and transactions. In short, contracts utilizing this technology would allow participants to easily prove the existence of its content in a time-stamped segment of the Blockchain. Overall, this technology would allow for greater ease in upholding contracts and the terms within them.

However, along with this come potential drawbacks—the most glaring of which being that the technology, at least in the foreseeable future, would likely only be applicable to simpler agreements. While repetitive, this idea would likely revolutionize basic transactions, which would allow for increased ease in the creation of simple and secure contracts. However, those involving many conditions may not be affected. For example, in a contract establishing very specific terms, each only satisfied under a plethora of conditions, it would be extremely difficult for the Blockchain to adjust and keep track of all, let alone ensure that they are satisfied. Furthermore, since some contractual issues may be bound by common law established decades ago, and the complicated nature of contract law itself, lawyers should not expect to be replaced just yet. Exemplifying the limitations of Blockchain

in contracts, the Decentralized Autonomous Agency (DAO), a crowd-funded venture capital firm, recently lost approximately 50 million dollars when the mechanisms underlying its crowdfunding software were hacked. While the Blockchain itself was not the target of the attack, the smart contract which utilized it was. The code allowing transactions to occur within the contract was flawed, enabling hackers to steal money from the organization without violating the rules contained within it. As the hack was permitted by the code, it was deemed a legitimate action by officials. This controversial conclusion establishes an inherent drawback of this technology. Since there are no laws that permit the analysis of the intent of code when a smart contract is seemingly breached (as is done for typical contracts), what is written is what stands.

The issue described above relates to a smart contract featuring its code as the sole purveyor of its terms. However, practical solutions do exist, as depicted by a white paper published and produced by Norton Rose Fulbright. While the firm noted the value of Blockchain coupled with a smart contract, especially in the financial sector, it also stressed the importance of listing the following within its code: specific contractual terms, differentiated contracts for each transaction within a multi-step operation, enforceability provisions, and dispute resolution mechanisms. Ultimately, because smart contracts are snippets of code both defined and enforced by blockchain, they are incapable of accounting for unforeseeable circumstances (which typical contracts utilize vague wording to compensate for), and cannot replace legal language.

Before considering whether a contract can be enforced, one must first determine if it is even binding. For this reason, one can determine that most smart contracts, as they exist today, may not meet the requirements necessary to be considered contracts. If the smart contract does not outline the consideration (the tangible goods or services rendered) underlying the transaction, the parties involved instead consent to a program (that outlines the steps taken to monitor the process) rather than the transaction process itself. If the smart contract includes a clause specifying the exact consideration each party will provide in the transaction, the issue can be resolved, and the contract becomes much more likely to be enforced.

Issues of jurisdiction and dispute resolution further complicate smart contract enforceability. As the smart contract would exist on the internet, with the parties potentially across the globe from each other, and an uncertain number of individuals validating the transactions established by it, a lawsuit could take place anywhere on Earth. If a location is determined, the dispute would be

regulated by the laws relevant to the location decided, providing even further difficulty in enforcing the terms of the agreement. The solution to these problems would thus be forum selection clauses (specifically stating the jurisdiction where any disputes would be resolved) and a dispute resolution clause (if the parties would prefer not to be bound by the courts and instead opt for an independent arbitrator).

In conclusion, the jury has not even arrived yet in determining the degree to which Blockchain is applicable to contract law. Some believe it can revolutionize the field, while others are dubious of whether its value outweighs its risk. Regardless, Blockchain is a concept that will remain in the public's attention for quite a while. The only question now is whether the legal world is prepared for it.

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HATE SPEECH AND CHARLOTTESVILLE

By Tara Andryshak

One of the most widely misunderstood aspects of the United States Constitution is also one of the most well-known clauses: freedom of speech. While most people understand that speech is protected under the First Amendment of the Constitution, they do not understand that hate speech is also protected under the First Amendment. Most people assume that when speech is targeted, hurtful, or morally wrong it is unconstitutional and therefore illegal. This misconception is easily seen through social media. After the Charlottesville protests in August 2017, many people took to Twitter or Facebook to declare that the white supremacists should be arrested for their speech alone. However, it has been shown through various Supreme Court cases that hate speech, including symbolic hate speech, is in fact protected and constitutional.

The 1969 Supreme Court Case, Brandenburg v. Ohio, ruled that an Ohio law restricting free speech, even when hateful, was unconstitutional. Clarence Brandenburg, a Ku Klux Klan member, publicly spoke about white supremacism while using offensive racial and religious slurs. He was then arrested for violating an Ohio law that restricted speech promoting violence, sabotage, or crime. Many might agree that this was the moral action to take and that Brandenburg deserved the arrest on account of what he was promoting and his hurtful rhetoric. While both of these reasons can be seen as valid, they did not hold up in the Supreme Court. The court ruled the Ohio law that led to Brandenburg's arrest was unconstitutional and declared that the law considered only whether the speech was directed at inciting lawless actions, not whether there was any real threat of the actions being carried out. Thus, the law restricted freedom of speech, even though his speech could be considered hateful.

A second Supreme Court case worth noting is Tinker v. Des Moines Independent Community School District (1969), where a group of students decided to wear black armbands in protest of the Vietnam War, a form of symbolic protest. The principals of the school, once they heard about the plan, created a policy that would suspend any student who refused to take off their armband. The Supreme Court needed to decide whether prohibiting the wearing of an armband in support of the Vietnam War denied the students their right to freedom of speech. The court ruled that this form of speech was symbolic speech and was in fact protected under the First Amendment. They also ruled that the students did not lose

their constitutional rights when they stepped on school property. Therefore, the school was wrong in taking that right to free speech away from them. The only way the school could have taken away the students' rights to free speech would have been if the armbands disrupted the normal activity of the school, or if they caused any sort of violence. Many people might not have an opinion on this case today because they were not even alive during the Vietnam War; however, if the black armbands were replaced with swastikas, it could create an entirely different reaction. The same rule would apply: swastikas are a form of symbolic speech protected under the First Amendment.

The misconception of what hate speech is stems from a lack of knowledge of cases such as these. It was common after hearing about the events in Charlottesville this past summer to believe that the white-supremacists should have been arrested because their speech and dress were unconstitutional. Many people believe that chanting racial slurs and wearing swastikas could negatively impact people in society, and thus should be deemed illegal. However, the truth is that hate speech, whether it is symbolic or not, is protected and allowed under the First Amendment. The protesters in Charlottesville had just as much of a right to voice their opinions as the counter protesters did. Just because one view might be seen as morally acceptable and the other as despicable does not make a difference, they are both considered constitutional and cannot be taken away.

Can hate speech ever be restricted? There are few cases where speech can be limited per interpretation of the Constitution. "Fighting words," for example, are not protected by the First Amendment. This refers to speech directed at a specific person aimed at creating violence. If someone is speaking in a way that encourages violence, it is unconstitutional. That is not to say that the message itself is unconstitutional, just the fact that it is promoting and instigating violence. In the case of Charlottesville, not only could the white supremacists have been arrested for violence promoting speech, but so could the counter protesters. In a democratic society like ours, everyone is supposed to be equal under, and subjected to, the same law, whether they are a Neo-Nazi, a Jewish person, a Ku Klux Klan member, or a person of color.

Although it is legal to partake in hate speech, that does not make it moral. With that being said nothing can be done in a legal sense to individuals who engage in hate speech, what can be done is efforts to deter these actions. Educating the public, from young students in school to government officials, on equality and acceptance can have a huge impact on stopping hate speech.

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CRIMINAL DISCOVERY REFORM

By Melissa Esposito

The criminal discovery provision is the statute which governs the disclosure of evidence in criminal trials by both the defense and the prosecution. [1] The process for filing a motion of discovery in New York has not been updated since 1979, making it outdated by over 30 years. As the law currently stands, New York's so called "blindfold law" allows criminal prosecutors to withhold evidence against the defendant from defense attorneys until moments before trial, or even until trial. In New York, evidence against the defendant that is uncovered during the discovery process such as witness' names, statements, search warrants and police reports are allowed to be held from the defense until right before trial.[2] This statute makes it incredibly difficult for the defense to judge the strength of the case against their client, as well as form a comprehensive defense.

When the legal defense does not know the extent of the prosecution's evidence against the defendant, it is almost impossible for the defense to advise their client on whether to accept or reject a plea bargain. Seymour James Jr., attorney-in-chief for the Legal Aid Society, concluded that, "If we want a criminal justice system that is fair and equitable, it seems to me that we ought to make sure people are receiving effective counsel."[3] This conclusion is pertinent because in 96% of federal criminal cases, and 94% of state cases, a plea bargain is used to reach a conviction rather than trial. By relying almost entirely on plea bargains for settlement and not having the adequate information to provide counsel to defendants, the "blindfold law" is prone to cause false guilty pleas and wrongful convictions.[4] Additionally, the extent of this problem is not fully understood due to the number of false convictions that go uncorrected because of the sheer cost of funding and the amount of resources needed to exonerate those wrongfully convicted.[5]

Policies that require the prosecution to reveal discovery information to the defense well before trial contribute to more fair and equal trials that are less prone to wrongful convictions. With access to information uncovered during the discovery process, the defense is able to fully prepare for trial and develop their case with full knowledge of what they are going to be up against in court. Under the current provision, evidence that might be "material" to the defense legally must be turned over by the prosecution. However, in

order to obtain this evidence the defense must file motions in court. This is a time consuming process, wasting valuable court resources and increasing court costs.[6] Furthermore, the current provision is vague in its requirements on what must be turned over to the defense, leaving much to the discretion of the prosecution.[7]

A new bill attempting to reform this issue had recently been gaining traction. Put forth by the American Bar Association, this bill proposes to reform the discovery process. This proposal would repeal Criminal Procedure Law Article 240, which allows for the current unfair criminal discovery practices, and would enact Criminal Procedure Law Article 245. The new amendment, Criminal Procedure Law Article 245, would require both the prosecution and defense to disclose evidence from the discovery process early on in the case. The main push back against such a reform is that it could potentially endanger witnesses. However, the new proposal will include a mechanism to withhold or redact evidence that may put a witness in danger and move for a protective order.[8]

Overall, if we want to see a more fair and equitable criminal justice system we should stand in support of this bill and reform the discovery process. This will allow for fairer trials, access to relevant information for the defense, and protection for vulnerable witnesses.

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ARE CAKES FREE SPEECH?

By Max J. Hyams

Disputes over the meaning of the First Amendment have typically focused on when it is constitutional for the government to censor speech. Over the past almost two and a half centuries, the Supreme Court has both promulgated comprehensive tests to determine whether a particular statute passes constitutional muster and enumerated several well-defined categories of speech that are not afforded First Amendment protection. So well known are some of these doctrines that even laypeople allude to "fighting words" and how one cannot "falsely shout fire in a crowded theater" (referencing the now defunct "clear and present danger").[1]

However, when attempting to achieve certain regulatory objectives, the government often utilizes the compulsion of speech—mandating that citizens engage in forms of expression that they might not otherwise partake in— rather than suppression. For instance, the government may issue regulations requiring licensed medical practitioners to obtain informed consent from patients before performing surgical procedures or requiring students at public universities to fund approved extracurricular organizations.[2] But when exactly is the compulsion of speech constitutional? The doctrinal landscape for compelled speech is murky. Until the present day, rather than disseminate a coherent and universal rule for gauging the constitutionality of government compulsions of speech, the Court has delivered a number of disjointed decisions on cases with divergent fact patterns and no apparent connecting principles.

This spring, the Court will have an opportunity to rectify its abstruse compelled speech jurisprudence. In Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission,[3] the Court will determine whether the Colorado Anti-Discrimination Act (CADA) violates the First Amendment—specifically the Free Speech And Free Exercise Clauses—as applied to a baker who refused to bake a custom wedding cake for a gay couple due to his religious objections to same sex marriage. (Only the Free Speech challenge will be addressed in this article).

The petitioner, baker Jack Phillips, argues that the decorations on his cakes are artistic mediums of expression. Consequently, requiring him to bake and decorate a same sex wedding cake is, on Phillips' account, tantamount to forcing him to publicly endorse a viewpoint repellant to his

religious convictions and engage in a sinful act. Furthermore, Phillips maintains that he also declines to bake cakes displaying or endorsing atheism, racism and Halloween symbolism, all of which are anathema to Phillips' devout Christian perspective. Lastly, Phillips professes to have no qualms with baking gay customers any other custom cake so long as his religious mores remain inviolate.

Conversely, respondents—the State of Colorado and couple Charlie Craig and David Mullins—reject Phillips' distinction between the institution of same-sex marriage and gay people, averring that an impediment to the ability of gay couples to marry (or obtain services for a wedding) constitutes an affront to gay people themselves. Furthermore, respondents claim that a decision for the baker would result in a porous framework of public accommodations law, wherein any merchant who engages in a craft that could be construed as entailing creative expression could invoke a contrived ad hoc religious exemption and discriminate against certain groups with legal impunity.

In the case at hand, the threshold question of whether the regulated conduct even constitutes speech may itself be conclusive. The Court has long held that certain forms of expressive conduct qualify as symbolic speech, with some quintessential examples being flag burning and wearing protest buttons. But does the ambit of symbolic speech encompass the sale of cakes? If the Court decides that it does not, then the question of whether CADA impermissibly compels speech would not even need to be addressed because the First Amendment would not be implicated.

There are two tests the Court could employ to determine whether the baker's conduct constitutes symbolic speech. The "inherently expressive test", which originated in Rumsfeld v. FAIR (2006),[4] proclaims that if conduct requires additional explanatory speech beyond the actions taken alone (because the intended message is not obvious enough) then the conduct does not qualify as symbolic speech. This test would strongly militate against a ruling in favor of the baker. Absent an accompanying explanation, third parties would likely not automatically glean a religious message from a refusal to bake a cake. Any number of practical business related rationales could explain a merchant's refusal or inability to sell a product to certain customers. Shorn of surrounding context, the baker's conduct would probably not be regarded as inherently expressive.

On the other hand, the Spence Test,[5] which specifies that to qualify as symbolic speech conduct must both be intended to communicate a message and be (under the circumstances) understood by the intended audience, is more promising for the baker. Clearly the baker's conduct satisfies the first prong of subjective

intent. Moreover, the context-sensitivity of the Spence Test may assist the baker in satisfying the second condition. Informed audiences, privy to the identity of Mullins and Craig, their request, and the religious convictions of the baker, would presumably understand the purpose of the baker's refusal.

It should be noted that the baker's conduct qualifying as symbolic speech would not, by itself, be dispositive. Several variant tests could be employed to ascertain the permissibility of CADA's compulsion of speech. For instance, the Court could assess the risk of misattribution—whether third parties would perceive the wedding cake as a reflection of Phillips' approval of same-sex marriage or just his customers' approval of the institution—or determine whether compelled speech is central, or merely incidental to CADA's operationality.

Evidently, there are a number of dissimilar rulings the Court could promulgate in Masterpiece, and the Court need not construct a universal compelled speech doctrine in order to effectively issue judgment. However, if the Court does decide that the baker's conduct constitutes symbolic speech, and thus First Amendment review is triggered, hopefully the Court establishes a coherent compelled speech rule that unambiguously governs a broad spectrum of cases and provides adequate guidance for lower courts.

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THE QUILL IS MIGHTIER THAN THE TAX

By Kyle Chrismer

Since the inception of the internet, millions of Americans have used this amazing tool to connect with others across all states to buy and sell goods to one another. Collectors, small-time craft makers, and small businesses have utilized the cheap and effective online marketplace to bolster their incomes, sometimes deriving their entire earnings from online transactions. Recently, however, future prospects for these middleclass sellers have taken a turn for the worse. As most people are acutely aware, the FCC's abolishment of Net Neutrality will likely result in service preference for large retailers, leaving behind the little guys who can't pay service providers the new required fees. Now the Supreme Court is being pressured to review and is likely to overturn a landmark decision that will make things increasingly difficult for the common internet seller.

In 1987, Quill Corporation, a mail-order company, challenged the state of North Dakota, claiming that although they made many sales in the state, they felt that they should not be subject to the state's sales tax because they had no physical presence in North Dakota. In 1992 the case made it to the Supreme Court. The case, Quill Corp. v. North Dakota, became a landmark decision with ramifications that continue to pervade all corners of the economy. The Supreme Court decided that if a seller has no "primary nexus", or physical presence, in a state, that state then has no right to collect sales tax from the seller.[1] At the time, this only applied to mail-order companies, which were very prevalent, but it soon came to encompass internet transactions with the advent of the online marketplace via websites like eBay, Amazon, and many others. Up to today, online sellers have been able to sell products across all states, only being obligated to figure out how much they owe in taxes for their own state.

In August of last year, South Dakota set out to end what began in their Northern counterpart by pressuring the Supreme Court to review and overturn the Quill case. After months of stagnation, President Trump declared this March that he is dedicated to the cause of overturning the decision, and has asked the Supreme Court to do so.[2] Why would the government want to overturn this decision so badly? In 2016, online transactions accounted for $394.86 billion, or 11.7%, of the nation's total retail sales. For

comparison, mail- order sales totaled only $35.5 billion dollars in 1992, the year the Quill case was decided.[3] There is clearly a significant amount of tax revenue to be had, certainly in the billions of dollars, if the Supreme Court does what Trump wants. However, many critics say that overturning the decision will have an adverse effect on the economy.

As was previously established, millions of Americans sell items online to bolster their income, and most small businesses have an online portion of their sales. If this decision is overturned, middle class vendors will be required to keep careful track of where all sales take place, calculate the amount of sales tax on each transaction on a by-state basis, and send payment to each state they had at least one transaction in.[4] Not only is this a time consuming and confusing process, it will surely erode profits for small sellers whose profit margins are already low in comparison to large companies with greater resources and economies of scale. Many small vendors may be pushed out of the markets due to decreased income, or simply deterred from selling due to being obligated to conduct new complex tax formulations. Either way, it is a huge win for big companies and big government, while the little guys are stifled once again.

Another possible drawback of overturning the decision is that it will help foreign companies compete with American business. The Quill case only applied to American sellers, so foreign sellers must pay individual state sales taxes, giving an advantage to domestic sellers.[5] An overturning will level the playing field and foster the growth of invasive foreign sellers to siphon money out of the U.S. economy, something Trump has always been vocally against, yet seems to be supporting now.

No matter what the Supreme Court decides when they review the case in April, there will be huge consequences. The fundamental question that remains is: Is it worth snuffing out small business and promoting foreign capital intrusion in order to line the pockets of the government a little more? Only time, and the law, can decide.

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FRANCE READY TO SET AN AGE OF CONSENT

By Dylan Weber

Being one of the only countries in Europe that does not currently have an age of consent, the French government has finally made the move to set one after two high-profile cases made headlines. In the two separate cases, both a 30 year-old man and a 28 year-old man were either acquitted or faced a lesser charge than that of rape.

France has one of the most lenient consent laws in the world, in that as long as sexual intercourse with a minor (age 18) does not involve "violence, coercion, threat or surprise," it is considered "atteinte sexuelle," in which case it is only considered an infraction and not a crime. [1] Heeding advice from numerous medical and legal experts, the French government has now set the age of consent at 15, meaning anyone found having sexual intercourse with a person under the age of 15 could now be tried for rape. Both President Emmanuel Macron and Equality Minister Marlène Schiappa supported the move, which will allow the justice system to now have a clear set of guidelines to follow when cases involving sex with a minor come up. The legislation will be finalized once Parliament approves, and the law will officially go into effect a few weeks after that.

The case in France only reignites the debate on what exactly is the "right" age to set as an age of consent. Though the international average is 16, there remains stark differences globally. Across Europe, the age of consent varies. Belgium, the Netherlands, Spain, and Russia are countries that have set their age of consent to 16, with Greece, Poland, and Sweden setting theirs to 15, and Austria, Germany, Hungary, Italy, and Poland are among the countries that have the bar set at a young 14 years of age.[2]

Across the world, the laws can get fairly puzzling. In a country like Tunisia, unmarried couples have to wait till they reached the ages of 20 to legally engage in sexual intercourse, yet in a country like Yemen sexual intercourse with someone as young as 9 years of age is considered acceptable, so long as there are signs of onset puberty.[3]

Health experts around the world have conceded that teenagers are engaging in sexual activity at younger and younger ages, and as such, it puts policymakers in a difficult spot. Take Britain as

an example. The two major political parties, the Conservative and the Labour Party, as well as the Scottish National Party have all different opinions on the matter, with 10 Downing Street officially denouncing such an idea when it came up in 2013. So despite all the clamoring for change, it may take awhile.

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CORPORATE TAX CUTS: BANE OR BOON FOR THE ECONOMY?

By Matthew Slater

Our government recently passed "The biggest gross tax cuts in American history, cutting over $5.5 trillion in taxes over ten years"1. The comprehensive tax cuts were touted as being beneficial to all Americans and corporations. Though there will most certainly be a negative effect on the national debt, officials claim this will be offset by rapid economic growth covering the initial hit to tax revenue. There is a debate on the overall impact of these tax cuts on the economy. The administration's view is that, with the majority of tax cut dollars going back into corporations, the average American will receive an average of 4000 dollars more in the form of wage increases, bonuses and a lower tax bill.[1] Additionally, the corporate tax cuts will allow the United States to be a more favorable country for companies to do business in now that the corporate tax rates are more in line with the rest of the international community. Finally, a large number of companies have accumulated close to 2.5 trillion dollars in cash reserves in various foreign countries to avoid the tax bill they would have incurred bringing the profits back under the previous tax code.

According to the New York Times, the new tax code will allow "U.S. companies to repatriate cash at reduced rates for a limited time. As a part of the tax reform, repatriation tax rates could be as low as 8%, compared to the 35% companies traditionally pay to repatriate that money."[2] Since the initial announcement of the tax code, many large US companies have announced plans to invest in factories, special bonuses for their workers, as well as large repatriation plans for their overseas cash.

The largest such announcement, by a wide margin, has been by the Cupertino, California based technology company Apple. "Apple said it would invest $30 billion in capital spending in the U.S. over five years that would create more than 20,000 jobs. The total includes a new campus, which initially will house technical support for customers, and $10 billion toward data centers across the country. It also will expand from $1 billion to $5 billion a fund it established last year for investing in advanced manufacturing in the U.S."[3]

Overall, the initial reception of the tax cuts has been mostly positive with the exception of some critical outliers. The undeniable truth is, the

immediate effect of the tax cuts will be (and has been) a boon to the economy in the short run. The anticipation of companies' future profits has been reflected in the significant increase in the stock market since the November election of President Trump. These short-term effects, however, can be misleading. In the past, corporate tax cuts implemented by the Bush (II) administration had mixed effects. Our country's deficit spending will undeniably increase tremendously before the economy can make up the difference in tax revenues. In this article, we will explore contrasting opinions and analysis of the corporate tax cuts and determine whether or not the short-term effects will be indicative of the long-term, with lasting positive impact or eventual recession.

The Heritage Foundation, historically a conservative publication, states that "The expected boost to gross domestic product translates into an increase of about $4,000 to $4,400 per household."[4] This is a very significant increase to an average Americans' income. However, it also states, "Most of the individual tax changes revert to current law before 2025 to meet political constraints and Senate budget rules. Although temporary tax policy is never ideal, the expirations give Congress an incentive to revisit the tax code in the coming years to provide more far-reaching and permanent reform."[5] This is a key aspect of the argument for lasting impact of the tax reform bill. It is quite possible that at some date in the future, when a different administration is in office, that the tax cuts will not be renewed after they expire and the taxes will go back to previous rates. The restrictions on the length of the individual tax cuts put a large responsibility on employers to raise wages significantly over the next decade so that it can be certain the tax overhaul will have benefited the average worker. Should wages increase at a satisfactory rate by the time the changes revert back to the previous tax rates, it will be shown that the cuts did in fact benefit not only corporations and stockholders but also the working class American.

Some sentiment, mainly from Democrats in government, has been negative. The argument raised has been the fear that corporations will use the extra income to reward shareholders and executives while leaving out the common worker. There have been many companies that announced share buyback plans along with raises and bonuses for workers. Congresswoman Nancy Pelosi has stated, regarding the bonuses that have been handed out by many companies to hourly wage earners and salaried employees, that they are "crumbs" compared to the increases in profits the corporations will ultimately receive. Though this statement may be partly true, her comments were generally viewed as an oversight due to

the fact that $1000 is a considerable amount of money to many of the people whom it was given. Regarding the increased deficit, many experts have expressed great fears that the new regulations will have an adverse effect on our nation's debt for years. On one hand, the revenue collected by the treasury will decrease, increasing the budget deficit. With the federal reserve poised to raise interest rates another three times this year and beyond to slow inflation, the cost of maintaining the growing deficit will increase exponentially. Normally, for a country without such a large debt, this would not be a big issue. Our country is unique in that our payments to service debt totaled over $450 billion in 2017 and are not likely to go down anytime soon. It is likely that an increase in taxes in the near future will be necessary to help pay for the rising debt costs.

While the Trump administration touts the recent rise in the stock market when providing evidence of an improving economy, the majority of the population does not have significant holdings in the stock market. Around 54%[6] of the population does own some form of stocks or investments, but 84%[7] of the stock market value is held by households with net worths in the top 10% of Americans. This means that the majority of recent gains in the stock market, as well as future share buybacks, will ultimately add to a small fraction of households' wealth. The only way the positive effects of the tax cut can be felt by the majority of Americans will be in the form of significant wage increases. Wage growth has been generally stagnant for the past few decades. As stated by an article in the Harvard Business Review, "Since the early 1970s, the hourly inflation-adjusted wages received by the typical worker have barely risen, growing only 0.2% per year. In other words, though the economy has been growing, the primary way most people benefit from that growth has almost completely stalled."[8] The good news is wages have been trending upward in recent months. Furthermore, inflation has started to reach the target rates that the Federal Reserve has deemed healthy for the economy. Only time will tell if the tax cuts will achieve their intended goal of raising the incomes and wealth of all Americans and not just the ones at the very top.

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TITLE IX IN TODAY'S WORLD

By Cathrena Collins

Since the inception of the United States, the fight for women's rights has been an ongoing battle and while legislative gains have been made it is a fight that is long from over. One victory has been the passage of Title IX, which falls under the Education Amendments of 1972. Title IX states "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."[1] In other words, all people are entitled to the same opportunities for education that is provided by the federal government.

In 1972, the year of Title IX's passing, a female and male education were grossly unequal seeing as public institutions held policies through which they placed a higher admission standard on women than men.[2] Additionally, some public universities would not admit women to programs if they were married, women were less likely to receive financial aid, and often honor societies were reserved for men only.[3] Therefore, a piece of legislation was vital in order to lessen the education gap between men and women. Title IX, while, a well intentioned piece of legislation possesses vague wording which ultimately prevents it from achieving its potential in lessening the gender education gap in America.

Unfortunately, since Title IX's start, little enforcement has occurred. Due to this statute involving federally funded activity it is the responsibility of the federal agencies who provide education funding to enforce it.[4] Instead of federal agencies taking action, the demand for change and enforcement of Title IX arose from the relentless flow of lawsuits filed by women's groups demanding more active enforcement.[5] In the forty-six years since Title IX has passed, there have been significant improvements, many more women attend college and continue on to graduate studies, there are honor societies and clubs for both men and women to participate in and overall women have many more educational opportunities.

This year, other topics regarding gender inequality have been brought to the attention of the media and global society. Perhaps most prominent is the epidemic of sexual harassment and assault coming to light at an alarmingly high rate in the United States. This issue which has always existed

is only recently being discussed on a mass scale and it often goes overlooked that Title IX covers the protection of sexual assault victims by ensuring them a safe and adequate learning environment. In addition, Title IX guarantees a safe learning environment for individuals and provides resources to victims of sexual abuse, regardless of criminal charges being filed. This provision is relevant in the case of Jane Doe (later disclosed as Erica Kinsman) v. Jameis Winston in which Kinsman claims that Winston had raped her. Both Winston and Kinsman were students at Florida State University and after minimal investigation, Winston was declared innocent and no punishments or repercussions were pursued. Upon this ruling, Kinsman filed a Title IX suit against her university alleging that she felt unsafe in her learning environment. Ultimately, Florida State University and Kinsman ended up settling out of court but nevertheless, the more intricate workings of Title IX are exposed in this instance.

As previously noted, Title IX is intended to secure equal educational opportunities for both men and women, including a safe learning environment. Due to the vagueness of this legislation, it often up to interpretation exactly what a "safe learning environment" consists of. As seen in the Kinsmen v. Florida State University case Kinsmen felt her learning environment was unsafe and unequal as compared to the other students of Florida State University and in particular her alleged abuser Jameis Winston. While Winston was cleared of all criminal charges, Title IX states that resources must be provided to victims regardless of criminal charges. Ultimately this ruling was not enforced and Kinsmen simply received a settlement from the university because the lack of criteria in Title IX concerning a safe environment makes lawsuits difficult to prove.

Overall, the intention of Title IX is sincere, aiming to better equality for all people. Receiving an adequate education can lessen the gender divide that exists in this nation. While this piece of legislation possesses vague wording and does not always get the intended result it nevertheless is benefiting society.

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BIG TECH, AMAZON, AND WASHINGTON LOBBYING

By Adam Baker

Technology companies are increasingly becoming the subject of scrutiny for their role in politics, society, and the economy. This scrutiny is not unjustified as companies, especially Amazon, spread from their original businesses into massive multinational conglomerates. For much of the early 2000s, they escaped this due to their relatively small size and low levels of disruption. As they grew and took on more roles, these companies found success in adjacent sectors and began impacting brick-and-mortar stores. In fact, as Amazon has grown it has shown just how many things it can do extremely well driving many competitors to bankruptcy. This success brought a lot of attention to it and it has spent the last few years fighting regulation through lobbying and an aggressive public relations campaign that it is not a job killer, but a creator.

This has taken a few forms that the reader is likely already aware of but may not realize their intent. Amazon has hosted several job fairs over the last few years, but the most eye catching one has to be the one from last August that promised to hire 50,000 people in a single day. This was nationally publicized and plastered on the front pages of business sections of newspapers. Some of the coverage read exactly like a help wanted ad, complete with qualifications and responsibilities.[1] These large and eye catching numbers have likely helped enforce the idea that Amazon is not a job killer, but a creator. Another is their HQ2 project that has seen municipalities and cities vie for 50,000 high paying tech jobs, also well publicized.[2]

What does this have to do with lobbying? Nothing, it is only to help distract the public from the lobbying efforts these companies have quietly ramped up in Washington on issues as wide ranging as FAA regulations to DOD contracts. It has paid off spectacularly. For years, the dream has been a second tax holiday that would allow US companies to repatriate foreign profits to the US at a low tax rate. The new tax code signed into law last year does so much more. It established an automatic repatriation scheme that taxes foreign profits at 10% which can have other nations previous taxes deducted from it. If that somehow does not wipe out the entire bill, the company can pay it over several years. The estimated savings from this is over $500 billion. The entire lobbying bill for the tech industry in 2017 is thought to have

been a record setting $50 million.[3]

Not everything goes tech's way. What is thought to have been Amazon's incubus for expanding its influence was the quick regulatory demise of the drone delivery scheme. In 2013, the FAA put in place rules that ended the hypothetical project and, from 2012 to 2014, the number of issues that Amazon lobbied exploded from 8 to 18.[4] This minor and early loss shocked Amazon into action and since 2014 the year-over-year growth in lobbying expenses has not slowed, growing 100% annually.[5]

The moves that Amazon makes in this arena are important to watch closely. They are writing a new lobbying play book for a class of corporation not seen since the Doges of Florence. They are growing their financing arm, providing both short and long-term capital globally to their vendors and partners. Amazon has come to dominate online retail with few if any true competitors outside of niche websites. They pulled this off again with their Amazon Web Services. It has become critical infrastructure as seen when their data centers lost power, several major websites would go down for entire US regions.[6] It now hosts the Department of Defense in a multi-year contract that is valued at nearly a billion dollars. Jeff Bezos wines and dines the elite and powerful in Washington regularly from a recently acquired DC home. He has developed a staggering amount of influence and goodwill in a short period of time.

Amazon has become a beast that will envelop large portions of the economy. That does not mean it can't die or is impervious to regulation. It will, however, likely have a major hand in the shaping of major regulation in both the old and new economies as it extends its grip backward and forward. If the government and the people do not pay close attention to what it does while it waves the carrot of jobs and investment, they could see their institutions and regulations turned to swiss cheese.

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NEGOTIATING: BEYOND SPREADSHEETS AND CONTRACTS

By Glenn Moss, Esq.

Each year, when I teach a course in negotiations as part of the Binghamton University School of Management's PMBA program and on campus to willing undergrads, there are some core concepts and values I share.

I believe these values have always been true in business and non-business settings alike. However, as we become a society and culture where people of different colors, beliefs and experiences share classrooms, offices, subway cars and negotiations, the need to prepare for and conduct negotiations without prejudice and with as much flexibility as possible is key to reaching a successful conclusion.

Knowing there are different paths to closing a business deal, different points of economic value and compromise are key principles. As is knowing that behind the four corners and legal language of every deal, there are human beings who will be implementing and managing these deals and the relationships that sustain them. No contract, no matter how carefully drafted, can encompass all possibilities once the signatures are set and the deal truly comes to life. Understanding that some measure of trust is needed, that the person on the other side of the table will be called upon to listen and understand when you call or send an email, is also important in closing a deal and making it work.

Sometimes, there is no deal to be made on a particular day and time. And that is okay, too. In some cases, the timing, limit of reach, and flexibility won't allow for a deal on a particular day. But perhaps they will another time. Perhaps with a different partner or a different approach.

However, the reality of encountering different people whose experiences yield different perceptions may be more important than any of these other "lessons". I believe each of us brings our lives, our assumptions, and prejudices (no matter how refined and shadowed) into our business interactions. As we meet someone, look at them and hear their voice, a lifetime of experiences and encounters raise their hands and demand our attention. The challenge is to know and accept this but not to allow it to be the determining factor.

Part of this is listening and taking in the words, the body language, and the facial expressions

that carry great, and sometimes silent, weight. Some words and phrases may be part of your everyday life, maybe within a circle of work and non-work friends, but may contain other meanings and be heard differently by the person you have just met.

Each culture and ethnic group carries decades and centuries of meanings and approaches to how words are heard and presented as well as how perceived variances of value and conflict are acknowledged. Every act and word, from leaning forward, to folding your arms, to deference to someone else on a team, can elicit a reaction that, though unstated, may determine how a negotiation proceeds and concludes.

Trying to maintain and accept the realities of differences not only helps you avoid obstacles but also opens new opportunities of connection and trust. Flexibility in deal terms may not be enough if there is no flexibility in understanding these differences. Stepping back from the PowerPoint or the prepared and rehearsed argument and really listening to what you are saying and what the other person is saying can be far more beneficial than the Excel spreadsheet and the practiced rationales you and your colleagues labor over.

Sometimes you may need to take a moment to consider what you have heard and the best way to respond. Take that time to think and to breathe. Think about what the words may mean and the reactions you have just seen. Each deal has its unique parameters. The people involved are sometimes forgotten as a result, which is perilous to your goals. What is left behind on the negotiating table can be more than points and a desired (but not essential) clause. You also leave a sense of your integrity as a person and business partner. Are you someone to trust or to be wary of? Are you someone who will take any advantage or seek a common ground where both sides can stand without bleeding?

In a negotiation, the company or cause you represent is often judged not by the quality of service, product or mission, but by the quality of your honesty and sense of respect given a tough and tense moment. In a time when deepening divides and scorched earth partisanship threaten to irreparably damage our ability to share this nation, perhaps seemingly unrelated steps to counter this can be made at a negotiating table where recognition of shared goals can remind us that each of us is both buyer and seller, producer and consumer, warranting some measure of good faith.

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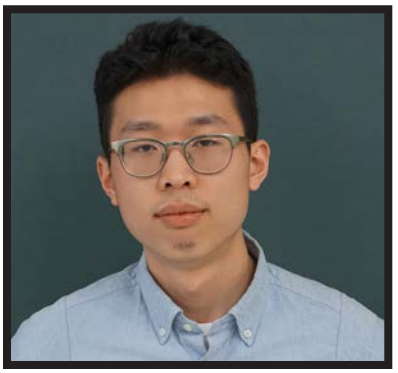

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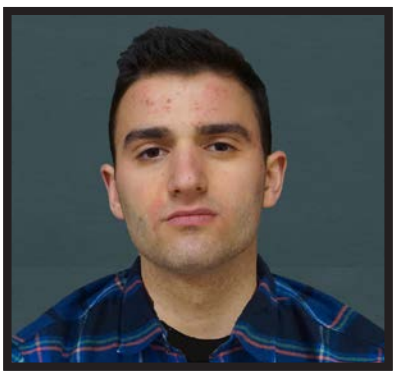

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