

# The Press & Dakotan

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OPINION OTHER VIEWS

## Countering A Nuclear Pakistan

**PITTSBURGH POST-GAZETTE (Sept. 1):** Two Washington think tanks revealed last week that they believe Pakistan may be producing 20 nuclear warheads annually, which could put it third in the world, after the United States and Russia, by 2020.

The research institutions are the Carnegie Endowment for International Peace and the Stimson Center.

With U.S. and international diplomacy having focused primarily on the Iran nuclear-sanctions deal, the Syrian civil war and the Israeli-Palestinian dispute in recent years, the ongoing frosty relationship between India and Pakistan has not received major world attention. Pakistan cancelled last week the latest scheduled round of talks with India, citing India's insistence on discussing the sensitive Kashmir issue. Pakistan remains the only nuclear-armed Muslim majority state.

The United States, for its own reasons, has been reluctant to push either side toward peace. With Pakistan it has been the need to retain that country's cooperation as the U.S. seeks to withdraw its final troops from Afghanistan, where the Taliban maintains a relationship with Pakistan. With India, it has been the need for the United States to improve long-term relations there, particularly in the commercial realm, where more U.S. arms may be sold.

The situation between India and Pakistan is dangerous. Both have nuclear arms. They and Israel are the only three nuclear powers that have not signed the Nuclear Non-Proliferation Treaty. Neither India nor Pakistan is a model of stability. Pakistan's civilians and military continue their internal tug of war for pre-eminence. India's prime minister, Narendra Modi, has a record of anti-Muslim actions and his government's authority is being challenged by various elements.

The problems between these two countries are not insurmountable, but they could benefit from greater U.S. attention.

ABOUT THIS PAGE

The View page provides a forum for open discussion of issues and interests affecting our readers. Initialed editorials represent the opinion of the writer, but not necessarily that of the **PRESS & DAKOTAN**. Bylined columns represent the view of the author. We welcome letters on current topics. Questions regarding the Views page should be directed to Kelly Hertz at kelly.hertz@yankton.net/.

IN HISTORY

**By The Associated Press**  
Today is Thursday, September 3, the 246th day of 2015. There are 119 days left in the year.

**Today's Highlight in History:** On September 3, 1783, representatives of the United States and Britain signed the Treaty of Paris, which officially ended the Revolutionary War.

**On this date:** In 1189, England's King Richard I (the Lion-Hearted) was crowned in Westminster Abbey.

In 1658, Oliver Cromwell, the Lord Protector of England, died in London; he was succeeded by his son, Richard.

In 1868, the Japanese city of Edo was renamed Tokyo.

In 1914, Cardinal Giacomo Della Chiesa became pope; he took the name Benedict XV.

In 1923, the United States and Mexico resumed diplomatic relations.

In 1939, Britain, France, Australia and New Zealand declared war on Germany, two days after the Nazi invasion of Poland.

In 1940, Artie Shaw and his Gramercy Five recorded "Summit Ridge Drive" and "Special Delivery Stomp" for RCA Victor.

In 1951, the television soap opera "Search for Tomorrow" made its debut on CBS.

In 1967, the original version of the television game show "What's My Line?" hosted by John Charles Daly, broadcast its final episode after more than 17 years on CBS.

In 1976, America's Viking 2 lander touched down on Mars to take the first close-up, color photographs of the planet's surface.

In 1989, a Cubana de Aviacion jetliner crashed after takeoff in Havana, killing all 126 aboard and 45 people on the ground.

In 1995, the online auction site eBay was founded in San Jose, California, by Pierre Omidyar under the name "Auction-Web."

**Ten years ago:** President George W. Bush ordered more than 7,000 active duty forces to the Gulf Coast as his administration intensified efforts to rescue Katrina survivors and send aid to the hurricane-ravaged region in the face of criticism it did not act quickly enough. U.S. Chief Jus-

tice William H. Rehnquist died in Arlington, Virginia, at age 80, after more than three decades on the Supreme Court.

**Five years ago:** Defense Secretary Robert Gates toured U.S. bases and war zones in Afghanistan, saying he saw and heard evidence that the American counterinsurgency strategy was taking hold in critical Kandahar province. The Fox network announced that Kara DioGuardi was stepping down as one of the judges on "American Idol," following the departures of Simon Cowell and Ellen DeGeneres.

**One year ago:** President Barack Obama, during a visit to Estonia, harshly condemned Russian aggression in Ukraine as a threat to peace. President Obama also said the United States would not be intimidated by Islamic State militants after the beheading of American journalist Steven Sotloff. A judge sentenced Theodore Wafar, a suburban Detroit man who'd killed an unarmed woman on his porch instead of calling police, to at least 17 years in prison after telling the family of 19-year-old Penisha McBride he would carry "guilt and sorrow forever."

**Today's Birthdays:** "Beetle Bailey" cartoonist Mort Walker is 92. Actress Anne Jackson is 90. Actress Pauline Collins is 75. Rock singer-musician Al Jardine is 73. Actress Valerie Perrine is 72. Rock musician Donald Brewer (Grand Funk Railroad) is 67. Rock guitarist Steve Jones (The Sex Pistols) is 60. Actor Steve Schirripa is 58. Actor Holt McCallany is 51. Rock singer-musician Todd Lewis is 50. Actor Charlie Sheen is 50. Singer Jennifer Paige is 42. Dance-rock musician Redfoo (LMFAO) is 40. Actress Ashley Jones is 39. Actress Nichole Hiltz is 37. Actor Joel Johnstone (TV: "The Astronaut Wives Club") is 37. Actor Nick Wechsler is 37. Rock musician Tomo Milicevic (30 Seconds to Mars) is 36. Actress Christine Woods is 32. Actor Garrett Hedlund is 31. Olympic gold medal snowboarder Shaun White is 29. Hip-hop singer August Alsina is 23.

**Thought for Today:** "In the arts, the critic is the only independent source of information. The rest is advertising." — Pauline Kael, American movie critic (1919-2001).

FROM THE BIBLE

*And He said to them, "Take care, and be on your guard against all covetousness, for one's life does not consist in the abundance of his possessions." Luke 12:15. Portals of Prayer, Concordia Publishing House, St. Louis.*

LETTERS TO THE EDITOR

A Terrific Parade

**Riverboat Days Parade Committee (Wayne and Jolene Williamson, Doug and Katie Feimer, Joy Ellis, Jeff and Connie Hines, Dale Maki, Leah Merkwon, Curtis and Renae Brooks, Adam and Abby Goeken, Jon Zavadiil, Jim Chesley, Andy and Jen Holst, and Kevin Watt.)**

The 2015 Riverboat Days Parade theme was "Red, White & Blue. We Salute You." We had 143 outstanding entries decorated to match the theme, the parade route was packed and there was an unbelievably great effort made by the people and businesses of the Yankton area. It was the perfect event to honor those that have served and those that are serving this great country.

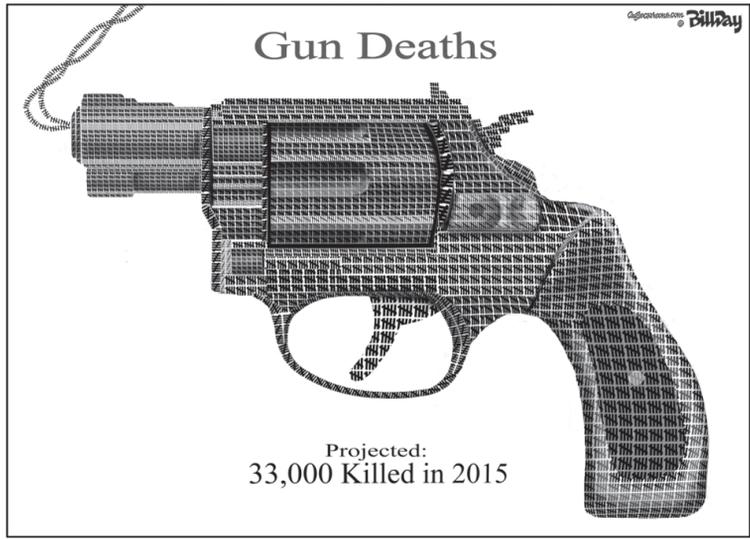
Thank you to all those that helped make the 32nd annual parade a total success. The committee would like to thank the City of Yankton especially the Police, Parks and Street Departments, Kmart, Unclaimed

Freight-Western Office, Abate, Yankton VFW Post 791 Honor Guard and other Honor Guards, Yankton Public School District, Yankton High School Band, parade judges and announcers.

It is rewarding to see Yankton and the surrounding communities come together to sponsor such a great family fun-filled weekend. We would like to thank all that watched and that entered the parade. The 2015 parade awards went to:

- Commercial Division — 1. Future Look Salon 2. Rounding Third Bar 3. Ruppier Tours
- Vehicle Division — 1. Yankton Antique Auto 2. Robert Nissen 3. Denis Fokken
- Non-Profit Division — 1. Yankton Area Chamber of Commerce; 2. Yankton United Way and Volunteer Services; 3. Avera Sacred Heart Hospital; 4. Yankton Elks; 5. B-Battery 1-147th National Guard

A big thanks goes out to all. We all look forward to the 2016 parade and hope to see you there.



Thomas E. Simmons

## The Boundaries Of Double Jeopardy

BY THOMAS E. SIMMONS  
University of South Dakota

Late one spring night a few years back, a party was going on inside an Omaha house. In the front yard, Joshua Ballew stabbed first Marshall Mock, then Tyler Waddell.

Police arrived on the scene. Ballew's right hand was bloody and he fit witnesses' descriptions. He was arrested. Later, a jury convicted him on all of the counts that the State had alleged. Lancaster County District Judge Stephanie Stacy imposed sentence.

On appeal, Ballew argued that being convicted of both first-degree assaults and second-degree assaults for the same stabbings violated his rights against double jeopardy.

The double jeopardy clause can be found in the Fifth Amendment to the United States Constitution. It states: "nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb." A similar provision is found in Nebraska's state constitution.

Criminal offenders can be punished under more than one criminal statute for a single act. Ballew was also convicted and sentenced for separate counts the crime of using a deadly weapon to commit a felony. In addition, he was initially charged with being a habitual criminal. That's a total of seven counts for two stabbings.

Perhaps a more accurate way of describing a criminal conviction is to say that a jury found beyond a reasonable doubt that the individual committed all of the particular elements of a given offense. For an individual convicted of first-degree assault, the jury must find that he intentionally caused serious bodily injury to another person. Thus, the jury must find he intentionally caused an injury, and that the injury was a serious one.

For an individual to be convicted of second-degree assault, there is no requirement that the injury be serious, but there is an additional requirement that jury find that the defendant used a dangerous instrument (such as a gun or a knife) rather than just his fists.



Thomas E. SIMMONS

The majority of the justices of the Nebraska Supreme Court affirmed Ballew's convictions, reasoning that because first-degree and second-degree assault as defined by Nebraska's criminal code require proof of different elements (a serious injury for first degree assault and the use of a dangerous weapon for second degree assault), no double jeopardy violations occurred.

Justice William Connolly dissented. "[A] court violates Nebraska's double jeopardy clause by imposing cumulative punishments if the Legislature has not authorized it," he wrote.

Like many other court decisions, the outcome depended on a close reading of a statute. Accordingly to Justice Connolly, the Nebraska Unicameral contemplated a conviction of second-degree assault only when the defendant has been found not guilty of first-degree assault. "The statute does not permit the fact finder to convict the defendant of both the higher and lesser degree offenses for the same conduct," he reasoned.

A double jeopardy violation arose — Justice Connolly concluded — because of the separation of powers doctrine which allows the courts and the Legislature to act only within their respective spheres of authority. Although the Nebraska Unicameral could — if it wanted to — permit two different assault convictions for a single act, it had not done so clearly.

Where criminal statutes are ambiguous, a rule of lenity precludes an interpretation in the prosecutor's favor. Instead, ambiguities in penal statutes are resolved in the defendant's favor. And, Justice Connolly noted, "the majority cites no case in which an appellate court has upheld convictions of two separate degrees of the same crime for the same act." State v. Ballew now stands for that very proposition.

*Thomas E. Simmons is an assistant professor at the University of South Dakota School of Law in Vermillion. Simmons' views are his own and not those of USD.*

## Coping With Don-Don And The Trumpettes

BY KATHLEEN PARKER

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WASHINGTON — The Trump riddle continues to compel: How has he managed to successfully execute such a mass deception?

He's by no definition a conservative, and yet he continues to plow ahead of all but the other least likely presidential nominee, Ben Carson, who has tied Trump in Iowa. Straight talk? Old hat. Tall and commanding? So is LeBron, let's elect him. Smart and accomplished? Born lucky and benefited from bankruptcy.

Reporters have turned over leaves and pebbles in search of clues, even recently interviewing faculty at Trump's alma mater, the Wharton School. While demurring on Trump's politics, professors commended his marketing skills — short sentences, simple ideas, control of the conversation and, therefore, the media.

Marketing, after all, is a system of deceptions organized around a product or idea, in this case Trump to conservatives who either aren't really conservative or are willingly seduced because, oh, it just feels so good to hear one's innermost thoughts expressed so virulently.

Into this category falls Trump's recent tirade against Huma Abedin, known as Hillary Clinton's closest adviser and even better as Anthony Weiner's wife. Trump liberated his inner Chris Rock, calling Weiner "a perv" and mock typing Weiner's infamous tweets.

As his audience guffawed, Trump questioned the likelihood of Weiner's not being privy to classified State Department information via his wife. Now that's funny. Trump doesn't care what state secrets Weiner knows. Trump wants people to associate the "perv" with Hillary Clinton.

Similarly, he wants to associate murderous illegal immigrants with Jeb Bush. A recent Trump campaign video challenging Bush's immigration comment that people come here illegally as an "act of love" (to find work to support their families) features three grisly hombies in the U.S. illegally who have been charged with murder. One has been convicted.

"Love?" the text reads. "Forget love. It's time to get tough!"

Genius. Trump is a human handler extraordinaire — the jet-set equivalent of the black-hatted fellow who wheeled his cart into tumbleweed towns. He doesn't just sell snake oil. He milks the venom from the gathering throng of willing believers, then bottles it up and sells it right back to them. Delicious with raw meat.

There's something curious about this crowd,

however. Trump's fans aren't just pokes looking for entertainment. They also include many well-known conservative purists. How does a staunchly pro-life advocate support a man who was recently pro-choice and who has said, albeit when asked, that his sister, a judge who ruled in favor of partial-birth abortion, would make a "phenomenal" Supreme Court justice?

Much of this puzzling support comes from conservative talk radio. As BuzzFeed posted recently, "You can almost listen to pro-Trump news all day."

When answers seem elusive — and overturned pebbles reveal only dirt and worm trails — we fall back on clichés, one of which seems especially apt today: Follow the money.

In Trump's own words from an interview with the Wall Street Journal, "When you give [money], they do whatever the hell you want them to do."

And, in the GOP debate: "With Hillary Clinton, I said be at my wedding and she came to my wedding. You know why? She didn't have a choice because I gave ... to a foundation."

Perhaps it's time to award Trump the title he deserves — Don Donald Trump, or just Don-Don for short. And then one must ask, who else owes him?

Fans boast that Trump is so rich, he'll never be beholden to anyone. Maybe. But just as important, who is beholden to him? Other politicians? Members of the media? Insiders whisper that some media folks have received free memberships to Trump's Palm Beach club, Mar-a-Lago. Such a gift doesn't necessarily buy favorable coverage, but one wouldn't be silly for thinking so.

Meanwhile, Trump's kerfuffle with Fox News' Megyn Kelly seems in retrospect almost to have been manufactured. First, Kelly asks a legitimate question about Trump's intemperate remarks about women; he attacks; she goes on vacation and returns; he attacks again. *Ratings! Polls!* Now Fox News hosts are urging, as if reading from a script, that Trump focus on the issues — because he's sooo great on the issues — and leave our Megyn alone.

Trump knows he has the world over a barrel. His opponents fear him because he gave them money. His party fears him because he might run as an Independent. We should all fear a presidential candidate who perfumes the air with red meat and is prepared to collect on his debts.

It's time for Trump's fellow candidates to forget love — and get tough.

*Kathleen Parker's email address is kathleen-parker@washpost.com.*



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