BRING BACK THE GUSTO!

BY DAVID GESSNER

WE HAVE GROWN used to the power of advertising to strip words of their meaning, beauty, and power. But of all the words that have been denuded in the long history of that industry, none may have been so completely and thoroughly gutted as "gusto." Celebrated by the essayist William Hazlitt in 1816 as one of the highest qualities of art – "Gusto in art is power or passion defining any object," wrote Hazlitt – the word remains in most of our minds thanks to an almost extinct brand of beer called Schlitz. How can Hazlitt's prose compare with this immortal copy: "You only go around once in life, so you have to grab for all the gusto you can get!"

The Oxford English Dictionary defines gusto (derived from the Latin word *gustus*, "taste") as "individual or particular liking, relish, or fondness" and "keen relish or enjoyment displayed in speech or action; zest." Closer to Hazlitt's is the third meaning: "Style in which a work is executed; artistic style." But Hazlitt, a great imaginative thinker who spent his life wearing ill-fitting journalist's clothes, saw it as much more than that.

Gusto was the artistic ability to re-create life in paintings and words so that it felt like more than a re-creation. Titian, for instance, painted the flesh on a human arm so that "the blood circulates here and there, and blue veins just appear." (Hazlitt found a similarly lifelike quality in Shakespeare, Rabelais, and Michelangelo.) By contrast Vandyke's flesh color, "though it has great truth and purity, wants gusto.... It is a smooth surface, not a warm, moving mass. It is painted without passion, with indifference." Without gusto.

Despite Hazlitt's championing, the word never really caught on. Even Keats, who believed that Hazlitt himself was "one of the great spirits of the age" and whose own odes were influenced by Hazlitt's thinking on the imagination, recoiled slightly at the word. Though Keats originally picked up the word from Hazlitt, he preferred the sharper "intensity." In contrast gusto is undeniably round and unforgivably bouncy. Still, gusto remained in general use. It was a fine, functional word, a word that might have bumbled pleasantly along for centuries. But this was not gusto's fate.

Enter the Schlitz Brewing Company. Founded in the 1800s, Schlitz was by 1952 the world's largest brewer of beer, producing, according to beer historian Jerry Apps of the University of Wisconsin, almost 6.5 million barrels a year. For years the huge Midwestern brewers had had trouble fighting down insurrections from local breweries, which made fresher stuff, but it was the introduction of a single radical innovation, the can, that allowed beer to be shipped cheaply and that finally crushed the hopes of the local microbreweries.

Advertising was another weapon of the international breweries and few wielded it as effectively as Schlitz. Though there were occasional failures – like 1957's ill-fated "Schlitzerland" campaign in which the company pushed a Bavarian village theme, complete with clog-wearing waitresses – throughout the '50s and '60s Schlitz fought Anheuser-Busch for the title of king of the beer world. In 1895 Schlitz introduced one of the most famous slogans in advertising history: "The beer that made Milwaukee famous." Almost 70 years later, they would turn their attention to Hazlitt's favorite word.

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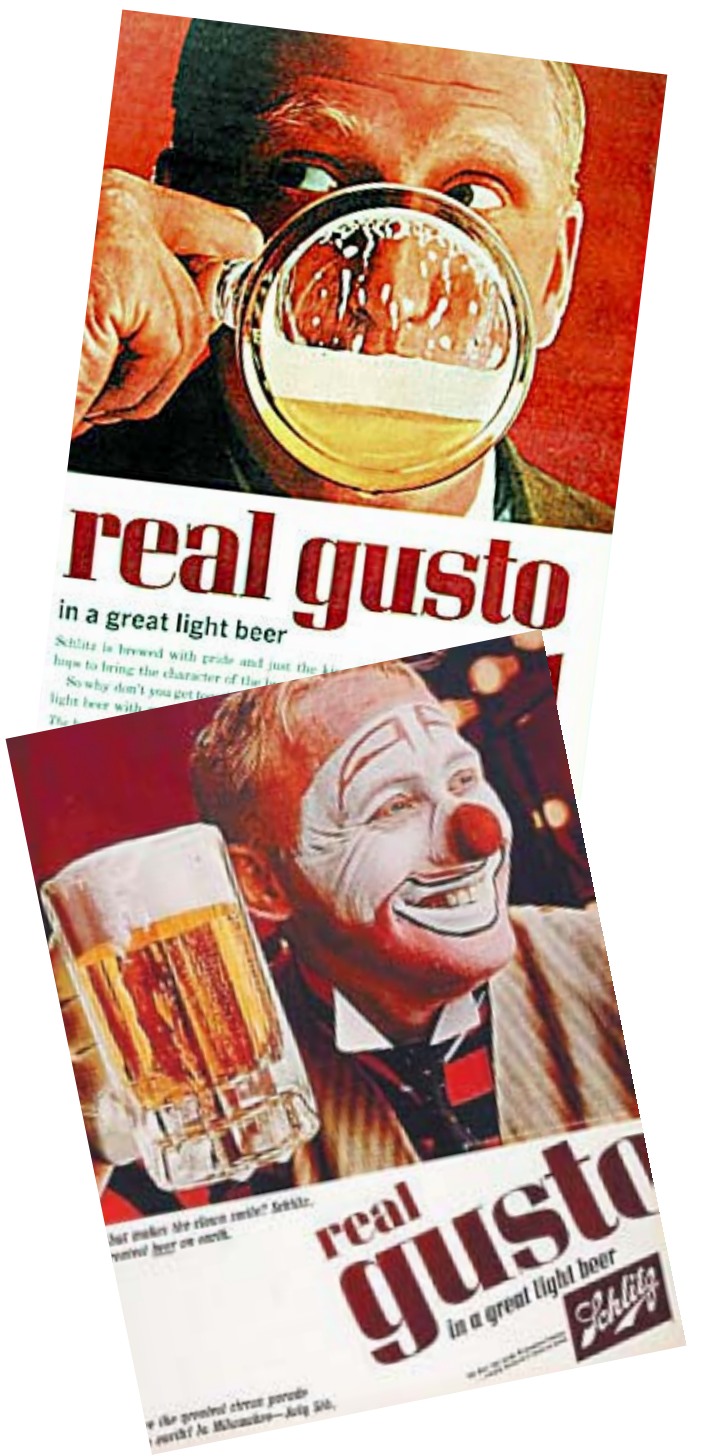
Why let a defunct beer company ruin one of the language's greatest words?



The brewer's first use of the word occurred in 1963 and was fairly innocuous: Inscribed on serving trays, below the familiar brand name with its elaborate S and slashing tail of a Z, was the sentence "real gusto in a great light beer." But the '60s were the beginning of the great TV age of beer advertising and soon gusto was everywhere. "Grab for all the gusto you can get" was pounded into the national psyche. It was both the word's heyday (never had it been projected so widely) and its downfall (who could ever use it seriously again?).

By 1967 Schlitz had moved on to a new, soon-to-be famous jingle: "There's just one Schlitz, yeah, yeah, nothing else comes near/When you're out of Schlitz, you're out of beer." The old phrase – "real gusto in a great light beer" – was tacked on to the end of the song, but the truth was that the gusto days were over. Soon after, the brewery adopted something called ABF, accelerated batch fermentation, which allowed them to brew more beer more quickly and which soon enough would be adopted by all other giant breweries. But it turned out that the Schlitz faithful didn't like the change in taste: According to Apps, "the rumor was the beer was still 'green,' not properly aged." Some suggested the new beer lacked gusto. Worse, Schlitz appeared to be compromising quality in order to increase profits.

Although the "gusto" campaign ended almost 40 years ago, the damage to the word was done. There may be some who are able to stick "gusto" into a sentence without thinking beer, but certainly no one who was born before 1960. Hazlitt – who praised the word's "hard and masculine qualities" – might at least have consoled himself that the word had not been effeminated. Quite the opposite in fact: By being so associated with a popular cheap beer, it had become "manly" and "hearty" to the point of caricature.

But I, for one, haven't given up on gusto. As an essayist, I feel attached to it both because of Hazlitt's attachment and because I feel it is a quality lacking in today's essays, which seem tame to me compared to Hazlitt himself writing on, say, the pleasures of hating. And as a son, I feel attached because growing up my father was passionately loyal to his brand of beer: Schlitz.

I can still see the maroon word Schlitz slashing at a jaunty angle across the greyish cans and can remember the clicking noise followed by the slight tearing when he opened the then "new" pull tabs. My own first sips of beer came from cans of Schlitz before I was a teenager when I went on fishing trips on Cape Cod Bay with my father and his buddies. Hydration was not a big priority in those days, and if the child was thirsty and warm beer was the only thing to sip then so be it. (My father and his fellow Schlitz drinkers were relative environmentalists since they filled their empty cans with seawater and sunk them to the sea floor – unlike most of the boaters, who just left them floating on the ocean's surface.) Years later, when I moved back to my hometown of Worcester, I was strangely comforted when I discovered, not a hundred yards down the road from my apartment, a liquor store – with a sign sporting a 10-foot-tall photo of a can of Schlitz.

My father is 10 years dead now, however, and I have long moved out from under the shadow of Schlitz. My hopes are that the word gusto can do the same. It may not rise to Hazlittian glory, but maybe enough time has passed for it to at least become de-Schlitzified. I believe it is a word worth saving since it gets at something, in Hazlitt's sense, that often seems missing in both contemporary art and life: sheer passion, intensity, willingness to risk. We want what Emerson wrote of Montaigne's sentences: "If you cut them they will bleed." In short, we want gusto.

Malpractice *Continued from page E1*

According to a 1999 report by the Institute of Medicine, the most recent comprehensive report available, as many as 98,000 patients die of preventable medical mistakes each year. Meanwhile, physicians complain about the damages to their reputations and psyches of being sued (not to mention ever-rising malpractice premiums), while patients complain about the secrecy engendered by doctors' fear of litigation.

President George W. Bush's proposal to cap pain and suffering awards at $250,000, which is currently stalled in Congress, would not solve these underlying problems. But the advocacy group Common Good – in conjunction with the Harvard School of Public Health – is taking a look at a different reform possibility: throwing the system out entirely, and replacing it with a new kind of special malpractice court.

Their model would replace juries composed of average citizens with an administrative panel presided over by judges with some medical expertise, and would replace the dueling expert witnesses paid by each side with "neutral" experts paid by the court. Instead of rolling the dice in today's system, some injured patients could be automatically reimbursed for lost wages, medical costs, and additional fees without having to prove negligence.

Similar systems have been implemented in several countries, including Sweden and New Zealand. And it has already been discussed here in Massachusetts, where both houses of the state Legislature voted last November to clear the way for a commission to look into the feasibility of a medical malpractice court.

So far, the Common Good project has won endorsements from some 10 university presidents, 11 medical school deans, and 6 current or former heads of health care policy and patient safety organizations, as well as bipartisan political support from players ranging from Senate majority leader (and surgeon) Bill Frist, a Republican, and former House majority leader Newt Gingrich to the left-leaning Progressive Policy Institute. But there is hardly agreement among consumer advocates and legal experts that their ideas are workable, or even desirable. To some critics, many of Common Good's goals could be achieved by reforming – not ending – the current jury-based system. To others, their proposals might end up replacing a random and expensive system with one that is corrupted by politics and presided over by professionals who might be unresponsive to the community's sense of justice.

Philip K. Howard, the Manhattan-based founder of Common Good and the author of "The Death of Common Sense" and "The Collapse of the Common Good," believes that reform is urgently needed to free citizens and government actors from the excessive regulations of a legal system run amok in education and civil justice as well as health care. "The health care system is sick," Howard, who is also a practicing corporate attorney, asserted in a recent interview. "It's increasingly unaffordable and erratic – it is infected with distrust and fear of the legal system, and that exacerbates the problems of cost and quality."

According to Howard, one of the chief problems is that juries must make decisions about "standard of care" (the accepted norm from which a negligent doctor may have deviated), an area about which most jurors know little. And jury decisions apply only on a case-by-case basis. As a result, pain and suffering awards for the same injuries vary widely, while studies show that even "hard" economic damage awards (such as lost wages and medical costs) can differ substantially as well. "There is a sort of lottery aspect to damage awards that is unfair to most plaintiffs," says Howard. "There's no horizontal equity across the line."

Some reformers question whether malpractice juries are really capable of making informed judgments.

As a first step, the Harvard/Common Good project is devising a "schedule" of specific injuries that will automatically be compensated at a particular level, whether or not anyone is found negligent. Dr. Troyen Brennan, professor of Health Policy and Management at Harvard School of Public Health and a member of the project, explains, "We'd be able to say, 'If this happens, we pay, no matter what.'" This, Brennan argues, would make it easier for more victims of malpractice to receive settlements – particularly those with less severe injuries, who go largely uncompensated today.

Such a reform might also address another problem: health professionals' fear of reporting errors that might improve patient safety but that could also be used against them in a lawsuit.

Michelle Mello, associate professor of health policy and law at Harvard School of Public Health, is studying the systems in Scandinavia and New Zealand, where injured patients work with doctors to file claims for compensation free of charge, and all care-providers are required to maintain patient insurance to cover costs of compensation. "Our hope," says Mello, "is that if we create a system that isn't focused on negligence and blaming, and acknowledges that things that go wrong are not the fault of individual doctors but rather of whole systems of care that go awry or aren't well designed, doctors would be more willing to talk about errors and to learn from them."

Not that this candor will necessarily come cheap. An increase in the number of medical errors reported, and compensated, could drive overall malpractice costs up as much as fourfold, according to Harvard's Brennan. But the Common Good/Harvard team sees this as an opportunity to become more efficient in the way we as a society award compensation and more systematic in our decisions about how much of the cost of malpractice should be borne by society and how much by injured patients themselves.

The proposals are not without their critics. Some point out that the group's goals could be accomplished without junking the current jury-based system entirely. "For example," says Catherine Struve, a professor at the University of Pennsylvania law school who has studied malpractice reform, "scheduling damages is something you could easily do within the current civil justice system."

As for jurors' lack of medical expertise, jury advocates say this is precisely their virtue. "The great feature of the jury is that they are not hardened or callous," says Nancy Marder, a professor at Chicago-Kent College of Law who has studied the US jury system. "When the jury is working well, it represents a fair cross-section of the community, which we rely on for common sense judgments. . . . That seems better than relying on an elite group who all have similar training and biases that go along with that training – whether in law school or medical school."

Indeed, even some consumer advocates who are generally predisposed toward reform ask just who will benefit most from a system like the one promoted by Common Good – patients, or doctors and insurers?

Barry Boughton, a staff attorney with the consumer advocacy group Public Citizen who recently attended a symposium sponsored by the Common Good/Harvard project, questions the idea that awards to the most severely injured should be reduced in order to compensate more patients. "While I'd like to see more people compensated," says Boughton, "it just seems strange that you'd want to do that at the expense of the most seriously injured. I think their schedule of benefits is really designed to help the insurance companies underwrite the cost of the system by making it more certain."

Professor Charles Silver of the University of Texas School of Law wonders why, when defendants already win 75 to 80 percent of cases, doctors and insurers are so keen to reform the system. "How much better do they think they are going to do? I think what's really going on is that they are trying to capture the judges," says Baker. "Doctors' groups and insurance companies and hospitals and other health care providers who get sued will have very significant interests to lobby the people who appoint judges or to support candidates should there be elections for those positions."

University of Connecticut School of Law professor Tom Baker, author of the forthcoming book "The Medical Malpractice Myth" (Chicago), takes the argument even further. In a recent e-mail, he criticized medical courts as "part of the same 'doctor knows best' approach to malpractice that has produced the error-ridden system that we have today. It's an effort to neutralize malpractice litigation, the institution that deserves almost all the credit for bringing medical malpractice to light."

(While Baker dismisses the idea of an overwhelming malpractice crisis, he does have his own suggestions for reform, including mandatory government-enforced disclosure of medical errors and no-fault compensation for moderate injuries, among other provisions.)

In the end, Common Good's proposals may be valuable simply for the serious debate they prompt. And Howard says the group welcomes the criticism: "We need to be able to respond to questions and arguments against it – to make a compelling case that, one, the current system doesn't work very well, and two, what we are trying to devise has a chance of working hopefully much better, and therefore we should try it out."