



THUNDERER
TIM TEEMAN

Homo not very sapiens

THE FILM *Brokeback Mountain* may well be beautifully acted, powerfully directed and faithfully adapted from E. Annie Proulx's novella. But the one thing it ain't is "radical" or "ground-breaking" as it keeps being hailed. Yes, it has a unique subject — the love affair between two gay ranchhands — but in sketching their tortured relationship it couldn't be more conventional.

In his excellent book *The Celuloid Closet*, the film critic Vito Russo related how gay characters inevitably wound up ridiculed, murdered or unhappy in movies. Only in recent years has that familiar storyline been partially redrawn.

Brokeback Mountain may shift gays centre stage, but their destinies couldn't be more in keeping with Russo's model. Yes, there's a sex scene, but it's brief. The men are happy for a millisecond. This is yet another movie about unhappy, tortured homosexuals.

OK, that's how Proulx wrote it and I'm the last one to argue for "positive images". But whereas her book exists on shelves groaning with every conceivable kind of queer character, *Brokeback Mountain* the movie exists in isolation, with no substantive mainstream gay movies around it. You never count the number of "straight" films. They're just there; five new ones, featuring man-woman stuff, released every week. No doubt with this in mind, in order to get the masses into multiplexes *Brokeback Mountain*'s producers and stars have actually disowned its content: it's a film about love, we are told. It doesn't matter that it's between two men.

Well, yes it does. If you want to sell the film to bigots, tell them the men wind up sad and lonely. They'll like that. Gays are excited not only because Heath Ledger and Jake Gyllenhaal wear jeans so snugly, but also because we are still pathetically grateful for any crumbs from Hollywood's table. We're used to so little else it feels like a banquet. The most daring thing about this movie is its nickname, "Bareback Mountain", alluding to gay sex — notably absent in the movie. There's too much whining and not enough shuffling.

Hollywood's real achievement will be to make gay movies, or movies featuring gays, with every shade of homo vividly drawn. We'll know we've gotten somewhere when, in the last reel, the man gets his man and they share a lusty, passionate embrace to show we should be happy as well as tragedy.



Health warning: mad policy

Just as the public realises that the NHS needs radical reform, Mr Cameron takes the opposite route



STEPHEN POLLARD

ONE DOESN'T OFTEN learn much about political strategy and health care reform from a horse. But if David Cameron does not know the story of Norton's Coin, he may find it useful.

The horse, trained by an obscure Welsh hill farmer, was entered for the blue riband of horse racing, the Cheltenham Gold Cup, in 1990. Up against the best steeplechasers in the country, not least the odds-on "people's favourite", Desert Orchid, Norton's Coin was "more a candidate for last than first", as the race card put it on the day. Norton's Coin's odds were 100-1. No serious observer expected him even to be placed.

You know what I am about to write: Norton's Coin won. The received wisdom was wrong.

The received political wisdom is that the Conservative Party's supposed hostility to the NHS is its Achilles' heel and the sooner it is neutralised as an issue by Mr Cameron, the better. Thus his speech yesterday, in which he expanded on his weekend advertisement, which stated that: "We believe in the principles and values of our NHS."

Until yesterday, the Conservative leader had not put a foot wrong. His broad strategy of moving the party —

and, crucially, its appearance — to the centre is the only sensible option. Whatever one thinks of Tony Blair, his strategic genius is indisputable. Labour has won three elections in a row because Mr Blair has taken hold of the centre and pushed the Conservatives away from it. It is easy to sneer at the involvement of Bob Geldof and Zak Goldsmith but no party has ever won in Britain without being seen as centrist. Until Conservatives no longer seem in the eyes of the chattering classes like emissaries from Planet Zarg, the party will forever be doomed.

But that raises a fundamental question: where does the centre lie? The centre ground in the 1950s — Butskellism — was very different from the centre in the 1980s, defined by Thatcherism. It moves as circumstances and voters' views move.

Clearly, from the 1950s, when a cross-party acceptance of the NHS emerged, the NHS was bang in the middle of the political centre. Even the Conservatives' attempts at limited reforms in the late 1980s and 1990s — the internal market — were regarded by many otherwise sensible people as a form of ideological extremism. So it is understandable why the otherwise sensible Mr Cameron is keen to establish that the NHS is, as Margaret Thatcher felt the need to put it, "safe in our hands".

But the centre is moving. Attitudes are changing. For decades, the alibi for the NHS's failings was its supposed underfunding. Now spending is greater even than the sums demanded by those who argued that underfunding was to blame.

The result? The Office for National Statistics found in 2004 that productiv-

ity had fallen by about 1 per cent per year since 1997. And both the Prime Minister's Strategy Unit and the Organisation for Economic Co-operation and Development went further, measuring falling productivity of up to 20 per cent since 1997.

David Cameron's response to the disappearance of billions of pounds into the NHS black hole is to argue for improved management and more fiddling with structures, but to run a mile from questioning the system itself. The Conservative solution is: we'd do it better than they would.

But he is walking away from real re-

Where does he think the money is going to come from to pay for the extras?

form at the moment when its need is at last becoming understood by voters. In a poll for the think tank Reform in February 2004, 69 per cent agreed that "The NHS was the right idea when it was introduced in the 1940s, but Britain has changed and we need a different healthcare system now." Only 40 per cent agreed that: "The Government is right to rule out alternatives to the taxpayer-funded NHS."

In nailing his colours so firmly to an exclusively tax-funded NHS mast, Mr Cameron is making a huge mistake, both politically and for the good of the country. Labour's policy of spending as much money as possible and fiddling with the system is a form of controlled experiment to discover if that is indeed all that is needed. The answer is now becoming clear: it isn't.

For years, those of us who have

argued that it is the very notion of an entirely tax-funded system that is the real problem were dismissed as ideologues and lunatics. Now, with the evidence showing that the NHS cannot deliver even with massive funding, real reform has at last entered the realms of acceptable debate.

That is a huge transformation in the political landscape. Yet just at this moment, Mr Cameron has chosen to cut off all such talk, neutering his attacks on Labour with his "me too" policy, and destroying any prospect of the reforms that might actually give us a system to deliver the best healthcare.

His speech included a litany of what the NHS does not provide. Indeed. But where does he think the money is coming from to pay for the extras? Even Gordon Brown's massive cash injection — which is anyway about to come to an end — isn't enough to cope with today's demands and, as Mr Cameron rightly pointed out, they will be even greater in the future. How much more than Labour is he proposing to tax us to pay for it all?

We have to move to a mixed economy of healthcare funding. On the one hand Mr Cameron complains that we are so far behind the continent and, on the other, he explicitly rules out — indeed, condemns as unBritish — those very mechanisms that have made their resources possible.

Instead of betting the Conservative Party's political fortunes on Desert Orchid — the NHS — he should notice the widely dismissed 100-1 outsider accelerating up on the rails.

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A policy that pretends we can all fly on the cheap is a policy that won't fly



CAMILLA CAVENDISH

WHAT NEXT in the heady scramble for eco-respectability? Will we see John Prescott on a bike? Cherie turning down the thermostat and sporting a woolly jumper? Peter Hain's pioneering solar panels narrowly trumped David Cameron's personal windmill this week (will he get planning permission?) But they cannot disguise that Labour is still flunking the true test of eco-manliness. If Gordon Brown taxed aircraft fuel at the same rate as petrol for cars, he would raise a cool £9 billion for the Exchequer. But the Chancellor, who is merciless towards the most piddling tax evaders, will not bust Britain's biggest tax avoidance scam. He smiles on airlines that pay no VAT, fuel duty or climate-change levy. He wants a new runway at Heathrow and is funding a study to help BAA to get over the pollution hurdles.

The old economic justifications for special treatment are looking threadbare. The air industry is a medium-

sized one whose jobs are heavily subsidised; a fair tax policy would reduce growth but not stifle it. The difficulty of negotiating international tax agreements is real, but not as insurmountable as it is convenient for politicians to pretend. Perhaps this is why a new justification is now doing the rounds in Whitehall: "flight poverty". This is the grinding hardship that could befall people if — horrors — their return trip to Malaga started to reflect again like its real cost in terms of pollution and global warming. Wow. Paying more to get plastered in Prague hardly ranks with Beveridge's five great social evils.

Why is a Labour Government flapping about "fighting poverty", when it could be fighting real poverty? Nine billion pounds — a figure calculated by the former Treasury adviser Brendon Sewill and widely accepted — is serious cash that Government could target at the most needy, not waste in bribes to people used to cheap holidays. Ryanair's revenues last year apparently included almost two million flights that were booked by passengers who never showed up: they'd bought tickets on the off chance, then

Gordon Brown would raise £9 billion if he taxed aircraft fuel the same as petrol for cars

changed their mind. It's hard to argue that such flighty customers would be victimised by a fair tax policy.

Why should such an activity with such serious consequences be so casual, so mindless? Low fares are the new opiate of the masses. We convince ourselves that only a change of scene can refresh our stressed-out lives. We believe that the purest detox entails flying further, staying longer jammed in these tin cans licensed for use on humans. But it is the most toxic detox imaginable. A BAA survey two years ago showed that half the British public are concerned about the local pollution and global warming that flying causes. They think the polluters should pay. But the Government is stuck in an old groove.

Despite the best efforts of airline manufacturers, aircraft are particularly toxic because of something called radiative forcing. While flying to Australia and back generates about the same CO₂ emissions per person as heating, lighting and cooking in an average house for a year, it creates at least three times as much climate damage, according to the Royal Commission on Environmental Pollution.

The Government itself admits that aviation emissions could amount to about a quarter of the UK's total contribution to global warming in 25 years' time, as other industries clean up their act. Between 1990 and 2003 greenhouse gas emissions from British

industry fell in line with the Government's Kyoto targets. But greenhouse gas emissions from air transport rose by more than 85 per cent, according to the Office for National Statistics. Yet ministers are still actively promoting huge growth in air travel, from 200 million passengers a year to 470 million a year in 25 years' time, by promoting airport expansion. No matter that about 70 per cent of travellers to Heathrow are transfer passengers,

Those blighted by noise and pollution don't compare with those deprived of cheap trips

many never setting foot on UK soil: they are all potential customers for BAA's hungry monopoly. No matter that those who live around airports are locked into homes blighted by noise and pollution. Their disadvantage apparently cannot compare with that of those who might be deprived of a cut-price trip.

This cannot go on. But the reality check will come from an unexpected source. In 2008 an EU directive will come into force that will set tight new limits on nitrous oxide emissions, limits that are almost bound to be exceeded in the Heathrow area by any new runway. The Government is well aware of this: it has a team of seven

civil servants in the Department for Transport beavering away to find solutions. One option, incredibly, is to reduce car emissions by sinking part of the M4 into a £2 billion tunnel. Another is to knock down 7,000 homes. If the EU law is trying to stop people being choked by fumes, then move them! Anything, it seems, is better than daring to face the reality that the cheap flight boom must end. One wonders how much longer ministers can stick their heads in the sand.

The lobbying skills of the air industry make Tesco look tinpot. It has convinced ministers that emissions trading is the way forward. Yet this will have negligible effect on global warming compared with what the Department for Transport's computer model shows would happen if air travel paid the same rate of tax as car travel. That simple calculation suggests that air travel growth would slow to 2 per cent a year, and that no new runways would be needed. This is not emasculating business; it is fair, realistic and responsible.

Will the newly green Tories be prepared to stand up to the air industry, or will they merely tilt at windmills? Their green policies will be flights of fancy unless they get a grip on this. A policy that started by trying to please voters will not be complete until it taxes them.

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THE TIMES JOIN THE DEBATE

"Tonight the new series of *Celebrity Big Brother* begins and, as usual, we will end up more addicted than a laboratory full of smoking beagles"

Carol Midgley

TIMES2 COLUMN page 6

"As mixed messages go, television hasn't seen the like since Ruud Gullit was last a pundit"

Giles Smith

SPORT COLUMN page 80

"Woody Allen's *Match Point* has a streak of absurdity about the cruel and amoral business of luck that is utterly inspired"

James Christopher

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Why ticking-bomb torture stinks

The libertarian view that extreme danger calls for extreme methods is seriously flawed



CLIVE COLEMAN

WHAT WOULD YOU be prepared to do to prevent a ticking bomb planted by terrorists from exploding with catastrophic loss of innocent life? Is your instinctive answer "anything"? And does that "anything" include the non-lethal use of torture on the terrorist suspected of planting the bomb? This so-called ticking-bomb scenario parades civil libertarians, who regard torture as abominable, into the darkest reaches of the moral maze. It forces us all to confront the unpalatable issue of torture and challenges established positions on civil liberties and human rights.

In December the House of Lords ruled that evidence obtained by torture carried out in other countries could not be used in our courts. Lord Bingham of Cornhill, the senior law lord, said that "torture and its fruits" have been regarded with abhorrence for five centuries in English law.

But in the post 9/11 and 7/7 world, where "extraordinary renditions" of terrorist suspects again focus minds on the ends justifying the means, there are some civil libertarians openly advo-

cating the legal sanctioning of torture. The most eminent of these is the American professor Alan Dershowitz, a renowned legal scholar and lawyer, whose list of former clients includes Claus Von Bülow and Mike Tyson and O.J. Simpson. In articles and his book *Why Terrorism Works: understanding the threat, responding to the challenge*, he looks back five centuries to when English law employed a system of "torture warrants". These could be sought only where there was a grave threat to the Crown or the empire and were granted perhaps once a year.

Dershowitz contends that in the ticking-bomb scenario warrants should be sought from a head of state or Supreme Court judge for the use of non-lethal torture. He mentions a sterilised needle under the fingernail, which would cause excruciating pain but not threaten life.

Such torture, he suggests, should be carried out by high-ranking officials, not the kind of low-level torturers who operated in Abu Ghraib. The history of torture carried out by so-called civilised societies is beset by blind eyes and hypocrisy. Dershowitz's argument is a useful one, because it focuses the mind, and requires opponents of torture to clarify their arguments and demonstrate why he is wrong.

His system faces a serious challenge at the first hurdle, efficacy. The ticking-bomb scenario is a hypothesis with "red herring", or at least "Hollywood", written all over it. It presupposes that the authorities have the key suspect in custody, that they know he's guilty of a bomb plot and that the

threat is imminent. Is it really believable that with all of that, and the need of terrorists to plan and communicate, no information indicating the location of the bomb has come to light? Or that it could not be gleaned through legitimate questioning and investigation?

As a hypothesis, the ticking bomb relies heavily on the "ticking" part. Torture can only be justified if time is critical. If it isn't you must question normally. However, the use of torture in time-critical situations would play into the terrorist's hands. If his goal is to maximise loss of life, he will say anything to direct his interrogators away from the bomb. They, on the other hand, must assume that his statement is correct as they will not have the time to investigate its veracity. Everyone in the intelligence community knows, and Dershowitz acknowledges, that torture is notoriously unreliable. The person suffering excruciating pain will say anything to stop it.

The only democracy that has experimented with the ticking-bomb scenario is Israel. It sanctioned the use of "moderate psychological and physical force" in such cases. The experiment proved unsuccessful and illustrates an insidious danger. Torture can grow. Israel found it impossible to limit torture to the terrorist alone and ended up applying force to those it believed knew or could lead security forces to the terrorist. Eventually the Israeli Supreme Court found that the exceptional use of torture in ticking-bomb cases wasn't working. It was an exception that was becoming commonplace and the court put an end to it. It is also

salutary to note that at least one prisoner died under interrogation, raising questions about the concept of non-lethal torture. Any form of torture risks the life of the person tortured, by way of heart failure or otherwise.

Dershowitz also believes that an open warrant system would counter hypocrisy and reduce low-level torture carried out by the likes of Lindy England. Is that credible? Would the legalising of "ticking-bomb torture" have an improving trickle-down effect through those rogue elements in the intelligence community, police and military who have the inclination and opportunity to torture? That would credit them with too much in the way of morality, discipline and brainpower.

More significantly, there's the question of what would be lost by creating the kind of system suggested by Dershowitz. Torture is prohibited by international humanitarian treaties. These establish a moral and legal benchmark below which our societies have agreed they will not sink. Relinquishing that position, even in the limited circumstances of ticking bombs, risks sending out the most appalling message to countries and regimes who are either not signed up to such treaties, or who are straying from them. If, as Dershowitz and others claim, there are countries to whom torture is currently outsourced, would we not simply be adding brutality to hypocrisy by sanctioning ticking-bomb warrants?

The author is a barrister and presenter of *Law in Action on Radio 4*