the Dawn of the Twentieth Century (2006).

Kagan's portrait of America is precisely the opposite of its self-perception. "The United States, as the world knows, will never start a war," said President John F. Kennedy at the height of the Cold War. "The United States is a peaceful nation." Indeed, as America struggles militarily in Iraq and Afghanistan, Kagan says, there is a sense that the nation has gone astray, becoming too militaristic, too idealistic, and too arrogant. It has become an empire rather than the reluctant good neighbor that seeks only peace and stability.

From its march down the *Mayflower* gangplank to its toppling of the Saddam Hussein statue, America has been a revolutionary power, consistently expanding its participation and influence in the world, Kagan argues. From the 1740s through the 1820s, Americans pressed westward from the Alleghenies to the Pacific, southward to Florida and Mexico, and northward to Canada, eventually subduing the native Indians as well as pushing France, Spain, and Russia off the continent. Only Great Britain managed to hang on, clinging to the northern latitudes.

This did not happen by accident. Thomas Jefferson saw a vast "empire of liberty." Secretary of State William Seward predicted that America would become the world's dominant power, "greater than any that has ever existed." Dean Acheson called the United States "the locomotive at the head of mankind," and Madeleine Albright said it was the world's "indispensable nation."

Americans decry war. They are uncomfortable with using war to achieve their objectives, suspicious of power (even their own), uneasy with using influence to deprive others of freedom, and disapproving of ambition. So they compose comforting narratives of their imagined innocent past.

"It is easier than facing the hard truth," writes Kagan. "America's expansiveness, intrusiveness, and tendency toward political, economic, and strategic dominance are not some aberration from our true nature. That *is* our nature."

POLITICS & GOVERNMENT

The Stealth Amendment

THE SOURCE: "Constitutional Culture, Social Movement Conflict, and Constitutional Change: The Case of the De Facto ERA" by Reva B. Siegel, in ***California Law Review***, Oct. 2006.

In 1982, as time ran out on the drive to ratify the Equal Rights Amendment (ERA), supporters fought desperately to win over the necessary last three states. They appealed to the Supreme Court, sued in state courts, organized marches, sponsored boycotts, sought extensions, and fended off efforts to rescind state ratifications. And when their efforts finally fell short, they reintroduced the legislation. All for naught.

Except that some scholars now believe that America has a de facto ERA, according to Reva B. Siegel, a Yale law professor. The unsuccessful fight to pass and ratify a constitutional amendment to prohibit discrimination on the basis of sex so changed the "constitutional culture" of the country that courts, and even conservative judges, began interpreting the existing Fourteenth Amendment as if it did forbid such discrimination.

"There is no practical difference between what has evolved and the ERA," Siegel writes, quoting Justice Ruth Bader Ginsburg from a newspaper article. "As a result of dramatic post-1970s changes in judicial interpretation of the equal protection clause," University of Chicago law professor Cass Sunstein wrote in *The Second Bill of Rights* (2004), "the American constitution now has something very much like a constitutional ban on sex discrimination."

In the first century after the 1868 ratification of the Fourteenth Amendment, which guarantees equal protection under the law, "no court interpreted the Constitution to prohibit state action favoring men over women," Siegel writes. Governments could—and did—bar women from practicing law, exclude women from juries, and prohibit women from working in the same occupations as men. Without exception, courts found the prohibitions to be perfectly reasonable exercises of public power.

The fight over the ERA reversed this, according to Siegel, not by changing the Constitution but by changing public opinion. But the ferment surrounding the amendment was not an unqualified victory for the women's movement.

During the ratification debate, substantial numbers of Americans became concerned that by signing on to an ephemeral promise of sexual equality, women would lose the concrete protection the law provided in the workplace, during pregnancy, after divorce, and throughout child rearing.

ERA opponents seized these issues. Their powerful arguments forced amendment supporters to back off from claims that women should be treated as strictly and totally equal. Soon the pro-ERA group embraced the notion that women's "unique physical characteristics" could entitle them to disparate treatment in certain circumstances, because only females, for example, could get pregnant.

At the same time, the supporters' arguments had a countervailing effect on the opponents of the amendment, who began to stress their profound support for the principle that women should be "equal citizens."

As the debate raged, with each side characterizing the other's position in the most extreme negative fashion and more narrowly describing its own, the Supreme Court itself, absent the ERA, stepped into the sex discrimination arena. In 1971, the Court ruled that an Idaho probate court was wrong in automatically choosing a man over a woman to administer an estate, and that the husband of an Air Force lieutenant was entitled to be treated the same as a wife in determining employee benefits. These represented the first times the Court held that the Fourteenth Amendment protected women from discriminatory treatment by state or military officials.

Many other rulings have followed. Even Chief Justice William Rehnquist, one of the early critics of the ERA, eventually came to endorse its principles, Siegel says. In one of his last cases, he wrote that a state had unconstitutionally discriminated against an employee based on a "sex-based overgeneralization" that women, not men, were caregivers for the sick.

ECONOMICS, LABOR & BUSINESS

Primogeniture Unmasked

THE SOURCE: "Who Should—and Shouldn't—Run the Family Business" by Stephen J. Dorgan, John J. Dowdy, and Thomas M. Rippin, in ***The McKinsey Quarterly***, 2006: No. 3.

FAMILY-OWNED COMPANIES tend to be better run than other firms—except when they are run by the eldest son. Researchers with McKinsey & Co. and the London School of Economics studied 700 manufacturers in France, Germany, the United Kingdom, and the United States, ranking them on productivity, market share, sales growth, and market valuation.

On average, family firms were ranked no better or worse than the average company. But when family-owned businesses were broken down into those run by outsiders and those run by the eldest son, the division was stark. Companies in which one family owned a majority of the stock but hired a professional to manage the operation performed 12 percent better than the average of all firms. Manufacturing businesses run by eldest sons did 10 percent worse.

Stephen J. Dorgan, John J. Dowdy, and Thomas M. Rippin, all with McKinsey, explain that family ownership makes it possible for managers to take the long view. Unlike managers who must meet Wall Street's expectations every three months, they feel somewhat less pressure to increase earnings every quarter. Family members have a direct stake in the outcome of decisions, and may pay closer attention to day-to-day operations than an outside board of directors. They are better situated than public shareholders to police any conflicts that arise between the interests of the managers and those of the stockholders.

Among family-owned companies in the four countries, family management is most common in Britain, at 50 percent, followed by