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assault on America's Founding—and how
conservatives can fight back

Our Fight Is Your Fight

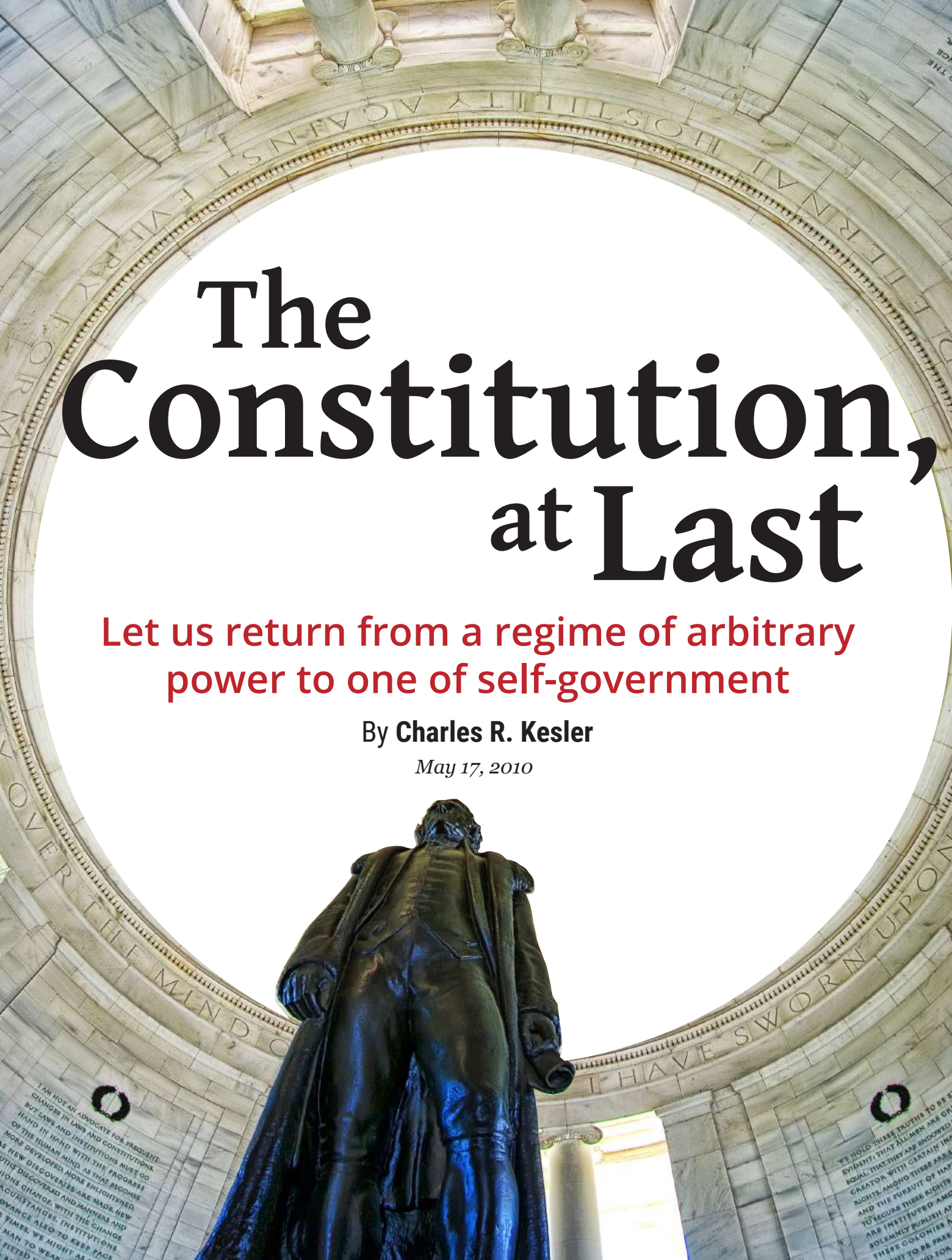
An unrelenting defense of the Constitution

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The Constitution, at Last

Let us return from a regime of arbitrary
power to one of self-government

By Charles R. Kesler

May 17, 2010

ONCE upon a time, and not so long ago, American politics revolved around the Constitution. Until the New Deal, and in certain respects until the mid-1960s, almost every major U.S. political controversy involved, at its heart, a dispute over the interpretation of the Constitution and its principles. Both of the leading political parties eagerly took part in these debates, because the party system itself had been developed in the early 19th century to pit two contenders (occasionally more) against each other for the honor of being the more faithful guardian of the Constitution and Union. Even from today's distance, it isn't hard to recall the epic clashes that resulted: the disputes over the constitutionality of a national bank, internal improvements, the extension of slavery, the legality and propriety of secession, civil rights, the definition and limits of interstate commerce, liberty of contract, the constitutionality of the welfare state, the federal authority to desegregate schools, and many others.

What's different today is that, although it still matters, the Constitution is no longer at the heart of our political debates. Today's partisans compete to lead the country into a better, more hopeful future, to get the economy moving again, to solve our social problems, even to fundamentally transform the nation. But to live and govern in accordance with the Constitution is not the first item on anybody's platform, though few would deny, after a moment's surprise at the question, that *of course* keeping faith with the Constitution is on the program somewhere—maybe on page two or three.

Presidents still swear (or affirm, for you sticklers) to “preserve, protect, and defend the Constitution of the United States,” and other state and federal officeholders take similar oaths. And, perforce, constitutional questions continue to arise now and then in our politics. But these rarely command center stage. The Democrats, for example, condemned George W. Bush's supposed abuse of

presidential war powers, but they never bothered to turn their carping into a doctrine; the only remedy they were really interested in was a change of personnel, and Barack Obama now carries out many of the previous administration's policies without a whimper from the Democratic majorities in the House and Senate.

It's a little different when federal judges—especially Supreme Court justices—are to be appointed. Then the political class focuses at least momentarily on constitutional matters, usually in such a tendentious way that at the end of the process everyone is glad not to have to think about *those* issues again for a while. Besides, the kabuki dance of judicial nominations is now well choreographed on both sides. Sonia Sotomayor was a wise enough Latina to sound, in her testimony, like the second coming of William Rehnquist.

Against this sideshow version of constitutionalism, the tea partiers are lodging a memorable protest. President Obama's victory in the health-care battle, combined with his administration's relentless march toward higher taxes, deeper debt, and bigger government, have led to an outcry for renewing constitutional limits on the ambition and growth of the federal establishment. The new movement's very name recalls the revolt against an unwritten constitution (the British) that had become an excuse for unlimited government, and the replacement of that arrangement by a written constitution limiting government power. For Republicans, the tea party has proved tonic. Reminded of arguments they haven't made in decades, the GOP's leaders are denouncing Obamacare not only as bad medicine but as political malpractice: the deliberate and wicked violation of constitutional norms.

At this hopeful juncture, two questions need to be asked. First: Whatever happened to the Constitution? That is, why did it go into eclipse in the first place? Second: What is so good about the Constitution's strictures, and what guidance and assistance do they offer toward their own revival?

For the most part, the Constitution's diminishment was the work of modern liberalism,

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beginning in the progressive era and accelerating with the New Deal. Though the original Constitution has not disappeared entirely, it grows less and less relevant, or even legible, to our political class.

The precise character of the new constitutional arrangements may seem mysterious. In the New Deal, liberals called for judicial restraint to keep the courts from blocking legislative experiments at the state and federal levels. From the Warren Court on, they cheered judicial activism, at least until the bench threatened to fill up with conservative judges. The thread connecting their shifting positions is not simply their fondness for social experiments by whichever branch is mounting them, but a deep-seated attachment to a new kind of experimental or historical right. For the Framers, rights were attributes of individual human beings who had been endowed with them by nature and nature's God. The same government needed to secure these rights could possibly threaten them, so a constant vigilance was called for to keep government limited to its just powers. For contemporary liberals, rights reflect society's stage of evolution and become real only when they are actualized, i.e., granted and enforced by government. Rights are therefore government-friendly. Indeed, after a certain point of social evolution, the more power given to government, the more rights it can and will give to the people. Far from checking, limiting, and channeling government powers, a proper constitution should therefore liberate them. Only from Big Government come entitlement rights, ethnic and racial preferences, and the newfangled "identity" rights without which liberty would be meaningless. The tea party is inherently reactionary, liberals believe, because it doesn't grasp that Big Government, far from being a threat to liberty, is freedom's greatest achievement.

Conservatives have done their part to sideline the Constitution, too. In the 1960s they invoked it in opposing Medicare and Medicaid, while southern Democrats cited it in fighting the Civil Rights Act and the implementation of *Brown v. Board*. This mixed bag of causes—and the defeat of all of



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them—helps to explain conservatives' subsequent shyness about making constitutional claims. Ronald Reagan appealed to the Constitution's spirit of federalism: In his losing 1976 campaign, he advocated returning \$90 billion (a lot of money in those days) in welfare expenditures and programs to the states, and in 1980 he warned that the federal government showed signs of having grown beyond the consent of the governed. But by 1984 he was proclaiming, "It's morning again in America," as if the danger had been a bad dream.

Morning quickly turned to night as George H. W. Bush espied a thousand points of light in the sky. His son later ran for president preaching the four Cs: courage, compassion, civility, and character; Constitution, notice, was not one of them. In 1996, Republican congressional majorities had forced Bill Clinton to return a federal entitlement program to the states. Seven years later, George W. Bush and his Republican congressional majorities passed a new federal entitlement, Medicare Part D, the first since the Great Society and the first ever with no specific source of funding attached to it. Complaints about the ineptitude and intrusiveness of the federal government remain a conservative staple, and the GOP has run through a pharmacopoeia of remedies for the problem without success: tax cuts, tax pledges, tax limits, spending limits, term limits, part-time legislatures, full-time conservative judges, divided

government, and a host of never-enacted, barely serious constitutional amendments.

Having tried almost everything else, perhaps conservatives should consider the Constitution again. It is, as they say, no panacea. (Neither is it a panacea to note that something is no panacea!) But it could provide the spirit, the principles, the example, and even some of the institutions that might help to restore limited government to America.

The Constitution is, first and foremost, a republican document, grounded in the people's authority, even as the people's authority is grounded in the moral law. The frame of government's first words, "We the People," proclaim this, as do many of its particular provisions. "Bills of attainder, *ex post facto* laws, and laws impairing the obligations of contracts," the *Federalist* explains, are prohibited by the Constitution because they are "contrary to the first principles of the social compact and to every principle of sound legislation." They are prohibited because they are wrong, in other words, not wrong because they are prohibited. And their wrongness has nothing to do with the race or sex or class of the person who might be the object of a bill of attainder or the

group that might be ensnared by an *ex post facto* law. The Constitution is not racist, sexist, or anti-democratic; though the original Constitution incorporated notorious compromises with slavery, it did so to obtain a Republic whose principles were anti-slavery, as well as a Union in which, as Lincoln put it, the public mind could rest content knowing that slavery had been put on a course toward extinction. Elementary as these points are, they are essential to rebut the Left's moral indictment of the old Constitution. Fortunately, Harry V. Jaffa, Hadley Arkes, and the late Robert Goldwin and Martin Diamond have written copiously and brilliantly on the subject.

The Constitution establishes a government with two main structural principles—federalism and separation of powers—and each offers handles that citizens may grasp today to help relimit the national government.

Ours is, or was, a regime of enumerated legislative powers, in addition to certain implied powers that were "necessary and proper" to carry out the enumerated ones. The Founders disagreed among themselves about the extent of the implied powers (e.g., to charter a national bank) as well as about the exact bounds of presidential and judicial

authority. But they expected to disagree in hard cases and left enough political play in the system for the people to take sides as they saw fit. Federalism was thus partly a legal or constitutional doctrine and partly a political one. Nonetheless, the state governments could serve as rallying points for opposition to federal encroachments, and still can. Though weakened by the Seventeenth Amendment (which destroyed the state governments' control of the Senate) and other factors, the states may invoke their Tenth Amendment rights and link arms with one another in demanding that the offending national officeholders be voted out and a party of constitutionally faithful ones be voted in. This is the real electoral point of the states' resistance, on display now in the impressive numbers of states protesting Obamacare.



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Schemes of neo-nullification (as Matthew Spalding has called them) purporting to declare a federal law null and void in a particular state are based on bad history and worse jurisprudence.

When pointing to the state governments, we mean more than the state attorneys general. When the legislatures and governors object to an unconstitutional federal law, their protest carries more weight. And the state governments hold in reserve two other constitutional powers: to ask Congress for a constitutional amendment, and—the nuclear option—to call for a convention of the states to propose such an amendment if the Congress will not.

The Constitution wisely separated the powers of government, not only to prevent tyranny but also to enable each branch to perform its functions well. When the separation of powers worked unimpaired, it helped to prevent the disease we call Big Government. That ugly term implies, among other things, a centralization of administrative authority in Washington, or, to put it differently, a bureaucracy that thinks it possesses the wisdom and the right to administer state and local affairs all around the country. Big Government thus strikes simultaneously at federalism and the separation of powers, at the external and internal checks on the federal establishment, inasmuch as a bureaucracy of this sort must combine legislative, executive, and judicial powers to be effective.

For a hundred years, liberalism has worked to overcome the constitutional separation of powers, winning many battles—but not quite the war. In the current crisis, conservative efforts to restore the separation of powers may even be more important than a campaign to shore up federalism. TARP, for example, was an unprecedented delegation of legislative power to the Treasury secretary, of all people. It was a desperate, essentially lawless grant resembling the ancient Roman dictatorship, except that the Romans wisely confined their dictators to six-month terms. Obamacare is a 2,000-page monstrosity that will need thousands, perhaps tens of thousands, of pages of additional

regulations before it can operate. These will be issued by more than a hundred new bureaucracies, each a source of unaccountable power wielded over individual Americans. These multiplying centers of petty tyranny will accelerate our transformation from a republic of laws to a corrupt regime of muddled and ever more arbitrary power.

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Our efforts can start with the restatement of the constitutional goal, and the resolution that *at least* we shall go no farther toward centralizing and combining what should be separated.

To unravel these new structures of unconstitutional power—and their predecessors, added primarily since the mid-1960s—is an enormous challenge. But our efforts can start with the restatement of the constitutional goal, and the resolution that *at least* we shall go no farther toward centralizing and combining what should be separated. Obamacare must be repealed, even if the older bureaucracies cannot be. No new TARPs—and let us usher this one into the grave as quickly as possible. No new delegations of legislative power to unaccountable bureaucracies. We need to constitutionalize the government we have, as far as we can: to pare it back as much as possible to the functions it was designed to perform, and where that is not possible, to prefer more constitutional to less constitutional means in every policy area. Here is the beginning of an agenda for conservative legislators and presidents, and for citizens, to guide us back—or rather forward—to a healthier, more responsible, and more constitutional political life.



America's Founding

Our job is to understand
and uphold it

By Richard Brookhiser

July 27, 2020



FROM *Hamilton: An American Musical* to rioters defacing every stone Founder they can find: A lot can flip in a short time, especially in a country as social-media-addicted as ours. But don't tear up your tickets yet. The American founding remains an epochal and admirable event in political history.

"The Founding" is the period spanning the American Revolution and the adoption of the Constitution, 1775–89. But the political backstory begins in Jamestown, England's first permanent American colony, in the summer of 1619, with the first meeting of the General Assembly.

The Jamestown colony had been in existence since 1607. Its early history was checkered. The first settlers arrived on the Virginia coast during a severe drought, which made it almost impossible for them to raise crops. In one bleak year, called the "starving time," they were reduced to chewing leather and eating vermin (and allegedly corpses). The colony attempted to recover from that disaster by imposing martial law: Men had to work in gangs under overseers; anyone who disobeyed was broken on a wheel (i.e., crushed to death). Meanwhile the leaders of the hapless venture squabbled among themselves.

Something had to change. In 1618 a new governor, George Yeardley, was given a mandate for political reform.

The General Assembly, which he convened the following year, was an innovation in European colonialism. It consisted of Yeardley and his council of advisers, who were all appointed in England. But they were joined by 22 burgesses, selected by the eleven boroughs and plantations that composed the settlement. The burgesses were elected according to the principle of one man, one vote, and the assembly, when it met, made its decisions the same way. There were limits—indentured laborers and women had no vote in the boroughs, and the governor could veto any measure the assembly passed. But this was the seed of a representative body.

What topics did it discuss over the four days that it met? It proposed a standard price for tobacco. It required church attendance, forbade whoring, and directed that a man who had slandered his employer be nailed by his ears to the public pillory. It reviewed the performance of one of the colony's emissaries to its Indian neighbors. The universal topics of politics: the economy, morals, foreign affairs.

In the beginning the General Assembly's resolutions were advisory: Nothing could be enacted without approval from London. But persistence in Virginia and inattention in England ultimately gave the assembly's decisions the force of law. The House of Burgesses, as it came to be called, was the first essay in the fundamental American political liberty, self-rule. This was the other 1619 Project, and it began weeks before Jamestown's first purchase of African slaves.

Over the decades, American colonists secured other rights. Freedom of religion was the fruit of Enlightenment thinking, compromise (where many religions jostled, it proved easier to let them be), and Christianity itself ("desiring to do unto all men as we desire all men should do unto us," as the Flushing Remonstrance put it). Freedom of the press flourished because colonial juries nullified English laws against sedition. But liberty, as Burke observed, is power. Undefined and unfiltered, it inevitably degenerates into the liberty of the strongest, whether in the form of anarchy or of despotism. American thinking about the right matrix of liberty was summarized in the Declaration of Independence, the national birth certificate.

Thomas Jefferson, its draftsman, claimed in his old age that he had not been declaring his own particular thoughts, but simply supplying "an expression of the American mind." So he had: The Continental Congress, which adopted his document, red-penciled his peroration and his indictment of George III. It left the philosophical statement with which the Declaration begins—a masterpiece of compression, only half of the second paragraph—almost untouched. The representatives of all 13 states signed off on it because it

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was, as Jefferson said, “the common sense of the subject.”

This half paragraph affirms American liberties in the most sweeping manner. Self-rule gets mentioned (“Governments . . . deriv[e] their just powers from the consent of the governed”), as do “Life, Liberty and the pursuit of Happiness.” Perhaps its most startling word is “among” (“among these [rights] are . . .”). The Declaration is not a bill of rights, because it won’t presume to make an exhaustive list.

The source of American liberty is the “Creator” (“endowed by their Creator with certain unalienable Rights”). Jefferson’s language can be as elusive as it is ringing. Though he esteemed Jesus as a moralist, he was personally no more religious than Ricky Gervais. But while he and Congress were perhaps fudging a theological point, settling on a formula that would embrace both him and a Calvinist nurtured in the Great Awakening such as Sam Adams, they were making a vital political point: The rights Americans enjoy come from outside history, and outside mankind. Thomas Jefferson did not confer them; neither did Congress. As no one made them, so no one can efface them. Rulers can trample them, of course (as Congress believed George III was then doing). But they are as much a part of us as arteries or imagination.

The great half paragraph begins with a clause, the first of its self-evident truths, that is as practical as it is philosophical: “all men are created equal.” This is the Declaration’s balance wheel, the limit that it places on everyone’s liberty. No man’s power may justly annihilate another’s, because no man belongs to a different, superior order of being than any other. The one-man-one-vote practice of the Jamestown General Assembly is rewritten in gold.

The new Constitution, written eleven years later to replace the Articles of Confederation, confirmed the point. Like the Declaration, it had a skillful draftsman—Gouverneur Morris, the peg-legged ladies’ man from the Bronx. (No prole he—Morris was a wealthy elitist, and proud of it.) But the Constitution was a collective document, argued into shape by 55 men over four months and then

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debated nationwide for a year. Four provisions and one silence established equality in America’s fundamental law.

Article II, Section 1, gave the executive power to an elected president, while Article IV, Section 4, guaranteed each state a republican form of government. There would be no royalty in the United States, neither nationally nor locally.

No lords either—Article I, Sections 9 and 10, prevents both the federal and state governments from granting titles of nobility.

And while the Constitution wove slavery into American life and government in several ways—mandating the return from one state to another of fugitive slaves, partially counting slaves in the calculation of representatives and presidential electors, allowing states to continue the slave trade for at least 20 years—it did not use the word “slave,” referring instead to “Person” or “Persons.” On paper, at least, there would be no classes in American life.

The prohibitions against royalty and nobility may seem needless, closing the barn door after the horse has been let go. But the temptation to look up and exalt was—and is—strong. One of Washington’s officers during the Revolution, Colonel Lewis Nicola, suggested Washington become king afterwards; another, General William Alexander,

claimed to be a Scottish earl and was punctiliously addressed as “Lord Stirling” by his comrades. Elected political dynasties have flourished throughout our history, from Adamses to Cuomos—to say nothing of the worship Americans accord athletes, entertainers, and now, it would seem, influencers. The Constitution wisely prohibited kings and lords because Americans, like any other people, are so often unwise.

A law passed by the Articles of Confederation Congress in the summer of 1787 was more forthright than the Constitution on the subject of slavery. The Northwest Ordinance settled the status of one-fourth of the country, bounded by Pennsylvania, the Ohio and Mississippi Rivers, and the Great Lakes. The authorship of the Ordinance, unlike that of the Declaration and the Constitution, is somewhat clouded; Nathan Dane and Rufus King, congressmen from Massachusetts, usually get the credit. Manasseh Cutler, a Congregationalist minister and land speculator—what an American type—also gave input. The Ordinance directed that the Northwest Territory become states, on a par with the original 13, as soon as it was settled. It also declared that “there shall be neither slavery nor involuntary servitude in the said territory,” except as punishment for crimes.

Yet whatever the Northwest Ordinance said or the Constitution didn’t say about slaves, there were almost 700,000 of them in the United States when those documents were written (out of a population of almost 4 million). “Why is it,” the Tory abolitionist Samuel Johnson had asked as the Revolution began, “that the loudest yelps for liberty are heard from drivers of Negroes?”

Many in the founding generation asked themselves this question. Their answers were various. Many had never owned slaves (John Adams, the people of Vermont). Others freed those they owned

(George Washington at his death). Still others passed laws abolishing slavery, immediately or gradually, in five states by 1789, in two more by 1804. And some Founders who continued to own human property continued to agonize over the question. In 1835 James Madison, one of the last Founders left standing, told Harriet Martineau, an English traveler, that he hoped American slaves—over 2 million by then—might be freed and sent to Liberia. (Martineau, who knew how few had so far been sent there, was skeptical: “How such a mind as his could derive alleviation to its anxiety from that source is surprising.”) Many felt no anxiety. John Rutledge—whose brother Edward had signed the Declaration

of Independence for their home state, South Carolina—told the Constitutional Convention, to which he was a delegate, that “religion and humanity” were irrelevant when considering the slave trade. “Interest alone is the governing principle with nations.”

Or maybe, when declaring that “all men are created equal,” the Founders simply meant men like themselves—white men. This was the argument advanced by racists, south

and north, in the 19th century, and oddly by BLM protesters today. It was answered, in every generation, by those (Frederick Douglass, Abraham Lincoln, Martin Luther King Jr.) who asserted that the founding documents were freedom documents, setting a standard against the day when it might be met.

It is important to get our founding right, for the world as well as for us. The American Revolution was the first of an era of revolutions that has not ended yet. So many of them have turned out worse. The two nearest to ours in time set the pattern. France would not find domestic tranquility until the Third and Fifth Republics. Haiti is still looking.

We once brought a great thing into the world. Our job is to understand and uphold it.

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**The Constitution
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The Exceptional First American Century

Our first hundred years are startlingly unique

By Dan McLaughlin

July 27, 2020



THE startling growth of liberal democracy and free markets over the past century sometimes obscures the extent to which America, in its first century of existence, from 1776 to 1876, stood nearly alone in the world. The first American century was when the United States was, most truly, an exceptional nation.

America at its founding was republican, in the sense of having no king; democratic, in the sense of grounding all political power ultimately in the consent of the people; liberal, in the sense of protecting the individual, natural-law rights of the people; and constitutional, in the sense that political powers and rights were set down in a written instrument binding on the state. None of these were entirely new ideas in 1776 or 1787, but all of them had failed more often than not in the past. Trying them meant explaining why they would work this time, a question very much in doubt—then, and for a century thereafter. What was true in George Washington’s time was still largely true in Abraham Lincoln’s: Nobody had ever tried republicanism, democracy, liberalism, and constitutionalism *at the same time*.

Not only was this experiment novel; it was tried on an unprecedented scale. France was then the dominant power on the European continent; the original 13 states, spanning the Eastern Seaboard, covered an area a third larger than France. The Northwest Territory, ceded by Britain in 1783, expanded the new nation by a third; the 1803 Louisiana Purchase then doubled it. After Florida was acquired from Spain in 1819, the Mexican War and the settlement of the Oregon Territory between 1846 and 1848 expanded the country by a third yet again. Seventy-two years after independence, the United States was still the world’s only republican, democratic, liberal, and constitutional state, and it spanned the width of a continent. There was nothing like it on earth.

The young United States was, as Alexis de Tocqueville observed, unlike the Old World in that the building of its civilization could still be ob-

served, rather than recalled from ancient texts and stones. Much of the nation’s westward expansion took place over land that had never been settled in the European sense, either because the Native American population was sparse in places or because the tribes eschewed European-style permanent agricultural settlements and cities. When the Spanish arrived in the San Francisco Bay area in 1769, for example, it was home to 17,000 people grouped in communities of 50 to 400, where over 7 million people live today. By the time of the American conquest 80 years later, the population of California had dropped in half again. And the non-Native populations of the territories acquired from France and Mexico were far smaller than the Native populations.

The Founding generation was painfully aware of the historical weight against it. The brief effort to remake England into a republic in the mid 17th century had been a bloody, illiberal fiasco. France’s revolution would soon provide its own grisly example. The *Federalist Papers* are shot through with explanations of how the new Constitution was designed to avoid the pitfalls that had felled past republics and democracies. Madison devoted three consecutive essays to discussing ancient Greek confederacies, the election of Holy Roman emperors, the Polish republic (which was then in the process of being dismantled by its neighbors), the Swiss cantons, and the Dutch republics. The corruption of the Roman republic into an empire weighed heavily on the Founders. Washington and other key Founders were devoted to Joseph Addison’s tragedy *Cato*, about the republican hero Cato the Younger’s failed opposition to Julius Caesar’s dictatorship.

The uniqueness of the American experiment did not end with the Declaration or the Constitution. It persisted into the 1860s, even compared with the mother country and her possessions. Britain, in 1776, was increasingly liberal, but was still a monarchy governing an empire. Even to this day, it has no formal, written constitution approved by its people and binding on Parliament. Not until a 1975 referendum on membership in the European Communities were the British people directly

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consulted on their form of government. Britain granted significant representative home rule to colonies such as Canada, Australia, and New Zealand only in the 1850s and 1860s. Canada did not adopt a written constitution until 1982. In 1845, it was still possible for the Duke of Wellington to argue that “the Democratic Party throughout the World is inimical to this country. . . . Wherever a democratical influence or even a democratical Press exists, we must expect to find enemies.”

Until the British Great Reform Act of 1832, the House of Commons did not even pretend to be a representative institution with districts of vaguely similar proportions. Entire industrial cities had no representation at all. Even with Parliament ascendant over the throne and its members forming into modern parties, the hereditary House of Lords retained significant powers well into the mid 19th century. The lords were stripped of their veto over national budgets only in 1911. Britain maintained property qualifications until 1867 that prevented five out of six adult males from voting. The United States, by contrast, had eliminated all property barriers to universal manhood suffrage (at least among white men, and in some states free black men as well) in all but three states by the end of the 1830s.

On the European continent, monarchy still ruled. It successfully crushed or co-opted the revolutions of 1830 and 1848, many of which made strikingly

modest demands for constitutional government. Much of the continent lay under the power of the Russian, Austrian, French, and Spanish thrones, and smaller monarchies covered the rest, from Stockholm to Naples, Brussels to Athens. The center of Italy was still ruled by the pope. Italy was finally united under a king in 1860–61, Germany under a kaiser in 1871. Only in 1870–71 did France establish a durable republic, on its third try, after Napoleon III was defeated in a war with Prussia. Crowned heads still ruled much of Europe all the way to the First World War. Asia, Africa, and the Ottoman Empire had even fewer representative institutions or guarantees of individual rights or limited government. Even the Confederate States of America, founded on the enslavement of four-tenths of its people, was a constitutional republic with more democratic institutions and liberal guarantees (such as a free press and no established churches) than most of the world had in 1861.

The only significant republican exceptions in Europe, for most of the first American century, were the Dutch republics and the Swiss cantons. Neither was as democratic or liberal as the United States, and both were much smaller. The Dutch republics were aristocratic oligarchies, and their chief executive was a hereditary stadtholder, later a king. Only in the revolution of 1848 did the Netherlands adopt a constitutionally limited monarchy. The Dutch did not adopt universal manhood suffrage until 1917. In Switzerland, reformers held up the American example as a model for attempted constitutional reforms on multiple occasions, but the cantons were simply a loose confederation of aristocratic enclaves until the 1847 Swiss revolution.

European liberal reformers looked to the American example, and while early Americans were skeptical of involvement in European affairs, their sympathies and sometimes financial support were with the liberals. The French revolution remained popular in the United States until well into its illiberal turn. The Marquis de Lafayette and Tadeusz Kosciuszko tried, and failed, to bring American



Even the Confederate States of America . . . was a constitutional republic with more democratic institutions and liberal guarantees than most of the world had in 1861.

ideas home to France and Poland. So did Tocqueville in 1848. After the 1848 revolutions, Giuseppe Garibaldi fled Italy for Staten Island, Hungarian revolutionary Lajos Kossuth toured America to great acclaim, and scores of German and Irish rebels fled to American shores. The German-born Emanuel Leutze's epic *Washington Crossing the Delaware*, shown in New York and Washington to tremendous fanfare in 1851–52, was painted in Düsseldorf as a statement of American inspiration to frustrated German liberals after the failed revolutions of 1848.

The only part of the world that followed the American lead before the Civil War was Central and South America, with decidedly mixed results. Haiti was the second republic in the Western Hemisphere, but its governments were unstable, with monarchies proclaimed in 1804, 1811, and 1849. Mexico resisted monarchy after its independence in 1821, but it proved similarly unable to resist frequent backsliding into authoritarian rule under the multiple presidencies of Antonio López de Santa Anna between 1833 and 1855. In its liberal turn under Benito Juárez in the 1860s, Mexico looked naturally to the United States for support. Argentina was riven by civil war and dictatorship until 1861. Brazil remained an empire, Paraguay a dictatorship, Cuba a Spanish colony, Nicaragua a playground for revolutionaries and filibusterers. Suffrage was widely restricted by literacy tests across Latin America long before they were introduced in America as instruments of Jim Crow. Caudillo governments predominated.

Early American republicanism was social as well as political. The American Revolution touched off—quite unintended by its leaders—a revolution in social mores. Colonial American society was hierarchical and dominated by elites, albeit less so than the rest of the world at the time. Not only slavery but indentured servitude existed in every colony, and social deference to gentlemen was expected.

All of this but southern slavery was swept away in waves of republican sentiment in the decades following the Revolution. Tocqueville, visiting

America in 1831, began his famous study by observing: “Among the novel objects that attracted my attention during my stay in the United States, nothing struck me more forcibly than the general equality of condition among the people.” He explained to his European readers that this produced a different type of informed, self-reliant citizen: “The Americans never use the word *peasant*, because they have no idea of the class which that term denotes.” He saw even the most primitively housed settler of the frontier as “a highly civilized being, . . . who penetrates into the wilds of the New World with the Bible, an axe, and some newspapers”: “I do not think that so much intellectual activity exists in the most enlightened and populous districts of France” as on the American frontier.

The wide-open spirit of America, its lack of hierarchies and restrictions compared with Europe, made it an enormous engine of material and scientific progress and economic mobility. America's population exploded, growing at four times the rate of Europe's between 1810 and 1860. With 31 million people in 1860, it was still comparable in population to France or Austria, and had fewer than a tenth of the population of China, but it supported a third of the world's newspapers. Indiana had one newspaper in 1810; by 1840, it had 73. The United States boasted the most railroad mileage in the world in 1850, and more than doubled that over the next decade. Samuel Morse's telegraph grew far faster than its equivalents in Britain and France, because American businessmen instantly adopted it to coordinate railroad schedules and trade commodities.

Early Americans were acutely aware of their uniqueness. As Lincoln told the Wisconsin State Agricultural Society in 1859, in America, “there is not, of necessity, any such thing as the free hired laborer being fixed to that condition for life. . . . Many independent men, in this assembly, doubtless a few years ago were hired laborers. . . . The prudent, penniless beginner in the world, labors for wages awhile, saves a surplus with which to buy tools or land, for himself; then labors on his own account another while, and at length hires another

new beginner to help him.” Even in Britain, where industry was booming, this was not so. British workers saw their wages stagnate and perhaps decline in absolute terms between 1800 and 1850. Land was not so easily obtained anywhere in Europe as it was in America.

Early Americans were also uniquely unmilitarized, a cherished sign of limited government and independence from foreign intrigues. On the eve of the Civil War, the Army consisted of little more than 10,000 men, and its largest extent had been 49,000, at the peak of the Mexican War. By contrast, Austria had 300,000 men under arms; Prussia, with half of America’s population, conscripted 40,000 new recruits every year.

The great exception stood out. Slavery was common throughout Africa, Brazil, and the Ottoman Empire in the mid 19th century, but it became all the more conspicuous in America because of its contrast to the egalitarianism of American society. The nation’s debates over slavery were so heated precisely because Americans after the Revolution prided themselves on being unlike the class-ridden societies of Europe and the despotisms of Asia. The many foreign critics of the unique American system returned constantly to the hypocrisy of slavery because it was a convenient deflection from the American example.

Independent republican citizens, neither slave nor master, made up the great bulk of Americans. The 1860 census found that only 1.3 percent of Americans owned slaves. Even accounting for the fact that these slaveholders were heads of multi-member households who loaned out slaves to some of their non-slaveholding neighbors, slaveholders were a minority in every state, and slaveholding families have been estimated at about 7.4 percent of American households. Over 60 percent of the country lived in states or territories with no slaves. That proportion had been growing steadily for over half a century. The critical mass of free citizens in the North and West enabled the Union to prevail.

The Gettysburg Address stands as the most concise statement of Lincoln’s view of the Civil War as



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“testing whether [this] nation, or any nation so conceived, and so dedicated, can long endure,” and whether “government of the people, by the people, for the people, shall not perish from the earth.” This was not hyperbole, or some idiosyncratic theory of Lincoln’s. Still unique in the world, little over a decade after the collapse of hope for liberal, democratic, constitutional republics in Europe, America still had to prove its case against the skeptics. In 1865, speaking from Napoleon III’s empire, French republican Eugène Pelletan observed, “America is not only America, one place or one race more on the map, it is yet and especially the model school of liberty. If against all possibility it had perished, with it would fall a great experiment.”

The early Americans seem to us today unaccountably harsh in certain ways, from their brutal wars against the Native Americans to their long tolerance of slavery. Yet we owe them much. That debt goes far beyond the ideas of the Founding. Ideas that die in practice do not command imitation. The Americans of the nation’s first century stood essentially alone on the world stage, and they proved that a nation that was democratic, republican, liberal, and constitutional could not only survive challenges external and internal, it could expand, prosper, innovate, reform itself, and endure. Their ideas—and even the principles against which we now rebuke them—would not cover so much of the world today without those labors.





An Exceptional Debate

The Obama administration's assault
on American identity

By Ramesh Ponnuru & Richard Lowry

March 8, 2010

IT'S almost a commonplace on the left that conservatives are “nihilists” for their opposition to President Obama. It's opposition for opposition's sake, an unprincipled exercise in partisan obstruction—mindless, toxic, destructive. When directed at Obama, “no” is an indefensible word, devoid of philosophical content.

Another, different charge has traditionally been leveled at conservatives—that they are “radicals.” This criticism was made of NATIONAL REVIEW right at the beginning. Conservatives want to tear down the state, overturn precedent, reverse the direction of history. They are imprudent and incautious in their pursuit of a blinkered ideological agenda, in other words fundamentally unconservative.

So conservatives get it coming and going. Our opposition to the Left is deemed nihilistic and our affirmative agenda radical. These dueling critiques point to a paradox at the heart of American conservatism. We aren't Tories, concerned with preserving the prerogatives of an aristocratic elite or defending tradition at all costs. Instead, we're advocates of the dynamism of an open society. Through most of human history and still in many places in the world, that would make us the opposite of conservatives. Not in America.

What do we, as American conservatives, want to *conserve*? The answer is simple: the pillars of American exceptionalism. Our country has always been exceptional. It is freer, more individualistic, more democratic, and more open and dynamic than any other nation on earth. These qualities are the bequest of our Founding and of our cultural heritage. They have always marked America as special, with a unique role and mission in the world: as a model of ordered liberty and self-government and as an exemplar of freedom and a vindicator of it, through persuasion when possible and force of arms when absolutely necessary.

The survival of American exceptionalism as we have known it is at the heart of the debate over

Obama's program. It is why that debate is so charged. In his first year, Obama tried to avoid the cultural hot buttons that tripped up Bill Clinton and created the “gays, guns, and God” backlash of 1994. But he has stoked a different type of cultural reaction. The level of spending, the bailouts, and the extent of the intervention in the economy contemplated in health-care and cap-and-trade legislation have created the fear that something elemental is changing in the country. At stake isn't just a grab bag of fiscal issues, but the meaning of America and the character of its people: the ultimate cultural issue.

I.

To find the roots of American exceptionalism, you have to start at the beginning—or even before the beginning. They go back to our mother country. Historian Alan Macfarlane argues that England never had a peasantry in the way that other European countries did, or as extensive an established church, or as powerful a monarchy. English society thus had a more individualistic cast than the rest of Europe, which was centralized, hierarchical, and feudal by comparison.

It was, to simplify, the most individualistic elements of English society—basically, dissenting low-church Protestants—who came to the eastern seaboard of North America. And the most liberal fringe of English political thought, the anti-court “country” Whigs and republican theorists such as James Harrington, came to predominate here. All of this made America an outlier compared with England, which was an outlier compared with Europe. The U.S. was the spawn of English liberalism, fated to carry it out to its logical conclusion and become the most liberal polity ever known to man.

America was blessedly unencumbered by an *ancien régime*. Compared with Europe, it had no church hierarchy, no aristocracy, no entrenched economic interests, no ingrained distaste for

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commercial activity. It almost entirely lacked the hallmarks of a traditional post-feudal agrarian society. It was as close as you could get to John Locke's state of nature. It was ruled from England, but lightly; Edmund Burke famously described English rule here as "salutary neglect." Even before the Revolution, America was the freest country on earth.

These endowments made it possible for the Americans to have a revolution with an extraordinary element of continuity. Tocqueville may have been exaggerating when he said that Americans were able to enjoy the benefits of a revolution without really having one, but he wasn't far off the mark. The remnants of old Europe that did exist here—state-supported churches, primogeniture, etc.—were quickly wiped out. Americans took inherited English liberties, extended them, and made them into a creed open to all.

Exact renderings of the creed differ, but the basic outlines are clear enough. The late Seymour Martin Lipset defined it as liberty, equality (of opportunity and respect), individualism, populism, and laissez-faire economics. The creed combines with other aspects of the American character—especially our religiousness and our willingness to defend ourselves by force—to form the core of American exceptionalism.

II.

Liberty is the most important element of the creed. To secure it, the Founders set about strictly limiting government within carefully specified bounds. Immediately upon the collapse of British government in America, the states drew up written constitutions and neutered their executives. They went as far as they could possibly go to tame the government—indeed, they went farther, and had to start over to get a functioning state. But even this second try produced a Constitution that concentrated as much on what government could not do as on what it could.

The Founders knew what men were capable of,

in the positive sense if their creative energies were unleashed and in the negative sense if they were given untrammelled power over others. "It may be a reflection on human nature," Madison wrote in a famous passage in *Federalist* No. 51 describing the checks in the Constitution, "that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary."

The Constitution's negative character reflected its basic goal: to protect people in their liberty. In stark contrast, European constitutions, even prior to World War II, established positive rights to government benefits. As Mary Ann Glendon notes, these differences "are legal manifestations of divergent, and deeply rooted, cultural attitudes toward the state and its functions."

This framework of freedom made possible the flourishing of the greatest commercial republic in history. As historian Walter Russell Mead notes, over the last several centuries of the West, three great maritime powers have stood for a time at the pinnacle of the international order: the Dutch, then the English, and finally us. All three had powerful navies and sophisticated financial systems, and were concerned primarily with increasing national wealth through commerce.

Consider the very beginning. John Steele Gordon reminds us in his book *An Empire of Wealth* that the Virginia Company—a profit-seeking corporation—founded Jamestown. In New England, the Puritan merchants wrote at the top of their ledgers, "In the name of God and of profit." Even before the Revolution, we were the most prosperous country per capita in the world.

In a telling coincidence, the publication of Adam Smith's world-changing free-market classic, *The Wealth of Nations*, coincided with the Declaration of Independence in 1776. Many of the Founders read the book. Without the medieval encumbrances and the powerful, entrenched spe-

cial interests that plagued other countries, the United States could make Smith's ideas the basis of its economic dispensation. Gordon writes, "The United States has consistently come closer to the Smithian ideal over a longer period of time than any other major nation."

In the latitude provided by this relatively light-handed government, a commerce-loving, striving, and endlessly inventive people hustled its way to become the greatest economic power the world has ever known.

In America, there really hasn't been a disaffected proletariat—because the proletariat has gotten rich. Friedrich Engels had it right when he carped that "America is so purely bourgeois, so entirely without a feudal past and therefore proud of its purely bourgeois organization."

The traditional Marxist claim about the U.S. was that it was governed by the executive committee of the bourgeoisie. This was not intended as a compliment, but it was largely true. Look at the archetypal American, Benjamin Franklin, whose name comes from the Middle English meaning freeman, someone who owns some property. Napoleon dismissed the British as "a nation of shopkeepers"; we are a nation of Franklins.

Abraham Lincoln, a *de facto* Founding Father, is an exemplar of this aspect of America. "I hold the value of life," Lincoln said, "is to improve one's condition." There are few things he hated more than economic stasis. He couldn't abide Thomas Jefferson's vision of a nation of yeoman farmers living on their land forevermore, blissfully untouched by the forces of modern economic life. (Appropriately enough, Jefferson died broke.) Lincoln captured the genius of American life when he said, "The man who labored for another last year, this year labors for himself, and next year he will hire others to labor for him."

That sentiment is at the heart of the American economic gospel. American attitudes toward wealth and its creation stand out within the developed world. Our income gap is greater than that in European countries, but not because our poor are worse off. In fact, they are better off than, say, the

bottom 10 percent of Britons. It's just that our rich are phenomenally wealthy.

This is a source of political tension, but not as much as foreign observers might expect, thanks partly to a typically American attitude. A 2003 Gallup survey found that 31 percent of Americans expect to get rich, including 51 percent of young people and more than 20 percent of Americans making less than \$30,000 a year. This isn't just cockeyed optimism. America remains a fluid society, with more than half of people in the bottom quintile pulling themselves out of it within a decade.

And so we arrived in the 21st century still a country apart. Prior to its recent run-up, total government spending was still only about 36 percent of GDP in the U.S. In Europe, the figure was much higher—44 percent in Britain, 53 percent in France, and 56 percent in Sweden. (The difference is starker when only non-defense spending is compared.)

Politically, we have always been more democratic, more populist than other countries. Edmund Burke said of the low-church Protestants who flocked here, "They represent the dissidents of dissent and the protest wing of the Protestant religion." The Scotch-Irish who settled the hinterlands were even more cussed. It wasn't very easy to tell any of these people what to do, as colonial governors learned to their regret.

Later, in the 19th century, the Federalists tried to create a kind of aristocracy. They got rich and set themselves up as *grande*s. Knowing that many members of this self-designated ruling class started life in the same state they had, their neighbors didn't take kindly to these pretensions. The Federalist party wasn't long for this world—a lesson in how poorly elite condescension plays in America.

Today, we still have more elections for more offices more often than other countries. Even many judges and law-enforcement officials are elected. In the federal government, political appointees have greater sway over the civil service than is the case in other developed countries. As

Edward C. Banfield and James Q. Wilson have written, “There is virtually no sphere of ‘administration’ apart from politics.”

In Europe, the opposite is the case and has become more so with the rise of the European Union. Brussels is arrogating more decision-making to itself, removed from the locus of democratic accountability in individual nations. When important EU questions are put to the voters in referenda, there is only one correct answer, and when nations vote the “wrong” way, elections are held over and over again until they succumb. This European-style politics of bureaucratic, elite high-handedness is dangerous in its undemocratic nature and anathema to the American character.

We have managed to preserve a remarkable national spirit. At over 70 percent, more Americans express pride in their country than Western Europeans do in theirs. In terms of demography, we are the youngest advanced country in the world, and our population continues to grow as that of Western Europe is projected to decline.

Americans are more religious than Europeans. In the 18th century, American religious dissenters supported overthrowing state-supported churches because it would allow them to compete on an even playing field with other denominations. In that competition, America saw an explosion of religious feeling and became the most evangelical country in the world.

Religion gained authority and vitality from its separation from the state, and religion-inspired reform movements, from abolitionism to the civil-rights movement, have been a source of self-criticism and renewal. Today, 73 percent of Americans believe in God, compared with 27 percent of Frenchmen and 35 percent of Britons, according to a 2006 *Financial Times* survey.

All of this means that America has the spirit of a youthful, hopeful, developing country, matched with the economic muscle of the world’s most advanced society and the stability of its oldest democratic institutions.

This national spirit is reflected in our ambitious and vigorous foreign policy. We were basically

still clinging to port cities on the eastern seaboard when we began thinking about settling the rest of the continent. There never was a time when we were an idyllically isolationist country. We wanted to make the continent ours partly as a matter of geopolitics: France, Spain, and Britain were wolves at the door. But throughout our history, we have sought not just to secure our interests abroad, but to export our model of liberty.

This missionary impulse is another product of the American Revolution, which took English liberties and universalized them. The Founders thought we would play an outsized role in the world from the very beginning. We would be an “empire of liberty,” Jefferson said. He believed that the flame of liberty, once lit on our shores, would inevitably consume the world.

This strain in American thought was expressed throughout the 20th century in the democratic idealism of Wilson, FDR, and Carter. At its best, this tendency has been tempered by prudence and realism so as to avoid foolish adventurism. Reagan exemplified the appropriate mix, as he avoided (with the painful exception of Lebanon) risky foreign interventions at the same time he ushered the Soviet Union to its grave through a shrewd combination of hard and soft power.

But make no mistake: America is still a martial nation with a no-nonsense, hit-back-harder Jacksonian temperament when challenged. Historically, it has responded to attacks, whether at Fort Sumter or Pearl Harbor, with overwhelming force and the maximum plausible effort to spread our democratic system. In this sense, George W. Bush’s response to 9/11—two foreign wars, both justified partly as exercises in democratization—was typically American.

Our defense spending constituted half of the world’s defense spending in 2003. With a few exceptions (the British, the Canadians), we are the only Western nation that is able and willing to conduct major combat operations overseas. Even when Afghanistan was considered “the good war” by the rest of the world, we had to do most of the heavy lifting.

None of this is to say, of course, that America is perfect. No nation can be. But one can only regard with wonderment what America stands for and all that it has accomplished in its amazing, utterly distinct adventure in liberty.

III.

There have always been those who take exception to American exceptionalism. Europeans developed a cottage industry in travel writing about America, most of it—although not all, with Tocqueville the most important exception—scandalized by the riotous freedoms of these restless, stubborn, commerce-crazy, God-soaked barbarians. The America of these portraits was simultaneously primitive and decadent: “grotesque, obscene, monstrous, stultifying, stunted, leveling, deadening, deracinating, roofless, uncultured,” as James Ceaser summarizes the critique in *Reconstructing America*. Many of America’s European critics hoped that, over time, America would lose its distinctiveness. It would become just another developed Western country: more centralized, more elitist, more secular, less war-like, and less free. In short, a *quieter*, more *civilized* place.

The American Left has shared this maddened perplexity at its country’s character and this hope for its effacement. Marxists at home and abroad were always mystified by the failure of socialism in the U.S. They thought that, as the most advanced capitalist society, we would have had the most restive proletariat. Instead we have had a broad and largely satisfied middle class. Even our unions, in their early history, were anti-statist, their radicalism anarchistic rather than socialist. At the Progressive convention of 1912, Jane Addams saw “a worldwide movement toward juster social conditions” that “the United States, lagging behind other great nations, has been unaccountably slow to embody in political action.”

Hence the search for foreign models. In the early 20th century, the Left was fascinated with all

things German and brimmed with enthusiasm for Bismarck’s welfare state. Woodrow Wilson, in a sentiment typical of progressive intellectuals, deemed Bismarck’s creation an “admirable system”; he was less admiring of the American Founding. Herbert Croly, the founder of *The New Republic* and one of the most significant progressive intellectuals of the era, was another Bismarck admirer. Croly advocated rule by “expert social engineers” to bring to these shores the best innovations of the modern dictatorial movements taking over in Europe.

New Deal intellectuals gushed over Bolshevism in the 1930s. FDR Brain Truster Stuart Chase enthused, “Why should Russians have all the fun of remaking a world?” His statement captured the utopian underpinnings of the progressive project and the yearning for the kind of radical remaking of society that was readily attainable only in countries that gave themselves over entirely to the state. The other model was Italian fascism, which New Dealers studied closely and in important respects aped.

The New Deal was a watershed, but America didn’t lurch all the way to socialism. The power of the central government increased, a welfare state was born, and unionization advanced. But even in the midst of the Great Depression, typically American attitudes still prevailed. In a 1935 Gallup survey, Americans by a wide margin thought the government was spending too much.

After World War II, a Left that had been gaining strength in Europe for decades finally realized its social-democratic ambitions. The U.S. followed a different course. In the academy, a perverse version of American exceptionalism took root: an exceptionalism of criminality, conquest, and oppression. America was special only in its misdeeds and failings; all cultures were to be celebrated except our own. The exceptionalism of Howard Zinn and Noam Chomsky, in milder form, occupied the commanding heights of our education system. It has worked to trash our Founding, to wipe out our historical memory, and to create a guilty conscience among our ruling elite.

In politics, however, the country's progress away from its character continued to be "unaccountably slow." American government continued to grow, particularly during the Johnson and Nixon years; the states became ever more one of the federal government's key client groups rather than checks on its power. But the individualistic American character began to reassert itself after its mid-century dormancy. Americans saw the stagflation of the 1970s as an indictment of Big Government rather than a crisis of capitalism. Ronald Reagan won the presidency of a nation that, by European standards, was still a freewheeling cowboy economy and democracy—and made it even freer.

Deregulation exposed unions to competitive pressures that they could not survive. The U.S. quickly came out of its post-Vietnam defensive crouch. And religion, rather than fading away, became more publicly assertive in response to perceived threats. Bill Clinton's Democratic presidency did more to confirm than to alter these trends.

The Left's search for a foreign template to graft onto America grew more desperate. Why couldn't we be more like *them*—like the French, like the Swedes, like the Danes? Like any people with a larger and busier government overawing the private sector and civil society? You can see it in *Sicko*, wherein Michael Moore extols the British national health-care system, the French way of life, and even the munificence of Cuba; you can hear it in all the admonitions from left-wing commentators that every other advanced society has government child care, or gun control, or mass transit, or whatever socialistic program or other infringement on our liberty we have had the wisdom to reject for decades.

IV.

President Obama's first year in office should be seen in the context of contemporary liberalism's discomfort with American exceptionalism.

The president has signaled again and again his unease with traditional American patriotism. As a senator he notoriously made a virtue of not wearing a flag pin. As president he has been unusually detached from American history: When a foreign critic brought up the Bay of Pigs, rather than defend the country's honor he noted that he was a toddler at the time. And while acknowledging that America has been a force for good, he has all but denied the idea that America is an exceptional nation. Asked whether he believed in American exceptionalism during a European trip last spring, Obama said, "I believe in American exceptionalism, just as I suspect that the Brits believe in British exceptionalism and the Greeks believe in Greek exceptionalism." (Is it just a coincidence that he reached for examples of former hegemon?)

In this respect the president reflects the mainstream sentiment of American liberals. We do not question the sincerity of his, or their, desire to better the lot of his countrymen. But modern liberal intellectuals have had a notoriously difficult time coming up with a decent account of patriotism even when they have felt it. From Richard Rorty to Todd Gitlin, they have proclaimed their allegiance to a hypothetical, pure country that is coming into being rather than to the one they inhabit.

Given the liberal gestalt, it is perhaps unsurprising that every important aspect of American exceptionalism has been under threat from President Obama and his allies in Washington. Obama has frankly and correctly described their project as to change the country fundamentally.

On those occasions when Obama places himself in the context of American history, he identifies himself with the post-Wilsonian tradition—with, that is, the gradual replacement of the Founders' design. He seeks to accelerate it.

Already we are catching up to the European norm for government power. In 2010, government spending in the U.S. will reach an estimated 44 percent of GDP. With entitlements for the elderly on a path to explode with the retirement of the

Baby Boomers, the trend is toward more convergence. In a strange reversal, last year it was an American president urging *continental Europeans* to spend more to combat the recession. Two of his highest priorities would drastically, and probably irreversibly, expand the government's footprint.

American liberals have long been embarrassed about our country's supposedly retrograde policies on health care and energy, especially compared with Europe's nationalized health insurance and carbon rationing. So they tried to use their unprecedented power after the 2008 elections to bring the U.S. into line. They sought to limit carbon emissions. That legislation would simultaneously represent a massive indirect tax increase, an extension of the tentacles of government regulation into every sector of the economy, and an empowerment of new bureaucratic instruments to control and direct economic development.

Obama's health-care policy would change the relationship of people to government, probably forever, by further nationalizing our system. It would have the federal government, for the first time, order all Americans to purchase a specified product. And socialized health-care systems in other lands have become endless warrants for more taxing and spending, as both are justified as necessary to delivering adequate health care. Once the public is hooked on government health care, its political attitudes shift leftward. (The system's flaws, such as rationing, tend to be attributed to underfunding, so that even discontent with it ends up entrenching it.)

Free labor markets have been an expression of American individualism and a contributor to American dynamism. But President Obama has attempted to upend seven decades of American labor law in order to make it easier for unions to collect new members. Democrats hope to reverse the unions' decline. Tellingly, after the United Auto Workers helped wreck GM and Chrysler, the Obama administration handed it a large share of control over the two companies.

Corporations, meanwhile, are also becoming more dependent on government handouts. Rivalry

between business and political elites has helped to safeguard American liberty. What we are seeing now is the possible emergence of a new political economy in which Big Business, Big Labor, and Big Government all have cozy relations of mutual dependence. The effect would be to suppress both political choice and economic dynamism.

The retreat from American exceptionalism has a legal dimension as well. Obama's judicial nominees are likely to attempt to bring our Constitution into line with European norms. Here, again, he is building on the work of prior liberals who used the federal courts as a weapon against aspects of American exceptionalism such as self-government and decentralization. Increasingly, judicial liberals look to putatively enlightened foreign, and particularly European, opinion as a source of law capable of displacing the law made under our Constitution.

Liberal regulators threaten both our dynamism and our self-government. They are increasingly empowered to make far-reaching policy decisions on their own—for instance, the EPA has the power to decide, even in the absence of cap-and-trade legislation passed by Congress, how to regulate carbon emissions. The agency thus has extraordinary sway over the economy, without any meaningful accountability to the electorate. The Troubled Asset Relief Program has turned into a honeypot for the executive branch, which can dip into it for any purpose that suits it. Government is increasingly escaping the control of the people from whom it is supposed to derive its powers.

Inevitably, the transformation of America at home is being accompanied by a shift in its policies toward the rest of the world. Since the 1940s America has been the crucial undergirding of the international order. Its power and sway are a stabilizing influence in every region of the world, and it provides international public goods, from the policing of sea lanes to humanitarian interventions. It is also, in keeping with its missionary history, the chief exponent of liberty in the world.

Obama is turning his back both on the overarching vision of freedom and on the prudence, and

mislabeling his approach “realism.” He has been positively allergic to the word “democracy.” His administration has shown very little interest in defending human rights around the world, whether in China or in Cuba. During the Iranian election crisis, he was even cooler to the protesters in the streets than the Europeans were.

His hesitance to advocate American ideals is not a return to the *realpolitik* of Nixon or the first Bush. A deep naïveté informs his policy. He believes that our enemies can be persuaded, merely through sweet talk and blandishments, to abandon their cold-blooded interests and their most deeply held ambitions. This is impossible without developing the kind of leverage over them in which Obama seems to have little interest. Yes, Reagan negotiated with the Soviets, but only when they had a leader who was a reformer and the arms build-up and the prospect of SDI had tilted the correlation of forces—to use the Marxist argot—in our direction. Under the sway of Obama’s anti-idealism, the U.S. is less interested in serving as a champion of liberty; his policies will also reduce our power, and thus our effectiveness should we choose to wield it again.

In many of Obama’s performances overseas (the Nobel acceptance speech is an exception), there has been a dismaying defensiveness. It’s almost as though he doesn’t think we deserve to stand up for our ideals or for our interests, and believes that our record of sins, hypocrisies, and affronts makes a posture of apologetic passivity the only appropriate one. This posture raises a disturbing possibility: that the waning of America’s civilizational self-confidence is part and parcel of the change Obama is effecting.

In Europe, we see a civilization that is not willing to defend itself: nations that will surrender their sovereignty, cultures that will step aside to be supplanted by an alien creed, peoples that will no longer make the most meaningful investment in the future by reproducing. There is a sense that history is over and Europeans are just waiting for someone to turn out the last light in the last gallery of the Louvre.

The popular revolt against Obama’s policies is a sign that Americans are not prepared to go gentle into that good night. Other factors are of course in play—most important, the weak economy—but the public is saying “No” to a rush to social democracy.

Although the conservatives, libertarians, and independents who oppose Obama’s health-care initiative may not put it in quite these terms, they sense that his project will not just increase insurance premiums but undermine what they cherish about America. Those Americans who want to keep our detention facility at Guantanamo Bay think it necessary to protect our security—but they also worry, more profoundly, that our leaders are too apologetic to serve our interests. Americans may want change, even fundamental change, but most of them would rather change our institutions than our national character.

It is madness to consider President Obama a foreigner. But it is blindness to ignore that American exceptionalism has homegrown enemies—people who misunderstand the sources of American greatness or think them outdated. If they succeed, we will be less free, less innovative, less rich, less self-governing, and less secure. We will be less.

As will the world. The Europeans can afford a foreign policy devoted nearly exclusively to “soft power” because we are here to defend them and mount the forward defense of freedom. Who is going to do that for us, when we are no longer doing it for ourselves? Who will answer the call when America is no longer home?

If our politics seems heated right now, that is because the central question before us is whether to abandon our traditional sense of ourselves as an exceptional nation. To be exceptional is of course not to be perfect. The old anti-imperialist saying—“My country right or wrong; if right, to be kept right; if wrong, to be set right”—has considerable wisdom. But Americans are right not to want to become exceptional only in the 230-year path we took to reach the same lackluster destination as everyone else.

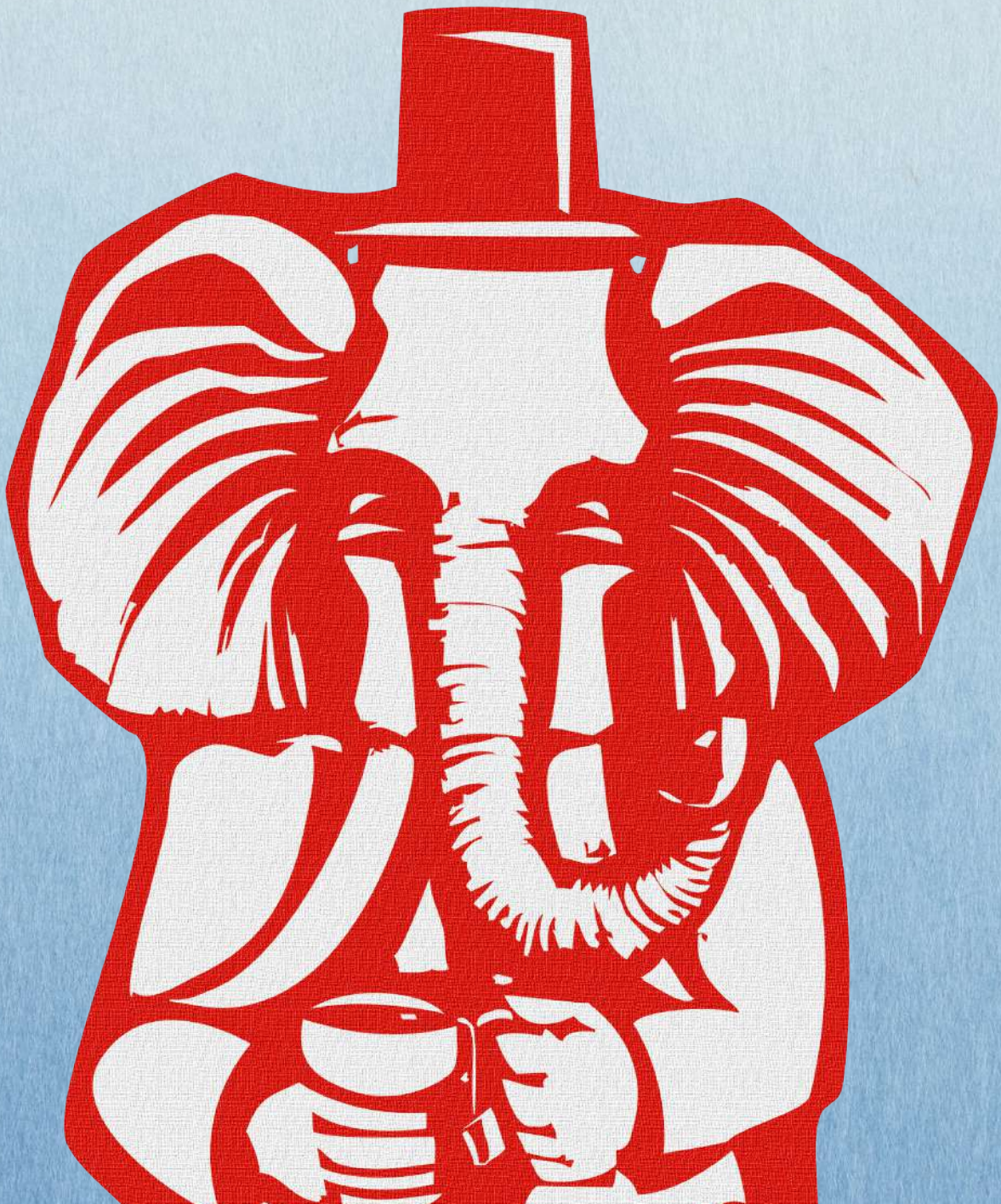


What Is Constitutional Conservatism?

Neither a populist nor a technocrat be

By Yuval Levin

November 28, 2011



THIS fall, liberals from the president on down have begun to grasp the scope of the political and intellectual disaster that the past three years have been for the Left. Their various responses to the calamity have tended to have one thing in common: immense frustration. But the different expressions of that frustration have been deeply revealing. They should help Americans better understand this complicated moment in our politics, and, in particular, help conservatives frame their responses.

Liberal frustration has fallen into two general categories that seem at first to flatly contradict each other: denunciations of democracy and appeals to populism. In September, Peter Orszag, President Obama's former budget director, wrote an essay in *The New Republic* arguing that "we need less democracy." To address our country's daunting problems, Orszag suggested, we need to take some power away from Congress and give it to "automatic policies and depoliticized commissions" that will be shielded from public pressure. "Radical as it sounds, we need to counter the gridlock of our political institutions by making them a bit less democratic." Two weeks later, North Carolina's Democratic governor, Beverly Perdue, made a less sophisticated stab at the same general point, proposing to suspend congressional elections for a few years so members of Congress could make the difficult decisions necessary to get our country out of its deep problems.

Orszag and Perdue both seemed to channel a long and deeply held view of the Left—that the complexity of modern life and the intensity of modern politics should lead us to put more power in the hands of technical experts who have the knowledge to make objective, rational choices on our behalf. Leaving things to the political process will result only in delay and disorder. President Obama has frequently expressed this view himself—wistfully complaining to his aides earlier this year, for instance, that things would sure be easier if he were president of China.

At the same time, the Left has been rediscovering the joys of populism. Populism can mean many things, of course, but in America it has often meant not only a faith in the wisdom of the masses but also a channeling of resentments into a case that the majority is being oppressed by an elite few. And that is just what the president has sought this fall. On the stump, he has been railing against wealthy corporate-jet owners and their Republican henchmen, who care not for the struggling working man and want only "dirtier air, dirtier water, fewer people on health care, [and] less accountability on Wall Street." Meanwhile, a small but opulently publicized populist protest movement has arisen to "occupy" parts of New York's financial district as well as parks and public spaces elsewhere around the country. Although it seems at times to be all fringe and no center, the movement does appear to be held together by resentment against corporate greed and crony capitalism, and a sense that the large mass of the public shares that resentment.

So should we be guided by expert commissions or a popular movement? Does the public have too much of a voice in our politics or not enough of one? It is tempting to see the Left's simultaneous calls for populism and technocracy as a profound incoherence, because we are inclined to see the two as opposite ends of an argument about who should govern.

For that reason, too, it has been tempting to respond with populist outrage to the stunning administrative overreach of Washington liberals in recent years—from banning Edison's light bulb to giving 15 experts the authority to set health-care prices to expanding the scope of regulatory discretion seemingly without limits. For all its populist rhetoric of late, the Left has leaned far more heavily toward government by experts. And on its face, populist outrage does appear to be the character of the conservative response to the Obama years. It has been embodied above all in an extraordinary populist movement—the Tea Party, which has tried to fight back against the incursions of technocracy.

But the Tea Party has been very unusual for an American populist movement. It has not been focused on soaking the rich, as left-wing populists

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always have been. It has not even been primarily focused on reducing the tax burden on the middle class, as right-wing populists usually are. Rather, the Tea Party has focused on restraining government. It originated in outrage about federal bailouts, and has directed its energies toward pulling back the cost and reach of the state. It has asked for fewer government giveaways, not more. It has even given voice to a tight-money populism, criticizing the Federal Reserve for inviting inflation—a far cry from populists of old. And the Tea Party has also been intensely focused on recovering the U.S. Constitution, and especially its limits on government power (and therefore on the public’s power)—another very unusual goal for a populist movement.

These substantive demands of the Tea Party have been at least as important as its populist form. But that form, and the energy it has brought to the effort to resist Obamaism, risks causing us to draw the wrong lesson from the past few years. Populism as such does not define the proper response to the rise of technocratic administration, and cannot be the essence of the defense of our constitutional order against a resurging progressivism.

In fact, a look at the progressives themselves would help us to see that. The original progressives of the early 20th century, just like today’s seemingly incoherent liberals, were populist *and* technocratic—they argued both for direct democracy and for expert rule. Even as they called for enlarging the scope of the federal government and putting a class of educated specialists in charge of it, they also called for radical democratic reforms of our constitutional system. In the 1912 election, the Progressive-party platform proposed not only the direct election of senators but also the enactment of federal laws by public initiative, and even advocated

allowing the public to overturn some court decisions by referendum.

And the progressives generally did not see a contradiction between their technocracy and their populism. They expected their technocratic ideas to be popular, and so they expected populism to lead to more expert government. Technocracy and populism would together undermine the power of the moneyed interests, freeing our government from corruption by the wealthy and thereby making it both more democratic and more rational. Those moneyed inter-

ests, the progressives argued, were protected by our constitutional system, which, with its slow-moving mechanisms and counterbalanced institutions, made any kind of change very difficult to bring about. As the progressive theorist Herbert Croly put it in 1914, the desire of the American people for a government that serves them rather than the rich and powerful was constantly thwarted “not by disconnected abuses, but by a perverted system.”

The simultaneous populist and technocratic appeals of the progressives’ successors in

today’s politics seem to echo this premise. They at least implicitly suggest that technocracy and populism are two sides of the same coin.

And the framers of our Constitution seemed to think so too. But whereas the progressives championed both technocratic government and direct democracy, the Constitution stands opposed to both. As the framers saw it, both populist and technocratic politics were expressions of a modern hubris about the capacity of human beings—be it of the experts or of the people as a whole—to make just the right governing decisions. The Constitution is built upon a profound skepticism about the ability of any political arrangement to overcome the limitations of human reason and human nature, and so establishes a system of checks to prevent sudden large mistakes



As the framers saw it, both populist and technocratic politics were expressions of a modern hubris about the capacity of human beings . . . to make just the right governing decisions.

while enabling gradual changes supported by a broad and longstanding consensus. Experts should not govern, nor should the people do so directly, but rather the people's representatives should govern in a system filled with mediating institutions and opposing interests—a system designed to force us to see problems and proposed solutions from a variety of angles simultaneously and, as Alexander Hamilton puts it in *Federalist* 73, “to increase the chances in favor of the community against the passing of bad laws through haste, inadvertence, or design.”

That such a system is far from populist should be obvious. In *Federalist* 63, James Madison says plainly that the constitutional architecture involves “the total exclusion of the people in their collective capacity” from directly governing. The democratic elements of the Constitution are intended to be checks on the power of government, not expressions of trust in the wisdom of the public as a whole. And even as checks, these elements are imperfect. As Madison argues in *Federalist* 51, “A dependence on the people is no doubt the primary control on the government, but experience has taught mankind the necessity of auxiliary precautions.”

But those precautions do not amount to the rule of experts. The framers were disdainful of the potential of technocratic know-it-alls whose abstract expertise was often of value only in what Hamilton calls, in *Federalist* 28, “the reveries of those political doctors whose sagacity disdains the admonitions of experimental instruction.” And even men with expertise in administration should not be given too much power. In *Federalist* 68, Hamilton argues that, while good administration is very important, the idea that the best-administered regime is the best regime is a “political heresy.” There is much more to government than administration.

Thus expert omniscience could not be trusted to check the excesses of popular passion, and public omniscience could not be trusted to check the excesses of expert arrogance. In the view of the framers, there is no omniscience; there is only imperfect humanity. We therefore need checks on all of our various excesses, and a system that forces us to think through important decisions as best we

can. This may well be the essential insight of our constitutional system: Since there is no perfection in human affairs, any system of government has to account for the permanent imperfections of the people who are both governing and governed, and this is best achieved through constitutional forms that compel self-restraint and enable self-correction.

This emphasis on moderating *forms*—that is, the focus on arrangements that impose structure and restraint on political life—is crucial, and it has always been controversial. Indeed, it is what troubled the progressives most of all about our system, and what troubled many other technocrats and populists before them. But as Alexis de Tocqueville noted a century before the New Deal, “this objection which the men of democracies make to forms is the very thing which renders forms so useful to freedom; for their chief merit is to serve as a barrier between the strong and the weak.” And he added, with his usual prescience, “Forms become more necessary in proportion as the government becomes more active and more powerful.” In other words, we need them now more than ever.

The framers' formalism, with its humility about our knowledge and its limits on our power, is at work not only in our political institutions but in our economic system too. American free enterprise, like our constitutional system, establishes rules of the game that restrain the powerful and create competition that helps balance freedom and progress. And in economic policy, just as in politics more generally, that framework is undermined by a populism that wants to take from the wealthy and by a technocratic mindset according to which Washington should pick winners and losers. In economics and in politics, our defense against these dangers has to start with an adherence to procedural rules and forms that restrain the hubris of the powerful—defending markets, not coddling big business or soaking the rich; defending the Constitution, not advancing technocracy or populism.

It is no surprise that we find the same pattern in our economic and our constitutional debates. In fact, the humble assumption of permanent human imperfections and the humble desire for forms that might

prevent large mistakes are at the core of the greatest achievements of the modern age: of constitutional democracy, of the free market, of the scientific method. Yet the most ardent champions of liberalism in our politics have too often failed to see the power of such humility, instead articulating a liberalism rooted in utopian ambitions or their mirror image—naïve resentments—all dressed up as a theory of justice.

The difference between these two kinds of liberalism—constitutionalism grounded in humility about human nature and progressivism grounded in utopian expectations—is a crucial fault line of our politics, and has divided the friends of liberty since at least the French Revolution. It speaks to two kinds of views about just what liberal politics is.

One view, which has always been the less common one, holds that liberal institutions were the product of countless generations of political and cultural evolution in the West, which by the time of the Enlightenment, and especially in Britain, had begun to arrive at political forms that pointed toward some timeless principles in which our common life must be grounded, that accounted for the complexities of society, and that allowed for a workable balance between freedom and effective government given the constraints of human nature. Liberalism, in this view, involves the preservation and gradual improvement of those forms because they allow us both to grasp the proper principles of politics and to govern ourselves well.

The other, and more common, view argues that liberal institutions were the result of a discovery of new political principles in the Enlightenment—principles that pointed toward new ideals and institutions, and toward an ideal society. Liberalism, in this view, is the pursuit of that ideal society. Thus one view understands liberalism as an accomplishment to be preserved and enhanced, while another sees it as a discovery that points beyond the existing arrangements of society. One holds that the prudent *forms* of liberal institutions are what matter most, while the other holds that the utopian *goals* of liberal politics are paramount. One is conservative while the other is progressive.

The principles that the progressive form of liber-

alism thought it had discovered were much like those that more conservative liberals believed society had arrived at through long experience: principles of natural rights that define the proper ends and bounds of government. Thus for a time, progressive and conservative liberals in America—such as Thomas Jefferson and Thomas Paine on one hand and James Madison and Alexander Hamilton on the other—seemed to be advancing roughly the same general vision of government. But when those principles failed to yield the ideal society (and when industrialism seemed to put that ideal farther off than ever), the more progressive or radical liberals abandoned these principles in favor of their utopian ambitions. At that point, progressive and conservative American liberals parted ways—the former drawn to post-liberal philosophies of utopian ends (often translated from German) while the latter continued to defend the restraining mechanisms of classical-liberal institutions and the skeptical worldview that underlies them.

That division is evident in many of our most profound debates today, and especially in the debate between the Left and the Right about the Constitution. This debate, and not a choice between technocracy and populism, defines the present moment in our politics. Thus the Left's simultaneous support for government by expert panel and for the unkempt carpenters occupying Wall Street is not a contradiction—it is a coherent error. And the Right's response should be coherent too. It should be, as for the most part it has been, an unabashed defense of our constitutional system, gridlock and all.

Because the Left has been so much more technocratic than populist these past few years, the Right's response has naturally drifted into populist tones. That is appropriate, and it has been effective, but the tone must not overwhelm the substance of the Right's critique. In this time of grave challenges, conservatives must work to protect the fundamentally constitutional character of the Tea Party, and of the conservative movement—avoiding the excesses of both populism and technocracy as we work to undo the damage done by both, and to recover the American project.





The Truth About the Second Amendment

It was always meant to
protect an individual right

By **Charles C. W. Cooke**

August 27, 2018

STOP me if you've heard this one before. In 1791, the Founding Fathers placed into the U.S. Constitution a set of ten amendments that we refer to collectively as the "Bill of Rights." Among them was an innocuous measure designed to protect state militias against federal overreach. Until the 1970s, nobody believed that this meant anything important, or that it was relevant to modern American society. But then, inspired by profit and perfidy, the dastardly National Rifle Association recast the provision's words and, *sua sponte*, brainwashed the American public into believing that they possessed an individual right to own firearms.

Right?

Wrong.

Simply put, the above charge, which is popular in the press and in some quarters of the academy, is not true. In fact, it's *farcical*. Certainly, the last few decades have brought with them a sea change in both the jurisprudence and the academic literature that undergird the Second Amendment. And certainly, there has been a move away from the mid-20th-century consensus that the Second Amendment was either meaningless—in 1975, the American Bar Association proclaimed bizarrely that "it is doubtful that the Founding Fathers had any intent in mind with regard to the meaning of this Amendment"—or wholly without teeth as a protector of individual rights. And yet, contrary to popular claims, these transformations did not represent a novel *revolution* in meaning or interpretation but rather a much-needed *restoration* of what for most of American history was supremely, even mundanely, obvious: that "the right of the people to keep and bear arms" means "the right of the people to keep and bear arms."

Commenting in 2007 on *Parker v. District of Columbia*—in which the United States Court of Appeals for the District of Columbia Circuit held that the Second Amendment protected an individual right—the *New York Times*' Adam Liptak explained that we had reached a turning point in

the dispute. "Only a few decades ago," wrote Liptak, this "decision would have been unimaginable." Indeed, he confirmed, "there used to be an almost complete scholarly and judicial consensus that the Second Amendment protects only a collective right of the states to maintain militias. That consensus no longer exists." And yet, as Liptak went on plainly to record, that was not because the bogeymen had successfully peddled a lie before a parade of activist judges, but because the consensus of the mid 20th century had finally been exposed as a mistake.

In fact, Liptak explained, a good deal of the spadework that led us to *Parker*, *Heller*, and the rest was done on the *left*—by "leading liberal law professors" such as Sanford Levinson, Laurence Tribe, and Akhil Reed Amar, all of whom came gradually "to embrace the view that the Second Amendment protects an individual right to own guns." Bit by bit, and in concert with the crucial work of figures such as Don Kates, Joyce Lee Malcom, Stephen Halbrook, and Glenn Reynolds, many of America's "liberal" academics came to understand that, far from being an aberration, the "Standard Model" of the Second Amendment, as this view is known, was just that: standard. Moreover, as Liptak noted, they came to believe that "the earlier consensus reflected received wisdom and political preferences rather than a serious consideration of the amendment's text, history and place in the structure of the Constitution." Or, as Levinson had put it in 1989 in his influential *Yale Law Journal* article "The Embarrassing Second Amendment," "the best explanation for the absence of the Second Amendment from the legal consciousness of the elite bar, including that component found in the legal academy, is derived from a mixture of sheer opposition to the idea of private ownership of guns and the perhaps subconscious fear that altogether plausible, perhaps even 'winning,' interpretations of the Second Amendment would present real hurdles to those of us supporting prohibitory regulation."

Once that "serious consideration" was undertaken, the house of cards fell, and Americans got back

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their right to keep and bear arms. Perhaps the neatest illustration of the change can be found in the work of Harvard's Laurence Tribe. In the 1978 edition of his *American Constitutional Law* textbook, the Second Amendment is mentioned only in a footnote, and cast solely as a means by which "to prevent such federal interferences with the state militia as would permit the establishment of a standing national army and the consequent destruction of local autonomy." The 1988 revision contains the same characterization. The 2000 edition, by contrast, confirms that the provision represents an individual right. "The amendment achieves its central purpose," Tribe maintained, "by assuring that the federal government may not disarm individual citizens without some unusually strong justification. . . . That assurance in turn is provided through recognizing a right . . . on the part of individuals to possess and use firearms in defense of themselves and their homes."

What a difference a decade can make.

Given the way the Second Amendment is written, it is perhaps unsurprising that the confusion came to pass. Indeed, in 1880, the great scholar Thomas Cooley all but anticipated it in what was likely the most widely read legal textbook of the era. "It may be supposed from the phraseology of this provision that the right to keep and bear arms was only guaranteed to the militia," Cooley noted in his *General Principles of Constitutional Law*. "But this," he explained, "would be an interpretation not warranted by the intent."

The militia, as has been elsewhere explained, consists of those persons who, under the law, are liable to the performance of military duty, and are officered and enrolled for service when called upon. But the law may make provision for the enrolment of all who are fit to perform military duty, or of a small number only, or it may wholly omit to make any provision at all; and if the right were limited to those enrolled, the purpose of this guaranty might be defeated altogether by the action or neglect to act of the government it was meant to hold in check. The

meaning of the provision undoubtedly is, that the people, from whom the militia must be taken, shall have the right to keep and bear arms, and they need no permission or regulation of law for the purpose.

Given changing sensibilities; the evolving meaning of words; the decline of a shared republican worldview that regarded government as an auxiliary, not all-conquering, domestic force; and a healthy helping of cynical gamesmanship from the gun-control movement and its allies in the press, one can comprehend how we went from a widespread understanding that Americans enjoyed the right to keep and bear arms to breathless online headlines insisting that the "gun lobby" has "rewritten the Second Amendment!" "Arms," "state," "militia," "well-regulated"—these terms have all changed in the popular imagination in the years since 1791, as have what we would now refer to as America's "gun politics." For many unfamiliar with the history, the mistake is a forgivable one.

For those who *are* familiar, however, it is most decidedly not. Indeed, to be cognizant of the history is to arrive at one clear and unmistakable conclusion: that the "collective right" theory is just *nuts*. As a 1982 Senate report on the meaning of the Second Amendment concluded bluntly, it is "inescapable that the history, concept, and wording of the second amendment to the Constitution of the United States, as well as its interpretation by every major commentator and court in the first half-century after its ratification, indicates that what is protected is an individual right of a private citizen to own and carry firearms in a peaceful manner."

That word, "inescapable," is a good one, for it is simply impossible to review the post-Revolution era and come away with the impression that the Second Amendment protects some convoluted state-led right. Even if we ignore that the word "people" is used in the self-evidently individual protections that surround the Second Amendment—and even if we ignore that James Madison

proposed to insert the “right to bear arms” next to the other individual rights listed in Article I, Section 9, and not next to the militia clause in Article I, Section 8, clause 16—a brief audit of contemporary interpretations tells us all we need to know.

It may seem remarkable to modern sensibilities, but it was not at all unusual in the 19th century to read politicians and scholars openly worrying that the people might be left unable to remove their government should the course of human events run sour. In *Letters from the Federal Farmer* 53, Richard Henry Lee proposes that “to preserve liberty, it is essential that the whole body of people always possess arms, and be taught alike, especially when young, how to use them.” You will notice, I assume, that Lee’s purpose in hoping that “the whole body of people always possess arms” is “to preserve liberty” rather than, say, to “defend the country” or to “prevent domestic insurrection.” That matters a great deal, demonstrating as it does that we are talking here about something other than a proto-National Guard.

Lee’s view was neither outré nor limited to his particular anti-Federalist worldview. On the contrary: His assumptions were echoed across the

political spectrum and throughout the century that followed. Explaining the unamended Constitution in the *Pennsylvania Gazette* in February 1788, the Federalist Tench Coxe celebrated that “the unlimited power of the sword is not in the hands of either the federal or state governments, but, where I trust in God it will ever remain, in the hands of the people.” A year later, in the course of endorsing the proposed Bill of Rights, Coxe confirmed that the Second Amendment was designed not to protect the nation, the states, or the federal government, but to protect the people: “Whereas civil-rulers,” he wrote, “not having their duty to the people duly before them, may attempt to tyrannize, and as military forces, which must be occasionally raised to defend our country, might pervert their power to the injury of their fellow citizens, the people are confirmed by the article in their right to keep and bear their private arms.” It would, of course, be preposterous to suggest that such a rebellion would be carried out under the auspices of a federal government that enjoyed plenary power over the militias.

Coxe’s understanding was common. In his 1803 edition of Blackstone’s *Commentaries*, the jurist St. George Tucker proposed that Americans “may

reasonably hope that the people will never cease to regard the right of keeping and bearing arms as the surest pledge of their liberty,” and recorded that in America “the right of the people to keep and bear arms shall not be infringed; . . . and this without any qualification as to their condition or degree, as is the case in the British government.” The Second Amendment, Tucker suggested, was “the true palladium of liberty.”

In the reference book that replaced Tucker’s, William Rawle’s 1825 *A View of the Constitution of the United States of America*, it is emphatically stated that the Second Amendment’s “prohibition is general. No clause in the Constitution could by any rule of construction be conceived to give to congress a power to disarm the people.” This fact, Rawle reasoned,



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would give Americans a better chance at staying free, for while in Europe “the prevention of popular insurrections and resistance to government” is achieved “by disarming the people,” Americans had a constitutional prophylactic that “may be appealed to as a restraint.”


Nor did the third great book of the era dissent one iota from this understanding. In his *Commentaries on the Constitution of the United States* (1833), Joseph Story channeled Tucker in affirming that “the right of the citizens to keep and bear arms has justly been considered as the palladium of the liberties of a republic” and summed up the spirit of the age by insisting that, in addition to the benefits it conferred upon the militias that were drawn from those citizens, the amendment offered “a strong moral check against the usurpation and arbitrary power of rulers.”

Indeed, so obvious was it to the people of the United States that the right came glued to liberty and citizenship that it was referenced by *both* sides during the explosive fight over slavery and its aftermath. In his abhorrent majority opinion in *Dred Scott v. Sanford*, Justice Roger B. Taney simply assumed that citizens were able to carry firearms and then used that dreadful prospect as a reason why blacks must never be afforded citizenship. Should Dred Scott prevail, Taney wrote, blacks would be “entitled to the privileges and immunities of citizens,” which would “give them the full liberty of speech in public and in private upon all subjects upon which its own citizens might speak; to hold public meetings upon political affairs, and to keep and carry arms wherever they went.”

After the Civil War, the Republicans amended the Constitution to ensure that another Dred Scott decision would be impossible. Introducing his proposed 14th Amendment to Congress, John Bingham explained that he hoped to guarantee to freed blacks the “privileges and immunities” of which Taney had spoken, which, he recorded, were “chiefly defined in the first eight amendments to the constitution.” Jacob Howard, a key sponsor of Bingham’s proposal, told the Senate explicitly that

this included the “right to keep and bear arms.” Somewhere, Lysander Spooner must have smiled.

Alas, things did not quite pan out that way. In Texas, as in so many other former slave states, the judiciary joined with legislators in denying freedmen their birthrights—at the cost of the plain meaning of the law if necessary. In 1859, before the Civil War, the Texas supreme court had ruled in *Cockrum v. State* that both the Second Amendment and its equivalent in the state constitution protected an “absolute” right to keep and bear arms. “A law cannot be passed to infringe upon or impair it,” the court determined, “because it is above the law, and independent of the law-making power.” In 1871, however, the same court—with some of the same members!—argued precisely the opposite when upholding a law that made it illegal for any Texan to carry “on or about his person, saddle, or in his saddle-bags, any pistol.” Nothing had changed in the text in the interim. How powerful a force is motivated reasoning.

For a while, such reasoning prevailed. But as with all great untruths, it was eventually done in by the weight of its contradictions and the scale of its delusions. The aberration in American history was not *Heller* but what immediately preceded *Heller* and passed for academic scholarship and judicial rigor in the middle of the 20th century. It was clear in the 18th century what the Second Amendment meant. It was clear in the 19th century, too. It was clear before ratification, at the time of ratification, and after ratification. It was clear before the Civil War, and during the drafting of the 14th Amendment, and to the postbellum segregationists who undermined it whenever they could. It was clear when almost every state added its own protections of the right to keep and bear arms and, in so doing, made a mockery of the idea that the right they were emulating had been born of a desire to limit federal power. There has been precisely one plot to recast the Second Amendment and, in the words of Thomas Jefferson, to “make it a blank paper by construction,” and that was the plot that flowered briefly in the middle of the 20th century. We must resolve to make sure that it never does so again. 



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By **James L. Buckley**

October 17, 2020

AERICAN independence was won and the Republic created by a remarkable generation of men who turned a rebellion against the British crown into a transforming moment in human history, one based on the revolutionary proposition that all men are created equal and are endowed by their Creator with fundamental rights that no government has the moral authority to set aside. But with the gaining of independence, the Founders faced the formidable task of creating a government that could operate effectively while respecting and protecting the liberties for which the Revolution had been fought.

The architects of the American Republic had no illusions about human nature, which is the one constant in human affairs. From their study of the history of free societies reaching back to ancient Greece, they understood that the drive to accumulate power, whether by an individual despot or a parliamentary majority, is the historic enemy of individual freedom. They therefore incorporated two safeguards into the Constitution: its system of separation of powers, with its checks on potential abuses, and the principle of federalism as underscored by the Tenth Amendment's command that all powers not assigned to the federal government be reserved to the states.

On taking office, members of Congress must "solemnly swear" that they "will support and defend the Constitution of the United States against all enemies, foreign and domestic" and "bear true faith and allegiance to the same." Yet over the past many decades, Congress has been systematically engaged in undermining both of that document's most fundamental safeguards of our individual freedoms. Americans, however, appear oblivious of that fact and of the seriousness of the consequences if left unchecked.

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During our first 180-odd years, Washington largely observed those safeguards. But with the advent of Lyndon Johnson's Great Society, Congress began a wholesale assumption of the states' responsibilities. As I explain in my 2014 book *Saving Congress from Itself*, it has done so through a proliferation of federal programs that offer states and their subdivisions grants of money for purposes that are the states' exclusive concern.

These grants come with the most detailed instructions on how the money is to be used. Out of deference for the Tenth Amendment, the Supreme Court has stipulated that Congress may not coerce the states into accepting them. Fifty years of experience, however, has demonstrated that states find it enormously difficult to decline what is viewed as free money from Washington, however onerous the attached conditions. Thus the practical effect of the Court's decisions has been to empower Congress to bribe the states into accepting Washington's directions on matters that remain the states' constitutional responsibility.

Members of Congress have become addicted to these programs because they deal with matters that are of the most immediate concern to their constituents: matters such as housing, schooling, job training, potholes, you name it. Therefore, their creation and the securing of grants offer members the easiest way to rub elbows with voters and generate the favorable headlines that will assure their reelection. As a consequence, whereas those programs distributed \$24 billion in 1970 when I was elected to the Senate, by 2015 that figure had reached almost \$641 billion, or one-sixth of total federal spending that year, and all for purposes that are none of Washington's business.

The result has been an avalanche of regulation-ridden programs that now provide federal subsidies for virtually every activity in which states are engaged. They have thus converted the states in too many ways into mere administrators of programs created in Washington and overseen by

bureaucrats who are the furthest removed from where the money is to be spent.

In short, those programs have effectively nullified the Tenth Amendment. But that isn't the only way that Congress has been undermining the Constitution's safeguards. Over the years it has also been chipping away at its separation of powers. The Constitution provides that "all legislative Powers herein granted shall be vested in a Congress of the United States." Thus Congress is the sole legitimate source of federal laws. Responsible law writing, however, can be a difficult art, and the more complex the legislative details, the greater care is required to ensure that the finished product does neither more nor less than Congress intended.

As I say, this is demanding work. So Congress has fallen into the habit of delegating ever more essentially legislative details to executive agencies that in turn produce the detailed regulations that give congressionally enacted laws their effect. In doing so, the agencies tend to resolve statutory ambiguities in ways that will meet their own objectives, which may or may not coincide with those Congress had in mind.

Over time, the effect of all of this has been the creation of an extra-constitutional administrative state that both writes and administers the rules that now govern ever wider areas of American life. Procedures are in place that are intended to subject regulations to scrutiny before they can take effect. But the administrative state can sidestep them by simply writing letters, as it did recently when it advised schools that boys must be allowed to use girls' bathrooms if they think of themselves as girls. And the administrative state gets away with such excesses because they have become so common in current practice that Congress too rarely raises any objections.

So here we are today. Federalism is just a memory and Congress's abdications of its own responsibilities have given us an expanding administrative state whose non-elected officials govern by regulatory fiat. As I noted in my book, an effective federalism is easily restored. All that

is required is for Congress to strip the grants of federal directives telling the states how the money is to be used. This simple reform would once again allow accountable state and local officials rather than distant bureaucrats to determine how best to meet state and local needs. Unfortunately, Congress has thus far failed to follow my advice.

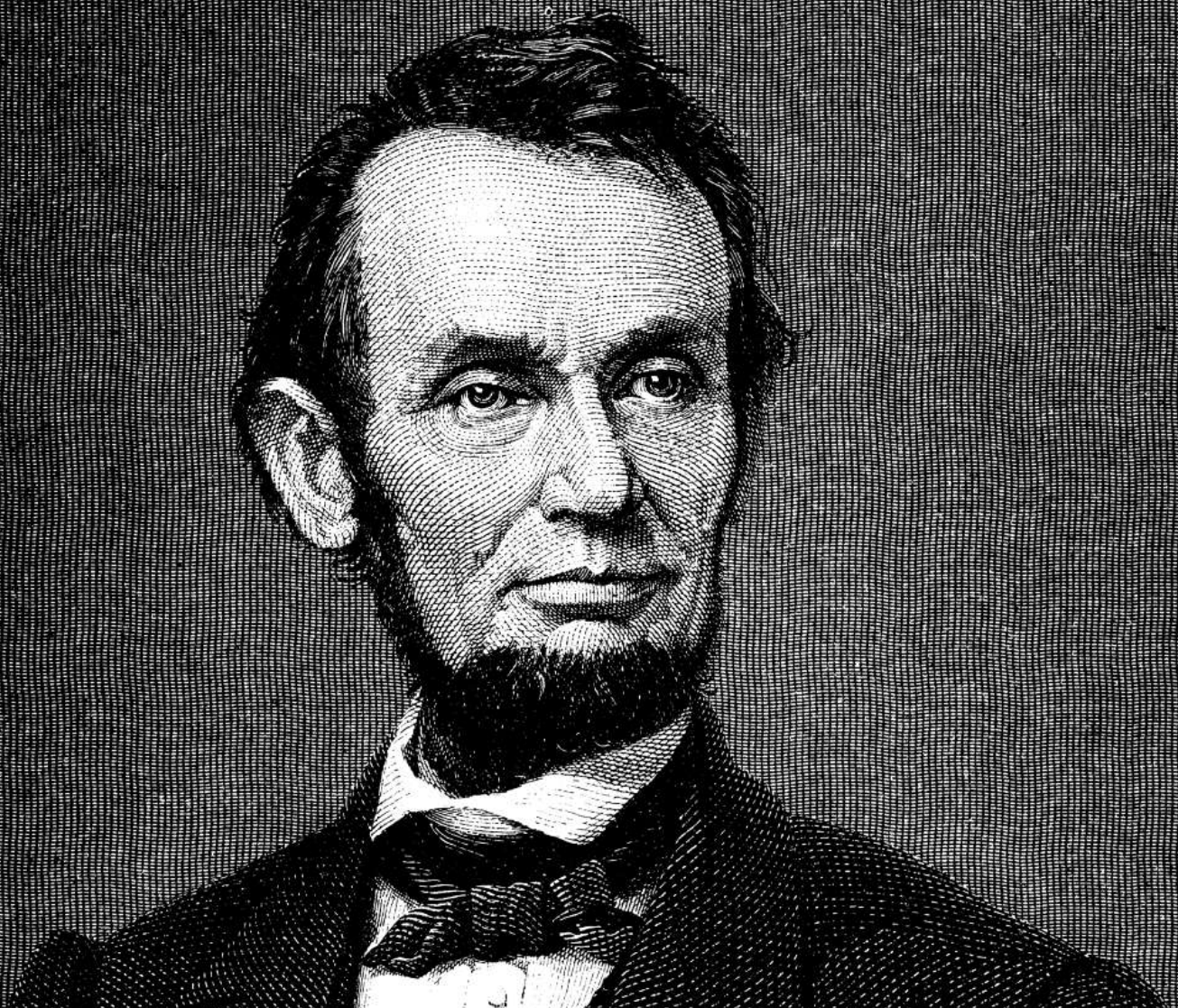
Restoring the Constitution's allocation of governmental powers, however, will be a far more difficult task. Over the past generation and more, our educators have abdicated their responsibility to ground their students in the fundamentals of the American experience. As a result, far too many of our people now suffer from a peculiar form of historical amnesia.

They remember all our past sins, such as slavery and our treatment of the Indians. But far too few have a sufficient awareness of the constitutional and economic principles that, on the historical record, had made ours the most productive, prosperous, innovative, generous, and free society the world had known; principles that were responsible for the freedoms and material well-being they take so much for granted. I have had to use the past tense, however, because our nation is no longer the world's freest.

As a consequence, we have become a nation of constitutional illiterates. Few Americans have any understanding of the degree to which the Constitution's safeguards are being whittled away. So we need to remind them of these safeguards' existence and hammer home the urgent need to bring the administrative state under effective constitutional control. That will be anything but easy, but it has to be done.

The challenge to preserve our Republic has always been with us. But it is now facing an unprecedented threat. As Benjamin Franklin reminded us at the close of the Constitutional Convention, while the Framers had given us a Republic, it would be up to us to "keep it." But to do so, it is essential that Americans grasp the significance of the threats to which they are being exposed by Congress's abandonment of the Constitution's most essential safeguards.





Self-Interest Is Not Enough: Lincoln's Classical Revision of the Founding

By **Cameron Hilditch**

September 18, 2020

THE Constitution of the United States is built upon the sure and steady foundation of human selfishness. Its author, James Madison, was of the opinion “that neither moral nor religious motives can be relied on” to support republican government. Since saints are rare and sinners are ubiquitous, it makes sense to assume that both voters and magistrates will resemble the latter more than they resemble the former. For this reason, Madison informs us in *Federalist* 51, “ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place.”

The counterexample that demonstrates the genius of his approach is France. After succumbing to a revolution in 1789 raised in the belief that human nature is, in and of itself, innocent, the French are now on to their fifth republic. The previous four were felled by either tyrants or tyrannical mobs. Meanwhile, Madison’s constitution is still going strong nearly 233 years after ratification. The Founders’ decision to make self-interest the backstop of political freedom has been vindicated by history.

The problem with this rather neat and tidy conclusion is that it can be arrived at only by ignoring the public career of Abraham Lincoln. All of Lincoln’s major speeches, from his speech to the Young Men’s Lyceum in Springfield to the Gettysburg Address, exhibit his conviction that the self-interest of the citizenry cannot sustain the republic. In fact, this was Lincoln’s central contention during his famous debates with Stephen Douglas.

In 1854, Douglas supported the Kansas-Nebraska Act, which removed the ban on slavery in the western territories. According to Douglas, the legality of slavery should have been decided in each case by “popular sovereignty,” which, for Douglas, meant that local majorities should have full power to decide the legality of slavery in each of the territories. The purpose of the Constitution, in his eyes, was to allow the interests and desires of citizens to be hashed out through democratic mechanisms.

Banning slavery from the territories would violate the rights of the locals to pursue their own political desires.

Lincoln could not have disagreed more strenuously. In his speech at Peoria in 1854 he declared that he hated Douglas’s Nebraska bill because it enabled “the enemies of free institutions, with plausibility, to taunt us as hypocrites, . . . and especially because it forced so many really good men amongst ourselves into an open war with the very fundamental principles of civil-liberty—criticizing the Declaration of Independence, and insisting that there is no right principal of action but self-interest.”

This should not be taken as a simple moral objection to the law in question. For Lincoln, public opinion on matters of morality was of the utmost importance to practical politics. He wrote that “our government rests on public opinion. Whoever can change public opinion, can change the government, practically just so much.” He further observed that “public opinion, on any subject, always has a ‘central idea’ from which all its minor thoughts radiate. . . . The ‘central idea’ in our political public opinion, at the beginning was, and until recently has continued to be ‘the equality of men.’” For Lincoln, the preservation of the republic depended upon the presence of certain convictions in the hearts and minds of the people rather than their proclivity to pursue their interests. The debates with Douglas were about nothing less than the question of which idea would be the “‘central idea’ from which all . . . minor thoughts radiate” in the United States of America.

According to Douglas, this central idea was “popular sovereignty:” local majorities pursuing their interests in an unfettered way so as to check the interests of other local majorities across the country. This regional proliferation of different political priorities would then serve as a check against overreach on the part of the federal government, as it would make stable national majorities difficult to come by. One reason that Douglas was such an avid proponent of Manifest Destiny was that he wanted more and more geographically dispersed communities with ever more diverse political priorities to

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prevent the growth of Leviathan. A federal ban on the extension of slavery would have been a gross violation of popular sovereignty in his eyes. The federal government's attempt to take into its own hands decisions that rightly belong in those of local communities represented an existential threat to self-government as Douglas understood it. The plenary ability of individuals to come together and make political decisions for themselves was Douglas's ultimate political value. He even located its origin in the Garden of Eden, claiming continuity between the freedom given by God to Adam and Eve and the freedom inherent in the popular-sovereignty principle. Lincoln objected to this analogy, and corrected Douglas at the end his Peoria speech:

In the course of my main argument, Judge Douglas interrupted me to say, that the principle of the Nebraska bill was very old; that it originated when God made man and placed good and evil before him, allowing him to choose for himself, being responsible for the choice he should make. At the time I thought this was merely playful; and I answered it accordingly. But in his reply to me he renewed it, as a serious argument. In seriousness then, the facts of this proposition are not true as stated. God did not place good and evil before man, telling him to make his choice. On the contrary, he did tell him that there was one tree, of the fruit of which he should not eat, upon pain of certain death.

For Lincoln, America, like Eden, could be maintained only by the willingness of the people to deny themselves certain pleasures; in particular, the pleasure of despotism, of ruling others without their consent. The great Lincoln scholar Harry Jaffa summed up the Great Emancipator's argument when he wrote that "if the pleasures of freedom come into competition with the pleasures of despotism, they cannot survive on the basis of their pleasantness alone." There is no guarantee that the self-interest of the citizen will always lead him to respect and defend the rights of others. The persistent practice of slavery was enough to demonstrate

this. Lincoln maintained that there was no difference in principle between enslaving a white man and enslaving a black man. From this premise he reasoned that a local majority voting in favor of enslaving other men was something akin to a logical contradiction. By voting in favor of the proposition that human beings can be ruled without consent, they rendered their own majoritarian consent meaningless. This is why Lincoln rejected Douglas's central idea. Popular sovereignty can function only if the conviction that no man is to be ruled without consent is first affirmed. To use a phrase of the late Justice Robert Jackson, this commitment must be put "beyond the reach of majorities." Otherwise, popular sovereignty collapses under the weight of its own contradictions.

Lincoln's rejection of Douglas's strict democratic-libertarian model of freedom, with its emphasis upon choice in and of itself as the supreme political value, reveals a classical bent in his political thought. The idea that freedom means living under the right restraints, rather than the fewest restraints possible, is one we find in Greek philosophy and in the early Fathers of the Christian Church, not in Locke or Hobbes. And yet this, the classical understanding, is the model of freedom we find expressed and endorsed by Lincoln. The classical Christian understanding of human nature conceives of it as something toward which we move, not from which we come. Fallen and sinful man is, according to this view, in a profoundly *unnatural* state, judged by the standards of the ideal human being. This arch-human paragon might be Achilles to the Greeks, or Christ to the Christians, but either way, a standard is upheld.

Lincoln's conviction that slavery was profoundly unnatural must be understood in these terms. He does not argue that slavery isn't habitual or normative—he was too great a student of history to think that. But its practice requires the abandonment of certain self-imposed restraints without which we cannot rise to the full height of our humanity. Without these restraints, we are little more than beasts. Thus it is for Lincoln that living according to one's nature means, first and foremost, living under

the restraints of human equality. Throw off these restraints, and the exercise of a purely libertarian freedom by some amounts to nothing more than the abasement of the species.

This brings us to Lincoln's own "central idea," that "all men are created equal." The words, of course, are lifted from the Declaration of Independence, but Lincoln's interpretation of them is subtly different from Jefferson's. Our third president interpreted this statement in the conventionally pre-political Lockean sense: All men are created equal in the state of nature and then, faced with the threat of violent death, reluctantly form a government to protect themselves from their fellow men. It's essentially a negative formulation designed to create a permission structure for revolution when government oversteps the mark. However, as Jaffa observes:

Lincoln's interpretation of "all men are created equal" is not that it specifies the condition of man in a pre-political state, a highly undesirable state which marks the point at which men ought to revolt, but that it specifies the optimum condition which the human mind can envisage. It is a condition *toward* which men have a *duty* ever to strive, not a condition *from* which they have a right to escape. It is conceived as a political, not a pre-political, condition, a condition in which—to the extent that it is realized—equality of right is secured to every man not by the natural law (which governs Locke's state of nature, in which all men are equal) but by positive human law.

This is yet more evidence of Lincoln's classical revision of the Founding. Politics exists in order to allow citizens to better live according to their nature, and the great American insight into this nature is that "all men are created equal." Lincoln transfigured this great phrase from a pre-political stick with which to beat tyrants (as it was for Jefferson) into a classical political ideal toward which the citizenry has a duty to strive. "Equality" becomes for the United States what wisdom was for Athens and

what martial glory was for Sparta. As an ideal it always escapes the conclusive grasp of Lady Liberty's outstretched arm, but she and her country are nevertheless exalted by her persistent and relentless reach for it. Not a perfect Union, but an "ever more perfect Union." Jaffa, once again:

The Declaration conceives of just government mainly in terms of the relief from oppression. Lincoln conceives of just government far more in terms of the requirement to achieve justice in the positive sense; indeed, according to Lincoln, the proposition "all men are created equal" is so lofty a demand that the striving for justice must be an ever-present requirement of the human and political condition.

There is, consequently, no room in the United States for politics, like those of Douglas, that deny the truth of universal human equality. Popular sovereignty is legitimate only within the proper constraints of human nature, and human nature is one, indivisible, and evenly distributed among all members of the species. According to Lincoln's carefully constructed arguments, those whose would deny this are the very definition of anti-American. They hold the country's "central idea" in contempt.

What's the relevance of all this today? In our recent history the country has been drifting back toward Stephen Douglas's model of politics. Not that there's any great resurgence in affection for antebellum slavery—thank God, its moral horrors are now almost universally recognized. But Douglas's insistence that the rights of the people and the desires of the people are one and the same is the functional assumption of both parties in 2020. Both the Republican Party and the Democratic Party seem at times to have little function other than to provide catharsis to their respective bases by publicly defenestrating the other side at every opportunity.

Moreover, the classical reorientation of the republic by Lincoln is a legacy that has been left unclaimed by either party. The political rhetoric and thought-forms of the Democratic Party have been

generated by Hegel, Marx, and the Progressive movement of the early 20th century. Its conception of freedom is directional; we have to move “forward” toward a more just society by giving politicians and bureaucrats a free hand to mobilize the machinery of the state to that end. The language of the Republican Party has, for the last 40 years, been more or less Jeffersonian. This conception of freedom is spatial; it prioritizes the alleviation of external restraints upon the individual. In 2016, with the nomination of Donald Trump, the GOP pivoted from the rhetoric of Jefferson to the rhetoric of Jackson (a man and president whom Lincoln loathed). The party then took on its own flavor of dialectic between “coastal elites” and “the forgotten man.”


But for Lincoln the definition of freedom was tantamount to the acquisition of indispensable virtues on the part of the people. The most important of these virtues is a healthy and reverent respect for the equality of all men. Without this, free government is impossible. In this way, Lincoln may be said to have significantly altered the fabric of American freedom as handed down to him by Madison. He did believe that virtue was required to sustain the republic, because republican government is a *product* of virtue in the first place. This is a point of internal contradiction in Madison’s thought. Ironically, the Founders were themselves exceptionally virtuous men in many respects, especially Washington. The idea that a form of government founded by good men acting upon heroic and elevated impulses (*pace* Charles Beard) could be sustained by bad men acting on selfish impulses is a strange one.

Lincoln’s idea of equality, however, was not equality of outcome, but equality of access to the fruits of one’s own labor. He often argued to his opponents that even if their position was correct, and African Americans were biologically unable to produce the same kind of wealth as whites, what little they produced would still be their own by absolute and inviolable right. In this respect his conception of virtue differs somewhat from the classical notion. The classical hero is defined by his superiority to his fellow men. He belongs to “the



For Lincoln the definition of freedom was tantamount to the acquisition of indispensable virtues on the part of the people.

family of the lion or the tribe of the eagle,” as Lincoln puts it in his Lyceum Address. But the American Republic is not governed by such men. It is governed by every man. As such, Lincoln’s conception of civic virtue is a kind of universalism. His conviction is that whatever can be said that is true of all men and women should be more and more reflected in our mode of government as time goes on. Where relationships are voluntary, let them be characterized by particularity and eccentricity. But when the terrible and coercive power of the state moves, it must begin by treating each individual as a representative of all that is true of human beings *per se*.

The idea of classical virtue has thus been infused by Lincoln with the Christian belief in the universal equality of mankind. In this respect Lincoln’s America is, philosophically if not theologically, a kind of classical Christian America. To recover it, all we need to do is think seriously, deeply, and regularly about the fact that none of us are, in any intrinsic or objective way, better than the people whose politics we loathe. If you’re interested in practicing the politics of Lincoln, try to bring to mind the person in public life whose views you find the most appalling, and meditate long and hard on the fact that they are your unalterable and inalienable equal. Our sixteenth president was quite adept at this. On the night that Robert E. Lee surrendered, Lincoln, after four years of being cursed, warred against, and burned in effigy by the soldiers of the South, turned to the White House band and asked them to play “Dixie.” 



Cuba, 2016

Socialism Is Not Democratic

**Nor is it compatible with
the Constitution**

By Charles C. W. Cooke

May 16, 2019

BACK in 2011, while covering Occupy Wall Street, I was accosted by a man wearing a large cardboard box. On this box, which he wore around his torso as might a child pretending to be a robot, he had scribbled down a theory that, at first glance, seemed more sophisticated than most that were on display. “Hey, *man*,” he said to me, “it’s up to *us*.”

To explain, he turned around to reveal the other side of the box, which bore a single word: democracy. Then, having paused for effect, he turned around again and pointed to the front, on which he had written down almost every single economic system that had been tried in human history: capitalism, socialism, mercantilism, autarky, distributism, fascism, feudalism, potlatch, mutualism, and so forth. “It’s up to *us*,” he said again. “It’s *our* democracy, and we can choose the economy *we* want.”

Further conversation revealed that he believed this quite literally. In his view, democracy was the sole nonnegotiable element of our political system, while everything else was up for grabs. If a majority wanted to nationalize the banks or abolish private property or bar all international trade or invade Brazil and harvest its resources, that was its prerogative. As might be expected, he had a prediction and a predilection: Socialism, he explained, was both the most likely system to be adopted, because it catered to the “majority, not the 1 percent,” and the best, because it would fix all of America’s problems without any downsides.

“It’s up to *us*.”

I have thought about this conversation frequently since then, because it highlights some of the core misconceptions held by socialism’s champions, which are, in no particular order, that the retention of a democratic system of government makes massive state intervention more acceptable, that “capitalism” is a “system” in the same way as is “socialism,” and that liberal democra-

cy—and, in particular, America’s brilliant constitutional order—can survive the establishment of a socialist economy. Because I was there to write about the protests rather than to get into prolonged arguments, I listened and probed rather than disputed his contention. Had I been debating him, however, my rejoinder would have been a simple one: No, it’s not “up to *us*.”

Or, at least, it’s not up to “*us*” in the way that my friend in the cardboard box was using the word “*us*.” As I write, ascendant elements within the American Left are engaged in a sustained attempt to reintroduce and rehabilitate the word “socialism,” in part by prepending to it a word that has a much better reputation and an infinitely better historical record: “democratic.” Voters should not be fooled by the rebranding, for there is no sense in which socialism can be made compatible with democracy as it is understood in the West. At worst, socialism eats democracy and is swiftly transmuted into tyranny and deprivation. At best—and I use that word loosely—socialism stamps out individual agency, places civil society into a straitjacket of uniform size, and turns representative government into a chimera. The U.S. Constitution may as a technical matter be silent on most economic questions, but it is crystal clear on the appropriate role of government. And the government that it permits is incompatible with, and insufficient to sustain, socialism.

This is deliberate. In the United States, and beyond, we do not think about our democracy in purely procedural terms. While majority rule on certain political questions is indeed deemed imperative, we nevertheless reject the notion that majorities may do whatever they wish, we demand that our institutions leave room for civil society and for individuals, and we insist upon a broad presumption of liberty that extends across all areas of human activity. It is reasonably well understood in this country that to place the word “democratic” in front of, say, “speech restrictions” or “warrantless searches” or “juryless criminal prosecutions” would be in no way to legitimize those things or to make them more

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compatible with the preservation of a free society.

It is less well understood that to place the word “democratic” in front of “socialism” is an equally fruitless endeavor—and for the same reasons. To those whose conception of “democracy” is limited entirely to the question of “Who won the most votes?” this may seem paradoxical. To those familiar with the precepts beneath the Anglo-American tradition, however, it should be quite obvious. Just as the individual right to free speech is widely comprehended as part of what we mean by “democracy” rather than as an unacceptable abridgment of majority rule, so the individual rights protected in property and by markets are necessary to the maintenance of a democratic order—in this, deeper, sense of the word. In the West, choosing to trade with a person in another country is, itself, a *democratic act*. Electing to start a company in your garage, with no need for another’s imprimatur, is, itself, a *democratic act*. Banding together to establish a cooperative is, itself, a *democratic act*. Selecting the vendor from which you source your goods and services—and choosing what to buy from it—is, itself, a *democratic act*. Keeping the lion’s share of the fruits of your labor is, itself, a *democratic act*. When governments step in with their bayonets and say “No!” they are, in effect, keeping your choices off the ballot.

Properly understood, the attempt to draw a hard line between “democracy” and “economics” is not only a fool’s game but a game that socialists do not in fact play themselves. Ugo Okere, a self-described “democratic socialist” who ran for the Chicago City Council earlier this year, was recently praised in *Jacobin* magazine for explaining that “democratic socialism, to me, is about democratic control of every single facet of our life.” That’s one way of putting it, certainly. Another is “tyranny.” Or, if you prefer, *democratic* tyranny. Alexis de Tocqueville observed that “the health of a democratic society may be measured by the quality of functions performed by private citizens.”

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Lose those functions in America, and you lose democracy in America, too.

And then there is the question of socialism’s substantive record, which is so extraordinarily disastrous that it renders my friend-in-the-box’s theoretical argument useless even on its own terms. It is, in a strictly technical sense, “up to us” whether we choose to, say, smash ourselves repeatedly in the face with a hammer, but that is neither here nor there given that nobody in his right mind would elect to smash himself in the face with a hammer. We should avoid socialism with a similar diligence—and for similar reasons.

History has shown us that socialism exhibits three core defects from which it cannot escape and which its champions cannot avoid. The first is what Hayek termed “the knowledge problem.” This holds that all economic actors make errors based on imperfect knowledge but that a decentralized economy will suffer less from this, partly because the decision-makers are closer to the information they need, and partly because each actor does not wield total control over everything but is only one part of a larger puzzle. The second problem is that, because socialism eliminates both private property and supply and demand, it eliminates rational incentives and, thereby, rational



It has become something of a running joke that, whenever socialism's history is highlighted, its diehard advocates insist that 'that wasn't real socialism.' This defense is frustrating. But it is also instructive.

calculation. The third problem is that socialism, following Marx's dialectical theory of history, lends itself to a theory of inevitability or preordination that leaves no room for dissent, and that leads in consequence to the elevation of a political class that responds to failure by searching for wreckers and dissenters to punish. Worse still, because socialists view all questions, including moral questions, through a class lens, these searches tend to be deemed morally positive—bound, one day, to be regarded by History as Necessary. Together, these defects lead to misery, poverty, corruption, ignorance, authoritarianism, desperation, exodus, and death.

Ironically enough, they also lead to socialism's exhibiting a record of failure in precisely the areas where it is supposed to excel. Despite the promises in the brochure, socialism has been terrible at helping the poor; it has been terrible at helping women advance; it has been terrible for civil liberties; it been terrible at helping the environment; it has been terrible at attracting immigrants; it has been terrible at tolerating and protecting minorities; it has been terrible at fostering technology, architecture, and art; it has been terrible at producing agriculture; and, worst of all, it has been terrible at sharing power and resources—indeed, it has done precisely the opposite, creating new “ruling classes” that are

far less adept, far less responsive, and far less responsible than the ones they replaced.

It has become something of a running joke that, whenever socialism's history is highlighted, its diehard advocates insist that “that wasn't *real* socialism.” This defense is frustrating. But it is also instructive, in that it is an admission that, like perpetual motion, socialism has never been realized in the world. The U.S. Constitution has survived for so long because it was built upon the understanding that man is imperfect and always will be, because it accepts that selfishness is ineradicable and so must be harnessed, because it acknowledges that power corrupts as much in our era as it ever did, and because it makes provisions for the fact that disunity is inevitable in any free society. Capitalism, too, has survived because it is built on truth rather than myths. Socialism, by contrast, has failed each and every time it has been tried because it is predicated upon precisely the opposite—that is, precisely the *wrong*—assumptions.

One would have imagined that, at some point, “That wasn't real socialism . . .” would have been followed by “. . . and real socialism *can't* exist because man isn't perfectible, selfishness is ineradicable, power has needed restraining since the dawn of time, and political unity is a dangerous and undesirable myth.” Alas, no such recognition has yet been forthcoming. In the 20th century, Communism killed at least 100 million people—by democide, by famine, by central planning, by war—and yet it is still acceptable to say in public that it was a “nice idea.” In the post-war period, “democratic” socialism ravaged the economies of the West like a virus and required a counterrevolution to remove, and yet it remains sufficiently seductive to a slice of the public as to present a threat to the American order. Today, the states that have actively rejected socialism are growing fast (India, Poland, the former East Germany) while those that fell prey to the temptation are either moribund (Greece), tyrannies (China), or international pariahs (Cuba and North Korea)—and yet there is still a solipsistic cottage

industry dedicated to blaming their successes and failures on decisions made by the United States. The damn thing is ineradicable.

And so we get Venezuela. That Hugo Chávez's centrally planned "Bolivarian Revolution" has descended into dictatorship, repression, starvation, and crisis was apparently genuinely shocking to a good number of the people who write about politics for a living. Six years ago, upon Chávez's death, the *Guardian's* Simon Reid-Henry reflected the consensus view on the left by arguing that Chávez had shown "that the West's ways aren't always best" by "[refashioning] Venezuelan democracy in ways that he thought better addressed the country's long-standing development issues." His paper's editorial board went one further, describing Chávez's work as an "unfinished revolution." Predictably enough, this was in fact a correct characterization of Venezuela's fate—just not in the way that the *Guardian* had anticipated. Five years after that edition went to print, Ricardo Hausmann, the former chief economist of the Inter-American Development Bank, was explaining that "Venezuela's economic catastrophe dwarfs any in the history of the U.S., Western Europe or the rest of Latin America."

Surprise!

"The West's ways aren't always best"? The Venezuelan president is now a ruthless dictator who has cracked down on free speech, prohibited mass political protests, and confiscated firearms from anyone who has been even remotely critical of him. Thirteen percent of the country's population has now fled, and those who have remained have been left so degraded by the government's price controls that they have gone years without toilet paper, meat, and other basic necessities and have in consequence taken to eating zoo animals for sustenance and to scouring garbage bags for supplies. According to the Pharmaceutical Federation of Venezuela, the country is suffering through an 85 percent medicine shortage and a 90 percent shortage of basic medical supplies. The child-mortality rate has increased 140 percent. Ninety percent of Venezuelans now live in pover-

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Don't, whatever you do, be seduced by socialists bearing promises. And if you *are* seduced, get out before it's too late. You have nothing to lose but your chains.

ty. This year, the IMF predicts, inflation will hit 10 million percent. All this in a country with the world's largest oil reserves—reserves greater than those of the United States by a factor of *ten*.

"It's up to *us*."

One of the great advantages to living at the tail end of 6,000 years or so of human civilization is the chance we have been afforded to look back and learn from the lessons accrued by others without having to go through the pain of learning them for ourselves. History is a complicated thing, and should be treated as such, but there are nevertheless a few core rules by which we can live: Do not inflict laws on others to which you would not subject yourself; ensure that you distribute power among several rival institutions, and, if possible, several geographical locations; never relinquish the right to free speech, the right to free conscience, the right to freedom of religion, the right to bear arms, or the right to a jury trial; insist on being represented by a parliament, and make sure that you prohibit that parliament from loaning its powers to a king, temporarily or permanently; do not ask people to give up more of their income than they are permitted to keep; and don't, whatever you do, be seduced by socialists bearing promises. And if you *are* seduced, get out before it's too late. You have nothing to lose but your chains.





A People without a King

How the world turned against tyranny

By Kevin D. Williamson

July 4, 2017



KING GEORGE III surely had courtiers and sycophants who demanded that the colonials “respect the office.”

And they meant it about the office: The idea that a people could not only survive but thrive without a king, or something very like a king, was seen as beyond radical and more like just plain nuts. Even the Most Serene Republic of Venice had its doge. The Americans thought differently, and they sent the king and his courtiers a public letter written by Thomas Jefferson: “Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government.”

That is polite 18th-century English for “Kiss my ass.”

It was the political version of a “Dear John” letter. It might have been a suicide note.

There’s no reason George Washington and all those gentleman farmers and wild boys from New England and Virginia had to win. From time to time, it looked like they wouldn’t. We had some help from the French, including the teenage Marquis de Lafayette. Coming from a family of military aristocrats, he was commissioned as an officer at 13 years of age and joined the American cause as a 19-year-old general. He didn’t do all that much in his first tour, but he came back late in the war, and his forces were, at one point, practically all that stood between Cornwallis and the American and French forces preparing for Yorktown.

We sometimes forget how hard the French can be: The United States lost 53,402 men in the Great War and were so shocked by the experience that we tried to withdraw from the world stage: “Another European war,” we said, shaking our heads, “What’s in it for us?” The French, with a much smaller population, lost 1.2 million. In the next war, the French lost 4.5 times as many men as we did as a share of their population. That’s a lot of blood shed together in the cause of liberty, and there’s a lot more to the Franco-

American alliance than a big statue in New York Harbor.

What would have happened without that support? Benjamin Franklin surely was correct in his assessment that we’d all hang together or hang separately. The American republic was founded in an act of treason—glorious treason, but treason nonetheless. King George would not only have been within his rights to hang every last rebel and conspirator from George Washington on down, it would have been his duty to do so. Violent revolution is not something that can be taken lightly. The right side won that war—even the English must quietly acknowledge as much today—but whether that was going to be the case must have been far

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from obvious at Valley Forge, where men were freezing to death for something higher and finer than free false teeth.

We eventually made peace with the English. I hope that it happened in real life the way it happened on HBO. (Like the cinematic Gandhi, the television John Adams is more quotable than the historical figure.) And we have fought more battles alongside them than we ever dreamt of fighting against them, from the Pacific theater in World War II to Helmand province in Afghanistan. In the 20th century’s long war against tyranny and the 21st century’s long war against Islamist fanaticism, we have been lucky in our allies, whose sacrifices we sometimes forget: A hundred thousand Canadians died in the world wars. In Afghanistan there have been hundreds of British and Canadian casualties, and lives lost from France, Germany, Italy, Poland, Denmark, Australia, Spain,

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Georgia, the Netherlands, Romania, Turkey, the Czech Republic, New Zealand, Norway, Estonia, Hungary, Sweden, Latvia, Slovakia, Finland, Jordan, Portugal, Korea, Albania, Belgium, Lithuania, and Montenegro. Not all of our allies thought we were making the right decision in Iraq, but 46,000 British troops joined the invasion, along with 2,000 from Australia and thousands from our other allies.

That isn't politics. That's something more.

A great many of those troops—Americans, British, Australian, Italian, Finnish—probably rolled their eyes when they heard politicians making fine speeches about what our nations were up to in Afghanistan or Iraq. And no doubt the first thing the Marquis de Lafayette heard when he returned to France to lobby for support for Washington and his forces was: “What’s in it for us?” That’s a fine question, but it isn’t the only question. Americans can be—and often are—everything our critics say we are: impulsive, vulgar, oafish, clumsy, greedy, vain, belligerent, sanctimonious, hypocritical. But we are something else: a catalyst. We’ve had 241 years of hit-and-miss government, but imagine going back to 1776 with a prophecy that one day, in the not-too-distant future, the English, French, Germans, Spanish, and Italians—to say nothing of the Israelis and the Japanese and the Indians—would form a restive and sometimes turbulent but enduring alliance against tyranny and oppression, and that this alliance would be loosely and imperfectly organized around something like the ideals ratified on July 4, 1776.

No tyrant walking the Earth is powerful enough to stand against a nation of truly free men.

We have our political, economic, and religious disagreements with our friends and allies, but everywhere in the world where people fight against tyranny, we hear an echo of 1776. Everywhere in the world where people risk everything they have to tell the king, führer, caudillo,

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secretary general of the central committee, dear leader, ayatollah, or president for life to kiss their asses, we see something of ourselves. When things get bad enough, we join in, and have spent untold blood and treasure in the pursuit of other people’s liberty. Why? What’s in it for us?

It is in our nature. We aren’t our politics. We aren’t our government or our president or even our Constitution, which is subject to revision from time to time. We are the people who decided that rather than just change kings, we’d do away with kings altogether under the radical theological premise that all men are endowed by their Creator with certain unalienable rights, irrespective of the king’s good opinion. A people with no king showed the world that life without tyranny is possible, and in fact that no tyrant walking the Earth is powerful enough to stand against a nation of truly free men. Castro, Putin, Maduro, Kim—they are sad and more than a little ridiculous by comparison.

It emphatically is not the case, flatulent rhetoric notwithstanding, that the desire for freedom has been planted in every human heart. But where it has been planted, Americans know a kinship beyond blood. When Ronald Reagan demanded of Mikhail Gorbachev “Tear down this wall!” no one asked, “What’s in it for us?” We already knew.

We still know.



A Uniquely American Conservatism

The past triumphs and present challenges of the movement Buckley started

By **Matthew Continetti**

December 17, 2020



ON October 27, 1960, NATIONAL REVIEW celebrated its fifth birthday with a gala dinner in the ballroom of the Plaza Hotel. William F. Buckley Jr.'s speech that evening struck a melancholy note. He framed his remarks around the lives of several prominent members of the audience: Herbert Hoover, General Douglas MacArthur, and Admiral Lewis Strauss, the former chairman of the Atomic Energy Commission whose nomination for secretary of commerce had been rejected by the Senate.

Like these men, Buckley said, NATIONAL REVIEW did not fit with its times. "We are all of us in one sense out of spirit with history," Buckley observed. "And we are not due to feel those topical gratifications which persons less securely moored will feel as they are carried, exhilarated, in and out with the ebb and flow of events."

Liberalism was dominant. "What is not fashionable," Buckley said, "are some of those certitudes and intuitions that most of us here in this room aim to serve." These "certitudes and intuitions" included religious faith, a commitment to individual freedom, and the knowledge that "the Communist experiment, the worst abuse of freedom in history, is a violent mutation on truth, a horrible caricature on justice." Buckley pointed to the careers of Hoover, MacArthur, and Strauss (and might have mentioned his own reputation) as proof that the defense of "forgotten virtues" was unpopular among intellectual elites.

Conservatives, Buckley went on, drew satisfaction from resisting the pull of the crowd. "And I expect," he concluded, "that they and all of you, my good and generous and devoted friends, must be happy, as I am, to know that for so long as it is mechanically possible, you have a journal, a continuing witness to those truths which animated the birth of our country, and continue to animate our lives."

Six decades later, Buckley's journal maintains its witness. But the conservative movement that he

helped to build has fractured. It no longer coheres. Presidential politics divided its ranks. National populism challenged its principles and institutions. And multiculturalism and identity politics toxified the culture it inhabits. Critics from both the right and the left say that conservatism is outmoded, a failure, a dead end. What, they ask, has conservatism conserved?

It's a tricky question. The answer depends on one's baseline for comparison. Judged by today's circumstances, the challenges facing the United States are profound. The Right is split and uncertain. There is much work ahead of it.

By the standards of 1960, however, the achievements of the conservative movement are undeniable. It changed the world to such a degree that it is easy to forget its influence. That is because conservatives solved many of the problems they set out to address, removing them from public concern. These accomplishments outweigh conservatism's blind spots, missed opportunities, and bad calls. And they suggest the form of a conservatism devoted to national renewal in the era of the coronavirus, China, and Black Lives Matter.

By "conservative movement," I mean the network of institutions, publications, and individuals that sprang up in the middle of the 20th century to defend political and economic freedom against the challenges of bureaucratic centralism at home and Soviet totalitarianism abroad. This movement had five major parts. The first consisted of organizations that promoted the conservative cause in general, beginning with the Foundation for Economic Education (1946), the Mont Pelerin Society (1947), the Intercollegiate Studies Institute (1953), the Young Americans for Freedom (1960), the New York Conservative Party (1962), the Philadelphia Society (1964), and the American Conservative Union (1964).

The second part was a communications apparatus, from *Human Events* (1944), Regnery Publishing (1947), NATIONAL REVIEW (1955), and *Modern Age* (1957) to talk radio and Christian broadcasting. The third and fourth parts were charitable foundations and think tanks. Finally, there

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were groups devoted to a single issue or cause, such as the National Right to Work Committee (1955), the National Right to Life Committee (1968), the Eagle Forum (1972), the Gun Owners of America (1976), Concerned Women for America (1978), the Federalist Society (1982), and Americans for Tax Reform (1985). All of them fought what Buckley liked to call “the effronteries of the 20th century.”

The movement had its first success in reclaiming a place within the Republican Party. By 1960, the “modern Republicanism” of Dwight Eisenhower, Richard Nixon, and New York governor Nelson Rockefeller was ascendant. Conservative heroes were either dead (Robert Taft and Joseph McCarthy) or defeated (California senator William F. Knowland). Only four years later, however, a group of young activists helped win the GOP presidential nomination for the conservative hero Barry Goldwater.

The Goldwater nomination ended in a landslide victory for Lyndon Johnson. But it also reestablished the Republican Party’s conservative brand. And it guaranteed conservatives a spot in the party’s organizational structure. Not all subsequent Republican nominees belonged to the conservative movement (far from it). But each one had to include conservatives in his coalition. This relationship was neither inevitable nor permanent. It continues to be resisted by many within the party.

The GOP became the instrument through which the conservative movement reoriented the nation’s foreign, economic, social, and judicial policies. Of these realms of activity, foreign policy was by far the most important. The conflict between the United States and the Soviet Union shaped practically every aspect of world politics between 1947 and 1989. Even before the onset of the Cold War, however, opposition to the Soviet Union and to the spread of Communism and socialism unified the American Right. Buckley referred to anti-Communism as the “harnessing bias” of the movement.

This bias informed conservative calls for political-ideological warfare against Moscow, for the roll-

back of Soviet dominion, for a buildup of conventional and nuclear forces, for aid to anti-Communist authoritarian regimes, for an end to détente and “coexistence,” and for a reassertion of national pride and willpower. When Ronald Reagan became president in 1981, he pursued a multifaceted strategy against the Soviets that resembled what he had been reading in conservative journals for decades.

By the end of 1991, the Soviet Union was no more. Of course, it is true that the collapse of the Soviet empire and the end of Soviet Communism resulted from many causes. And conservatives often found themselves disagreeing with Reagan on arms control during his second term. But it is also the case that U.S. foreign policy would have been more accommodating to Soviet power if not for the unwavering conservative opposition to the atheistic, immoral, and illiberal Communist system. It was conservatism that, in the aftermath of Vietnam, provided the intellectual and political support for a strategy of confrontation that accelerated the Soviet Union’s demise.

The expansion of political freedom that followed the collapse of Communism coincided with, and drew energy from, a global turn toward free markets. Tax and poverty rates are lower, private- and public-sector unions are weaker, consumer goods are cheaper today than in 1960, and stagflation is no longer an issue, because of the work of conservative and libertarian economists such as Friedrich Hayek, Milton Friedman, George Stigler, James Buchanan, P. T. Bauer, and Robert Mundell.

No economic order is perfect. Many on the right (and left) did not appreciate the risks inherent in global economic integration with authoritarian regimes. As demographer Nicholas Eberstadt noted recently in a report by the American Enterprise Institute, “America’s engines of material advance and personal success are in serious need of repairs.”

Still, it is foolish to pretend that the economic utopias one finds described online are achievable. And it is obvious that the world is both far richer and far freer than it was 65 years ago. Liberals

have a seemingly irrepressible desire to increase government taxes, expenditures, and regulations. But the conservative movement has made it more difficult for them to realize their goals, while expanding opportunities for personal savings and investment.

Conservative victories are easy to take for granted. Consider the fall in violent crime. The political scientist James Q. Wilson spent his life demonstrating the efficacy of both order-maintenance (or “broken windows”) and community policing. He and his colleague George Kelling helped bring about changes in the theory and practice of policing in the early 1990s that hastened the dramatic collapse in crime rates. Only in recent months, when widespread vandalism, arson, murder, and theft reappeared in some urban centers, have people rediscovered their appreciation for public order and personal safety.

In 1996, when the Republican Congress and President Bill Clinton agreed to a welfare reform that made assistance temporary and linked benefits to employment, most social scientists and liberal spokesmen said the law would immiserate the poor. They said that women and children would suffer most. But none of that happened.

Drawing from the scholarship of Wilson, Charles Murray, Lawrence Mead, and Robert Rector, the Personal Responsibility and Work Opportunity Act was the most dramatic blow against the welfare state in half a century. It was the culmination of a long-running argument between the Right and the Left over individual agency and the demoralization that accompanies dependency. And today it is just another part of the political background. Hardly anyone pays attention to it.

What cannot be ignored is the triumph of the conservative legal movement. NATIONAL REVIEW was born during the first years of the Warren Court. The legal academy and federal judiciary embraced the jurisprudence of the “living Constitution.” Judges made law and created rights out of constitutional “emanations” and “penumbras.” Beginning in the 1970s, however, Antonin Scalia, Robert Bork, Laurence Silberman, and others argued that the Constitution should be interpreted according to its original public meaning.

The Reagan administration embraced their efforts to reground constitutional and statutory inter-

pretation in the written text. The philosophy of originalism inspired Reagan’s Justice Department and judicial selections. His attorney general engaged in a public argument over originalism with Justice Brennan.

The conservative legal movement permeated the federal judiciary and the legal academy. Originalism became such an overwhelming force that even liberals found it necessary to call themselves originalists. The confirmation of Justice Amy Coney Barrett means, among other things, that a majority of Supreme

Court jurists are active members of the Federalist Society. And a sixth justice, John Roberts, has been associated with the society in the past.

Originalism does not guarantee policy outcomes. That is its point. But it does lead judges and lawyers to return, however reluctantly, to the words and ideas of the Framers and the Constitution.

It is not clear why conservatives were able to change the nation’s legal culture but unable to change the university itself. It’s not as if they did not try. The conservative critique of the academy began in 1951 with Buckley’s *God and Man at*



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Yale, went through 1987 with Allan Bloom's *The Closing of the American Mind*, and continues in the present with the work of the National Association of Scholars, the American Council of Trustees and Alumni, Heterodox Academy, and the Foundation for Individual Rights in Education. But the situation on campus has not improved.

Nor has the situation elsewhere. Various sectors of government and culture remain no-go zones for conservatives. "At the central point of communication and control," wrote Frank S. Meyer in 1970, "a liberalism of rote and habit still prevails—in the university establishment, in the media, in the governmental bureaucracies from State to HEW, in a large part of the corporate bureaucracies." That sentence could be written today. The only difference is that Meyer was dealing with a single department of health, education, and welfare. We have two.

It is this failure to capture "the central point of communication and control," along with the absence of the "harnessing bias" of anti-Communism, that is behind a lot of the current despair on the right. Many conservatives are so anxious about permissive, transgressive, and anti-American trends in the culture that they overlook favorable developments in politics and policy. This concern makes a certain amount of sense. Young people in particular draw their attitudes, habits, and ideas from books, arts, sports, entertainment, and education. And a culture inhospitable to American institutions and traditions would not be worthy of conservation.

The danger is that alienation from and antagonism toward American culture and society can turn into a general opposition to the constitutional order. This particular form of cultural despair has tempted conservatives before. It is one of several traps that have ensnared parts of the movement.

Another error is conspiratorial thinking. A third flaw is the habit of allowing the perfect to be the enemy of the good. A fourth is benign neglect toward grifters.

Perhaps the most damaging failure, however,

was the conservative movement's opposition to the Civil Rights Act of 1964. This stand delegitimized conservatism in the eyes of many Americans. It limited the movement's appeal. And it contributed to the Right's ongoing confusions and difficulties in addressing matters of race and identity with sensitivity and tact.

American conservatism got several things wrong. But it also got many of the big questions right. How to approach the Soviet Union, the role of the private sector, the importance of public order, the benefits of work, the relevance of the Constitution, the nature of political parties—these were subjects that once were "up in the air." For the most part, these questions are now settled, and largely in the Right's favor.

But the work is never over. "I see it as the continuing challenge of NATIONAL REVIEW," Buckley said in 1970, "to argue the advantages to everyone of the rediscovery of America, the amiability of its people, the flexibility of its institutions, of the great latitude that is still left to the individual, the delights of spontaneity, and, above all, the need for superordinating the private vision over the public vision."

Where the Right has gone astray is in its failure to apply this uniquely American vision, and the principles it entails, to the problems of 2020. And so the conservative movement, in its disagreeable and hesitant condition, must forge a new consensus, based on the particularly American idea of individual liberty exercised within a constitutional order, that addresses the challenges of our time. The Right needs to ask the following: How can we address the problems everybody sees, while trying to keep the concerns unique to us from overwhelming our society?

And conservatism must do all this with Buckley's hallmark wit, gratitude, and good cheer. "Let's face it," Buckley wrote in NR's first issue. "Unlike Vienna, it seems altogether possible that did NATIONAL REVIEW not exist, no one would have invented it." Thank goodness someone did—and had the courage to be "out of spirit with history."





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But it is at this point that we steal the march. For we offer, besides ourselves, a position that has not grown old under the weight of a gigantic, parasitic bureaucracy, a position untempered by the doctoral dissertations of a generation of Ph.D's in social architecture, unattenuated by a thousand vulgar promises to a thousand different pressure groups, uncorroded by a cynical contempt for human freedom.

—William F. Buckley Jr.