

the South's Conserva-
lities of Prudence (Bryn
dies Institute, 1993),

in *The Politics of Pru-*

107.

ive Mind, From Burke
w York: Avon Books,

marks Delivered at a
Kirk at St. Joseph's
n, D.C." Typescript,

ussell Kirk: Giant of
utting America First,

Roanoke: A Study in
: University of Chi-

atholic Opinion in its
.9) has published five
career and contribu-

d others outline
ible persons.

explains why
c. It offers the

95.

Russell Kirk's Unfounded America

In the very first *Federalist* paper, Alexander Hamilton claimed that at stake in the process of American constitution-making was a matter of world-historical importance. He wrote that the outcome of the American experiment would determine "whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force."¹ From this perspective, the new American republic would constitute not simply a new nation among others, but a *novus ordo seclorum*, "a new order for the ages"; for the first time, the characteristically modern project of controlling fate through human ingenuity and craft would have been achieved. Furthermore, because of the principles made to prevail in the American Constitution, this country would emerge as the first "universal nation," a people bound not by blood, history, or divine election, but solely by political right. Indeed, the American people—as a people—would be a people without a past, a people with a future only. The progressive orientation of the American Revolution illustrates how difficult it is to define an American conservatism.

Of course, the extent of America's liberation from the past has been exaggerated.

The country surely does not lack some *pietas*, as any consideration of the temples built in Washington to honor the cult of the Founders makes plain. Yet beyond the civil-religious piety for these particular ancestors, America perhaps inherits more of an older tradition than the patriotic narrative of the American Founding, recounted above, reveals. And our forgetfulness of such an inheritance many constitute not only impiety, but injustice. Not least, we might notice that the style in which our new capital and its temples were constructed is not a "new" style at all, but a conscious imitation of classical Roman exemplars. What this and many other facets of our "way of life" indicate about the meaning of America was one of the most important questions explored by Russell Kirk.

Ever the conservative, Kirk attempted to demonstrate the *unoriginality* of the American Revolution. To him, ours was "a revolution not made but prevented,"² a conservative revolt against the novelty of George III's centralizing rule and Parliament's departure from past practice into direct taxation of the colonies. At a political level, Kirk was more impressed by the continuity between the arguments of 1688 (the "Glorious Revolution") and those of 1776 than by

Mark C. Henrie is a doctoral candidate in political theory at Harvard University.

their differences, while he was more impressed by the discontinuity between 1776 and 1789 (the French Revolution) than by their similarities. Following Burke's implicit view and the arguments of such later conservative thinkers as Friedrich von Gentz,³ Kirk distinguished the American experience from that of other nations during the so-called "Age of Democratic Revolution." What was truly *novel* about America's experience for Kirk was that it had undergone a political "revolution" precisely while escaping the ideological *novelty* of the age.

Furthermore, Kirk's view of the American Constitutional Founding in 1787 was captured in his refusal even to speak of a "Founding"—a word which conjures images of some Great Man, a Solon, Lycurgus, or Aeneas. A Founding implies the quasi-divine legislation of an entirely new way of life, the *creation* of a people. Kirk, however, read the Constitution of 1787 as a reworking of traditional English and colonial American practice rather than anything new or particularly speculative. Certainly it is fanciful to imagine immediately deducing bicameralism, for example, from any postulate of natural right. For Kirk, just as the constitutions of the states were prudent revisions of colonial charters, so the 1787 U.S. Constitution was a slight adjustment of the Articles of Confederation. Kirk was surely correct that whatever the "intention" of the drafters of the Constitution, this was the "understanding" of the ratifying conventions of the states, whose consent established our political regime.⁴

Even if we can speak of an American Founding, Kirk's conservative political science raised and attempted to answer questions which are otherwise begged in the patriotic narrative: Whence came that Founding generation of Americans? Whence can we trace *their* "roots"? Some commentators ignore these questions, but only by presuming an ahistorical, "mythic" Found-

ing. On the other hand, to address such questions seriously, we cannot look only to the political order under which the founding generation were raised, for since the collapse of the unity of the ancient polis it is a mistake simply to equate the political regime with the totality of a way of life of a people. To determine who these men of the founding generation were—and who we are—we must look instead to tradition and culture, to all the elements of our civilization.

Here Kirk found his field, which was fitting. For conservative theorists have always been less interested in formal political institutions than in manners and mores. A fundamental proposition of conservative reflection on social matters is the supremacy of the "unwritten" constitution of a people to "written" political forms.⁵ The many traditions that constitute a people are where we discover the meaning of our common life, for culture is deeper than politics. As Kirk put it, "Culture cannot really be planned by political authority, for much of culture is unconscious; and politics grows out of culture, not culture out of politics...."⁶ Placing the American Founding into the context of our cultural traditions yields quite a different understanding of the meaning of America.

Specifically then, Kirk insisted that America's is a "British Culture," one clearly continuous with that of our Anglo-Saxon forebears. We can speak of *our* Anglo-Saxon forebears, for whatever a particular American's ethnic descent, our common life, Kirk believed, reveals a British heritage. Because Americans speak English, our most vivid common images and metaphors are the products of the British literary tradition. Politically, we inherit an attachment to the rule of law, a peculiarly Anglo-Saxon practice.⁷ Kirk also drew attention to our appropriation of representative government and most fundamental of all, our heritage

ess such
k only to
found-
ince the
polis it is
political
life of a
en of the
who we
tion and
civiliza-

ich was
have al-
political
iores. A
ervative
remacy
people
any tra-
e where
ommon
tics. As
planned
ulture is
t of cul-
Placing
ntext of
a differ-
ing of

ed that
clearly
Saxon
Saxon
ticular
ommon
eritage.
ur most
ors are
y tradi-
chment
Saxon
to our
nment
eritage

of Anglo-Saxon mores, manners, habits, and domestic institutions.⁸ For Kirk, both our Founders and we share this British culture, and this more than anything defines "us."

In arguing for America's foundation in British culture, Kirk was addressing only immediate antecedents. In an earlier work, he had explored at length the deeper roots of American order—roots which he traced down the ages to Jerusalem, Athens, and Rome, before they had reached London.⁹ In each case, Kirk uncovered a decisive influence on the American way of life, though seldom was this a matter of political forms. Indeed, he observed that "America's political institutions owe next to nothing to the ancient world." More important, however, America is indebted to Jerusalem, Athens, and Rome for models of good character, theories of justice, and literary evocations of the human condition.¹⁰ Together these form the horizon of our experience and establish the shared pre-theoretical understandings which generate a common agenda of philosophical questioning. Kirk emphasized what we share with Europe rather than what distinguished the New World from the Old. His recounting of an America bound to a particular past was meant to provide criteria for determining proper conduct as we faced a future which increasingly had no answer to that subversive question of ideological progressives: "why not?"

Kirk's view of an "unfounded" America has drawn perhaps more criticism than any other element of his thought, and the political theorist Harry Jaffa is only the most colorful of the critics. Jaffa champions an especially philosophical version of the patriotic narrative of the American Founding. He has argued against Kirk that in fact "it was the paramount intention of the Framers of the Constitution, and of the people for whom they framed it, 'to institute new gov-

ernment' in the sense in which the Declaration of Independence speaks of instituting new government."¹¹ The sense Jaffa has in mind is in conformity with "the laws of nature and nature's God." He insists that "long before the decision for independence, it was clear that the ground of the American argument was not the English Constitution but 'the immutable laws of nature.'"¹² Thomas Jefferson thus emerges in Jaffa's writings as the quasi-divine Legislator who would found an American regime on "self-evident" truths requiring the rejection of "all traditions inconsistent with reason and nature." And Jaffa quotes George Washington to illustrate the intentional discontinuity of America's Founding with European history: America's foundations were "not laid in the gloomy ages of ignorance and superstition; but at an epoch when the rights of mankind were better understood and more closely defined than at any other period."¹³ The new American regime seems in Jaffa's mind to amount to the actualization of the life according to nature, a leap out of the traditional *nomoi* and into *physis*. In contrast to Kirk's America, where eighteenth-century gentlemen sought merely to protect their prescriptive "chartered rights" and continue unmolested in their way of life, for Jaffa ours is a regime committed to "abstract truth applicable to all men and all times."¹⁴ For Jaffa, we are a nation "dedicated to a proposition."

Concretely, this dispute between Kirk and Jaffa reduces to a difference of opinion about the role of the Declaration of Independence in interpreting the character of the American regime. For Jaffa, the U.S. Constitution is only intelligible when understood as seeking to achieve the "abstract" aspirations of the Declaration. The propositions of natural right heralded in that document are the key to the regime.¹⁵ Kirk on the other hand follows Willmoore Kendall: the Declaration is simply a politi-

cal document designed to secure the support of France against England in the War of Independence. It does not articulate the central principles of our common life. Jaffa vehemently faults Kirk for thus "reading the Declaration of Independence out of the American political tradition."¹⁶

Jaffa objects to Kirk's depreciation of the Declaration's place in American history because as he understands the logic of natural law, the American regime is itself good *only* insofar as it secures the (equal) natural rights outlined in the Declaration. For Jaffa, the only serious alternative to such a Lincolnian understanding of the American regime is Calhoun's account of "states' rights," a view to which he finds conservatives like Kirk attached, and which he believes is philosophically indefensible.¹⁷ At the heart of Calhoun's doctrine, Jaffa maintains, lies the *sui generis*, arbitrary power of the "sovereign" states, unrelated to, because underived from, natural law. Such political communities are at the deepest level "lawless"; not being products of "reason," they cannot be legitimate. Thus, to embrace their claims is to reject natural law.

But would Calhoun (or Kirk) recognize himself in Jaffa's recounting of this position? Without a teleocratic dedication to the (equal) rights of nature, Jaffa seems to believe that historically concrete communities amount only to collections of "mere will." Yet it is precisely this contention of the *philosophes* against which conservatives have so long marshalled their arguments. With their more modest view of the power of human reason to grasp the whole, conservatives find it reasonable to presume that the long historical existence of a practice or a community is itself evidence of its conformity to a Providential (rational) design. We know what the political good is by a reflection upon the historical experience of the community, rather than from *a priori* principles. Perhaps the most important thing

we learn from history is that human living-together is for the good life in its totality and not merely for the securing of abstract rights with zealous single-mindedness. Yet without acknowledging the fact, Jaffa follows the moderns by holding the right absolutely prior to the good, while he strangely calls this "natural law." Indeed, sometimes Jaffa writes as if only the right were good. That for which Kirk would most fault Jaffa is his failure to acknowledge the genesis of his thought in the Enlightenment, and his



Kirk in 1974 with the typed manuscript of *The Roots of American Order* on his desk.

failure to engage conservative arguments about the (meta-) rationality of tradition.

This dispute about the Declaration of Independence manifests a deeper philosophical point which Jaffa wants to press against Kirk. As suggested above, Kirk eschews "abstractions" concerning natural right and seeks to find guidance for political practice in history. Jaffa can only see this as straightforward "historicism." For without abstract principles, Jaffa finds is logically

man living-
otality and
tract rights
. Yet with-
ffa follows
ight abso-
e strangely
sometimes
vere good.
fault Jaffa
genesis of
nt, and his



uscript of
his desk.

arguments
tradition.
uration of
er philo-
s to press
; Kirk es-
g natural
or political
see this as
or without
s logically

impossible to discern "guidance" in history: while the truth of natural right might from time to time be *found* in a tradition, natural right cannot be *founded* on tradition as such. For Jaffa, "tradition" cannot be self-interpreting. Quite simply, tradition cannot tell you what parts of tradition are normative; only abstract principles can do that. Jaffa concludes that "modern liberalism" and "modern conservatism" (Justice Brennan and Judge Bork) "stand upon common ground"—both are "historicist" in believing that the truth of right emerges in history rather than remaining constant and beyond history. Both are "arbitrary."¹⁸

Two points must be made about this attack on Kirk's conservative methodology. First, Jaffa's argument rests on a controversial understanding of the powers and prerequisites of reason. Jaffa's view of reason strikes us as initially reasonable only because he has (arbitrarily) prescinded from, or presumed answers to, several key questions. He follows Jefferson in holding that "God hath created the mind free," thus ignoring the Christian account of an original sin which limits human reason. He identifies the evil of slavery in "a black man possess[ing] a rational will" rather than in his creation in the image of God or in the requirements of the common good.¹⁹ Yet "reason" alone does not determine that the element of man which possesses dignity is "rational will," nor that the only means of respecting human dignity is the respecting of political right. The "reason" of eighteenth century natural rights differs crucially from the reason which grounds the natural law; Jaffa gives us no reason to prefer his narrow account of reason to the older view. If he did, he would reveal his defection from the natural law tradition.

Second, Kirk is famous for his elegiac defense of "the permanent things." This fact should raise a suspicion about the adequacy of Jaffa's account of Kirk as a his-

toricist. Kirk's adherence both to (changing) history and to (unchanging) natural law follows Burke, who was closer to the older tradition than is Jaffa.²⁰ Burke saw politics as "morality writ large." He seems to have believed that we have surer access to the commands of the moral law than we do to the laws of political right. We may deduce different ways to achieve justice politically—i.e., indirectly—under varying historical circumstances, but moral statesmanship remains primary, and a permanent obligation regardless of the regime. Thinkers in the Enlightenment tradition reversed this ordering. Confronted by differing ethics uncovered in exotic climes, their confidence in the truth of "Christian morality" waned. But they had also created the "new science of politics," a sure method, they thought, of achieving just political outcomes. Consequently, they were certain only of the rules of political right, and they were forced by the logic of their position to deduce a new morality of "politics writ small." This inversion is perhaps uniquely responsible for the moral revolution whose fruits are now universally lamented in our public oratory. When Jaffa focuses primarily on the political or constitutional implications of his natural law, he is following in a tradition which began with Hobbes. When Kirk ties together tradition and the moral law, he is at once both more traditional and more innovative than Jaffa. Above all, he is attempting in this synthesis to recognize that the right does not exhaust the good.²¹

Finally, it must be admitted that Kirk's view of American order may be too optimistic. Kirk argues in effect that America is well-founded because it is not really "founded" so much as "grown"—from the healthy soils of Jerusalem, Athens, and Rome. But what then accounts for the obvious pathologies which have of late "grown up" in our society? Jaffa has a similar prob-

lem: if America is well-founded, because founded on natural right, and if the political regime determines the cultural order, then whence the pathologies which he, like Kirk, adduces and denounces? There remains the possibility that the American regime was ill-founded. If this were true, conservative *pietas* for Tradition would require selective impiety toward some traditions.

Looming therefore over these disputes about the American Founding is the question of "the West." Throughout the Cold War, conservatives identified themselves as defenders of the West, but the meaning of that term was blurred for the sake of assembling a political coalition against Soviet Communism. For Kirk, the West names a civilization tracing back more than three thousand years. The West is a name which succeeds the name of Christendom. It is the totality of *our* culture, *our* civilization, and therefore *our* identity. For another part of the conservative coalition, the West names only the "culture" of secular liberalism which emerged in the eighteenth century in repudiation of Christendom. For these, the West is that community which recognizes the priority of the right to the good, and which is organized around sovereign political institutions which express this priority. Jaffa appears to hold this view.

Concealed by his gentlemanly manner, Russell Kirk's piety for Jerusalem, Athens, and Rome is an act of impiety toward the eighteenth century's cult of the new. His work is in part an attempt to show that many of the good things which holders of the second view believe are attributable only to the Enlightenment's narrow horizons do not exhaust the political goods which we may seek, a fact which is obscured by the narrative of *novus ordo seclorum*. Kirk's work is an attempt at the *recovery* of tradition from the diremptions of the eighteenth century. The success of the attempt

remains uncertain.

Notes

1. *The Federalist Papers* (Penguin Books, 1987), p. 87.
2. *Modern Age*, Fall 1985, pp. 295-303. Kirk's title is a phrase taken from E.J. Payne, summarizing Burke's interpretation of England's 1688 "Revolution."
3. Gentz (1764-1832), Metternich's secretary and a patron of the romantic conservative Adam Müller, translated Burke's *Reflections* into German, and he also wrote *The French and American Revolutions Compared*, a work translated into English by John Quincy Adams (Chicago: Regnery Books, 1955).
4. This observation Kirk owed to the late M.E. Bradford.
5. In typically bold fashion, Joseph de Maistre went so far as to claim that if a country attempts to give itself a written constitution, this demonstrates that it does not yet have a "constituted" people. The only constitutional peoples are those without written constitutions. Joseph de Maistre, *On God and Society—Essay on the Generative Principle of Human Constitutions* (Chicago: Regnery, 1959).
6. Russell Kirk, *Eliot and His Age*, p. 334.
7. It will be objected that there is nothing peculiarly British about the rule of law. But compare everything we mean by "the rule of law" to its analogue in the German-speaking world, the *Rechtsstaat*. These concepts are similar but not identical, and our American intuitions concerning the requirements of political justice reflect the British understanding of these matters. Nor is either our "rule of law" or the German *Rechtsstaat* identical with, though both derive from, Aristotle's idea of the sovereignty of law in *The Politics* (1282b).
8. Russell Kirk, *America's British Culture* (Rutgers: Transaction Press, 1993), p.11.
9. Russell Kirk, *The Roots of American Order* (Malibu: Pepperdine, 1974).
10. Kirk, *America's British Culture*, pp. 96, 103, 104. Also fundamental are the divine revelations at the heart of the Jewish and Christian faiths. Judaism and especially Christianity are historical religions; their universalism is tied to a particular historical experience. They are not simply philosophies and in the Christian case, not primarily Law.
11. Harry Jaffa, "What Were the 'Original Intentions' of the Framers of the Constitution of the United States?" *University of Puget Sound Law Review* 10:351, p. 355. Italics mine.

1987), p. 87.

rk's title is a
ing Burke's
ation."

etary and a
am Müller,
an, and he
utions Com-
ohn Quincy

late M.E.

re went so
o give itself
that it does
nly consti-
constitu-
ety—Essay
stitutions

peculiarly
everything
gue in the
hese con-
American
of political
these mat-
e German
rive from,
he Politics

(Rutgers:

r (Malibu:

103, 104.
ns at the
laism and
ons; their
al experi-
nd in the

ntentions'
ie United
w:10:351,

12. Ibid., 384.

13. Harry Jaffa, "Who Killed Cock Robin? A Retrospective on the Bork Nomination and a Reply to 'Jaffa Divides the House' by Robert L. Stone," *University of Puget Sound Law Review* 13:511, p. 527.

14. Jaffa, "Original Intentions," 377, quoting Abraham Lincoln's comment in Roy P. Basler, *Abraham Lincoln: His Life and Speeches* (Cleveland: World Publishing, 1946), p. 376.

15. Given that the equality and natural rights so dear to Jaffa have been achieved in American political life largely through the Bill of Rights, it might be thought that Jaffa's thesis would be strengthened by a discussion of the first ten amendments to the Constitution. The reason Jaffa must turn our attention instead to the Declaration is the inconvenient fact that the Bill of Rights was not part of the original intention of the Founders, but a practical compromise—and a compromise demanded not by Madison and the Federalists Jaffa admires, but by the Anti-Federalists whose tradition leads to Calhoun, whom Jaffa is intent to

diabolize.

16. Jaffa, "Original Intentions," 380.

17. Jaffa, "Original Intentions," 364.

18. Jaffa, "Original Intentions," 394, 395.

19. Jaffa, "Judicial Conscience and Natural Rights," *University of Puget Sound Law Review* 11:219, p. 225, 229.

20. I believe, however, that it is a mistake to view Burke simply as a "natural law thinker." He departs from the tradition as well. But this is not the place to discuss comprehensively the complex problem of Burke's political thought.

21. These reflections are meant only to begin a line of inquiry, not to provide exhaustive answers. The question of how we are to understand tradition's normative character, for example, remains incompletely addressed. Jaffa's questions here are serious, and will have to be seriously investigated. Yet one hopes that Jaffa's dismissal of Kirk's coherence has now been revealed as not yet conclusive.

Founded by Russell Kirk

MODERN AGE: A Quarterly Review

The "principal quarterly of the intellectual right."
Subscribe to receive the fall issue with a C.S. Lewis special section!

Academic Rates

1 Year \$8.50 . 46% Savings
2 Years \$12.50 . 50% Savings

Regular Rates

1 Year \$15.00 .. 4 Issues
2 Years \$25.00 .. 8 Issues

Please send this form with payment to:

Modern Age • 14 South Bryn Mawr • Bryn Mawr, PA 19010-3275 or call 1-800-526-7022

Please send information on bulk orders.

Please enter my subscription to *Modern Age* and send my first issue FREE.

Academic: 1 Yr.(\$8.50) 2 Yrs.(\$12.50) Regular: 1 Yr.(\$15.00) 2 Yrs.(\$25.00)

(Please add \$5 per year for subscriptions outside the U. S.)

I have enclosed a check for \$ _____ for my subscription to *Modern Age*.

I wish to pay by VISA MasterCard Signature _____

Account# _____ Exp. date _____

Name _____

Address _____ Apt. _____

City _____ State _____ Zipcode _____ (R301)