

Moral and Political Foundations of Order

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American Political Writing During the Founding Era: 1760-1805, compiled by Charles S. Hyneman and Donald S. Lutz, *Indianapolis: Liberty Press, 1983. 2 vols. xviii + 1417 pp. \$28.50 (paper \$13.50).*

THESE BEAUTIFULLY PRODUCED volumes (kudos, once again, are due the editors and staff of Liberty Press) represent the most ambitious effort to date to remedy a significant deficiency in the literature of American political thought. As Charles S. Hyneman, the senior compiler, remarks in the Preface to these volumes, the primary sources available for understanding the political thought of our founding period suffered from a "dearth of expository and polemical essays defining and describing republican government, setting forth its ideals and goals, and offering advice on surest ways of making popular self-government operative in North America." These sources, he notes, "tended to feature government documents," or, if not that, to focus on the "case for independence and the strategies for forming a federal union" to the exclusion of a vast body of "analytic and argumentative writing" that deals with the most fundamental concerns surrounding the "conception and establishment of republican government in America."

In the late 1960s Hyneman began in earnest to rectify this situation. At this point he set out to identify writings of our founding period, broadly defined, which dealt with the nature of republican government, the obstacles to its attainment, and the conditions necessary for its success. While this involved examining writings which dealt with such matters as the place of "America in the British empire, sentiments of localism and union, satisfaction and dissatisfaction with political institutions, policies, and practices," as well as "disputes and strategies relating to independence and the formation of new governments, union and nationhood," his overriding concern was to identify those whose orientation was "theoretic or philosophic" — *i.e.*, presented "vision of the virtuous individual and the good society, exposition of ideals, analysis of conditions affecting the achievement of goals" — as opposed to "descriptive and narrational." He was joined later in this enterprise by Don Lutz, whose primary function was to identify writings of this nature in the newspapers of this era.

The search for these materials, the process of which is set forth in some detail in the Preface, was both extensive and systematic. The only relevant items purposely excluded from consideration for this volume were personal correspon-

dence and writings "readily accessible in university and major libraries." The product of this search constitutes the seventy-six items reproduced in these volumes and an extremely valuable "selected list" of over five hundred writings which are briefly annotated and rated according to the quality of their "theoretical content." The compilers are convinced on the basis of their search that there is a body of literature in this period at least equal in volume to that on the "selected list" which "met tests of relevance but seemed to be less satisfying on some test of merit." In sum, the items reproduced in these volumes, though the best, constitute only a small portion of an extremely large corpus of the first-rate writings of this era.

There are other salient facts to note about this collection. While a short introduction to each of these selections serves to provide some background information about the author and to place his remarks in context, there is no general introductory essay which attempts to provide an overview by identifying, for instance, trends of thought, common assumptions, or areas of conflict and agreement. And, save in a few cases, the items are reproduced in their entirety with the pagination of the source from which they are taken bracketed in the text. In short, as little as possible is interposed between the reader and the source, a fact which serves to make these volumes an invaluable and timeless collection of primary materials.

So much by way of introduction. What do we learn from these selections? What insights do they provide us relative to the thought of the founding period concerning republican government? Do they better enable us to understand the origin and development of our regime? Let me say at the outset that these and similar questions are difficult to answer in simple terms. Yes, indeed, these selections do illuminate the widely held values, goals, and assumptions of the founding period, particularly as they relate to republican government. But the variety of issues, concerns, prob-

lems, and contentions with which these selections deal renders it likely that each individual will come away from his reading with different impressions about the lessons to be derived, the relative worth of the selections that deal with the prerequisites, practices, and operations of republican government, the chief elements of virtue, the nature of the constitutional system, or, *inter alia*, the dangers to decent and orderly government. And this, it seems to me, is precisely what the compilers intended, if only to stimulate thought, to broaden our horizons, and to encourage further exploration into the thinking of this period.

Nevertheless, in my estimation, these selections do convey at least one important message: namely, if we are to understand our moral and political foundations, we need to cast aside or modify widely accepted preconceptions about the political thought of this period and how we can best go about discovering it. I offer here a few examples which should suffice to illustrate this point. For instance, certain of these writings give us good reason to question the "liberal" interpretation of the goals of our Revolution and, in particular, its "reading" of the "all men are created equal" clause of the Declaration of Independence. Certainly Silas Downer's remarks, written eight years before the Declaration, are revealing:

It is now an established principle in *Great-Britain*, that we are subject to the *people* of that country, in the same manner as they are subject to the Crown. They expressly call us their subjects. The language of every pauntry scribler, even of those who pretend friendship for us in some things, is after this lordly stile, *our colonies — our western dominions — our plantations — our subjects in America — our authority — our government* — with many more of like imperious expressions. Strange doctrine that we should be the subjects of subjects, and liable to be controlled at their will! It is enough to break every measure of patience,

that fellow subjects should assume such power over us.

From this and other selections, we are led to believe that the equality sought was between peoples, not between individuals.

Equally, if not more importantly, these readings clearly show that by focusing on the writings and utterances of the politically prominent, the so-called “giants,” we can easily gain a distorted picture of the political thought of this period. This is particularly true with respect to Madison’s writings, a not insignificant matter since he is commonly regarded as not only the “father” of our Constitution but of the Bill of Rights as well. As a consequence, his views on various matters have understandably been accorded a great deal of respect. Yet, it seems clear, his views on separation of church and state set forth in the *Virginia Memorial and Remonstrance Against Religious Assessments* (1785) — widely cited today as evidence of the Founders’ belief in the need for a high wall between the two — were far from representing a consensus of thoughtful individuals on this matter. Indeed, what we do know from these readings is that strong arguments are advanced at almost every stage of the founding era, from the pre-revolutionary to the post-constitutional phases, stressing the dependence of our social and political order on Christianity.

This point can be illustrated from another angle. While Madison has received some criticism over the years for the position he maintained in the *Virginia Resolutions*, which were written in response to the enactment of the Alien and Sedition Acts, none of them, to my knowledge, is as trenchant and devastating as that of his contemporary Alexander Addison. Not only does Addison set Madison (and Jefferson) straight about the status of common law under the Constitution, he thoroughly demolishes the very premise upon which these *Resolutions* are based; namely, as he points out, it is the people of the states, operating in their sovereign capacity, who ratified the Constitution, not the state

legislatures. Hence, the legislatures, not being parties to the Constitution, have no authority, constitutional or otherwise, to judge of its violation. Yet, despite this, it is Madison’s *Resolutions*, not Addison’s response, which are dwelt upon in commentaries and reproduced in our reading books on American political thought as if their underlying theory — heretical though it is — constitutes a legitimate part of our founding heritage.

These readings, in short, so much as tell us that we cannot possibly comprehend the thought of the founding period in terms that certain modern ideologists would prefer. In this connection, one of the reasons why, I surmise, Madison has only received a slap on the wrist in modern times for his stance in the *Resolutions* concerning the nature of the federal union is that it provided the basis for his assault on the constitutionality of the Alien and Sedition Acts. His presumed libertarianism, this is to say, excuses a good deal, even advancing a doctrine that could easily have been fatal to the infant republic. But more to the immediate point, those writings of this era which deal with civility, order, obedience, and civil liberties — by no means a small portion of the whole — clearly indicate, contrary to revisionist efforts by those who would wish it otherwise, that the ACLU brand of civil libertarianism was not a part of our heritage. Moreover, these writings are on most counts superior to what we are accustomed to reading on these subjects in our journals of opinion today — or even, I would go so far as to say, to most opinions of our Supreme Court justices over the last fifty years. In large part this is due to the fact that their treatment of civil liberties and rights is usually in a context wherein due consideration is accorded to other values and conditions necessary for a truly civil society.

Finally, and probably most important, these selections, taken as a whole, should cause political theorists to seriously re-examine their approaches to understanding the foundations of our republicanism and its relative success. Increasingly,

political scientists, taking their cues from the Madisonian concept of the underpinnings of our republic as set forth in *The Federalist* and elsewhere, have tended to the view that our system is one in which the interplay of interests — or of factions, as some would have it — serve to keep the system on even keel; that is, pluralistic politics, marked by the give-and-take which characterizes majority coalition building, serves to provide for the moderation and restraint necessary to keep our republic on course. In this regard, it is notable that even the critics of the system accept this framework as their starting point. There are those, still powerful in the academy, who argue that the coalitional politics of the system is too slow to respond to the dynamic of our modern age, that it is prone to “deadlock,” or that it is biased, responding quickly to some interests and belatedly, or not at all, to others. The “reforms” of Madison’s system from this point of view, despite disclaimers to the contrary, are largely mechanistic, aimed at making it more responsive to the “real” majority. Those who are critical of the system from the “classical” perspective stress the inadequacies of the system in terms of its incapacity to elevate the moral character of the citizenry. Nevertheless, they can see a certain merit in it because its operations in the context of this interplay of interests do not presume an unrealistically high degree of virtue among the citizenry.

It is true that in looking to *The Federalist* and the so-called “Madisonian model,” we find precious little concerning virtue — the kinds of virtue necessary for a republican regime or the ways in which these virtues are to be maintained and perpetuated. Indeed, Madison writes in *The Federalist* as if there is sufficient moral “capital” for the new constitutional order, and he does so without any evident concern about maintaining a sufficient “balance.” For this reason, some have concluded that Madison employed a “new science” of politics to channel the interests and passions of the people in such a way as to minimize the need for virtue as a

foundation for popular self-government.

Yet, I dare say, no one who gives these selections even a cursory reading can come away with the impression that the maintenance and cultivation of virtue were not major concerns of this era. The emphasis on the role of religion, and of Christianity in particular, as a source of values, morals, and precepts necessary for popular government is unmistakably clear. Moreover, we see that, in the main, the institutions of society were looked upon as a vehicle for the transmission of the virtues necessary for self-government. Jeremiah Atwater put this as well as any. “If man is hereformed a good citizen,” he writes, “it is not because he needs no restraint; but because, from his youth, he has been taught to restrain those passions, which it is the principal business of law and government to restrain.” And, in this vein, he continues:

The restraint is begun in the family. Children are early insured to family government, and are taught the habits of subordination and respect. In the school, the same system is continued, while the seeds of knowledge and virtue are sown in the youthful mind. Higher seminaries of learning also accord with the same system, as do the instruction of the Bible and the desk. Man, from the cradle to the grave, is constantly learning new lessons of moral instruction, and is trained to virtue and order by perpetual and salutary restraints.

To this Atwater adds “the restraint of public opinion, which, in a country where Christianity is believed, compels even profligates to be outwardly virtuous.” “Habit and institutions, like these,” he observes, “tho’ by many deemed unworthy of notice, and underrated, as subordinate means of securing virtue and order, are here found to possess distinguished efficacy.”

These selections, in other words, in stressing the necessity for virtue in a republican regime, point us in a direction quite different from that of most political

scientists and historians for an understanding of the roots of our system and its stability. In this regard, to be sure, many of these writings merely echo the classical or traditional concerns. But in two notable respects they go beyond the traditional teachings. In the first place, as we might expect, Christianity served as an excellent source for the moral foundations of the system. Not only do we find that it was widely looked upon as such, Christian teachings, tenets, principles, and precepts were also viewed as fitting hand-in-glove with the political doctrines of republicanism. Certainly there existed no inherent incompatibility between the two, and we can say — now stepping outside the context of these writings — that Christian doctrines, without tortuous reconstruction, readily lent themselves to the cause of republicanism.

And second, the primary responsibility for the transmission and maintenance of virtue fell to the “private” sector, not to the government or public functionaries. This is to say that the distinction between government and society was tacitly accepted by those who stressed the need for virtue, a distinction — alien to the classical tradition — whose origins may be traced back to the Middle Ages. In any event, as we might expect — and as these selections do reflect — tensions, not unlike those we experience today, did arise over what the relationship between the churches and state ought to be. Even so, the existence of these tensions in no way detracts from the fact that it was widely supposed, to borrow from the title of one of Samuel Kendal’s sermons, that religion was the only sure basis of a free government.

Having said this much, we can see why these writings cannot help giving thoughtful individuals grounds for deep concern. What they indicate, in my opinion, is that at some point there has been a breakdown — almost total — in the transmission of the values central to our tradition sometime between the time of founding and the present. So much is evident when those who aggressively pursue the total secularization of our society, particularly our schools, can claim to do so on the basis of our founding values and get away with it. It seems clear, moreover, that we live in an age when the “do your own thing” morality — a morality spawned by the relativism of our so-called intellectual community — has gained ascendancy. The fifteen million abortions in the last decade, the rate of illegitimate births (higher in some cities than legitimate births), a drug epidemic that is beyond control and now reaches into the higher strata of society, the erosion of the family structure — an erosion aided and abetted by our own government — all bear testimony to this.

The question of how this came to pass, particularly after such a promising start, is perhaps easier to answer than what happens next. The vital indicators, as best I can glean them from these writings, show that our society is dying. Yet, we must ask, could it be that the traditional wisdom is wrong; that, in fact, the citizenry of a republic can engage in an almost unrestrained pursuit of self-gratification without endangering the regime? Though scarcely a pleasant one, that is the question, I think, these readings indirectly put before us.