

“The spirit of ’87”

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THE AMERICAN CONSTITUTION is a highly paradoxical document. Rhetorically, it is dry, legalistic, lacking in eloquence. Substantively, too, while it may not in fact have been “the work of men who believed in original sin,” as James Bryce thought, it certainly reveals what one would call a “realistic” view of human nature—i.e., a view that is more alert to the absence of human virtues than to their presence, a view that is skeptical of the ability of human beings to govern themselves without the prior imposition of severe institutional self-restraints. There is no visible “democratic faith” in this Constitution. And yet—and yet it is a founding document that is venerated by a people for whom such a “democratic faith” is about as unquestionable a popular dogma as can be imagined in our secular age.

“Veneration” is not too strong a term, at least so far as popular opinion is concerned. (Scholarly opinion, of course, tends to look askance at such veneration, regarding it as just another popular delusion.) This condition has endured almost from the very beginnings of the nation. Though, as we know, the opposition to ratification of the Constitution was widespread and heated, within a decade such sentiments had evaporated. What that distinguished constitutional scholar, E. S. Corwin, has called (contemptuously) a “cult of the Constitution” quickly made its appearance. Such terms as “glorious,” even “sacred,” became the conventional clichés. So strong was this feeling, and so positive a political fact was it deemed to be,

that James Madison refused to publish his *Notes on the Constitution* in his lifetime, lest the revelation of disagreements and debates and compromises at the Constitutional Convention have a subversive influence. (Since he enjoyed a long life, those *Notes* were not published until 1840.) Even the Civil War failed to disrupt the popular attitude, since both sides appealed to the Constitution as the vindicator of their positions. When, in 1878, Gladstone made his much-quoted tribute ("the most wonderful work ever struck off at a given time by the brain and purpose of man"), it was immediately accepted as fair and appropriate comment. And it has been accepted as such ever since, despite a flood of muckraking scholarship that began about 1910 and flourished for several decades thereafter. This scholarship, associated with the writings of Charles A. Beard and others, portrayed the Constitution as a repudiation of the principles of the Declaration of Independence by the moneyed interests. But the tide of that scholarship has now subsided—too much of it was pseudo-scholarship, it turned out. In any case, it never really touched the popular nerve.

A "covenanting community"

Obviously, the American Constitution is unlike any other of the world's constitutions, of which by now there are so many. Not only is it the oldest, not only has it "worked" as none other has, it is different *in kind*. This difference was nicely caught by Whittle Johnson in an article in the *Yale Review* almost twenty years ago, when he pointed to the special status of the Constitution as a *covenant*: "What, then, does it mean to be an American? . . . To be an American means to be a member of the 'covenanting community' in which the commitment to freedom under law, having transcended the 'natural' bonds of race, religion, and class, itself takes on transcendent importance."

"A covenanting community"—this, I think, defines with neat precision a crucial dimension of the American body politic. This body politic is not just a "political system," as most of our political science textbooks have it. It is that, of course, but it is also more. This body politic, in the eyes of its citizens, has always had a quasi-sacramental status. It is no exaggeration to say that the Constitution along with the American flag and the Declaration of Independence constitute the symbolic trinity that affirms this status.

Even today, young people in public schools recite—in some cases daily—the Pledge of Allegiance to the Flag "and to the Republic for which it stands." Is there anything comparable in any other

democratic country? These children are descendants of immigrants who, when they became naturalized citizens, swore their allegiance to the Constitution, perceived as the wonderful fruition of the Declaration of Independence (to which any oath of allegiance is deemed supererogatory). One learns by heart the Pledge in elementary school; in high school one learns by heart at least the opening sentences of the Declaration along with the preamble to the Constitution ("We, the people . . ."). One doesn't simply memorize them—one learns them *by heart*, since the recitation is supposed to be heartfelt, an exercise in solemn dedication.

The Flag, the Declaration, the Constitution—these constitute the holy trinity of what Tocqueville called the American "civil religion." As is inevitably the case with holy trinities, the exact relation of each member to the other gives rise to theological (i.e., jurisprudential) disputes, and one such dispute resulted in the bloodiest war in American history. But, on the whole, the American people have felt very comfortable with their trinity, despite all controversies on issues of transubstantiation.

So there is a *spirit* of the Constitution, enveloping the text and transforming it into a covenanting document, a pillar of the American "civil religion." But what is this spirit? Where does it come from? What gives it its sustaining power?

It is the failure to address such questions that makes so much—not all, but so much—of the scholarly work on "the intellectual origins of the Constitution" less than satisfactory. This work is very fine indeed in exploring the origins of the American *political system*, but it too often seems impotent to explain the "spirit" that animates and pervades this system. Thus, there is no doubt that the writings and philosophy of John Locke were a preponderant influence on the authors of the Constitution, but the fact remains that what they wrought was a covenant, not merely a social contract. And the same can be said of all those other very visible intellectual influences—Montesquieu, the British republican pamphleteers of the eighteenth century, the Continental jurists of the era, as well as the Scottish philosophers of the Enlightenment. These influences were real enough, and they must be studied to understand the Constitution as it emerged from the Constitutional Convention. But all of them together do not add up to the Constitution we *revere*.

The Protestant impulse

The American Constitution has many intellectual fathers, but only one spiritual mother. That mother is the Protestant religion

—perhaps one should say the Protestant impulse—in its various American forms. The idea—and more important, the sentiment—of the American people as a “covenanting community” comes from Calvinism. The idea of this community being governed by elected representatives comes not from memories of a feudal parliament (as in Europe), but from Puritanism and Presbyterianism. The conviction that all men have equal access to God, that freedom of conscience has divine sanction, that a large measure of individual liberty is consonant with a moral life—all are derived from the impulse toward spiritual individualism of various dissenting and pietist sects, some of whose teachings ended up closer to Deism than to Christianity. What we call the “Protestant ethic” or the “work ethic”—a religious or quasi-religious insistence that the exercise of one’s mundane responsibilities was a form of piety—comes from Puritanism and then (in a more massive way) from Methodism. Benjamin Franklin’s *Poor Richard’s Almanack* had very little overt religiosity in it—the author was at most a rather casual Deist—but that book could not have been written, and would not have been widely read, in an environment that had not previously been shaped by the Protestant experience. That ethic became a moral code for all honest, God-fearing men and women, a code that infused the new “bourgeois” society with a religious aspect. So powerful had this Protestant influence been that Catholicism and Judaism, as it became “Americanized,” also became—often after much futile resistance—markedly “Protestantized.” Judaism, of course, had always had its own version of this ethic, which is why Puritanism placed such an extraordinary emphasis on the Old Testament.

So the structure and functioning of American government—what might be called its statistics and dynamics—have unquestionably been shaped by secular political philosophers, but what has *sanctified* their work are popular attitudes derived from religion, not philosophy. After all, “America” existed, as a new nation in embryo, before the Constitutional Convention, before even the Revolution. The various colonial state charters, and the state constitutions during the period 1778-1787, all foreshadowed (if in varying degrees) the basic premises of the Constitution. That “Americans” as a distinctive human type, participating enthusiastically in a distinctive “American way of life,” preexisted the Revolution is testified to by the reports of all European visitors. The Revolution delivered the new body politic, the Constitution covenanted it, but it had been conceived out of the wedding of the Protestant ethos with American circumstances.

One legitimate offspring of this marriage circumstance was the early commitment of Americans to the making of money and the acquisition of property—to “bettering their condition,” as Adam Smith would later put it. There can be little question but that this predisposition issued from the “Protestant ethic”—the belief that a life spent in the legal pursuit of wealth and income could be a *righteous* life. Not a holy life, certainly, or even the most authentic or admirable of possible human lives—but righteous, even taking its self-imposed limitations into account. This belief has powerful economic effects, as all students of “modernization” know. Moreover, the economic potency of this belief has survived its secularization, which is part of its “Americanization.” There is a very great difference between the Presbyterian John Knox and our own Benjamin Franklin. But it is precisely this difference that has allowed generations of immigrants, whatever their religious origins, to join the American covenant—to accept those bourgeois pieties that promised a “better life” without giving any thought to the religious origins of these pieties.

Indeed, so powerful is this Protestant-American impulse to “better one’s condition” that it defines the exceptional way Americans subconsciously and automatically think about the politics of their constitutional order. When I teach the Constitution, I like to ask the class this question: “When we elect a representative to Congress, whom does he represent?” Only the occasional European or Latin American student sees the point immediately. The American students, suspecting a trap, are slow to give the obvious answer: He (or she) represents the people in his district, his “constituency.” They do come forward with this answer eventually, at which point I inquire: “All of the people in his district—including those who voted against him?” Yes, of course. And suddenly enlightenment dawns—the realization that there is something special about this American assumption. In no other country in the world does the electoral process proceed on any such peculiar assumption. Everywhere else, elected representatives represent mainly their parties and the ideology of their parties, which is identified with the “public interest.” Only in America is it taken for granted that they ought to represent, first of all, the economic interests of *all* of their constituents. This can be taken for granted because it has been assumed for two centuries now that all of those voters are more interested in improving their economic condition within the framework of a settled way of life than in any ideology or “cause”—or at least expect their political representatives to work toward that economic end rather than

expending too much energy promoting any particular ideology or "cause." Surely the main reason that the socialist idea has been so weak in America is the fact that it necessarily violates this political constitutional assumption.

Civil religion and moral truths

It follows that the Constitution is inextricably intertwined with the idea of economic progress. It has always been perceived to be so. Up until the Great Depression, it was routine for orators to link American prosperity to the Constitution, as effect to cause. Even today our new immigrants, as they take their oath of citizenship, clearly have this connection very much in mind.

But, for many Americans, this linkage has been blurred in recent decades. The increasing secularization and "thinning out" of our "civil religion," while broadening its scope, has both vulgarized it and weakened it. The vulgarization takes the form of conceiving of American society, and bourgeois society in general, as little more than an "acquisitive society" where "free enterprise" flourishes. This provokes an antibourgeois animus among the better educated, who see such a society as a modern version of Plato's "city of pigs," while inciting many of the young to a libertarian hedonism that, by traditional standards, is nothing short of licentious. At the same time, the larger populace becomes uncertain of its "values" (as one now says), and its commitment to our constitutional traditions, though seemingly firm, becomes brittle.

The truth, which we are in danger of forgetting, is that a "civil religion" both engenders and requires a *moral* endorsement of a regime, not simply a utilitarian one. It is such a moral endorsement that always led Americans to believe that their constitutional order is not only efficient or workable, but also just. For such an endorsement to prevail, the "civil religion" must be at least minimally nourished by its religious roots.

As the infinitely wise Tocqueville put it: "I do not know whether all Americans have a sincere faith in their religion—for who can search the human heart?—but I am certain that they hold it to be indispensable to the maintenance of republican institutions." The overwhelming majority of Americans still hold to that proposition today—but more anxiously and tentatively. They agree with George Washington when he remarked, in his Farewell Address, that one could only "with caution indulge the supposition that morality can be maintained without religion." But they see this "supposition" unqualifiedly and incautiously insisted upon by the bulk of our edu-

cated and professional classes—people who, after all, are really supposed to know about such matters. This makes them confused, unhappy, angry. What kind of polity is it, they wonder, in which we know so much more than our forebears but don't know how to go about explaining to our children right from wrong?

A "covenant" is meaningless unless it is based on moral truths which, if not undisputable in the abstract, are not widely disputed in practice. The source of such moral truths has always been a religious tradition or a composite of religious traditions. Science cannot provide such moral truths, neither can philosophy; both can only offer us reasons for skepticism about them. But a "way of life" involves commitment, and only a religious attachment, however superficial, can provide that.

All observers note, and all opinion polls confirm, that Americans as a people are more religious than their West European counterparts. But that this fact may have something to do with the prosperity and political stability of the United States, or with the spirit of patriotism that is still so pervasive in this land, is studiously ignored. The bicentennial of the Constitution would seem to be a suitable occasion not merely for celebrating, not merely for taking thought, but for offering up a prayer on the Constitution's behalf. One assumes it would not object.