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FEATURES:

Constitutional Conservatism

By Peter Berkowitz

A way forward for a troubled political coalition

After their dismal performance in election 2008, conservatives are taking stock. As they examine the causes that have driven them into the political wilderness and as they explore paths out, they should also take heart. After all, election 2008 shows that our constitutional order is working as designed. The Constitution presupposes a responsive electorate, and respond the electorate did to the vivid memory of a spendthrift and feckless Republican Congress; a stalwart but frequently ineffectual Republican president; and a Republican presidential candidate who — for all his mastery of foreign affairs, extensive Washington experience, and honorable public service — proved incapable of crafting a coherent and compelling message.

Indeed, while sorting out their errors and considering their options, conservatives of all stripes would be well advised to concentrate their attention on the constitutional order and the principles that undergird it, because conserving them should be their paramount political priority.

Conservatives would do well to concentrate their attention on the constitutional order and the principles that undergird it.

A constitutional conservatism puts liberty first and teaches the indispensableness of moderation in securing, preserving, and extending its blessings. The American Constitution that it seeks to conserve presupposes natural freedom and equality; draws legitimacy from democratic consent while protecting individual rights from invasion by popular majorities; defines government's proper responsibilities while providing it with the incentives and tools to perform them effectively; welcomes a diverse array of voluntary associations in part to prevent any one from dominating; assumes the primacy of self-interest but also the capacity to rise above it through the exercise of virtue; reflects and at the same time refines popular will through a complex scheme of representation; and disperses and blends power among three distinct branches of government as well as among federal and state governments to provide checks and balances. The Constitution and the nation that has prospered under it for 220 years demonstrate that conserving and enlarging freedom and democracy in America depend on weaving together rival interests and competing goods.

Unfortunately, contrary to the Constitution's lesson in moderation, the two biggest blocs in the conservative coalition are, in reaction to electoral debacles in 2006 and 2008, tempted to conclude that what is needed now is greater purity in conservative ranks. Down that path lies disaster.

Some social conservatives point to recent ballot initiatives in Arizona, California, and Florida that

rejected same-sex marriage as evidence that the country is and remains socially conservative, and that deviation from the social conservative agenda is politically suicidal. They overlook that whereas in California's 2000 ballot initiative, 61 percent of voters rejected same-sex marriage, in 2008 opposition in the nation's most populous state fell to 52 percent. Indeed, most trend lines suggest that the public is steadily growing more accepting of same-sex marriage, with national polls indicating that opposition to it, also among conservatives, is strongest among older voters and weakest among younger voters.

Meanwhile, more than a few economic or libertarian conservatives are disgusted by Republican profligacy. And, they remain uncomfortable with or downright opposed to the Bush administration's support in 2004 for a constitutional amendment banning same-sex marriage, and its continuation of the Clinton administration moratorium on government funding of embryonic stem cell research. In addition, many are still angry about the intensive Republican-led intervention by the federal government in the 2005 controversy over whether Terri Schiavo's husband could lawfully remove the feeding tubes that had kept his wife alive in a persistent vegetative state for 15 years. These libertarian conservatives entertain dreams of a coalition that jettisons social conservatives and joins forces with moderates and independents of libertarian persuasion.

But the purists in both camps ignore simple electoral math. Slice and dice citizens' opinions and voting patterns in the 50 states as you like — neither social conservatives nor libertarian conservatives can get to 50 percent plus one without the aid of the other.

Yet they, and the national security hawks who are also crucial to conservative electoral hopes, do not merely form a coalition of convenience. Theirs can and should be a coalition of principle, and a constitutional conservatism provides the surest way to achieve one.

Rallying around a constitutional conservatism is a wise and winning strategy. The nation was founded on its principles.

The principles are familiar: individual freedom and individual responsibility, limited but energetic government, economic opportunity, and strong national defense. They derive support from Edmund Burke, the father of modern conservatism, as well as from Adam Smith, Alexis de Tocqueville, and, in his most representative moments, John Stuart Mill — outstanding contributors to the conservative side of the larger liberal tradition. They are embedded in the Constitution and flow out of the political ideas from which it was fashioned. In the 1950s, they animated William F. Buckley Jr.'s critique of higher education in America in God & Man at Yale, an opening salvo in the making of the modern conservative movement. In the 1960s, they were central to Frank Meyer's celebrated fusion of traditionalist and libertarian conservatism, and they formed the backbone of Barry Goldwater's 1964 campaign for the presidency. In the 1980s, they inspired Ronald Reagan's consolidation of conservatism. In the 1990s, they fueled Newt Gingrich's "Republican Revolution." And even though George W. Bush's tumultuous eight years in the White House have left conservatives in disarray, these principles informed both his conception of compassionate conservatism and his aspiration to make the spread of liberty and democracy a crucial element of American foreign policy.

Elaborated and applied in the spirit of moderation out of which they were originally fashioned, the principles of a constitutional conservatism are crucial to the restoration of an electorally viable and politically responsible conservatism. To be sure, short-term clashes over priorities and policies are bound to persist. Nevertheless, rallying around a constitutional conservatism represents a wise and winning strategy. The nation was founded on its principles. Embracing them is the best means over the long term for conserving the political conditions hospitable to traditional morality and religious faith, and the communities that nourish them. It is also the best means over the long term for conserving the political conditions that promote free markets, and the economic growth and opportunity free markets bring. And a constitutional conservatism provides a sturdy framework for

developing a distinctive agenda to confront today's challenges — an agenda that social conservatives and libertarian conservatives, consistent with their highest hopes, can both embrace.

Liberty and tradition

Feuding among american conservatives for the title of True Conservative is nothing new. Ever since conservatism's emergence as a recognizable school or movement in the 1950s, more than a few social conservatives, or as the forebears of today's social conservatives were then known, traditionalist conservatives, and more than a few libertarian conservatives have wanted to go their own way or banish the other. To be sure, the passion for purity in politics is common. But the tension between liberty and tradition inscribed in the modern conservative tradition has exacerbated it in the contending conservative camps. Fortunately, a lesson in moderation is also inscribed in the modern conservative tradition.

Moderating the tension between liberty, or doing as you wish, and tradition, or doing as has been done in the past, is a hallmark of the intellectual achievement of Edmund Burke, who for good reason is regarded as the father of modern conservatism. While the conservative spirit is a perennial human possibility, while some have always been more concerned with preserving inherited ways and others more inclined to improve or reject them, the distinctively modern form of conservatism emerges with Burke's critique in Reflections on the Revolution in France (1790) of the excesses in politics inspired by Enlightenment philosophy and by what subsequently came to be called the liberal tradition. It is crucial to appreciate that Burke's was not a wholesale critique of the spirit of Enlightenment and the moral and political principles of John Locke. Indeed, Burke was a Whig who cherished freedom and, in the name of individual liberty, sought throughout his long parliamentary career and in battle after battle with the Tories to limit the political power of altar and throne. But to limit is not to abolish, and it is also consistent with cherishing. Within their proper boundaries, Burke taught, religious faith disciplined and elevated hearts and minds, and monarchy upheld the continuity of tradition, reflected the benefits of hierarchy and order, and provided energy and focus in government. Both institutions, in his assessment, encouraged virtues crucial to the preservation of liberty.

As he sought to limit the political power of altar and throne in England — and in England's affairs in India and America — for the sake of liberty, he also defended them for liberty's sake in France against what he regarded as the revolutionaries' perverted conception of freedom. Contrary to their doctrine that freedom meant overthrowing inherited beliefs, practices, and institutions, Burke championed "a manly, moral, regulated liberty." It depended more on self-restraint than self-interest. It was secured not through calculation, planning, and ambitious projects but by the steady development of institutions and practice over centuries, the outstanding example of which was the British Constitution. And it included the right to live under the rule of law; to own and acquire property and to pass it on to one's children; and generally to live with one's family as one saw fit provided one did not trespass on the rights of others. The very purpose of political life, Burke argued, was to secure these rights, though just where the exercise of freedom constituted a violation of another's rights, and how best to use one's freedom to live well, could only be determined by prudent reflection on tradition and custom, because they embodied the nation's accumulated wisdom concerning the organization of human affairs.

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Indeed, Burke famously proclaimed prudence "the God of this lower world." Mediating between principle and practice, it represented moderation in judgment. It guided the reconciliation of liberty with the requirements of order and the need for virtue by taking the measure of all three and fashioning courses of action that, to the extent possible, gave each its due.

In contrast, according to Burke, the French revolutionaries were immoderate in the extreme. Along with monarchy and religion, they sought to overthrow not merely this tradition or that custom but the very authority of tradition and custom. In its place, they aimed to establish an empire built on reason alone. Prudence, or the wise and balanced application of principle to circumstance, would be unnecessary. Instead, they would mold circumstances to comply with reason's demands. Marching under the banner of "the rights of man," they set out to deduce the structure of a society of free and equal citizens without regard to the inherited beliefs, contingent passions, enduring attachments, and local practices that form character and color conduct. Rather than counting on education to discipline a recalcitrant human nature, they were prepared to go so far in molding circumstances as to remake human nature to fit reason's revelations about citizens' obligations. The ambition to use the power of state to create a new humanity, Burke presciently argued, was sure to result in the dehumanization of man.

The quarrel between Burke and the French revolutionaries comes down not to whether liberty is good or even the leading purpose of politics — Burke thought it was both — but to the material and moral conditions most conducive to securing, maintaining, and enjoying it. In contrast to the French revolutionaries — and progressives to this day — who put their faith in government's ability to develop institutions that not only provide for citizens' wants and needs but also improve their beliefs and educate their sensibilities, Burke's conservatism places the emphasis on the moral and political benefits that flow to liberty from the time-tested beliefs, practices, and institutions beyond government's purview that structure social life and shape character. Whereas order and virtue are often seen by the progressive mind as the antitheses of freedom, the conservative mind — or at least the conservative mind that follows Burke and is also fortunate enough, like Burke, to live in a civilization nourished by classical philosophy and biblical faith — sees them as pillars of freedom and seeks to conserve the nongovernmental institutions that sustain them.

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Despite Reflections' notorious veneration of the past and excoriation of the French Revolution's moral and political innovations, Burke was no reactionary who dogmatically clung to the old and rejected the new. He himself observed that because circumstances alter, "A state without the means of some change is without the means of its conservation." Of course the change in question must be prudent, wisely adapting enduring principles to the ordinary vicissitudes of politics and, in extraordinary times, to substantial shifts in sentiment and practice. Prudent change as Burke understands it, though, is more than a political necessity. It is also inseparable from respect for tradition and custom, because they typically present not a clear-cut path but "a choice of inheritance." Since the right choice must be freely and reasonably made, liberty and tradition are mutually dependent.

This mutual dependence provides an opening for justly moderating their claims, which, to be sure, frequently pull in opposing directions. Justly moderating their competing claims reflects neither unprincipled compromise — though compromises must be made — nor thoughtless acquiescence to necessities — though necessities must be respected — but rather a recognition of the plurality of goods and the complexity of the conditions that permit free citizens to flourish. Nor should just moderation be confused with the absence of strong passion. Moderation well understood involves the restraint of desire in quest for the satisfaction offered by a greater good or more comprehensive happiness. In other words, the restraint at the heart of moderation also involves the exercise of passion, the passion to strike the best balance among worthy but incomplete ends for the sake of a higher end.

In the final paragraph of Reflections, in a moving — and perhaps melodramatic — description of his own political career, Burke portrays moderation in action on behalf of liberty. He declares that his

opinions about the revolution in France

> come from one, almost the whole of whose public exertion has been a struggle for the liberty of others; from one in whose breast no anger durable or vehement has ever been kindled, but by what he considered as tyranny; and who snatches from his share in the endeavours which are used by good men to discredit opulent oppression, the hours he has employed on your affairs, and who in so doing persuades himself he has not departed from his usual office.

His special contribution to liberty's defense is that of

> one who wishes to preserve consistency, but who would preserve consistency by varying his means to secure the unity of his end; and, when the equipoise of the vessel in which he sails may be endangered by overloading it upon one side, is desirous of carrying the small weight of his reason to that which may preserve its equipoise.

To preserve liberty at a time when the French Revolutionaries made extravagant claims on its behalf, Burke fervently championed tradition's claims. This is not to suggest that he reduced tradition to a means to secure liberty. His position, rather, was that in addition to the supreme goods at which they aim, tradition, and the religious faith with which it is usually bound up, support a social order and instill moral virtues crucial to liberty.

Achieving the right balance

The conservative side of the larger liberal tradition rings variations on the Burkean concern with conserving liberty's moral and political preconditions. For example, Adam Smith saw that the market economy, which brought prosperity and nourished political liberty, both rewarded moral virtues — rationality, industry, ingenuity, and self-discipline — and corrupted workers' character by condemning them to monotonous labor. He therefore insisted on the need for government action — providing education for workers and limiting the workplace demands imposed on them by manufacturers — to support the "natural system of liberty." Alexis de Tocqueville understood that democracy was inevitable and just and that while it fostered a certain simplicity and straightforwardness in manners it also encouraged selfishness, envy, immediate gratification, and lazy acceptance of state authority. To secure liberty, without which in his estimation a life could not be well-lived, it was necessary to preserve within democracy those nongovernmental institutions — particularly the family and religious faith — which counteracted democracy's deleterious tendencies by teaching moral virtue, by connecting individuals to higher purposes, and by broadening their appreciation of their self-interest to include their debts to forbears and obligations to future generations. John Stuart Mill classically made the case that liberty served "the permanent interests of man as a progressive being." At the same time, he distinguished between the use and abuse of freedom; defended a rigorous education continuing through university and combining science and humanities to equip individuals for freedom's opportunities and demands; and favored political institutions that, while grounded in the consent of the governed, were designed to improve the likelihood that elections would bring to public office individuals of outstanding moral and intellectual virtue.

Moderation involves the restraint of desire in quest for the satisfaction offered by a greater good.

If a liberal in the large and historically accurate sense is one who believes that the aim of politics is to secure liberty, then Burke, Smith, Tocqueville, and Mill are exemplary liberals. Because of their acute and overlapping appreciation that free societies expose individuals to influences that corrode moral and political order and enervate the virtues on which liberty depends, it is proper to place them on the conservative side of the liberal tradition. Because of their shared understanding that liberty also

requires constraint — from law, from nongovernmental associations, and from the internalization of habits and norms — and that government must be limited to prevent it from encroaching on liberty but not so limited that it cannot take necessary and proper action in support of liberty, they expound a conservatism that places a premium on striking a balance, or moderation. The Federalist, the masterpiece of American political thought, embraces the conservative brand of liberalism they epitomize and constitutionalizes it.

Scarcely a detail of constitutional design escaped lively debate at the Constitutional Convention, but all delegates to Philadelphia in the summer of 1787 could agree on the largest and leading principle: Government's preeminent aim was to secure individual liberty. The Antifederalist opponents of the new Constitution did not doubt that securing liberty was government's leading task, but rather objected that the Constitution provided an intolerable threat to it. For their part, the Constitution's proponents agreed that a strong national government threatened liberty. But the common security and commercial interests of the 13 united states, they maintained, justified the risk. Moreover, recent developments in the science of politics and embodied in the new Constitution, they contended, would keep government within its proper limits, while allowing it to more effectively perform its indispensable functions. This argument was developed most forcefully and enduringly in the Federalist, a collection of 85 newspaper articles in support of ratification authored by Alexander Hamilton, John Jay, and James Madison between October 1787 and May 1788. The recognition that government was both part of the problem of liberty and part of the solution pervades the Federalist, and served the framers as a powerful inducement to moderation in government's design.

The ambiguities of government, according to the authors of the Federalist, reflected the ambiguities of human nature. Born equal in natural rights but unequal in gifts of nature and fortune; endowed with passions and prejudices as well as reason; driven by narrow self-interest but through enlightened education capable of understanding private interest more broadly and appreciating its convergence, when properly understood, with the public good — human beings can by reflection and choice, the Federalist taught, design political institutions that secure liberty while economizing on virtue.

The ambiguities of government, according to the authors of the Federalist, reflected the ambiguities of human nature.

Because choice was essential to admirable deeds, to dignity, and to happiness, virtue presupposed liberty. Conversely, liberty presupposed virtue, because maintaining the institutions of a free society was hard work that required citizens to exercise a range of excellences of character. And because religion — or more precisely in America: Protestant Christianity — was an indispensable teacher of virtue, liberty also presupposed faith. However, neither virtue nor religion could be the aim of politics because authorizing government to promote them would invite abuses of power and infringement of rights. Contrary to the canard, popularized by academic critics, that the classical-liberal tradition limits government's responsibility for virtue because of skeptical doubts or relativist certainties, the Constitution limits government to safeguard the sources of virtue, protecting the prerogatives not only of religious communities but also of families and citizens' association to instill it.

At the same time, the framers knew that even in the best of circumstances virtue would be scarce, and that a constitution devoted to protecting liberty would give vice abundant opportunities to flourish. To endure, such a constitution would have to provide through its "extent and structure," in James Madison's illuminating formulation in Federalist No. 10, "a Republican remedy for the diseases most incident to Republican Government."

By republican government, Madison meant a new form of popular government, one in which, as in traditional democracies, the people ruled, but in which, unlike in traditional democracies where the people legislated directly, the people expressed their will through the election of representatives. The aim was to channel into office representatives who would be more conversant with the issues and

better able to devote their efforts to politics, and therefore would refine the people's will in the process of translating it into law. The scheme of representation was one of the framers's crucial institutional innovations. Others included enlarging the size of the republic, the separation of powers, and federalism. Combining a veneration of classical authors and statesmanship with a profound understanding of modern developments in political thought, the crafters of the American Constitution sought to advance freedom by imposing restraint, slowing change, and encouraging deliberation.

To be sure, the constitutional system does not prevent government officials from overreaching. In the event, which it fully expects, it provides to each branch, the state governments, and the people the motives and the political instruments to push back. The intended result is a balance among competing interests that favors individual freedom. More than 220 years later, it is reasonable to pronounce the Constitution's experiment in self-government a success: The world's oldest liberal democracy is also the freest, most tolerant, most diverse, most prosperous, and most powerful nation the world has ever known. But the experiment continues. And while the balance of particular interests and goods is constantly changing, the need to strike a balance remains a paramount political task.

Indeed, success in conserving a constitutional system devoted to liberty compounds the challenge of maintaining a reasonable balance between liberty and tradition. This is because freedom disposes individuals to bristle at authority, to incline toward novelty, and to constantly demand enlargements of freedom's domain. This in turn further heightens their aversion to authority, enthusiasm for the new, and thirst for greater freedom. As a result, individuals who enjoy freedom's blessings tend to grow increasingly impatient with the order that enables free citizens to cooperate and compete, and increasingly less interested in acquiring, exercising, and transmitting the virtues required for prospering in private and public life. Thus, while conservatives' electoral fortunes may wax and wane, progress in freedom steadily increases the need for a constitutional conservatism that properly balances liberty and tradition.

Constitutional conservatism reborn

American conservatism became conscious of itself as a distinctive school in the 1950s. Conservatives in America, of course, there had always been, as Russell Kirk, a father of social conservatism, showed in 1953 in The Conservative Mind: From Burke to Eliot, itself a seminal contribution to the 1950s renaissance in conservative thinking. Kirk argued that "the essence of social conservatism is preservation of the ancient moral traditions of humanity." And conservatives worthy of the name, he contended, brought to their task a common set of convictions: belief in a transcendent order; appreciation of the variety of human types and ways of life; respect for social order and hierarchies; an understanding of the close link between individual freedom and the protection of private property; on the one hand, distrust of moralists and social scientists seeking to reconstruct society on the basis of grand theories, and, on the other hand, confidence in custom and convention as repositories of wisdom; and recognition that while change is necessary and salutary, hasty innovation tends to be more popular in liberal democracies than prudent reform. It is worth underscoring that inasmuch as it embraces both the idea that inherited beliefs and practices reflect an authoritative moral order, and that government must be limited for the sake of freedom, particularly economic freedom, social conservatism contains within itself the tension between liberty and tradition. One can see elements of social conservatism so understood at work, Kirk demonstrated, in the careers and ideas of, among others, John Adams, Alexander Hamilton, John Randolph, John C. Calhoun, James Fenimore Cooper, John Quincy Adams, Orestes Brownson, Nathaniel Hawthorne, James Russell Lowell, Henry Adams, Brooke Adams, Irving Babbitt, Paul Elmer Moore, George Santayana, and T.S. Eliot. Although none made the meaning of conservatism in America a guiding theme of his thought, Kirk's distillation of their views in The Conservative Mind helped set the stage for those who would, including himself.

Meyer's aim was "to vindicate the freedom of the person as the central and primary end of political society."

It was the entrenchment of the New Deal and the rise of totalitarianism that, in the 1950s, combined to jolt a self-consciously conservative movement in America into existence. The New Deal, as its proponents appreciated, involved a dramatic arrogation of new responsibilities by, and a great expansion of, the federal government. Meanwhile, the defeated fascist totalitarians in World War II and the aggressive communist totalitarians confronting America in the Cold War rejected individual rights, subordinated the individual to the state, presented alternatives to liberal democracy that held mass appeal, and sought to extend their reach worldwide through conquest and subjugation. To fight the collectivist impulse at home and abroad some among a new generation of conservatives turned to the restoration of traditional morality and faith. Others undertook a restoration of nineteenth century or classical liberalism, which rigorously limited the state and came to be called libertarianism. But the dominant strand in modern American conservatism set out to restore both.

Indeed, the leading voice of conservatism in America of the last half century — William F. Buckley Jr. along with his National Review, American conservatism's flagship publication which he founded in 1955, edited until 1992, and to which he contributed until his death in 2008 — and the most influential conservative politicians during that period — Barry Goldwater, Ronald Reagan, Newt Gingrich, and George W. Bush — contributed to the fashioning of a conservatism that combined a dedication to traditional morality with a devotion to American political institutions and traditions of individual liberty, particularly economic liberty. Often, conservative thinkers and office holders explicitly conceived of themselves as revolutionaries committed, in the light of new or newly recovered ideas, to radically reducing the role government had come to play in American life. Often, they were late to recognize the evolution of public opinion and changes in popular sentiment, along with the real technological, economic, and social transformations that legitimated growth in government. As a result, they frequently fought futile rearguard actions confusing the imperative to limit government with delusory aspirations to shrink it to eighteenth-century size. But insofar as this dominant strand of American conservatism affirmed that the fate of liberty and tradition were inextricably intertwined, it contained a vital lesson in moderation.

Buckley prominently displays that affirmation in God & Man at Yale, though the lesson in moderation was not what first impressed readers, whether delighted allies or enraged critics. The 1951 book, which argues that his alma mater had so deeply and thoughtlessly embedded in the university curriculum a dogmatic atheism and collectivistic ideology that they had become invisible to most faculty and administrators, made the 24-year-old Buckley famous and, in the process, launched the modern conservative movement. In the Preface, Buckley forthrightly announced the perspective from which his critique proceeded:

> I had always been taught, and experience had fortified the teachings, that an active faith in God and a rigid adherence to Christian principles are the most powerful influences toward the good life. I also believed, with only a scanty knowledge of economics, that free enterprise and limited government had served this country well and would probably continue to do so in the future.

In the prodigiously productive career spanning nearly 60 years that followed his stunning national debut, Buckley continued to insist that both traditional morality and individual liberty were indispensable elements of an American conservatism. True, the same thoroughgoing commitment to both tradition and individual liberty could not be seen in each and every one of the journalists, scholars, publicists, and polemicists who graced National Review's pages over the decades. Nevertheless, by providing a forum in which social conservatives and libertarian conservatives could vigorously air their disagreements and have at one another, Buckley's magazine sent a message that both were original and indispensable members of the same intellectual and political family.

In 1962, in In Defense of Freedom: A Conservative Credo, Frank S. Meyer, a senior editor and columnist at National Review from 1957 until his death in 1972, confronted the clash between social conservatives and libertarian conservatives head on, and provided what remains today the most clear and compelling reconciliation of their competing conservatisms.[1] Meyer's aim was "to vindicate the freedom of the person as the central and primary end of political society." Crucial to his vindication was showing that a politics that put freedom first was not only consistent with but inseparable from conservative assumptions about an objective, abiding, and authoritative moral order. Also crucial was his claim that the synthesis of liberty and tradition that he sought to vindicate on a theoretical plane was embodied in the Declaration of Independence, the Constitution, the ratifying debates, and, indeed, in the common-sense opinions and attitudes of contemporary American conservatives.

In Meyer's view, both the classical-liberal tradition and traditionalist conservatism had taken wrong turns. In the nineteenth century, classical liberalism embraced utilitarianism, which made the measure of policy the greatest good for the greatest number. This, according to Meyer, undermined the idea that each human being is an end himself, an idea that was central to the liberal tradition because it grounded individual freedom. And in the 1950s, the emerging traditionalist conservatives, who rightly understood the moral and political importance of virtue and the role of family, faith, and community in inculcating it, wrongly exalted the political claims of society over the individual and foolishly ceded to government responsibility for overseeing virtue's inculcation.

By correcting these mistakes, indeed by showing that each school supplied the insight needed to set the other straight, Meyer sought to establish that partisans of freedom and partisans of traditional morality were natural moral and political allies. From the traditionalists, libertarian conservatives could learn or relearn that traditional morality provided the theoretical ground for human dignity, and that it took families and communities to form rugged, self-reliant individuals. And from the libertarians, the traditionalists could learn or relearn that to be of worth, virtue must be exercised in freedom, and that families and communities, the proper molders of morals, can only teach virtue if government is restrained from interfering and limited to its proper function: maintaining political and economic freedom and providing for the common defense.

Among conservatives, Meyer's position came to be known as fusionism. This was unfortunate, as it implied that traditionalist conservatism and libertarian conservatism could only be held together by some mysterious cosmic force. A better name for what Meyer espoused would be constitutional conservatism. It more accurately captures his grounding of conservatism in America's founding ideas, and the intellectual coherence of the alliance he forged between partisans of freedom and partisans of tradition.

Constitutional conservatism comes of age

Constitutional conservatism is also a good name for the views championed by Barry Goldwater, the long time Arizona senator and modern American conservatism's first standard-bearer in national politics. The 1964 Republican candidate for president, Goldwater ran as a passionate defender of individual freedom. A passionate defense was needed, believed Goldwater, because of the menace presented by the creeping socialism of an ever expanding federal government, and a Soviet Communism that endured coexistence with, but pursued defeat of, the West. Successfully portrayed by his opponents as a reactionary who would undo the New Deal and a warmonger who would provoke nuclear conflagration, Goldwater lost to Lyndon Johnson in a landslide. In his acceptance speech in San Francisco at the Republican National Convention, Goldwater memorably tried to defuse the charge of extremism with a defense of extremism, concluding his remarks by proclaiming that "extremism in the defense of liberty is no vice" and "moderation in the pursuit of justice is no virtue." But these rhetorical flourishes encouraged dangerous misconceptions: Contrary to

Goldwater, moderation is a virtue crucial to both the defense of liberty and the pursuit of justice.

In fact, on the bigger question, the relationship between liberty and tradition, Goldwater did counsel moderation. In his San Francisco acceptance speech, he declared his party's dedication to

> freedom made orderly for this nation by our constitutional government, freedom under a government limited by the laws of nature and nature's God, freedom balanced so that order lacking liberty will not become the slavery of the prison cell, balanced so that liberty lacking order will not become the license of the mob and of the jungle.

This admonition to balance echoes the argument of his short 1960 book, The Conscience of a Conservative, which became a bestseller and set the stage for his 1964 candidacy. In it, Goldwater contended that to meet "the day's overriding challenge," which was "to preserve and extend freedom," it would be necessary to restore "the delicate balance between freedom and order." (All italics in the original.)

The way to achieve that delicate balance was to return to the principle of limited government embodied in the Constitution:

> The legitimate functions of government are actually conducive to freedom. Maintaining internal order, keeping foreign foes at bay, administering justice, removing obstacles to the free interchange of goods — the exercise of these powers makes it possible for men to follow their chosen pursuits with maximum freedom.

It does not follow, Goldwater stressed, that conservatives therefore have a narrow, mechanistic, or economic view of man. Indeed, true conservatism recognized that man "is a spiritual creature with spiritual needs and spiritual desires" and held that these "reflect the superior side of man's nature, and thus take precedence over his economic wants." But what takes precedence morally and spiritually must not take precedence for government. Government must be limited to its legitimate functions because its enormous powers pose a grave threat to the freedom without which man's spiritual needs and spiritual desires cannot be satisfied or developed. Keeping government within its proper limits gives families, religious communities, and voluntary associations the room they require to teach the moral virtues, and men and women the room they need to exercise them. The moral virtues both reflect man's superior side and are essential to discharging well the many responsibilities — at home, at work, in politics — that citizens in a free society shoulder.

At his inauguration in 1981, Reagan reaffirmed his dedication to limiting government to conserve freedom.

President Ronald Reagan, whose own political career was jump-started by a paid televised address he gave on behalf of Goldwater in October 1964, smoothly wove together traditionalist and libertarian themes. But in 1964, as co-chair of Californians for Barry Goldwater, he dwelt on freedom. After noting in his television address that he had spent most of his life as a Democrat, Reagan explained that he had recently switched parties because Goldwater's Republican platform reflected the principles and priorities to which he had long been committed: reduced federal spending; elimination of wasteful Washington bureaucracy and intrusive and ineffective or counterproductive government programs; increased protection for the rights of private property; the return of power to states, local communities, and the people; and commitment not merely to containing but defeating communist totalitarianism. According to Reagan, his political priorities and principles reflected the founders' understanding of self-government as "the ultimate in individual freedom consistent with law and order."

Seventeen years later, in January 1981 at his inauguration as the fortieth president of the United States, Reagan reaffirmed his dedication to limiting government to conserve freedom. With the nation confronting high inflation, high unemployment, high interest rates, high marginal tax rates, low productivity and low growth, Reagan proclaimed, in what was to become one his most famous lines, that “In this present crisis government is not the solution to our problems; government is the problem.” A broadside directed at the left and music to the ears of his supporters, this diagnosis was an overstatement when uttered and inconsistent with the more balanced assessment offered in the remainder of his inaugural address. “The administration’s objective,” Reagan went on to say, “will be a healthy, vigorous, growing economy that provides equal opportunities for all, with no barriers born of bigotry or discrimination.” To deliver would involve not only cutting, curbing, and curtailing government but also redirecting government toward its proper goals: “Government can and must provide opportunity, not smother it; foster production, not stifle it.” Indeed, by deploring “unnecessary and excessive growth of government,” Reagan acknowledged the need — however carefully circumscribed — for necessary and appropriate growth. Although the connection between freedom and tradition or faith did not loom large in his inaugural address, Reagan did thank those who had attended the tens of thousands of prayer meetings held that day, and in passing he linked freedom and faith, declaring, “We are a nation under God, and I believe God intended for us to be free.”

In foreign policy, Reagan linked freedom and morals, thereby breaking with the realist school of Nixon and Kissinger.

Two months later, in a speech to the Conservative Political Action Conference in Washington, Reagan emphatically linked freedom and faith. Describing Frank Meyer’s achievement as “a vigorous new synthesis of traditional and libertarian thought,” which deserved to be recognized as capturing the spirit of modern conservatism itself, Reagan argued that limiting government, encouraging free markets, and honoring “the values of family, work, neighborhood, and religion” were not separate agendas but ineliminable elements of a single agenda. Two years later, in remarks delivered at the annual convention of the National Association of Evangelicals in Orlando in March 1983, he reaffirmed the significance of Meyer’s synthesis. Declaring that liberty is a gift of God, he maintained that it is not the state but “families, churches, neighborhoods, and communities” that foster the moral virtues, and that by recovering the ideas about the relationship between freedom and faith out of which America was formed, modern conservatism provided the best answer to America’s current political needs.

Reagan’s social policy and foreign policy also reflected a conservatism that simultaneously celebrated the free choices of individuals and one that safeguarded traditional morality. Consistently linking social-conservative goals to the protection of freedom, he opposed abortion, except in cases of rape or threats to the mother’s health, because he believed that the unborn child, like all human beings, was endowed with unalienable rights to life and liberty. And he supported a constitutional amendment to restore prayer in public schools because he believed that religion, which nourished the spirit of freedom, should not enjoy less freedom than other forms of expression.

In foreign policy, too, he connected freedom and morals. Breaking with the realist school exemplified by Nixon and Kissinger, which sought to expel morality from strategic calculation, Reagan resolutely opposed Soviet Communism not only because it represented a threat to American freedom but also because, by subordinating the individual to the state, it was inherently unjust. In the same March 1983 speech to evangelicals in which he declared liberty a gift of God, he also memorably proclaimed the Soviet Union an “evil empire” for systematically starving, brutalizing, and murdering tens of millions of its own citizens and, by force of arms, expanding its empire and condemning citizens of other nations to a similar fate.

The moral dimension of Reagan’s foreign policy could also be seen in his approach to arms control negotiations with the Soviets. In the early 1980s, Reagan frightened and infuriated the left with his

determination to rebuild the American military in general and in particular to counter the Soviet missiles targeting European capitals by deploying intermediate range nuclear missiles in Europe. At the same time, he declared his eagerness to meet with Soviet leaders to discuss not merely limiting the deployment of new nuclear weapons but actually reducing for the first time those that already existed. His quest for arms reduction was driven by his rejection of the dominant theory of deterrence, mutually assured destruction (mad), which held that a first strike with nuclear weapons could be prevented by the promise of a devastating retaliatory strike on the attacker's cities and civilian populations. Reagan considered this promise immoral. His alternative, the Strategic Defense Initiative (sdi), a program involving both ground- and spaced-based systems to defend the nation against incoming nuclear ballistic missiles, was much derided and vehemently opposed by progressive critics. Yet sdi was not only more consistent with Christian just war theory than mad but also more in keeping with progressive human rights doctrines that outlawed the targeting of civilians. In December 1987, Reagan's approach bore fruit: The United States and the Soviet Union signed the Intermediate-Range Nuclear Forces (inf) treaty, the first time that the Americans and Soviets had agreed to eliminate an entire class of nuclear weapons. This achievement, along with the economic boom, renovation of the military, support for dissidents in communist territory, and moral critique of the Soviet Union that marked Reagan's presidency were critical factors in collapsing the ussr's communist empire.

In foreign policy, Reagan linked freedom and morals, thereby breaking with the realist school of Nixon and Kissinger.

Point man for what proponents at the time unhesitatingly called the "Republican Revolution," Rep. Newt Gingrich led the gop in the 1994 mid-term elections to its first majority in the House of Representatives in 40 years and catapulted himself to speaker of the House. In reality, Gingrich's platform was not revolutionary. Following in Reagan's footsteps, he stood for limited government, traditional morality, and strong national defense. And his Contract with America, which he and his fellow House Republicans promised to pass within the first hundred days of the new session of Congress, consisted of ten legislative proposals for making the federal government more efficient, transparent, and accountable, but not for drastically altering the relation between the federal government and state governments and the people. Only four years later, Gingrich was impelled to resign from the House of Representatives in the face of ethics sanctions, embarrassing personal revelations, the unpopularity of Republican efforts to impeach President Clinton, and the gop's loss of five seats in the 1998 mid-term election. Gingrich did enjoy notable accomplishments during his brief tenure as speaker, including the passage in one form or another of many of the Contract with America provisions and, in 1996, a welfare reform bill signed by President Clinton. But he did not come close to bringing about the conservative political realignment he envisaged. One major cause, ironically, was the grandiose pose he repeatedly struck as a revolutionary determined not merely to reform but to remake the American constitutional system by bringing to an end the era of big government and by re-injecting morals into American politics. He failed to appreciate the moderation of the American people, who proved to be no more enamored of right-wing radicals than of left-wing radicals. He also failed to appreciate the moderation of a constitutional conservatism, which counsels institutional reforms and legislative initiatives that work with rather than override entrenched practices and the people's evolving sensibilities.

Conservatives must realize two realities. The first: The era of big government is here to stay. The second: So is the sexual revolution.

Notwithstanding his reputation as he left office as a supremely polarizing figure, George W. Bush's advocacy of compassionate conservatism in the 2000 presidential election suggested that the Texas governor, and his campaign architect Karl Rove, took the spectacle of Gingrich's rise and fall to heart. Compassionate conservatism aimed to wed two convictions that did not obviously go together but which, if skillfully handled, could prove mutually supportive. The first, associated with the left but

which Bush correctly judged crossed party lines and ran deep in America at the turn of the twentieth century, was that government had acquired a responsibility to assist the sick, the elderly, the involuntarily unemployed, and others who could not care for themselves. The second, which he shared with his evangelical base, was that in many cases religious organizations delivered care that was better targeted and more effective than that delivered by government. By providing government funds to faith-based relief organizations that agreed not to proselytize in the course of delivering food, shelter, and health care, compassionate conservatism sought to limit government's role, respect the separation of church and state, and enhance religion's contribution to the public interest.

And Bush's democracy agenda, developed in the wake of the September 11 attacks, wove together convictions thought to derive from antagonistic sensibilities. On the one hand, he believed with hawks that the United States must take the battle to the Islamic extremists and the states that harbor and finance them. On the other hand, he became convinced along with today's liberal internationalists and progressives going back to Woodrow Wilson that the United States advanced its security interests by using diplomacy, financial assistance, and development expertise to promote liberty and democracy abroad.

Despite the balance of competing goods that marked Bush's signature domestic policy and foreign policy, his administration's soaring domestic spending, unforced errors in developing a legal regime for the novel challenges posed by Islamic terrorists, and a botched reconstruction that soured public opinion on the Iraq war, along with a far-reaching economic crisis, and the gop's decisive electoral losses in 2006 and 2008 have left conservatives demoralized. Uncertain of the principles that bind them, social conservatives and libertarian conservatives seem inclined to turn inward and go their separate ways. A constitutional conservatism shows why conserving the liberty they both prize depends on the renewal of their alliance.

A way forward

That renewal depends on conservatives fully coming to grips with two realities. The first, particularly important for libertarian conservatives to absorb, is that the era of big government is here to stay. Whether because of the transformations that social and economic life has undergone in advanced industrial societies or because the New Deal has for a half century reshaped citizens' expectations, the federal government in America will continue to provide a social safety net, to regulate to some degree all aspects of the economy, and generally to shoulder a share of responsibility for safeguarding the social and economic bases of political equality. And the vast majority of Americans will want it to continue do so. While there can and should be persistent reform of it and vigilant policing of its expansionist tendencies — particularly as the new Democratic administration pushes a trillion-dollar-plus stimulas package — as far as the eye can see there will be no dismantling of the welfare and regulatory state, at least not without a distinctly unconservative revolution in opinions and sensibility. Because the most conservatives can reasonably hope for is to restrain and focus government, they should retire talk of small government and concentrate on limiting government.

The second reality, a test for social conservatives, is the sexual revolution, perhaps the greatest social revolution in human history. The invention of a cheap and effective birth control and its popularization and wide-scale dissemination in the mid-1960s meant that for the first time in human history men and women could have regular sex without producing children. This dramatically altered romance, greatly enhanced women's capacity to pursue careers, and, above all, reshaped the structure of the family and the social meaning of marriage. Brides may still wed in virginal white, couples may still promise to love and cherish for better and for worse and until death do them part, and children or a child may still lie in the future for most married couples. Nevertheless, 90 percent of Americans have premarital sex; most men and women approach marriage knowing full well that while dissolving marriage bonds may, like any breakup, prove emotionally searing, divorce is no more legally difficult or socially sanctioned than resolving a breach of contract; and children, once the

core reason for getting married, have become optional, subordinated to romantic love, companionship, mutual support, and individual self-expression. In these profoundly altered circumstances, conservatives can and should continue to make the case for the traditional understanding of marriage with children at the center, both for its intrinsic rewards and for its contribution to liberty, and they should support family-friendly policy. But given the profound changes in sentiment and opinion, they should refrain from using government to enforce the traditional understanding.

If both camps come to grips with the entrenched reality of a welfare and regulatory state and the sexual revolution, then despite real and lasting tensions, social conservatives, who put the emphasis on traditional morality, and libertarian conservatives, who stress limiting government, can come together as constitutional conservatives. Consistent with their most deeply held beliefs, both can champion the dignity of the person, affirm that that dignity is inseparable from individual freedom, and insist that the protection of individual freedom is the Constitution's top political priority. A constitutional conservatism would concentrate on prudently preserving the Constitution's preconditions and respecting its imperatives. It would vigorously inquire of all federal laws and government programs whether they involve a legitimate exercise of government power. It also would ask whether they promote or weaken self-reliance, personal responsibility, innovation, and thrift; whether they work to invigorate or enervate families, neighborhoods, voluntary associations, and religious communities; and whether they make America more or less secure. And it would consider whether the task in question would confer greater public benefits if performed by local government or the private sector.

Moreover, a constitutional conservatism provides a framework for developing a distinctive agenda for today's challenges to which social conservatives and libertarian conservatives can both, in good conscience, subscribe. Leading that agenda should be:

- An economic program, health care and social security reform, energy policy, and protection for the environment grounded in fiscally sound, growth-oriented, market-based solutions.
- A national security policy that maintains American military preeminence because it is indispensable to the defense of freedom at home and to the discharge of global responsibilities abroad, and which, in its commitment to defending the nation against the new threats of mega-terror, is as passionate about individual liberty as it is about security and is prepared, based on constitutional principles, to responsibly fashion the inevitable, painful tradeoffs.
- A foreign policy that builds on the Truman Doctrine, the Reagan Doctrine, and the Bush Doctrine by recognizing America's vital national security interest in advancing liberty and democracy abroad while realistically calibrating undertakings — military, diplomatic, and developmental — to the nation's limited knowledge and restricted resources.
- An orientation toward international relations that promotes free trade, respects international law and institutions while protecting the legitimate prerogatives of national sovereignty, and seeks alliances and opportunities to operate within multilateral frameworks but, particularly where vital national security interests are at stake, is prepared to act alone.
- A focus on reducing the number of abortions and increasing the number of adoptions.
- Efforts to keep the question of same-sex marriage out of the federal courts and subject to consideration by each state's democratic process.
- Measures to combat illegal immigration that are emphatically pro-border security and pro-lawful immigrant.
- A case for school choice as an option that enhances individual freedom while giving

low-income, inner-city parents opportunities to place their children in classrooms where they can obtain a decent education.
- A demand that public universities abolish speech codes and vigorously protect liberty of thought and discussion on campus.
- The appointment of judges who understand that their duty is to interpret the Constitution and not make policy, who bring to their task a presumption in favor of vindicating constitutional principles and protecting individual liberty, and who, where the Constitution is most vague, recognize the strongest obligation to defer to the results of the democratic process.

To be sure, honoring the imperatives of a constitutional conservatism will require both social conservatives and libertarian conservatives to bite their fair share of bullets as they translate these goals into concrete policy. In performing the balancing necessary to secure individual freedom, on which the highest hopes of both depend, they will, though, have a big advantage: Moderation is not only a conservative virtue, but the governing virtue of a constitutional conservatism.

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[1] Ryan Sager aptly invokes Meyer and ably restates his teaching for twenty-first century challenges in The Elephant in the Room (John Wiley & Sons, span class="smallcaps">2006). In a similarly salutary spirit, David Frum, in Comeback: Conservatism that can Win Again (Doubleday, 2007), and Ross Douthat and Reihan Salam in Grand New Party: How Republicans Can Win the Working Class and Save the American Dream (Doubleday, 2008) sketch complementary game plans for rebuilding a robust conservative coalition.