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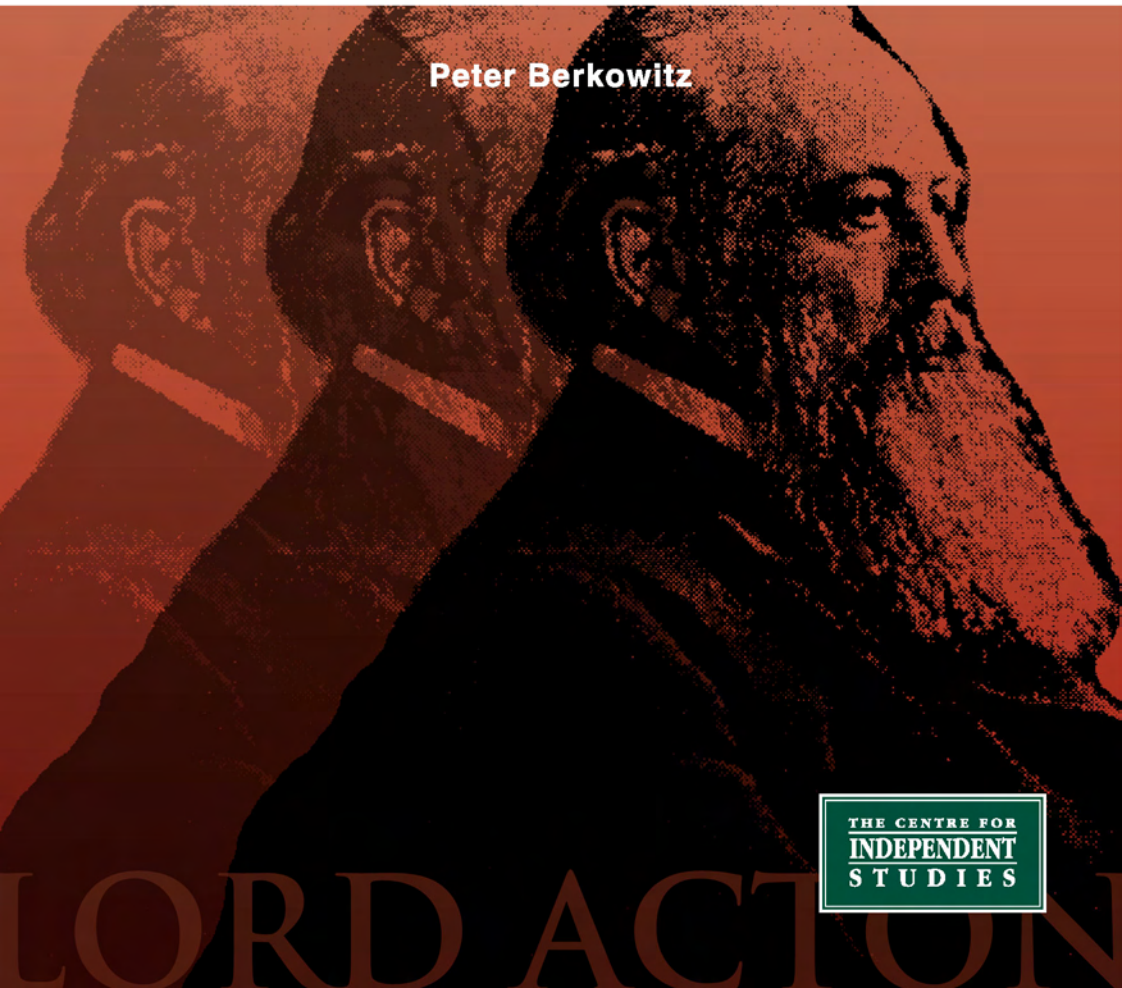
THE ANNUAL ACTON LECTURE ON RELIGION AND FREEDOM

CONSTITUTIONAL CONSERVATISM

Peter Berkowitz



THE CENTRE FOR INDEPENDENT STUDIES

Constitutional Conservatism

Peter Berkowitz

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Introduction

Ladies and gentlemen, it is my pleasure to welcome you to the 2010 Acton Lecture on Religion and Freedom of The Centre for Independent Studies. Let me first thank Macquarie Bank for the use of the auditorium. It is also my pleasure to welcome our speaker tonight, Dr Peter Berkowitz, on his first visit to Australia.

For a number of years, the Centre had a program of studies titled 'Religion and the Free Society,' of which the Acton Lecture was a component. For a secular organisation like the CIS, this was considered to be an interesting development. However, a core feature of the Centre's work has been to examine the role of voluntary institutions in a free and open civil society and, it seemed to us, that the churches and religions more generally were an important component of this and worthy of some attention. The program ended a few years ago when its Director, Sam Gregg, moved to the United States, but we decided to continue to feature the Acton Lecture on the CIS calendar.

The purpose of this lecture is not, I must stress, to discuss internal matters of discipline, dogma or organisation with which all faiths and churches wrestle from time to time. Instead, it offers a platform for prominent individuals to offer their own reflections on issues affecting aspects of religion in the modern world and to inform the public about various aspects of this and how it interacts with the free society. They may or may not be active in religious affairs. They may not even be religious but bring to the issues some important perspectives.

Peter Berkowitz is the Tad and Dianne Taube Senior Fellow at the Hoover Institution at Stanford University. His scholarship focuses on the interplay of law, ethics and politics in modern society. His current research is concerned with the material and moral preconditions of liberal democracy in America and abroad.

He is co-founder and director of the Israel Program on Constitutional Government, has served as a senior consultant to the President's Council on Bioethics, and is a member of the Policy Advisory Board at the Ethics and Public Policy Center.

Peter is the author of *Virtue and the Making of Modern Liberalism*, and *Nietzsche: The Ethics of an Immoralist*. He is the editor of the companion volumes *Varieties of Conservatism in American* and *Varieties of Progressivism in America*, as well as of *The Future of American Intelligence*; *Terrorism, the Laws of War, and the Constitution: Debating the Enemy Combatant Cases*; and *Never a Matter of Indifference: Sustaining Virtue in a Free Republic*.

With co-editor Tod Lindberg, he has launched the Hoover Studies in Politics, Economics, and Society, the first volume of which is Richard Posner's *Preventing Surprise Attacks: Intelligence Reform in the Wake of 9/11*.

Peter holds a J.D. and a Ph.D. in political science from Yale University; an M.A. in philosophy from the Hebrew University of Jerusalem; and a B.A. in English literature from Swarthmore College.

It is my pleasure to invite Peter Berkowitz to address us.

Greg Lindsay
Executive Director
The Centre for Independent Studies
Sydney
December 2010

Constitutional Conservatism*

Peter Berkowitz

After their dismal performance in election 2008, American conservatives had reason for gloom. They also had reason to take heart. After all, election 2008 showed that the American constitutional order was working as designed. The Constitution presupposes a responsive electorate, and respond the electorate did. It responded to the vivid memory of a spendthrift and feckless Republican Congress. It responded to a stalwart but frequently ineffectual Republican president. And it responded to a distinguished Republican presidential candidate who—for all his mastery of foreign affairs, extensive Washington experience, and honourable public service—proved incapable of crafting a coherent and compelling message.

Both the election of Barack Obama as President and the fascinating saga of the Obama administration's first 18 months in office have provided further reason to appreciate the continuing vitality of America's constitutional order. All Americans can take pride in President Obama's historic victory. His rise from obscure origins to become the first African-American to occupy the nation's highest office testifies to the golden opportunity America provides. And it offered a stunning refutation of the calumny promulgated by many progressive intellectuals. As late as Spring 2008, they continued to declare in private and whisper in public that their fellow citizens were too racist to elect a black man President.

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* This lecture revises and condenses the argument developed in 'Constitutional Conservatism,' *Policy Review* (February and March 2009).

Nevertheless, by the end of his first year in office, many independents and moderates who voted for candidate Obama felt deceived by his aggressive progressive agenda. To be sure, Senator Obama's campaign mantra of hope and change signaled an ambition to remake the country. Yet during the campaign, Obama also carefully cultivated the image of a pragmatic and post-partisan politician, a moderate in style and substance, a leader who aspired to work across the aisle and represent conservative voices and outlooks, too. Despite his promise of pragmatism, post-partisanship and moderation—and not withstanding his claim that he was a cost-cutter and budget balancer—his tenacious pursuit of costly and budget-busting health care reform throughout 2009 and into 2010, in the teeth of a severely weakened economy, dramatised the priority he gave to progressive transformation.

This is not what moderates and independents who voted for Obama in 2008 bargained for. And so they argued. They organised. They protested. They held rallies. They attended town hall meetings. They helped elect Chris Christie Governor in New Jersey, Bob McDonnell Governor in Virginia, and Scott Brown Senator in Massachusetts. And they laid the foundations to elect in November a Congress with the power to check the President's ambitious progressive agenda and balance his far-reaching transformative ambitions.

So conservatives should take heart. The constitutional order is working. Indeed, while continuing to sort out their errors and consider their options, conservatives in America of all stripes would be well advised to concentrate on the constitutional order and the principles that undergird it, because conserving them should be their paramount political priority.

In accordance with the American Constitution, a constitutional conservatism puts liberty first and teaches the indispensability of moderation in securing, preserving and extending the blessings of self-government. The 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 anyone from dominating; assumes the primacy of self-interest but also the capacity to rise above it through the exercise of virtue; reflects and 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 self-government in America succeeds by weaving together rival interests and competing goods.

Contrary to the Constitution's lesson of moderation, the two biggest blocs in the conservative coalition were, in reaction to electoral debacles in 2006 and 2008, tempted to conclude in late 2008 and early 2009 that greater purity was needed in conservative ranks. Down that path lies disaster.

After Obama's victory, some social conservatives pointed to ballot initiatives in Arizona, California and Florida that rejected same-sex marriage. They saw in this rejection evidence that the country had remained socially conservative, and that deviation from the social conservative agenda was the problem. However, they conveniently overlooked the trend lines. For example, whereas in California's 2000 ballot initiative, 61% of voters rejected same-sex marriage, in 2008 opposition in the nation's most populous state fell to 52%. Indeed, most data 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 were disgusted by Republican profligacy. They were also uncomfortable with or downright opposed to the Bush administration's support in 2004 for a constitutional amendment banning same-sex marriage. These libertarian or limited government conservatives entertained dreams of a coalition that jettisoned social conservatives to join 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 limited government conservatives can get close to 50% plus one without the aid of the other.

Social conservatives, libertarian or limited government conservatives—and the national security hawks, also crucial to conservative electoral hopes—however, do not form a mere coalition of convenience. Theirs can and should be a coalition of principle, and a constitutional conservatism provides the surest principles.

The principles are familiar: individual freedom and individual responsibility, equality under law, tolerance, limited but energetic government, economic opportunity, robust civil society, and strong national defence. They derive support from the thinking of Edmund Burke, who, for good reason, is regarded as the father of modern conservatism, as well as from the writings of 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 presidential campaign. 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 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 in America 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 makes good sense for both social conservatives and limited government conservatives.

America was founded on the principles that a constitutional conservatism seeks to conserve. 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 limited government conservatives, consistent with their highest hopes, can both embrace.

Feuding among American conservatives for the title of 'true conservative' is nothing new. Ever since conservatism's emergence as a recognisable school or movement in the 1950s, more than a few libertarian (or, as I prefer, limited government) conservatives and more than a few social conservatives (or as the forebears of today's social conservatives were then known, traditionalist 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 of 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. The conservative spirit is a perennial human possibility, and some have always been more concerned with preserving inherited ways and others with improving or rejecting them. Yet the distinctively modern form of conservatism—a conservatism devoted to conserving liberty—emerges with Burke's *Reflections on the Revolution in France* (1790).

In his great polemic, Burke criticises the political excesses inspired by Enlightenment philosophy and by what subsequently

came to be called the liberal tradition. Yet his 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. In the name of individual liberty, he 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; indeed, it is 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 Burke sought to limit the political power of altar and throne in England—and in England's affairs in America, Ireland and India—for the sake of liberty, he also defended them in France against what he regarded as the revolutionaries' perverted idea of freedom. He rejected their doctrine that freedom meant overthrowing inherited beliefs, practices and institutions. In contrast, Burke championed 'a manly, moral, regulated liberty' that 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. Where the exercise of freedom constituted a violation of another's rights, and how best to use one's freedom to live well, however, could only be determined by prudent reflection on tradition and custom, which embodied the nation's accumulated wisdom concerning the organisation of human affairs.

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.

In contrast, the French revolutionaries, according to Burke, 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 mould 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 colour conduct. Rather than counting on education to discipline a recalcitrant human nature, they were prepared to go so far in moulding circumstances as to remake human nature to fit reason's revelations about citizens' obligations. The ambition to wield the power of state to create a new humanity, Burke presciently argued, was sure to result in the dehumanisation 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. The French revolutionaries put their faith in government's ability to develop institutions that not only could provide for citizens' wants and needs but also alter their beliefs and transform their sensibilities. In contrast, Burke's conservatism emphasises 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 the progressive mind tends to see order and virtue as antithetical to freedom, the conservative mind—or at least the Burkean mind—sees them as pillars of freedom and seeks to conserve the non-governmental institutions that sustain them.

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. Because circumstances alter, he observed, '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. As Burke understands it, prudent change is more than a political necessity. It is also inseparable from respect for tradition and custom, which typically presents not a clear-cut path but 'a choice of inheritance.'

Since the right choice must be freely and reasonably made, liberty and tradition, which frequently pull in opposing directions, are also mutually dependent. Justly moderating their competing claims avoids unprincipled compromise, though compromises must be made, as well as thoughtless acquiescence to necessities, though necessities must be respected. Rather, it is grounded in a recognition of the plurality of goods and the complexity of the conditions that permit free citizens to flourish. The virtue of moderation should not be confused with the absence of strong passion. Moderation well understood involves the restraint of desire in the quest for the satisfaction offered by a greater good or more comprehensive happiness. In other words, the restraint at the heart of moderation involves the exercise of passion, the passion to govern oneself effectively by striking the best balance among worthy but incomplete ends for the sake of a higher end.

To preserve liberty at a time when the French Revolutionaries made extravagant claims on its behalf, Burke fervently championed tradition's claims. But he neither set liberty aside nor reduced tradition to a means to liberty. Rather, he believed that in addition to the supreme goods at which they aim, tradition, and the religious faith with which it is usually bound up, supports a social order and instils moral virtues crucial to the supreme *political good,* liberty.

The conservative side of the larger liberal tradition rings variations on the Burkean focus on conserving liberty's moral and political preconditions. For example, Adam Smith admired the market economy for bringing prosperity, nourishing political liberty, and rewarding moral virtues—rationality, industry, ingenuity, and self-discipline. At the same time, Smith recognised that the division of labour corrupted workers' character by condemning them to

monotonous, spirit-numbing jobs. 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 'system of natural liberty.' Alexis de Tocqueville understood that democracy was inevitable and just and fostered a certain simplicity and straightforwardness in manners. Yet it also encouraged, he saw, selfishness, envy, immediate gratification, and lazy acceptance of state authority. To secure liberty, without which in his opinion a life could not be well-lived, it was necessary to preserve within democracy those non-governmental institutions that, by cultivating moral virtue, counteracted democracy's deleterious tendencies. In particular, the family and religious faith connected individuals to higher purposes, and broadened their appreciation of self-interest to extend beyond narrow calculation to include long-term prosperity, flourishing as responsible citizens, and 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 favoured 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.

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, de Tocqueville and Mill are exemplary liberals. Because of their acute and overlapping appreciation that free societies expose individuals to influences that corrode the 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 requires constraint—from law, from non-governmental associations, and from the internalisation 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 epitomise and constitutionalises it.

The Federalist is a collection of 85 newspaper articles in support of ratification of the US Constitution. It was jointly authored by Alexander Hamilton, John Jay, and James Madison under the name Publius 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*; it served the framers as a powerful inducement to moderation in government's design.

The ambiguities of government, according to *The Federalist,* reflected the ambiguities of human nature. Human beings are 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. And human beings can by reflection and choice, *The Federalist* taught, design political institutions that secure liberty while economising on virtue.

Liberty presupposed virtue, because maintaining the institutions of a free society was hard work that required citizens to exercise a range of excellences of mind and character. Conversely, because choice was essential to admirable deeds, to dignity, and to happiness, virtue presupposed liberty. And because religion was an indispensable teacher of virtue, liberty also presupposed faith. However, neither virtue nor religion could be the aim of politics because authorising government to promote them would invite abuses of power and infringement of rights. Many academic critics complain that the classical-liberal tradition limits government's responsibility for virtue because of sceptical doubts or relativist certainties. In fact, 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 instil it.

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 towards novelty, and to constantly demand enlargements of freedom's domain. Call this the paradox of freedom. Greater freedom heightens our aversion to authority and enthusiasm for the new, and this excites our desire 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 indifferent or hostile to 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.

American conservatism became conscious of itself as a distinctive school in the 1950s. There had always been conservatives in America, of course, as Russell Kirk, a father of social conservatism, showed in 1953 in *The Conservative Mind: From Burke to Eliot,* which was 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. These included a 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; preference for the guidance of custom and convention over that of moralists and social scientists and other types prone to theorising about progressive transformation; 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, 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.

In the 1950s, two challenges combined to jolt a self-consciously conservative movement in America into existence: the entrenchment of the New Deal and the rise of totalitarianism. The New Deal involved a dramatic arrogation of responsibilities by, and corresponding great growth of, the federal government. Meanwhile, the communist totalitarians confronting America in the Cold War rejected individual rights, subordinated the individual to the state, aroused mass enthusiasm and, through conquest and subjugation, sought to extend their reach worldwide. To fight the collectivist impulse at home and communism abroad, some among a new generation of conservatives turned to the restoration of traditional morality and faith. Others undertook a renewal 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, William F. Buckley, Jr., the leading voice of conservatism in America of the last half century, fashioned a conservatism that combined a dedication to traditional morality with a devotion to American political institutions and traditions of individual liberty, particularly economic liberty. So did the most influential conservative politicians during that period—Barry Goldwater, Ronald Reagan, Newt Gingrich, and George W. Bush. Often, too 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, too often, they were late to recognise the evolution of public opinion and changes in popular sentiment, along

with the real technological, economic and social transformations that legitimated growth in government. Consequently, 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 of 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 argues that his alma mater had so deeply and thoughtlessly embedded in the university curriculum a dogmatic atheism and collectivistic ideology that conservatives had become invisible to most faculty and administrators. It 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.

Indeed, *National Review,* the flagship publication of the conservative movement in America, which Buckley founded in 1955, provided a forum in which social conservatives and libertarian conservatives could vigorously air their disagreements and 'have at' one another. The magazine thereby sent the 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. 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. Crucial also 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 in himself, an idea that was central to the liberal tradition because it grounded individual freedom. For their part, the emerging traditionalist conservatives, who rightly understood the moral and political importance of virtue and the role of family, faith and community in cultivating it, wrongly exalted the political claims of society over the individual and foolishly ceded to government responsibility for overseeing virtue's cultivation.

By correcting these mistakes, indeed by demonstrating that each school supplied the insight needed to set the other straight, Meyer sought to show 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 moulders of morals, can only teach virtue if government is restrained from interfering with them and limited to its proper functions: maintaining political and economic freedom at home and providing for the common defence.

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.

Ronald Reagan represented a culmination of the rebirth of constitutional conservatism in America. In January 1981, at his inauguration as the fortieth president of the United States, President Reagan reaffirmed his dedication to limiting government to conserve freedom. The nation was confronting high inflation, high unemployment, high interest rates, high marginal tax rates, low productivity, and low growth. In what was to become one his most famous utterances, Regan proclaimed 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 in government. 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.'

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,' Reagan argued that limiting government, encouraging free markets, and honouring '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 domestic policy and foreign policy also reflected a conservatism that simultaneously celebrated the free choices of individuals and 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. But he did not press hard on these social conservative goals.

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, brutalising and murdering tens of millions of its own citizens and, by force of arms, expanding its empire and condemning other nations to a similar fate.

In their different ways, Newt Gingrich's Republican Revolution in the 1990s and George W. Bush's compassionate conservatism and freedom agenda in the last decade sought to hold together social conservatives and limited government conservatives. Both had successes. But their failures left conservatives uncertain of the principles that bound them. Social conservatives and libertarian conservatives seemed inclined, after Bush left office, to turn inward and go their separate ways.

But the popular reaction against President Obama's ambitious domestic agenda along with the threat of transnational Islamic terrorism has given energy to a conservative revival. But for that revival to endure, social conservatives and limited government conservatives will need to renew their alliance. A constitutional conservatism shows the way.

Conservatives, however, must come 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 to do so. While there can and should be persistent government reform and vigilant policing of government's expansionist tendencies—exemplified by the

Obama administration's domestic agenda—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 popularisation and wide-scale dissemination in the mid-1960s meant that for the first time in human history men and women, particularly young men and women, could have sex regularly 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 may still lie in the future for most married couples. Nevertheless, 90% 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 centre, 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 individual responsibility, and insist that the protection of individual freedom, which includes preserving room for individual responsibility, 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, neighbourhoods, 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, a domestic policy agenda and a foreign policy agenda to which social conservatives and libertarian conservatives can both, in good conscience, subscribe. To be sure, honouring 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 a conservative virtue and the governing virtue of a constitutional conservatism.

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In The Centre for Independent Studies' annual lecture on religion and freedom, Dr Peter Berkowitz, Hoover Institution scholar and author of *Virtue: The Making of Modern Liberalism* and *Nietzsche: The Ethics of an Immoralist*, examined the grounds for a reconciliation between social conservatives who embrace traditional religion, and economic conservatives who stress limited government and free markets.

Dr Peter Berkowitz is the Tad and Dianne Taube Senior Fellow at the Hoover Institution, Stanford University. He has written and edited numerous scholarly articles, essays and publications, including pieces for the *Wall Street Journal*, the *Washington Post*, and *The Atlantic*.

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