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SYMPOSIUM ON CLASSICAL PHILOSOPHY AND THE AMERICAN CONSTITUTIONAL ORDER

LINDA R. HIRSHMAN
SYMPOSIUM EDITOR

FOREWORD: TRAVELS FAR AND WIDE

Linda R. Hirshman

In her foreword, Professor Hirshman analyzes legal scholarship addressing issues as diverse as the regime of labor relations, the ethics of ethnic groups of lawyers and the concept of unconstitutional conditions, and concludes that legal academics are using concepts of classical philosophy already to criticize and understand the American constitutional order.

CLASSICAL REPUBLICANISM AND THE AMERICAN REVOLUTION

Gordon S. Wood

In his Classical Republicanism and the American Revolution, Professor Wood outlines the evolution of republicanism from antiquity to the eighteenth century and notes the ensuing evolution of American politics away from even this late republicanism.

FREEDOM, VIRTUE, AND SOCIAL UNITY: GORDON WOOD’S “CLASSICAL REPUBLICANISM AND THE AMERICAN REVOLUTION”

William A. Galston

This article accepts the broad outlines, and reflects on the significance, of Gordon Wood’s account of “classical” and “affective” republicanism in the American revolution. The principal conclusions are that classical republicanism had at most marginal impact on the United States constitution; that in spite of the recent republican revival in legal and political theory, it remains marginal today; and that by contrast, affective republicanism points us toward a far more productive inquiry into the virtues needed to sustain a diverse commercial society with representative political institutions.

THE USE AND ABUSE OF THE CLASSICS IN AMERICAN CONSTITUTIONALISM

William A. Galston

Professor Galston begins by sketching the complex reaction of the Founders to classical philosophy and politics. After exploring the tension between aristocracy and democratization in the Founders’ thought, he concludes by distinguishing between a “structural appeal” and “literal appeal” to the classics in contemporary politics.
COMMENT ON GALSTON PAPER

Gordon S. Wood 69

In his comment, Professor Wood reinforces Galston's skepticism about the relevance of the classics with an historian's reminder that intellectual invocation of the ancient tradition is not tantamount to social change.

THE LIBERAL REGIME

Ronald Beiner 73

In The Liberal Regime, Professor Beiner describes the categories of ancient thought and then uses them as a vehicle to unearth and criticize the assumptions about life in the liberal regime, including the neutrality of liberalism.

PLURALISM AND MODERNITY

Lawrence B. Solum 93

Professor Solum's comment on Ron Beiner's article explores two ideas. The first is the claim that liberalism is defective because liberal regimes produce materialistic and atomistic individual characters. Professor Solum argues that this charge is not true if "liberalism" is interpreted as the best available liberal political theory. The second is the claim that Aristotle's political theory accounts for the pluralism that characterizes modern social life. Professor Solum contends that the Aristotle's ideal polis, which has its end the promotion of eudaimonia, is not a realistic option given radical plurality of conceptions of the good—a condition that is characteristic of modernity.

VIRTUES AND VOICES

Lawrence B. Solum 111

The revival of republicanism had focused attention on the notion of civic virtue. Aristotle argued for the exclusion of women and barbarians from citizenship on the ground that they lacked virtue. Professor Solum explores the relationship between civic virtue and the notion that society ought to include the voices of groups that have been oppressed and excluded.

COMMENT ON SOLUM

Ronald Beiner 141

Solum's aim is to draw upon republican theory's concern for civic virtue without forgoing liberal theory's concern for inclusiveness. If, however, the republican revival has been fruitful mainly as a source of critical reflection on liberalism, then it may be of greater theoretical advantage to keep alive the quarrel between liberalism and civic republicanism than to attempt to mediate it.

THE CLASSICAL CHALLENGE TO THE AMERICAN CONSTITUTION

Thomas L. Pangle 145

This paper explores the problematic link between republicanism and individual rights through a juxtaposition of classical and liberal theory. The discussion begins from an investigation of the Framers' intention in writing the guarantee of republican government, and then moves to a study of the Framers' sources and predecessors, contrasting the moral basis of classical republicanism with that of modern republicanism centered on individual rights. The essay concludes with some synoptic comments on the uneasy relation between republicanism and dedication to individual rights in the American synthesis of classical and modern republicanism.

REPUBLICANISM, RIGHTS: A COMMENT ON PANGLE

Cass R. Sunstein 177

This comment questions Pangle's distinction between liberalism and republicanism, and suggests that a belief in rights is not in tension with the American commitment to deliberative democracy.
In this essay, Professor Sunstein draws on the republican tradition to question the view that government should always take private preferences as they are, or as the basis for social choice. He argues that a democratic republic should be free to override private preferences, in the interest of autonomy or welfare, when a collective aspiration or considered social judgment so requires; when existing preferences grow out of insufficient opportunities or unjust conditions; and when people face an "intrapersonal collective action problem."

This paper explores the problematic link between republicanism and rights, through a juxtaposition of classical and liberal theory. The discussion begins from an investigation of the Framers' intention in writing the guarantee of republican government in Art. 4, sec. 4 of the Constitution, and then moves to a study of the Framers' sources and predecessors, contrasting the moral basis of classical republicanism with that of modern republicanism centered on individual rights.

In her comments on the Symposium contributions, Professor Nussbaum gives a reading of a range of classical texts, which emphasizes the potential inclusiveness and respect for individuals of the structure of their arguments; she analyzes each of the contributions with an eye to these issues.

Redemption or Exemption?: Racial Discrimination in Judicial Elections Under the Voting Rights Act

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