

Law and Society

*John Adams warned that “the moment the idea is admitted into society that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence. If ‘Thou shalt not covet’ and ‘Thou shalt not steal’ were not commandments of Heaven, they must be made inviolable precepts in every society before it can be civilized or made free.” Private property rights are under siege in a way never contemplated by earlier Americans. The Fifth Amendment is clear saying, “Nor shall private property be taken for public use without just compensation.” The U.S. Supreme Court made a mockery of the Fifth Amendment in its 2005 decision *Kelo v. City of New London*, where it held that private property could be taken under eminent domain laws and delivered to another private entity so long as it served a public purpose—in this case to generate higher tax revenue.*

Other intrusions on private property rights are less appreciated. When the government dictates that there shall be no smoking in restaurants, bars, offices, and elsewhere, that too is an alienation of private property rights insomuch as one assumes that it is the owner of the property who has the right to determine how the property is used. Another ongoing attack on private property rights comes with the belief that people have a right to housing, food, or medical care, whether they can afford it or not. Because government has no resources of its own, it cannot give one American something that it does not first take from another American. Therefore, if one argues that a person has a right to housing, food, and medical care that he did not earn, it of necessity requires that some other American not have a right to something he did earn.

Law in the true sense consists of a set of general rules applicable to all persons, as opposed to laws that are simply orders by the legislature requiring particular people to do particular things. The rule of law is critical to the preservation of liberty. Unfortunately, most Americans neither understand nor appreciate this, and we are increasingly being ruled by arbitrary orders and privileges based on one’s status. The fact of the

generalized disregard of the rule of law not only explains the ongoing threat to personal liberty but also helps explain government corruption, where people descend on Washington and state capitols demanding one privilege or another in exchange for political contributions.

Other columns in this section include a look at societal changes, changes not for the better such as the tolerance for illegal immigration, attacks on Western values, and a generalized ignorance of, or contempt for, the U.S. Constitution.

Constitution Day

Wednesday, September 13, 2006

Each year since 2004, on Sept. 17, we commemorate the 1787 signing of the U.S. Constitution by 39 American statesmen. The legislation creating Constitution Day was fathered by Sen. Robert Byrd and requires federal agencies and federally funded schools, including universities, to have some kind of educational program on the Constitution.

I cannot think of a piece of legislation that makes greater mockery of the Constitution, or a more constitutionally odious person to father it—Sen. Byrd, a person who is known as, and proudly wears the label, “King of Pork.” The only reason that Constitution Day hasn’t become a laughingstock is because most Americans are totally ignorant of, or have contempt for, the letter and spirit of our Constitution.

Let’s examine just a few statements by the framers to see just how much faith and allegiance today’s Americans give to the U.S. Constitution. James Madison is the acknowledged father of the Constitution. In 1794, when Congress appropriated \$15,000 for relief for French refugees who fled from insurrection in San Domingo (now Haiti) to Baltimore and Philadelphia, James Madison said disapprovingly, “I cannot undertake to lay my finger on that article of the Constitution which granted a right to Congress of expending, on objects of benevolence, the money of their constituents.”

Today, at least two-thirds of a \$2.5 trillion federal budget is spent on “objects of benevolence.” That includes Medicare, Medicaid, Social Security, aid to higher education, farm and business subsidies, welfare, etc., ad nauseam.

James Madison’s vision was later expressed by Rep. William Giles of Virginia, who condemned a relief measure for fire victims. Giles insisted that it was neither the purpose nor a right of Congress to “attend to what generosity and humanity require, but to what the Constitution and their duty require.”

Some presidents had similar constitutional respect. In 1854, Pres-

ident Franklin Pierce vetoed a bill to help the mentally ill, saying, “I cannot find any authority in the Constitution for public charity,” adding that to approve the measure “would be contrary to the letter and the spirit of the Constitution and subversive to the whole theory upon which the Union of these States is founded.”

President Grover Cleveland vetoed many congressional appropriations, often saying there was no constitutional authority for such an appropriation. Vetoing a bill for relief charity, President Cleveland said, “I can find no warrant for such an appropriation in the Constitution, and I do not believe that the power and duty of the General Government ought to be extended to the relief of individual suffering which is in no manner properly related to the public service or benefit.”

Constitutionally ignorant people might argue that the Constitution’s “general welfare” clause justifies today’s actions by Congress. Here’s what James Madison said: “If Congress can do whatever in their discretion can be done by money, and will promote the General Welfare, the Government is no longer a limited one, possessing enumerated powers, but an indefinite one, subject to particular exceptions.” Thomas Jefferson echoed, in a letter to Pennsylvania Rep. Albert Gallatin, “Congress has not unlimited powers to provide for the general welfare, but only those specifically enumerated.”

James Madison explained the constitutional limits on federal power in Federalist Paper No. 45: “The powers delegated by the proposed Constitution to the federal government are few and defined . . . [to] be exercised principally on external objects, as war, peace, negotiation, and foreign commerce.”

Here are my questions to you: Has our Constitution been amended to authorize federal spending on “objects of benevolence”? Or, is it plain and simple constitutional contempt by Congress, the president, the courts and, worst of all, the American people? Or, am I being overly pessimistic and it’s simply a matter of constitutional ignorance?

Rules More Important Than Personalities

Wednesday, January 3, 2007

Not that many complimentary things are said about politicians. When a problem arises, people say, "Government ought to do something." They seem to have forgotten that it's the politicians who are running the government. Many think things can be changed by electing different politicians, but I ask: Given the incentives politicians face, why should we expect one politician to differ significantly from another? We should focus less on personalities and more on rules.

The kind of rules we should have are the kind that we'd make if our worst enemy were in charge. My mother created a mini-version of such a rule. Sometimes she would ask either me or my sister to evenly divide the last piece of cake or pie to share between us. More times than not, an argument ensued about the fairness of the division. Those arguments ended with Mom's rule: Whoever cuts the cake lets the other take the first piece. As if by magic or divine intervention, fairness emerged and arguments ended. No matter who did the cutting, there was an even division.

By creating and enforcing neutral rules, we minimize conflict. Consider one area of ruthless competition—sports. In Super Bowl XL, the Pittsburgh Steelers and the Seattle Seahawks had a lot on the line. Specifically, there's the \$73,000 payment per man, contract enrichment and other benefits to the winners. Despite a bitterly fought contest and all that was at stake, the game ended peacefully and winners and losers were civil to one another.

How is it that players with conflicting interests and reasons for winning can play a game, agree with the outcome and walk away as good sports? It's a minor miracle of sorts. That "miracle" is that it is far easier to reach agreement about the game's rules than the game's outcome. The rules are known and durable, and the referee's only job is their evenhanded enforcement. Even football teams with losing records would find their long-run interests lie in known, durable and

evenhandedly applied rules. They can more adequately devise a winning strategy because predictability is enhanced.

Suppose the game rules were flexible and referees played a role in determining the game's outcome. In other words, imagine the referees were more interested in what they saw as justice than enforcement of neutral rules. What might one predict about team behavior? Instead of trying to raise team productivity, owners would allocate resources to influence-peddling in the form of lobbying or bribing the referees.

In the case of last year's Super Bowl, the referees might have argued that since the Pittsburgh Steelers won four previous Super Bowl championships, justice demands that the game be rigged in favor of the Seattle Seahawks, who have never won a Super Bowl. It's easy to imagine all the conflict that would arise—team owners bringing lawsuits for what they see as biased referee decisions, and games ending in rancor and fights. There would be a reduction in the skill and fitness of all players and a lower overall quality of the sport. After all, if the outcome is determined by how well the team influences the referees, why spend resources recruiting and training superior players? It's better to use those resources for lobbying and bribes.

We have a set of rules that are known, neutral and intended to be durable. Those rules were created by our founders and embodied in the U.S. Constitution. Those rules have been weakened by a Congress of both parties that picks winners and losers in the game of life. The U.S. Supreme Court, which was intended to be a neutral referee, has forsaken that role and become a participant. All of this means we can expect a future of bitterly fought elections and enhanced conflict.

Property Rights

Wednesday, January 31, 2007

“Imprimis” is Hillsdale College’s monthly publication that has over 1.25 million readers. It’s Hillsdale’s way of sharing the ideas of the many distinguished speakers invited to their campus. And, I might add, Hillsdale College is one of the few colleges where students get a true liberal arts education, absent the nonsense seen on many campuses.

The January edition of “Imprimis” contains an important speech by former New Jersey Superior Court Judge Andrew P. Napolitano titled “Property Rights After the Kelo Decision.” For those who haven’t kept up, the Kelo decision is the 2005 U.S. Supreme Court 5-4 decision that upheld the city of New London, Connecticut’s condemnation of the property of one private party so that another private party could use it to build an office facility. Such a decision was a flagrant violation of the letter and spirit of the Fifth Amendment, which reads in part, “nor shall private property be taken for public use without just compensation.” Public use, according to the Constitution’s framers, means uses such as roads, bridges, and forts.

While most Americans appreciate the concept of yours and mine, Judge Napolitano’s speech gives it greater focus. Formerly a law professor, Napolitano says, “When teaching law students the significance of private property, we tell them that each owner of such property has something called a ‘bundle of rights.’ The first of these is the right to use the property. The second is the right to alienate the property. The third and greatest is the right to exclude people from the property.”

Can the government force one to sell his property? James Madison said yes, so long as it was for a public use and the owner was paid a fair market value. Thomas Jefferson was opposed to a person being forced to sell his property for a public use, arguing that the essence of private property is the right to exclude anyone, including government, from the property. But Madison’s view prevailed, hence the Fifth Amendment provision.

In recent years, state and local governments have been running roughshod over private property rights in ways that would have horrified our founders. In the 1959 *Courtesy Sandwich Shop* case, a New York court held that if the tax collector collects more taxes by taking the private property of one party and transferring it to another, that's a public use permitted by the Constitution.

Recently, the city of Port Chester, N.Y., gave a private developer virtual power to condemn property within its designated redevelopment area. Bart Didden and Dominick Bologna, owners of property within the redevelopment area, approached the private developer for a permit to build a CVS pharmacy on their land. The developer told them to pay him \$800,000 or give him a 50 percent interest in the CVS pharmacy or he'd have the local government condemn the land. Didden and Bologna refused, and the next day their land was condemned. The 2nd U.S. Circuit Court of Appeals upheld the local government's decision, which is nothing less than sanctioning extortion.

Napolitano concluded his speech pointing out something that few Americans appreciate. Natural rights do not come from government; they spring from our humanity. Or, as our founders put it, we are endowed by our "Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness," the latter meaning property. We establish governments to secure these rights.

Unfortunately, Americans have permitted governments at every level to become increasingly destructive of the ends they were created to serve. Under the color of law, government often does to us what thieves and crooks do, and like a nation of sheep we stand by and take it, and what's worse, sometimes we ask for it.

Democracy or Liberty

Wednesday, February 28, 2007

Does democracy really deserve the praise it receives? According to Webster's Dictionary, democracy is defined as "government by the people; especially: rule of the majority." "What's so great about majority rule? Let's look at majority rule, as a decision-making tool, and ask how many of our choices we would like settled by what a majority likes.

Would you want the kind of car that you own to be decided through a democratic process, or would you prefer purchasing any car you please? Ask that same question about decisions such as where you live, what clothes you purchase, what food you eat, what entertainment you enjoy and what wines you drink. I'm sure that if anyone suggested that these choices be subject to a democratic process, you'd deem it tyranny.

I'm not alone in seeing democracy as a variant of tyranny. James Madison, the father of our Constitution, said that in a pure democracy, "there is nothing to check the inducement to sacrifice the weaker party or the obnoxious individual." At the 1787 Constitutional Convention, Edmund Randolph said, ". . . that in tracing these evils to their origin every man had found it in the turbulence and follies of democracy." John Adams said, "Remember, democracy never lasts long. It soon wastes, exhausts, and murders itself. There was never a democracy yet that did not commit suicide." Chief Justice John Marshall observed, "Between a balanced republic and a democracy, the difference is like that between order and chaos."

Our founders intended for us to have a limited republican form of government where rights precede government and there is rule of law. Citizens, as well as government officials, are accountable to the same laws. Government intervenes in civil society only to protect its citizens against force and fraud but does not intervene in the cases of peaceable, voluntary exchange. By contrast, in a democracy, the majority rules either directly or through its elected representatives.

The law is whatever the government deems it to be. Rights may be granted or taken away.

Clearly, we need government, and that means there must be collective decision-making. Alert to the dangers of majority rule, the Constitution's framers inserted several anti-majority rules. In order to amend the Constitution, it requires a two-thirds vote of both Houses, or two-thirds of state legislatures, to propose an amendment, and requires three-fourths of state legislatures for ratification. Election of the president is not done by a majority popular vote but by the Electoral College.

Part of the reason for having two houses of Congress is that it places an obstacle to majority rule. Fifty-one senators can block the wishes of 435 representatives and 49 senators. The Constitution gives the president a veto to thwart the power of 535 members of Congress. It takes two-thirds of both houses of Congress to override the president's veto.

In Federalist Paper No. 10, James Madison wrote, "Measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority." That's another way of saying that one of the primary dangers of majority rule is that it confers an aura of legitimacy and respectability on acts that would otherwise be deemed tyrannical. Liberty and democracy are not synonymous and could actually be opposites.

The Law versus Orders

Wednesday, June 20, 2007

Suppose a person is raped and we arrest the rapist. Should his status, whether he's a senator, professor or an ordinary man, play a role in the adjudication of the crime and subsequent punishment? I'm betting that the average person would answer that the law against rape is general and non-arbitrary and one's status should have nothing to do with the adjudication and punishment for the crime. That's precisely what is meant by "rule of law." Or, as English jurist A.V. Dicey put it, "Every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals."

Law in the true sense consists of a set of general rules applicable to all persons, as opposed to laws that are simply orders by the legislature requiring particular people to do particular things. Rule of law is critical to the preservation of liberty. Unfortunately, most Americans neither understand nor appreciate this, and we are increasingly being ruled by arbitrary orders and privileges based upon one's status. Let's look at a few of them at the national level.

During the 1980s, many savings and loan banks made huge losses because of chicanery, stupidity and unwise investments. Congress bailed them out. In 1987, when the stock market crashed, many Americans incurred large losses because of unwise, perhaps stupid, investments. Equal treatment before the law would require that if Congress bails out one American who makes unwise or stupid investments, it should bail out any American who makes unwise or stupid investments. Instead, Congress gave particular people privileges because of their status.

A rule of law regime would require that we scrap the Internal Revenue Code in its current form. What justification is there for different tax treatment of one American because he has a higher income, minor children or receives his income from capital gains instead of wages? Equal treatment would require Congress to figure out the cost

of the constitutionally authorized functions of the federal government, divide it by the adult population and send us each a bill for our share. You say, "What about the ability-to-pay principle of taxation to pay for the cost of government?" That's just a politics of envy concept that would be revealed as utter nonsense if applied to any other cost. Would you apply the ability-to-pay principle to, say, gasoline or food purchases where different prices are charged to different people depending on how many dependents they had, their income, or whether their income was derived from wages, dividends or capital gains?

The fact that Americans have become ruled by orders and special privileges helps explain all the money and graft that we see in Washington. We've moved away from a government with limited powers, as our Founders envisioned, to one with awesome powers. Therefore, it pays people to spend huge amounts of money to influence Congress in their favor, that is, get Congress to grant them privileges denied to other Americans.

Twenty-five years ago, during a dinner conversation with Nobel Laureate economist/philosopher Friedrich A. Hayek, I asked him if he could propose one law that would restore, promote and preserve liberty in our country, what would that law be? Hayek answered that the law he'd propose would read: Congress shall enact no law that does not apply equally to all Americans. Hayek's suggestion for full equality before the law was both simple and profound and would do untold wonders in fostering the liberties envisioned by our Founders. But I'm betting that most Americans would greet Hayek's proposal with contempt after they realized that it would mean Congress wouldn't be able to enact orders and play favorites with different Americans.

Economics and Property Rights

Wednesday, September 5, 2007

Economic theory does not operate in a vacuum. Institutions, such as the property rights structure, determine how the theory manifests itself. Similarly, the law of gravity isn't repealed when a parachutist floats gently down to earth. The parachute simply affects how the law of gravity manifests itself.

Failure to recognize the effect of different property rights structures on outcomes leads to faulty analysis. Think about several questions. Which lake will yield larger, more mature fish—a publicly owned or a privately owned lake? Why is it that herds of cows flourished and buffalos did not? Who will care for a house better—a renter or owner?

The answer to each question has to do with the property rights structure. In a publicly owned lake, everyone has the right to the fish. In order to assert his right, the person has to catch the fish. This leads to overfishing because the person who tosses back an immature fish doesn't benefit himself. He benefits someone else who will keep the fish. It's a different story with a privately owned lake. The owner needn't catch a fish in order to assert his rights and can let the fish mature. It's the same principle with buffalo and other wildlife that's publicly owned. Through various rules and regulations, governments, though imperfectly, attempt to solve this property rights problem with licenses, fishing and hunting seasons and setting limits on catch and size.

Private property rights force the owner to take into account the effect of his current use of the property on its future value. A homeowner has a greater stake in what a house is worth 10 or 20 years from now than a renter. An owner would more likely make sacrifices and take the kind of care that lengthens the usable life of the house. But owners have methods to make renters share some of the interests of an owner through requiring security deposits against damage.

There's a completely ignored aspect of the effect of restrictions

on private property rights and that's restrictions on profits. Pretend that you're an owner of a firm. There are two equally capable secretaries that you might hire. The pretty secretary demands \$300 a week while the homely secretary is willing to work for \$200. If you hired the homely secretary, your profits would be \$100 greater. But what if there were a 50 percent profit tax? The profit tax reduces your rights to profit and reduces your cost of discriminating against the homely secretary. Instead of foregoing \$100 without the profit tax, you'd forego only \$50 by hiring the pretty secretary. The more the cost of doing something goes down, predictably, the more people will do of it. Wherever private property rights to profits are attenuated, we expect more choices to be made by noneconomic factors such as race and other physical attributes. That's especially the case in nonprofit entities like government and universities.

You say, "Hold it, Williams, government and universities have preferential hiring policies in favor of racial minorities; so you're wrong." No. When it was politically expedient, government and universities were the leaders in racial discrimination against racial minorities. Now that it's politically expedient to discriminate in favor of racial minorities, government and universities are in the forefront. For example, in 1936, there were only three black Ph.D. chemists employed by all of the white universities in the U.S., whereas 300 black chemists alone were employed by private industry. In government, blacks were only 1 percent of non-Postal Civil Service workers in 1930. By the way, where did blacks make their entry into white universities? If you said in sports, the moneymaking part of the university, go to the head of the class.

There are numerous issues and problems that are otherwise inexplicable unless we take into consideration the property rights structure.

Bogus Rights

Wednesday, February 8, 2006

Do people have a right to medical treatment whether or not they can pay? What about a right to food or decent housing? Would a U.S. Supreme Court justice hold that these are rights just like those enumerated in our Bill of Rights? In order to have any hope of coherently answering these questions, we have to decide what is a right. The way our Constitution's framers used the term, a right is something that exists simultaneously among people and imposes no obligation on another. For example, the right to free speech, or freedom to travel, is something we all simultaneously possess. My right to free speech or freedom to travel imposes no obligation upon another except that of non-interference. In other words, my exercising my right to speech or travel requires absolutely nothing from you and in no way diminishes any of your rights.

Contrast that vision of a right to so-called rights to medical care, food or decent housing, independent of whether a person can pay. Those are not rights in the sense that free speech and freedom of travel are rights. If it is said that a person has rights to medical care, food and housing, and has no means of paying, how does he enjoy them? There's no Santa Claus or Tooth Fairy who provides them. You say, "The Congress provides for those rights." Not quite. Congress does not have any resources of its very own. The only way Congress can give one American something is to first, through the use intimidation, threats and coercion, take it from another American. So-called rights to medical care, food and decent housing impose an obligation on some other American who, through the tax code, must be denied his right to his earnings. In other words, when Congress gives one American a right to something he didn't earn, it takes away the right of another American to something he did earn.

If this bogus concept of rights were applied to free speech rights and freedom to travel, my free speech rights would impose financial obligations on others to provide me with an auditorium and micro-

phone. My right to travel freely would require that the government take the earnings of others to provide me with airplane tickets and hotel accommodations.

Philosopher John Locke's vision of natural law guided the founders of our nation. Our Declaration of Independence expresses that vision, declaring, "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness." Government is necessary, but the only rights we can delegate to government are the ones we possess. For example, we all have a natural right to defend ourselves against predators. Since we possess that right, we can delegate authority to government to defend us. By contrast, we don't have a natural right to take the property of one person to give to another; therefore, we cannot legitimately delegate such authority to government.

Three-fifths to two-thirds of the federal budget consists of taking property from one American and giving it to another. Were a private person to do the same thing, we'd call it theft. When government does it, we euphemistically call it income redistribution, but that's exactly what thieves do—redistribute income. Income redistribution not only betrays the founders' vision, it's a sin in the eyes of God. I'm guessing that when God gave Moses the Eighth Commandment, "Thou shalt not steal," I'm sure he didn't mean "thou shalt not steal unless there was a majority vote in Congress."

The real tragedy for our nation is that any politician who holds the values of liberty that our founders held would be soundly defeated in today's political arena.

Results versus Process

Wednesday, October 11, 2006

Democrats plan to trumpet the income and wealth gap for political gain in this year's elections. According to the *Wall Street Journal* article "Democrats' Risky Strategy," Democratic candidates blame Republicans for economic inequality.

This strategy might sell because, in addition to envy, many people erroneously use income inequality as a measure of fairness. Income is a result. As such, results cannot establish whether there is fairness or justice.

Let's look at it. Suppose Tom, Dick and Harry play a weekly game of poker. Tom wins 75 percent of the time. Dick and Harry, respectively, win 15 percent and 10 percent of the time. Knowing only the poker game's result permits us to say absolutely nothing as to whether there has been poker justice. Tom's disproportionate winnings are consistent with his being either an astute player or a clever cheater.

To determine whether there has been poker justice, the game's process must be examined. Some process questions we might ask are: Were Hoyle's Rules obeyed, were the cards unmarked, were the cards dealt from the top of the deck, and did the players play voluntarily? If these questions yield affirmative answers, there was poker justice regardless of the game's result, with Tom winning 75 percent of the time.

Similarly, income is a result. In a free society, for the most part, income is a result of one's capacity to serve his fellow man and the value his fellow man places on that service. Say I mow your lawn and you pay me \$30. That \$30 might be seen as a certificate of performance. Why?

I go to the grocer and ask for 3 pounds of steak and a six-pack of beer that my fellow man produced. In effect, the grocer asks, "Williams, you're asking for something that your fellow man produced; what did you do for your fellow man?" I say, "I served my fellow man

by mowing his lawn.” The grocer says, “Prove it.” That’s when I give him my certificates of performance, the \$30.

Google founders Sergey Brin and Larry Page are multi-billionaires. Just as in the case of my mowing my fellow man’s lawn, they became very wealthy by serving their fellow man. The difference is they served their fellow man far more effectively than I and hence received more “certificates of performance,” enabling them to make greater claims on what their fellow man produces.

Their greater income is a result of their pleasing millions upon millions of their fellow man. They created wealth by producing a product that improves the lives of millions upon millions of people all around the globe. Should people like Messrs. Brin and Page, who have improved our lives, be held up to ridicule and scorn because they have a higher income than most of us? Should Congress use the tax code to confiscate part of their wealth in the name of fairness and income redistribution?

For the most part, income is a result of one’s productivity and the value that people place on that productivity. Far more important than income inequality, there is productivity inequality. That suggests that if there’s anything to be done about income inequality, we should focus on how to give people greater capacity in serving their fellow man, and we should make sure there’s a climate of peaceable, voluntary exchange.

Think back to my poker example. If one is concerned about the game’s result, which is more just—taking some of Tom’s winnings and redistributing them to Dick and Harry, or teaching Dick and Harry how to play poker better?

The Law or Good Ideas?

Wednesday, March 30, 2005

Here's my question to you: Should we be governed by good ideas? You say, "Williams, what do you mean?"

Here's an example: I regularly bike for fun, cardiovascular fitness and, hopefully, for a longer, healthier life. In my opinion, that's a good idea. That being the case, would you deem it proper for Congress to enact legislation requiring Americans to bike regularly or perform some other cardiovascular fitness exercise?

What if Congress didn't act on this good idea? Would you deem it proper and acceptable if five out of nine U.S. Supreme Court justices, in the name of "evolving standards" and promoting the general welfare, decreed that we all participate in some fitness exercise?

Let's look at it. It's easy to dismiss my questions and example by saying they're stupid and far-fetched. A more enlightened response would be to quote from Thomas Jefferson: "Congress has not unlimited powers to provide for the general welfare, but only those specifically enumerated." In other words, Congress holds only those powers delegated or enumerated in the Constitution.

Your follow-up response might be another Thomas Jefferson quotation: "[T]hat whensoever the General Government assumes undelegated powers, its acts are unauthoritative, void, and of no force." That means if Congress or the courts were to mandate biking, we could ignore it.

Suppose biking advocates saw no hope in getting Congress to enact legislation mandating regular biking and saw the U.S. Supreme Court as a means to accomplish their ends. Tell me your preference. Would you prefer the justices to rule along the lines they did in the recent *Roper v. Simmons* case, finding the execution of teenagers unconstitutional because, as Justice Anthony Kennedy speaking for the 5-4 majority said, "It is proper that we acknowledge the overwhelming weight of international opinion against the juvenile death penalty"? Modified to fit my biking example, Justice Kennedy might say, "We

acknowledge the overwhelming weight of international opinion that regular biking is a good idea.”

Or, would you prefer the justices to say, “We’re guided by the U.S. Constitution, and we find no constitutional authority to rule that Americans must regularly bike, despite your nonsense argument about the ‘promoting the general welfare’ clause; get out of our court”?

Whether “evolving standards,” the “weight of international opinion” and good ideas should determine court decisions underlies much of the ongoing conflict over President Bush’s federal court appointees. A federal court appointee who’d say his decisions are guided by the letter and spirit of our Constitution would be tagged by Democrat senators and a few Republican senators, such as Arlen Specter, as an extremist. They’d prefer justices who share former Chief Justice Charles E. Hughes’ vision that, “We live under a Constitution, but the Constitution is what the judges say it is.” Translated, that means we don’t live under the Constitution; we live under tyrannical judges.

Many law professors, and others who hold contempt for our Constitution, preach that the Constitution is a living document. Saying that the Constitution is a living document is the same as saying we don’t have a Constitution. For rules to mean anything, they must be fixed. How many people would like to play me poker and have the rules be “living”? Depending on “evolving standards,” maybe my two pair could beat your flush.

The framers recognized there might come a time to amend the Constitution, and they gave us Article V as a means for doing so. Early in the last century, some Americans thought it was a good idea to ban the manufacture and sale of alcohol. They didn’t go to court asking the justices to twist the Constitution to accomplish their goal. They respected the Constitution and sought passage of the 18th Amendment.

The founders were right about a lot of things, but they were dead wrong when they bought into Alexander Hamilton’s Federalist Paper No. 78 prediction that the judiciary was the “least dangerous” branch of government.

Ignorance or Contempt

March 26, 2001

Congressmen, presidents and Supreme Court justices take an oath of office swearing to uphold and defend the U.S. Constitution. As if the Constitution itself isn't clear about what they must do, in Federalist Paper No. 45, James Madison, the acknowledged father of the Constitution described the document thusly: "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce. . . . The powers reserved to the several States will extend to all the objects which in the ordinary course of affairs, concern the lives and liberties, and properties of the people, and the internal order, improvement and prosperity of the State."

Both Madison's statement and the Constitution leave no doubt about the "few and defined" powers delegated to the federal government and the "numerous and indefinite" powers retained by the people and the states. I'd like to ask our 535 congressmen, our president and our nine Supreme Court justices which word or phrase in Madison's statement they find beyond comprehension, and which phrase in Article I, Section 8 of the Constitution, that outlines what Congress is permitted to do, they find beyond comprehension.

While congressmen, presidents and Supreme Court justices don't have much understanding, they aren't stupid, which isn't to say they're not ignorant about the Constitution and other matters. Let's explore the most charitable explanation for their day-to-day violations of both the letter and the spirit of our Constitution, namely that they're ignorant. But, I seriously doubt the suitability of ignorance as an explanation. Why? If ignorance were the explanation, I'd be optimistic. I'd simply send the president, congressmen and Supreme Court justices James Madison's Federalist Paper No. 45, explaining the Constitution. After that they'd mend their ways and eliminate most fed-

eral programs, state mandates and other gross constitutional violations.

You say, “Williams, if you think they’d do that, you’ve got to be crazy!” You’re right; I would be crazy. The only other explanation for what presidents, congressmen and justices do is that they have contempt for the Constitution. But that’s only a tiny part of the sad story. Imagine if James Madison or Thomas Jefferson were campaigning for the presidency in 2000. What would you think about their chances? They’d clearly lose if they expressed the constitutional values and respect they had when the document was written. They’d clearly be denounced by most Americans and possibly risk assassination.

Therefore, before we rush to lay the complete blame for constitutional contempt at the feet of politicians and judges, we might want to look at ourselves—we the American people. That is, politicians are doing what we elect them to office to do and if our Constitution stays in the way, it’s the Constitution that must yield. The Constitution stands in the way of government programs such as: business bailouts, food stamps, Social Security, Medicare, Title I education programs and thousands of other federal acts.

You might ask, “Why should we pay any attention to a two hundred year document?” I’d say to escape Thomas Jefferson’s prediction that, “The natural progress of things is for government to gain ground and for liberty to yield.” After all if we ignore the constitutional protections found in Article I, Section 8 why not ignore other constitutional protections and make them just as meaningless?

If we continue our current path, future generations will curse us for squandering unprecedented liberty.

American Contempt for Rule of Law

June 1, 2001

What should be the characteristics of laws in a free society? Let's think about baseball rules (laws) as a means to approach this question. Some players, through no fault of their own, hit fewer home runs than others. In order to create baseball justice, how about a rule requiring pitchers to throw easier pitches to poorer home run hitters or simply rule what would be a double for anyone else a home run? Some pitchers aren't as good as others. How about allowing those pitchers to stand closer to the batter? Better yet, we could rule their first pitch a strike, regardless whether it is or not. In the interest of baseball justice, we might make special rules for some players and not others. That might level the playing field between old players and young players, black players and white players and fast runners and slow runners.

You say, "Williams, you can't be serious! Can you imagine all the chaos that would ensue: players lobbying umpires, umpires deciding who gets what favor, law suits, and not to mention fighting?" You're absolutely right. The reason baseball games end peaceably, and players and team owners satisfied with the process, whether they win or lose, is that baseball rules (law) are known in advance; they are applicable to all players; they're fixed and umpires don't make up rules as they go along. In other words, baseball rules meet the test of "abstractness." They envision no particular game outcome in terms of winners and losers. Baseball rules (laws) simply create a framework in which the game is played.

Laws or rules that govern a free society should have similar features; there should be "rule of law." Rule of law means: Laws are certain and known in advance. Laws envision no particular outcome except that of allowing people to peaceably pursue their own objectives. Finally, and most important, laws are equally applied to everyone, including government officials.

Sir Henry Maine, probably the greatest legal historian said, "The

greatest movement of progressive societies has hitherto been a movement from status to contract.” In non-progressive societies rule of law is absent. Laws are not general. They’re applied according to a person’s status or group membership. There’s rule, not by legis, the Latin word for law, but by privileges, the Latin term for private law.

Let’s look at our country and ask whether we live under rule of law. Just about every law that Congress enacts violates all of the requirements for rule of law. How do we determine violations of rule of law? It’s easy. See if the law applies to particular Americans as opposed to all Americans. See if the law exempts public officials from its application. See if the law is known in advance. See if the law takes action against a person who has taken no aggressive action against another. If you conduct such a test, you will conclude that it is virtually impossible to find a single act of Congress that adheres to the principles of the rule of law. That’s the very reason lobbyists descend upon Washington and cough up the big campaign bucks. They want Congress to use their law making power to grant them special privileges. But every indication I see, privilege granting is precisely what most Americans want, though they might disagree on who gets what privilege.

Most Americans have no inkling of what rule of law means. We think it means obedience to whatever laws Congress enacts and the President signs. That’s a tragedy.

Liberty's Greatest Advocate

July 4, 2001

June 30th marked the 200th anniversary of the birth of Frederic Bastiat. If one were to list the top ten advocates of liberty, French philosopher-economist Frederic Bastiat would rank high on that list. He'd easily outrank any one of the Founders of our nation. I'm honored to have been invited by the New York-based Foundation for Economic Education (fee.org) to give the keynote address at a conference celebrating Bastiat's birthday that was held in Carcassonne, France, near where Bastiat spent most of his short life (1801–1850). You say, "Williams, who's this guy, Bastiat? We've never heard of him." Frederic Bastiat wrote several important works, among them *Economic Sophisms* and *The Law*. In all of his writings he attacked tyranny, economic ignorance and self-serving myths.

His observations about human nature and government are just as true today as during his time. Bastiat warned, "Now since man is naturally inclined to avoid pain—and since labor is pain in itself—it follows that men will resort to plunder whenever plunder is easier than work. History shows this quite clearly. And under these conditions, neither religion nor morality can stop it." What does Bastiat mean by plunder? Plunder is when people forcibly take the property of another. It's legalized plunder when people use government, such as our congress, to do the same thing. Or, as Bastiat put it, "The state is the great fiction by which everybody tries to live at the expense of everybody else."

Since people covet and try to take what belongs to others, Bastiat said, "It is evident, then, that the proper purpose of law [government] is to use the power of its collective force to stop this fatal tendency to plunder instead of to work. All the measures of the law should protect property and punish plunder."

Do our elected representatives protect property and punish plunder or do they punish property and protect plunder? It's a mixed story. Two-thirds to three-quarters of next year's \$2 trillion federal budget

represents legalized plunder, where Congress makes it possible for one American to live at the expense of another. Most expenditures made by Washington's behemoth agencies such as the Department of Agriculture, Department of Health and Human Services, Department of Education, Department of Housing and Urban Development, and the Social Security Administration represent earnings forcibly taken from one American and given to another American. This legalized plunder isn't limited to money handouts. There's plunder in the form of special privileges such as import tariffs and quotas, licenses and franchises, where government rigs the market in favor of certain sellers, particularly those making large campaign contributions.

Often legalized plunder is done in the name of the poor. Bastiat had a prediction about that, "When under the pretext of fraternity, the legal code imposes mutual sacrifices on the citizens, human nature is not thereby abrogated. Everyone will then direct his efforts toward contributing little to, and taking much from, the common fund of sacrifices. Now, is it the most unfortunate who gains from this struggle? Certainly not, but rather the most influential and calculating."

We Americans, at least the moral among us, are increasingly confronted with Bastiat's dilemma: "When law and morality contradict one another, the citizen has the cruel alternative of either losing his sense of morality or losing his respect for the law." Frederic Bastiat admired our country saying, and noting the exceptions of slavery and tariffs, ". . . look at the United States. There is no country in the world where the law is kept within its proper domain: the protection of every person's liberty and property." If Bastiat were alive today, I doubt whether he'd have that same level of admiration.

Corporate Courage

Wednesday, February 1, 2006

We all remember last year's despicable U.S. Supreme Court 5-4 *Kelo v. City of New London, Conn.*, decision that held as constitutional that the rightful property of one American can be taken and transferred to another American so long as some public purpose is served. The Fifth Amendment to the U.S. Constitution states, "Nor shall private property be taken for public use, without just compensation." The key term is "public use," not "public purpose." That means that the powers of eminent domain can be used only to take property, with just compensation, to build public projects such as roads, forts or schools.

City of New London officials used the law of eminent domain to condemn the property of 15 homeowners and transfer it to private developers to build a luxury hotel, high-rent condominiums and office buildings. The city justified its actions by saying that taking the property away from the homeowners, and replacing it with a hotel, condos and office buildings, would generate jobs and more tax revenue. In a scathing dissent, Justice Sandra Day O'Connor said, "The specter of condemnation hangs over all property. Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory." In other words, government officials can take your private property and transfer it to another private person, based on any flimsy claim that it will serve a better public purpose such as job creation and greater tax revenues.

This kind of government tyranny should be disavowed by every decent American. Stepping up to the plate is Branch Banking and Trust Company (BB&T), headquartered in Winston-Salem, N.C. BB&T is a full-service bank with 1,100 offices throughout the Southeast. On Jan. 25, BB&T announced that it will not lend to commercial developers that plan to build condominiums, shopping malls and other private projects on land taken from private citizens by government entities using eminent domain. On behalf of its board of direc-

tors, Chairman and Chief Executive Officer John Allison explained, “The idea that a citizen’s property can be taken by the government solely for private use is extremely misguided, in fact, it’s just plain wrong.” Mr. Allison added, “One of the most basic rights of every citizen is to keep what they own. As an institution dedicated to helping our clients achieve economic success and financial security, we won’t help any entity or company that would undermine that mission and threaten the hard-earned American dream of property ownership.”

We all should applaud the directors and officers of Branch Banking and Trust Company for their courage. While boards of directors have a duty to maximize shareholder value, BB&T has shown that maximizing shareholder value is not solely a monetary phenomenon but has a moral component as well. As such they have chosen not to be accessories to last year’s despicable U.S. Supreme Court decision.

Branch Banking and Trust Company directors have set the example for other financial institutions. It would make my day if the boards of directors of other financial institutions followed suit. If they don’t, shareholders could supply them with a bit of backbone at annual meetings with a shareholder initiative that not lending to developers who have acquired private property through eminent domain law become corporate policy.

Congress has responded to the Kelo decision with the bipartisan Private Property Rights Protection Act of 2005 that “prohibits any state or political subdivision from exercising its power of eminent domain for economic development if that state or political subdivision receives federal economic development funds during the fiscal year.” This measure demonstrates Congress’ lack of courage. Why not start impeachment proceedings against justices who flagrantly violate their oath of office to uphold and defend the Constitution?

Confiscating Property

Wednesday, June 29, 2005

Last week's U.S. Supreme Court 5-4 ruling in *Kelo v. New London* helps explain the socialist attack on President Bush's nominees to the federal bench. First, let's look at the case.

The city government of New London, Conn., has run upon hard times, with residents leaving and its tax base eroding. Private developers offered to build a riverfront hotel, private offices and a health club in the Fort Trumbull neighborhood. But there was a bit of a problem. Owners of 15 homes in the stable middle-class Fort Trumbull neighborhood refused the city's offer to buy their homes, but no sweat. The city turned over its power of eminent domain—its ability to take private property for public use—to the New London Development Corporation, a private body, to take the entire neighborhood for private development. The city condemned the homeowners' properties. The homeowners sued and lost in the state court, and last week they lost in the U.S. Supreme Court.

The framers of our Constitution gave us the Fifth Amendment in order to protect us from government property confiscation. The Amendment reads in part: "[N]or shall private property be taken for public use, without just compensation." Which one of those 12 words is difficult to understand? The framers recognized there might be a need for government to acquire private property to build a road, bridge, dam or fort. That is a clear public use that requires just compensation, but is taking one person's private property to make it available for another's private use a public purpose? Justice John Paul Stevens says yes, arguing, "Promoting economic development is a traditional and long-accepted function of government."

Justice Sandra Day O'Connor dissented, saying, "Under the banner of economic development, all private property is now vulnerable to being taken and transferred to another private owner, so long as it might be given to an owner who will use it in a way that the legislature deems more beneficial to the public." She added that "the words 'for

public use' do not realistically exclude any takings, and thus do not exert any constraint on the eminent domain power." In other words, state and local officials can now take your home for another private person to use so long as they can manufacture an argument that the latter use is more beneficial to the public.

Let's look at a few examples of how this might play out. You and your neighbor have two-acre lots. Your combined property tax is \$10,000. A nursing home proprietor tells city officials that if they condemn your property and sell it to him to build a nursing home, the city would get \$30,000 in property taxes. According to last week's U.S. Supreme Court ruling, this plan would be construed as beneficial to the public, and you'd have no recourse. Similarly, an environmental group might descend on public officials to condemn your land and transfer it to the group for a wildlife preserve. Again, a contrived public benefit for which you'd have no recourse.

The Court's decision helps explain the vicious attacks on any judicial nominees who might use framer-intent to interpret the U.S. Constitution. America's socialists want more control over our lives, property and our pocketbooks. They cannot always get their way in the legislature, and the courts represent their only chance. There is nothing complex about those 12 words the framers wrote to protect us from governmental property confiscation. You need a magician to reach the conclusion reached by the Court's majority. I think the socialist attack on judicial nominees who'd use framer-intent in their interpretation of the Constitution might also explain their attack on our Second Amendment "right of the people to keep and bear Arms." Why? Because when they come to take our property, they don't want to risk buckshot in their butts.

Attacking Western Values

December 13, 2004

School boards have recently banned songs and music containing references to Santa Claus, Jesus and other religious Christmas symbols. The New York City school system permits displays of Jewish menorahs and the Muslim star and crescent but not the Christian nativity scene. According to an Associated Press story (11/26/04), "A public school teacher is suing his district and principal for barring him from using excerpts from historical documents in his classroom because they contain references to God and Christianity." The historical documents in question are: the Declaration of Independence and "The Rights of the Colonists" by John Adams. Then there's Kandice Smith, an Alabama sixth grader who was threatened with discipline for exhibiting a cross necklace.

Eugene, Oregon's City Manager Jim Johnson banned Christmas trees and holiday decorations with religious themes from public spaces giving as his reason the need to "put a neutral face on a religious holiday in the workplace." A float proclaiming "Merry Christmas" was banned from Denver's Parade of Lights.

Under the pretense of the First Amendment's prohibitions against "establishment of religion" and the court's bogus "separation of church and state" interpretation of the same, we're witnessing a part of the ongoing attack on American values. The Constitution's "establishment of religion" clause was written to prevent the formation of anything similar to the official Church of England in the United States.

So why the attack on religion? Read the Declaration of Independence. You'll read phrases such as: "endowed by their Creator with certain unalienable Rights, "Laws of Nature and Nature's God," and "appealing to the Supreme Judge of the world." The vision held by the Framers is that our rights come not from government but from a "Creator" or "the laws of nature and of nature's God." That means the purpose and power of government is rightfully limited to protecting our natural God-given rights.

The idea that government doesn't grant rights is offensive to those who wish to control our lives. Therefore, to gain greater control, the idea of natural rights, God-given rights and Christian values must be suppressed. The idea that rights precede government was John Locke's natural law philosophy that had a significant influence on our nation's founders but they chose to refer to natural law as rights endowed by the Creator.

The attack on Christian ideas and Christian public displays is part and parcel of the leftist control agenda in another way. Certain components of the leftist agenda requires that our primary allegiance be with government. As such there must be an attack on allegiances to the teachings of the church and family. After all, for example, if you want popular acceptance of homosexual marriages, there must be a campaign against church teachings that condemn such practices.

Embolden by their successes in the courts and intimidation of public officials, there's no question there will be other leftist demands; there's no logical end point except complete Christian capitulation. There are Christian symbols and exhibits in many Washington, D.C. government buildings that will come down such as: Moses with the Ten Commandments inside the U.S. Supreme Court, George Washington praying in the Capitol Building, Abraham Lincoln's speech mentioning God carved inside the Lincoln Memorial. Religious programming on the radio and television will come under attack. After all there's Federal Communications Commission permission to use the "public airwaves."

If leftists say they have no such intention to go after television, radio and other public expressions of Christianity, what they really mean is that they haven't softened us up enough yet. I'm not quite sure of just how we respond to the ongoing attack on Christianity and American values but we'd better do something quickly.

Immigration vs. Gate-Crashing

Wednesday, April 12, 2006

My sentiments on immigration are inscribed at the foot of the Statue of Liberty: “. . . Give me your tired, your poor, Your huddled masses yearning to breathe free, The wretched refuse of your teeming shore, Send these, the homeless, tempest-tost to me, I lift my lamp beside the golden door.”

These words of poet Emma Lazarus served as the welcome mat for tens of millions seeking liberty and opportunity in America—legally. Being a relatively land-rich and labor-scarce nation, immigration has always been good for our country. Plus, for most of our history, there was a guarantee that immigrants would come here to work. The alternative was starvation.

With today's welfare state, there's no such guarantee. People can come here, not work and not starve because the welfare state guarantees that they can live off the rest of us.

At the heart of today's immigration problem is its illegality. According to several estimates, there are 11 million people who are in our country illegally, mostly from Mexico. Many people, including my libertarian friends and associates, advance an argument that differs little from saying that people anywhere in the world have a right to live in the United States irrespective of our laws or preferences.

According to that vision, American people do not have a right to set either the number of people who enter our country or the conditions upon which they enter. Some of the arguments and terms used in the immigration debate defy reason. First, there's the refusal to call these people “illegal aliens.” The politically preferred term is “undocumented workers,” which is nothing less than verbal sleight-of-hand. After all, I, too, am an undocumented worker.

My colleague, Thomas Sowell, exposes some of this verbal sleight-of-hand in his recent column “Guests or Gate-Crashers?” He questions calling for “guest worker” status for people who, because they weren't invited, are not guests at all but gate-crashers. Sowell argues

that the more substantive arguments for flaunting our immigration laws are just as phony.

How about the argument that “We can’t catch all the illegals”? That’s true, but should we apply that principle to other illegal acts? For example, we can’t catch every rapist or burglar, but does it follow that we shouldn’t try?

The base motives for much of the political response to illegal aliens are fear of losing the Hispanic vote and pressure by employers who want to maintain a source of cheap labor. Politicians are calling for “guest worker” programs, but they’re really calling for amnesty. They are fearful of actually using that term because they know it’s political suicide, but the “guest worker” proposal is essentially the same as amnesty.

The word amnesty comes from the Greek “amnestia,” defined in part as: “the selective overlooking or ignoring of those events or acts that are not favorable or useful to one’s purpose or position.” That’s what the proposed guest worker program essentially says: forget that you’re here illegally.

In principle, the solution to people being in our country illegally is simple. No one in the country illegally should be eligible to receive any social services except emergency medical services. Efforts should be made to deport illegal aliens. Our borders should be made secure both against illegal entry of persons and potential threats to national security.

Finally, U.S. Citizenship and Immigration Services procedures for obtaining work permits and citizenship should be streamlined so that law-abiding people around the world can more easily contribute to and enjoy America’s greatness.

The Greatest Generation

Wednesday, November 21, 2007

The “greatest generation” is a term sometimes used in reference to those Americans who were raised during the Great Depression, fought in World War II, worked in farms and factories and sacrificed for the war effort while maintaining the home front. Following the war, these Americans, many of whom were born between the turn of the century and 1930, went on to produce a level of wealth and prosperity heretofore unknown to mankind.

There’s no question that this generation made an important contribution. Let’s look at what else that generation contributed that might qualify them for the generation that laid the foundation for the greatest betrayal of our nation’s core founding principle: limited federal government exercising only constitutionally enumerated powers.

When the greatest generation was born, federal spending as a percentage of gross domestic product (GDP) was 2.5 percent. As they are now dying off, federal spending is 20 percent of GDP and that doesn’t include government meddling. If the grandparents of the greatest generation were asked to describe their contacts or relationship with the federal government, after a puzzled look, straining their recollection faculties, they might answer, “I used to chat with the mailman once in a while.”

Today, there is little any American can do without some form of federal control, whether it’s how much water we can use to flush a toilet, what kind of car we drive or how we prepare for retirement. Congress manages our lives in ways unimaginable to our ancestors through agencies created by the greatest generation, such as Health and Human Services, Housing and Urban Development, Social Security Administration and a host of alphabet agencies such as EPA, DOL, BLM, CDC and DOT.

There’s little question that the greatest generation provided their offspring, the baby boomer generation, with goods and services that their parents could not afford to give them. But tragically, the greatest

generation did not instill in their children what their parents instilled in them, the values and customs that make for a civilized society. In previous generations, people were held responsible for their behavior. Today, society at large pays for irresponsible behavior. Years ago, there was little tolerance for the kind of crude behavior and language that's accepted today. To see men sitting while a woman was standing on a public conveyance used to be unthinkable. Children addressing adults by their first name and their use of foul language in the presence of, and often to, teachers and other adults were unacceptable.

A society's first line of defense is not the law but customs, traditions and moral values. These behavioral norms, mostly transmitted by example, word-of-mouth and religious teachings, represent a body of wisdom distilled over the ages through experience and trial and error. They include important thou-shalt-nots such as shalt not murder, shalt not steal, shalt not lie and cheat, but they also include all those courtesies one might call ladylike and gentlemanly conduct. Policemen and laws can never replace these restraints on personal conduct. At best, the police and criminal justice system are the last desperate line of defense for a civilized society. This failure to fully transmit value norms to subsequent generations represents another failing of the greatest generation.

If there's an American generation that can justifiably be called the greatest generation, it's that generation responsible for the founding of our nation—men such as James Madison, Thomas Jefferson, John Adams, George Washington and millions of their fellow countrymen. This is the generation that threw off one form of oppression and laid the foundations for unprecedented human liberty. That is not a trivial achievement, for most often in mankind's history, one form of oppression has been replaced with another far worse, as we've seen in Russia, China and Africa.