

William & Mary Law Review

Volume 30 (1988-1989)
Issue 4

Article 6

May 1989

Liberalism, Public Virtue and JFK

Gene R. Nichol

Follow this and additional works at: <https://scholarship.law.wm.edu/wmlr>



Part of the [Legal Biography Commons](#)

Repository Citation

Gene R. Nichol, *Liberalism, Public Virtue and JFK*, 30 Wm. & Mary L. Rev. 893 (1989),
<https://scholarship.law.wm.edu/wmlr/vol30/iss4/6>

Copyright c 1989 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.

<https://scholarship.law.wm.edu/wmlr>

BOOK REVIEWS

LIBERALISM, PUBLIC VIRTUE AND JFK

“LET THE WORD GO FORTH”: THE SPEECHES, STATEMENTS, AND WRITING OF JOHN F. KENNEDY, Theodore C. Sorensen, ed. New York: Delacorte Press 1988. Pp. 433. \$25.00

GENE R. NICHOL, JR.*

Hundreds of lessons probably could be drawn from the presidential election of 1988. The difficulties of successfully running against an incumbent party in a period of relative economic prosperity, the strength of the apparent Republican geographical lock on the electoral college, the impoverished nature of modern televised political dialogue, the shameless influence of money over the American political process, and a host of others come to mind.¹ In this brief essay I emphasize two largely, if not completely, unrelated phenomena of the campaign. Although they hardly provide seminal insights into our political culture, they may prove useful in exploring the causes, and potential cures, for the present “malaise” in American political discourse.

The first aspect of the politics of 1988 that I highlight is far from new—the continuing demise of liberalism. I concede, of course, that liberalism itself has become an almost indecipherable term. It apparently means one thing for this group, time, and circumstance and quite another—likely even the opposite—for the next. Though now, thanks to President Bush, there is something of a consensus that it is an epithet.

* Dean and Professor of Law, University of Colorado.

1. Another obvious lesson, for example, is that if two unimpressive candidates collide, the tie goes to the Republicans—by a wide margin.

On virtually all fronts liberalism is in trouble.² Classical liberal-rights theory, traceable to Hobbes and Locke but Americanized by Jefferson and Madison, places extraordinary importance on individualism. It requires, of course, that government protect the property and person of those within its charge. Otherwise, it essentially demands that the state leave its citizens alone to pursue their interests and notions of the good life. The beneficial effects of this vision of government upon American life have been dramatic. Though the process has been grudging, fundamental concepts of liberty and equality have permeated the American ethos. As Allan Bloom puts it: “[R]ights are ours. They constitute our being; we live them; they are our common sense.”³

The major shortcoming of this classic political theory, however, is closely tied to its basic premise. It provides little room for exploring the sort of society we wish, collectively, to become. By removing the authority to foster its vision of the good life from the governmental domain, liberal theory makes it more difficult to see our personal aspirations as linked to a larger effort to secure the aspirations of all. In my view, both political parties suffer from the void.

To the extent that Republicans remain classical liberals, the Reagan-Bush “philosophy” falls very heavily on the side of private attainment—overtly reflecting a negative view of public service and suggesting virtually no civic responsibility for the promotion of the public interest. The Democrats seem to be more confused. They are, at least in theory, the modern “liberals.” Their classical, laissez-faire liberalism, however, has been substantially tempered by a New Deal concern for the economic welfare of their most disadvantaged fellow citizens. Now that the welfare state, at least as a societal mandate, has been made to appear soft and unsuccessful, and even occasionally disingenuous, the Democrats also have been left without an affirmative vision of government and public respon-

2. Liberalism, of course, has suffered strong, recent attacks as both political philosophy—see, e.g., M. SANDEL, *LIBERALISM AND THE LIMITS OF JUSTICE* (1982); and, less directly, K. GREENAWALT, *RELIGIOUS CONVICTIONS AND POLITICAL CHOICE* (1988)—and constitutional theory—see, e.g., R. UNGER, *KNOWLEDGE AND POLITICS* (1984); Tushnet, *Following the Rules Laid Down: A Critique of Interpretivism and Neutral Principles*, 96 HARV. L. REV. 781 (1983); C. MACKINNON, *FEMINISM UNMODIFIED* (1988).

3. A. BLOOM, *THE CLOSING OF THE AMERICAN MIND* 166 (1987).

sibility. So while President Bush generally followed the Reagan call for selfishness, Governor Dukakis seemed to have little to say at all.

The second aspect of the campaign I turn to perhaps seems both disconnected and, by comparison, trivial. It is the rather high profile of John F. Kennedy. Because of his affinity for both tax cuts and a strong defense and, one assumes, because he is dead, Kennedy has become an often-cited source of authority for Republicans. On the Democratic side, the kinship was even more circumstantial. Seeking to succeed a popular, two-term Republican President, a Massachusetts candidate and a Texas running mate could hardly resist the hope that history was about to repeat itself. In addition, Vice President Quayle's ill-fated attempt to compare himself to Kennedy resulted in one of the campaign's most noted one-liners.

Now I don't necessarily think that these two phenomena are causally linked; but I do think that if you choose to consider the two in conjunction, common ground can be discovered. In my view, Kennedy's work has something to say to us about the defects of modern liberalism. The publication of "*Let the Word Go Forth*," a collection of Kennedy's speeches, statements, and writings edited by Theodore Sorensen, provides an excellent vehicle to explore the essential need to bolster liberalism's sound theories of individual liberty with newly constructed visions of public responsibility. I turn first to some of the received wisdom concerning liberalism's deficiencies, and then explore a few of Kennedy's tentative, and perhaps indirect, proposals for dealing with them.

I. LIBERALISM AND PRIVATISM

From the outset, American rights-based liberalism has taught that government exists to protect men's (and then they meant it) life, liberty, and property. These rights, it is claimed, are not alienable. They exist, both in time and in sanctity, prior to any civil society. Governments are legitimate only to the extent that they ensure such rights.

This view of the relationship between government and citizen was, of course, enshrined by Jefferson in the Declaration of Independence and later codified in some particulars by Madison in the Bill of Rights. For Jefferson, equal "right[s] of personal free-

dom"—thinking, publishing, and worshipping—could not be “surrender[ed]” to the government.⁴ Indeed, foreshadowing John Stuart Mill by three-quarters of a century, Jefferson wrote in his widely regarded *Notes on the State of Virginia* that the “legitimate powers of government extend to such acts only as are injurious to others.”⁵

Americans, at heart, are rooted in this essentially Lockean tradition. Our history has reflected a steady, if often painfully tardy, expansion of societal concepts of liberty and equality. Lincoln saw the Nation itself as “dedicated”⁶ to that development and realization. In his view, the drafters of the Declaration of Independence did not mean to state “the obvious untruth, that all were then actually enjoying . . . equality.”⁷ They meant rather “simply to declare the *right*, so that the *enforcement* of it might follow as fast as circumstances should permit . . . a standard . . . constantly looked to, constantly labored for . . . constantly spreading and deepening its influence.”⁸

The American march toward equality gradually has embraced claims for inclusion by racial and religious minorities, women, illegitimates, and, to a lesser extent, noncitizens and the poor. As a result, religious, familial, and aristocratic legacies of privilege and responsibility have been forced to give way. On the liberty side, claims of right have become almost instinctive. Anything that would violate our right to think for ourselves and live our lives as we see fit is not only wrong, it is sacrilege. Individualism constitutes the very core of American culture.

Although this record of accomplishment is our greatest success, and our greatest legacy to western culture, it also presents something of a problem. The framers likely thought that a system of liberal individualism—in which everyone seeks his or her own private ends—could provide a viable form of government because private behavior would be channeled by other traditions, beliefs and institutions. The demands of civic republicanism, the authority of

4. 5 THE ROOTS OF THE BILL OF RIGHTS 1000 (B. Schwartz ed. 1980) (letter from Thomas Jefferson to David Humphreys (1789)).

5. THE PORTABLE THOMAS JEFFERSON 210 (M. Peterson ed. 1975).

6. ABRAHAM LINCOLN: HIS SPEECHES AND WRITINGS 734 (R. Basler ed. 1946).

7. *Id.* at 361.

8. *Id.* (emphasis in original).

organized religion, and the traditions of family and community would work to constrain privatism.

But in a sense, liberal individualism's success has weakened these limiting influences. As a people, we no longer pursue virtue or charity because we fear damnation. Wives are not required to obey their husbands. Parents no longer exercise total control of their children. Participation in the political process is hardly regarded as a virtuous endeavor requiring the suppression of personal interest for the greater good. Instead, interests are served; and as Garry Wills has written, the framers' notion of public virtue has a "heft and weightiness unknown to us."⁹

That weakening does not mean that we should seek a return to the elitism and the oppression of the revolutionary era. It suggests that modern individualism is relatively untethered; and that our determination that government simply should seek to leave its citizens alone may be more costly than it was in the past. Tocqueville, of course, warned of these dangers. Individualism unchecked by family, community, political participation, and tradition would not only threaten our ability to govern ourselves, but leave each of us "shut up in the solitude of [our] own heart[s]."¹⁰ Allan Bloom echoed this theme in his recent controversial tome. There he labeled modern American society a "psychic state of nature" where "[w]e are social solitaries."¹¹

To a significant extent, we now bear the fruits of a concentrated individualism. We have failed to develop habits that foster a common spirit; thus the governing process suffers. Liberalism casts public service in a negative light by implying that all true fulfillment and challenge is to be found in the private realm. Although we tend to take ourselves very seriously as a personal matter, we do not see ourselves as important historically. We don't think that we can actually make a difference in the world. Interest group, rather than public interest, politics prevails. Politicians seek support by asking only if you are better off financially than you were four years ago. It is difficult, therefore, to formulate collective goals

9. R. BELLAH, R. MADSEN, W. SULLIVAN, A. SWIDLER & S. TIPTON, *HABITS OF THE HEART* 254 (1985).

10. A. TOCQUEVILLE, *DEMOCRACY IN AMERICA* 478 (J. Mayer ed. 1966).

11. A. BLOOM, *supra* note 3, at 118.

as a government and society. That difficulty makes it far easier to block legislation than to enact it, far easier to thwart power than to exercise it. Of course, stalemate is one way to avoid tyranny; but our problems are too big to be ignored. As Learned Hand warned, "[n]o Utopia, nothing but Bedlam, will automatically emerge from a regime of unbridled individualism, be it ever so rugged."¹²

Examples appear on the front page every day. Budget deficits are out of control, but we do not even pretend to deal with the problem. Deficits were ignored by both sides in the presidential campaign, and the Gramm-Rudman Act is an admission of congressional inability to legislate in the national interest. We face a massive crisis in the savings and loan industry—born of unbridled greed and a creedal belief in deregulation. Apparently the government will now purchase thirty-year bonds to try to meet the problem, pushing the price tag back on the next generation.

Environmental time bombs are now too vividly proven to ignore: the greenhouse effect, acid rain, and hazardous waste disposal. These problems are of such immense magnitude and dimension that one would expect us to be in the process of mobilizing armies, and society as a whole, to combat them. Primarily, however, we wait, hoping someone else will make and carry out the tough decisions. Most tragically, it becomes more apparent every day that we have developed two societies in the United States—one of which is an underclass, largely black, decidedly poor, desparate and disconnected from the mainstream of American life. That realization is difficult to stomach, and it is, of course, a time bomb. But we seem to have decided that trying to solve our polarization problems is too costly, and besides, we ask, what does it do for me?

The common thread, in my view, that links our failure to treat these difficulties, is an inability to meaningfully regard our lot as a common one. Our highly developed sense of individualism seems no longer to be complemented by a highly developed sense of responsibility and sacrifice on behalf of our fellow citizens. It even seems that we feel little obligation to our children and succeeding generations.

Ironically, unconstrained individualism is also tough on personal growth and development. A selfish and isolated life is hardly worth

12. L. HAND, *THE SPIRIT OF LIBERTY* 150 (1960).

living. Unless life in public is characterized by a minimum of civility and safety, private refuge is little consolation. If we can expect nothing from our fellows, ultimately we come to value them less. The fundamental premise of individualism—respect for personal dignity—is undercut. Curiously, our commitment to unfettered rights of expression has led to an increased sense that all beliefs are attenuated, all values relative.¹³ As our liberties have expanded, traditional bases of normative expectation and common understanding have eroded. Accordingly, though our right to choose seems secured, we have less available to instruct us in making sensible choices. .

This state of affairs hardly means that our liberal, rights-based tradition should be scrapped. To the contrary, our evolving notions of liberty and equality provide the foundations of our culture and, perhaps, our only central unifying principles. It seems essential, however, to attempt to supplement our liberal premises with a substantial dose of public responsibility. In earlier times, religion, tradition, family, and other private associations and institutions served to channel the “bedlam” of individualism. As those constraints have diminished or slipped away, it becomes increasingly doubtful whether we, as a society, can fashion a dialogue of public responsibility. Can we, in effect, convince our fellows to become citizens again, to strive for the common good? Perhaps surprisingly, it is here that Kennedy had a good deal to say to us.

II. KENNEDY AND PUBLIC RESPONSIBILITY

I should acknowledge at the outset that Kennedy was a liberal in the foundational sense that I have spoken of it above. He argued, for example, that “liberalism is our best and our only hope in the world today. For the liberal society is a free society, and it is at the same time and for that reason a strong society” (p. 107). His 1960 address before the Houston Ministerial Association remains a classic statement of the American vision of separation of church and state.¹⁴ When finally mobilized to the cause of black equality, Ken-

13. See A. BLOOM, *supra* note 3.

14. I believe in an America where the separation of church and state is absolute—where no Catholic prelate would tell the President . . . how to act, and no Protestant minister would tell his parishioners for whom to vote—where no

nedey proved an eloquent opponent of racial oppression (pp. 182-204). He introduced his inaugural address with fundamental liberal themes, reminding the Nation that "the same revolutionary beliefs for which our forebears fought are still at issue around the globe—the belief that the rights of man come not from the generosity of the state but from the hand of God" (p. 12).

Kennedy's embrace of liberal individualism, however, was tempered by a heavy component of civic or public responsibility. His calls not only for private excellence, but also for public service, individual sacrifice, and responsible citizenship stirred a generation. He argued persuasively that the efforts of individual citizens—in the service of the general welfare—could bring positive fruits to the nation. So much so perhaps, that subsequent tragedies of war, racial unrest and assassination were more profoundly alienating to the young than they would have been otherwise.

This side of Kennedy seems surprising to our ears a quarter century after his death. The New Frontier was, in his words: "not a set of promises—[but] a set of challenges. It sums up not what I intend to offer the American people, but what I intend to ask of them" (p. 101). This vision of American political life—the very heart of Kennedy's public philosophy—has been studiously ignored by both candidates and both parties. President Bush invariably suggested that we can "grow" out of our problems, giving what Kennedy derided as "assurances of a golden future, where taxes are always low and subsidies ever high" (p. 101). Governor Dukakis seemed unable to escape the traditional Democratic trap that Kennedy regarded as pandering to those who wish only to hear "more promises to this group or that" (p. 101).

Kennedy emphasized instead what he called the "discipline of self-government" (p. 54). His inaugural address stressed, for both citizens of the United States and the world, "high standards of strength and sacrifice" (p. 15). It was no coincidence that he coined the phrase "New Frontier." In accepting his party's nomination, he claimed:

church or church school is granted any public funds or political preference—and where no man is denied public office merely because his religion differs from the President who might appoint him or the people who might elect him (p. 131).

For I stand tonight facing west on what was once the last frontier. From the lands that stretch three thousand miles behind me, the pioneers of old gave up their safety, their comfort, and sometimes their lives to build a new world here in the West. They were not the captives of their own doubts, the prisoners of their own price tags. Their motto was not "every man for himself"—but "all for the common cause." They were determined to make that new world strong and free, to overcome its hazards and its hardships, to conquer the enemies that threatened from without and within (p. 100).

By emphasizing and attempting to bolster our common notions of responsibility, need, and obligation, Kennedy hoped to "try to develop in this country a sense of the public interest comparable or superior to what the Soviet Union is able to develop in its country by power of the police state" (p. 54). This call to public service was multifaceted. First, the obligations of citizenship demand sacrifice, in terms of willingness to serve, from the most capable of society's members. Speaking in the sexist terms of his times, he declared his "intention to ask the ablest men in the country to make whatever sacrifice is required to bring to the government a ministry of the best talents available, men with a single-minded loyalty to the national interest, men who would regard public office as a public trust" (p. 51). The lesson that "public service" should be a "proud and lively career" was a hallmark of his Presidency (p. 59).

More importantly, Kennedy sought to pour content and duty into the very concept of citizenship. In his view:

All of us . . . are officeholders. All of us make an important decision as to what this country must be and how it must move and what its function shall be, and what its image shall be, and whether it shall stand still, as I believe it is now doing, or whether it shall once again move forward (p. 54).

Common responsibility, of course, requires a sense of common challenge. He asked citizens to "call forth [their] strength and let each devote his energies to the betterment of all" (p. 356). It also demands a sense of common sacrifice, a personal choice "between the public interest and private comfort" (p. 102). The "rich [must be] willing to use some of their riches more wisely, . . . the privileged [more] willing to yield up their privileges to a common good" (p. 363). Indeed, he argued that every aspect of his political pro-

gram made "demands upon one or more groups of Americans, and most often upon all Americans jointly. All of them involve some effort, some inconvenience or some sacrifice . . ." (p. 64).

That belief in common restraint was the basis for Kennedy's obvious anger over the 1962 decision by an assortment of steel companies to raise prices substantially in what he called a "wholly unjustifiable and irresponsible defiance of the public interest" (p. 159).

In this serious hour in our Nation's history, when we are confronted with grave crises in Berlin and Southeast Asia, when we are devoting our energies to economic recovery and stability, when we are asking reservists to leave their homes and families for months on end and servicemen to risk their lives—and four were killed in the last two days in Vietnam—and asking union members to hold down their wage requests, at a time when restraint and sacrifice are being asked of every citizen, the American people will find it hard, as I do, to accept a situation in which a tiny handful of steel executives, whose pursuit of private power and profit exceeds their sense of public responsibility, can show such utter contempt for the interests of 185 million Americans (p. 159).

Nor did Kennedy regard this necessary mutuality as designed merely to serve the common good. Like the classical republicanism of the founding generation, Kennedy's civic virtue also was meant to foster personal development. The Peace Corps, he argued, "is not designed as an instrument of diplomacy or propaganda or ideological conflict. It is designed to permit our people to exercise more fully their responsibilities in the great common cause of world development" (p. 60). Citizens, like Presidents, should pursue the Greek definition of happiness: "full use of your powers along lines of excellence" (p. 36).¹⁵

Kennedy's insistence on common concern suggested alterations to some mainstays of liberalism. His call to "tap America's human resources for public purposes" would, he argued, "blur[] the distinctions between public and private life" (p. 62). In pursuing foreign policy, he declared an intent to:

15. "I find, therefore, the Presidency provides some happiness" (p. 36) (President's News Conference, Washington, D.C., October 31, 1963).

make full use of the resources and talents of private institutions and groups. Universities, voluntary agencies, labor unions, and industry will be asked to share in this effort—contributing diverse sources of energy and imagination—making it clear that the responsibility for peace is the responsibility of our entire society (p. 60).

The “blurring” ran in both directions. Not only should private citizens assume public responsibilities, government should nurture the private development of its citizens. “I have tried,” he claimed, “to make the whole tone and thrust of this office and this administration one that will demand a higher standard of excellence from every individual in his private life—in his education, his physical fitness, his attitudes toward foreign visitors, his obligations as a citizen, and all the rest” (p. 65).

These goals imply a second, at least partial, departure from liberal theory. Kennedy frequently sounded like a person who thought that the nation should aspire to certain societal ends—visions of the good, if you will. From the outset, he summoned the country to “bear the burden of a long twilight struggle, year in and year out, ‘rejoicing in hope, patient in tribulation’—. . . against the common enemies of man: tyranny, poverty, disease, and war itself” (p. 14). He asked “every young American . . . [to share] in the great common task of bringing to man that decent way of life which is the foundation of freedom and a condition of peace” (pp. 60-61). Internationally, he requested that we “associate more closely together than ever . . . in a massive and concerted attack on the poverty, injustice, and oppression which overshadow so much of the globe” (p. 311). Both the verdicts of history and the demands for national pride necessitated such aspirations. Shortly before his death, urging on what he sometimes regarded as a weary nation, he asserted: “I do not want it said of us what T.S. Eliot said of others some years ago: ‘These were a decent people. Their only monument: the asphalt road and a thousand lost golf balls’” (p. 350).

III. CONCLUSION

These examples of Kennedy’s thought, pulled as they are from disparate sources and unrelated fragments, constitute no major philosophical antidote to the shortcomings of modern liberalism.

They represent no complete and consistent theory of any kind. Moreover, Kennedy was an astute politician, inclined, like his colleagues, to search for phrases and ideas which would capture the imagination of the electorate. It is possible, therefore, that his calls for sacrifice and mutual obligation were the products of a mixed and complex set of motives and strategies.

For our purposes, however, it is hardly crucial whether qualifiers are appropriate for Kennedy's record as President and national leader. Societies, if they are wise, seek to draw inspiration and solutions—in whatever measures available—from their pasts. It is short work to make the case that we presently suffer from a significant inability to formulate broad societal goals and objectives. We seem unable, in fact, to meaningfully appeal to any value other than self-interest—though President Bush's inaugural address suggested a desire to explore public virtue anew.¹⁶ Kennedy's thought, whatever its shortcomings, reflects a tone of challenge, mutuality, and selflessness that is seemingly lost to us.

Perhaps no better example of that thought can be found than by comparing Kennedy's use of John Winthrop's vision of "a city upon a hill" with President Reagan's. When Reagan quoted Winthrop it was hard to avoid the conclusion that the President envisioned an admiring world honoring and envying the American "city on a hill"—more free, more prosperous, and more happy than the rest of the globe. Kennedy emphasized the second half of Winthrop's quote: "the eyes of all people are upon us" (p. 57). In his view, these words meant that "we [must] be worthy of our power and responsibility, [and] exercise our strength with wisdom and restraint" (p. 404). Quoting Edmund Burke, he said "we sit on a 'conspicuous stage,' and the whole world marks our demeanor" (p. 341). From those so fortunate, "much is required" (p. 57). It is in the arena of the "required" that we need help.

16. See Wash. Post, Jan. 21, 1989, at A1, col. 6.