

What Would a Return to the Constitution Entail?

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Fortified by historic Republican electoral gains at the federal and state levels last November, Tea Party activists and the new generation of Republicans led by rising star freshman Senator Marco Rubio, House Budget Committee Chairman Paul Ryan, and House Majority Leader Eric Cantor have reaffirmed their intention to return to the Constitution. To underscore that intention, Republican representatives kicked off the 112th Congress with a piece of provocative and potentially instructive political theater by, for the first time in the nation's history, reading aloud the 224 year old document on the House floor. But what does such a return entail?

Some hard-driving conservatives see it as an opportunity to restore simplicity and purity to democratic self-government. Meanwhile, many influential progressive politicians and pundits are determined to hear in talk of return a reckless and reactionary repudiation of the modern welfare state.

In fact, an informed and thoughtful return to the Constitution will take seriously the devotion to individual liberty and limited government shared by the original Federalist proponents of the Constitution and their Anti-Federalist opponents. It will learn from the intricately separated and blended political institutions that the Constitution established to impose restraint and allow for energy and efficiency. And it should culminate in the recovery of the spirit of political moderation that the Constitution embodies and on which its preservation depends.

It is conservatives' good fortune that political moderation is central to the November mandate, just what the nation now needs, and at the core of the abiding conservative mission in America.

In recent times, respecting electoral mandates has proved a stumbling block for both parties. President Obama misread or disregarded the mandate of 2008, seeing in the electorate's dismay with the Bush administration and distrust of Republican stewardship of the economy a popular authorization — or golden opportunity — to undertake large-scale progressive reform. In so doing, he repeated the mistake of the 1990s Republican revolutionaries, which was to confuse aversion to the Clintons' health care reform with a license to effect fundamental change in the federal government's role.

As many have noted, again this election year majorities did not endorse transformation of the political system along the lines sought by the most uncompromising elements of the winning party. Rather, they sought to rein in the transformative ambitions of the losing party.

What needs to be added is that the moderation for which the electorate has been yearning is inscribed in the Constitution's origins and is prescribed by its principles, or better, by the manner in which it weaves together the variety of principles that animate it.

Amidst justified conservative determination today to aggressively reassert the central constitutional imperative to limit government, it should be recalled that the Constitution was also born out of the pressing need to create a larger, stronger, and more centralized government. The decision in Philadelphia in the summer of 1787 to abandon repair of the Articles of Confederation and instead replace them with a new constitution stemmed from the need to establish a national government capable of levying and collecting necessary taxes, regulating commercial life to promote economic prosperity, and providing for the national defense in a dangerous world.

The founders won ratification for the Constitution by arguing that to preserve liberty, government's powers must be limited but ample, constrained but energetic, grounded in interest but elevated by virtue, and based on the consent of the governed while aimed at securing natural rights that are not subject to majority whim or will.

In other words, political moderation, or the balancing of competing political principles, is a constitutional imperative. It is also a demanding virtue. Although often suspected, and sometimes serving, as a mask for spinelessness, the impostor should not be confused for the real thing. Political moderation, at least of the sort that the Constitution calls for, doesn't mean selling out principles under pressure or making a principle of pragmatism. Rather, it is exercised in recognizing the weight and reach of competing constitutional principles, and adopting policies, fashioning laws, and acting, at once judiciously and decisively, to harmonize them.

One of the principles rooted in the Constitution that conservatives must do a better job of recognizing and respecting is that of progress. It is not only that the people's intentions proclaimed in the Constitution's Preamble — “to form a more perfect union, establish Justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity” — make progress a Constitutional aspiration. In addition, by protecting freedom and thereby unleashing curiosity, experimentation, innovation, and risk-taking the Constitution fosters an interest in improvement, including improvement of the quality of government.

But not all forms of progress are equally consistent with the spirit of political moderation in which the Constitution was conceived. Less consistent is the immoderate progressive interpretation of improvement that brings bigger, bossier, more arrogant government dictating an ever-expanding array of rules to achieve a greater and more oppressive uniformity in outcomes.

Instead, conservatives should become proponents of progress understood as the crafting of better laws to protect individual freedom. And they should pursue that constitutional mandate, which has been reinforced by the November electoral mandate, in light of changing circumstances, essential constitutional constraints, and the enduring imperfections of human nature.

Of course Congress's first priority must be bringing spending under control and putting people back to work. But renovating our overextended and fraying social safety net is inseparable from the long-term task of placing our economy on a sound footing. Those who doubt that such is the proper work of conservatives should revisit *The Road to Serfdom*, Hayek's classic defense of individual freedom and limited government. In it, the great theorist of liberty does not argue for the abolition of the welfare state, indeed he recognizes the legitimacy of government assisting those who can't provide for themselves. Instead, he focuses his criticism on the progressive aspiration to undertake extensive central planning of the economy.

To be sure, repairing health care and Social Security without unnecessarily expanding government will require careful calibration of interests and reasonable accommodation of settled expectations and widely shared values.

Progressives seem to think that the task lies beyond conservative concerns and capabilities. After their November triumph, *New York Times* columnist Thomas Friedman recycled the conventional progressive wisdom that the current crop of Republicans are bereft of proposals for dealing with the country's problems, having nothing to offer except "a grab bag of tired clichés." But it is Friedman whose captivity to cliché prevents him from reporting accurately refreshing Republican public policy ideas.

For example, Representative Paul Ryan's Roadmap for America's Future, 2.0 — long available to all courtesy of the world wide web — presents a model of progress, conservatively understood. One can quarrel with the specific proposals it puts forward — for reforming health care, retirement, taxation, job training, and the budget process. But the spirit in which it approaches reform is exemplary.

The Roadmap starts from the understanding that unsustainable government spending is strangling the economy, which dims the prospects of all citizens for a decent future. It observes that steady expansion of government into the economy and society fosters a culture of dependency, which corrodes character by turning self-reliance into a vice. It nevertheless recognizes that government has acquired and must discharge "a necessary role in supporting the institutions through which Americans live their lives, and in providing a safety net for those who face financial or other hardships." And it insists that reforms must be designed and evaluated in light of their ability to promote individual freedom, personal responsibility, and economic prosperity.

Such an approach makes a fair claim to embodying the spirit of political moderation in which the Constitution was created and combining the commitment to limited government and judicious reform that is critical to conserving it.