

BUILDING A HEALTHY CULTURE Strategies for an American Renaissance

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A HEALTHY CULTURE

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*Strategies for an
American Renaissance*

ROSA M. MUGNIEW BUEZELIN

CHARLES KRAUTHAMMER

GERTRUDE FIMMELFART

SARA M. METHER LONDON, ANITA LIZIONI & DAVID PAPERNOE

THOMAS GORDON, GERALD R. J. DON KASS & STEPHEN GOLDSMITH

EDITED BY Don Eberly

FOREWORD BY U.S. Senator Sam Brownback

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This book is about culture — the state of American culture, why culture matters, and what can be done to promote cultural health. Composed of essays by well-known thinkers and unique in the breadth and depth of its discussion, this timely and constructive work argues for the importance of cultural health in maintaining a free and civil society and explores the theme of cultural renewal in many different sectors of life — family life, vocations, the media, and more.

As the contributors insightfully show, much of the moral and social breakdown in America is being fueled by cultural influences. The great challenge for this generation is both to think more seriously about culture and to develop initiatives and reform movements for positive change. Contrary to the common belief that major problems in our culture — moral license, sexual promiscuity, divorce, the loss of shame, shock, and manners — can be corrected through political action, the remedy pursued in this volume is to promote cultural renewal through cultural means — to replace bad culture with good culture.

The chapters in the first section of the book, "The Imperative of Building a Healthy Culture," focus on the ramifications of cultural decay, not only

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mative public movements and figures of the past, which provide insight for us as we seek cultural renewal today. Finally, in "Strategies for Cultural Renewal," organizers and scholars of numerous reform movements today — in areas ranging from courtship to community revitalization to journalism — describe the work currently being done and the work that still needs to be done to revitalize our culture.

The objective of *Building a Healthy Culture* is to start the process of recovery by addressing what may be the core problem — the lack of any meaningful discussion of long-term strategies to permeate and recover the culture. The book does not merely detail the current state of cultural decay in America but also takes the hopeful position that our culture can in fact be improved, and it offers politically balanced models for reform, many of which use voluntary associations to address a specific social or moral problem. If recent public opinion polls are correct, Americans long for an elevation of cultural standards. This book provides a significant blueprint for accomplishing just that.



DON EBERLY, a nationally recognized voice on issues of citizenship and community, is the founder of several national civic initiatives, including the National Fatherhood Initiative and the Civil Society Project. His career includes almost a decade spent in Washington, D.C., serving in various key positions in Congress and the White House. He has written extensively on issues of culture and society for journals and magazines and is the author or editor of several books, including *Building a Community of Citizens: Civil Society in the 21st Century* and *America's Promise: Civil Society and the Renewal of American Culture*.

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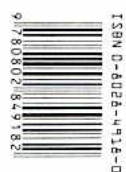
CONTRIBUTORS

Stephen H. Balch	Joseph Loconte
Kevin Belmonte	Herbert London
Elayne Glover Bennett	Elizabeth Lurie
T. William Boxx	Terry Martingly
Zbigniew Brzezinski	Joe Mellhane
Don Eberly	Michael Medved
Amirai Etzioni	Eric Miller
John Fonte	David G. Myers
Mary Ann Glendon	Kenneth A. Myers
Stephen Goldsmith	David Popenoe
Cherie S. Harder	Robert Royal
Elizabeth L. Haynes	Amy L. Sherman
Gerrude Himmelfarb	Curt Smith
Wade E. Horn	Wesley J. Smith
Leon Kass	John G. West Jr.
Charles Krauthammer	William B. Wiecherman
Thomas Lickona	Christopher Wolfe



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The Culture: “Upstream” from Politics

WILLIAM B. WICHTERMAN

Political interest in America’s worsening cultural conditions has grown in recent years. Some have even characterized the polarized political debate over moral values as a “culture war,” which indeed it often appears to be. The rise to majority status of the Republican Party in the United States Congress in the 1994 elections was made possible in part by a constituency and an agenda that took dead aim at America’s cultural conditions.

I write not only as a cultural conservative, but also as one who served as a congressional staff member in the midst of this convulsive political period in Congress. Over the past decades, a series of unexamined assumptions has settled in the consciousness of many of my fellow conservatives. (Although liberals have clung to mythologies of their own, my focus is on cultural conservatives.) Republicans’ perceived¹ performance in Congress, simultaneously alienating “mainstream” citizens and disappointing the conservative core constituency, is prompting cultural conservatives to reexamine their assumptions.

The conventional wisdom of many cultural conservatives runs something like this: Our nation is in decline largely due to a series of public policy mandates, especially those handed down by the courts. These mandates have undermined the founding principles of our country and the institutions of society. Since the

1. I say “perceived” because many of Republicans’ legislative actions have been widely misreported by the media. From school lunch funding to the proposed ban on partial birth abortions, the media has regularly failed to accurately portray what is being proposed.

culture wars began through government, so the argument goes, they can and must be won through government. Whether it is the abortion license, no-fault divorce, school prayer, special legal protections for homosexuals, or pornography, many cultural conservatives believe they must elect a conservative majority and appoint conservative judges to reverse the nation's moral corruption.

In contrast, I believe that the cause of America's moral degradation is not political but cultural. While cultural conservatives bemoan judicial activism that reinterprets the plain meaning of the written Constitution, they forget that the courts are only finishing on parchment a job already begun in the hearts of the American people. A sound cultural constitution that values the good, the true, and the beautiful, and that seeks to suppress perverse inclinations, has been subverted by our rejection of transcendent truth, and the interpretation of the written Constitution has reflected that change. Transcendence has been erased from the paper only as it has drained from our culture. Politics is largely an expression of culture.

Many cultural conservatives have difficulty believing this since they have been steeped in the doctrine that politics is the root of America's cultural decay, rather than its flower. This belief has led them to overlook more influential shapers of culture, and misled them into believing that conservative governance could have prevented cultural debasement. The truth, as social commentator Don Eberly has rightly noted, is that "politics is downstream from the culture."

Cultural conservatives concerned about moral erosion have spent much of their energy working for change in the political sphere, and too little energy working in the cultural sphere. Economic liberals have tried the same tactics with similar results.² This has been a profound mistake, not because politics plays no role in shaping the nation, but because its role is less important than that of other culture-shaping institutions: the family, academia, journalism, religion, entertainment, literature, and the fine arts.

The Framers of the Constitution understood the primacy of culture and founded a government intended to reflect the higher elements of a generally virtuous populace. As American culture continues its slide away from belief in transcendent truth, the Framers' constitutional order is slowly being replaced by an increasingly democratic legislature, reflecting the appetites of the majority. Even the judiciary, the branch most associated with leading the nation against the majority, largely reflects social changes already underway.

The task before cultural conservatives is to renew the culture, thereby re-

2. In the twentieth century, liberals tried to institute economic centralized planning. By the end of the century, it was becoming clear that their attempts were falling short. It has proven impossible for statist economic policies to be sustained as the culture exalted higher still individualism and liberty.

storing an operative acknowledgment of transcendent truth. Without this renewal, the unwritten constitution of the culture will continue to deny transcendence and degrade morals, and our society will keep on sliding into the moral abyss. And since government is, in Plato's phrase, the soul writ large, this degradation cannot help but find expression in the state.

The Unwritten Constitution of the Culture

That the culture is in a steady decline, if not a virtual free fall, has been amply demonstrated by numerous commentators, including William Bennett, William Raspberry, and Robert Bork. One only has to surf network television, browse through a Blockbuster video store, attend an academic conference or "professional" wrestling bout, or walk through an art museum to witness the cultural toxicity. Fatherlessness, abortion-on-demand, random violence, drug abuse, rampant extra-marital sex, debasing manners, and general incivility all point to a nation headed to moral oblivion.³ The corruption of popular culture is led by the framers of the unwritten constitution, those individuals and institutions that shape the mores and habits of the heart. I posit that CNN's Ted Turner and Hollywood movie producer Oliver Stone have a far greater impact on culture than the entire U.S. Senate.

It is important to note that it is not just political conservatives who are concerned about cultural ill health. There are many Americans of all political stripes who decry teen pregnancy, violent videos, the collapse of marriage, and the vulgarity of prime-time television. Although they may differ with conservative Republican legislative prescriptions, they join in the chorus of dissenting voices decrying the direction of American culture, and we must not overlook their participation in cultural renewal.

The primary spiritual illness afflicting the culture is the loss of an active belief in absolute truth that transcends the immanent realm or present temporal world. Transcendence, as it will be used here, refers to belief in absolute truth grounded in a reality larger than the collection of temporal events and experiences forming everyday life. C. S. Lewis refers to belief in transcendence or "the Tao" as "the doctrine of objective value, the belief that certain attitudes are really true, and others really false, to the kind of thing the universe is and the kind of things we are."⁴ This is not to say that cultures rooted in transcendent

3. While some of these downward trends have turned the corner in recent years, the historic trajectory has been grim and cause for celebration is premature.

4. C. S. Lewis, *The Abolition of Man* (New York: Macmillan Publishing Co., Inc., 1947), 29.

truth are immune to social decay. Indeed, the content of this belief in transcendent truth is very important. Nonetheless, it is the eroding of belief in transcendence and the rise of subjectivism⁵ that is at the core of the American culture's declining health.

At first glance, the rejection of transcendence by Americans is not readily apparent from the evidence. According to the Barna Report,⁶ 95 percent of Americans still believe in God; 68 percent agree God is the all-powerful, all-knowing, perfect creator of the universe who rules the world today; 84 percent believe Jesus was God or the Son of God; and 43 percent attended church in the last week. On the other hand, 72 percent of adult Americans believe that "There is no such thing as absolute truth; two people could define truth in totally conflicting ways, but both could still be correct" — and this includes 62 percent of born-again Christians and 42 percent of Evangelical Christians.⁷ In other words, a significant percentage of Americans have inherited a theistic world from previous generations but they have "syncretized" it with the cultural elite's relativism, holding fundamentally incompatible ideas and affirming both simultaneously. The so-called moral majority is at best a schizophrenic majority, both embracing a transcendent God of the universe and rejecting the very basis of that belief.

James Davison Hunter's portrait of America as a deeply divided people, locked in a culture war with one another, does not seem to comport with the operational subjectivism of most Americans. Closer to the mark may be Alan Wolfe's *One Nation, After All*. Wolfe argues that there is no culture war because the middle class does not believe in most things strongly enough to want to impose them on others. While he agrees that America's elites are engaged in cultural conflict, he finds that America's middle class has found a common creed in a nonjudgmentalism that trumps morality. Thus, when the Supreme Court hands down decisions overturning state restrictions on abortion and Internet obscenity, bans student-led prayer in official school functions, and mandates legal authority to enact special rights for homosexuals as a protected class, Americans register their disapproval in opinion polls, but not at the polling booth. Where the Court's decisions should provoke legislative and electoral resistance, the public shrugs. For many supposedly theistic Americans, their morality has no legs.

It would be wrong to say that American culture has completely rejected transcendent truth. To be sure, there is much in American society that is still

5. "Subjectivism" means that all truth is relative and is defined by the individual.

6. Website (www.barna.org) under "Research Archives," "Beliefs: general religious, heaven and hell, and theological."

7. George Barna, *Virtual America* (Ventura, Calif.: Regal, 1994).

rooted in a notion of objective right and wrong. The overall trajectory of American culture, however, is cause for great alarm.

The Power of the Unwritten Constitution over the Written Constitution

Some will argue that the American form of government is not so easily changed or its Constitution so easily amended that this cultural degradation will find expression in the wise government of the people. The true genius of the American Experiment, they say, lies in its insightful structuring of checks and balances among the branches of government, not in the character of its citizens. The Framers recognized the limitation of trusting in human goodness to establish good government and overcame that obstacle through their clever drafting of the Constitution.

This attempt to privatize morality and pretend that it has no effect on government does not work. In time, the unwritten constitution of the culture does rewrite the constitution on paper. In his book *The Revenge of Conscience*, J. Budziszewski writes that “every country gets the government it deserves: one cannot expect liberty, justice, or concern for the common good where knaves rule a rabble. . . . The single greatest problem of politics is simply this: How can we make government promote the common good when there is so little virtue to be found?”⁸ Attempts to recover a correct rendering of the Constitution solely through the appointment of strict constructionists to the high court, while laudable and important in their own right, overlook the greater influence of popular culture on judicial decision-making.

The restoration of just policies must be preceded by the rediscovery of transcendent truth in the unwritten constitution our culture creates. Robert Bork notes that “The tyrannies of political correctness and multiculturalism will not be ejected from the universities by any number of conservative victories at the polls. Modern liberals captured the government and its bureaucracies because they captured the culture. Conservative political victories will always be tenuous and fragile unless conservatives recapture the culture.”⁹

It would certainly be a mistake to think of politics as nothing but a reflection of culture. Law is a teacher, and politics is one of the culture-shaping institutions. Legal sanctions do help to inform and guide the conscience of a nation.

8. J. Budziszewski, *The Revenge of Conscience: Politics and the Fall of Man* (Dallas: Spence Publishing, 1999), pp. 55-56.

9. Robert H. Bork, *Slouching Towards Gomorrah: Modern Liberalism and American Decline* (New York: Regan Books, 1996), p. 339.

Everything from tax policy to health insurance law plays a role in shaping culture. My own active political involvement underscores this conviction. The mobilization of voters, the distribution of voter guides, congressional hearings, petition drives, phone banking, and fundraising are integral to a healthy republic. There is every indication that increased political activity by citizens concerned about cultural renewal would have a positive impact on government actions. With declining rates of voting, organized political activity is unquestionably effective in shaping government policies. Therefore, calls to abandon the political realm are both wrong-headed and irresponsible.

But the tendency for many Americans is to overstate the importance of politics in shaping culture. When compared with Hollywood, academia, media, or the family, politics plays a relatively minor role in forming culture. Political life, while it may appear to be at the vanguard of a society, is more like the infantry. Politics stands at the front lines, but is directed from the rear by the culture. Its prominence in the place of battle may deceptively suggest that the battle rages there. That we mark our history by various government actions like the New Deal, the Great Society programs, *Roe v. Wade*, and the 1994 Republican congressional takeover might suggest that law and politics lead our society. On the contrary, notes philosopher Michael Oakeshott, politics protects a particular social order, but it does not lead or guide it. The Magna Carta and the Bill of Rights only *seem* to emerge from the political order. In fact, their content is written by a "stratum of social thought far too deep to be influenced by the actions of politicians."¹⁰ Oakeshott continues: "A political system presupposes a civilization; it has a function to perform in regard to that civilization, but it is a function mainly of protection and to a minor degree of merely mechanical interpretation and expression." The animating genius of any political system is far behind the lines of the visible political battle, calling the shots like a general.

Edmund Burke wrote that "manners are more important than laws," and Plato wrote, "Give me the songs of a nation, and it matters not who writes its laws." Consider what animates most individuals: literature, religion, entertainment, and music. Individuals rarely change their lives based on a political speech or a government act. An individual may be inspired to work for a political candidate who reflects what he finds most important in preserving or creating a certain kind of culture. But, more often than not, it is the cultural consensus that precedes the political expression.

10. Michael Oakeshott, *Religion, Politics, and the Moral Life*, ed. Timothy Fuller (New Haven: Yale University Press, 1993), p. 93.

The American Framers' Reliance on Culture

The Framers of the United States Constitution believed that a republic could be maintained only with a healthy culture as its foundation. Although the Framers did not specifically use the word "culture," their concern for republican virtues among the citizens was another way of saying the same thing. John Witherspoon, signer of the Declaration of Independence and professor and president of the College of New Jersey (later Princeton University), who was dubbed the "great teacher of the American Revolution," said:

Nothing is more certain than that a general profligacy and corruption of manners make a people ripe for destruction. A good form of government may hold the rotten materials together for some time, but beyond a certain pitch, even the best constitution will be ineffectual, and slavery must ensue. On the other hand, when the manners of a nation are pure, when true religion and eternal principles maintain their vigour, the attempts of the most powerful enemies to oppress them are commonly baffled and disappointed.¹¹

George Washington said in his Farewell Address of 1796 that "Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports."¹² Likewise, Gouverneur Morris, drafter of the U.S. Constitution and the ambassador to France during the French Revolution, wrote, "[The French] want an American Constitution with the exception of a king instead of a President, without reflecting that they have no American citizens to uphold that constitution."¹³ It was the constitution written on the heart of the American citizenry that made the difference between France and the United States. "While the law allows the American people to do everything," wrote Alexis de Tocqueville, "there are things which religion prevents them from imagining and forbids them to dare. . . ."¹⁴

If the brilliance of the American government lay solely in its Constitu-

11. John Witherspoon, "The Dominion of Providence Over the Passions of Men: A Sermon Preached at Princeton on May 17, 1776," in *Political Sermons of the American Founding Era (1730-1805)*, ed. Ellis Sandoz (Indianapolis: Liberty Press, 1991), p. 553.

12. George Washington's Farewell Address of 19 September 1796, in Matthew Spalding and Patrick Garrity, *A Sacred Union of Citizens* (Lanham, Md.: Rowman and Littlefield, Inc., 1996), p. 183.

13. Gouverneur Morris, letter of 10 July 1789 to William Carmichael, in *The Life and Writings of Gouverneur Morris*, vol. 2, ed. Jared Sparks (Gray and Bowen, 1832), p. 75.

14. Alexis de Tocqueville, *Democracy in America*, in *Political Thought in America*, ed. Michael B. Levy (Chicago: The Dorsey Press, 1988), p. 295.

tion, there would be no reason to worry about the unwritten constitution of its citizens. The Framers, however, believed that government is "the greatest [as in "truest"] of all reflections on human nature. . . . If men were angels, no government would be necessary."¹⁵ Even with the careful thought behind the founding document, the brilliance lay not in the Constitution as an abstract document divorced from the spiritual and cultural state of a people, but as a document which reflected the highest, truest, and best in the American people at that point in history. Benjamin Franklin responded to the wife of the mayor of Philadelphia, who asked what the Constitutional Convention had crafted, by saying, "My dear lady, we have given to you a republic — if you can keep it."¹⁶ His reply demonstrates that the Framers knew that the durability of the new nation would reside not primarily with the superior design of the government but with the enduring character of the nation's culture.

A Republic, Not a Democracy, to Reflect the Will

Although a healthy culture was necessary for the maintenance of a healthy polity, it alone was not sufficient. The Framers consciously intended to construct a democratic *republic* that would be an expression of the people's higher selves as manifested in the will, and an inhibitor of the lower self, manifested in the passions. Political theorist Claes Ryn writes that the higher self "refers to that in our being which pulls us in the direction of our own true humanity, that is, towards the realization of our highest potential as defined by a universally valid standard."¹⁷ The lower self is moved by human appetites and is guided less by conscience and more by short-term self-interest. The will affirms transcendence, and the passions reject it.

From this desire to accentuate the healthy elements of culture, the Framers consciously chose not to establish a democracy. In fact, the word "democracy" does not even appear in the U.S. Constitution. Americans have largely lost the ability to distinguish between democracy and the democratic *republic* established by the Framers, and would be surprised to read the harsh words the Framers had for democracy. James Madison warned, "Democracies

15. James Madison, *The Federalist Papers*, No. 51.

16. Taken from "America's Bill of Rights at 200 Years," by former Chief Justice Warren E. Burger, printed in *Presidential Studies Quarterly*, vol. XXI, no. 3 (Summer 1991): 457.

17. Claes Ryn, *Democracy and the Ethical Life* (Washington, D.C.: The Catholic University of America Press, 1990), p. 62. This book is essential reading for individuals interested in the relationship between culture and politics. Dr. Ryn's works, Plato's *Republic*, and Eric Voegelin's series of works, *Order and History*, have been the most important influences in crafting my thesis.

have ever been spectacles of turbulence and contention.”¹⁸ Fisher Ames, author of the House of Representatives’ language for the First Amendment, said, “The known propensity of a democracy is to licentiousness which the ambitious call, and ignorant believe, to be liberty.”¹⁹ According to Gouverneur Morris, “Democracy [is] savage and wild.”²⁰ “A simple democracy . . . is one of the greatest of evils,” inveighed Benjamin Rush, signer of the Declaration of Independence.²¹ John Witherspoon warned that “Pure democracy cannot subsist long nor be carried far into the departments of state — it is very subject to caprice and the madness of popular rage.”²²

Instead, the Framers sought to establish a democratic republic in which the immutable law of the universe, rather than the nominal majority, was more likely to find expression in government. They hoped to impede the majority’s passion from expressing itself in government and to ensure that the majority’s will, which the Framers insisted must be grounded in an affirmation of transcendent truth, would find its voice. Theirs was a popular government whose majoritarian elements, while not absent, would be softened by representation, divided government, and constitutional authority.

Because the Framers believed that humanity was corrupt,²³ they relied, in part, on representation rather than on plebiscite. Representation was not an unfortunate byproduct of a large nation, destined to waste away once the means of more direct democracy were achieved. Even supposing that electronic technology had been available to the new nation, permitting online voting, referenda, and polling data, the Framers would have chosen representation. They believed representation would serve as a check on the passions of the majority. This check was designed not only to protect minorities, but also to protect the majority from its

18. James Madison, *The Federalist Papers*, No. 10.

19. Fisher Ames, “The Dangers of American Liberty” (February 1805) in *Works of Fisher Ames* (Boston: T. B. Wait & Co., 1809), p. 384.

20. Gouverneur Morris, *An Oration Delivered on Wednesday, June 29, 1814, at the Request of a Number of Citizens of New-York, in Celebration of the Recent Deliverance of Europe from the Yoke of Military Despotism* (New York: Van Winkle and Wiley, 1814), p. 22.

21. Benjamin Rush, letter to John Adams on 21 July 1789, in *The Letters of Benjamin Rush*, vol. 1, ed. L. H. Butterfield (Princeton: Princeton University Press for the American Philosophical Society, 1951), p. 523.

22. John Witherspoon, *The Works of John Witherspoon* (Edinburgh: J. Ogle, 1815), vol. VII, p. 101, Lecture 12 on Civil Society.

23. Consistent with the Judeo-Christian worldview in which they were grounded, the Framers believed that humanity had fallen short of what God intended it to be. This “Fall” (to use the biblical idea) from God’s intentions and his original creation does not mean that humanity is as bad as it could be, or that it can never rise above the worst proclivities of the heart. But it does mean that the whole self (reason, will, emotions, etc.) is subject to sin and self-deception.

lower self. Representatives were to "refine and enlarge the public views by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country . . ." ²⁴ While supporters of majority rule abhor the notion that representatives would do anything other than directly transmit the majority opinions of their constituents, the Framers relied on representatives as one way of thwarting the majority's sometimes flawed judgment.

To inhibit majorities, the Framers also relied on checks and balances among the branches of government. They distrusted governmental power not only because of its ability for an elite few to oppress the majority, but also because of the ability of the majority to oppress a minority. They sought to establish a system in which a bicameral legislature, ²⁵ a chief executive wielding a veto pen, and an independent judiciary would be in constant tension with one another. This complicated structure ensured that quick action by the government, especially in domestic affairs, would be difficult to achieve without an overwhelming and sustained consensus. The government was deliberately hobbled with inefficiencies and duplication in order to thwart the passions of transient majority opinion. It is no wonder that this complicated structure is anathema to majoritarian enthusiasts, who are frustrated by the inability of the voters to quickly and easily force government action.

The third check on popular wishes was intended to be the most difficult of all to surmount. The Constitution, the literal embodiment of the enduring will of the people, was crafted to express the people's higher and more virtuous aims, and was intended to be "a mirror for the national conscience." ²⁶ It was ratified by near unanimity, ensuring that it reflected the clear consensus of the people. The Constitution codified the principles by which justice would be sought. ²⁷ As Ryn writes, "The constitutional norm serves as a constant reminder of the contrast between the values endorsed by the people in its better moments, when it looks at politics in the perspective of the moral end, and the imperfect, sometimes degrading practice of day-to-day politics." ²⁸

To ensure that the Constitution reflected the enduring will of the people,

24. Madison, *The Federalist Papers*, No. 10.

25. Interestingly, Reform Party Governor Jesse Ventura of Minnesota, a noted populist, advocates the elimination of the bicameral legislature in the states, since it impedes the instant expression of the majority. But he maintains that it is still important in the federal legislature to ensure that smaller states' rights are not trampled upon by larger states.

26. René de Visme Williamson, *Independence and Involvement: A Christian Reorientation in Political Science* (Baton Rouge: Louisiana State University Press, 1964), pp. 126-27.

27. Proceduralists expect the majority to define justice, but the Framers expected the complicated republic to approximate the pre-existing justice which transcends time and place. Consistent with natural law theory, the Framers assumed that justice existed, and it was the role of a healthy government to approximate that law.

28. Ryn, *Democracy*, p. 199.

instead of their temporal passions, the Framers made certain that it would only be passed after much deliberation. The value of deliberation stands at the heart of the process enacted by the Framers. Unlike the majoritarian theory which views deliberation as an unnecessary impediment to expressing the public voice, the Framers' view of deliberation was rooted in their desire to approximate transcendent justice. If transcendent truth exists, and humans are corruptible and self-interested, as the Framers believed, then deliberation is necessary to *reveal* truth. The Constitution could be ratified only after approval by the supermajority of both chambers and the affirmation of three-fourths of the state legislatures, and the deliberation required to accomplish this was intended to establish the fundamental principles by which the republic would function.

Once the Constitution was enacted, the Framers intended the Supreme Court to safeguard the enduring principles of the Constitution, or the higher self of the people. Although a simple majority vote in the legislature was enough to enact our passions, the Court was designed to defend the people's higher will by checking their baser passions. If the passions of a majority sought to overcome the Constitution's will as defended by the Court, a constitutional amendment was required — an almost insurmountable barrier to any but the most enduring of our designs. The idea of an unelected body serving for life, independently interpreting the U.S. Constitution to ensure that the majority does not override fundamental principles, expressed the Framers' belief that higher principles should not easily be cast aside.

The cultural antecedents for the establishment and ratification of the U.S. Constitution were the acknowledgment of transcendent justice and truth, humanity's corruptibility, and the importance of empowering the will and mitigating the passions. Out of this worldview was born the Framers' democratic republic in which numerical majorities were inhibited through representatives, a divided government of checks and balances, and a Constitution affirmed by a supermajority.

Rousseau's Democracy of Passions

The Framers' constrained and inhibited popular government stands in stark contrast to the majoritarian democracy advocated by individuals with a more rosy view of human nature. For them, representative government is a poor excuse for a more robust democracy of the people with fewer undemocratic elements. The basis of their beliefs is easily traceable to the influential eighteenth-century political theorist Jean Jacques Rousseau, who rejected representation and constitutionalism as illegitimate expressions of the people's interests.

Because Rousseau believed that the only true democracy was the direct

vote of the entire popular assembly of all adults, he regarded representative democracy as an oxymoron²⁹ and viewed representation as a form of enslavement. The only time citizens of a representative democracy are free, he argued, is on Election Day when they cast their votes for their representatives.³⁰ Rousseau also rejected any constitutional limitations on the direct expression of the people's desires. A law passed last year could not be binding for this year's citizens, who are subject only to the current majority.

Undergirding Rousseau's rejection of representation and constitutional limits was his belief in the innate goodness of humanity. In a well-constituted state where the goodness of nature rules, "good sense, justice, and integrity" belong to everyone equally. Therefore, the general assembly will inevitably reflect that goodness in its laws. The natural passions and appetites are the very sources of goodness in humanity. Virtue is spontaneous, natural, and within the grasp of anyone at any time; it is not the result of arduous self-discipline. Decisions made by the popular assembly should be nearly unanimous, since justice is achieved not by "long debates, dissensions, and tumult," but by harmony and agreement.³¹ Deliberation only signifies that humanity's natural inclinations are being corrupted by reason, according to Rousseau.

Rousseau's distrust of the anti-majoritarian character of the U.S. Constitution finds modern expression in prominent political theorists such as Robert Dahl. Dahl contends that the Framers, while nobly seeking to defend civil rights, erroneously constructed a government "adverse to the majority principle, and in that sense to democracy."³² In effect, the Constitution, argues Dahl, favors privileged minorities and thwarts the wishes of the majority at every turn. In their effort to protect inalienable rights, the Framers undermined democratic procedures by favoring elite minorities. In the place of the constitutional democracy established to reflect transcendent justice, Dahl puts forward a procedural democracy.³³ In a procedural democracy, fair procedures take precedence over particular ends; justice is *defined* by the orderly democratic process. There is no concern about whether the decisions of that process are right or wrong, since they are "correct," by definition.³⁴

29. Jean-Jacques Rousseau, *On the Social Contract*, in *The Basic Political Writings*, trans. Donald A. Cress (Indianapolis: Hackett Publishing, 1987), p. 198.

30. Rousseau, *On the Social Contract*, p. 154.

31. Rousseau, *On the Social Contract*, p. 205.

32. Robert Dahl, "On Removing Certain Impediments to Democracy in the United States," *Political Science Quarterly* (Spring 1977), p. 5.

33. For an excellent exposition of the difference between procedural and republican democracy, see Michael Sandel, *Democracy's Discontent* (Cambridge, Mass.: Harvard University Press, 1996).

34. In the seventeenth century's *Leviathan*, Thomas Hobbes also entrusted the

Rousseau and Dahl demonstrate the implications for the American Experiment of a rejection of transcendent truth. Their common view of humanity's natural goodness led them to advocate government that encourages uninhibited majorities, government in which appetites find greater and more immediate political expression. The more popular culture adopts the basic outline of their worldview, the more their models for governance will be accepted by the populace.

The Erosion of the Framers' Republic

It is striking to note how different was the Framers' understanding of the democratic republic they created from that envisioned by Rousseau and touted by today's cultural leaders. Where majoritarians seek direct rule, the Framers preferred representation. Where majoritarians eschew all constitutional limits on the people assembled, the Framers relied on a constitution affirmed by a supermajority to constrain the will of the simple majority. Where majoritarians believe that all values are morally equal and that virtue was that which comes naturally, the Framers believed that humanity was corrupted, that virtue was cultivated through self-discipline, and that elected individuals of superior wisdom should interpret the long-term interests of the people. Where majoritarians are contemptuous of deliberation and reason, the Framers believed that deliberation was necessary to attain wisdom. Where majoritarians and proceduralists eschew any limits on the popular opinion and want a more efficient governmental mechanism to reflect that view, the Framers built a system intended to foil hastiness and express the will rather than the passions. The unwritten constitution of the Framers' culture produced a written constitution in stark contrast to that envisioned by majoritarian proponents.

Given that Americans are increasingly adopting a subjectivist worldview and retreating from the Framers' fundamental belief in transcendence, it is not surprising that the structure of our government is beginning to look more like Rousseau's ideal and less like the Framers' model. This brings us to a specific examination of how the unwritten constitution of the culture is rewriting American government.

power of defining justice to the state, making him a forerunner of the postmodern rejection of transcendent justice. Although he entrusted all power to the sovereign ruler while proceduralists entrust it to the people, both insist that justice is only what the state defines it to be, and nothing more.

The House: Democracy on the Rise

The Framers, while not enthusiasts for democracy, were intent on establishing popular government in which the ultimate authority for decision-making lay with the people. It is commonly known that they established a bicameral legislature to reflect the tension between the larger and the smaller states. What is less recognized, however, is that this bicameral structure also reflected the Framers' understanding of the self as divided between the will and the passions.

The Framers recognized the need for the more immediate expressions of the people's passions in the House of Representatives. With their two-year terms and smaller constituencies, House members were intended to be in closer touch with the short-term views of the numerical majority than was the Senate. Furthermore, the more rigid rules of the House were supposed to ensure that the majority party would have tight control over what bills were debated, the timing of their consideration, and what amendments would be considered. This framework ensures that numerical majorities are better able to act on the immediate interests of the majority of the American people.

As popular culture gradually accepts the notion that all values are of equal worth, that absolute truth does not exist, and that the cult of the self replaces theism, however, the internal structure of the House has become more democratized than was intended by the Framers. The Framers had envisioned strong House leadership guiding the body, but the centralized power has been drained away from the Speaker to committee chairs and rank-and-file members. The post-Watergate reforms have increased the number of subcommittees and the power of their chairs to control the House.³⁵

Individual members of Congress have also become more firmly tied to the wishes of the majority within their congressional districts. Advances in electronic communications and media coverage, the competitive nature of House races, the advent of polling, and improved transportation have aided Representatives in keeping in closer contact with their constituents. E-mails, blast faxes, lobbying groups, C-SPAN, and nonstop media coverage ensure that interested constituents can monitor the progress (or regress) of their individual concerns and provide daily input to the Congress. These technological changes, combined with the cultural demand for more direct democracy, have heightened the responsiveness of House members to their constituents.

Ironically, Americans feel increasingly disconnected from their government. There is a widespread belief that the Congress is more attuned to the

35. The Republican takeover of 1994 has returned some power to the House leadership. However, Speaker Newt Gingrich's consolidation of power is slowly being reversed by his successor, Speaker Dennis Hastert.

agendas of special interest groups than to the constituency at home. In fact, just the opposite is true. Members of Congress carefully watch polling data to guarantee that their votes reflect the majority within their constituency and constantly track constituent concerns to ensure they are "in touch." Representatives live in closer communication with their constituents and are more responsive to their concerns than at any point in American history.

The Senate: Losing Its Resistance

If the House was to be the hot tea, the Senate was to be the saucer to cool it. It was to take a longer, more deliberative view, reflecting the more long-term will. Whereas House members were to be in closer touch with voters due to their shorter electoral terms, Senators were given six years between elections, providing them greater leeway to make decisions that might conflict with the short-term majority interests in their states. Furthermore, only one-third of the Senate is up for election every two years, further insulating it from fleeting passions. Senators also represent entire states, diminishing their ability to reflect a more confined majority in a smaller congressional district. Their election by the state legislature further insulated them from momentary majorities. And the ability of the Senators to filibuster legislation by controlling the debate indefinitely and preventing a vote was a powerful check on the majority's passions. The Framers intended that the Senate, while still a body representing citizens, would be several steps removed from the people.

Once again, it is clear that culture has shaped politics. The rise of subjectivism and its subsequent demand that ostensibly benign human nature be given rein in immediate popular expression has resulted in the erosion of some of the more reflective elements of the Senate. The constitutional amendment ratified in 1913 to provide for the direct election of Senators, instead of their indirect election by the state legislatures, was an expression of the people's desire to have greater direct control over their Senators. Likewise, the ability of a single Senator to filibuster has been gradually eroded by the growing strength of cloture voting.³⁶

36. Although the filibuster was not an invention of the Framers, it was created by Senate rules in 1806. From 1806 until 1917, there was no means to end debate. Not until 1917 did the Senate adopt Rule 22, permitting a vote on cloture upon the petition of sixteen Senators. If two-thirds of the Senators present and voting approved shutting off debate, cloture was invoked. In 1975, Rule 22 was strengthened to allow just three-fifths of the entire membership (sixty Senators) to stop unlimited debate. Even then, another thirty hours of debate was permitted to proceed.

*The Executive Branch: Institutionally Strong,
but Weak in Character*

Unlike the Congress, where majoritarian reforms are slowly eroding the ability of the legislature to act independently, the executive branch is not losing its ability to override temporal majorities. When the Framers established the presidency, they recognized that government needs the ability to lead decisively, especially in times of crisis. The President's veto power, another way the Framers placed a check on the majority, remains inviolate.

Although the institution of the presidency is basically sound, it is the character of its office holders that is reflecting the cultural predilection for majoritarianism. Take, for instance, President Bill Clinton's reliance on polling to guide policy decision-making. When the news first broke in January 1998 that the President of the United States had an affair with a White House intern, President Clinton commissioned political consultant Dick Morris to conduct a poll. According to Morris, the poll showed that Americans would forgive adultery, but would not abide perjury or suborned perjury. The President allegedly replied that he would "just have to win then."³⁷ Well-documented sources have demonstrated a similar reliance on polling in military actions and domestic policy-making.³⁸

Although the presidency retains its institutional strength, the means of its election, the Electoral College, is under attack. Many Americans no longer understand the need for an Electoral College. They fail to see the need for a second body to interpret or restrain the immediate vote of the people as expressed in a national election. Whereas the Framers intended electors from each of the states to be people of wisdom who would be a potential check on an unwise decision of a national majority, the public views electors as an anachronistic and anti-democratic restraint on the people. Providing the electors do not override the majority's wishes, the Electoral College will continue to be tolerated, if only because removing it would require the almost impossible process of a constitutional amendment.

I should note that it is not my intent to prescribe constitutional or governmental reforms to stem the cultural tide of moral degradation. In fact, such governmental reforms could not possibly redirect culture if it were not willing to be so directed. For instance, bringing back the indirect election of the Senate, strengthening the filibuster, or reinvigorating the strength of the House Speaker

37. Interestingly, the poll results did not comport with the ultimate willingness of the American people to retain a President who they believed did, in fact, lie under oath.

38. See Dick Morris, *Behind the Oval Office: Getting Reelected Against All Odds* (Los Angeles: Renaissance Books, 1999).

would have little, if any, impact on the restoration of just government. The point is that the government's evolution reflects the culture's premium on democracy as the cure for American ills. Preference for direct democracy emanates from the loss of a belief that Representatives are to pursue justice. Representatives and senators are now seen as mere conduits for expressing their constituents' desires. The constitution of the heart reinterprets the Constitution and concretely changes the process of American governance.

Yet it is in the Supreme Court, the body designed to be least subject to the passions of the majority, where the public's operational rejection of transcendent truth is most fully expressed.

Leadership in the Courts: Reflecting and Accelerating Social Degradation

Cultural conservatives have come to see the judicial branch as the chief enemy of well-ordered government. Repeatedly the courts have seemed to thwart the wishes of the majority on issues such as flag burning, abortion, school prayer, homosexual rights, and pornography. In each case, national polls have indicated that a majority of the nation has stood for more conservative principles than those handed down by the Court. The symposium in the journal *First Things* on the Court's usurpation of popular government³⁹ struck a responsive chord among many cultural conservatives. But the symposium ignored that the Court is heading where the culture is already leading, and where the cultural gatekeeping institutions have already arrived.

Roe v. Wade: Joining the Sexual Revolution

Take, for instance, the first item in the social conservative indictment against the corrosive influence of the federal government, the Supreme Court's 1973 ruling in *Roe v. Wade*. In the pre-*Roe v. Wade* era, the thinking goes, abortion in America was almost always illegal, in many cases unsafe, and above all rare. *Roe* constituted a sudden and dramatic change, not just in the theory of abortion, but in its practice. The Court legitimated a practice, say conservatives, and breached a philosophical wall that released the abortion plague on a mostly pro-life American culture. Thus came the revolution, which quickly resulted in an annual abortion rate in excess of one million per year, rising as high as 1.6

39. See Richard John Neuhaus, ed., "The End of Democracy? The Judicial Usurpation of Politics," *First Things*, November 1996, pp. 18-42.

million in the late 1980s. Absent the Court's decision, the argument continues, the legal abortion rate would have remained very low.

Not surprisingly, the true story of abortion in America is quite different. In 1972, just prior to *Roe*, nearly 600,000 *legal* abortions were performed in the United States. In fact, the national abortion rate had actually increased faster *before* the High Court's actions (see Figure 1 on p. 94).⁴⁰ Eighteen states had liberalized their abortion laws in the five years before *Roe*. California, New York, Washington, Alaska, and Hawaii had a largely unlimited abortion license. Seventy-five leading national organizations had endorsed repeal of all abortion restrictions from 1967-1972, including twenty-eight religious and twenty-one medical groups — even the YWCA had joined in.⁴¹ National surveys conducted before and after the landmark abortion decisions demonstrate a conflicted public opinion. On the one hand, in the year leading up to the January 1973 decision, national polls found that 64 percent of Americans believed that abortion should be decided solely by a woman and her physician.⁴² On the other hand, most Americans believed that it is against God's will to destroy any human life, especially that of an unborn baby (63 percent in March 1973), and that no one's life, including an unborn child's, should be taken without permission (55 percent in March 1973).⁴³ The public's loyalties were torn between belief in transcendent truth and subjectivism.

Even if conservatives had held a majority on the Court, upholding instead the states' ability to prohibit or restrict abortions, I argue the abortion rate still would have continued to grow. In fact, the abortion rate probably would have climbed to at least one million per year even without *Roe*, and more likely higher still. Pro-choice citizens would have been ignited to mobilize to change more state laws, and pro-life Americans would have rested on their victory in the Supreme Court. With 70 percent of the population living within a two-hour drive of a state with an abortion license, access to elective abortion would have remained high.⁴⁴

The loss of respect for life, rooted in the sexual revolution of the 1960s,

40. Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* (Chicago: The University of Chicago Press, 1991), p. 184. I am indebted to Rosenberg's work in shaping my understanding of the limits of Court action in effecting cultural change. While an obvious proponent of the cultural changes, Rosenberg adeptly demonstrates that the Court is powerless to start change and can, at best, only encourage its continuation. Absent a broader social movement for the change in question, the Court's power is sharply muted.

41. Rosenberg, *The Hollow Hope*, p. 184.

42. Gallup, June 1972.

43. Louis and Harris Associates, March 1973.

44. Michael Barone, *Our Country: The Shaping of America from Roosevelt to Reagan* (New York: The Free Press, 1990), p. 756, n. 14.

WILLIAM B. WICHTERMAN

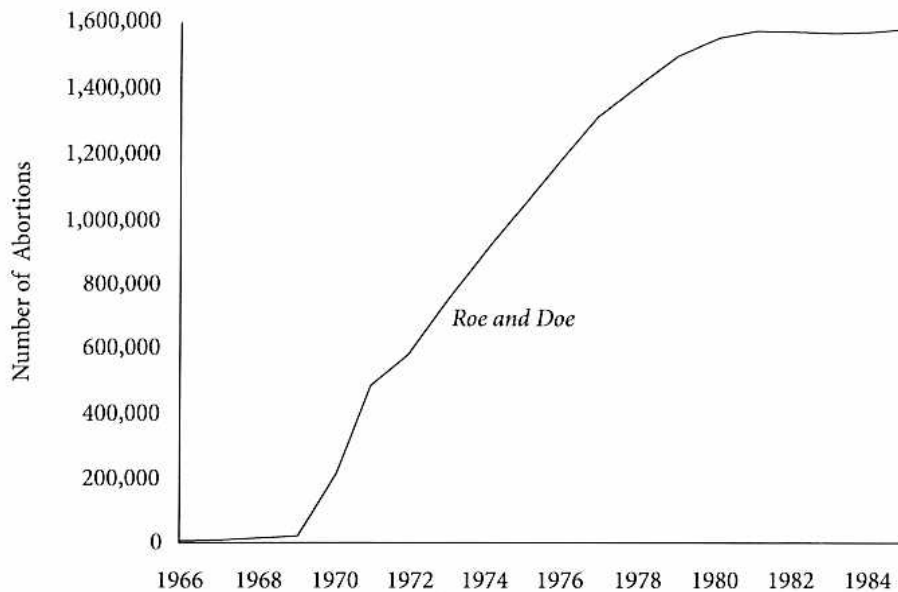


Figure 1. Legal Abortions in the United States, 1966-1985

Source: Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* (Chicago: University of Chicago Press, 1991), p. 179.

was already sown in the culture before the Supreme Court ever took up the issue. The de-linking of sex and family ties had been unable to sever the unwanted product of the sexual encounter. The culture was quickly embracing the Pill as the first defense against childbirth, but a backstop was needed for “unintended pregnancies.” Elective abortion-on-demand completed the sexual revolution, and the Court ratified that cultural decision. But the unwritten constitution of American culture had to be amended before the Court was able to act. The Court was simply joining the cultural revolution already well underway.

Romer v. Evans: Ratifying the Culture's View of Sex

In 1996, by a six to three majority, the Court ruled unconstitutional Colorado's Amendment 2 to the state constitution, which had prohibited state and local jurisdictions from adding “sexual orientation” to minority protection statutes. Amendment 2 had been drafted after Denver, Boulder, Aspen, and Aurora enacted laws adding “sexual orientation” to the list of protected civil rights, giving homosexuals a means to use civil rights laws in discrimination claims. The

Court majority ruled that the Amendment violated the Equal Protection Clause of the Fourteenth Amendment because the state could not prove a "rational basis" or "legitimate legislative end" for denying homosexuals "the possibility of protection across the board." The Court's opinion said that Colorado's sole reason for Amendment 2 was "animus" toward homosexuals.

One reason that resistance to the decision has been pusillanimous, at best, lies in the conflicted views of the public toward homosexuality. On the one hand, a slim majority of 52 percent of Americans believe that homosexual behavior should be considered an acceptable lifestyle (44 percent believe it should not).⁴⁵ On the other hand, 65 percent believe that homosexuals should be allowed to serve in the armed forces (and a plurality of 48 percent believe they should be able to serve openly), 60 percent believe they should be hired as teachers, and 53 percent as clergy.⁴⁶ Fifty-seven percent disagree with the statement that homosexuals should not be guaranteed protection from discrimination,⁴⁷ and 64 percent of Americans disagree with the statement that homosexual behavior should be against the law.⁴⁸ A majority of Americans (51 percent) believe that landlords should have to rent to homosexuals even if they are morally opposed to homosexuality.⁴⁹ Thus, the nation is steadily embracing homosexuality as an acceptable way of life.

The cultural predicate for Americans' growing acceptance of homosexuality lies in the growing assumption that sex is merely a physical act devoid of any other significance. Reduction of the meaning of sex combined with the simultaneous exaltation of sex as the highest experience available to humanity thins any deeper meaning in human existence. The culture is both stripping transcendence from sexuality and affirming it as the highest temporal experience.⁵⁰ These growing cultural dogmas lead logically to the *Romer* decision. Other judicial decisions cannot lag far behind, including the extension of marriage to homosexual couples and, possibly, polygamous arrangements.

Furthermore, Americans' overriding fear of judgmentalism prevents them from "imposing their morality on others." Tolerance has been enthroned as the value against which all others must yield. While Americans retain an older view of sexuality as a transcendent spiritual bond with myriad social implications, many Americans are unable or unwilling to implement the public

45. Gallup Poll, 9 February 1999.

46. Gallup Poll, 24 November 1996.

47. ABC News/Washington Post Poll, 5 August 1996.

48. Center for Survey Research, University of Virginia, 14 April 1996.

49. Center for Survey Research, University of Virginia, 14 April 1996.

50. Philosopher Eric Voegelin's thesis that gnostic cultures immanentize transcendence applies well to the emerging postmodern view of sexuality. Eric Voegelin, *The New Science of Politics* (Chicago: University of Chicago Press, 1952).

implications of this view. They have accepted the cultural judgment that such views are best left in the privacy of one's bedroom, and not imposed on the secular populace.

Romer did not lead the culture to a fulsome embrace of homosexuality, but simply joined the revolution in sexual mores already underway. While the public retains a superficial reticence to federal civil rights protections for homosexuals, it has already adopted the subjectivist assumptions that paved the way for the Court's decision. *Romer* is the inexorable conclusion to be drawn from the cultural privatization of sexuality, as well as the creed of nonjudgmentalism.

*The Expulsion of School Prayer:
Reflecting the Privatization of Religion*

Because of its decisions *Engel v. Vitale* (1962) and *Abington School District v. Schempp* (1963), which expelled official prayer and Bible reading from the public schools, the Court has been blamed for the decline in public morality and charged with overriding the public will. On closer examination, it becomes obvious that the Court was simply acting on the growing rejection of transcendence and the privatization of religion in the culture.

As in the abortion case, the Court's actions in *Engel* and *Abington* were not unprecedented. Prior to 1962, nine states had already prohibited both state-sponsored prayer and Bible reading, although most of these prohibitions were the result of judicial actions.⁵¹ Another twelve states had no provisions regarding Bible reading, and twenty-three states had no provisions regarding prayer. Within the states lacking any requirement or prohibition, it is possible that many local jurisdictions had already banned both practices. A 1960 survey of school superintendents revealed that only 42 percent reported that devotional Bible reading was conducted in *any* schools of their system.⁵² It is therefore possible that far less than 42 percent of all *classrooms* had Bible reading. Unfortunately, no data is available as to how many superintendents permitted officially sponsored prayer within their schools. It is likely, however, that the Supreme Court's decisions had no effect on a significant number of schools that

51. Of the nine states with prohibitions on both Bible reading and prayer in public schools, only Arizona had passed legislation to bring about these prohibitions. Alaska's State Board of Education had promulgated regulations to do the same. In California, Louisiana, and Wyoming, the State Attorney General had prohibited both, and court decisions had banned them in Illinois, Nebraska, Washington, and Wisconsin.

52. R. B. Dierenfield, "The Impact of the Supreme Court Decisions on Religion in Public Schools," *Religious Education* (September-October 1967), p. 448.

were already in compliance with the Court's actions.⁵³ At a minimum, the Court did not overturn a universal practice in American schools, and more likely ratified a trend already underway.

A cursory examination of the Court's decisions does seem to confirm cultural conservatives' belief that the Court overrode the majority's wishes. Public disapproval of the Court's actions in *Engel* and *Abington* has hovered around 70 percent for more than three decades. Instead of reflecting the broader culture, the Court appears to have changed American culture. If that analysis is accurate, however, it fails to account for the inability of the majority to use the constitutional mechanisms to overrule the Court. Presidents of both parties have continued to put forward, and the Senate, in Republican or Democratic control, has continued to confirm, justices who are unwilling to overturn the rulings. Attempts by the legislature to amend the Constitution to allow school prayer have failed to generate much beyond simple majorities, and support seems to be losing steam over the years. In 1971, the House fell twenty-eight votes short of the necessary two-thirds majority. The amendment did not get another vote for seventeen years, when it fell forty-four votes short. Thus, the amendment is losing ground even under a Republican Congress influenced by the rise of the Religious Right, which had been largely silent in the 1960s and 1970s. Efforts in the Senate have been similarly ineffective.⁵⁴

That most of the cultural gatekeeping institutions, including many mainstream religious institutions,⁵⁵ supported the *Engel* and *Abington* decisions when they were first issued only partially accounts for the majority's failure to overturn the decisions. A more complete explanation rests in the weak will of the majority and in its operational rejection of transcendence through its privatization of religious faith. The relegation of religion to a filler of gaps in sci-

53. It is interesting to note that compliance with the Court's decisions has been slow and remains incomplete today. In 1972, one-quarter of schools in the South still offered prayer over the public address system and/or at morning assemblies. Anecdotal evidence suggests that thirty-six years after the Court's ban, this practice continues in isolated southern communities, often uncontested by the ACLU. This active defiance may account for part of the public's acquiescence.

54. The Senate voted on a constitutional amendment on school prayer in 1966, voting 49-37 in favor, nine votes short of the necessary two-thirds majority. In 1970, the amendment was successfully added to the Equal Rights Amendment by a 50-20 two-thirds vote, though this was perceived as a killer amendment to the ERA, not as an affirmation of school prayer. Finally, in 1984, the Senate voted to table one version of a constitutional amendment 81-15, and voted for another 56-44, falling eleven votes short.

55. Including the National Council of Churches, the Synagogue Council of America, the United Presbyterian Church, the Baptist Joint Committee on Public Affairs, the Methodist Church, the Episcopal Church, the Union of American Hebrew Congregations, the Seventh Day Adventists, and others.

entific knowledge and Americans' growing confidence in science as the arbiter of all truth enfeebled the majority's attempt to defend religious expression in the public schools. The Court had simply followed the public's logic in expelling religion from the schools. The public was left with a sense that this was too extreme, but it had lost the paradigm to support its view. The majority had abandoned the very weapons necessary to attack the Court's judgment that the public square must remain neutral on religious questions. It is unlikely that an America of an earlier era would have failed to overturn *Engel* and *Abington*. The Court's decisions are truly a reflection of the culture, if only of the culture's inability to resist the Court's logic.

While it is true that the Court has overstepped its constitutional mandate and misinterpreted the original meaning of the Constitution in the case of abortion, federal civil rights enforcement for homosexuals, and school prayer, its decisions are largely consistent with the popular culture's fundamental assumptions. Where the public is not yet in agreement with those decisions, the erosion of their older worldview rooted in transcendent truth and the subsequent adoption of a subjectivist worldview prevent them from mounting an effective defense. The Court is fanning the passions of the majority by handing down decisions consistent with the majority's evolving assumptions.

As has already been noted, government does play a role, albeit a lesser one, in shaping the culture. This is especially evident in the Court's decisions. It has already been demonstrated that the Court was largely reflecting the culture and joining movements already underway in it, but, on the other hand, the Court did help to shape the culture by accelerating the pace of those social movements. Where the public is divided — in a schizophrenic fashion more than in a cultural war — between the vestiges of the older worldview rooted in transcendence and the newfound subjectivism, the Court has reinforced the latter and negated the former.

Although the Framers had intended the Court to be a check on the majority's passions, it has become an accelerator of those passions. Where weak political majorities in various states had prohibited abortion, the Court has denied this expression of belief in transcendence, instead affirming the public's more subjectivist inclinations for sex without consequences. Where a majority in Colorado had decided against granting homosexuals special legal protections, the Court has affirmed sexuality without boundaries as a constitutional right. Where the majority has sought to acknowledge God in the public schools, the Court has affirmed a religiously denuded public square. Time and again, the Court has come down on the baser side of the public's divided self, affirming subjectivism, licentiousness, and passion, and denying the people's remaining belief in transcendence. It has fueled the public's growing passions and checked the public's enervating will.

Since the Framers made it very difficult to amend the Constitution or overrule the Court, the effect of these injurious rulings is akin to the accelerator of a car being stuck to the floor. The Court is encouraging the public to "obey its thirst" and "just do it." It is not as though the majority is left without a brake to stop the passions. But with the accelerator stuck to the floor, using a brake is next to useless. The very mechanisms designed to protect the will from the passions, such as the three-quarters supermajority for a constitutional amendment, now protect the passions, in the form of Supreme Court precedents, from the will. With this inversion of the assumptions that undergirded the old constitutional order, the majority is called upon to enact a supermajority to check its passions — a supermajority that is perilously difficult to obtain in any age, but especially when the majority's will is already eroding.

Renewing the Culture from Within: Recovering Transcendence

Although politics is relatively ineffective at shaping the culture, its role is not unimportant. The law is a teacher that can help recover belief in transcendence. Abandonment of the political sphere would be detrimental to efforts for cultural renewal.

But politics is not enough. For too long, cultural conservatives intent on transforming the nation have focused almost exclusively on the political realm. It is the cultural fields, however, long overgrown with tares from decades of conservative neglect and liberal domination, which need to be plowed and resown. Cultural conservatives must learn, or relearn, that it is the unwritten constitution of culture that shapes the written constitution of a nation.

It is worth noting that once one understands the primacy of culture and joins in the effort to renew it according to transcendent standards, the question of one's political label becomes less important. A healthy culture is about lifting up the good, the true, and the beautiful. These are not ideological categories. There is plenty of common ground for cultural renewal among individuals who differ on the particular role law should play. For instance, some citizens may join in the cultural fight against social pathologies, even though they oppose legal restrictions on those pathologies. This applies to abortion, violent prime-time television, pornography, divorce, and many other social maladies. This is not to say that the policy differences are inconsequential. But renewal can be furthered even without political agreement, again, because culture trumps politics.

Notable efforts are underway to reclaim the culture. Within every gatekeeping institution, bold and courageous scholars, actors, journalists, and artists are challenging their colleagues to re-think their faulty assumptions. Cul-

WILLIAM B. WICHTERMAN

tural conservatives are beginning to renew their involvement in popular entertainment, journalism, and the arts. There are encouraging signs that Americans concerned about cultural decline are forming “beachheads” to renew culture.

But much more needs to be done, and great gains will only come with sacrifice. Restoration will take time. The degradation did not occur overnight, but began with modernity’s denial of transcendence. Cultural conservatives must dedicate themselves to a decades-long work in the culture. If these efforts fail and the culture continues on its present course, the implications for the nation are grave. As the vestiges of the older transcendence are jettisoned, government will continue to reflect and accelerate the passions of the people, and the tyranny of the majority will grow. The infantry of politics cannot help but respond to the cultural generals in the rear.

Conclusion

Because politics is downstream from the culture and the *polis* is the soul writ large, the culture, as the source of political order, must be renewed so that politics can play its hand. Well-ordered government in the absence of a culture grounded in transcendence is unsustainable in the long run.

The Framers’ reliance on a healthy culture and their careful formation of a government that reflects the more noble aspects of that culture gave America a good start. It was only as the unwritten constitution of the culture rejected transcendence and embraced subjectivism that the government mirrored the slide away from truth. The rise of majoritarianism in the legislature is one result. In the judiciary, the subjectivist passions of the culture are being fanned by a Court effectively negating the remaining belief in transcendence. The public is unable to resist the decisions of the Court, which is only tracking the culture’s logic. The Framers’ cautious republic slowly transforms itself into Rousseau’s democracy of passions.

Tocqueville recognized that America could not long survive and thrive without a reliance on transcendent truth, especially a religious faith:

Despotism may be able to do without faith, but freedom cannot. Religion is much more needed in the republic they advocate than in the monarchy they attack, and in democratic republics most of all. How could society escape destruction if, when political ties are relaxed, moral ties are not tightened? And what can be done with a people master of itself if it is not subject to God?⁵⁶

56. Tocqueville, *Democracy in America*, p. 296.

With Americans increasingly turning away from the belief in transcendent truth necessary to sustain just governance, the American experiment is imperiled.

Thankfully, there is cause for hope. A belief in transcendence, though weakened by subjectivism, remains in the culture. Its reanimation is not impossible, especially when one surveys the looming alternative in the despair and disorder of relativism. Tragedies like that at Columbine High School may be catalysts, causing Americans to recoil from the false hope offered by the subjectivist worldview. With a ready alternative in transcendent truth still recognizable beneath the gathering dust of cultural decline, despair is premature.

And, with plenty to do in the cultural vineyards, despair is counter-productive. For it is in culture that we can amend the constitution of the heart, and thereby protect, preserve, and strengthen the American Experiment.