
Willmoore Kendall and the Deliberate Sense of the Community

The Basic Symbols of the American Political Tradition by Willmoore Kendall and George Carey (Washington, D.C.: The Catholic University of America Press, 1995).

The Conservative Affirmation by Willmoore Kendall (Chicago: Henry Regnery Company, 1963).

John Locke and the Doctrine of Majority-Rule by Willmoore Kendall (Urbana, IL: University of Illinois Press, 1965).

Despite Willmoore Kendall's (1909–1967) status as a leading figure in the early conservative movement and a preeminent political theorist, his work has fallen into relative obscurity. This neglect is attributable in part to the nature of his scholarly output. The bulk of Kendall's production consists of essays and reviews. Apart from *John Locke and the Doctrine of Majority Rule*,¹ Kendall's only book-length projects were *The Conservative Affirmation*² (itself a collection of thematically related essays) and *The Basic Symbols of the American Political Tradition*,³ adapted from a series of his lectures, co-authored with George Carey and published posthumously. Kendall also served as a founding editor of *National Review*, to which he contributed many essays. In addition, he was an enthusiastic writer of letters, an activity that consumed a great deal of his time.⁴

Additionally, Kendall's thought is not easily categorized and does not sit comfortably at home even among his fellow conser-

vatives. Kendall rejected free-market absolutism, the Tory traditionalism of Russell Kirk, and those who he found to be excessively apprehensive of the state. Unlike conservatives of a more pessimistic or aristocratic bent, Kendall at heart was steadfastly optimistic about the basic virtue of the American people and their capacity for self-government. This confidence stayed with Kendall as his scholarly investigations took him from left to right, and from the value-neutral constructions of modern political science to a political philosophy grounded in classical conceptions of justice and morality.

Central to Kendall's writings throughout his career was his suspicion of institutional arrangements that place governmental decision-making regarding the rights of individuals outside of the power of majorities to mediate and regulate. This can be seen in Kendall's first major work, *John Locke and the Doctrine of Majority Rule*,⁵ which was immediately recognized as an important reassessment of Locke's thought and secured Kendall's reputation as a leading political theorist.

In *John Locke* Kendall seeks to address what he sees as the inadequacies of the current state of scholarship on the issue of majority rule, which Kendall sees as "the central problem in modern politics and of modern political theory."⁶ He intends to study the problem through a "series of monographs" focusing on the development of thought on majority rule, of which John Locke is the first (regrettably, it was also to be the last).

Despite the centrality of the problem of majority-rule to political theory, it has been heretofore dealt with only peripherally, Kendall argues. One reason for this is that, "since 1789 (or thereabouts)," theorists did not deal with political and economic questions as separate concepts, identifying democracy "now with capitalism and now with socialism, and men unhesitatingly take it for granted that majority-rule is merely another expression for the economic emancipation of the poor."⁷ Another is the historical determinism of thinkers such as Marx, Hegel, and Spengler and their followers, who posit the inevitability of political and social developments. In doing so, they "reduce the issue at stake

between the defenders and opponents of majority-rule to a mere triviality.”⁸ Yet another obstacle to the theoretical treatment of majority rule is those who believe in the possibility of discovering immutable and just laws (or Law), for whom the discovery and enactment of such laws, rather than question of rule by majorities versus minorities, being of central concern. This idea runs from Plato and Aristotle through the natural-law theorists of the Middle Ages to modern constitutionalists.

Finally, confusion regarding key terms and concepts poses an obstacle to effective study of the issue. “Although ‘majority-rule,’ ‘principle of majority-rule,’ ‘majority principle,’ etc. have for a long time been familiar to students of politics and sociology, no attempt has been made to define them with scientific precision.”⁹ Thus, writers who employ those phrases may be describing “(a) the rule by which . . . organized bodies are committed to decisions by majority-vote, (b) the theory according to which political power should be vested in the numerical majority of the ‘people,’ [or] (c) the form of government by which the defenders of (b) would like to see adopted wherever it does not yet exist, and continued wherever it does exist.” Kendall seeks to add clarity to the subject by defining terms such as “doctrine of majority-rule” and “the majority principle,” and by investigating the relationships between these and other associated concepts.

Kendall offers the following definitions: “majority principle” describes the rule by which majorities exercise power in a given group. “Majority-rule” is the state of affairs that prevails when a the majority principle holds sway in a political society, and the “doctrine of majority-rule” a theory regarding the normative status of such a state of affairs. And the apologists for the doctrine of majority rule are “majority-rule democrats.”

Majority-rule democrats are not only proponents of the majority-principle’s application to political society, they also necessarily advocate “formal political equality, formal popular sovereignty, techniques for discovering the . . . popular will, [and] reception of majority-decisions as the equivalent of . . . unanimous ones.”¹⁰

Kendall chose John Locke as the starting point of his study because Locke's theory represented, for various reasons, "the earliest moment at which [the doctrine of majority-rule] can be shown to have assumed the form" in which Kendall presents it.¹¹

While John Locke is rightly considered to be a pioneering expositor of the proposition that individuals have certain inherent, inalienable natural rights that exist prior to the state, Kendall's reading of Locke uncovers other crucial themes of Locke's thought and reassesses Locke's teaching on the nature of rights. Most importantly, Kendall finds Locke's view of natural rights (along with coordinate duties) to be essentially instrumentalist, with their proper object being to further the collective good of society. In fact, Locke's view of political society is strikingly collectivist; his ideas have more in common with Rousseau (whose teaching Kendall admired) than modern exponents of an individualist view of rights and an atomistic conception of society.

Nevertheless, Locke did find duties and rights individuals owe to one another to be "enjoined by what he calls variously the law of God, the law of reason, and the law of nature."¹² However, Kendall sees a source of Locke's apparent "confusion" in Locke's conception of the law of nature and finds that Locke is working under various contradictory premises. For example, while natural law is held to be immutable and absolute, Locke seems to argue elsewhere that its content can change according to circumstances and be amended by agreement. "[D]id Locke really mean that the majority has a right to (*e.g.*) maintain in power a government which oppresses or treats unjustly the 'rest'? Did he really believe that it is the fact of majority support which makes right in politics?"¹³

Furthermore, Kendall finds that for Locke the sovereignty of the community is not restricted to a limited sphere of action, as a more orthodox reading of Locke would have it. Indeed, Locke posits "unlimited sovereignty,"¹⁴ where "even the individual's right to life is valid only to the extent that it is compatible with the good . . . of his community,"¹⁵ and the individual "owes to the commonwealth . . . a duty of obedience which is absolute and

perpetual.”¹⁶ Moreover, the sovereignty of the majority is coextensive with the sovereignty of the community.

Yet, Locke “did believe in the existence of objective moral standards.”¹⁷ How can this be reconciled with a theory that perpetually subjects minorities to the rule of majorities whose scope of action is seemingly unlimited?

Kendall proffers a solution to these apparent contradictions: that an unstated assumption underlay Locke’s thought, which rendered the seemingly contradictory strands in that thought intelligible. Locke’s latent premise, according to Kendall, is his assumption that the majority is rational and just:

If Locke had written across the top of the first page of the Second Treatise the words, “All theoretical demonstrations included in the following argument are predicated upon the assumption that the chances are at least 50+ out of 100 that the average man is rational and just,” . . . most of the difficulties to which we have directed attention above would automatically disappear. ¹⁸

John Locke and the Doctrine of Majority Rule is perhaps Kendall’s most difficult work to read. The complicated construction of his argument is made necessary, perhaps, by its reliance on a close study of the text in question, but remains needlessly opaque. Perhaps most frustrating to the less-educated reader is Kendall’s frequent use of untranslated and often lengthy quotations in Latin, Italian, French, and German. Kendall’s writing is at its strongest in his later works, such as *The Conservative Affirmation*, in which he employs a more flowing, conversational prose style, liberally peppered with Midwestern idiom.

*The Conservative Affirmation*¹⁹ is a collection of related essays gathered by Kendall himself. It represents Kendall’s exploration of the central defining characteristics of American conservatism. In the introduction and first chapter, he explores and rejects various prevailing definitions of American conservatism. For instance, he rejected the contention of libertarians such as Ludwig von Mises and Ayn Rand that the “dividing line” between

conservatism and liberalism can be described in economic terms, with the “virtuous” placing their faith “in the free market, in free markets, in individualism,” and opposed to “collectivism” and “our enemy the state.”²⁰ Nor should it be defined as “mistrust of political authority,”²¹ anti-Communism, or defined according to the belief in “a God-centered universe.”²² On the contrary: “Attempts to resolve the religious-society-secular-Constitution in either the one direction or the other, are not only divisive, but contrary to the American tradition itself.”²³

For Kendall, liberalism represents a “full-scale revolution” against America’s political tradition, and conservatism is best understood as a defense against the liberal onslaught. The revolutionaries and defenders are divided by a central question: “Is the destiny of America the Liberal Revolution, or is it the destiny envisaged for it by the Founders of our Republic?”²⁴ The aim of this “revolution” is to transform America’s regime from a representative republic into a plebiscitary democracy, and to remake society according to “the egalitarian principle,” which holds that men are to be *made* equal. “Indeed,” Kendall writes, “[conservatism’s] objection to Liberal proposals for the ‘reform’ of our political system is precisely this: Those proposals would (by eliminating deliberation) render impossible the expression of that deliberate sense—or, for that matter, any sense that would be, properly speaking, that of the community.”²⁵

Willmoore Kendall’s definition of conservatism, then, is inseparable from his conception of America’s founding (and continuing) political tradition: that of a virtuous people governing itself through deliberative institutions. While liberals have self-consciously organized themselves in an overarching struggle to overthrow America’s social and constitutional order, conservatives, according to Kendall, are often only dimly aware of the struggle they are in. (Kendall would presumably approve of the self-conscious political strategy of the conservative movement today, if not its aims and doctrines.)

Kendall explores this struggle in more detail in the chapter “The Two Majorities in American Politics,”²⁶ perhaps the most

significant essay in *The Conservative Affirmation*. He explores the persistent tensions between Congress and the presidency and the “two numerical majorities” of the same American electorate that put them in office. The legislature is “‘nervous’ about internal security”²⁷ (e.g., the House Un-American Activities Committee) and “adheres unabashedly to the ‘pork barrel’ practices for which it is so often denounced.”²⁸ Additionally, it is protectionist, suspicious of foreign aid, fails to act in accordance with “enlightened opinion among intellectuals” with regards to civil rights, and approaches foreign affairs based on considerations of expediency rather than high principle.

In contrast, the executive, is committed to, for example, foreign aid regardless of its relevance to national-security objectives, idealism in its foreign polity, “world government,”²⁹ egalitarianism, and free trade, and seeks to “bring our immigration legislation under, so to speak, the all-men-are-created equal clause of the Declaration of Independence.”³⁰ With regards to the reform of the American political system, the executive “tends to favor each and every component of the current program (the product of what is generally regarded as enlightened opinion . . .) for transforming the American political system into a *plebiscitary* political system, capable of producing and carrying through *popular mandates*.”³¹ In this regard, it supports the elimination of “undemocratic” features of the political system, such as the filibuster and the electoral college system.

The differences between the legislative and executive, in general, “bear very nearly indeed upon the central destiny of the United States—on the kind of society it is going to become (‘open’ or relatively ‘closed,’ . . . ‘welfare state’ or a ‘capitalist’ society); [and] on the form of the government the United States is to have.”³²

The root of the differences in the natures of the legislative and executive, according to Kendall, is that the executive is elected by a national plebiscitary process that has been “‘engrafted’ onto our political system: it was not intended by the Framers.”³³ In presidential campaigns, in order to appeal to a majority of voters

in a vast electorate concerned with myriad complex issues, candidates of both parties are forced to speak platitudes and generalities, and when elected must endeavor to fulfill mandates based on high-minded rhetoric. Congress, on the other hand, is chosen according to the structure described in *The Federalist*, wherein smaller communities elect representatives based on their perceived virtues rather than “issues.” The choice of a representative is influenced by the complex hierarchical structures of their constituencies and the elected representative must be cognizant of them when in office. Members of Congress accordingly are “far more dedicated to the ‘status quo’” than the candidate that same community helps elect to the presidency. Additionally, the local political discussion process is necessarily more rooted in the concrete problems and interests that are relevant to the community, and their representatives deliberate with such considerations in mind.³⁴ The executive’s idealistic hopes are therefore often dashed on the rocks of congressional intransigence. Kendall identifies conservatism with the Constitutional order and the congressional majority, resisting the “liberal,” egalitarian executive, with its plebiscitary majorities.

In the chapter “The Social Contract: The Ultimate Issue between Liberalism and Conservatism,” Kendall broadens the scope of his study by examining the place of conservatism within the larger story of political philosophy. Here, the influence of Straussian teaching, which Kendall had encountered at a relatively late stage in his career, comes into full display. Kendall views the social contract philosophers as representing a revolutionary break with the “Great Tradition” of political philosophy that began with the classical thought of Plato and Aristotle. The classical philosophers viewed society as “natural to man,”³⁵ and man as having an innate “duty to subordinate himself to justice,” which is discovered through reason, rather than determined by convention.³⁶ The contractarians—Locke, Hobbes, and Rousseau—broke with the classical tradition by placing consent and agreement at the center of political thought, thus discarding concern with justice, duty, and the proper aims of human life and

society. (Locke's role here has been recast in light of Kendall's Straussian narrative of the history of political thought.) The contractarian philosophy lives on in modern thought and political practice, which is rooted in "the natural right of self-preservation, which is to say, only self-interest."³⁷ Moreover, modern contractarians view the American founding as an expression of Lockean philosophy, and thus cast themselves as the protectors of the American political tradition: "In America, of course, these struggles are struggles between Conservatives and Liberals: Conservative affirmation and Liberal denial, Conservative faith in the growing Great Tradition . . . and Liberal relativism."³⁸

Perhaps the most extraordinary aspect of Kendall's thought was his willingness throughout his career to honestly subject his own thought to the test of other thinkers, and accordingly revise his own thinking if he found it to be wanting. To call Kendall's ego healthy would be an understatement.³⁹ Nevertheless, Kendall's thinking was transformed by his encounter with the teaching of Leo Strauss and Eric Voegelin to the extent that he re-oriented his own scholarly work in response to their writing. In fact, Kendall adopted a remarkably deferential posture in his relationship with Strauss at a time when Kendall was probably the more renowned scholar in academic circles and among the public.⁴⁰ An aspect of Kendall's thought that underwent significant change was his view of his transformation from the political scientist, a proponent of localism and plebiscitary democracy, and the skeptic of Madisonian constitutionalism, to the student of political philosophy, scholar (and defender) of America's founding institutions, and enthusiastic proponent of *The Federalist*. The full course of the evolution of Kendall's thought can be seen in the collection *Willmoore Kendall Contra Mundum*.⁴¹

Contra Mundum gathers Kendall's most significant previously published essays, and also includes several unpublished speeches, essays, and book chapters. The included works, whose original publication dates range from 1939 to 1968, span Kendall's career. The essays contained in *Contra Mundum* provide useful insight into the evolution of Kendall's thought as well as the full

range of his scholarly interest. Included are early works such as “The Preservation of Democracy in America,” in which Kendall’s early enthusiasm for plebiscitary democracy and his distrust of American constitutionalism are on display. Essays such as “Prolegomena to Any Future Work on Majority Rule” show his consistent opposition to the idea that the freedom of action of democratic government should be institutionally constrained in the name of protecting individual rights. And Kendall’s exploration of the Madisonian republic and *The Federalist* can be found in “How to Read ‘The Federalist,’” “The ‘Intensity’ Problem and Democratic Theory,” and “The Two Majorities,” which also appears in *The Conservative Affirmation*. In “The ‘Open Society’ and Its Fallacies” Kendall criticizes the view that unlimited freedom of expression should be society’s supreme purpose, and in “The Bill of Rights and American Freedom” he traces the origins of the First Amendment and freedom of speech in America. Also included are three chapters from the unfinished *Sages of Conservatism*, in which Kendall assesses and criticizes the work of Russell Kirk (“The Benevolent Sage of Mecosta”), Clinton Rossiter (“The Part-Time Sage of Ithaca”), and John Courtney Murray (“The True Sage of Woodstock”). *Contra Mundum* also includes many other significant essays, all of which it would be impossible to discuss here.

Kendall’s early writing was marked by a profound cynicism about the American constitutional system and the possibility of self-rule over an extended republic. This can be seen most clearly in his 1939 essay “On The Preservation of Democracy in America.”⁴²

The Kendall of ’39 adopts what he sees as Rousseau’s “enthusiasm for the city-state” as holding out the only possibility for “government based on the general will” rather than “government based upon force.”⁴³ For the “general will” to exist, it is necessary that the polity “possess a *moi commun*, a sense of common destiny sufficiently intense to bind them to each other in what we today would call a genuine group or community.”⁴⁴ Without such a sense of shared purpose, democracy—which Kendall defined as

“a form of political organization which lodges absolute power in the numerical majority of the adult population of the area which the organization is expected to serve”⁴⁵—is not a viable method of governance. “[A] mere aggregate of individuals, brought together by chance or by compulsion,” will not do.⁴⁶ However, Kendall suggests, the United States under the Constitution is precisely that.⁴⁷

As Kendall argues for the necessity of deeply felt bonds of community for majority rule, he makes a point that would become a principal theme in his writing throughout his career: that “if democracy involves majority-rule, it involves also acceptance by the minority of all decisions behind which a majority can be rallied.”⁴⁸ Otherwise, the government is one of force, rather than persuasion, with the minority acquiescing to majority decisions because, in the face of the majority’s “overwhelming force,” it has no choice.

In the 1939 Kendall’s view, such a situation can only arise at the local level and extend outward if at all. However, the possibility of a “democratic movement” arising in America is forestalled as a result of our “undemocratic constitution,”⁴⁹ which resulted in a political system in which the possibility of democracy at the local level is forestalled by the placing of the real political control over towns and cities in the hands of “the larger political unit of which they form a part—that is, by the state.”⁵⁰

To explain how this dismal state of affairs arose despite the “genius for self-government” Americans had shown in the years leading up to the drafting of the Constitution, Kendall—echoing progressive historians—offers an interpretation of the Founding that sees the architects of the Constitution as propertied oligarchs furthering a conspiratorial scheme to destroy democracy in order to forestall local self-government and consolidate national policymaking in the hands of elites. It is ironic, then, that Kendall’s arguments regarding the necessity of consensus-building, goodwill among political actors, and the necessity for the minority’s acquiescence in majority decisions closely echo the imperatives of *The Federalist’s* “constitutional morality” that

Kendall himself would later describe so lucidly.

In Kendall's early skepticism of America's constitutional government, as George Carey notes, he "comes close to accepting an Anti-Federalist line that a true republic . . . is only possible over a small territory with a relatively small population and few interests."⁵¹ Additionally, Kendall seems to be speaking in the positivist language of "contemporary political scientists," who, as John E. Alvis describes it, "often speak as though they believe that what men think is the mere 'epiphenomenon' of what they do," for example, arguing that "the long debates in the summer of 1787 were not thoughtful activities pursuant to framing a just constitution . . . but clever exercises in constructing a basis in law for the various economic interests of the Framers."⁵²

The essay "Prolegomena to Any Future Work on Majority Rule," written in 1949,⁵³ illuminates another aspect of Kendall's majoritarianism that would remain a consistent theme of his thought: his opposition to institutional constraints on the action of the majority that would restrain the scope of permitted decision-making, thus placing certain critical issues, particularly those involving "rights," outside of the purview of democratic government.

In "Prolegomena," Kendall seeks to rebut the argument (as put forward by political scientist Herbert McClosky) that certain political decisions should be held to be outside the purview of legitimate democratic decision-making. He focuses particularly on "the political rights traditionally associated with democratic thought and practice," such as the rights to speech, assembly, association, and participation in the political process.⁵⁴ These checks on democratic action are necessary, the argument goes, in order to ensure the perpetuation of democratic government: the majority must be enjoined from taking action that would be destructive of majority rule itself, through destroying the very freedom by which majorities are achieved.

To this argument, Kendall responded first, that it makes little sense to place "a unique and exclusive value to the preservation of majority rule," while allowing the majority free rein in other

critical areas, such as rights to property or freedom of religion. More importantly, though, is the problem that setting such formal restrictions on the sovereign power creates additional unanswered questions, such as, “Who decides whether the standard [of legitimacy] is being respected? Who adapts the standard to changing circumstances? The majoritarian’s answer to both these questions is: The majority.”⁵⁵ McClosky’s answer is unstated and Kendall leaves it at that. But one suspects that if not the majority, an undemocratic institution such as the Supreme Court would have to step into the standard-setting role.

While Kendall recognized that a majority-rule regime could surrender its legitimacy by its actions, he nonetheless realized that “democracy can commit suicide,”⁵⁶ and if it wishes to do so, no institutional check on its actions can stop it. However, he hints at greater dangers of antidemocratic governance that lie in such institutional checks than any that lie in their absence.

For Kendall, the ability of a community to make such judgments regarding the issues most crucial to the continued vitality of self-government should not be banished from the purview of democratic decision; on the contrary, such decisions are crucial to majority-rule government:

one of the things a community has to decide and keep on deciding in order to function as a community is the question: What kind of collective action shall be regarded as *ultra vires*? A community, that is to say, makes its own standard as it goes along; it will presumably be well-advised to adopt, for this purpose as for other purposes, the “best” of the methods available to it.⁵⁷

Preventing the community from “making its own standard” only neutralizes the mechanisms of self-government when it confronts the problems that are the most critical to the political community, and the most difficult to resolve, where the judgment of the democratic process is needed most.

For example, when the community is confronted with political

movements that have the potential of destroying democratic rule:

one wonders why the obligation to do nothing to *prevent* [majorities from] being free-arrived-at thus hogs the footlights at the expense of the obligation to take positive action to assure their being freely-arrived-at? Why, for example, should the Communist movement, which as McClosky recognizes looks precisely to future prevention of majorities being freely-arrived-at, not enjoy anyhow equal status with permitting all individuals, including presumably the Communists, to speak and publish, and so forth?⁵⁸

A “rule of legitimacy” can place such a dilemma, whose resolution is critical to the regime’s survival as well as its nature, outside of the purview of the democratic process. For this reason, “it is democracy’s inherent capacity to commit suicide that makes the question of where it is to lodge the power to decide life-and-death matters so very urgent—which is why those of us whose bets are on majority rule hold that these matters, above all others, must be decided by majority rule procedures. . . .”⁵⁹

A curious feature of “Prolegomena” is that Kendall adheres to the model of the positivist political scientist while at the same time presenting his unflinching defense of communities’ robust self-government. This seems to betray a not-so-hidden conviction that such arrangements amount to a positive good, a good which cannot be severed from the normative “value-judgments” that such societies pursue through their governments. Thus Kendall’s obvious prejudice towards certain human arrangements as simply better than others coexists uneasily with such strange formulations as the following:

Sound methodology . . . calls for rigorous separation between the problem of the method of making community decisions . . . and the problem of the standard of legitimacy . . . [political theory] must choose . . . which method is indicated on this or that value-premise or set of value-premises . . . (on whose validity it has *qua*

political theory, no means of pronouncing) . . . The majoritarian is the man who finds the majority principle more congenial to his values than any other, but his finding on this point is, or should be, value-free.”⁶⁰

And so on. Kendall refrained from making such distinctions in his later writings, perhaps as a result of his late-career encounter with the work of Eric Voegelin and Leo Strauss, or simply from a greater appreciation for classical philosophy.

Nevertheless, from Kendall's earliest writing, his thought was animated by his conviction of the central importance of community, good will, and shared norms to the viability of self-government. He also consistently argued against institutional checks to delimit the majority-rule government's legitimate sphere of action. These themes would carry through to Kendall's later writing on the founding, *The Federalist*, and the American constitutional order. However, his views on the American constitutional system would change dramatically. Kendall's former deep cynicism about the nature and purposes of the extended republic of *The Federalist* gave way to a profound appreciation of the Constitutional system's unique solution to the problem of self-rule over an extended republic.

To the later Kendall, an understanding of *The Federalist* was essential to understanding not only the constitution, but also the essential character of American self-rule. In the essay “How to Read ‘The Federalist,’”⁶¹ Kendall and his co-author George Carey⁶² make the case for the singular importance of *The Federalist* to the serious student of the American constitutionalism . . . The essay provides a corrective to the view that *The Federalist* is merely a loose collection of propagandistic newspaper editorials intended to secure ratification of the Constitution, and therefore worthy of study principally for historical purposes. On the contrary, Kendall argues: “*The Federalist* is a ‘must’ for anyone who seeks an ‘intellectual’ understanding of our tradition and of the political system under which we have governed ourselves, happily and well some of us would say, for nigh onto two hundred years.”⁶³

To the charge that the fact that the division of authorship of *The Federalist* between three authors detracts from its importance as a unified work, Kendall answers that in fact this misses the point—assigning authorship of each paper to Jay, Madison, or Hamilton misapprehends the nature the project, which was intended to be read and understood as the work of a single author, Publius.⁶⁴

This is so first, simply because a consciousness of the authorship of a particular paper would distract from its argument. By treating the papers as the work of a single author, the reader “will be able to approach each individual paper, as the original readers could, without his opinions concerning the author getting ‘between’ him and the argument.”⁶⁵ More crucially, the authors were writing not as themselves but as Publius, making the project of *The Federalist* “a re-enactment, in miniature, of the miracle of the Philadelphia convention itself.”⁶⁶ The convention produced a Constitution that no one present wholeheartedly wanted, yet everyone supported it without reservation. So did the authors of *The Federalist* shelve their personal viewpoints, writing as one to illuminate the Constitution’s philosophy. Therefore the authorship of *The Federalist* reflected the shaping of the Constitution, which in turn reflected the operation of the constitutional government that was the object of *The Federalist’s* argument.

To the argument that *The Federalist* was simply propaganda intended to secure the ratification of the Constitution, Kendall responds first, that certainly, *The Federalist* is “polemical” in the sense that “it is the affirmative ‘side’ of a ‘debate’ (between the opponents and critics of the proposed new Constitution),”⁶⁷ but in fact, the “ratification of the Constitution was . . . already ‘in the bag’” at the time of *The Federalist’s* publication. To be sure, the Constitution’s supporters may have hoped to secure its passage in Virginia and New York and *The Federalist* was “nominally addressed to the People of New York,”⁶⁸ but the arguments of *The Federalist* were addressed “to the American people as a whole” with the purpose of “[making] sure that the peoples of the several states, in ratifying, fully understood what exactly they were

committing themselves to, what exactly they were doing.”⁶⁹ Additionally, Publius lays down “an *ethos* as to how public discussion, worthy of gentlemen, should be conducted by a sober, intelligent, and intellectually honest self-governing people.”⁷⁰ Therefore, the nature of *The Federalist* is “pedagogical” rather than propagandistic.⁷¹

Moreover, those pedagogical purposes of *The Federalist* amounted to more than simply instructing the electorate on the machinery of the Constitution as it was written: *The Federalist* put forward but one “of the numerous alternative ‘readings’ of the Constitution, but precisely the one which we, for good reason . . . , are in the habit of ‘seeing’ in it.”⁷² Because of the success of Publius’s venture, our understanding of the Constitution is inseparable from the particular interpretation of the Constitution that *The Federalist* promulgated. For example, Kendall notes the Constitution “does *not* provide ‘judicial review’ . . . but also does not exclude the possibility of it.”⁷³ Also, nothing in the Constitution prohibits Congress from ruthlessly enforcing its supremacy, forcing the other branches to submit to its will through its use of its funding or impeachment powers, for instance. Nevertheless, the norms set out in *The Federalist* have become inseparable from our assumptions of what the Constitution requires. Therefore, Kendall goes so far as to suggest that “the Philadelphia Constitution and what we might fairly call “ *The Federalist* Constitution” can be distinguished, and “that it is under the latter . . . that we have lived and governed ourselves since 1789.”⁷⁴

Kendall describes the operation of *The Federalist*’s model of government and defends it from its critics in “The ‘Intensity’ Problem and Democratic Theory.” In that essay, also written with George Carey, Kendall’s specific aim is to address the problem of democratic governance over a large, heterogeneous population. In particular, he outlines *The Federalist*’s solution to “the intensity problem”: the dilemma of whether and how a government of majority rule addresses the situation where the preference of an apathetic or marginally interested majority conflict with the wishes of an intensely interested minority. To state the problem

differently, the question is whether the “individual preferences of members of the community . . . [should] be merely counted, or *both* counted and weighed.”⁷⁵ More generally, though, many of the observations Kendall makes in this essay could operate as defenses of the Madisonian extended republic against the criticisms of Kendall’s earlier “Prolegomena.”

The problem is that “populistic” or plebiscitary democracy cannot account for intensity: “For a theorist of populistic democracy even to flirt with the idea of giving the minority its way is to appeal to ‘values’ . . . and this he cannot do because the theory has cut itself off, once and forever, *ab initio*, from such considerations.” (Here, it seems as if the older Kendall could be writing in response to the Kendall of 1949 who wrote “Prolegomena . . .”) “If it is justice we are interested in,” he continues, “or stability . . . then we had best . . . build from the first moment with those goods in mind.”⁷⁶

Kendall argues that in order to survive a majority-rule system must foster a “general atmosphere of willing cooperation and ‘good feeling’” by integrating “the majority-principle” with “the unanimity-principle” in such a way that the majority makes its decisions “in such fashion that those decisions elicit what amounts to unanimous, or virtually unanimous, support or acquiescence.”⁷⁷

Accordingly, to account for the problem of intensity, a political system must provide a mechanism for its constituent groups and individuals to have the information necessary to anticipate one another’s reactions. If they can do so, then all of the members of the society will have accurate information, which is necessary for furthering the cooperative decision-making atmosphere that is in all parties’ self-interest. Without such accurate information, they are liable to take “action . . . that will prove self-defeating, and that might lead to the breakdown of the system itself.”⁷⁸

The “weighing” of the intensity of preferences takes place not through some formal mechanism but by each participant in the system, who must have the personal knowledge, experience, and rapport with the other participants necessary to weigh their likely reactions.

So far, none of these points has conflicted with the arguments Kendall made in “Prolegomena” regarding the necessity of community and consensus for functional democratic governance. However, Kendall had come to appreciate how *The Federalist*’s design allows for such a consensus-based process of governance over a large, heterogeneous republic.

A close-knit community requires little institutional machinery to “facilitate mutual knowledge and understanding.”⁷⁹ However, “the more ‘diverse’ or ‘heterogeneous’ the political society, the greater need for elaborate and complex ‘machinery’ to facilitate mutual knowledge and understanding of the kind here in question.”⁸⁰ This complex constitutional machinery encourages deliberation that affords ample opportunity for consensus-making. Similarly, the various checks in the Madisonian system make action based on slim majorities difficult, and so further encourages consensus.⁸¹ Additionally, the function of the electorate, in choosing representatives, is to select the best (wise, virtuous) decision-makers rather than to weigh and choose among policy alternatives. Further, the norms of the decision-making process—*The Federalist*’s “constitutional morality”—encourages constitutional actors to act wisely, and discourages “ignoring the feelings of losers in elections.”⁸²

Kendall’s belief in the necessity of society’s defense of its shared basic assumptions and norms and comes to the forefront in his essay “The ‘Open Society’ and Its Fallacies,” included in *Willmoore Kendall Contra Mundum* and also published in *The Conservative Affirmation* as “Conservatism and the ‘Open Society.’” Here, Kendall attacks the doctrine John Stuart Mill announces in the essay *On Liberty*, that “there ought to exist the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered,” and Karl Popper’s development of this idea in *The Open Society and Its Enemies*.⁸³ Kendall’s concern is that the doctrine of the open society elevates freedom of speech and expression from one of the goods that a society will seek to advance to “society’s ultimate standard of order.”⁸⁴ In such a society, all questions must

be treated as open questions in public, including in public schools and universities. For example, even if all members of the society espouse a particular religion or church, in the public sphere each must nevertheless “treat all religions and churches as equal.”⁸⁵ The community is denied any capacity to promote any “public truth” or “orthodoxy.”⁸⁶ Therefore, “[t]he open society confers ‘freedom’ upon its members, but does so at the cost of its own freedom as a society.”⁸⁷

Mill’s proposal, Kendall argues, rests on the “false conception” that assumes that “society is . . . a debating club devoted above all to the pursuit of truth.”⁸⁸ In fact, society is devoted to a number of goods, including “the living of the truth they believe themselves to embody already, and the communication of that truth . . . to further generations . . . these are preconditions to the pursuit of truth.”⁸⁹

In fact, a society built on Mill’s precepts will fragment into increasingly bitter divisions, leading ultimately to “violence and civil war,” with the community unable to impede the process by “giving preferred status to certain opinions . . . for by definition it places a premium upon dispersion by inviting irresponsible speculation and irresponsible utterance.”⁹⁰ The paradigmatic historical example of the open society, Kendall warns, is Weimar Germany.

Kendall contends that the Mill-Popper open society would paradoxically become intolerant towards those who disagree with its precepts. Such a society, “dedicated to a national religion of skepticism,” must silence the person who “challenges the very foundations of skeptical society.”⁹¹

But did America not proclaim the open society to be its founding ideal with the enactment of the First Amendment? Kendall addresses this question in the essay “The Bill of Rights and American Freedom . . .”⁹² Preliminarily, Kendall notes that the Philadelphia Convention that drafted the Constitution unanimously voted down a proposal to include “a declaration or bill of the natural rights of man.”⁹³ Kendall also runs through the arguments against a Bill of Rights that were offered in *The*

Federalist and offers additional anti-Bill-of-Rights arguments of his own.

A central question, then, is what James Madison, *Federalist* and chief author of the Constitution, was “up to” when he drafted the Bill of Rights and convinced his congressional colleagues to enact it.

Kendall answers by taking us through the time of the adoption of the Bill of Rights. After the ratification of the Constitution, Madison sought to bring those who opposed its passage into the consensus by enacting a bill of rights. He took as his starting point the “recommendatory amendments” set forward from the Virginia convention.⁹⁴ But he stripped from them the language of natural rights, and replaces them with straightforward “rules of law.”⁹⁵ For example, the Virginia draft of what would become the First Amendment originally read, in part: “That the people have a right to freedom of speech, and of writing and publishing their sentiments, but the freedom of the press is one of the great bulwarks of liberty and ought not be violated.”⁹⁶ The passage becomes: “Congress shall make no law . . . abridging freedom of speech, or of the press.” The grandiloquent declaration of an abstract right is gone, and the people, through Congress, are left to determine for themselves the particulars of the “freedom of speech” through the Constitution’s deliberative process. Moreover, the specific directive to Congress leaves the abridgement of rights “as a *monopoly of the State governments* . . .”⁹⁷ Therefore, Madison has defused the First Amendment’s potential to fundamentally alter the nature of the state that the Constitution established.

Furthermore, Kendall dismisses the possibility that Madison or his congressional colleagues contemplated that the provisions in the Bill of Rights would be enforced by the judiciary: had that been the case, the record would show debate and controversy its enactment, when in fact there was virtually none.

Kendall’s final published work, *The Basic Symbols of the American Political Tradition*,⁹⁸ is based on a series of lectures Kendall delivered in 1964, which were expanded developed as a book by its co-author, George Carey.⁹⁹ In *Basic Symbols*, Kendall

looks beyond *The Federalist* and the founding to trace the development of America's political society to its earliest formative stages and examines the impact of moral and religious aspiration on its governing institutions. While the Kendall of *The Conservative Affirmation* had placed the American founding within a Straussian template that conceived of the founding institutions as emerging from a "Great Tradition" now under attack from latter-day positivists, the Kendall of *Basic Symbols* analyzes the American republic in terms of Eric Voegelin's conception of the core "symbols" that express a political society's self-understanding.

To chart the development of the American political tradition, Kendall employs Voegelin's conception of symbols as the hermeneutic method by which he examines the important documents of America's development during the colonial and revolutionary periods. According to Voegelin, in order to gain a meaningful understanding of any political society, it is first necessary to study that society's self-understanding. To do so, it is critical to examine the symbols and myths by which a people represents and interprets itself. These symbols are the mechanism through which a society conceives its "place in the constitution of being and of its role in history."¹⁰⁰ The symbols relate to each other and are sometimes in tension with one another. As a society develops and matures, its system of symbols also develops and new symbols are formed from the old through a process of differentiation.

A political community's self-understanding necessarily expresses a relationship to transcendent truth, "even if only the negative relationship of denial."¹⁰¹ Moreover, "[i]n Western Civilization basic symbolizations tend to be variants of the original symbolization of the Judaeo-Christian religious tradition: variants . . . of the tale according to which a founder, Moses, leads the people out of the realm of darkness, Egypt, into the desert . . . toward a Promised Land."¹⁰² Kendall's project is to examine the roots of America's political tradition in light of this basic symbolization and show how it has been willfully and widely misunderstood in the years following the Civil War.

Basic Symbols is perhaps Kendall's most forthright challenge to the notion that American's founding creed is based on egalitarianism and the protection of individual rights. Kendall presents his project as a corrective to an "official literature" that grossly misapprehends the nature of the American political tradition. In doing so he also wades into the debate over the meaning and significance of the Declaration of Independence.¹⁰³ This official literature holds that our political tradition begins with the Founding Fathers' drafting of the Declaration of Independence, which set forth our ideals as a nation: the equality of all men, and our possession of sacred, inalienable rights that cannot be abridged by the government.

The Declaration also, the official literature teaches us, signaled our emergence as a unified nation.¹⁰⁴ The structure of our government was then set down in the Constitution, in which the supposed fundamental ideals of the founding were curiously absent: progressive historians would teach that its aim was to further the economic interests of the landowning class. Finally, the Bill of Rights was enacted, adding to the Constitution a commitment to equality and individual rights that Congress could not abridge, thus bringing the Constitution in line with the ideals set forth in the Declaration.

Kendall contends that this narrative, although now cherished as a national myth, was actually invented after the fact and is contradicted by the historical record. Rather, he argues, the "defining principles and practices central to the political tradition of the Founding Fathers" were "those associated with a self-government by a virtuous people deliberating under God."

In order to chart the development of the American political tradition, Kendall closely examines public documents "that have at least the look of ventures in self-interpretation by a political society."¹⁰⁵ This allows us to trace the development of our political society's symbols from the earliest settlements through the adoption of the Constitution. Specifically, Kendall examines the Mayflower Compact, the General Orders of Connecticut, the Body of Liberties of Massachusetts Bay, and the Virginia Decla-

ration of Rights.¹⁰⁶ In them, we see the development of “the supreme symbols of the American tradition, that is . . . the symbols of a virtuous people through deliberative processes striving to achieve and advance their declared purposes which involve, *inter alia*, better ordering with justice.”¹⁰⁷ Related are the symbols of the consent of the people, the supremacy of their deliberative body and its commitment to act for the general good of society, and the submission of society to a higher law.

Kendall begins his analysis with the Mayflower Compact, where these symbols begin their development. The Compact begins with a “traditional Christian invocation: ‘In the name of God’”¹⁰⁸—an oath is being taken. In the next section the signers identify themselves and state the purposes of their undertaking (*e.g.*, glory of God, advancement of the Christian faith). A body politic is then created by oath (“solemnly . . . covenant and combine ourselves together into a civil Body Politick”).

Finally: “for our better Ordering and Preservation, and Furtherance of the Ends aforesaid; And by Virtue hereof to enact . . . such just and equal Laws . . . as shall be thought most meet and convenient for the General good of the Colony; unto which we promise all due submission and obedience.”¹⁰⁹

One apparent symbol is the glorification of God. Additionally, the “supreme ‘values’ of this system,” Kendall argues, are “*justice* and *general good*.”¹¹⁰ Finally, the language “laws *thought* to be just and equal” and the very solemnity of the unanimous adoption of the document under an oath suggest *deliberation* and consensus. Importantly, individual rights do not come into the equation, but it may be implied that individuals may derive rights through the community’s commitment to make “just and equal laws,” through deliberation, in furtherance of justice and the general good.

Moving to the Fundamental Orders of Connecticut, we see the “Mayflower symbols” in “differentiated form.”¹¹¹ Most importantly, the “better ordering” and “enact, constitute, and frame . . . just and equal laws” symbols have differentiated into the symbols of a written constitution with a supreme legislature. There is no longer any mention of “just and equal laws,” and no

symbols differentiate in the direction of individual rights.

The Massachusetts Body of Liberties, enacted two years later, introduces the symbol of “liberties, immunities, and privileges . . . due to every man,” which seems to approximate our contemporary understanding of individual rights.¹¹² However, the document states that the freedoms are “due to every man in his place and proportion”—suggesting that the drafters are concerned with justice rather than equality.¹¹³ Also, the liberties are either guarantees against courts or executive officials, or those that are guaranteed against the General Court (the legislature). The rights that would constrain the legislature contain “escape clauses,” *e.g.*, “unless . . . grounded by some act of the Generall Court [legislature].”

This raises the question of why certain rights would be spelled out if these rights did not legally constrain the legislature. The answer lies in the relationship between the symbols of the virtuous people, bound by consent, deliberating in subordination to transcendent truth. The people of Massachusetts, who have attained the habit of self-government, are entrusting their rights to the legislature—placing their rights in their own hands, in a sense, and thus implicitly asserting their right to self-government (through their legislature).¹¹⁴

The legislature, though “supreme,” does not rule by whim. The Body of Liberties was enacted by a people binding itself together into a body politic dedicated to the glorification of God. In doing so, they commit themselves to being “‘servants’ of humanity, civility, and Christianity, and as such servants, accept their call of humanity, civility, and Christianity.”¹¹⁵ As a deliberative body, the legislature is bound, therefore, to draw upon “the great tradition of Western man’s thought about the humane and civil . . . appeal[ing] . . . to the transcendent truth of the soul and society as continuously explored . . . through the experience of philosophy and religion.”¹¹⁶

The need to solve complex problems causes the symbol of the legislature to be further differentiated. The commitment of the legislature requires well-thought-out measures for choosing rep-

representatives. A good “machinery through which representatives are chosen . . . will channel the virtue of the virtuous people, their subordination to a higher law, into the decisions arrived at, through deliberation, by the virtuous people’s representatives.”¹¹⁷

Although individuals unquestionably have rights, individual rights have not yet been expressed as an essential symbol of the American tradition, Kendall contends. Instead, the central symbols are the supreme legislature and the “higher law that the supreme legislature must apply to day-to-day problems.” This is because, first, the common or general good was seen to be the primary concern, and second, because the legislature, through its deliberations and with the consent of the people, was seen as the best and most appropriate institution to deal with these problems.¹¹⁸

Moving ahead almost 150 years to 1776, just before the Declaration of Independence was enacted, the Virginia Bill of Rights was passed. It declared that all men, being “by nature equally free and independent,” have “inherent rights.”¹¹⁹ Nevertheless, Kendall argues against any Lockean influence, and asserts that the document most centrally asserts the right of the people to govern itself. He notes that the rights “are rights that pertain not to all men, not to individuals, but to the “good people of Virginia,” and pertain to them precisely as “the basis and foundation of government.”¹²⁰

He also shows that a close reading of the individual rights the document lists shows that, as with the Massachusetts Body of Liberties, none of them are individual rights that can be wielded against the legislature: they are either common-law rights of procedure or provisions that express the right of people to govern themselves through democratic processes—thus reinforcing the symbols of deliberation and the legislature.¹²¹

Kendall next sets out to demonstrate that the Declaration of Independence is also (if read correctly) fully consistent with the main symbols of the American tradition, while at the same time cautioning that it should not be viewed as the principal founding document of the nation. According to the official literature, the

Declaration's second paragraph sets forth our basic national commitment to equality and liberty: "We hold these truths self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights."¹²² However, Kendall argues that the inclusion of the phrase "all men are created equal" did not signify that we, as a nation, had adopted an egalitarian ethic as a binding national commitment. He argues that read as a whole, the Declaration reinforces the symbols of self-government through deliberative processes,¹²³ and that it is inappropriate to "wrench from it a single proposition and make that our supreme commitment." Moreover, the Declaration, as a document with a limited purpose, is not a constitutional document; it is a unanimous declaration, by *independent states*, of their intentions to break their bonds with Britain.¹²⁴ It follows, then, that we cannot infer national commitments from a document that was created before the states had self-consciously formed themselves into a union—which didn't happen until the adoption of the Constitution in 1789.

The commitments set out in the preamble to the Constitution, unlike those of the Declaration, *do* establish a "new political order,"¹²⁵ Yet they do so in a manner that is fully consistent with America's native symbols.¹²⁶ Study of the preamble is now neglected, yet it "still serves as our finest statement of purpose."¹²⁷ The language of the preamble places the source and ends of government with the people, rather than deriving them from abstract, theoretical notions of natural rights:

To say that "We the People" do ordain and establish a government "in Order to" promote desired ends is quite different from saying, as does the Declaration, that "Governments are instituted among Men" to secure certain "rights." The words of the Preamble tell us that men, "We the People," are instituting government in order to promote purposes or ends to which "We the People" subscribe [T]he Preamble suggests that this entire process is not predestined: Rather it is a matter of deliberate choice. . . . the people . . . have a "right" to establish their

own ends or purposes when constituting a government, not ends derived from a source other than the people. ¹²⁸

An understanding of the symbols of the American tradition is also relevant to *The Federalist* and the structural provisions of the Constitution. When we think of the core design of the Constitution, we bring with us certain assumptions, such as the idea that the branches are separate and equal. Kendall maintains that when reading the text of the Constitution without preconceptions about its operation, one finds that Congress in fact has extraordinary power: it can, among other things, impeach judges, impeach executive officials, remove issues from the jurisdiction of the Supreme Court, and torment the other branches with its control of the power of the purse. ¹²⁹ In Kendall's formulation, the legislative branch is in fact the most powerful branch. Therefore, the Constitution is a majoritarian document, despite various checks meant to encourage consensus and deliberation and discourage rash action. ¹³⁰ Besides which, a habitual "self-restraint and cooperation" is necessary in dealings between the branches—thus the "constitutional morality" that *The Federalist* prescribes is not the Framers' innovation; it was, in fact, derived from earlier symbols of consent and public virtue.

As Publius saw it, the various checks built into the deliberative process by the Constitution create delay, which facilitates consensus, as opposed to simple majority rule. But that leads to this question: "Why should delay, even granting it contributes to the development and perpetuation of consensual politics, serve to filter our majority factions while, simultaneously, responding to the wishes of non-factional majorities?" ¹³¹ For, while delay can reduce the possibility of rash actions, it cannot itself insure against tyranny, as those "bent upon . . . crimes against society . . . also deliberate, plan, and calculate." The answer is that Publius had certain unstated assumptions regarding the American people: "(a) The American people, unlike perhaps other people, have a sense of right and wrong; they do have, in other words, a feeling for justice and doing that which promotes the true interests of the

community. (b) . . . the American people will opt for that which is just and designed to promote the permanent and aggregate interests of the community . . .”¹³² Kendall, then, sees implicit in *The Federalist* a tacit premise of the essential virtue of the people. This idea must be understood in light of the symbols of the virtuous people advancing the common good through deliberative process. Here, Kendall is echoing a key argument made in *John Locke and the Doctrine of Majority Rule* : Locke’s “latent premise” regarding the morality of the majority has become Publius’s assumption regarding the American people.

Finally, Kendall argues that the Bill of Rights, though opposed by the Framers, did not seriously alter the character of our political culture when it was enacted. For example, the First Amendment did not fundamentally constrain Congress, because the liberty of the press nevertheless was understood to be regulated by Congress through the common law of seditious libel.¹³³ Moreover, if the Bill of Rights were understood to effect a radical change on our political tradition, one would expect it to be hotly debated—yet, Kendall argues, it was scarcely debated in the House of Representatives.¹³⁴ More likely, Kendall argues, Congress assumed they would have little practical effect beyond “hav[ing] a tendency to impress some degree of respect for them,” in the words of Madison.¹³⁵

From the Mayflower Compact through the passage of the Bill of Rights, then, “our supreme commitment and symbol has been self-government by a virtuous people.”¹³⁶ This symbol, present since the Mayflower Compact, reaches its full expression in the Madisonian republic, where the deliberation of the virtuous community is fostered by the design of the Philadelphia Constitution and the constitutional morality of *The Federalist* .

Moreover, “[t]he basic American symbols breathe the spirit of moderation.”¹³⁷ Through the process of differentiation, the symbols of the religious commitment of the people have been split off from their governmental institutions—“we sighed the sigh of relief when we got to Virginia and found the Americans ready to separate the political order from the religious order.”¹³⁸ Never-

theless, the society's conception of itself as striving for transcendent ends remains a critical element of its self-understanding, and the symbols expressed in its governing institutions are inseparable from its religious commitments.

However, any political society's core symbols are in danger of derailment, where it may lose its way, its proper relationship to the transcendent corrupted. One typical derailment involves

forgetting that the truth of the soul and that the truth of society are transcendent truths, and that the function of the basic symbols is to express the relation between political society and God. The basic symbols may be so manipulated . . . to cut man off from anything and everything higher than himself in the constitution of being . . . to understand man as possessing final truth, instead of merely groping for it across the gulf of transcendence.¹³⁹

Another standard derailment involves exaggerating a constituent part of a society's core complex of symbols—for example, the elevation of the “all men are created equal” clause of the Declaration of Independence—and “exaggerating it at the expense of the remainder.”¹⁴⁰

A third typical derailment “takes the form of deciding that the Promised Land, the ideal society of saints, can be built in this world, and need not be postponed until the world to come. Marxism is the very embodiment of a derailment of this nature.”¹⁴¹

Narrowing the focus to the American political tradition, one derailment holds that “God does not exist, but he American people are still the chosen people who must . . . build the Promised Land on earth.”¹⁴² America's central myth, then, holds that “our national genius expresses itself . . . in an apostolic succession of great leaders: George Washington, Thomas Jefferson, Abraham Lincoln, Roosevelts I and II, and John Kennedy, each of whom sees more deeply than the preceding leader into the specifically American problem, which is posed by the ‘all men are created

equal' clause of the Declaration of Independence.”¹⁴³

Another typical derailment of the American tradition holds that “the Moses of the American people is Jehovah himself,” and that [t]he Americans are God’s own people, America is God’s own country.” America’s mission, then, is to fulfill its divine mandate by “building the New Jerusalem and spreading it over the face of the entire earth.”¹⁴⁴

These represent the typical derailments, and those who are victimized by them are pretty certain to become fanatics of a sort. They will . . . demonstrate by their behavior a contempt for the rules laid down in *The Federalist* for the operation of the Philadelphia Constitution Whenever there is any considerable number of them amongst us, the American political system is on the threshold of a crisis, in danger, that is, of breaking down.¹⁴⁵

While the seeds of America’s derailments may have predated Lincoln and the Civil War, Lincoln’s Gettysburg Address, with its intonation that in 1776 “our fathers brought forth . . . a new nation . . . dedicated to the proposition that all men are created equal,” was the watershed moment in which the “all men are created equal” clause of the Declaration of Independence was elevated to the status of America’s core founding commitment. Following the Gettysburg Address, the Declaration of Independence could be elevated to the status alongside the Constitution as a binding foundational document, setting out American society’s commitments as a people.

In the preface to the 1995 edition of *Basic Symbols*, George Carey succinctly expresses the nature of the derailment of the supreme symbols of the American tradition, borrowing the terminology of philosopher Michael Oakeshott:

Our Constitution, consistent with the basic symbols, is clearly *nomocratic* in character, largely concerned, that is, with providing rules and limits for the government through which the

people express their will. Since the derailment, however, the Constitution is increasingly viewed from *ateleocratic* perspective as an instrument designed to fulfill the ends, commitments, or promises of the Declaration.¹⁴⁶

Willmoore Kendall's successive re-evaluations of his own thinking resulted in a mature body of work that contrasted markedly with his earliest writing. However, the transformations of Kendall's thought are best understood as development rather than inconsistency. From Kendall's early enthusiasm for government by plebiscite, through his "conversion" to Straussianism, to his encounter with Eric Voegelin's teaching, to his fruitful collaboration with George Carey, certain themes stand out. Kendall conceived of American society as, at its healthiest, a culturally homogeneous community sharing core, basic assumptions: an organically integrated body politic. He was unfailingly optimistic about a virtuous political society's potential to resist tyranny, govern itself moderately, and bring minority opinion into a larger consensus. Kendall's distrust for sloganeering (of both the left and the right) over "equality" and individual rights stemmed from his distrust for ideologies that hold the dangerous potential to undermine self-government. Individual-rights absolutism, with its atomistic vision of the polity, also clashed with Kendall's notion of society as an integrated community, in which rights must exist alongside coordinate duties within society's complex structures of association.

Despite the neglect that Kendall's teaching has encountered in the decades following his death, it is difficult to find an example of a contemporary political or cultural controversy to which his teaching does not add clarity. Both in clashes of left and right, and in the internecine battles of the conservative movement, Kendall's illumination of the crucial underlying issues retains its vitality.

Kendall invited denunciation from his adversaries by uttering heresies against America's supposed core values. The sharp criticism that Kendall attracted by denigrating the Bill of Rights, questioning the role of the Declaration of Independence, and

expressing his skepticism of the value of freedom of expression in the “open society” is not surprising. Kendall, of course, delighted in antagonizing his enemies. But his true aim was to revive a constitutional order that represents America’s best, and perhaps only, hope for resisting tyranny, protecting self-government, and safeguarding the liberty of its citizens. His purpose was not to engage in blasphemy, but to revive a lost American orthodoxy.

Mark Nugent
Ave Maria School of Law

NOTES

1. Willmoore Kendall, *John Locke and the Doctrine of Majority-Rule* (Urbana, IL: University of Illinois Press, 1965).
2. Willmoore Kendall, *The Conservative Affirmation* (Chicago: Henry Regnery Company, 1963).
3. Willmoore Kendall and George Carey, *The Basic Symbols of the American Political Tradition* (Washington, D.C.: The Catholic University of America Press, 1995).
4. Kendall’s surviving correspondence with Leo Strauss is published in John A. Murley and John E. Alvis, eds., *Willmoore Kendall: Maverick of American Conservatives* (Lanham, MD: Lexington, 2002), and a selection of Kendall’s correspondence with his father can be found in Yvonna Kendall Mason, ed., *Oxford Years: The Letters of Willmoore Kendall to His Father* (Bryn Mawr, PA: ISI Books, 1993).
5. Willmoore Kendall, *John Locke and the Doctrine of Majority-Rule* (Urbana, IL: University of Illinois, 1965).
6. *Ibid.*, 16.
7. *Ibid.*, 17. Citation omitted.
8. *Ibid.*, 18.
9. *Ibid.*, 24.
10. *Ibid.*, 33.
11. *Ibid.*, 39.
12. *Ibid.*, 76. Citation omitted.
13. *Ibid.*, 133. Emphasis in original.

14. *Ibid.*, 106.
15. *Ibid.*
16. *Ibid.*, 103.
17. *Ibid.*, 134.
18. *Ibid.*, 134.
19. Kendall, *The Conservative Affirmation*.
20. *Ibid.*, 4.
21. *Ibid.*, xi.
22. *Ibid.*, 4.
23. *Ibid.*, xii.
24. *Ibid.*, 10.
25. *Ibid.*, x.
26. *Ibid.*, 40.
27. *Ibid.*, 22.
28. *Ibid.*
29. *Ibid.*, 28.
30. *Ibid.*, 23. At the time *The Conservative Affirmation* was written, President John F. Kennedy was championing the Hart-Cellar Act, which would revolutionize immigration policy by eliminating national-origin quotas; but met with intransigent congressional resistance. In the wake of Kennedy's assassination, the bill would be signed by Lyndon Johnson in 1965.
31. *Ibid.*, 24, emphasis in original.
32. *Ibid.*, 27.
33. *Ibid.*, 40.
34. *Ibid.*, 45-46.
35. *Ibid.*, 91, emphasis in original.
36. *Ibid.*
37. *Ibid.*, 98.
38. *Ibid.*, 99.
39. "In a conversation with a friend in the 1940s, Willmoore Kendall remarked that he had a 'messianic urge.' . . . By the mid-1940s . . . Kendall apparently entertained the hope of becoming an American Locke. . . . During his middle age . . . he indicated that he wanted to be, for the contemporary era, an American equivalent of Edmund Burke. . . . And in 1963 . . . he wrote: 'At

Dallas, I can be Moses back from the 40 years of his preparation, among *His* people.” George H. Nash, “The Place of Willmoore Kendall in American Conservatism,” in *Willmoore Kendall: Maverick of American Conservatives*, John A. Murley and John E. Alvis, eds. (Lanham, MD: Lexington, 2002), 3.

40. John A. Murley and John E. Alvis, *Ibid.*, xxiii-xxviii.

41. Nellie Kendall, ed. *Willmoore Kendall Contra Mundum* (Lanham, MD: University Press, 1971).

42. Willmoore Kendall, “On the Preservation of Democracy in America,” in *Willmoore Kendall Contra Mundum*, 103.

43. *Ibid.* 110.

44. *Ibid.*

45. *Ibid.*, 103.

46. *Ibid.*, 110.

47. *Ibid.*, 114.

48. *Ibid.*, 113.

49. *Ibid.*, 113.

50. *Ibid.*, 116.

51. George Carey, “Willmoore Kendall and the Doctrine of Majority Rule,” in *Willmoore Kendall: Maverick*, 21.

52. John E. Alvis, “The Evolution of Willmoore Kendall’s Political Thought,” *Ibid.*, 49.

53. Kendall, “Prolegomena to Any Future Work on Majority Rule,” in *Willmoore Kendall Contra Mundum*, 129.

54. *Ibid.*, 145.

55. *Ibid.*, 144.

56. *Ibid.*, 139.

57. *Ibid.*, 144. Emphasis in original.

58. *Ibid.*, 147.

59. *Ibid.*, 140.

60. *Ibid.*, 143.

61. Kendall, “How to Read ‘The Federalist,’” in *Willmoore Kendall Contra Mundum*, 403.

62. I refer to the author of works co-authored by Kendall and Carey as “Kendall” for brevity, and because the place of these works in Kendall’s thought is the object of this study. My intention

is certainly not to minimize George Carey's authorship.

63. *Ibid.*

64. *Ibid.*, 409.

65. *Ibid.*

66. *Ibid.* Emphasis in original.

67. *Ibid.*, 406.

68. *Ibid.*

69. *Ibid.*, 407.

70. *Ibid.*

71. *Ibid.*

72. *Ibid.*, 411.

73. *Ibid.*, 412.

74. *Ibid.*, 413.

75. *Ibid.*, 474.

76. *Ibid.*, 480.

77. *Ibid.*, 487.

78. *Ibid.*, 490.

79. Kendall, "The 'Open Society'; and Its Fallacies," in *Willmoore Kendall Contra Mundum*, 492.

80. *Ibid.*, 492.

81. *Ibid.*, 502.

82. *Ibid.*, 501.

83. *Ibid.*, 635.

84. *Ibid.*, 639.

85. *Ibid.*, 639.

86. *Ibid.*, 639.

87. *Ibid.*, 640.

88. *Ibid.*, 644.

89. *Ibid.* Emphasis in original.

90. *Ibid.*, 647.

91. *Ibid.*, 646.

92. Kendall, "The Bill of Rights and American Freedom," in *Willmoore Kendall Contra Mundum*, 303.

93. *Ibid.*

94. *Ibid.*, 319.

95. *Ibid.*

96. *Ibid.*, 320.

97. *Ibid.*, 323. Emphasis in original.

98. Willmoore Kendall and George Carey, *The Basic Symbols of the American Political Tradition* (Washington, D.C.: The Catholic University of America Press, 1995).

99. Again, I will refer to this work's author as Kendall for convenience, without any intent to minimize George Carey's contribution.

100. *Ibid.*, 22.

101. *Ibid.*

102. *Ibid.*, 24-25.

103. For more on the Declaration of Independence's role and importance during the era, see Garry Wills, *Inventing America: Jefferson's Declaration of Independence* (New York: Mariner, 2002) and Pauline Maier, *American Scripture: Making the Declaration of Independence* (New York: Vintage, 1998).

104. Kendall and Carey, *Basic Symbols*, 3-14.

105. *Ibid.*, 30.

106. *Ibid.*

107. *Ibid.*, 112.

108. *Ibid.*, 31.

109. *Ibid.*, 34.

110. *Ibid.*, 39.

111. *Ibid.*, 43.

112. *Ibid.*, 42.

113. *Ibid.*, 50.

114. *Ibid.*, 58.

115. *Ibid.*, 55.

116. *Ibid.*, 55.

117. *Ibid.*, 57.

118. *Ibid.*, 59-60.

119. *Ibid.*, 62.

120. *Ibid.*, 64.

121. *Ibid.*, 68.

122. *Ibid.*, 84.

123. *Ibid.*, 79.

124. *Ibid.*, 77.

125. *Ibid.*, 99.

126. For those who need a refresher, the preamble to the U.S. Constitution reads: "We the People of the United States, in Order to form a more perfect Union, establish justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution of the United States of America." *Ibid.*

127. *Ibid.*

128. *Ibid.*, 102.

129. *Ibid.*, 98.

130. *Ibid.*, 111-12.

131. *Ibid.*

132. *Ibid.*, 112.

133. *Ibid.*, 133.

134. *Ibid.*, 130.

135. *Ibid.*, 129.

136. *Ibid.*, 138.

137. *Ibid.*, 147.

138. *Ibid.*, 149.

139. *Ibid.*, 145.

140. *Ibid.*

141. *Ibid.*

142. *Ibid.*, 152.

143. *Ibid.*, 153.

144. *Ibid.*

145. *Ibid.*, 146.

146. *Ibid.*, xxii. Emphasis in original.