Russell Kirk: A Centennial Symposium

Extremism, The American Founding, and Russell Kirk's The Roots of American Order

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Russell Kirk has three interlocking intentions in writing *The Roots of American Order*.[1] First, he would draw our attention to the appearance of modern tyranny, particularly as established by the French and Russian revolutions, and have us see this form of tyranny as a new and especially dangerous type of political evil. Second, he aims to keep America from succumbing to a similar modern tyranny by arguing that America is largely the result of premodern strains of thought and historical and cultural experiences that have combined to give us an ordered liberty that, if properly understood and attended to, insulates us from modern tyranny.[2] Third, in recovering an understanding of our ordered liberty, Kirk would also have us renew our loyalty to it on its own terms (apart from the protection it offers us from modern tyranny) and retain it as the substantial political goal toward which Americans can and should aim. In recovering an appreciation of the premodern roots of American order, Kirk sets himself against the position that America can be understood as a fundamentally early-modern liberal nation. Though recent scholarly work on the place of natural rights in the American Founding has raised questions about Kirk's analysis of the Founding, it is my argument that Kirk's analysis is largely sound because America's political culture does indeed have deep roots in premodernity. Furthermore, Kirk's analysis

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[1] Russell Kirk, *The Roots of American Order*, 4th ed. (Wilmington, DE: ISI Books, 2003).

[2] Ibid., 9.

of modern tyranny is also sound. Despite the fact that debate over the character of the Founding is very much alive, and regardless of how it turns out, loyalty to Kirk's understanding of ordered liberty is vital because the American ordered liberty that he describes is a precondition of human flourishing.

Comparing Two Revolutions

Kirk illuminates some of the key salutary elements of the American Founding by comparing it to a quite defective modern revolution—the French Revolution. He correctly argues that the French Revolution provided intellectual and emotional impetus to such modern tyrannies as the Soviet Union and Maoist China. It did so by popularizing certain key modern premises that give tyrants unprecedented political ambition and political power that lead in turn to unprecedented brutality and misery. In comparing the American and French revolutions, Kirk points to three fundamental differences. These concern the question of whether or not man is naturally good; the power of individual human reason; and the status of religion in human life.[3] With respect to the first difference, the French revolutionaries assimilated their belief in the natural goodness of man from Rousseau. By contrast, the American revolutionaries maintained the traditional view, inherited from Christianity, that man is fallen: "A principal difference between the American Revolution and the French Revolution was this: the American revolutionaries in general held a biblical view of man and his bent toward sin, while the French revolutionaries in general attempted to substitute for the biblical understanding an optimistic doctrine of human goodness advanced by the philosophies of the rationalistic Enlightenment."[4] Despite this theoretical claim regarding human goodness, the French revolutionaries could of course see that many actual men around them were in fact not good. They attributed their obvious human sinfulness or immorality to social and political causes. The revolutionaries sought the modification of society and politics so as to ameliorate human sinfulness and immorality in order to bring about the fullest expression of man's innate, natural goodness. A project of social and political amelioration in pursuit of such a transformative goal required greatly empowering government, the instrument of that amelioration. And it required strong measures in the face of human recalcitrance. The belief in the natural goodness

[3] Ibid., 29, 278, 349, 396, 398.
[4] Ibid., 29.

of man therefore led, by this chain of political reasoning, to a lack of political restraint fueled by the frantic desire to fulfill "their visions of a future earthly paradise."[5] The result was "the Terror and . . . a new autocracy," fewer "checks upon will and appetite," and "a far more arbitrary domination."[6] In short, a project that aimed at an unprecedented improvement in the human condition resulted in an unprecedented tyranny, in the very heart of modern, civilized Europe.

By contrast with these French political excesses, America's Founders and people exhibited less willfulness and arbitrariness, and more justice and moderation. American moderation had its roots in the belief that man is by nature sinful. If human sin is ineradicable, one must not expect too much from men and one is therefore led to temper one's political demands. Rather than demands for an "earthly paradise" leading to tyranny, the Founders instead sought to promote ordered liberty and an imperfect but tolerable and perhaps even happy existence.

The second great error of the French revolutionaries concerns their belief in the power of human reason: "At the heart of the 'Enlightenment' mentality was an enormous confidence in the reason of the individual human being. Man's private intellectual faculties, if awakened, could suffice to dissolve all mysteries and all problems."[7] This supreme confidence in individual human reason stood in stark contrast to what the revolutionaries saw as the irrationalities and superstitions of the past. This led them to reject their past as outdated, and with it "their patrimony of order."[8] They would instead invent the world anew: "[T[he *philosophes* of the Enlightenment expected the swift transformation of civilization on purely rational principles."[9] Favorably describing David Hume's view of eighteenth-century France, Kirk tells us that "[t]he obsessions of *philosophes* with abstract reason, *a priori systems*, and unprofitable teachings tend toward injury to society."[10] Indeed, if not moderated, "[p]hilosophy . . . can produce fanatics" and in fact actually did produce fanatics in France.[11] One can see how this second error fed into the first. A mere belief in the theoretical possibility of human improvement or even perfectibility and a strong desire for it are not enough to produce tyranny. One must in addition discern a path to the sought-for "earthly

[5] Ibid., 400.
[6] Ibid., 29.
[7] Ibid., 349.
[8] Ibid., 390.
[9] Ibid., 348.
[10] Ibid., 364.
[11] Ibid., 365.

paradise." That path is the product of a newly unbounded human reason.

By contrast with these rationalistic excesses, the American revolutionaries maintained key elements of their past and key non-rationalistic supplements to reason. Because they understood that man is by nature imperfect and sinful, they were wary of claims concerning the power of unbounded human reason, which itself could only be imperfect. In addition to reason, they relied on experience, and so clung to common law, with its methodological humility and empirical grounding. They retained recognizably traditional institutional forms of government that they had inherited from their experience as somewhat self-governing English colonies by establishing representative assemblies modeled on the House of Commons, a Senate that borrowed from the House of Lords, and a chief executive who could fairly be described as an elected republican "monarch." They modeled the U.S. Constitution's Bill of Rights on the English Bill of Rights of 1689, while also drawing from common law. In the background of both England and the new United States of America lay the English tradition of liberty from Magna Carta onward. Unlike the French revolutionaries, the Americans valued their history and traditions. The fruit of their political efforts, the American regime, aimed not at an "earthly paradise," but rather at ordered liberty with modest, private domestic and economic goals, and exalted but uncoerced religious goals.

The third great error of the French revolutionaries concerns their attacks on the Church. They held the view that "[r]eligion must be discarded as mere superstition."[12] Religion, they believed, leads to rule by the Church over a mass of people held in deliberate ignorance and irrationality. Further, it leads us to think that men are by nature sinful. It deforms and distracts our reason, our one great and efficacious tool for understanding and improving the human condition. This third error feeds into the first two errors. In the absence of religion, they thought, man's reason would be unbounded and undistorted, freely available for his use. And freed from the story or myth of the Fall, we would be free to imagine a better world than that offered by the Church. Kirk sees in this irreligion a number of serious problems. In the first place, and quite apart from politics, the believer within Kirk must wonder at the French revolutionaries' prospects for salvation. In more earthly terms, the French revolutionaries must risk disorder in their own souls. The great cultural inheritance of Judeo-Christianity is the well-ordered soul

[12] Ibid., 349.

of those Jews and Christians who place themselves in humble submission to God. Having rejected the Church, the revolutionaries reject with it this key source of internal order. The resulting internal disorder cannot but have pernicious political consequences, for as Kirk makes clear throughout *The Roots of American Order*, a well-ordered society can be neither achieved nor maintained unless it is composed of individuals who have well-ordered souls. And so it is not surprising to see French revolutionaries plunging France into political chaos. Having disordered their own souls by rejecting the Church and then having seized political power, they are, so to speak, free to spread their internal disorder to the society around them.

In contrast with the hostility to religion of the French Revolution, the American Revolution retained and Americans benefited from a continuing belief in Christianity. This continuing faith functioned as both an ordering principle for their souls and a check on political immoderation. To be sure, Kirk notes the Deism of a number of important Founders. But he rejects its political significance. For Kirk, Deism was an untenable departure on their part from their Christian patrimony. It was a sterile system of belief that could have no broad appeal and that was bound to die out.[13] Kirk's dismissal of Deism parallels his analysis of Stoicism in ancient Rome: howsoever much one might think Stoicism to be true, it could only appeal to the few and could not form the basis for a recovery of Roman virtue by the broad mass of Roman citizens.[14] Similarly, Deism could not gain broad support in America. Largely spared the distractions and harms of irreligion, atheism, and unfulfilling modern systems of belief, ordinary Americans in their millions were free to place Christianity at the center of their lives.

Of all the errors of the French Revolution recounted by Kirk, the central one is the view that man is by nature good. This view opens up apparent political possibilities—in reality, political extremes—that would otherwise be foreclosed by a belief that man is fallen. Compared with this error, the French revolutionaries' irreligion, while also an error, must be a secondary one. To be sure, Judeo-Christianity is an indispensable pillar of Western civilization, and irreligion (not to say atheism) exposes men to politically immoderate appeals. In that sense, irreligion is politically dangerous. But those politically immoderate appeals and commitments are not a direct consequence of irreligion. Were that the case, every unbeliever and atheist would be politically immoderate. Irreligion

[13] Ibid., 404.
[14] Ibid., 125.

and atheism, so to speak, remove restraints. The belief in the natural goodness of man (to continue the metaphor) pushes the unrestrained toward political immoderation. Though the belief in the natural goodness of man is an error separate from irreligion and atheism, it is broadly associated with them because so many unbelievers and atheists make the mistake of assuming that the Judeo-Christian view that man is sinful by nature is strictly derived from faith. In rejecting Judeo-Christianity, the tendency among unbelievers and atheists is to reject with it the Judeo-Christian belief in the Fall. But in fact, one can arrive at the view that man is by nature sinful strictly by the use of reason. And so, men of faith have two reasons for believing that man is unavoidably sinful: their faith and their reason. They need not concede to unbelievers and atheists the point that the belief in human moral imperfection is strictly a matter of faith and therefore rationally indefensible.

Though Kirk is right to reject both the French revolutionaries' belief in the natural goodness of man and their irreligion, we must wonder whether Kirk has correctly analyzed the role of reason in both the French and American revolutions. Kirk is correct to notice that something went seriously wrong with the approach to reason of the *philosophes* and French revolutionaries. But as I will argue below, his criticism of the French may sweep too broadly. This will become clearer once we examine his partly questionable interpretation of the use of reason by the American Founders.

Kirk and the American Founding

In his analysis of the American Founding, Kirk rejects the view that natural rights are central to the Founding. In the decades since 1974, when *The Roots of American Order* was first published, there has been a vigorous debate among political scientists and historians on the question of how to understand the Founding. The most prominent theories are that the Founding is fundamentally an expression of modern natural rights; or that it is republican in character; or that it is some amalgam of the two. For Kirk, the Founding is a combination of influences: Judeo-Christianity, Greek philosophy and culture, Roman constitutionalism and law, and the English tradition of liberty, but not natural rights. He reads Locke, and with him his doctrine of natural rights, out of the Founding, claiming that the Founders absorbed little of importance from Locke.[15] Indeed, for Kirk, the Founding was not based on any abstract

[15] Ibid., 291-92.

political theory at all.

Kirk's view of the Founding needs to be set against recent work by Thomas G. West. West argues that the Founders were centrally concerned with natural rights.[16] West marshals a great deal of evidence in support of his thesis, citing many Founding Era documents that make explicit reference to natural rights, or that can only be understood in light of an underlying belief in natural rights.[17] For example, the Declaration of Independence exhibits a Lockean intellectual framework with its references to natural human equality and "inalienable" (i.e., natural) rights. The early state constitutions of Pennsylvania, Massachusetts, and North Carolina make explicit reference to natural rights. The Essex Result of 1778 makes explicit reference to both natural rights and the state of nature.[18] And there is much more evidence cited by West for the acceptance of natural rights by the Founders.

West's work has certainly not silenced scholarly differences over the Founding. West finds much of his evidence in public documents and infers a broad public acceptance of the doctrine of natural rights from the public nature of the documents. But skeptics can wonder whether the repeated mentions of natural rights amount to rhetorical flourishes, or philosophical boilerplate, or merely the publicly expressed private views of certain elites not broadly shared by ordinary citizens of the new republic. Moreover, skeptics might take issue with the view of West and likeminded scholars that the U.S. Constitution is centrally aimed at defending the natural rights of the Declaration. In particular, one can ask whether the Framers and ordinary citizens at the various ratifying conventions understood the Constitution in this way. It may be that they had a view of constitutionalism more informed by the English tradition of liberty and the memory of recent abuses by the Crown. If those skeptical of West's arguments are not persuaded by them, his book must at least merit serious intellectual engagement.[19]

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[16] Thomas G. West, *The Political Theory of the American Founding: Natural Rights, Public Policy, and the Moral Conditions of Freedom* (Cambridge: Cambridge University Press, 2017).

[17] Ibid., esp. ch. 1.

[18] See Pennsylvania Constitution (1776) at http://avalon.law.yale.edu/18th_century/pa08.asp; Massachusetts Constitution (1780) at http://press-pubs.uchicago.edu/founders/print_documents/v1ch1s6.html; North Carolina Constitution (1776) at http://avalon.law.yale.edu/18th_century/nc07.asp; and The Essex Result at http://press-pubs.uchicago.edu/founders/documents/v1ch4s8.html.

[19] For example, see Joseph Baldacchino, "The Unraveling of American Constitutionalism: From Customary Law to Permanent Innovation," *Humanitas* 18, nos. 1-2 (2005): 59-85. Though Baldacchino helps us think more clearly about the Founding and the Constitution, nowhere in his extensive discussion does he mention natural rights.

But even if West is correct about the role of natural rights in the Founding, we can still see that Kirk's description of the Founders accurately describes what motivated them to a great degree. West's argument itself helps to confirm Kirk's views concerning the role in the Founding of the political culture and order in the soul of Americans. To see this, we must consider an important step in West's argument concerning the Founding: his use of the terms "form" and "matter."

West uses these terms loosely or metaphorically, and not in their traditional metaphysical meanings. He proposes that we understand the natural rights doctrine as the "form" that gives political shape to the Founding and the regime. The people, along with their history, religion, culture, traditions, and habits constitute the "matter." As in metaphysics, the "form" here takes precedence over the matter and gives the regime its identity or character as one dedicated to natural rights.[20] But for this "form" to hold sway, the "matter" must be willing or compliant. The "matter" must be of a sort that permits the people to adhere to the doctrine of natural rights.[21] If the "matter" is not sufficiently receptive, the "form" cannot take hold. And indeed, in some cases, among some peoples around the world, the "form" cannot take hold because their "matter" is unreceptive. West concludes that, tragically, some peoples are unfit to live under the doctrine of natural rights and must endure lesser regimes.[22]

With respect to the particular details of the "matter," West and Kirk are in remarkable agreement. In West's view, what made the Americans of the Founding particularly receptive to natural rights includes important elements in Kirk's understanding of what was distinctively good in Founding Era America: "The people," West writes, "warmly supported their colonial tradition of English law, Protestant Christianity, and republican political institutions." He goes on to state, in words with which Kirk could surely agree, that "[i]t is unlikely that the American Revolution could have succeeded without something like the Anglo-American people with their distinctive ethnic character, religion, and

[20] West, *Political Theory of the American Founding*, 50.

[21] Ibid., 52.

[22] Ibid., 51-52. An analogy may help clarify this important point. The theories of calculus are both abstract and held to be universally true by those capable of understanding them. But it is pointless and even counterproductive to teach calculus to someone who is mentally incapable of understanding it. Such persons must instead live their life with little or no understanding of calculus. The impossibility of universalizing knowledge of calculus does not make its theories any less true or abstract or universal.

legal heritage."[23] Kirk is correct to see important elements of Judeo-Christianity, Greece and Rome, and the English tradition of liberty (with its ethnic and cultural particularities) as essential to the Founding. For Kirk, these elements largely explain the Founding; for West, they are instead the necessary cultural characteristics that prepare the ground for the advent of a regime dedicated to natural rights.

The substantial agreement between the more Burkean Kirk and the more Lockean West offers friends of ordered liberty an opportunity for intellectual and political bridge building. The disputes between these two sides—focused on the status of natural rights in the Founding—are intellectually quite serious, yet they nonetheless permit broad agreement on many and perhaps most cultural and political issues. To be sure, Burkeans may well chafe at a regime of natural rights. But there is an important limitation on natural rights that can appeal to them: expressions of the natural rights "form" must not be permitted to undercut expressions of the cultural "matter" that makes possible the imposition or adoption of the "form." Were the "form" to undercut the "matter," we would have expressions of freedom undercutting the moral conditions of freedom, which would in turn undermine freedom. Taken to an extreme, assertions of natural rights would transform the culture into one incapable of sustaining a regime of natural rights.[24] Because a regime dedicated to natural rights must protect the moral conditions of freedom, such a regime can be broadly welcoming to adherents of both Burkean and natural rights philosophical inclinations.

One can go a step further in discerning the common ground between Burkeans and natural rights proponents. Even if the theory of natural rights is true, the dependence of the natural rights "form" on the cultural "matter" qualifies the universality of natural rights. This dependence means that one must have a supra-natural rights perspective from which to judge whether a regime of natural rights is appropriate to a particular people. For believers in the theory of natural rights, that supra-natural rights perspective consists of an understanding of natural right that aims at individual flourishing within the context of the common good, broadly understood as the pursuit of happiness by means of virtue. This higher goal, drawn from Aristotle, is one to which both Burkeans and

[23] Ibid., 52.

[24] For example, there can be no natural right to limitless freedom of speech. The boundaries of freedom of speech include the point at which licentious speech undermines the moral self-restraint that permits a society to live under a regime that protects one's natural right to freedom of speech. There is therefore a cultural limit to one's natural right to freedom of speech.

natural rights proponents can give their loyalty. The doctrine of natural rights comes into view as the disputed abstract universal by means of which the common goal of happiness and virtue is achieved.[25]

Is Ordered Liberty Secure without an Abstract Theory to Protect It?

In West's view, a natural rights republic is contingent. A people risks losing its dedication to natural rights if it loses its underlying political culture of ordered liberty. But the clear implication of West's argument is that the reverse must also be true: a political culture of ordered liberty is insecure without an animating abstract political theory to hold it together. We can see this by considering two historical episodes during which, as proponents of the natural rights Founding argue, Americans drifted from a belief in natural rights. The first was the slavery crisis of the 1830s to the 1860s; the second was the Progressive Era and its aftermath. In both cases, the drift from natural rights was initially a consequence, not of an abandonment of the Founding Era's political and cultural elements, but rather the absorption of new abstract political ideas in place of natural rights. That is, the drift involved the same "matter" but a new "form." During the slavery crisis, that new "form" consisted of the "positive good" theory of Southern defenders of slavery, an assertion that carried with it a rejection of natural rights understood as wholly abstract, divorced from historical circumstance. During and after the Progressive Era, that new "form" consisted of progressivism, which rejects natural rights and, indeed, nature *tout court*. Slavery and progressivism both eventually undermined the cultural conditions of freedom to which both Kirk and West are loyal: slavery by producing tyrannical souls in white slave owners; and progressivism by nihilistically undermining nature as a standard for human life. Those two ideological departures from the Founding were mistakenly understood at the time by both slavocrats and Progressives as consistent with the cultural conditions of freedom, that is, the rule of law, Judeo-Christianity, republicanism, and Anglo-American moral culture. Americans of the time mistakenly thought that they could change the "form" and keep the same "matter." After rejecting natural rights, according to proponents of West's view, they were left with nothing but a Kirkian ordered liberty. And then they supplied a new, animating ideology that in time undermined that ordered liberty.

[25] For an account of how a regime dedicated to natural rights can be seen as aiming at an Aristotelian regime dedicated to natural right, see Harry V. Jaffa, "Equality, Liberty, Wisdom, Morality and Consent in the Idea of Political Freedom," *Interpretation: A Journal of Political Philosophy* 15, no. 1 (January 1987): 24-28.

Thus, according to this point of view, a narrow loyalty to the cultural conditions of freedom paired with an aversion to the abstract modern political doctrine of natural rights has not protected and cannot reliably protect America from drifting into pernicious ideologies, so long as those ideologies can (for a time) credibly present themselves as consistent with those cultural conditions of freedom.[26]

Assuming this view of the relationship between the "form" and the "matter" to be correct, this would appear to expose a Kirkian America to dangerous drift by ideologues. Kirk has a ready argument against abstract innovators who would hijack traditional American ordered liberty: a rejection of *all* purely abstract political universals, and therefore a rejection of their particular variety of abstraction.[27] Of course, Kirk still has need of universals of some sort. His approach to this problem is to adopt a Burkean view of universals. Claes Ryn goes beyond Kirk in explaining how we arrive at universals through history. For one like Burke, Ryn writes, "[t]here are for human beings no final, definitive standards of goodness, truth, and beauty if what is meant are fixed principles or definitions unaffected by the complexity and variety of human existence."[28] Instead, "to become real and normative—truly persuasive—for human beings," genuine standards "have to acquire concrete form in particular moral actions, particular philosophical insights, particular artistic creations. Before assuming some definite shape they are but groping, inarticulate intuitions. It is as individuals give concrete expression to the inspiring power of universality that human life is deepened and enriched and that sound standards are formed and refreshed."[29] Trans-historical, purely abstract philosophic insight is an illusion: "Exceptional, path-breaking individuals can play central leadership roles, but the civilized society is not created by a single enlightened generation and even less by a few exceptional minds, or by a 'lawgiver.' Those who are so called turn out to have been formed by an already existing culture, even if partly in

[26] Mark Henrie asks whether we should reconsider whether America was well-founded in light of the pernicious drift that it has experienced from its more "conservative" Founding. Mark C. Henrie, "Russell Kirk's Unfounded America," *Intercollegiate Review* 30, no. 1 (Fall 1994), 55-56. In response to this concern, we might consider that a nation can be well-founded without being perfectly well-founded. A people can drift from truth and goodness on account of intellectual error or a false promise of a better world.

[27] Kirk., *Roots of American Order*, 9.

[28] Claes G. Ryn, "History As Transcendence: What Leo Strauss Does Not Understand About Edmund Burke," *Humanitas* 31, nos. 1-2 (2018): 98. See also Claes G. Ryn, "The Decline of American Intellectual Conservatism," *Modern Age* 49, no. 4 (Fall 2007): 537-50.

[29] Ryn, "History As Transcendence," 98-99.

opposition to it."[30] By contrast with Burke's view, proponents of abstract universals argue that moral standards (or more precisely, principles of natural right) can be derived purely abstractly, though one must use prudence in implementing them. They function as possibly never-to-be-attained moral ideals, indicating to us what is good for us, and showing us, when compared with our actual political circumstances, how far we sit from the ideal. Ryn acknowledges the difficulty of establishing or reforming experientially grounded standards. But he argues that proponents of purely abstract standards suffer from the same problem to a still greater degree: "If it is not adequate for an historicist to cite an *experiential* standard as inherently valid, why should . . . rationalists be permitted to cite an *abstract* standard as inherently valid?"[31] Ryn believes that the Burkean approach permits one to persuade others more readily than does the "rationalist" approach because it permits "direct experience" of the proposed standard.[32]

This debate over moral principles resembles nothing so much as the long-running debate over metaphysics. Proponents of metaphysics and proponents of purely abstract moral standards both propose what is unseen but allegedly rationally accessible and eternal as a means to authoritative understanding of this world. Opponents look to what is experientially accessible and either deny the claim of higher and eternal truths or argue that they are only accessible to us in embodied or immanent form. The partial or historically contingent character of the truths proposed by one side in this debate is rejected by those who believe that, with sufficient rational attention, the unseen will reveal itself to our souls. They reject the epistemological humility or caution of those who deny the human capacity for direct rational access to purely abstract higher truths. Meanwhile, the wholly abstract character of these alleged truths is rejected by the other side in the debate. Not offered something resembling tangible and persuasive arguments, the latter wonder whether the alleged higher truths are mere inferential fantasies. They also wonder at the endless disputes over competing claims as to what are higher purely abstract truths.

Settling the conflict between Burkeans and "rationalists" will require, among other things, more rationally persuasive accounts of both the limits of human reason and the question of whether moral truth can coherently be discussed absent direct access to fully abstract moral prin-

[30] Ibid., 99.
[31] Ibid., 100.
[32] Ibid., 101.

ciples. Russell Kirk sits on one side of this philosophical dispute. At a minimum, his thought needs supplementing with careful philosophical rigor in the hopes of settling the central, outstanding questions raised by the Burkean/"rationalist" debate.

Kirk on Locke

But even if we concede that purely abstract moral truths exist and that therefore America should avail itself of such truths, should those truths include the theory of natural rights? Is Kirk right about Locke, and should we therefore seek another theory? This is a very large question, and too large for this article, but we can approach a portion of it here. Kirk rejects Locke primarily because he sees state of nature and social contract theory as historically false.[33] But he also rejects what he regards as an overreliance by Locke on reason (capital-R Reason, as Kirk puts it), "though others carried it to extremes."[34] Locke is therefore implicated in the promotion of abstract political theories of the sort that eventually lead to the errors of modern totalitarian regimes, which aim at a secular heaven on earth, predicated on the belief that man is by nature good and falls short only as a consequence of poor social and political arrangements. We must, however, rescue Locke from this tainted (if, in Kirk's view, less than direct) association with the worst of modern political philosophy. Locke makes clear in the *Second Treatise* that he does not believe that man is by nature good. True, he initially tells us that "men living together according to reason . . . is *properly the State of Nature*."[35] He presents this happy condition as a potential or at least not impossible moral ideal. In other words, it is not impossible that one might have a community of men who live according to reason and respect each other's natural rights. As the *Second Treatise* progresses, though, Locke makes it clear that men in the state of nature can be expected to be quite imperfect at respecting each others' rights. Indeed, this is precisely the reason for men forming a government by means of a social contract. In the end, Locke gives us no path whatsoever to human perfection. Quite the opposite: men must be perpetually on guard against a descent by their government into tyranny. In the worst case, they must contemplate revolution.[36]

[33] Kirk, *Roots of American Order*, 291-92.

[34] Ibid., 360.

[35] John Locke, "Second Treatise of Government," in *Two Treatises of Government*, 2nd ed., Peter Laslett, ed. (Cambridge: Cambridge University Press, 1970.), sec. 19; emphasis his.

[36] See esp. Locke, "Second Treatise of Government," ch. 19.

Of course, like Locke, Rousseau also postulates a good state of nature and a social contract. Despite these similarities, the defense of Locke and the American Revolution here proposed for consideration is not simultaneously a defense of Rousseau and the French Revolution. For the similarities between Locke and Rousseau mask a deeper and more fundamental disagreement between the two thinkers. In contrast to Locke, Rousseau believes that men in society are corrupted by society; they remain potentially good by nature even while corrupt. Unlike Locke, Rousseau holds out the possibility that man's fall can be reversed by appropriate social and political arrangements. In short, a political order founded on Lockean principles is inherently safe from the worst error of the French revolutionaries: the belief in the natural goodness of man.

By contrast with Rousseau, one might say that Locke offers us a secularized understanding of human nature as it comes to us from Judeo-Christianity. The state of nature replaces the Garden of Eden. Human reason replaces God. Human equality and natural rights, as natural consequences of human reason, replace the dignity of man created in the image and likeness of God. The violation of natural rights by men in the state of nature replaces the Fall. And just as no human society can return Jews or Christians to the Garden of Eden, no political order can return Lockean men to the happy state of nature described at the beginning of the *Second Treatise*. In addition to being free from the very worst defect of the French Revolution, a Lockean political order is arguably consistent with key aspects of Judeo-Christianity, and therefore it is arguably consistent with key aspects of the cultural conditions of freedom that are held in such esteem by Kirk.

But if Lockeanism should not be held responsible for the destructive effects of liberalism that Kirk sees in America, what should? This too is a topic beyond the scope of this article but, in short, the culprit, according to proponents of the natural rights Founding, is historicist progressivism, a political doctrine that arrived on America's shores in the late nineteenth century. In their view, progressivism has an optimistic—indeed, a dangerously utopian—view of human possibilities that is absent in the more sober Locke. And, unlike Locke, progressivism rejects nature as a guide for and limit to human action.[37]

[37] This benign view of Locke is not uncontested. For a recent, sharply critical view of the influence of Locke and early-modern liberalism on America, see Patrick J. Deneen, *Why Liberalism Failed* (New Haven: Yale University Press, 2018).

Kirk on the French Revolution

Kirk is correct to reject the French Revolution. And he is correct to believe that understanding why it merits rejection can bring us closer to understanding why the American Revolution deserves our support. Kirk avails himself of the comparison of the French and American revolutions offered by Friedrich Gentz. According to Gentz, Americans were only interested in recovering the traditional rights of Englishmen. By contrast, the French promoted a dangerously unlimited Rights of Man.[38] Moreover, the American Founders were not abstract thinkers. Despite the abstractions in the opening sentences of the Declaration of Independence, the Founders were not philosophers but rather practical men.[39] Nor did the Founders resort to political abstractions in their references to natural rights. Instead, the natural rights of the Founding have a long pedigree in the Church. By contrast, the French revolutionaries definitely promoted abstract rights.[40]

In contrast with Kirk's view, the proponents of the natural rights Founding believe that the rights to which the Founders referred are in fact abstract. In their view, the Founders referred, not to some notion of natural rights with a distant history and the approval of the Church, but rather to modern natural rights as we find them in Locke's *Second Treatise*.[41] In their telling, the natural rights of the American Founding are our modern, Lockean natural rights to life, liberty, and property.

But whether we are considering either Kirk's understanding of the rights to which the Founders referred or that of the natural rights proponents, it is fairly clear that the French Revolution's understanding of rights is very different from the American Founders' understanding. According to the Rights of Man, "Liberty consists in the freedom to do everything which injures no one else; hence the exercise of the natural rights of each man has no limits except those which assure to the other members of the society the enjoyment of the same rights. These limits can only be determined by law."[42] This veers into licentiousness. Kirk is correct to reject this understanding of rights. If there is a nuance that a critic of Kirk might introduce at this point, it would be that the problem

[38] Kirk, *Roots of American Order*, 398, 400.

[39] Ibid., 414.

[40] Ibid., 461.

[41] Thomas Jefferson to Henry Lee, May 8, 1825, in *The Works of Thomas Jefferson*, ed. Paul Leicester Ford (New York: G. P. Putman's Sons, 1904-1905), 12:408-409. See also West, *Political Theory of the American Founding*, ch. 1.

[42] Declaration of Rights of Man, at http://avalon.law.yale.edu/18th_century/rightsof.asp.

here is not with the notion of abstract rights as such, as Kirk would have it, but rather with the specific kind of abstraction employed. As I have already argued, proponents of the natural rights Founding believe that the American view of rights was that liberty had to be compatible with the moral conditions of freedom, meaning that licentiousness was not part of liberty. Put plainly, they believe that there can be no natural right to undermine an essential cultural condition of natural rights. By contrast, the French revolutionaries had, as Kirk indicates, a more unbounded understanding of liberty.

Kirk's critics would also have some reservations about his understanding of the role reason played in the thought of the French revolutionaries. For a proponent of the natural rights Founding, it would be more accurate to say, not that the French overly valorized reason, as Kirk believes, but rather that they were poor at political reasoning. Their reason told them: that men are by nature good; that liberty is licentiousness; that greatly centralized power as a force intended for human good is not to be feared; that religion is necessarily contrary to reason; that France's past, rather than being at times glorious and at times terrible, was simply terrible and must be discarded; that the state's enemies, though rendered harmless, must be guillotined in an act of political cleansing. None of this is rational. To put this point plainly, it is not an excess of reason that resulted in the Terror but rather a dearth of it. This is not to argue that the French revolutionaries were men of low intelligence. Quite the opposite: They were men of high intelligence capable of deriving their political views rationalistically from first principles. Kirk and his natural rights critics both agree that political reason requires an experientially derived understanding of human nature and its limits. At least in this important respect, the French revolutionaries were poor at political reasoning.

Though both Kirk and natural rights proponents agree that the French revolutionaries suffered from impoverished political reasoning, they differ over the central error of the revolutionaries. By taking recourse to the theory of natural law, natural rights proponents argue that the revolutionaries' poor political reasoning, and not their rejection of Christianity in favor of an unencumbered reason, accounts for their political and moral excesses. To be sure, they hold that the rejection of Christianity by the revolutionaries removed an important bulwark against tyranny. But they argue that no Christian should maintain that, in the absence of Christianity, men have no rationally persuasive reasons not to tyrannize each other (which is what they believe that Kirk is

implying). Natural rights and natural law proponents are fond of citing Scripture in support of their views. They look to St. Paul's Letter to the Romans, in which Christians are told that even pagans are subject to the law of nature on account of the access bare human reason gives them to it: "Indeed, when Gentiles, who do not have the law, do by nature things required by the law, they are a law for themselves, even though they do not have the law. They show that the requirements of the law are written on their hearts, their consciences also bearing witness, and their thoughts sometimes accusing them and at other times even defending them."[43] For his part, Kirk supports a certain understanding of natural law—one, though, discerned at least in part through the imagination, rather than strictly through abstract theorizing. Kirk rejects the connection between natural law and natural rights proposed by the proponents of the natural rights Founding, but there is nonetheless a degree of overlap between the two sides that permits some common intellectual and moral ground.[44]

Conclusion

In Kirk's understanding, the American Founding rests almost exclusively on premodern thought and influences. But there is one important modern idea accepted by both Kirk and the Founders: neither are prepared to compel Americans to religious faith, or to any *summum bonum*. This presents a potential problem for both. If Aristotle is correct in believing that the regime shapes the soul, and if the regime tells us that there is no legally enforceable, authoritative way to discern the *summum bonum* and impel men toward it, then the regime might well be "teaching" its citizens that one's purpose in life is arbitrary or relative. And that is a dangerous teaching. Now in fact, as Tocqueville reminds us, Americans have traditionally looked to religion for authoritative guidance for human life's highest purposes: that religious authority might be thought a worthy substitute for the absence of a *summum bonum* established by the regime.[45] But from Spinoza, and Roger Williams, and Locke, and the First Amendment, and James Madison and Thomas Jefferson, Americans have learned the moral imperative of religious tolera-

[43] Romans 2:14-15; NIV.

[44] See Russell Kirk, "The Case For and Against Natural Law," in Russell Kirk, *Redeeming the Time*, ed. Jeffrey O. Nelson (Wilmington, DE: Intercollegiate Studies Institute, 1998), 196-212.

[45] Alexis de Tocqueville, Democracy in America, trans. Harvey C. Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000): 43-44, 407-08.

tion. This leaves us with a few questions: Is there a tendency in man—or at least in modern man—to prioritize political or philosophic teachings over religious teachings? Does religious toleration as derived from modern political philosophy teach men that religion is arbitrary and relative? If so, might such a teaching account for our continuing passage into post-Christianity and therefore (if Tocqueville is correct on the importance of religion to our moral and political life) our continuing descent into nihilism? Are human beings therefore fated to suffer the Hobson's choice of either the injustice of religious compulsion or the injustice of an effectually atheistic moral nihilism? Settling these questions is a prerequisite for settling our ongoing, fundamental political questions. In the meantime, we require a steady recurrence to Russell Kirk's "permanent things," understood as the institutions and beliefs that produce order in the soul and order in society. For those "permanent things" point us to an understanding of ordered liberty rooted in faith, reason, and human dignity; that is, to an understanding of ordered liberty that is necessary as the cultural basis of human flourishing.