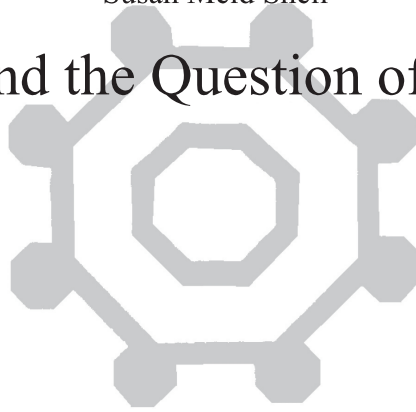


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America and the Question of Monarchy



The German philosopher Hegel famously claimed that the modern state attains a reality fully adequate to its concept only in the “person of the monarch.” To be sure, Hegel had in mind not only a constitutional monarch, but one whose actions were largely ceremonial. Still, the monarch’s “I will” – even if conveyed by as little as the formality of a signature – was that by which “free subjectivity” has its “own distinctive [political] existence.” [Philosophy of Right, # 279]

As we leave Trump’s presidency behind, the potential wisdom of Hegel’s seemingly outlandish statement may well strike us anew. For are not constitutional monarchies of the sort that Hegel recommends among the most successful contemporary states, including not only the United Kingdom, but also, to name only a few, Japan, Norway, Sweden, and Denmark? Are they not universally regarded – along with countries such as Canada, whose titular sovereign is still the British monarch – as exemplary sites of freedom, stability, and national flourishing? Finally, and not least: might the excesses of the Trump administration themselves represent (failed) attempts to compensate for what is lacking in a country (like the U.S.) in which “free subjectivity” does not assume what Hegel would regard as its optimal political expression? Among the functions of a monarch mentioned by Hegel is to provide a focus of loyalty and reverence that does not interfere with the formation of prudent policy or reasonable adaptations of abstract rational principles to changing circumstances. Might we not be better off, in a moment of constitutional crisis, with a such as

stabilizing point of reference, rather than depending, in the absence of an identifiable sovereign, on “checks and balances” and other “institutional guardrails” that have proved less reliable than many had previously assumed? In the absence of such a living point of focus, we have come to regard our written constitution as a kind of sacred document – both expression of sovereign people and object of their enduring reverence and loyalty.

A. Adams and Hamilton on Monarch

As if doubtful of the adequacy of a piece of parchment for such a purpose, several of the Constitution’s authors at least flirted with the idea of monarchy. For such founders, monarchy and republican liberty were not mutually exclusive; for had not George III himself once written:

The pride, the glory of Britain, and the direct end of its constitution is political liberty ... Thus have we created the noblest constitution the human mind is capable of framing, where the executive power is in the prince, the legislative in the nobility and the representatives of the people, and the judicial in the people and in some cases the nobility, to whom there lies a final appeal from all other courts of judicature, where every man’s life, liberty and possessions are secure.¹

Echoing that sentiment, John Adams wrote in 1775:

If Aristotle, Livy, and Harrington, knew what a republic was, the British constitution is more like a republic than an empire. They define a republic to be a government of laws and not of men. If this definition is just, the British constitution is nothing more nor less than a republic, in which the king is the first magistrate. This office being hereditary, and being possessed of such ample and splendid powers, is no objection to the government being a republic, so long as it is bound by fixed laws, which the people have a voice in making, and a right to defend.²

Accordingly, Adams divided republics into three types: monarchic, aristocratic, and democratic,³ preferring a monarchic to an aristocratic version for purposes of protecting the many from the exploitation by the more able and ambitious who were likely to dominate the official legislative branch. Governors, as he argued in 1779, should, like the British monarch, have an absolute veto over legislation, thereby constituting what was in effect a third legislative branch:

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In a state such as [Massachusetts] ... we shall never have any Stability, Dignity, Decision or Liberty, without [such a veto]. We have so many Men of Wealth, of ambitious Spirits, of Intrigue, of Luxury and Corruption, that incessant Factions will disturb our Peace without it.⁴

A wise monarch (or an executive agent with monarch-like powers) would restrain ambitious spirits whose intrigues threatened not only the wellbeing of the many but also the stability of the whole. As to how to ensure that that executive would indeed serve as the necessary “reservoir of Wisdom, as the Legislature is of Liberty,” Adams does not here say. And while he sometimes privately suggested that hereditary monarch might be good for the United States, he harbored no illusions as to its political feasibility.

If Adams contemplated an American monarch (or its like in some respects) as a hedge against aristocracy, Hamilton evinced no such fear. Instead he favored a strong, unified executive (even favoring, at times, an elective monarchy for life) to provide the “energy” necessary to make possible the realization of ambitious plans, including those of the powerful and wealthy few, on behalf of the wellbeing of the whole. The monarchic features of the Presidency that he especially defended in the *Federalist* include both its concentration of agency in a single individual (rather than its dispersal in an executive committee) and a pardoning power that almost equaled that of George III in theory and exceeded it in practice. That the president, unlike the British monarch, was subject to legislative impeachment and subsequent prosecution by ordinary courts of law was sufficient, Hamilton argued, to render him “amenable to personal punishment and disgrace” in a manner both adequate for purposes of holding him accountable and foreign, as such, to monarchy of a British sort. Nor as Hamilton stressed, in defending the Constitution as written, was this the only difference between the president and the British monarch. As he writes by way of summary in *Federalist* #69:

The president of the United States would be an officer elected by the people for four years. The king of Great Britain is a perpetual and hereditary prince. ... The one would have a qualified negative upon the acts of the legislative body: the other has an absolute negative. The one would have a right to command the military and naval forces of the nation: the other, in addition to this right, possesses that of declaring war, and of raising and regulating fleets and armies by his own authority. The one would have a concurrent power with a branch of the legislature in the formation of treaties: the other is the sole possessor of the power of making treaties.

As we have recently been reminded, Hamilton may here have put too much faith in the power of public shame, a confidence that would indeed soon prove fatal in his dealings with Aaron Burr.⁵ Above all, Hamilton left unsaid that where the British monarch was unlimited in theory he was often highly constrained in practice. His right to call and dissolve Parliament was rarely exercised. His right to veto parliamentary legislation, while absolute in theory, had gone unused for more than a century. And something similar could be said for other powers cited by Hamilton, including that of appointment to offices, erection of corporate bodies, and the regulation of commerce and currency, where the authority of the president has often proved more expansive in practice than in theory, especially given the emergence of national parties.

To be sure while Hamilton defended “dignities” of executive office, similar to that of the British monarch (such as reception of ambassadors), whose king-like pomp some had protested, he emphasized the fact that whereas the British monarch was the “fountain of all honor,” the president could “confer no privileges whatever” such as aristocratic titles or other marks of inheritable favor.

While Adams and Hamilton differed in their favorable expectations of an American monarch (or more monarch-like president) neither sought to encourage those habits of deference to inherited privilege that each associated with Great Britain. If an American monarch was to serve as an object of widespread and enduring loyalty, he would have to be as a defender of principles of natural equality and liberty as stated in the Declaration of Independence.

Are we then a “constitutional” monarchy in all but name? Would we indeed be better off with an official monarch, hereditary or not (as both Adams and Hamilton at least at times privately held), as focus of national unity and bearer of the principal ceremonies of office? Might the necessarily flexible limits of executive prerogative, a flexibility allowed by the written U.S. Constitution, be more securely vested in a parliamentary system cum monarch, in which legislation and execution are organically united rather than artificially divided, and governments can be held immediately accountable without risk of constitutional crisis?

B. Bagehot's negative comparison of the American system to British constitutional monarchy

Such a case was forcefully made by the British journalist Walter Bagehot. Written at a time when England was undergoing major democratic reform and the United States in the final stages of a devastating civil war, his widely read volume on *The English Constitution*, originally published in 1867, continues to serve as a text book for British monarchs (if a popular TV series is to be credited). It also influenced American leaders such as Woodrow Wilson, to whom the phrase "living constitution" is frequently credited but who likely drew it from the first pages of Bagehot's book, in which he describes his subject as England's "living Constitution, – a Constitution in actual work and power" [vii] rather than in accordance with some written document or abstract theory.

A constitution in the proper meaning of the term must, like a living thing [268], be enduring and yet be "in constant change." [vii] It must, then, attain two great objects: it must first "*gain* authority" and then use it; it must "win the confidence of mankind and then employ that homage in the work of government." [4] In constitutions of long endurance exercising sway over large and mixed populations (like the English), these two aims are entrusted to two basic elements – the "dignified parts" that "excite and preserve the reverence of the population," and "the efficient parts" by which it "in fact works and rules." The former, which supply the government with motive power, "raise the army"; the latter "win the battle." [5]

In modern England, in which a spirit of popular government prevails, the Crown lends dignity, while Parliament, headed by the Prime Minister who is elected from and by its members, supplies efficiency. The former is the focus of tradition and reverence; the latter is the modern partly hidden engine by which men are actually ruled. "The Crown is according to the saying, the 'fountain of honour'; but the Treasury is the spring of business." [12]

Given such an understanding of the chief role and virtue of a monarch, the United States could never, as Bagehot grants, become "monarchical": for the "mystic reverence" and "religious allegiance which are essential to true monarchy" are sentiments that "no legislature can manufacture" but must, much like filial feelings, be inherited. [3] And yet the division of labor between England's Crown and its "first magistrate," allows for a combination of dignity and efficiency for which it is difficult to find an adequate substitute.

England's first magistrate is distinguished from its presidential counterpart not only in leaving ceremonial duties mainly to the Crown; it also differs in

muddying the distinction between legislative and executive power: whereas legislators are nominally chosen to make laws they “in fact find [their] principal business in making and keeping an executive.” This blending of legislative and executive functions is especially helpful in times of emergency. In America, by way of contrast, the President is frequently unable to act with appropriate dispatch – as was especially evident in the early days of the Civil War, when Lincoln was prevented for months from countering the southern states’ early moves toward secession.

A *third* advantage of Britain’s parliamentary system, as Bagehot sees it, lies in the superior quality of first magistrate that it tends to produce relative to its American counterpart. For whereas the Prime Minister must be chosen from and by a body that is itself highly selective as to experience and education, the presidential system provides no similar filter (given the “farical” character [to borrow Bagehot’s term] of the Electoral College); indeed it is capable of elevating to the highest office individuals who are both untested and, for all practical purposes, unknown, as with Lincoln himself.⁶

Fourth: when combined with a hereditary monarchy of the British sort, Parliamentary government assures greater and more direct responsibility without threatening the stability of the constitution. For when a government falls, the monarch, who represents the seat of sovereignty, remains in place to steady, and to some degree disguise, the transition to a new one. In America, by way of contrast, where the principal officers of government serve for fixed terms, such immediate accountability would precipitate a constitutional crisis.

Additionally, unlike speeches in Congress, which are often largely performative and rarely determine actual policies, the deliberations of Parliament genuinely matter and are so perceived and followed by journalists. Bagehot especially remarks on the superiority as both to quality and influence, of Britain’s serious press relative to its American counterparts – despite the U.S.’s higher rate of literacy. As a result, Parliamentary debate plays a broadly educative role that no institution in America is able to similarly perform.

This *fifth* advantage is connected, however, to a *sixth* – namely, long established “habits of deference” [160] that lead the broad majority to acquiesce in, rather than resist, guidance by those elevated by inheritance, wealth, and education. Such habits, in turn, depend upon a traditional and largely unquestioned distribution of land and other property that relegates “whole classes,” as Bagehot puts it, to lives of drudgery and want [268-69]. Writing at a time when only one in five men in England could vote, and on the eve of an expansion of the suffrage that still fell well short of

enfranchising the majority, Bagehot regarded such economic and social conditions as not only necessary to avoid greater want (or at least beyond the power of government to relieve), but also, in its own way, wholesome. Such classes not only drew a compensatory reward from the pageantry and spectacle furnished by the upper classes and the Crown; their members also found, especially in the latter, an anchor for their loyalty and affection both safe and suited to their necessarily limited imagination.

It cannot be said that the mass of the English people are well off. There are whole classes who have not a conception of what the higher orders call comfort; who have not the prerequisites of moral existence; who cannot lead the life that becomes a man. But the most miserable of these classes do not impute their misery to politics. If a political agitator were to lecture to the peasants of Dorsetshire, and try to excite political dissatisfaction, it is much more likely that he would be pelted than that he would succeed. Of parliament these miserable creatures know scarcely any thing; of the cabinet they never heard. But they would say that, "for all they have heard, the Queen is very good;" and rebelling against the structure of society is to their minds rebelling against the Queen, who rules that society, in whom all its most impressive part – the part that they know – culminates. [269]

Bagehot thus regarded the increasing democratization of England, however inevitable, with some trepidation, and acknowledged the United States to be Britain's only serious rival.

Bagehot located the U.S.'s own distinctive advantages in an expanding, and still largely rural economy, that promoted social equality while also fostering widespread literacy and intellectual and economic enterprise. Indeed, conditions in the Northern states, and in Britain's North American colonies, he believed, yielded a type of democratic individual that was uncharacteristically well-suited for parliamentary government, despite the absence of those habits that made English parliamentary government possible.

There are two kinds of nations which can elect a good parliament. The first is a nation in which the mass of the people are intelligent, and in which they are comfortable. Where there is no honest poverty, where education is diffused, and political intelligence is common, it is easy for the mass of the people to elect a fair legislature. The ideal is roughly realized in the North American colonies of England, and in the whole free States of the Union. In these countries there is no such thing as honest poverty; physical comfort, such as the poor cannot

imagine here, is there easily attainable by healthy industry. Education is diffused much, and is fast spreading....No one can doubt that the New England States, if they were a separate community, would have an education, a political capacity, and an intelligence such as the numerical majority of no people, equally numerous, has ever possessed. In a state of this sort, where all the community is fit to choose a sufficient legislature, it is possible, it is almost easy, to create that legislature. If the New England States possessed a cabinet government as a separate nation, they would be as renowned in the world for political sagacity as they now are for diffused happiness. [262-63]

As New England was neither a separate country nor blessed with cabinet government, Bagehot could not extend to it so rosy a prediction, reserving that perhaps for a future Canada, then in the process of constitutional formation. Still, Bagehot concluded, a “deferential” community of the English sort remained “far more suited to a cabinet government than any kind of democratic country, because it is more suited to political excellence.” And although it might be less “happy” it would almost surely be better governed. [269-70]

To summarize: The Parliamentary system could function effectively, and without a cumbersome separation of the legislative and executive powers, owing both to the stabilizing presence of the Crown and the superior quality of those elected to higher office that traditional habits of deference made possible. Whether that quality could be maintained in a less deferential and more democratic society remained for Bagehot an open question. In the end, he may have pinned his hopes on the future of Britain's remaining North American colonies, united under the British Crown, as the site of a happy compromise of the sort that Lord Durham had earlier sketched in his “report” of 1828.⁷

The deferential England that Bagehot describes⁸ – assuming that his description was at the time still accurate – was fast disappearing, as he himself acknowledged. And it could in any case hardly serve as a model for the U.S., or indeed any modern society today. Still, one is compelled to wonder whether his understanding of the “great aims” of government: namely, dignity and efficiency, does not retain something of its pertinence. For surely, if government is to “work” it must both command and deserve willing obedience. And if a constitution is to endure, it must also be able to adapt to changing circumstances when necessary.

How, then, has the US maintained the balance between dignity and effectiveness on which Bagehot dwells? Or are there factors that he misses that have allowed the US to both dispense with monarchy (unlike Canada)

and, for the most part, to thrive without Parliamentary government and within the sometimes cumbersome constraints of a written constitution?

There are three elements of the American constitutional system that Bagehot's volume notably overlooks. First: its federalism, which balanced the power of the states as long-standing objects of popular loyalty not only with that of the national government but also by shared traditions of Common Law and habits of self-government. To be sure, and especially following upon the Civil War, such dispersal of power and foci of loyalty is likely to have struck Bagehot, along with many others, as deeply problematic. Still that federal constitutional structure, which allowed for ongoing jockeying among and between states, and between the states and the federal government, provided for greater flexibility and opportunity for compromise than Bagehot's reading of the Constitution allowed for.

Second, Bagehot failed to note the peculiar virtues of a "limited government" that offset the demands of energy against those of individual liberty. Habits of self-government under conditions of social equality, rendered revolutionary-era Americans – at least those who rebelled, rather than heading north – more attached to individual rights that many identified with the traditional rights of Englishmen than to the Crown itself. And if that attachment sometimes inhibits the "efficiency" of a government thus "limited," it also provides an alternate source of loyalty and stabilizing unity, insofar as such habits and attachments are widely shared.

The third overlooked factor is the more remarkable for having stared Bagehot in the face, so to speak – albeit too closely perhaps to have been adequately appreciated at the time: namely the figure of Abraham Lincoln himself, whose speeches and other actions wrought what has been called a virtual "second [American] founding."⁹

To be sure, Bagehot had special regard for Lincoln, whose rise to the presidency from "nowhere" was the exception to the general rule that little could be expected of a system that thus elevated to the presidency individuals who were "untested" and "unknown." Still though he allowed that Lincoln was eminently "just," he was less sure that he was equally able. As Bagehot writes:

Mr. Lincoln, it is true, happened to be a man if not of eminent ability, ye of eminent justness. There was an inner depth of Puritan nature which came out under suffering, and was very attractive. But success in a lottery is no argument for lotteries. What were the chances against a person of Lincoln's antecedents, elected as he was, proving

to be what he was? Such an incident is, however, natural to a presidential government. The President is elected by processes which forbid the election of known men, except at peculiar conjunctures, and in moments when public opinion is excited and despotic; and consequently, if a crisis comes upon us soon after he is elected, inevitably we have government by an unknown quantity...Even in quiet times, government by a president is, for the several various reasons which have been stated, inferior to government by a cabinet; but the difficulty of quiet times is nothing as compared with the difficulty of unquiet times. [32]

One can forgive Bagehot his class and religious snobbishness (as in the reference to Lincoln's "antecedents" and his "Puritan" tendencies), and grant that Lincoln's first election was hardly typical and indeed bordered on Providential miracle. One can even concede the central difficulty Bagehot raises against the fixed terms of office required by a Presidential system. Still, Bagehot failed to observe, or did not adequately foresee, how Lincoln made of the Constitution – (newly) understood in light of the Declaration of Independence – a renewed source and object of political reverence.

Where does this leave us on the question of monarchy? Does a written constitution thus factually and rhetorically enriched provide the dignity – absent a reigning monarch – that an enduring constitution, in Bagehot's thinking, must command? Or does the symbolic lure of a single powerful figure retain a certain hold on us, as seemingly shown by the intense and widespread loyalty that Trump was able to elicit despite his administration's well-documented lapses in effective performance of its regular duties? And if so, should we regret the respective failures of Hamilton and Adams to persuade others of a need for a more monarchic head of state? Instead, let me suggest the peculiar virtues of an understanding of the Constitution along more Lincolnian lines. Recent U.S. Constitutional interpretation has swerved between an open-ended "progressivism" allegedly responsive to the needs of the current age and a literalist "originalism" whose alleged fidelity to the simple meaning of the text can seem equally arbitrary. (If the "right to bear arms" is not limited to muskets why doesn't it also include tanks and rocket launchers?) For the Constitution to retain the sanctity that Lincoln thought necessary, especially as memory of the revolution itself faded, it needed to command a moral authority that transcended the passions of the moment, and that he drew largely from the principles of the Declaration (themselves lacking the literal force of law). In so doing, he gave substantive content to the formal phrase "more perfect union." For

“more perfect,” both in the context of the First Inaugural Address, in which the phrase was uttered, and as it has come to be understood, does not mean “more perfect because more united” (as with the EU’s “ever closer union”), but rather nearer to what a nation, “dedicated,” as he would later put it, to the propositions of the Declaration, ought to strive to be.

It is thus somewhat ironic that in the speech in which Lincoln uttered the phrase – namely the First Inaugural Address – he was still seeking to reassure the slave-owning states that neither he nor his administration had any intention of abolishing slavery where it existed. The Constitution was a “more perfect union” than the Articles of Confederation inasmuch as the former recognized the South’s right to keep their slaves, and even to retrieve them from the North, given the earlier decision of the Supreme Court¹⁰ – albeit with all due care and process of law, lest free individuals be wrongly enslaved. Yet that the term is now commonly glossed as “ever more perfect union” speaks to the moral momentum added by later speeches like the Gettysburg Address. When President Obama attributed to Lincoln the phrase “ever more perfect,” he did so, however, not only in the spirit of Gettysburg but also with a progressive, open-ended thrust that Lincoln himself might not have recognized, as if “more perfect” meant not “more adequate to all the principles of the Declaration, but rather, and more simply, “ever more equal.”

In any case, there is no doubt that Lincoln also managed to transform popular consent from single (somewhat fictional) moment of historical endorsement (as in “We the people”)¹¹ to an idea, anticipated in the Declaration, from which future constitutional interpretation might take its guidance. So understood, constitutional fidelity and reverence need not lead either to a brittle (and ultimately foolish) literalism, or to an amorphous openness to Progress wherever it might lead.

This is not the place to examine those admittedly disputed interpretive principles in greater detail, or inquire as to their ultimate foundations. It suffices to add, for purposes of the present subject, that the success of Lincoln’s project depended not only on the adequacy of his principles or the eloquence with which he presented them but also on his own living example. As with the figure of Washington, whose Cincinnatian refusal to become a king¹² set a republican standard for all future presidents, that of Lincoln left an impression on the imagination of his countrymen that was monarch-like in personifying, in flesh and blood, what democratic statesmanship could achieve. That such figures are rare should therefore not be surprising: for they must not only “support and defend the Constitution” in all “true faith and allegiance,” as stated by their oath of office; they must also embody it personally.

Happily, although great presidents are rare, they have rarely been called for. And yet at a time in which the United States has come to resemble Bagehot's England in some of the latter's deficiencies (e.g., widespread civic ignorance and economic inequality) without also enjoying its several institutional advantages (i.e., a long-standing hereditary monarchy and successful parliamentary government), such a presidential leader may once again be necessary.

NOTES

¹ Frank Prochaska, *The Eagle and the Crown: Americans and the British Monarchy* (New Haven: Yale University, 2008), p. 22.

² *Boston Gazette*, March 6, 1775; *Papers of John Adams*, ed. Roger J. Taylor et al., (Cambridge, Mass., 1977--) vol. 2: 314, as cited in Richard Alan Ryerson, "Like a Hare before the Hunters': John Adams and the Idea of Republican Monarchy," *Proceedings of the Massachusetts Historical Society*, Third Series, Vol. 107 (1995), p. 19.

³ John Adams, *A Defense of the Constitutions of the Government of the United States, against the Attack of M. Turgot* (London, 1787-88), cited in Ryerson, p. 25.

⁴ Papers of John Adams, 8: 276, cited in Ryerson, p. 23.

⁵ Hamilton died from wounds inflicted during a duel with Burr (then sitting Vice President) in 1804. Hamilton aimed at a branch above Burr's head; Burr evidently shot intending to kill his bitter and long-term rival. Burr was tried for and acquitted of murder in New York State; he would later be tried for and acquitted of treason for another offense.

⁶ Lincoln, who rose from obscurity, is in Bagehot's view the exception that demonstrates the inadequacy of the Electoral College, whatever the intention of the framers, to the job of screening candidates in such a way that only well-known and experienced leaders rise to the highest office.

⁷ Lord Durham (John Lambton), *Report on the Affairs of British North America* (1838). Durham was at the time Governor General and High Commissioner of British North America.

⁸ Paradoxically perhaps, he also insists that "the natural impulse of the English people is to resist authority." [287] By this he evidently means resistance to centralized state power, such as occurred when a regular police force was introduced, rather than to the claims of traditional, and mainly local, rank and sway. But the juxtaposition is curious.

⁹ See, for example, Eric Foner's recent *The Second Founding: How the Civil War and Reconstruction Remade the Constitution* (New York: Norton, 2019).

¹⁰ In the Dred Scot Case (1857), the Supreme Court had ruled that states in which slavery had been abolished had to return slaves who had fled there. The case played an important role in the build up to the Civil War (1861-65).

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¹¹ Cf. the Preamble to the U.S. Constitution, which begins “We the people of the United States, in order to form a more perfect union....”

¹² Washington’s retirement to Mount Vernon in 1797 and accompanying refusal to run for a third term that he was sure to win, was widely regarded as republican virtue comparable to that of the famous Roman general.