

# THE GREAT IDEAS ONLINE

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*Our schools are not turning out young people prepared for the high office and the duties of citizenship in a democratic republic. Our political institutions cannot thrive, they may not even survive, if we do not produce a greater number of thinking citizens, from whom some statesmen of the type we had in the eighteenth century might eventually emerge. We are, indeed, a nation at risk, and nothing but radical reform of our schools can save us from impending disaster. Whatever the price we must pay in money and effort to do this, the price we will pay for not doing it will be much greater.*

—Mortimer Adler



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## WHAT COLLEGES FORGET TO TEACH

Robert P. George

*Higher education could heal itself by teaching civics—not race, class, and gender.*

The university is worth fighting for. No other institution can carry the burden of educating our young people. That's why we must redouble our efforts to restore integrity, civility, and rigorous standards in American higher education—particularly in the area of civic education.

I'll be the first to admit that the situation is dire. I sympathize when critics throw up their hands in despair. I sometimes feel that way myself. Darkness often prevails in places where the light of learning should shine. I often trade horror stories with my friend Hadley Arkes, a distinguished scholar of jurisprudence and political theory at Amherst. On one occasion, I explained that the Woodrow Wilson School of Public and International Affairs at Princeton was sponsoring a viciously anti-Catholic art exhibit—one that it would never even permit were some favored faith or cause, such as Islam or gay rights, its target. Every year, some outrage along these lines seems to prove that anti-Catholicism really is the anti-Semitism of the intellectuals, though anyone familiar with academic life today knows that anti-Semitism itself is making a run at being the anti-Semitism of the intellectuals.

Professor Arkes listened sympathetically and said, "Things have gotten pretty bad here at Amherst, too: we've granted tenure in political science to a guy promoting a theory explaining the foreign policy of George H. W. Bush by reference to his alleged homoerotic attraction to Ronald Reagan." "Well," I replied, "Princeton has topped that. We've given a distinguished chair in bioethics to a fellow who insists that eating animals is morally wrong, but that killing newborn human infants can be a perfectly moral choice." (This professor has since gone on to say that there would be nothing wrong with a society in which large numbers of children were conceived, born, and then killed in infancy to obtain transplantable organs.)

And so we go back and forth with each other, in a macabre game of one-upmanship.

Still, teaching at Princeton is in many ways a joy. I have the privilege of instructing students who actually know when the Civil War took place. Even before arriving at Princeton, they know that Lee surrendered to Grant, not to Eisenhower, at Appomattox Court House. Most know that Philadelphia, not Washington, D.C., played host to the constitutional convention. Few would list Alexander

Hamilton among the most important presidents, because they know that he was never president. Some can identify the cabinet office that he held and even give a decent account of his differences with Thomas Jefferson. Speaking of whom, all my students know that Jefferson owned slaves—but then, everybody seems to know that, even those who know nothing else about him. My students, though, also know that it was Franklin D. Roosevelt, not his cousin Teddy, or Harry Truman, or JFK, who promised Americans a New Deal. Some can even tell you that the Supreme Court invalidated some early New Deal legislation and that FDR responded with a plan to pack the Court. Yes, my students and students at elite universities around the country come to campus knowing American history pretty well—and wanting to know it a lot better.

Many of these young men and women value historical knowledge not merely for its own sake but because they want to be good citizens. More, they seek to be of genuine service to fellow citizens. Many hope to be legislators, judges, even president. They know that knowledge of American history is vital to effective citizenship and service.

But they also need an understanding of American civics—particularly the principles of the Constitution. For all their academic achievement, students at Princeton and Yale and Stanford and Harvard and other schools that attract America's most talented young people rarely come to campus with a sound grasp of the philosophy of America's constitutional government. How did the Founding Fathers seek, via the institutions that the Constitution created, to build and maintain a regime of ordered liberty? Even some of our best-informed students think something along these lines: the Framers set down a list of basic freedoms in a Bill of Rights, which an independent judiciary, protected from the vicissitudes of politics, would then enforce.

It's the rare student indeed who enters the classroom already aware that the Framers believed that the true bulwark of liberty was limited government. Few students comprehend the crucial distinction between (on the one hand) the national government as one of delegated and enumerated powers, and (on the other) the states as governments of general jurisdiction, exercising police powers to protect public health, safety, and morals, and to advance the general welfare. If anything, they imagine that it's the other way around. Thus they have no comprehension as to why leading supporters of the Constitution objected to a Bill of Rights, worried that it could compromise the delegated-powers doctrine and thus undermine the true liberty-securing principle of limited government.

Good students these days have heard of federalism, yet they have little appreciation of how it works or why the Founders thought it so vital. They've heard of the separation of powers and often can sketch how the system of checks and balances should work. But if one asks, for example, "Who checks the courts?" they cannot give a satisfactory answer.

The students' lack of awareness flows partly from the conception of the American civic order that they have drunk in, which treats courts as if they aren't really part of the government. Judges, on this view, are "non-political" actors whose job is to keep politicians in line with what elite circles regard as enlightened opinions. Judicial supremacy, of the kind that Jefferson and Lincoln stingingly condemned, thus winds up uncritically assumed to be sound constitutional law. The idea that the courts themselves could violate the Constitution by, for example, usurping authority that the Constitution vests in other branches of government, is off the radar screen.

Lacking basic knowledge of the American Founders' political philosophy and of the principles that they enshrined in the Constitution, students often fall prey to the notion that ours is a "Living Constitution," whose actual words matter little. On the Living Constitution theory, judges—especially Supreme Court justices—serve as members of a kind of standing constitutional convention whose role is to invalidate legislation that progressive circles regard as antiquated or retrograde, all in the name of adapting the Constitution to keep up with the times.

It doesn't take much to expose the absurdity of this theory. The purpose of enshrining principles in a constitution is to ensure that the nation's fundamental values remain honored even if they fall out of fashion. As for adapting the nation's laws to keep up with the times, legislators can—and should—take care of that task. The proper role of courts when they exercise the power of judicial review is essentially a conserving (you could even say "conservative") one. It is not to change anything but rather to place limits on what one can change.

Does this mean that our Constitution is "dead"? No: the Constitution's principles are "living" in the sense that they can apply validly even to matters that the Founders themselves could not have anticipated. The original understanding of Fourth Amendment principles governing searches and seizures, for example, can reliably extend to cover today's controversies about computer files, cy-

ber-storage, and electronic surveillance. So to reject, as we should, the Living Constitution and its anticonstitutional doctrine of virtually unlimited judicial power is by no means to treat our Constitution as a dead letter. Rather, it is to treat the Constitution as law—supreme law—binding on, and limiting the power of, every branch of government and agency of the state, including the courts.

What is the source of this educational breakdown? The trouble isn't the students—they're bright and eager to learn. It's that too few teachers are presenting students with the Founders' philosophy, much less introducing them to the great issues, some still with us today, that divided the Founders.

And if teachers aren't teaching the Founding's principles, where will students learn them? They're not likely to get any sense of the distinction between the delegated powers of the national government and the general jurisdiction of the states from any newspapers, national magazines, or television news networks, that's for sure. Have the editors of the New York Times and the folks at CBS News even heard of that distinction yet? News travels slowly, true; but it shouldn't take 218 years.

The solution to this educational breakdown is straightforward: we need to make a commitment at every level of schooling and within the public media to promote a deep awareness of the principles of the American Founding. Why educate students into archaism? some will doubtless object. Surely governing principles set forth in the eighteenth century have little relevance to us in the twenty-first. But American ideals, as embodied preeminently in the Declaration of Independence, are universal and timeless. They have force wherever there are human beings, fallible (indeed, as the Founders recognized, fallen) creatures, yet images of God in their possession of reason and freedom—beings, as the Declaration says, “endowed by their Creator with certain unalienable rights.”

The constitutional scheme that the Founders devised for the lawful governance of human beings and for the preservation of their sacred rights is the world's greatest triumph of practical political science. Of course, we shouldn't treat our institutions as if they're perfect—the Founders provided, after all, for their possible revision by constitutional amendment. True civic education isn't indoctrination. The Founders themselves weren't of one mind as to the proper interpretation of their handiwork in every respect. And reasonable people of goodwill, of course, disagree about key matters of constitutional interpretation. We do our students a wonderful service when we invite them into the great historical and

contemporary debates about the meaning of our fundamental law in controversial cases. To do that, though, we must equip them with the historical knowledge and the philosophical understanding necessary if they're to evaluate intelligently the competing arguments.

We needn't teach that our institutions are uniquely just—that any polity that seeks to respect people's rights and preserve liberties must copy them precisely. But anyone who sincerely seeks the truth will see that ours are indeed worthy institutions that have served Americans well whenever our people and leaders have shown the wisdom and mustered the fortitude to honor and live by them. The fact is, freedom-loving people throughout the world—even in an age darkened by widespread anti-Americanism—draw inspiration from American ideals and look to American institutions as the gold standard of republican government. Even critics of American policy feel that they must pay lip service to our ideals of democracy, limited government, equality before the law, civil liberty, private property, the free economy, and the rule of law.

Madison did not doubt that it would be so: “The free system of government we have established,” he wrote, “is so congenial with reason, with common sense, and with a universal feeling that it must produce approbation and a desire of imitation, as avenues may be found for truth to the knowledge of nations.” In Eastern Europe, much of Latin America, and parts of South Asia, Africa, and the Middle East, “avenues have been found for truth to the knowledge of nations.” Yet, at the same time, in the U.S. itself, public comprehension of “the free system of government” that Madison and his “founding brothers” bequeathed to us has eroded. We must reverse that trend. Otherwise, the quality of citizenship and statesmanship will inevitably suffer.

Madison famously observed that “only a well-educated people can be permanently a free people.” Yet some today seem to think otherwise. They don't necessarily doubt that the impoverishment of civic understanding erodes citizenship and statesmanship, but they wonder why we can't get along perfectly well anyway. We are, after all, the richest, most powerful nation in world history. We're on top, and despite emerging economic challenges from China, maybe India, we're likely to stay there. Isn't that enough?

To this, a double reply. First, history shows us that basic freedoms are hard-won and easily lost. The institutions that preserve freedom can be crumbling even as they appear strong. Severe economic strains and other fundamental challenges can tempt people to com-

promise or sacrifice even basic freedoms. As Madison knew, it is conviction born of knowledge—civic understanding—that is our bulwark, our only true security, in the face of such temptations.

Second, as Plato (though no admirer of democracy) observes, the goal of the polis—the political order—isn't merely to establish security but also to provide the conditions for citizens to live good and decent lives, worthy of human beings as rational and moral creatures. Our founders saw this crucial philosophical point. The purpose of the Declaration of Independence and its principles of civic life, Jefferson wrote shortly before he died, were “not to find out new principles or new arguments never before thought of, nor merely to say things which had never been said before, but to place before mankind the common sense of the subject. . . . All its authority rests on the harmonizing sentiments of the day, whether expressed in conversation, in letters, printed essays, or in the elementary books of public right, as Aristotle, Cicero, Locke, Sydney, etc.”

These “elementary books” inform us that statesmanship and, especially, citizenship, though key means to other ends, possess a value greater than merely instrumental. When we carry out our civic responsibilities in an informed way, we find ourselves ennobled as individuals and as a community. Even if a nation could remain on top in the global competition for military and economic superiority, and even if its basic political structure could last more or less indefinitely, the people of that nation, if they remain ignorant of the moral foundations of that structure, would be impoverished.

Whatever one thinks of the decision to invade Iraq, one cannot fail to find deeply moving the desire of the vast majority of Iraqis to be democratic citizens—a desire that cannot be accounted for merely by noting the tendency of democracies over time to be prosperous and stable. Rather, Iraqis proudly displaying ink-stained fingers are saying something that we Americans, at some level, still appreciate: that democratic citizenship fulfills an important aspect of our humanity. It is so inherently desirable that Iraqi men and women have risked their lives to exercise the franchise, just as it caused those eighteenth-century Americans who pledged their “lives, fortunes, and sacred honor” to risk the king’s hangman’s noose.

Our posture cannot be—must not be—complacent. We must firmly resolve to make reform and renewal—whatever the obstacles, whatever the costs—our constant endeavor. We must not let the resistance of entrenched interests or recalcitrant ideological forces in the academic establishment, the funding bureaucracies, or any-

where else intimidate us. Let us seize every opportunity, marshaling our resources and deploying our wits to advance the cause of reform wherever we detect an opening, however much the weeds may obscure it. The reform and renewal of civic education in our nation is a noble cause. We must make it an urgent priority. 📖

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He is the author of *Making Men Moral: Civil Liberties and Public Morality* (1993) and *In Defense of Natural Law* (1999), and editor of *Natural Law Theory: Contemporary Essays* (1992), *The Autonomy of Law: Essays on Legal Positivism* (1996), and *Natural Law, Liberalism, and Morality* (1996), all published by Oxford University Press. He is also editor of *Great Cases in Constitutional Law* (2000) and co-editor of *Constitutional Politics: Essays on Constitution Making, Maintenance, and Change* (2001), from Princeton University Press. His most recent book is *The Clash of Orthodoxies* (2002), published by ISI Books.

A graduate of Swarthmore College and Harvard Law School, Professor George earned a doctorate in philosophy of law from Oxford University. He was elected to Phi Beta Kappa at Swarthmore, and received a Knox Fellowship from Harvard for graduate study in law and philosophy at Oxford.

From 1993-98, Professor George served as a presidential appointee to the United States Commission on Civil Rights. He is also a former Judicial Fellow at the Supreme Court of the United States, where he received the 1990 Justice Tom C. Clark Award. He is the recipient of a Silver Gavel Award of the American Bar Association, the Paul Bator Award of the Federalist Society for Law and Public Policy, and several honorary doctorates.

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## OF INTEREST

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group of desperate teenage orphans, valuable lessons to survive, thrive and live by.

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## WELCOME NEW MEMBERS

**Eric Johnson**

*We welcome your comments, questions or suggestions.*

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