

reply

Daniel Lazare

The Grand Illusion of Democratic Nationalism: A Reply to Michael Lind

The editors have been kind enough to give me space to respond to Michael Lind's reply to my article on the US Constitution in NLR 232.¹

In my article and in my book, *The Frozen Republic*,² I tried to show how America's sacred constitution has locked the United States into a school of eighteenth-century Anglo-American thought that is increasingly at odds with the needs of modern society. The result, to quote the cover of NLR 232, is a 'deadlocked democracy', a self-contained, self-referential political microcosm that is inured to change and outside influences. I do not think that I could have come up with a better example of my thesis than Lind's article.

Michael Lind is an American nationalist. This is a bit unusual in a country in which nationalism has always been ideologically weak—which is one reason why fascism, as opposed to nativist currents such as the Ku Klux Klan, made such little headway in the US in the 1920s and 1930s. Instead, most American political analysts—in fact, most Americans—are strict constitutionalists, meaning that they see the constitution as having given rise to the American nation rather than the other way around. Lind disagrees. The nation, he clearly believes, pre-dated the constitution and, assuming it survives America's increasingly obsolete and dysfunctional form of government, will post-date it as well. This makes Lind somewhat more open to the idea of constitutional change than the average bourgeois pundit—but only to a degree. While he believes that the constitution should change with the nation, he also believes that, just as some things about the nation will never change, or at least will change very slowly, some things about the constitution should also remain unchanged.

¹ Michael Lind, 'Why There Will Be No Revolution in the US: A Reply to Daniel Lazare', NLR 233, January–February 1999, pp. 97–117; Daniel Lazare, 'America the Undemocratic', NLR 232, November–December 1998, pp. 3–40.

² Daniel Lazare, *The Frozen Republic: How the Constitution Is Paralyzing Democracy*, New York 1996.

Hence his assertion: 'The American presidential system was, and is, no more capable of evolving into a parliamentary system than a hippopotamus is capable of metamorphosing into a peacock or a turtle.'³ Change in the US is subject to certain internal dynamics unlike those of any other nation. Rather than blindly copying others, the US should remain true to its own inner essence.

Kant and Burke

This is not to say that the US system should shut itself off from all ideas from abroad; Lind is hardly as close-minded as that. For example, he is a qualified fan of proportional representation—'a reform', he notes, 'that was actually proposed by one Reconstruction Republican congressman', as if that somehow improved its standing.⁴ But, while individual reforms are permissible, Lind draws the line at importing entire ideologies. Citing Marx and Trotsky, as I did in NLR 232, merely confirms one's allegiance to 'the tradition of the European radical Left' and hence one's 'divergence from the mainstream American Centre-Left'.⁵ If one wants to have an impact on American politics, Lind maintains, one must be part of the mainstream, which means that one should cease quoting various European radicals and socialists and limit oneself to respectable American *penseurs*. Lind ends with a blast at the idea of democracy as something transcending national boundaries:

In the real world of governments and nations, constitution-making and constitution-revising are like designing, or remodelling, a building to take advantage of the characteristics of a given site, rather than like devising a blueprint for a generic structure with no location in mind and with no thought of the identity, needs and preferences of the likely occupants. Lazare's critique of the American constitutional order, rich in particular insights, is undermined by the tendency toward abstraction and the impatience with compromise and imperfection which distinguishes left radicalism from liberal meliorism. He does not want to modify capitalism, but to scrap it; he does not want to amend the US Constitution, but to eliminate it altogether. Confronted with such temperamental radicalism, all that a temperamental liberal can say is: from the crooked timber of humanity, nothing straight can be made.⁶

Although the quote is actually from Kant, it is taken out of context and used in a way that is closer to the classic Burkean critique of rationalist restructuring and reform.⁷ Rationalism is unrealistic, this

³ Lind, 'Why There Will Be No Revolution in the US', p. 106.

⁴ *Ibid.*, p. 98.

⁵ *Ibid.*

⁶ *Ibid.*, p. 117.

⁷ Contrary to Burke, Kant, a true democratic universalist, believed the 'crooked wood as man is made of' is not something to be celebrated, but something to be struggled against. See his essay, 'Idea for a Universal History from a Cosmopolitan Point of View', written in 1785 and republished in Lewis White Beck, *Kant on History*, New York 1963, pp. 17–18.

view holds, because it tries to impose abstract notions of what should be on a reality that is both richer and messier than anything 'petulant, assuming, short-sighted coxcombs of philosophy' can come up with. In its desire to make a clean sweep of things, it can only wind up doing violence to that which it purports to help. Real reform, by contrast, must come from within. It must develop organically out of the society of which it is a part.

An Unwritten American Constitution?

Lind is what might be described as a constitutionalist with a small 'c', meaning that his loyalty is not to the document drafted in Philadelphia in 1787, but to the unwritten constitution behind it, a kind of national DNA code that both reflects and reinforces all those things about America that are long-standing and unique, its temperament, geography, political traditions, racial make-up, and so forth. The written constitution is valid only to the degree it harmonizes with the unwritten one. When they diverge, as they are clearly now doing, it is the former's job to adapt rather than the latter's. Where the reigning ideology in the US is that the nation must serve the constitution, Lind holds that the written constitution must change so as to better serve the nation as it enters the twenty-first century.

Given his distaste for internationalism, socialism, and the like, Lind has certain things in common with palaeo-conservatism, a school of thought associated with the magazine *Chronicles*, published in Rockford, Illinois, which, month after month, flails away at global capitalism, international democracy, and modernist revolutionaries from Oliver Cromwell onwards. He also has something in common with those lapsed Marxists who produce the journal *Telos* and have rejected democratic universalism in favour of what might be called a universal particularism, a belief that it is up to every nation and, indeed, every region to somehow fulfil its own separate destiny. But Lind deploys his own approach to such matters. As we have seen, he is not a xenophobe and is, in fact, more open to foreign ideas than most political writers in the US. While not a one-size-fits-all democratic universalist, he does not reject democracy per se.

Rather, he is a liberal nationalist who strives to tailor democracy to American circumstances. To this end, he has attempted to revive a democratic-nationalist school of thought, supposedly stretching from George Washington and Alexander Hamilton through 'the two Roosevelts', Theodore and Franklin D.⁸ Lind is also a racial amalgamationist who, in contrast to both the racist Right and liberal multi-culturalists, argues that black, white, Hispanic, and

⁸ See Michael Lind, ed., *Hamilton's Republic: Readings in the American Democratic Nationalist Tradition*, New York 1997.

other elements must blend together to form a harmonious whole. Nationalism is intolerant of competing sub- or transnational loyalties. Therefore, the only way to strengthen American identity, he argues, is to merge nation and race in a kind of *café-au-lait* compromise.

What is the American Nation?

Lind believes in some natural and unchanging American essence that transcends law, politics, and history. But what can this essence possibly be? The fact is that the nation-state has never seemed less natural, and hence more artificial and arbitrary, than at this late stage of capitalist development. This goes for the United States as much as it does for Britain, France, or any of the other major capitalist powers. The more closely one examines a concept like American-ness, the more paradoxical it becomes. Firstly, there is the problem of nomenclature. 'America' refers to the entire Western Hemisphere; using it to connote the US alone is rather like referring to China as Asia or Italy as Europe. Prior to the Civil War, 'United States' was used as a plural noun, whereas after 1865, in keeping with the new spirit of national unity, it became singular—as in 'the United States *is* the land of the free and the home of the brave'. Rather than correcting the anachronism, Americans chose to ignore it. But even if we consider citizens of the USA—'Usanians', as Tom Nairn might call them—on their own terms, it is difficult to understand what it is they have in common. They are not a race or an ethnos, as Lind would certainly agree—although he looks forward to the day when this would no longer be the case. Neither are they a 'folk' in the sense of a people distinguished by long-standing customs, culture, or habits of thought. This was the case as far back as the eighteenth century, when Americans were known not only for their willingness, but their positive eagerness to shed old ways so as to adapt to new circumstances. Given the tidal waves of immigration that have washed over the nation since the 1840s, it is even more so today.

Indeed, the only thing they have that holds them together is a common government, a common creed, or, most fundamentally of all, a common constitution. It is very difficult for Lind to accept this because it suggests that the two constitutions, the formal one and the organic one underlying it, are one and the same. It suggests that there is no national essence preceding, post-dating, or in anyway separate and distinct from this all-important founding document. Despite Lind's Burkean scepticism of sweeping rationalist critiques and remedies, it suggests that the US is, in fact, a classic Enlightenment creation, a vast Euclidean edifice resting on a handful of unquestionable, unchangeable axioms. Just as Europeans in the Middle Ages thought of themselves as Christendom, that is, the domain of Christ, Americans think of themselves, not incorrectly, as the domain of the constitution. It is the only way to think of themselves that seems to make sense.

The US Constitution as a Conservatizing Force

But, given the fundamental incoherence of the US Constitution, it does not make sense at all. The situation in the US is both grimmer and more promising than Lind realizes. Americans are tied hand and foot to an eighteenth-century plan of government that was already musty and backward-looking at the time it was promulgated. They are prisoners of its contradictions. No matter how conservative or immovable the US may seem at the moment, it is at the mercy of an unchangeable constitution whose fundamental flaws are less remediable the more crippling they become. This is not to say that some sort of breakdown is imminent. But it is to say that the constitution's contradictions will increasingly shape American politics in the coming decades and that they could eventually point the way to the people's release.

Much of Lind's reply is an attempt to prove that the constitution is not as central as I claim. His essay is peppered with assertions that this or that feature of US society is either beyond or beneath the constitution's reach. He cites the nineteenth-century alliance between Northern capitalists and Southern Blacks as an example of the sort of 'enduring cross-class alliances' that were 'the result of deeply rooted conflicts of interest and identity among American groups, not artefacts of either the constitutional structure or the electoral system'.⁹ But this neglects the degree to which an immovable constitution protected and maintained a fragmented voting system that allowed conservative state politicians, toward the end of the nineteenth century, to disenfranchise both black voters in the South and urban workers in the North, thereby preventing socialists from restructuring politics along class lines. The Ancient Constitution thus served to preserve the sort of unholy alliances that Lind attributes to ethno-regional conflicts alone. If 'America is home to so many Christian fundamentalists, heavily-armed militia members, creationists, and other rebels against modernity', as I put it in my article, Lind insists that it also stems from ethno-religious factors that predate the constitution of 1787, for example 'the fact that the South was settled in the eighteenth century by Scots-Irish immigrants from Ulster, many of whose distant cousins in contemporary Northern Ireland are "heavily-armed . . . members" of Unionist militias and followers of "Christian fundamentalists" such as the Reverend Ian Paisley.'¹⁰ Wherever the Scots-Irish go, it seems, guns and Bibles follow. But this similarly neglects the degree to which the constitution helped to conserve such sub-cultures and encourage

⁹ Lind, 'Why There Will Be No Revolution in the US', p. 99.

¹⁰ *Ibid.*, p. 101.

them to dig in for the long haul.¹¹ Finally, Lind argues that America's 143-year-old two-party system, the oldest such system in the world, has nothing to do with the way the pre-modern constitution has impoverished politics or limited electoral options. Rather, it is all the result of 'the interplay between American society and American electoral rules (which are creations of statute and are not mandated by the federal constitution).'¹² But, again, this ignores the degree to which a statutory structure is strengthened by a constitution set up against the very idea of structural change.

One cannot be too emphatic about this. Nothing in US society is beyond the constitution's reach. Everything betrays, in one way or another, the document's imprint. If this sounds dogmatic, it is because the American constitutional system is dogmatic. For more than two centuries, the US has devoted itself to analyzing, interpreting, and prying meaning from a single four thousand-word text. The effort, admittedly, has sometimes been cynical and hypocritical, never more so than in the golden age of liberal constitutional exegesis that followed the Second World War. But the fact that government in America is unable to make a single move without somehow justifying itself on the basis of what was written or said in Philadelphia in 1787 is still remarkable. Democratic reform is permissible in the US only to the degree that it can be shown to be compatible with a pre-modern plan of government.

America's Special Vulnerability

Lind asserts, more than a little tautologically, that, regardless of constitutional flaws or contradictions, the US will never change in some radical, fundamental way because the American people do not want it to change:

Lazare . . . makes a serious error in thinking that the situation in the United States is so dire that more than a tiny minority would favour scrapping the federal constitution entirely and starting from Ground Zero. Lazare is free to declare that 'True democratization . . . would require a fundamental break with the past', but one would go bankrupt betting that the US, in the foreseeable future, will experience a 'top-to-bottom makeover. . .'¹³

¹¹ One American historian has attributed America's Sun Belt/Gun Belt culture to colonists from the long-unsettled border region between England and Scotland who took their violent and unruly ways and moved to the American Highland South in the eighteenth century. But this begs the question of why no equivalent culture, as far as I know, exists in the English-Scottish border region today. Did every last ruffian and cattle thief depart for the New World? Or did the culture simply change? Assuming the latter, what is about the US structure that serves to ward off change and lock such cultures in place for centuries on end? See David Hackett Fischer, *Albion's Seed: Four British Folkways in America*, Oxford 1989, pp. 605–782.

¹² Lind, 'Why There Will Be No Revolution in the US', p. 102.

¹³ *Ibid.*, p. 116.

But this ignores the way in which a constitutional breakdown could impose change on a reluctant populace. My article was not only an analysis of how the cult of the constitution is suffocating American democracy, but also an exploration of what it means for a constitutional system to set itself against change in a global system in which everything is in flux. My point is that the more it struggles to do so, the more unbearable the effort becomes. The best, but certainly not the only example of how this might occur involves the US Senate, a legislative body that is at least as powerful as the House of Representatives and maybe even more so, yet which is organized on the pre-democratic principle of equal state representation regardless of population. This was bad enough in 1787, when the population ratio between the largest and smallest state was twelve to one, but it is far worse today now that the ratio has reached sixty-eight to one, according to the latest census estimates. The constitution stipulates in Article v that this archaic voting arrangement may not be modified in the slightest unless all fifty states agree. Yet the greater the ratio, the greater the incentive for the very smallest states—in this case, Wyoming followed by Vermont, Alaska, and the Dakotas—to just say no.

Reform is therefore impossible. Yet, in a democratic age in which such glaring inequities are more and more intolerable, reform is inevitable. So which is it to be? What happens when change meets the unchangeable? As I pointed out, the problem is far from unprecedented. With the death of John Brown in the abortive Harpers Ferry raid in 1859, it is very probable that not a single soul in the North wanted civil war. Yet civil war is what the people got. The constitution's absolute inflexibility on the slavery question, its failure to provide a mechanism to do away with 'the peculiar institution', collided head-on with a growing democratic majority in favour of excising the malignancy. The result was a constitutional crisis that left the people no alternative but to act on their own. Change was not something they sought, but something they submitted to.

The question is whether something similar could happen with regard to the US Senate—whether a similarly undemocratic yet unreformable institution, in other words, might provoke a similarly revolutionary response. Not only is there every reason to believe that it could, but, given how the constitution effectively closes the door to legal reform, it is difficult to see how reform could come about in any other way. Lind, though, believes that I am exaggerating. 'To roast these particular pigs', he says, 'it is not necessary to burn down this particular house.'¹⁴ While the constitution does not allow Americans to tamper with the principle of equal state representation, it says nothing about dividing the larger states into smaller units so as to reduce the inequity. Therefore, if California (population 32.7 million)

¹⁴ *Ibid.*, p. 117.

suffers from the fact that it has the same number of votes in the upper house as Wyoming (population 481,000), then the logical solution is simply to break it up into smaller units to narrow the gap.

Sounds easy, doesn't it? Considering that all this could be accomplished at a sub-constitutional level via a simple act of Congress—although Article IV, section three, requires that state approval also be obtained—Lind's way out would seem to have the virtue of being more practical and realistic. Rather than relying on grand revolutionary flourishes, it could be accomplished the 'normal' way through back-room tradeoffs and deals. But would it really be so simple? In a polity as calcified as the US, structural adjustments on this scale would automatically be viewed as dangerous, destabilizing, or just plain bizarre. Although no one would use such terms, it would be seen as counter to a constitutional system biased in favour of muddling through. While Californians might gain greater representation in the Senate if Lind's solution came to pass, they might fear losing clout in presidential elections in which candidates for the Oval Office currently spare no effort in wooing the Golden State. Los Angeles residents might also see such a break-up as an attempt by affluent Northern Californians to cut themselves off from the urban problems of the South, while white suburbanites would likely see it as an attempt by a Latinos, Asians, or Blacks to hijack greater LA and wrest control from the political masters in the current state capital of Sacramento.

Immobilism and Unintended Consequences

Whatever the specific reason, the point is that, in a political system as pinched and atomized as the US, defenders of the status quo would have every advantage. For every argument in favour of change, there would be dozens in favour of staying put. The old adage, 'if it ain't broke, don't fix it', becomes an all-purpose rationale for immobilism in a system in which there is no concept of what it means to be broken in the first place. Objectivity implies a viewpoint outside the self, yet such a viewpoint is impossible in a system that is hermetic and self-referential. The only standards the system recognizes are those that reinforce its legitimacy. It will submit to only the minimum number of changes needed to maintain itself in existence and nothing more. If one could go bankrupt waiting for Americans to solve the problem of a malapportioned Senate outside of a Madisonian framework, one could go doubly so waiting for them to act within it.

Change is impossible in the context of a deeply conservative constitutional system predicated on the belief that change is synonymous with corruption and decay. The only way change can be instituted, consequently, is if this principle is overthrown. On the other hand, if it is finally toppled, the consequences could be even more profound than in the 1860s. One reason the gains of the Civil

War proved so easy to undo is that, in 1860–61, Southern secessionists were allowed to take the initiative while the North cast itself in the role of defender of the status quo. As difficult as it became to maintain this fiction as the war ground on, it made it all the easier to return in large measure to the status quo ante once it was over. In contrast, if the problem of a grossly malapportioned US Senate were to lead to a not-dissimilar crisis in the twenty-first century, it would be giants like New York or California that would have to act first, while latter-day rotten boroughs like Wyoming or Vermont would seek to preserve a system from which they derive immense benefit. If the majority of the people who live in the nine or ten most populous states found themselves acting in conscious violation of Madisonian dictates concerning how the constitution may or may not be altered, they would be forced to assert their sovereignty over the constitution rather than under it. Having done so once, it would be difficult to imagine how the *demos* could refrain from exercising its sovereignty again and again.¹⁵ If so, the result would be a fundamental change not only in structure but in methodology. Instead of constantly asking itself what the Founders would have done in a given situation, the *demos* would have to recognize that its ties to the past have been broken and that it must henceforth look to itself in deciding what to do in the here and now.

Once again, this is not something the *demos* might wish upon itself, but something to which it might find itself forced to submit. Meanwhile, change of this sort is not to be under estimated. Breaking the hold of the constitution would be every bit as significant as abolishing the monarchy in the UK. Everything would be subject to change, right down to the name. Just as a republican Britain could no longer call itself 'the United Kingdom of Great Britain and Northern Ireland', it would only be a matter of time before someone pointed out that 'United States' is no longer appropriate in a democratic republic in which the people rather than the states serve as the basic constituent elements. Shorn of its Ancient Constitution, the US, America, or whatever else it called itself, would be humbler, less exceptional, more eager to join the rest of the world rather than to dominate.

Democracy in One Country?

This absence of any concept of an objective standard is one of the more strikingly pre-modern aspects of the US Constitution. The Founders were not utilitarians; they never attempt to come up with a theory of what government was supposed to do in accordance with Bentham's famous formula of the greatest good of the greatest

¹⁵ According to the theory of sovereignty, the one thing a sovereign power is incapable of doing is in any way limiting, compromising, or destroying its own sovereignty. See Peter Suber, *The Paradox of Self-Amendment: A Study of Logic, Law, Omnipotence, and Change*, New York 1990, p. 12.

number. Although the Preamble seems to establish a number of over-arching goals—‘to . . . establish Justice, insure domestic Tranquility, provide for the common defense’, and so on—the relationship between the opening paragraph and the remainder of the document, in which the attainment of a proper constitutional equilibrium is seen as the highest virtue, is unclear. Checks and balances, separation of powers, and ‘a more perfect Union’ are all assumed to be somehow related, although the precise connection is never spelled out.

The objectivity issue is also what makes Lind’s concept of democratic nationalism so unconvincing. Real democracy requires the establishment of an objective standard outside the self. Yet nationalism encourages the opposite—subjectivism, burrowing within, further retreat into the intellectual wasteland of ‘American exceptionalism’. If genuine reform can only come about when Americans begin to understand how far behind other advanced industrial nations they are falling in terms of civil liberties, progressive social policies, urban conditions, and the like, then anything that encourages them in the belief that Americans are different, and therefore not to be judged according to the same standards, can only short-circuit democratic reform. Despite their professions to the contrary, ‘democratic’ nationalists end up opening the doors to all kinds of undemocratic tendencies—racism, sexism, oversized personality cults, and all the rest.

Theodore Roosevelt is as good an example of this tendency as any. Despite Lind’s attempts at bolstering Roosevelt’s reputation—he has elsewhere referred to him as ‘perhaps the key philosopher-statesman in the pantheon of American democratic nationalism’¹⁶—the real-life TR was bellicose and jingoistic, a fierce opponent of America’s beleaguered labour movement and a racial protectionist who believed that it was not only important to keep out paupers and anarchists, but ‘races which do not assimilate readily with our own’.¹⁷ The other Roosevelt—FDR—is a less glaring but, in some ways, even better example. Whatever Teddy’s misgivings about a rising tide of Jewish immigration, he did not try to bar the door to victims of anti-Semitism. Franklin, however, did. Although usually seen as sympathetic to black aspirations, the real-life FDR went out of his way to avoid offending racist Dixiecrats in Congress, refused to support an anti-lynching bill, and refused to use federal resources to prosecute racist atrocities. As historians such as Kenneth Jackson have shown, his efforts to shore up home-ownership led to a vast increase in residential segregation, an increase that liberals have been struggling ever since the Sixties to

¹⁶ Lind, *Hamilton’s Republic*, p. 57.

¹⁷ ‘True Americanism’ (1894), in Theodore Roosevelt, *American Ideals and Other Essays, Social and Political*, New York 1897, p. 27.

undo.¹⁸ Although also usually seen as sympathetic to labour, the de-urbanizing, pro-Sun Belt policies that Roosevelt set in motion did much to undermine the power of the union movement after the war. Lind applauds FDR for vastly expanding federal power. But he fails to note how New Deal-fuelled suburbanization led to an equally vast expansion of the power of the localities. The result, a half-century or so later, is a combined federal, state, and local power structure that is every bit as diffuse, sprawling, and incoherent as the middle-class suburban order it is designed to serve. If, as Lind claims, FDR really belongs in the nationalist camp, then his policies are an example of the damage that even the most liberal nationalism ends up doing to democracy.

Of course, non-nationalist admirers of FDR also have a great deal to answer for concerning their hero's record. But that is another story . . .

Socialism and Democracy

Marxism holds that social progress in an advanced industrial country such as the US can only come about by virtue of the working class. To Lind, a statement like this must sound terribly abstract and 'European'. But, in reality, it is the key to moving the American system off dead-centre.

Reform in the United States cannot come from the middle or upper classes. Both grew up under the Madisonian republic, both are steeped in its traditions, and both are devoted to its precepts. Constitutionalism is in their bones, with the result that, even if a few enlightened individuals saw the need to reform the US Senate, we can trust that they would act with the same speed that liberals did in the immediate aftermath of the Supreme Court's *Brown vs. Board of Education* desegregation ruling in 1954—at a snail's pace, that is, with lots of time set aside for luncheons, academic conferences, and awards banquets. The working class, though, is different. From its earliest days in the mid-nineteenth century, bourgeois spokesmen in the US have regarded the industrial proletariat as intrinsically threatening to the established constitutional order. The only way they could adjust to its existence has been by waging war on it

¹⁸ New Deal agencies like the Federal Housing Administration and the Home Owners Loan Corporation used frankly racist criteria in deciding which areas were suitable for federal mortgage guarantees and which were not. In Brooklyn, the presence of a single black family was enough to rule an entire block ineligible. In Detroit in 1941, a developer constructed a Berlin wall between white and black neighbourhoods so as to become eligible for mortgage guarantees. See Kenneth T. Jackson, *Crabgrass Frontier: The Suburbanization of the United States*, New York 1985, pp. 195–218, for further information on the enormous role of Roosevelt's FHA and HOLC. For a detailed discussion of the impact of such policies on a single city, see Raymond A. Mohl, 'Trouble in Paradise: Race and Housing in Miami During the New Deal Era', in *The Making of Urban America*, edited by Raymond A. Mohl, Wilmington 1988, pp. 214–27.

politically via repeated red scares while attempting to transform it socially and economically into a class of dutiful Jeffersonian property owners. This effort has never been more than partially successful, and, much as America's conservative labour leadership tries to deny it, working-class traditions remain fundamentally at odds with Madisonian ideology. They are centralist rather than decentralist, internationalist rather than American-exceptionalist, and, above all, democratic. The working class has been the big loser as the US constitutional order has grown increasingly harsh and authoritarian. Union membership has plummeted, the AFL-CIO has found itself increasingly shut out of the inner sanctums of the Democratic Party, while the poorer and more vulnerable sections of the workforce have fallen victim to the urban breakdown, the War on Drugs, and the rise in police brutality. The working-class appetite for change, as a result, can only grow.

A politicized, revived working-class movement would be in a position to grapple with the Madisonian system in its entirety. Rather than blindly defending the US system against the world, it would seek to bring the US up to the level of those societies in which working-class political power is stronger and more democratic standards therefore prevail. It would have an interest in creating a US that is less exceptional and more like other nations. This is not to say that bourgeois liberals might not beat the working class to the punch by instituting reforms within the constitution of 1787 such as those described by Lind. But liberals will never act without feeling the hot breath of the working class on their necks. The Madisonian system will not reform itself in some serious way without a threat to its very existence.

One should not be too schematic about this. A revitalized US labour movement would undoubtedly try to have its cake and eat it too, by fighting for working-class reforms within a Madisonian constitutional framework. Given America's pragmatic political traditions, this would undoubtedly strike many workers as the natural and sensible thing to do. But a Madisonian labour party will go nowhere. It is a 'non-starter', as the so-called US Labor Party, an organization begun by a few major labour unions in recent years, is so far proving to be. At most, it will function as an adjunct to the Democrats, while, most probably, it will fall short of even that modest goal. Its politics will be thoroughly protectionist, meaning that it will devote a disproportionate share of its time and energy to lobbying the White House to keep out Brazilian or Russian steel or Korean electronics. It will be no more capable of mobilizing the working population in general than is the current trade-union leadership. The Madisonian system is hostile to the very idea of party politics. 'Faction' was a dirty word at the time of the Constitutional Convention, and if a party system nonetheless took shape in the 1790s, it has never advanced beyond a mid-nineteenth-century level of development. A mass party with a Madisonian

framework is therefore impossible. It can only be built in opposition to it.¹⁹

Errors and Misstatements

Lind's essay contains a number of misstatements that are too serious to let go. Some examples:

(i) 'Since most democracies are parliamentary regimes with PR voting, and since few democracies have consistent and competitive "labour parties", the reason for the absence of one in the US cannot be that the federal constitution or the plurality voting system is an impediment.'²⁰ But, currently, labour parties of various stripes are running thirteen of the fifteen countries in the EU. The fact that America is the only advanced industrial country without a competitive labour party suggests that the Ancient Constitution is indeed a key factor.

(ii) 'Does he [Lazare] really believe that ordinary American voters—who tend to be more religious and sentimentally patriotic than the social élite—would vote for atheist, cosmopolitan socialists?'²¹ But why not? Thousands of fishermen on Cape Cod vote every two years for an openly gay Democratic congressman named Barney Frank, not because they share his sexual inclinations—although some presumably do—but because he delivers the pork as well as anyone else on Capitol Hill. The idea that voters will only support candidates who precisely mirror their own social and religious beliefs is obviously untrue.

(iii) 'For many—though by no means all—majoritarian theorists, the purpose of democracy is to "express" the "will" of the more or less unitary "people"—a Rousseauian General Will that somehow (perhaps by mental telepathy) has formed apart from, and prior to, elections and debates among elected officials.'²² Some majoritarian theorists may see things this way, but it is by no means a socialist point of view. Marxists are not Rousseauians. They do not see the people as 'more or less unitary', but as divided along class lines. They do not believe in a metaphysical 'will', but in a concrete struggle on the part of the working masses to better their conditions. They do

¹⁹ Astonishing as it may seem to readers outside the US, there is no such thing as a 'member' of either the Republican or Democratic parties. If one were to go down to the local Democratic clubhouse and ask to take out a membership card, blank stares would be all that would follow. The question would be incomprehensible. Similarly, if one were to ask a member of, say, the New York City Council for the Democratic position on whether clean syringes should be made available to heroin users or more low-income housing built on the Upper West Side, the response would be identical. Democrats do not have 'positions'. The party exists to help politicians avoid taking positions on hot-potato issues such as these.

²⁰ Lind, 'Why There Will Be No Revolution in the US', p. 99.

²¹ *Ibid.*, p. 101.

²² *Ibid.*, p. 108.

not see the formation of democratic opinion as something 'apart from, and prior to, elections and debates', but as something achieved *through* elections, debates, and other forms of politics. Moreover, they see the purpose of democracy as not merely to express the popular will, but to mobilize popular energy so as to construct society anew.

(iv) 'A programme enacted by a bare majority, against the bitter opposition of a near-majority, is likely to be lacking in legitimacy . . . if one rejects the majoritarian fiction that fifty-one per cent of a population speaks for the whole.'²³ This is not a fiction, but an elementary principle of democracy. If all individuals are equal and the people as a whole are sovereign, then sovereignty inheres in the preponderant portion. Requiring anything greater than fifty per cent plus one means granting a minority an effective veto power over the majority, at which point no one is able to act and sovereignty is effectively nullified. This is not to say that the majority should never slow down to placate a worthy minority, merely that the decision is the majority's alone to make and cannot be imposed through supra-political law.²⁴

(v) '[I]n a system of pure majoritarianism in the US that expressed popular attitudes more or less directly, the prevalent force, the "coherent majority" to use Lazare's term, would be a kind of right-wing populism, mixing support for working-class and middle-class economic entitlements with support for the death penalty and hostility to flag-burning, obscenity and sexual deviance.'²⁵ Lind places far too much faith in public opinion polls showing Americans to be strongly in favour of the death penalty and other such issues. Whatever the value of such polls, a position expressed over the telephone or in a personal interview is not the same as one arrived at through the political process. South Africans express strong support in polls for the death penalty and equally strong support in elections for the African National Congress, which is opposed to capital punishment—so which is the true expression of the democratic will? Given the parlous state of US democracy, we can only guess at the real nature of democratic opinion. But it is probably a good deal less 'exceptional' by first-world standards than is commonly believed. Certainly, the eminently sane sexual attitudes expressed during the Monica Lewinsky scandal would suggest this is the case.

²³ Ibid.

²⁴ Supra-political constitutional guarantees aimed at protecting the people against themselves are predicated on the belief that 'true education consists in keeping a person wrapped up in a cradle throughout his life, for as soon as he learns to walk, he learns also to fall, and only by falling down does he learn to walk. But if we all remain in swaddling clothes, who is to wrap us in them? If we all remain in the cradle, who is to rock us? If we are all prisoners, who is to be the prison warder?', Karl Marx in 1842; in *Collected Works*, London 1975, vol. 1, p. 153.

²⁵ Lind, 'Why There Will Be No Revolution in the US', pp. 101–2.

(vi) 'But in newly-democratized countries with royal or dictatorial traditions, a quasi-regal president, invested by popular election with plebiscitary legitimacy, might be more effective than a prime minister or chancellor in imposing civilian authority on recalcitrant armed forces and bureaucracies.'²⁶ See above, concerning democratic nationalism as a contradiction in terms.

(vii) 'Trosky, who reportedly once began an address with the words, "Workers and peasants of the Bronx . . . "'²⁷ OK. And Bill Clinton once began an address with the words, 'Venture capitalists of East Harlem . . . '

Modernist and Anti-Modernist Expansionism

A few other points that Lind raises are worthy of comment. One concerns the question of American expansionism. In my essay, I argued that America's Ancient Constitution has left Americans no choice but 'to seek out economic and geographical expansion as a substitute for political modernization.'²⁸ This prompted Lind to launch into a passionate defence of American expansionism, not surprising on the part of a writer who published an epic poem not long ago celebrating the 1835 Texas slaveholders' revolt.²⁹ But it also prompted him to point out that Hamilton, an ardent modernizer, had also favoured expansion into French and Spanish territories in the South and West, which would seem to contradict what I had to say. But it does not. Hamilton sought to counter Spanish and French imperialism in the South and West in order to strengthen the newly-born American nation-state, while Jefferson's goal in acquiring the vast Louisiana Territory was to encourage decentralization, anti-urbanism, and anti-industrialization in order to weaken the nation-state. This was the prevalent attitude throughout the pre-civil-war era when Northern and Southern settlers raced to the Pacific Coast in order to outrun the slavery issue rather than confront it. On the question of economic expansionism, Republican and Democratic politicians have been tireless of late in reminding Americans that the Founders, in their infinite wisdom, closed off public-sector solutions so as to encourage private enterprise. As Chief Justice William H. Rehnquist once put it, 'The highest end which the state can serve is to serve no end at all, but merely exist as a means for the individuals within it to realize their own ends.'³⁰ Private initiative is thus encouraged as a way to avoid grappling with the meaning, or non-meaning, of what America's highest legal authority says is a purposely purposeless state. The 'genius' of the Founders was to create a system in which a pre-modern constitution and private enterprise would be mutually reinforcing.

²⁶ Ibid., p. 110.

²⁷ Ibid., p. 101.

²⁸ Lazare, 'America the Undemocratic', p. 27.

²⁹ Michael Lind, *The Alamo: An Epic*, Boston 1997.

³⁰ Linda Greenhouse, 'Rehnquist, Entering a New Arena, Appears at Home', *The New York Times*, 8 January 1999, p. A14.

Lind also goes on at great length in an attempt to rebut my argument that, by putting an end to the delicate balance among the branches, the impeachment of Andrew Johnson in 1868 could have put the US 'on its way to becoming a modern democratic state under the control of a sovereign national assembly'.³¹ Not so, he says. Had it convicted Johnson, the quasi-aristocratic Senate would have been able more than ever to dominate the House, while the president, as soon as a new one was elected, would not have been without institutional resources of his own to re-establish his authority. The old balance of power would thereby have been restored.

Lewinsky and Gingrich

This is an important issue in light of the Monica Lewinsky scandal. If impeachment was progressive in 1868, as it would seem to be, was it progressive in 1998–99? If post-civil-war Republicans were intent on establishing a new constitutional arrangement in which political power would be centred in the legislative branch, as some clearly were, can the same be said for Newt Gingrich and his comrades in the Grand Old Party (GOP)? The answer is obviously no. Gingrich's goal was to make the constitution into more of an instrument of ideological regimentation than ever. Impeachment evolved out of fourteenth-century Anglo-Norman law for the sole purpose of preserving the balance of power among the various estates or branches by insuring that no one, the king's ministers especially, overstepped his bounds. If Congress's drive to wrest power from the executive branch was progressive in 1868, it was only to the extent that it was contrary to the ancient law's spirit and intent. Congress tried to disguise its drive against the executive with a lot of neo-medieval legalese about high crimes and misdemeanours when it was plain to all that Johnson's real offence was not criminal but political: allowing Confederate leaders to evade punishment, undermining Reconstruction, depriving ex-slaves of their new-found freedom, and other such steps. That Congress failed was due to the fact that the tool was unsuited to the task. Rather than weakening separation of powers, impeachment could only strengthen it. Ancient law could not be used to advance a programme of constitutional modernization. There would be no constitutional route to a new constitution.

By the same token, impeachment in 1998–99 represented a further descent into constitutional obscurantism. During the hearings, Republicans and Democrats competed with one another to see who could offer the most mindless hosannas to the everlasting wisdom of the Founding Fathers. 'When we are lost, the best thing to do is to look to our Constitution as a beacon of light and a guide to get us through trying times', sang Zoe Lofgren, a California Democrat. Offered Representative Asa Hutchinson, an Arkansas Republican: 'The Constitution provides a path to follow in these circumstances,

³¹ Lazare, 'America the Undemocratic', p. 20.

the path may be well worn, but it is well marked, and we would be wise to follow it, rather than to concoct our own ideas on how to proceed.³² The result was a perfectly bipartisan accord that Americans must not think for themselves but should defer to a race of giants who lived two centuries earlier.

Lind's lengthy disquisition on the 'consociational' ideas of Senator John C. Calhoun of South Carolina, also deserves comment. Calhoun, whom he blandly refers to as a 'nineteenth-century American theorist'—he was in fact a fervid slavery advocate who nearly single-handedly brought the country to the brink of civil war in 1832 by proclaiming the right of individual states to nullify federal laws—described his theory as one of 'concurrent majorities', meaning that simultaneous majority approval both north and south of the Mason-Dixon Line was required to validate any federal action. It is odd, however, to see Lind endorsing such ideas in the late twentieth century, since Calhoun was an enemy of national power whose goal was to emasculate the federal government by subjecting it to a regional veto. It is also odd since 'consociationalism' was so obviously flawed, as the events of 1861–65 demonstrated. Rather than encouraging compromise, the theory of concurrent majorities encouraged positions in either camp to harden, while preventing the emergence of a higher power capable of imposing an agreement on the recalcitrant parties. Although Lind argues that consociational constitutions 'should be revised or replaced every few decades or generations, as conditions and particular balances of social forces change',³³ the absence of a higher power means that there is no one to see to it that the process of revision does not break down. To insure that that does not happen, democracy requires the creation of an overarching authority capable of imposing order from above: in other words, popular sovereignty.

Constitutional Incoherence

Finally, there is Lind's curious point concerning the evolution of the American party system from 'healthy incoherence to dangerous coherence'. By this he means the purging of Southern conservatives from the Democratic Party and North-Eastern liberals from the GOP, all of which has resulted in a somewhat more conventional Left-Right alignment but has also served to shut out voters who do not feel fully comfortable in either camp. The result, he maintains, is a party system that is simultaneously more rational and less inclusive than its rather sloppy predecessor, not to mention more polarized—and polarizing. 'The point that must be stressed', Lind writes, 'is that this partisan polarization has nothing to do with the US Constitution—a stable background which cannot be invoked as the explanation for

³² 'Excerpts From Debate on Plan to Begin Impeachment Inquiry', *The New York Times*, 10 October 1998, pp. A23–4.

³³ Lind, 'Why There Will Be No Revolution in the US', p. 109.

changing patterns in the foreground. Rather, the increased polarization is a result of the interaction of a complex society with a too-simple electoral régime.³⁴ Yet this 'too-simple electoral régime' is maintained and reinforced by a conservative constitution. One could argue that the political breakdown in Washington—the siege warfare, gridlock, character assassination, and all the rest—is the result of an increasingly sclerotic constitutional system that is unable to accommodate demands for change and, as a consequence, reduces political debate to a series of fragmented, short-sighted, but increasingly vicious squabbles. If the American party system has gone from 'healthy incoherence to dangerous coherence', then it is the fault of a pre-modern constitutional system whose capacity for political coherence is limited. Excessive coherence is dangerous because it is at odds with an essentially incoherent constitutional order. The US Constitution demands nothing of its subjects except that they mimic its own irrationality.

Lind wonders why I would support proportional representation, since it would lead to the installation of a conservative populist regime. I disagree. PR, in the context of basic constitutional restructuring, would lead to a more rational form of politics. Rational politics do not guarantee socialism—nothing in life guarantees anything—but, to the extent that they encourage rational debate, they encourage rational outcomes. Very simply, the struggle to change America's pre-modern constitution, which only the working class could lead, would provide socialists with their greatest opportunity in the history of the republic.

³⁴ *Ibid.*, pp. 102, 104.