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Real Patriots Ask Questions*

It is not the function of our government to keep the citizen from falling into error; it is the function of the citizen to keep the government from falling into error.

US Supreme Court
Justice Robert H. Jackson, 1950

It is a fact of life on our beleaguered little planet that widespread torture, famine and governmental criminal irresponsibility are much more likely to be found in tyrannical than in democratic governments. Why? Because the rulers of the former are much less likely to be thrown out of office for their misdeeds than the rulers of the latter. This is error-correcting machinery in politics.

The methods of science, with all its imperfections, can be used to improve social, political and economic systems, and this is, I think, true no matter what criterion of improvement is adopted. How is this possible if science is based on experiment? Humans are not electrons or laboratory rats. But every act of Congress, every Supreme Court decision, every Presidential National Security Directive, every change in the Prime Rate is an experiment. Every shift in economic policy, every increase or decrease in funding for Head Start, every toughening of criminal sentences is an experiment. Exchanging needles, making condoms freely

* Written with Ann Druyan.
available, or decriminalizing marijuana are all experiments. Doing nothing to help Abyssinia against Italy, or to prevent Nazi Germany from invading the Rhineland was an experiment. Communism in Eastern Europe, the Soviet Union and China was an experiment. Privatizing mental health care or prisons is an experiment. Japan and West Germany investing a great deal in science and technology and next to nothing on defence - and finding that their economies boomed - was an experiment. Handguns are available for self-protection in Seattle, but not in nearby Vancouver, Canada; handgun killings are five times more common in Seattle and the handgun suicide rate is ten times greater in Seattle. Guns make impulsive killing easy. This is also an experiment. In almost all of these cases, adequate control experiments are not performed, or variables are insufficiently separated. Nevertheless, to a certain and often useful degree, such ideas can be tested. The great waste would be to ignore the results of social experiments because they seem to be ideologically unpalatable.

There is no nation on Earth today optimized for the middle of the twenty-first century. We face an abundance of subtle and complex problems. We need therefore subtle and complex solutions. Since there is no deductive theory of social organization, our only recourse is scientific experiment - trying out sometimes on small scales (community, city and state level, say) a wide range of alternatives. One of the perquisites of power on becoming prime minister in China in the fifth century BC was that you got to construct a model state in your home district or province. It was Confucius' chief life failing, he lamented, that he never got to try.

Even a casual scrutiny of history reveals that we humans have a sad tendency to make the same mistakes again and again. We're afraid of strangers or anybody who's a little different from us. When we get scared, we start pushing people around. We have readily accessible buttons that release powerful emotions when pressed. We can be manipulated into utter senselessness by clever politicians. Give us the right kind of leader and, like the most suggestible subjects of the hypnotherapists, we'll gladly do just about anything he wants - even things we know to be wrong. The framers of the Constitution were students of history. In recognition of the human condition, they sought to invent a means that
would keep us free in spite of ourselves.

Some of the opponents of the US Constitution insisted that it would never work; that a republican form of government spanning a land with 'such dissimilar climates, economies, morals, politics, and peoples,' as Governor George Clinton of New York said, was impossible; that such a government and such a Constitution, as Patrick Henry of Virginia declared, 'contradicts all the experience of the world'. The experiment was tried anyway.

Scientific findings and attitudes were common in those who invented the United States. The supreme authority, outranking any personal opinion, any book, any revelation, was - as the Declaration of Independence puts it - 'the laws of nature and of nature's GOD'. Dr Benjamin Franklin was revered in Europe and America as the founder of the new field of electrical physics. At the Constitutional Convention of 1789 John Adams repeatedly appealed to the analogy of mechanical balance in machines; others to William Harvey's discovery of the circulation of the blood. Late in life Adams wrote, 'All mankind are chemists from their cradles to their graves . . . The Material Universe is a chemical experiment.' James Madison used chemical and biological metaphors in The Federalist Papers. The American revolutionaries were creatures of the European Enlightenment which provides an essential background for understanding the origins and purpose of the United States.

'Science and its philosophical corollaries,' wrote the American historian Clinton Rossiter

were perhaps the most important intellectual force shaping the destiny of eighteenth-century America . . . Franklin was only one of a number of forward-looking colonists who recognized the kinship of scientific method and democratic procedure. Free inquiry, free exchange of information, optimism, self-criticism, pragmatism, objectivity - all these ingredients of the coming republic were already active in the republic of science that flourished in the eighteenth century.

Thomas Jefferson was a scientist. That's how he described himself. When you visit his home at Monticello, Virginia, the moment
you enter its portals you find ample evidence of his scientific interests - not just in his immense and varied library, but in copying machines, automatic doors, telescopes and other instruments, some at the cutting edge of early nineteenth-century technology. Some he invented, some he copied, some he purchased. He compared the plants and animals in America with Europe's, uncovered fossils, used the calculus in the design of a new plough. He mastered Newtonian physics. Nature destined him, he said, to be a scientist, but there were no opportunities for scientists in pre-revolutionary Virginia. Other, more urgent, needs took precedence. He threw himself into the historic events that were transpiring around him. Once independence was won, he said, later generations could devote themselves to science and scholarship.

Jefferson was an early hero of mine, not because of his scientific interests (although they very much helped to mould his political philosophy), but because he, almost more than anyone else, was responsible for the spread of democracy throughout the world. The idea - breathtaking, radical and revolutionary at the time (in many places in the world, it still is) is that not kings, not priests, not big city bosses, not dictators, not a military cabal, not a de facto conspiracy of the wealthy, but ordinary people, working together, are to rule the nations. Not only was Jefferson a leading theoretician of this cause; he was also involved in the most practical way, helping to bring about the great American political experiment that has, all over the world, been admired and emulated since.

He died at Monticello on 4 July 1826, fifty years to the day after the colonies issued that stirring document, written by Jefferson, called the Declaration of Independence. It was denounced by conservatives worldwide. Monarchy, aristocracy and state-supported religion - that's what conservatives were defending then. In a letter composed a few days before his death, he wrote that it was the 'light of science' that had demonstrated that 'the mass of mankind has not been born with saddles on their backs', nor were a favoured few born 'booted and spurred'. He had written in the Declaration of Independence that we all must have the same opportunities, the same 'unalienable' rights. And if the definition of 'all' was disgracefully incomplete in 1776, the spirit of the Declaration was generous enough that today 'all' is far more inclusive.
Jefferson was a student of history - not just the compliant and safe history that praises our own time or country or ethnic group, but the real history of real humans, our weaknesses as well as our strengths. History taught him that the rich and powerful will steal and oppress if given half a chance. He described the governments of Europe, which he saw at first hand as the American ambassador to France. Under the pretence of government, he said, they had divided their nations into two classes: wolves and sheep. Jefferson taught that every government degenerates when it is left to the rulers alone, because rulers - by the very act of ruling - misuse the public trust. The people themselves, he said, are the only prudent repository of power.

But he worried that the people - and the argument goes back to Thucydides and Aristotle - are easily misled. So he advocated safeguards, insurance policies. One was the constitutional separation of powers; accordingly, various groups, some pursuing their own selfish interests, balance one another, preventing any one of them from running away with the country: the Executive, Legislative and Judicial Branches; the House and the Senate; the States and the Federal Government. He also stressed, passionately and repeatedly, that it was essential for the people to understand the risks and benefits of government, to educate themselves, and to involve themselves in the political process. Without that, he said, the wolves will take over. Here’s how he put it in *Notes on Virginia*, stressing how the powerful and unscrupulous find zones of vulnerability they can exploit:

In every government on earth is some trace of human weakness, some germ of corruption and degeneracy, which cunning will discover and wickedness insensibly open, cultivate and improve. Every government degenerates when trusted to the rulers of the people alone. The people themselves therefore are its only safe depositories. And to render even them safe, their minds must be improved . . .

Jefferson had little to do with the actual writing of the US Constitution; as it was being formulated, he was serving as American minister to France. When he read its provisions, he was
pleased, but with two reservations. One deficiency: no limit was provided on the number of terms the President could serve. This, Jefferson feared, was a way for a President to become a king, in fact if not in law. The other major deficiency was the absence of a bill of rights. The citizen, the average person, was insufficiently protected, Jefferson thought, from the inevitable abuses of those in power.

He advocated freedom of speech, in part so that even wildly unpopular views could be expressed, so that deviations from the conventional wisdom could be offered for consideration. Personally he was an extremely amiable man, reluctant to criticize even his sworn enemies. He displayed a bust of his arch-adversary Alexander Hamilton in the vestibule at Monticello. Nevertheless, he believed that the habit of scepticism is an essential prerequisite for responsible citizenship. He argued that the cost of education is trivial compared to the cost of ignorance, of leaving the government to the wolves. He taught that the country is safe only when the people rule.

Part of the duty of citizenship is not to be intimidated into conformity. I wish that the oath of citizenship taken by recent immigrants, and the pledge that students routinely recite, included something like 'I promise to question everything my leaders tell me'. That would be really to Thomas Jefferson's point. 'I promise to use my critical faculties. I promise to develop my independence of thought. I promise to educate myself so I can make my own judgements.'

I also wish that the Pledge of Allegiance were directed at the Constitution and the Bill of Rights, as it is when the President takes his oath of office, rather than to the flag and the nation.

When we consider the founders of our nation - Jefferson, Washington, Samuel and John Adams, Madison and Monroe, Benjamin Franklin, Tom Paine and many others - we have before us a list of at least ten and maybe even dozens of great political leaders. They were well educated. Products of the European Enlightenment, they were students of history. They knew human fallibility and weakness and corruptibility. They were fluent in the English language. They wrote their own speeches. They were realistic and practical, and at the same time motivated by high principles. They were not checking the pollsters on what to think this week. They knew what to think. They were comfortable with
long-term thinking, planning even further ahead than the next election. They were self-sufficient, not requiring careers as politicians or lobbyists to make a living. They were able to bring out the best in us. They were interested in and, at least two of them, fluent in science. They attempted to set a course for the United States into the far future - not so much by establishing laws as by setting limits on what kinds of laws could be passed.

The Constitution and its Bill of Rights have done remarkably well, constituting, despite human weaknesses, a machine able, more often than not, to correct its own trajectory.

At that time, there were only about two and a half million citizens of the United States. Today there are about a hundred times more. So if there were ten people of the calibre of Thomas Jefferson then, there ought to be $10 \times 100 = 1,000$ Thomas Jeffersons today.

Where are they?

One reason the Constitution is a daring and courageous document is that it allows for continuing change, even of the form of government itself, if the people so wish. Because no one is wise enough to foresee which ideas may answer urgent societal needs - even if they're counterintuitive and have been troubling in the past - this document tries to guarantee the fullest and freest expression of views.

There is, of course, a price. Most of us are for freedom of expression when there's a danger that our own views will be suppressed. We're not all that upset, though, when views we despise encounter a little censorship here and there. But within certain narrowly circumscribed limits - Justice Oliver Wendell Holmes's famous example was causing panic by falsely crying 'fire' in a crowded theatre - great liberties are permitted in America:

- Gun collectors are free to use portraits of the Chief Justice, the Speaker of the House, or the Director of the FBI for target practice; outraged civic-minded citizens are free to burn in effigy the President of the United States.
- Even if they mock Judaeo-Christian-Islamic values, even if they ridicule everything most of us hold dear, devil-worshippers (if
there are any) are entitled to practise their religion, so long as they break no constitutionally valid law.

- A purported scientific article or popular book asserting the 'superiority' of one race over another may not be censored by the government, no matter how pernicious it is; the cure for a fallacious argument is a better argument, not the suppression of ideas.

- Individuals may, if they wish, praise the lives and politics of such undisputed mass murderers as Adolf Hitler, Josef Stalin and Mao Zedong. Even detestable opinions have a right to be heard.

- Individuals or groups are free to argue that a Jewish or Masonic conspiracy is taking over the world, or that the Federal government is in league with the Devil.

The system founded by Jefferson, Madison and their colleagues offers means of expression to those who do not understand its origins and wish to replace it by something very different. For example, Tom Clark, Attorney General and therefore chief law enforcement officer of the United States, in 1948 offered this suggestion: 'Those who do not believe in the ideology of the United States shall not be allowed to stay in the United States.' But if there is one key and characteristic US ideology, it is that there are no mandatory and no forbidden ideologies. Some more recent 1990s cases: John Brockhoefft, in jail for bombing an abortion clinic in Cincinnati, wrote, in a 'pro-life' newsletter:

I'm a very narrow-minded, intolerant, reactionary, Bible-thumping fundamentalist . . . a zealot and fanatic . . . The reason the United States was once a great nation, besides being blessed by God, is because she was founded on truth, justice, and narrow-mindedness.

Randall Terry, founder of 'Operation Rescue', an organization that blockades abortion clinics, told a congregation in August 1993:

Let a wave of intolerance wash over you . . . Yes, hate is good . . . Our goal is a Christian nation . . . We are called by God to conquer this country . . . We don't want pluralism.
The expression of such views is protected, and properly so, under the Bill of Rights, even if those protected would abolish the Bill of Rights if they got the chance. The protection for the rest of us is to use that same Bill of Rights to get across to every citizen the indispensability of the Bill of Rights.

What means to protect themselves against human fallibility, what error-protection machinery do these alternative doctrines and institutions offer? An infallible leader? Race? Nationalism? Wholesale disengagement from civilization, except for explosives and automatic weapons? How can they be sure - especially in the darkness of the twentieth century? Don't they need candles?

In his celebrated little book, On Liberty, the English philosopher John Stuart Mill argued that silencing an opinion is 'a peculiar evil'. If the opinion is right, we are robbed of the 'opportunity of exchanging error for truth'; and if it's wrong, we are deprived of a deeper understanding of the truth in 'its collision with error'. If we know only our own side of the argument, we hardly know even that; it becomes stale, soon learned only by rote, untested, a pallid and lifeless truth.

Mill also wrote, 'If society lets any considerable number of its members grow up as mere children, incapable of being acted on by rational consideration of distant motives, society has itself to blame.' Jefferson made the same point even more strongly: 'If a nation expects to be both ignorant and free in a state of civilization, it expects what never was and never will be.' In a letter to Madison, he continued the thought: 'A society that will trade a little liberty for a little order will lose both, and deserve neither.'

When permitted to listen to alternative opinions and engage in substantive debate, people have been known to change their minds. It can happen. For example, Hugo Black, in his youth, was a member of the Ku Klux Klan; he later became a Supreme Court justice and was one of the leaders in the historic Supreme Court decisions, partly based on the 14th Amendment to the Constitution, that affirmed the civil rights of all Americans: it was said that when he was a young man, he dressed up in white robes and scared black folks; when he got older, he dressed up in black robes and scared white folks.

In matters of criminal justice, the Bill of Rights recognizes the
temptation that may be felt by police, prosecutors and the judiciary to intimidate witnesses and expedite punishment. The criminal-justice system is fallible: innocent people might be punished for crimes they did not commit; governments are perfectly capable of framing those who, for reasons unconnected with the purported crime, they do not like. So the Bill of Rights protects defendants. A kind of cost-benefit analysis is made. The guilty may on occasion be set free so that the innocent will not be punished. This is not only a moral virtue; it also inhibits the misuse of the criminal-justice system to suppress unpopular opinions or despised minorities. It is part of the error-correction machinery.

New ideas, invention and creativity in general, always spearhead a kind of freedom, a breaking out from hobbling constraints. Freedom is a prerequisite for continuing the delicate experiment of science which is one reason the Soviet Union could not remain a totalitarian state and be technologically competitive. At the same time, science - or rather its delicate mix of openness and scepticism, and its encouragement of diversity and debate - is a prerequisite for continuing the delicate experiment of freedom in an industrial and highly technological society.

Once you questioned the religious insistence on the prevailing view that the Earth was at the centre of the Universe, why should you accept the repeated and confident assertions by religious leaders that God sent kings to rule over us? In the seventeenth century, it was easy to whip English and Colonial juries into a frenzy over this impiety or that heresy. They were willing to torture people to death for their beliefs. By the late eighteenth century, they weren't so sure.

Rossiter again (from Seedtime of the Republic, 1953):

Under the pressure of the American environment, Christianity grew more humanistic and temperate - more tolerant with the struggle of the sects, more liberal with the growth of optimism and rationalism, more experimental with the rise of science, more individualistic with the advent of democracy. Equally important, increasing numbers of colonists, as a
legion of preachers loudly lamented, were turning secular in curiosity and skeptical in attitude.

The Bill of Rights uncoupled religion from the state, in part because so many religions were steeped in an absolutist frame of mind, each convinced that it alone had a monopoly on the truth and therefore eager for the state to impose this truth on others. Often, the leaders and practitioners of absolutist religions were unable to perceive any middle ground or recognize that the truth might draw upon and embrace apparently contradictory doctrines. The framers of the Bill of Rights had before them the example of England, where the ecclesiastical crime of heresy and the secular crime of treason had become nearly indistinguishable. Many of the early colonists had come to America fleeing religious persecution, although some of them were perfectly happy to persecute other people for their beliefs. The founders of our nation recognized that a close relation between the government and any of the quarrelsome religions would be fatal to freedom - and injurious to religion. Justice Black (in the Supreme Court decision Engel v. Vitale, 1962) described the Establishment Clause of the First Amendment this way:

Its first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and degrade religion.

Moreover, here too the separation of powers works. Each sect and cult, as Walter Savage Landor once noted, is a moral check on the others: 'Competition is as wholesome in religion as in commerce.' But the price is high: This competition is an impediment to religious bodies acting in concert to address the common good.

Rossiter concludes:

the twin doctrines of separation of church and state and liberty of individual conscience are the marrow of our democracy, if not indeed America's most magnificent contribution to the freeing of Western man.
Real Patriots Ask Questions

Now it's no good to have such rights if they're not used - a right of free speech when no one contradicts the government, freedom of the press when no one is willing to ask the tough questions, a right of assembly when there are no protests, universal suffrage when less than half the electorate votes, separation of church and state when the wall of separation is not regularly repaired. Through disuse they can become no more than votive objects, patriotic lip-service. Rights and freedoms: use 'em or lose 'em.

Due to the foresight of the framers of the Bill of Rights - and even more so to all those who, at considerable personal risk, insisted on exercising those rights - it's hard now to bottle up free speech. School library committees, the immigration service, the police, the FBI or the ambitious politician looking to score cheap votes, may attempt it from time to time, but sooner or later the cork pops. The Constitution is, after all, the law of the land, public officials are sworn to uphold it, and activists and the courts episodically hold their feet to the fire.

However, through lowered educational standards, declining intellectual competence, diminished zest for substantive debate, and social sanctions against scepticism, our liberties can be slowly eroded and our rights subverted. The founders understood this well: 'The time for fixing every essential right on a legal basis is while our rulers are honest, and ourselves united,' said Thomas Jefferson.

From the conclusion of this [Revolutionary] war we shall be going downhill. It will not then be necessary to resort every moment to the people for support. They will be forgotten, therefore, and their rights disregarded. They will forget themselves but in the sole faculty of making money, and will never think of uniting to effect a due respect for their rights. The shackles, therefore, which shall not be knocked off at the conclusion of this war will remain on us long, will be made heavier and heavier, 'til our rights shall revive or expire in a convulsion.

Education on the value of free speech and the other freedoms
reserved by the Bill of Rights, about what happens when you don't have them, and about how to exercise and protect them, should be an essential prerequisite for being an American citizen - or the citizen of any nation, the more so to the degree that such rights remain unprotected. If we can't think for ourselves, if we're unwilling to question authority, then we're just putty in the hands of those in power. But if the citizens are educated and form their own opinions, then those in power work for us. In every country, we should be teaching our children the scientific method and the reasons for a Bill of Rights. With it comes a certain decency, humility and community spirit. In the demon-haunted world that we inhabit by virtue of being human, this may be all that stands between us and the enveloping darkness.