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American Revolutions: 9 Parts Locke, 1 Part Hobbes



Left: Frontispiece to Hobbes' *Leviathan*. Center: Photo of the Capitol at night by Nikolai Medish. Right: Ultra MAGA bumper sticker.

There are three Powers, three unique Forces upon earth, capable of conquering forever by charming the conscience of these weak rebels – men – for their own good; and these Forces are: Miracle, Mystery and Authority.

– The Grand Inquisitor in Dostoevsky's *Brothers Karamazov*

An astute observer of the U.S. political scene recently quipped that Hobbes seems to be up by three touchdowns over Locke.

The reference point for this imagined Superbowl game is the centuries-old debate between the political philosophies of Thomas Hobbes (1588-1679) and John Locke (1632-1704), which I will get to shortly.

The unceremonious end of the “end of history” – which has unfolded steadily since 9-11 – and the fading of the Obama era's alluring but naïve dream of “post-partisanship” – gives robust new leases on life to the study of history and political theory. The human condition is neither post-historical nor post-political.

Contrary to progressives' hope for the withering away of political and even geopolitical conflict, the nagging old problems of humanity – how best to govern complex societies and

how growing societies can live together peacefully on a shared planet – have been resurfacing with a vengeance.

The United States is a case in point. The superpower was once the gold standard of stability — indeed “country risk” around the world was implicitly gauged relative to zero risk in the U.S.

This was based on confidence that the U.S. had evolved a rock-solid system of democratic governance, with alteration of political power and cross-partisan commitment to compromise and rule of law, that allowed for resolution of policy conflicts within broad bounds of predictability.

But now risk is us. And the intensity of uncertainty is growing. The U.S. is a global risk radiator spreading instability to its neighbors and erstwhile allies. The amplitude of political debate is widening, with the hyper-partisan pendulum swings threatening to pull down the governing superstructure.

Pundits dispute whether a “presidential coup” is under way and whether we are in a “constitutional crisis,” possibly even a new American revolution. The answer is emphatically “yes,” although some editorialists from left and right have tried to downplay the gravity of the moment.

In his last days in office, President Biden, whose political career was not known for much friction with big money interests — the military-industrial complex, Wall Street, Hollywood, Silicon Valley — warned that “an oligarchy ... of extreme wealth” and a “tech-industrial complex” are taking shape and “posing real dangers” to the Republic.

Biden might have added that the digital apps and social media we have embraced for convenience as consumers have consumed us as citizens. The medium is the message, and the message is mass manipulation.

To his credit, Biden had been presciently and wistfully talking about a contest for “the soul of America” for some time. Upon exit, he apparently also realized that the U.S., after decades of giving other countries report cards on democratic deficit, kleptocracy and state capture, was failing these same tests.

As a German philosopher noted, the owl of Minerva, goddess of wisdom, “spreads her wings only with the falling of dusk,” that is, when it’s a bit late.

The escalating debates about Trump’s “ultra-MAGA” agenda are as much about the *content of policies* (such as immigration, free speech, gender equality, climate change, and downsizing government) as they are about the *operating system of democracy* itself — that is

the inner workings of the political process — the separation of powers, checks and balances, elections and the other accepted methods of democratic conflict resolution.

Scale matters. The sheer quantity of litigation over President Trump’s increasingly muscular exercise of executive authority to advance his ultra-MAGA “Project-2025” policy agenda already implies a challenge to the political culture not seen since the height of the Nixon era. Nixon’s legal training may have ultimately tempered his lawlessness – after all, he resigned – but Trump’s business and political career reveals no such self-imposed limits. Emboldened by a divided Supreme Court’s sweepingly permissive 2024 decision on presidential powers and legal immunity, Trump’s *l’etat-c’est-moi* attitude toward heeding adverse judicial rulings means the country should brace for a high-impact constitutional collision.

This brings us to the political theory. Enter Hobbes and Locke, two archetypal political thinkers on constitutional arrangements. The 17th-century duo are staples of any introductory college course in Western political thought.

Hobbes and Locke represent philosophical counterpoints in “the British argument” — the arc of ideas about the nature and balance of political power starting from Magna Carta (1215) and subsequent negotiations over sovereign prerogatives and rights between the English kings and feudal barons, culminating centuries later in Glorious Revolution and the Westminster model of parliamentary constitutionalism and later the American experiment with a democratic republic.

Historical context is relevant. Hobbes and Locke wrote in the wake of the Protestant Reformation, with the absolute authority of Christian monarchs and the Catholic Church shaken to the root and at a time when modern “Westphalian” nation-states of Europe were first taking constitutional shape.

Hobbes and Locke were responding even more directly to the political strife and violence close to home, specifically the English civil wars of the mid-17th century, during which a king was executed and as many as 200,000 died, and the Thirty Years’ War (1618-1648) on the European continent leaving probably over 5 million dead. Add to those man-made disasters, the Great Plague of 1665-66, which claimed an estimated 15% of London’s population.

Their contemporary critics considered both these pioneering thinkers to be politically undesirable and dangerous. Both men feared for their lives and exiled themselves for safety over extended periods, Hobbes in France, Locke in the Netherlands.

In view of all these vicissitudes, what system of government made the most sense to them, and why? Put simply, Hobbes stood for the party of the king, and Locke for the party of parliament.

Hobbes, a poor vicar's son, favored security and order; Locke, scion of a wealthy family, leaned into individual autonomy and civil liberties. While Hobbes endorsed a strong protective monarchy, Locke argued for rules-bound arrangements respecting civil and property rights of the governed.

Both Hobbes and Locke were liberal theorists in the philosophical sense that they were individualist, egalitarian and universalist, and they sought to describe well-ordered systems of government in which citizens could live long and prosper.

And both are associated with the idea of a high-level political compact between the governed and the sovereign, whether elected or not.

They saw themselves as empiricists and used the device of “the state of nature” – imagined societal origin stories about political pre-history – to illuminate the logic of why individuals would decide to cooperate and accept sovereign authority of one kind or another.

But here, in their inferences from origin stories, is one of the places they diverged sharply.

As Hobbes put it: in the state of nature, “the life of man [is] solitary, poor, nasty, brutish, and short.” This is because “during the time men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war, as is of every man, against every man.”

Hobbes invoked the Biblical image of a sea monster — *Leviathan* — to describe the “common power” and authority of the state to which people would accede to protect them from the perils of civil war.

By contrast, writing a few decades later, Locke underscored the possibility of popular consensus in a non-bellicose natural setting: “Men being...by nature, all free, equal, and independent, no one can be put out of this estate, and subjected to the political power of another, without his own consent.” In his view, the basic principles of natural law and natural rights could flow logically from self-interested consensus in this primeval state.

For Locke, the state of nature was a place very much like overseas colonies of America, which he considered as *terra nova* despite the presence of indigenous peoples, virgin property which could be freely settled and upon which a new well-ordered state could be built.

Thus, while the pessimistic Hobbes emphasized the downside risk of chaos and the need for central authority, the more optimistic Locke embraced the upside potential of individual

autonomy and democratic cooperation for managing the myriad conflicting interests of any society.

The Hobbes-Locke debate between security and autonomy – in a sense, a contest between Hobbesian nightmares and Lockean dreams — is always in play when it comes to the theory and practice of politics in a liberal democracy.

Hobbes can be seen as a wellspring of the communitarian idea, which could bend into forms of enlightened despotism. Locke's thinking was a font of rights-based liberal legalism, which could morph into extreme individualist libertarianism.

This brings us back to America's founding document, authored within a century of Hobbes's and Locke's deaths, one of the greatest dreams of human self-government ever articulated and implemented.

The fundamental logic of the U.S. Constitution can be seen as about nine parts Locke and one part Hobbes. If the charter's dominant DNA is unequivocally Lockean, it is still haunted by some recessive but potent Hobbesian genes.

It is axiomatic that the newly born American republic, having rejected fealty to George III, did not want a new dynastic monarch, at least not one by that designation. But there still had to be a chief executive apart from the legislature.

It is hugely significant that the text of the U.S. Constitution starts with the eminently Lockean subject line "We the People," referring to us individuals, or at least some of us.

As a political statement, this was nothing less than paradigm-shifting in favor of popular sovereignty even if it took generations and often violent struggles to expand the types and categories of "People" included in the "We."

Equally of Lockean nature is the first article of the great charter devoted to the new American parliamentary assembly, a bicameral Congress. The party of parliament, not the king, got top billing and first ordinal placement. On this basis alone, a strong argument can be made for legislative sovereignty, including power of the purse. The Constitution further spells out an array of checks and balances across the three branches of government plus a Bill of Rights protecting individuals from state power. The power of Congress to impeach a misbehaving President is a key check in theory. This is all quintessentially Lockean.

All good so far for Team Locke. Where does Hobbes come in? There are at least three strands of Leviathan DNA in the Constitutional genome: states' rights, Congressional delegation of authority to the President, and presidential powers themselves.

First, the federated states on behalf of their citizens, not the people directly, were the high contracting and ratifying parties of the constitutional compact. As a structure, federalism is

ambiguous with respect to the Hobbes-Locke debate because it involves “dual sovereignties.” Federated decentralization seems more Lockean in principle, but left to their own devices some sovereign states — for example, those of the Confederacy or the post-Reconstruction South — could and did behave in more Hobbesian ways under cover of “states’ rights.”

It was originally understood that the Bill of Rights comprised a set of protections against acts of the Federal government, not the states. Thanks to a combination of political pressure, force of arms and judicial interpretation, the rights of free speech, assembly and other civil protections were eventually applied to the states as a matter of constitutional law.

Here, the 10th amendment, last in the Bill of Rights, is somewhat helpful because it provides that the powers not delegated to the central government “are reserved to the States respectively, or to the people.” So “we the people” are explicitly in the power mix, although it has not always been entirely clear what residual powers we have and how “we” stand vis-à-vis the states.

An elephant in the room was slavery, an immoral property right — perversely Lockean and hyper-libertarian — in which the Constitution acquiesced until it was affirmatively amended, having first been abolished by Lincoln’s decree at the national level.

Thus, in practice, the Hobbesian coercive power of the central government could be, and has been, a crucial tool to police the states both for preserving the Union and for expanding and protecting of Lockean civil liberties. Eisenhower’s use of the National Guard to enforce desegregation at the state level is often cited as another example of the sovereign flexing muscle against “states’ rights.”

The second major source of Leviathan-like powers for the chief sovereign relates to abdications from and delegations of Article 1 powers by Congress to the President.

There is no clearer example of self-inflicted abdication of legislative responsibility than the area of war powers, which Article 2 clearly assigns to Congress but in practice it has yielded to the sovereign purview of the President. Since WW2, the U.S. has been engaged almost constantly in foreign wars and special operations at the discretion and direction of the President, with only tepid Congressional oversight. Congress has never ended a war that a President preferred to continue or preempted one that a President wanted to start.

Another area of turbo-charged authority for the Hobbesian sovereign is emergency powers delegated by Congress to the President. The Brennan Center has catalogued over 150 statutory provisions across the U.S. Code delegating emergency executive powers to the

President. In most of these cases, presidents have wide latitude, if not full discretion, to make official findings of threats or other circumstances to trigger exercise of these powers.

Some of the major statutes in this category include the Alien Enemies Act, Insurrection Act, National Emergencies Act, the Communications Act, and International Emergency Economic Powers Act. Congress has rarely exercised meaningful oversight over any of these areas and attempts at overarching statutory reform to tighten conditions of delegation have so far failed.

A third strand of Hobbesian DNA, the Presidency itself created a more direct and more controversial pathway to enormous Leviathan powers.

After all, there still had to be a chief executive even if it would not be a titular monarchy. Among other things, the risk of foreign invasion and internal rebellion had to be countered by central power. A much stronger central executive branch was needed precisely because the prior arrangement under the Articles of Confederation only loosely binding the rebellious colonies, was ineffective at maintaining order and advancing the common good among the future states. Federalists and anti-Federalists vigorously debated the issue.

Article 2 of the Constitution defines the scope of the Presidency and contains Hobbesian elements that are not always well appreciated. Indeed, the job description and the history of the office imply the existence of inherent and vast executive powers that are not fully spelled out.

This interpretation arises partly due to lack of parallelism in the so-called vesting clauses of Article 1 and Article 2. The former says legislative powers are “vested herein,” the latter does not limit executive powers of the presidency in the same way. It may look like mere semantics, but a comma can change the meaning of a legal phrase or at least open the door for colorable debate.

The doctrine of inherent presidential powers is largely predicated on this distinction, namely the absence of “vested herein” in the case of executive powers, which implies that sovereign powers inhering in the presidency, unlike the powers of Congress, which are granted and spelled out. The phrase Commander in Chief, which is explicit in Article 2, also reinforces the sense of the President’s sovereign authority to invoke military-style emergency powers as needed to deal with threats.

Taken together, these features have given rise to the extreme and very Hobbesian-sounding legal theory of the “unitary executive.”

Liberals of various stripe have liked some exercises of such inherent presidential emergency powers and abhorred others. For example, few Unionists complained about Lincoln’s

suspension of the writ of habeas corpus allowing for detention of suspected rebels without process during the Civil War, while FDR's infamous executive order interning Japanese-Americans during WW2 was first accepted and later condemned. Many of Trump's executive orders follow in this Hobbesian and potentially autocratic political tradition.

It is noteworthy that in declaring emergencies the White House typically asserts its authority under both specific statutory powers granted by Congress as well as the broad inherent powers of the president. For example, Trump's E.O. entitled PROTECTING THE AMERICAN PEOPLE AGAINST INVASION starts: "By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*) and section 301 of title 3, United States Code, it is hereby ordered..."

The constitutional jurisprudence on these inherent powers is unsettled at best. It would probably take a bolder Supreme Court than the one which granted broad presidential immunity to limit the type of emergency authority being invoked here.

In short, when Leviathan has felt the need to defend the Commonwealth, he has simply asserted the inherent authority to do so, and few including the courts would second-guess it or try to stop it. The national security omni-surveillance state that has evolved since the Cold War and 9-11 is fundamentally Hobbesian, not Lockean.

So, turns out, it can be quite difficult and perhaps undesirable for a democracy to be too Lockean in a relentlessly Hobbesian world.

Not surprisingly, Leviathan is itself a political football. Ultra-MAGA defenders claim to be overthrowing the Leviathan monsters of the deep state and political correctness. For their part, Democrats denounce Trump's crypto-monarchical march as a new far-right Leviathan claiming higher authority to ignore the rule of law. In the partisan debate, the specter of "Leviathan" is always the other guy's abuse of state power.

Given Trump's Bolshevik-style dismantling of the American state and his embrace of techno-libertarianism, the second coming of MAGA seems to combine extreme and deformations of Hobbes and Locke into a unitary schizophrenic presidency.

Our abiding fear must be that the unbridled constitutional power Lincoln invoked to preserve the union during the Civil War could be turned against the constitution itself. Everything depends on the conscience and good faith of the chief executive who owns this awesome power to break the law.

Justice Robert Jackson in a famous dissenting opinion on why it would be constitutionally acceptable to suppress the First Amendment free speech rights remarked that

the constitution is “not suicide pact.” A logical inference, which may be broader than Jackson’s intent, is that it was necessary to say this precisely because the great founding charter contains the latent seeds for its own undoing if left to extremists or faithless stewards. Indeed, the most insidious risk to the constitution lies at the root of democracy itself, namely with We the People, presumably the ultimate Lockean safeguard.

What if an electoral majority of the people, impatient and social media-addled, have simply grown bored with limited government and opt for more Hobbesian authority in the name of security, order and “just getting things done,” in short succumbing to the autocratic temptation?

Perhaps enough the people will one day decide they have collectively made a big mistake. If so, how quickly and how effectively can they reverse course? We are about to find out.

As the nation’s 250th anniversary approaches, if Team Hobbes is indeed up three touchdowns, Team Locke needs to up its game, both defense and offense, in Congress, the courts, the states and across the citizenry at large. It is high time for some turnovers and Hail Marys into the endzone in favor of limited government.

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