

The Radical Republic



America was founded by radicals, engineered
to outlast them, and renewed every time
someone sued the country for its own first
principles. The next 250 years depend on
keeping the case open.

1776–2026

On the evening of July 9, 1776, at the foot of Broadway in Manhattan, a crowd of Continental soldiers, sailors, and Sons of Liberty came down to Bowling Green with ropes. Inside the little park's iron fence stood a gilded equestrian statue of George III, raised only six years before by grateful subjects celebrating the repeal of the Stamp Act. Hours earlier, on General Washington's orders, the Declaration of Independence had been read aloud to the assembled brigades, the ink nine days old, the argument already armed; and the men who had stood at attention through "all men are created equal" now put their backs into the ropes and pulled the king down.

They took off his head. The rest of him, some two tons of gilded lead, was broken up, shipped up the Sound, and hauled inland by oxcart to Litchfield, Connecticut, where the women of the town melted the king into musket balls. A surviving tally credits the operation with 42,088 cartridges. The Continental Army would spend the next several years returning His Majesty's likeness to His Majesty's soldiers a ball at a time.

The next morning, Washington issued general orders about the affair. The men's zeal was understandable, he allowed. But the business had the appearance of a riot, and in the future such work should be left to the proper authority.

There, in a single New York night and morning, the American political tradition arrived complete: the rope and the reprimand. The crowd that goes to the root, and the general who goes to the regulations. Every generation since has replayed

the scene with new casting—the abolitionist and the compromiser, the striker and the injunction, the marcher and the moderate—and every generation has assumed the quarrel was new. It is not new. It is the founding, still in session.

This essay makes a claim that will sound perverse on the country's two hundred and fiftieth birthday, and that is merely accurate: radicalism is not America's fever. It is America's metabolism. The nation was conceived by radicals, in a radical act, on radical premises; it has been renewed at every hinge of its history by people the respectable classes called dangerous; and the document we treat as the guardrail against radicalism, the Constitution, is better understood as a machine for digesting it. The republic does not survive despite its radicals. It survives by them. The question the semiquincentennial actually poses is not whether America can withstand another generation of radical demands. It is whether America can withstand a generation without them.

Before that claim can mean anything, four words our politics has mashed into one epithet must be pried apart.

Radicalism is a claim about depth. The word descends from the Latin *radix*, root; the radical says the trouble is not in the branches but in the root system, and proposes to dig.

Extremism is a claim about method: what one is willing to do, up to and including violence, to get one's way. *Revolution* is a claim about rupture, the replacement of one source of authority with another. *Reform* is a claim about pace: change in increments, within premises everyone already accepts. The four

are routinely used as synonyms and are nothing of the kind. Frederick Douglass was a radical of the purest strain—he wanted the root system of American slavery grubbed out entire—and after 1851 he was neither a revolutionary nor, by method, an extremist; he wanted the Union kept and cleansed. John Brown was a radical *and* an extremist. And the Confederacy, as we will see, was extremist in method, revolutionary in form, reactionary in direction, and radical only in depth: it proposed to dig up the founding itself.

Which points to the least comfortable truth about radicalism: it has no fixed political valence. Root-and-branch is a depth, not a direction. The same spade that plants can grub out. The identical energy powered both the abolition of slavery and the attempt to found a nation upon it. Anyone who tells you radicalism is inherently emancipatory has not read Alexander Stephens. Anyone who tells you it is inherently destructive has not read Frederick Douglass. The republic's history is unintelligible until you can hold both men in your head at once, each digging at the root, each certain, one of them right.

Start, then, where the digging started.

We have sanded the founders into furniture: marble men, faces on money, the reassuring dead. By the standards of their own century they were wild. Hereditary monarchy was, in 1776, the operating system of nearly the entire civilized world; Thomas Paine looked at it and pronounced it an “absurdity.” *Common Sense*, published that January, did not ask for better

terms within the empire. It went to the root: the problem was not this king but kingship, and the remedy was not petition but amputation—“’TIS TIME TO PART.” In place of the crown he named the new sovereign plainly: in America, “THE LAW IS KING.”

The historians who have looked hardest at the Revolution keep arriving at the same verdict. Bernard Bailyn traced the colonists’ pamphlets to the radical Whigs of the English opposition and found not a tax revolt but an ideology: a root-level theory of power and its corruptions. Gordon Wood went further, calling equality “the most radical and most powerful ideological force let loose in the Revolution,” a solvent still dissolving hierarchies its authors never meant to touch. Hannah Arendt judged the Revolution the age’s rare success because it stayed radical about the political question, who rules and by what right, rather than drowning, as France did, in the social one. And Danielle Allen has taught a generation to read the Declaration not as a press release but as a syllogism: a chain of argument whose premises, once granted, do not stop where the signers stopped.

That last point is crucial, and the founders knew it. The Declaration is not a conservative document with radical decorations. Its second paragraph asserts, as self-evident truth, a proposition that condemned most governments then existing, several of the signers’ own household arrangements, and a good deal of the future besides; and it then licenses the people’s right to “alter or to abolish” any government destructive of the ends

it names. Abolition is written into the charter. The founding creed contains its own detonator, installed on purpose, where everyone could see it.

Here is the strange consequence, and this essay's first movement: in a nation founded on such a creed, the radical is not the deviant. The radical is the orthodox one, the citizen who takes the founding documents at their word, the fundamentalist of the national scripture. It is the reactionary, the defender of inherited hierarchy, who is the true dissident from the American idea—and who has therefore always faced a choice we will watch men make throughout this story: deny the creed outright, or forge its meaning. Edmund Burke understood the stakes; his answer to the age of revolution was to recast liberty as an “entailed inheritance,” a family heirloom rather than a universal claim. The Americans had written the opposite into their charter, rights held not by bequest but by birth, everyone's birth. Then they looked at what they had written, and flinched.

The flinch has a name. We call it the Constitution.



To say that is not to insult the Constitution; it is to describe its genius. But to see the genius you have to see the fear that produced it, and the fear had a face: farmers.

In the winter of 1786–87, in the courthouse towns of western Massachusetts, men who had marched under

Washington a decade earlier began marching on the courts that were foreclosing their farms—closing them at bayonet-point. Daniel Shays, a decorated veteran, lent the thing his name. The rebellion was crushed at the Springfield arsenal and mostly pardoned, but its real work was done in the minds of the men who gathered in Philadelphia that May. They had made a revolution justified by the right to alter or abolish, and now other men, poorer men with the same muskets and the same vocabulary, were proposing to exercise it. The Revolution had met its own echo, and been frightened.

Thomas Jefferson, watching from Paris, was not frightened, and said so in a letter quoted ever since by people who would call the police on its author. Writing to William Stephens Smith in November 1787, he shrugged at Shays: he hoped no twenty years would pass without such a rebellion. Then the sentence: “The tree of liberty must be refreshed from time to time with the blood of patriots & tyrants.” And the sentence after, which the T-shirts omit: “It is its natural manure.” Two years later he pushed the thought to its system. “The earth belongs in usufruct to the living,” he wrote Madison—usufruct, a lawyer’s word for tenancy—and since the dead have no rights the living are bound to honor, he calculated from mortality tables that every constitution and every law should expire at nineteen years. The republic, on Jefferson’s blueprint, would be born again each generation or admit it was governing by ghosts.

Madison’s reply was everything Jefferson was not: sober, actuarial, a little exhausted. A nation that re-founded itself

every nineteen years, he suggested, would be a nation in permanent probate, with no credit, no confidence, no accumulated reverence. And it is Madison's answer, not Jefferson's, that got built. But look closely at what got built, because this is the second movement of the argument, and the one Americans most persistently misread.

The Constitution is usually described as a set of brakes. It is better described as an escapement: the mechanism in a clock that takes the mainspring's stored violence and, instead of letting it fly loose all at once, pays it out as time, tick by regulated tick, so that the works keep the hour instead of tearing themselves apart. The Framers had wound the revolutionary mainspring themselves, and Jefferson was right that a republic without tension in the spring simply stops. What they built was a machine to domesticate the energy: to absorb radical force, slow it, cool it, and deliver it, a generation late and shaved of its wildest edges, as settled law. Article V is the clearest gear in the machine—revolution with a waiting period, the right to alter or abolish rewritten as a supermajority filing procedure. Federalism is a set of baffles, letting radical experiments burn in one state without igniting the rest. The courts catch each swing. Even the staggered election calendar is a metronome, so that no surge of fury arrives everywhere at once.

Run the machine forward a few years and you can watch its first full cycle. In 1794, when the whiskey excise raised western Pennsylvania in armed revolt—farmers again, quoting 1776 at

the government of 1776—Washington did the two things the machine is built to do, in order. First, overwhelming absorption: he federalized nearly thirteen thousand militiamen, and the rebellion evaporated without a battle. Then, digestion. The treason convictions that followed, both of them, he pardoned; and eight years later, under President Jefferson, the whiskey tax itself was repealed. That sequence is the American pattern in miniature: the rebels lost the field and won the ledger. The state crushed the method and swallowed the demand. The machine did not defeat the radicals of 1794; it metabolized them, turning their grievance into its law while making sure the men themselves went home feeling beaten.

This is the machine's genius and its cruelty at once: every American radical since has reported the feeling of having won and been robbed simultaneously. The machine converts the radicalism of one generation into the establishment of the next—prophets into precedents, manifestos into administrative code—and the new establishment, comfortable in the furniture its enemies built, turns to face the next generation's radicals with the general's reprimand on its lips.

One more thing must be said about the machine before this story can go where it has to go. The Constitution was cast with a flaw in the housing. Its builders, needing the assent of enslavers, machined the flaw in deliberately: the three-fifths ratio, the fugitive-slave clause, the twenty-year shield around the slave trade. The result was a domestication machine designed to digest every radicalism except the one it was standing on. For

seventy years the escapement did what escapements do, slowed and cooled and postponed, and on the question of four million human beings in bondage, slowing was the atrocity. The machine's defenders called this statesmanship. Its greatest critic called it something else, and it is time to meet him.



Frederick Douglass stole himself at twenty. In September 1838 he boarded a train out of Baltimore in a sailor's red shirt and tarpaulin hat, carrying seaman's papers that described a very different man, betting his life that the conductor would not read closely. The conductor did not read closely. By the 1850s the fugitive had made himself the most famous Black man in the Western world: an orator of terrifying gifts, an editor in Rochester, and a loyal lieutenant of William Lloyd Garrison.

Garrison matters here because he had given the era's radicalism its purest, most logical, and most self-defeating form. Confronted with a Constitution that sheltered slavery, he indicted the document itself, damning it in the words of Isaiah as "a covenant with death, and an agreement with hell," and drew the honest conclusion: no Union with slaveholders. Secession of the righteous North was his program. On the Fourth of July, 1854, a month after federal troops had marched the fugitive Anthony Burns down State Street and back to slavery, Garrison stood before a Framingham crowd and burned a copy of the Constitution, calling on all such compromises

with tyranny to perish likewise. It was magnificent. It was pure. And it surrendered, in one stroke of the match, the single most valuable piece of ground in American politics.

Douglass had spent years believing his mentor. Around 1851 he announced, to Garrison's lasting fury, a change of opinion. And on July 5, 1852—Independence Day fell on a Sunday that year, so Rochester kept the holiday on the fifth—he stood in the city's Corinthian Hall, before the white audience that had invited him, and delivered the greatest speech ever given on American soil.

"This Fourth July is yours, not mine," he told them. "You may rejoice, I must mourn." What followed was not oratory but an indictment read into the record—the auction block, the coffle, the church that blessed both—delivered at a scorch the pieties of the day did not survive. What the nation needed, he said, was not light but fire: "We need the storm, the whirlwind, and the earthquake."

And then, having burned everything Garrison would have burned, Douglass did the thing Garrison could not do. He turned to the Constitution, the covenant with death, the agreement with hell, and claimed it. Read the instrument itself, he argued, not the glosses of its enslaving interpreters: the document nowhere contains the words *slave* or *slavery*.

"Interpreted as it ought to be interpreted," he declared, "the Constitution is a GLORIOUS LIBERTY DOCUMENT." The nation's crime was not that its founding charter was evil but

that its present possessors were in breach of it. He would not exit the compact. He would sue on it.

American property law has a term of art for the original conveyance from which every later claim of ownership descends. It is called the *root of title*. When ownership is disputed, a court traces the chain of deeds back to that first grant, and the proceeding that settles the matter is called an action to quiet title. I want to propose that this, and not the borrowed European vocabulary of left and right, is the deep grammar of American political conflict—and that what Douglass performed in Corinthian Hall was its discovery. Call it the doctrine of *root-title*.

The claim is this. America is the only major nation whose sovereignty rests on a written first conveyance: a deed, executed in July 1776, granting equality and unalienable rights to everyone, and deriving all just government from the consent of the governed. Because the deed exists and is sacred, American politics does not primarily take the form of class war or throne war. It takes the form of a title dispute. The establishment of any given era holds possession: the offices, the precedents, the guns, the habits. But possession is only nine-tenths of the law. The deed is the tenth, and the deed says equality. The gap between what the deed conveys and what the possessors deliver is the standing invitation to radicalism, renewed every Fourth of July by the possessors themselves, who cannot stop reading the deed aloud at their own picnics. And so the American radical is not the one who torches the founding. The American radical is

the one who files on it—who produces the original conveyance in the courtroom of the national conscience and demands the estate be handed over to its lawful terms. Every American radical worth the name has been, at bottom, a title attorney. The Constitution, in this grammar, is the courtroom: slow, procedural, maddening, biased toward the possessors, but possessed of one power no other courtroom on earth then had. By amendment, it can reconvey the entire estate.

I do not claim the perception is new, only the grammar. Americans have sensed this structure piecemeal for two centuries, and scholars have named pieces of it: Jack Balkin has written of constitutional redemption, Sanford Levinson of constitutional faith, the charter held the way a congregation holds scripture. What the property law contributes is system—deed, possession, forgery, denial, quiet title, reconveyance—a single working vocabulary for what the fragments have always described: one case, continuously in session.

Once you see the root-title move, you see it everywhere. Four years before Corinthian Hall, at Seneca Falls, Elizabeth Cady Stanton drafted the women's movement's founding paper as an amended deed, the Declaration re-executed with the missing parties restored: "all men and women are created equal." (Douglass was in the room, and rose for the suffrage resolution when the delegates wavered; the century's two great title claims were, for one afternoon, co-counsel.) Eleven years after Corinthian Hall, at Gettysburg, Lincoln performed the boldest quiet-title action in the national record: "Four score and seven

years ago” dates the republic’s birth not to the Constitution of 1787 but to the Declaration of 1776, vesting title in the deed over the instrument, and “a new birth of freedom” announced the reconveyance to come. A century after that, at Lincoln’s memorial, Martin Luther King Jr. described the founding as a promissory note on which the nation had defaulted, a check returned marked “insufficient funds.” Restore. Redeem. Reclaim. Cash the check. Across two centuries, the verbs of American radicalism make the strangest music in revolutionary literature: the music of restoration. European radicalism, lacking a deed, speaks in the future tense, the utopia to be built. American radicalism speaks in the past perfect, the promise already made. Our revolutionaries come dressed as heirs.

Root-title also explains the other side of the courtroom, and here the doctrine earns its keep, because it predicts the precise dilemma of American reaction. To defend hierarchy in a nation whose deed conveys equality, you have exactly two options. You can forge: insist the deed never meant what it says, that “all men” was a flourish, a class, a race, a drafting error. Or you can deny: admit the deed says what it says, and repudiate it. Forgery is the common road; it has kept battalions of lawyers and divines employed since 1776. Denial is the rare one, because it requires saying the unsayable out loud. In the whole history of American reaction, only one major movement has had the honesty to choose it.



On March 21, 1861, in Savannah, the new vice president of the new Confederacy rose to explain what his country was for. Alexander Stephens was a tiny, brilliant, sickly Georgian who had been a Unionist months earlier, and what he delivered that night was the confession the rest of American reaction has spent two and a half centuries avoiding. Jefferson and the founding generation, Stephens conceded, had believed slavery wrong in principle, an evil they expected to pass away. They were mistaken, he said; their government had been built on sand. The new government's foundations were laid on the opposite idea: its cornerstone, he announced, "rests upon the great truth that the negro is not equal to the white man."

It is the most clarifying sentence in the American archive: not the most evil, the archive is deep, but the most clarifying, because it is reaction with the forgery stripped off. Stephens declined the root-title move. He did not claim the founders for slavery; he corrected them. And in doing so he defined, by contrast, exactly what the Confederacy was: radical in depth, digging out the founding's root to set a new stone; reactionary in direction; revolutionary in form; and extremist in method, prepared to kill on a continental scale for it. Our vocabulary calls the Confederates "rebels," as if they were Shays's farmers writ large. The taxonomy says otherwise. Secession was reactionary radicalism: the root-and-branch energy of 1776 turned around and marched against 1776's premise.

The war that followed can be read—Lincoln himself came to read it—as the deed foreclosing. John Brown had seen it coming from the scaffold; on the morning of his hanging in December 1859 he handed a guard a note predicting that “the crimes of this guilty land will never be purged away but with blood,” a sentence the respectable of every section filed under madness and the next six years filed under prophecy. Brown occupies the corner of the grid Americans find hardest to look at, radical toward the deed, extremist in method, and the country has never stopped arguing about him: he is the test case for whether ends and means can be scored separately. Lincoln, who repudiated Brown’s method and completed Brown’s arithmetic, gave the ledger its final audit in the Second Inaugural: if God willed the war to continue “until every drop of blood drawn with the lash, shall be paid by another drawn with the sword,” the judgments of the Lord were true and righteous altogether. Four years of extremity, priced against two hundred fifty of it.

What came next was the largest reconveyance in the republic’s history, and proof that the machine, for all its cruelty of pace, could do what no other machinery could. In the five years after Appomattox the courtroom re-recorded the national estate: the Thirteenth Amendment abolished the founding flaw; the Fourteenth opened with a single sentence, citizenship by birth for everyone born here, that overruled Dred Scott and re-executed the deed with the freedmen’s names on it; the Fifteenth wrote their claim to the ballot. Eric Foner has taught

us to call this the second founding, and the name is exact. The men who drove it through Congress, Thaddeus Stevens at their head, demanding plantations broken and forty acres delivered, wore in power the name every other American faction has worn only as a slur: the Radical Republicans. For one brief high noon, the republic was governed by men who used *radical* the way this essay does, as the founding's job description. Stevens kept the faith past the grave: he had himself buried in the one Lancaster cemetery that did not bar Black dead, and the reason carved on the stone.

And then the machine did the other thing it can do, the thing its admirers prefer not to discuss. The escapement has no conscience. It regulates whatever force is fed into it, and after 1873 the force came from the possessors. On Easter Sunday of that year, at Colfax, Louisiana, a white paramilitary army besieged and slaughtered scores of Black men, perhaps well over a hundred, defending a courthouse and the election results inside it; three years later, in *United States v. Cruikshank*, the Supreme Court threw out the few federal convictions and gutted the enforcement power of the second founding's amendments. Redemption, the possessors called what followed, in the era's most obscene root-title forgery. Plessy set the seal in 1896, and the courtroom adjourned, on the central question of the deed, for the better part of a century. Here is the hinge on which this essay's sympathy for the machine turns: the domestication machine metabolizes whatever the strongest litigants feed it, emancipation or terror, and it will convert a

counterrevolution into settled law with the same procedural serenity it once lent to freedom. The machine is not the republic's conscience. The radicals are.



The plaintiffs kept coming anyway. The next long chapter, from the burned-over farms of the 1890s to the marble of the 1960s, is usually told as three or four separate histories: populism, labor, suffrage, civil rights. Run them through the machine and they are one history, with one rhythm, and the rhythm is the point.

Consider the calendar the radicals kept. When the People's Party gathered in Omaha in 1892 to found the most radical mass movement since abolition, it adopted its platform on the Fourth of July: the farmers filing their claim on the deed's own anniversary. The respectable press received it as ravings—a graduated income tax, direct election of senators, the secret ballot, government warehousing of crops, public ownership of the railroads. Now score it. The income tax and the elected Senate entered the Constitution itself in 1913, two amendments in one year; the secret ballot became universal; the crop-credit idea resurfaced in the New Deal's farm programs. The Populists lost every presidential election they touched and won the twentieth century's plumbing. Nobody thanked them; the machine never does.

Labor's docket ran on the same clock, priced in blood at the front end. In May 1886 a bomb at Haymarket Square in Chicago, thrown by no one ever identified, gave the possessors their pretext, and four anarchists were hanged for the crime of their opinions. The demand those men had marched for was the eight-hour day. Fifty-two years from the bomb to the statute: in 1938 the Fair Labor Standards Act began phasing the American workweek down to forty hours, the radical demand of 1886 arriving in the form the machine prefers, as an overtime price rather than a prohibition—and by then the demand's original owners were long dead and the demand itself had become, in the mouths of the congressmen voting for it, common sense. Eugene Debs ran the whole arc in a single lifetime. Sentenced to ten years under the Espionage Act for a speech against the draft, he told the court "while there is a lower class, I am in it," ran for president from a cell in Atlanta in 1920 and drew nearly a million votes; the next year a Republican president commuted his sentence and received him at the White House. Within a generation the heart of Debs's program, old-age insurance, the state as guarantor against destitution, was law under the name Social Security, denounced as socialism in 1935, and defended by 1954 in a private letter of Dwight Eisenhower's, who wrote that only a "tiny splinter group" still dreamed of abolishing such programs: "Their number is negligible and they are stupid." Nineteen years from Bolshevism to bedrock, on Jefferson's own clock. Franklin Roosevelt supplied the era's root-title brief himself, telling

Congress in 1944 that political rights alone had proved insufficient: “necessitous men are not free men.”

The suffrage movement supplies the pattern’s most exquisite miniature, because its endgame compressed rope and reprimand into a single mailbox. Alice Paul’s Silent Sentinels, the first protesters to picket the White House, stood at Woodrow Wilson’s gate through 1917 with banners addressing “Kaiser Wilson,” were beaten and force-fed at the Occoquan Workhouse on a night the movement named the Night of Terror, and in 1919 burned the president’s speeches in watch fires on his own sidewalk: extremity of witness, never of violence. And then the reconveyance, when it came in August 1920, arrived by post. The Nineteenth Amendment’s ratification turned on one vote in the Tennessee legislature, cast by its youngest member, who switched because of a letter in his pocket from his mother telling him to be a good boy and vote for the suffrage. Seventy-two years from the amended deed at Seneca Falls to a mother’s note in Nashville: the revolution, domesticated to the point of arriving through the U.S. mail, and no less a revolution for that.

For the whole era in one human frame, take Frances Perkins, standing in Washington Square on the afternoon of March 25, 1911, watching the Triangle Shirtwaist Factory burn with a hundred and forty-six workers inside and a stairway door locked by the possessors of that particular estate. She later said the New Deal began that day. Twenty-two years afterward she was sworn in as Secretary of Labor, the first woman in any

Cabinet, and spent twelve years converting the demands of the radicals she had marched beside into the tissue of the administrative state. Perkins is what a metabolized radical looks like: the fire witness become the furniture. The country now finds her portrait soothing. The country has forgotten what she watched.

By mid-century the pattern was old enough to have a shape, and the shape is this essay's third movement; Jefferson saw it from Paris before the machine was a year old. The republic re-founds itself. Not smoothly, but in recurring convulsions of root-level renewal—1776, 1865, 1935, 1965—each one denounced as destruction while under way and refiled as heritage afterward; each one arriving roughly on the rhythm of Jefferson's mortality tables, a nation of the living repossessing the estate from the dead. Call it a rhythm, not a clock; history is not so punctual. When the tremor is overdue, the pressure is not gone. It is accruing.

The refounding of 1965—the Voting Rights Act, the second founding's enforcement clause finally armed, ninety-five years late—is where the schoolbooks like to end the story, with the machine vindicated and the plaintiffs enshrined. But 1965 has a shadow docket, and it records the one failure that can actually kill the republic this essay describes: what happens when the machine's custodians decide that the plaintiffs themselves are the malfunction.



On the night of March 8, 1971, while the entire country, including the Federal Bureau of Investigation, was watching Muhammad Ali fight Joe Frazier, eight anti-war activists with a crowbar and a lock-picking correspondence course broke into the Bureau's resident agency in Media, Pennsylvania, and carried off every file in the office. Mailed to newspapers, the documents introduced the American public to a word found in no statute: COINTELPRO. Over the five years that ended in the Church Committee's final report of 1976, the republic did something without precedent among great powers: it read its own secret police files aloud. For decades the Bureau had run not investigations but operations: campaigns to infiltrate, disrupt, discredit, and, in its own vocabulary, neutralize domestic political movements. Between 1960 and 1974 it ran more than half a million "subversive" investigations, and since 1957 not one had produced a prosecution under the anti-overthrow statutes said to justify them, because the conduct under surveillance was, overwhelmingly, lawful politics. It mailed Martin Luther King Jr. a package containing surveillance tape and an anonymous letter urging him toward suicide. Its informant supplied the floor plan of the Chicago apartment where police shot Fred Hampton, twenty-one, in his bed before dawn. And when the Committee went looking for the doctrine underneath it all, it found nothing written down; the premise was unexpressed, the report's own word, and the

investigators had to name it: the Bureau had assumed “a role in maintaining the existing social order.”

Read that phrase against everything this essay has assembled. The existing social order is precisely what the American deed refuses to guarantee. A charter that licenses the people to alter or abolish, a Constitution built as an escapement for revolutionary force, a history that advances by generational reconveyance: this is not a system whose security services can coherently be assigned to freeze the arrangement of any given decade in place. The Bureau had not merely broken laws. It had committed a category error about the country. It mistook the mainspring for the malfunction, treated the radical energy the machine exists to metabolize as a pathogen the machine exists to kill, and so turned the republic’s immune system against the republic’s metabolism. An organism whose defenses attack its own digestion does not become secure. It starves. The Church reforms were the machine metabolizing even this, absorbing its own secret police scandal into charters and oversight committees. But the temptation the files recorded is permanent, because every establishment, being made of former radicals’ victories, arrives in power convinced that history’s docket closed the day its own case was won.



Which brings the story to the quarter-century just ended, a stretch future historians will read as a single sustained title fight, the loudest since the 1850s.

Run its insurgencies through the taxonomy, without fear or favor. The Tea Party announced itself in 2009 by reaching for the deepest name in the national closet: tricorne hats, Gadsden flags, the founding riot of 1773 worn as a costume. Whatever one thinks of its program, its method was the machine's own: it filed in primaries, and within six years the insurgency had been metabolized into a congressional caucus, its wildness converted to whip counts. Occupy Wall Street, its mirror twin, pitched camp on September 17, 2011, the Constitution's birthday, and then declined, as a matter of principle, to file any claim at all: no demands, no platform, no case. The possessors cleared the park like weather. Yet the metabolism worked even on a movement that refused to feed it: "the one percent" annexed the language within a season, and Occupy's unfiled planks, the fifteen-dollar wage, the student-debt jubilee, were walking around a decade later in the platforms of politicians who would not have been caught dead in Zuccotti Park.

And—the entry partisans of every stripe will resist—the era's most successful root-title litigation was conducted not in any street but in the Federalist Society's seminar rooms. Originalism is the doctrine of root-title practiced as formal jurisprudence: it wins arguments by tracing legal meaning back to the founding

conveyance, and from Edwin Meese's call in 1985 for a "jurisprudence of original intention" to its present command of the Supreme Court, it has out-litigated every rival theory in the land. One may think its title searches selective; opposing counsel usually does. But its triumph proves this essay's grammar better than any march could: in America, even the counterrevolution must file at the founding. There is no other courthouse.

Black Lives Matter filed in the oldest registry of all. It is a Douglass-line action, a suit on the Fourteenth Amendment's unpaid balance, and in the summer of 2020 it assembled what surveys suggested was the largest protest mobilization in the country's history—after which the machine did what the machine does, absorbing some of the claim into statute here and settlement there, and leaving the plaintiffs with the ancient American sensation of having won and been robbed at once.

Since this essay has demanded the audit of everyone else, let it perform one here, at the same temperature. The claim of that summer stands as filed: a true-deed action. The mass method was witness: the most careful count we have, from the Armed Conflict Location and Event Data Project, found that more than nine in ten of the summer's demonstrations involved no violence or destruction at all. But the taxonomy does not average, and the edges were what they were: extremist method attached to a valid claim. The Minneapolis Third Precinct burned. Insurers first put the damage at one to two billion dollars and later above two, the costliest civil disorder in the

industry's records, and roughly two dozen people died at the protests' margins, more by broader later counts. In Seattle the police abandoned a precinct and six blocks seceded outright; the Capitol Hill zone was a Garrisonian gesture in miniature—exit the courtroom rather than sue in it, no union with the precinct—and before the city cleared it, two Black teenagers, nineteen and sixteen, had been shot dead inside the liberated ground.

Then draw the line the next entry requires. The arsonists of 2020 burned property and precincts: extremist method, and the grid scores it as such whoever's claim it rides with. But they never touched the count. No canvass was stormed, no certification besieged, no elector menaced; the crimes are distinguishable without being deniable, and the distinction is not a courtesy. It is the difference between attacking the possessors and attacking the courtroom. What should trouble the reader is how few will say both halves aloud. One establishment spent that summer declining to name the extremist edge riding its favored claim; the other spent the next winter forging a deed for its own. It is the same failure twice, and the republic was billed for both.

Then there is January 6, 2021, where the taxonomy must do its hardest work, because the day was designed, sincerely by many who marched, to look like everything this essay has honored. The crowd's own word for itself was 1776. The grammar was restoration; the costumes were the Tea Party's; the claim was that an election, a recording of the people's

consent, had been stolen, and that the marchers were the deed's true heirs come to repossess. Take the claim seriously enough to examine it; that is more respect than dismissal ever pays. The deed conveys exactly one source of just government: the consent of the governed. The machine has exactly one non-negotiable gear: the procedure by which that consent, once recorded, takes effect—the count, the certification, the handover. Every other part of the mechanism can be contested, even convulsed; the republic has survived rope aplenty. But the object of that afternoon was to prevent a recorded consent from taking effect: to stop the count itself, with force, on an assertion of theft the claimants had already pressed in dozens of courtrooms, before judges of both parties' appointing, and failed to prove in any of them. Root-title grammar has a name for pressing an ownership claim on a conveyance that will not verify. Not radicalism, which sues on the true deed, but forgery: a forged-deed action, prosecuted by extremist method, against the one gear that lets the machine metabolize anything at all. That the forgery was sincerely believed by thousands changes the moral ledger of the believers; it does not change the instrument. The machine held that day because its clerks held—state canvassers, county recorders, judges, a vice president reduced for one afternoon to the republic's recording secretary—ordinary officials who declined, at real cost, to enter a false deed in the book. Say it plainly: the peaceful transfer of power is not one American norm among many. It is the escapement's anchor. Break it and the mainspring does not turn the clock; it

flies loose through the works, and the pieces do not care who wound it.

Say it, and then say the harder, fairer thing: the temptation is not one faction's property. Every movement in this essay believed its defeats illegitimate; every establishment called its challengers thieves and worse; the cry of the stolen inheritance is the oldest sound in the family, and the taxonomy exists so that citizens of every persuasion can audit the claims—including, first and especially, their own side's. Is the demand aimed at the deed's premises, or at exempting my tribe from them? Is the method witness, or force? Is the target the possessors' breach, or the courtroom itself? A republic of two hundred fifty years' experience should be able to tell a plaintiff from an arsonist without asking which jersey either is wearing.



A fact must now be entered in the record that this essay has so far kept offstage; once it is on the table, nothing about the present reads the same. In the spring of 1971, the season the Media burglars were mailing the Bureau's files to the newspapers, Congress proposed the Twenty-Sixth Amendment, lowering the voting age to eighteen, and the states ratified it in about a hundred days—the fastest reconveyance ever recorded. It was the machine at full function: a generation conscripted for Vietnam filed on the deed's consent clause, and the courtroom handed over the estate before summer was out.

It was also, as of this writing, the last time the machine completed a live amendment. The Twenty-Seventh, ratified in 1992, is no exception; it was a proposal of 1789, revived from probate by a University of Texas undergraduate who got a C on the paper arguing the thing was still alive and spent the next decade proving his grader wrong. A zombie ratification is an antiquarian's triumph, not a living generation's act. The living generations have managed nothing.

Count the drought. Fifty-five years, as of this anniversary, without a live amendment. The national record holds only one longer silence: the sixty-one years between the Twelfth Amendment in 1804 and the Thirteenth in 1865. The reader knows how that silence ended: not because the machine resumed, but because the mainspring tore through the works, and six hundred thousand men were dead before the courtroom reopened. This is not an omen; rhythms are not clocks. But it is the relevant precedent, and it belongs somewhere in the national mind when the toasts are raised.

The Equal Rights Amendment is the jam on camera. It cleared Congress in 1972 by the required supermajorities; thirty-five of the needed thirty-eight states said yes; and then the mechanism seized—deadline, rescissions, exhaustion—and the proposal died in 1982, three signatures short. Decades later, Nevada, Illinois, and Virginia voted to ratify anyway, and the country discovered something worse than a jammed gear: it could no longer even adjudicate whether the gear had jammed. Was the deadline binding? Do rescissions count? Is the

amendment law? The archivist declined to certify; the courts declined to compel; one administration's lawyers pronounced the proposal expired, another's equivocated. A courtroom that cannot rule on the status of its own filings has stopped being a courtroom, whatever the signage says.

Two forces hold the jam in place, and they compound. The first is arithmetic. Article V requires three-quarters of the states, so thirteen legislatures can veto anything, and the thirteen least populous states now hold, together, well under five percent of the American population. A reconveyance demanded by an overwhelming majority of the deed's heirs can be blocked by a sliver of the estate. The second force is the one Madison prescribed. Frequent constitutional revision, he warned in the *Federalist*, would deprive the government of "that veneration which time bestows on every thing." He got his wish beyond all reason. Two centuries of near-untouchability have compounded veneration into scripture, and scripture is what one does not amend—so the longer the text goes unrevised, the more unthinkable revision becomes, and the jam tightens. Sanford Levinson, after a career on this problem, calls the resulting document flatly undemocratic. The harder charge is that it is becoming unusable.

A jammed escapement does not still the mainspring. The torque has to go somewhere, and once you look for the reroutes you find the political weather of the last half-century. It goes into the courts: when the formal conveyance office closes, interpretation becomes the only registry still open. That is the

deeper reading of originalism's triumph: the era's fiercest constitutional politics conducted as litigation because amendment was closed, confirmation hearings swollen into proxy ratifying conventions. It goes into the executive: governance by order and rescission, each administration unsigning its predecessor by breakfast. It goes into the federalism baffles, now smoking, as states of both persuasions resume the pre-1865 habit of deciding which federal law is real. And it goes into the street. Reread the quarter-century just surveyed with the jam in view and the sequence resolves: the costumes, the encampments, the marches, the forged deed itself—a generation of radical energy, the largest mobilizations in the country's history, and not one line of it written into the charter. The plaintiffs keep filing. The registry keeps not recording. That, not the volume of the shouting, is the alarming datum.

The periodicity said a refounding was due; the jam says why the overdue pressure feels the way it does—not like an argument approaching settlement but like a boiler with the vent painted shut. Jefferson gave a constitution a natural life of nineteen years; Madison's machine was to make that violence unnecessary by paying it out as amendment, tick by regulated tick. Stop the ticking and you have not repealed Jefferson. You have only deferred him, at compound interest.



So: the next two hundred and fifty.

The semiquincentennial arrives bearing the temptation that has shadowed every anniversary since the first: to treat the birthday as a settlement. Two hundred fifty years, the toast will run; the experiment worked; title quieted, case closed, nothing left for the living but maintenance and gratitude. It will come in two accents. One says America is finished perfecting: the claims exhausted, further plaintiffs mere agitators. The other says America is finished, period: the deed a fraud from the first sentence, the courtroom a fixed game, the only honest response Garrison's match. Notice that these are the same motion, filed from opposite tables: a motion to dismiss. And notice who, in this whole story, has ever moved to dismiss: the possessors of every era, the despairing of every era, and no one else. Douglass declined that motion with the auction block still in business. We are not entitled to file it from our comfort.

The truth the anniversary should teach is the opposite of settlement, and the founders wrote it down twice. The Preamble promises not a perfect Union but a "more perfect" one—a comparative, not a superlative, a pursuit built into the grammar of the first sentence. And Jefferson's letter holds the estate in usufruct: the living hold this country as tenants for life, not heirs in fee simple, and a life tenant's one absolute duty is to hand the estate on unencumbered by his own generation's cowardice. The inheritance was never the property. The inheritance is the lawsuit, the open case of the deed against the possession, and the only way to squander it is to let the case close.

So the argument arrives where the reader may not expect it: at a conservative case for making the Constitution easier to amend. Not a partisan's case; a Burkean one. "A state without the means of some change," Burke wrote in the very book that made him counter-revolution's philosopher, "is without the means of its conservation." He was right, and the American machine has been the proof: for two centuries the escapement conserved the republic precisely by changing it, converting each generation's radical torque into settled law before it became unsettled war. What conserves the estate is the metabolism, not the jam. A sealed vent does not produce stability; it produces the 1850s—pressure with no lawful exit, plaintiffs turning arsonist, possession defended as if it were title, until the whole estate goes to the ordeal. The genuinely destabilizing position today is not the radical's; the radical is doing what the deed invites. It is the jam-worshipper's: the pretense that a charter no living coalition can amend is thereby safe, when it is only thereby brittle. A constitution that can no longer be revised is not being preserved. It is being embalmed.

The objection writes itself and deserves an answer. Ease of amendment in the wrong hands: would not the Confederacy have loved a cheaper Article V? Would not every majority's fever pass into the charter by Tuesday? Take the second first: the country has run the experiment. The states amend their own constitutions constantly, a few promiscuously; fifty laboratories have produced clutter and occasional folly but no collapse; between scripture and a wiki lies a wide, governable

middle where most constitutional democracies live; Donald Lutz's comparative index, the standard study, puts ours at the rigid extreme. The first worry is graver; the answer is colder. The hard gate never protected the deed's substance anyway. The Cornerstone was not stopped by Article V's difficulty—the difficulty is part of why the crisis went to arms instead of amendment. Prohibition passed through the existing gate at full price and was repaired through the same gate: proof that a working metabolism can digest even its own mistakes. What guards the deed is not the price of filing. It is the breadth of the double supermajority, a coalition so wide it must cross the lines of section and party, and it survives at a lower price; at, say, three-fifths of Congress and two-thirds of the states, amendment would remain the hardest lawful act in American politics. The filing fee does not filter for justice. It filters for the status quo, which, as the record above demonstrates, has no fixed valence either.

There is a door for the work, built by the founders and never opened. Article V has a second track: two-thirds of the state legislatures may require Congress to call a convention for proposing amendments—the Framers' remedy for the obvious defect that Congress will never propose what diminishes Congress. No generation has used it in two hundred and thirty-seven years, though several have come close: applications for a balanced-budget convention have been counted, rescissions disputed, within half a dozen states of the threshold, and a newer campaign claims twenty legislatures. What stops the

country is a terror with a name, the runaway convention, and it deserves to be taken seriously; it is well founded in the only precedent we have: Philadelphia itself was a runaway, a body convened to patch the Articles of Confederation that locked its doors and wrote a new charter instead. But notice what the terror concedes, and what it forgets. It concedes that the door works. It forgets the second lock: whatever any convention proposes is proposal only, and three-quarters of the states must still ratify—the same gate that has stopped everything else for fifty-five years. The runaway fear conflates drafting with enacting. And consider what the fear is made of. We have become so devout about the founders' handiwork that we dare not touch the handle of a door they built for us on purpose, men who had just walked through that exact door and torn the wall out behind them. The founders' heirs, afraid of the founders' tool, in the founders' name: Madison's veneration, overdelivered again.

What the tenancy asks, then, compresses to three disciplines, each following from the argument instead of decorating it. Guard the gears—the count, the certification, the transfer, the franchise—absolutely and without valence, because they cannot be rebuilt after they break. Feed the docket: treat your own moment's unreasonable people as the metabolism treats them, not as the Bureau did; presume the plaintiff may be Douglass before concluding he is Brown; and remember that every comfortable right you hold entered the courtroom in the hands of someone your grandparents' newspapers called an

extremist. And audit your own side first, because otherwise, as the last decade demonstrated on both flanks, your enemies will do it for you, with a cruder instrument, at a worse moment.

And keep the observance Douglass kept without meaning to found it. The Fourth is for the deed, the fireworks, the reading-aloud. The republic is kept or lost on the day after—call it the *Fifth of July*, the audit day, when whoever still means it lays the conveyance beside the possession and reads the shortfall aloud. The semiquincentennial's real question is whether a Fifth of July can still be filed anywhere that counts, and the honest answer is that the country's next great act of self-conservation would be to unstick the registry: to make the machine the founders built for absorbing revolutions capable, once again, of absorbing one.

The fence, by the way, is still there. Go to the foot of Broadway and you can put your hand on the same iron palings the crowd climbed on the ninth of July, 1776—the oldest fence in New York, they say—and if you run your fingers along the top rail you will feel the rough stubs where the ornaments, crowns in the telling, were cut away that night and never, in two and a half centuries, replaced. The king went to Litchfield and came back as cartridges. The crowns went into someone's pocket. The stubs the republic kept, the way you keep a scar or a debt: as the reminder that this estate was taken by a claim, is held by a claim, and passes to you, tenant, encumbered by the claim, with the court in permanent session, the deed unperformed on your watch as on every watch before it, and the docket, this morning, calling the living.

Answer it.



This edition of *The Radical Republic* was set in EB Garamond — Georg Duffner and Octavio Pardo's open revival of Claude Garamont's sixteenth-century romans and Robert Granjon's italics — with titling in Libre Caslon, after the founding-era types of William Caslon used in the July 1776 Dunlap broadside of the Declaration of Independence. Composed in Typst for the American semiquincentennial.

1776–2026