

PREFACE

IT WAS STEVE'S idea. It was Pierre's organization. It was Paul's passion. And so this book—a product of a rather odd and improbable combination of authors—came together.

There were doubts throughout.

Steve was concerned that the relentlessly critical tone of the book would be damaging. He worried half seriously, half in jest, that a conservative thinker would become associated in a joint enterprise with one of the most irreverent and intellectually radical (if not nihilistic) thinkers on the contemporary American legal scene. Indeed, he had already received negative and cautionary reactions from older, wiser colleagues at another law school: “Stay away from those street toughs.”

Pierre too was concerned. He had been told not to publish with the other two. Yet here he was publishing with one of the most conservative (if not reactionary) constitutional thinkers in American legal thought. He was told that this would be deeply confusing to readers. And he worried that the book would simply be exhibit A in the usual left or liberal charge that ultra-intellectualism is simply neoconservatism by any other name.

Paul, who refused to divulge his political orientation to anyone (including the other two authors), didn't worry at all.

And all three of us decided to go forward with the book.

One reason, of course, was a shared sense of the deadening quality of contemporary political orthodoxies and their disputes. In some sense, each of us has been unwilling to simply toe the line of *any* political orthodoxy—reactionary, conservative, liberal, or radical. None of us seems to be very good at being a foot soldier. And being in Colorado, we are much too far away from anywhere to feel the civilizing effects of the great institutions.

A second, perhaps more profound reason is that despite our widely different political visions, there are certain things we share in common—certain understandings of the shortcomings of American legalism. We all think that legalism is aesthetically, ethically, and intellectually lacking in rather profound ways.

And we all think that it is important to point this out in the most ecumenical manner possible.

Hence, this book.

Oddly, perhaps—and certainly against the odds—we have looked on our widely disparate political and intellectual inclinations as an advantage. We very much hope that we are not the only ones.

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