

THE COST OF LIMITING LIMITED GOVERNMENT

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A Republic No More: Big Government and the Rise of American Political Corruption,
by Jay Cost (New York and London: Encounter Books, 2015)

Limited-government arguments have battled on the national political terrain for the past six years. Indeed, not since the 1930s have such arguments been so prevalent. They have inspired a national political movement centered on the pre–New Deal principles of limited government, while simultaneously prompting virulent derision from opponents. Recall, for instance, House Speaker Nancy Pelosi’s dismissive remark that limited-government critics of the Affordable Care Act had no legitimate standing. And yet, in its opinion on the Act, the Supreme Court upheld limited-government arguments regarding both federalism and the Commerce Clause.

But Speaker Pelosi had a point: since the New Deal, limited-government principles have been pushed further and further into the closet of history. During the 1960s, the Great Society expansion of government seemed to seal the fate of the constitutional and political principles of limited government that had largely prevailed for the first 150 years of the nation’s history. Despite a seemingly brief setback during the Republican takeover of the House in the 1990s, President Clinton’s recognition that the era of big government

was over, and the Rehnquist Court’s federalism revolution, big government resurfaced under President George W. Bush with the Medicare prescription-drug program, the No Child Left Behind Act, and the wars in Iraq and Afghanistan, and came roaring back in the Obama era.

And this is where it stands today: the Tea Party presses the kind of commitment to limited government not seen since the 1930s, while political opponents characterize Tea Party advocates as unhinged, mean-spirited, racist reactionaries. To their opponents, supporters of limited government take a very simplistic, selfish, and ignorant approach—seeking to dismantle government, reducing it to ineffectiveness, all for the single purpose of slashing budgets and driving down taxes.

But now comes Jay Cost with his recent book to demonstrate, in a thoroughly researched and insightful manner, all the profound and far-reaching effects of a federal government expansion that greatly exceeds the visions of the framers. *A Republic No More* provides a valuable contribution to a debate that is often mischaracterized as narrow and irrelevant. Indeed, as Cost ably demonstrates, the growth of government has much more serious consequences than just increasing the federal deficit. According to Cost, the uncontrolled growth of government threatens our republic in ways about

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which both the right and left should be equally concerned.

The thesis of *A Republic No More* is that the growth of government, in ways unforeseen by the framers, sets in motion an institutional corruption of our republican system of government—a corruption that sacrifices the public interest for the benefit of a privileged few. This institutional corruption differs from an ethical corruption, which can occur anytime an individual possesses the power or opportunity to act in unethical ways. Instead, Cost's institutional corruption occurs because the institutions of government, as designed in the eighteenth century, are incapable of handling the degree of government power being exercised during the twenty-first century. This expansion of power has broken down the system of checks and balances meant to keep corruption in line.

Cost relies on the theories of James Madison to illustrate the ways in which America's constitutional republic was structurally designed to channel government power through institutions that would distribute and restrain that power so as to protect the public interest against the corrupting self-interests of factions. Madison differed from classical republican theorists, who believed that America's constitutional republic depended on the virtue of its citizenry. To the contrary, Madison sought to construct a system that did not presume the existence of individual virtue but instead controlled the inevitable human vices through a system of checks and balances.

Unfortunately, according to Cost, the institutions of government created by Madison and the framers, while competent to handle the powers initially assigned to them, could not control all the additional powers acquired by government since that time. Consequently, with its essential institutions overloaded, government behaves irresponsibly,

which leads to corruption. An important point made by Cost, and one with which some limited-government advocates might disagree, is that “the problem is not with expansive government powers per se,” but with “the institutions of government that exercise those powers” (p. 9).

A Republic No More centers on two basic arguments. The first sets out three major powers the federal government has acquired that the framers of the Constitution never anticipated: the power to forge a national economic marketplace—a power first debated during the 1790s in the battle over a nationally chartered bank; the power under the Commerce Clause to regulate that marketplace to secure noneconomic goals; and the power to promote directly a seemingly unrestricted array of social welfare measures, such as Social Security and Medicare.

The second basic argument is that the above-listed power expansions have unbalanced the original Madisonian system in four ways. First, Congress has been unable to handle the powers it has been given, and therefore has acted irresponsibly by catering to the parochial interests critical to the reelection efforts of individual members. Second, the growing complexity of our system of government has made it difficult for an increasingly ill-informed electorate to assign blame for bad policies. Third, the rise of political parties has made the executive branch much less sensitive to the public interest. And fourth, the rise of the modern bureaucratic state has been a breeding ground for corruption.

To his credit, Cost portrays the situation in ways transcending the narrow debate of simply more government versus less. And while one might disagree with him on the bipartisan possibilities in this regard, Cost is to be admired for trying to cast this argument in terms of which both ends of the

ideological spectrum might find common ground.

An enlightening aspect of *A Republic No More* lies in its historical examination of the growth of government and its corrupting effects on the institutions of government. Cost begins with the battle over the First Bank of the United States, moves on to the development of political parties, then to the progressive era's attempt to combat corruption, and on to the all-important New Deal's massive expansion of government power. This historical inquiry provides the basis for Cost's arguments about the effects of increases in government power.

Cost identifies the New Deal as the historical turning point for the growth of government. The New Deal program "was the single greatest peacetime expansion of government in the country's history" (153). But the government set up by the framers was not intended to do all the things the New Deal demanded of it: American constitutional government was "not meant to bring about top-down visions of a better society, especially when those visions deal with every intimate aspect of American economic life or involve massive transfers of wealth" (170). This vast expansion of government power spawned widespread political corruption, and *A Republic No More* provides a detailed analysis of the patterns of this corruption during the New Deal. And in this respect, the book expands on such recent New Deal revisionist histories as Amity Shlaes's *The Forgotten Man: A New History of the Great Depression*.

Cost's analysis of political corruption during the New Deal provides a timely and insightful preview of the issue of crony capitalism, which has become so central to the current political debate. Programs that began with good intentions ended up as instruments of political corruption, because they

stemmed from power that had grown beyond the capacity of government institutions to control. President Roosevelt, for instance, probably never thought the National Industrial Recovery Act would end up mired in corruption and hurting those it was meant to help (like labor and consumers)—but that is precisely what happened because of the ways in which expanded government power bred corruption. Cost persuasively demonstrates how programs with roots in the New Deal quickly became controlled by certain interest groups, and hence a vehicle for private aggrandizement rather than the common good.

Cost does not condemn particular government policies or programs, such as industrial regulation or the social welfare provisions of Social Security; rather, he evaluates these programs within the context of the particular government institutions implementing them, finding that those institutions were never designed to handle such exercises of power. And the inevitable corruption resulting from this institutional overtaxing spreads through the web of interest groups created by the growth of government and that now populate the political landscape.

In response to new government programs, interest groups organize to secure benefits under those programs. They lobby for bigger programs, thereby increasing their own power, which in turn is used to lobby for more government programs. This is how corruption accompanies the growth of government power: the institutions of government fall prey to the special interests, because those institutions have not been updated to manage the vast new powers asserted by government.

In its analysis of interest groups, *A Republic No More* takes up where Theodore Lowi's famous 1969 book on interest-group liberalism left off. In *The End of Liberalism*,

Lowi observed that interest groups had proliferated since the Great Depression and predicted that the new interest-group society would entrench itself in the political process, threatening the pursuit of the common good. Cost demonstrates how the interest-group liberalism decried by Lowi has led to today's crony capitalism and its widespread corruption. Moreover, in his subsequent chapters on various contemporary policy domains like Medicare and Fannie Mae, Cost shows how specific interest groups have captured public policy and perverted it to their own ends.

A well-designed government, like the one created in the U.S. Constitution, should provide checks and balances to prevent factions from frustrating the public good. However, as Cost argues, the constitutional system designed in 1787 can no longer handle the vast, unanticipated expansion of government power. This acquisition of government power has inverted the original intention of the Constitution: whereas Congress could once only do what the Constitution expressly allowed, it is now essentially free to do whatever the Constitution does not expressly forbid. But Cost focuses his discussion on institutional incapacitation, not constitutional incapacitation. He examines how the institutions of Congress, the presidency, and the administrative state are unable to exercise adequately all their new powers, not how unenforced or misapplied structural provisions of the Constitution have allowed the power to be exercised in the first place. Consequently, his prescriptions for reform center on institutional reform, not constitutional reform. For instance, his model is not the grandiose Constitutional Convention of 1787, but the more legislatively defined and

achievable Pendleton Civil Service Act of 1883.

The lasting contribution of *A Republic No More* lies in its revelations of how the post-New Deal expansion of government power threatens our constitutional republic in ways that should worry adherents of all political orientations. Cost's proposed remedies are limited and narrow, which reflect an admirable authorial humility, given the magnitude of the problem as it has developed over the centuries. He states that the current political polarization makes any proper rebalancing of the Madisonian scales highly remote. However, in an effort to find some politically unifying ground, Cost hopes that we may be able, for a time, to pass some sensible reforms that control the factions, disrupt their pathways of corruption, and buy the nation a respite from the rampant graft that afflicts it. He recognizes that, "absent enduring structural reforms, pressure groups will find new ways to misuse government power; but perhaps we can throw them off their game for a little while" (317).

Cost is cautious about the prognoses for the specific and relatively modest reforms he proposes, and this is probably wise in a politically strategic sense. However, his proposals may leave readers with a certain letdown. All throughout this excellent book, Cost has built a momentum for a conclusion befitting his historical analysis of a pervasive and increasingly threatening problem with our system of government. And as a national political movement has already coalesced around this problem, perhaps now is the time not just to manage corruption but to try to realign the exercise of government power with the constitutional vision for controlling that power. †