

# THE GERMAN ROOTS OF AMERICAN ORDER

E. Christian Kopff

Russell Kirk loved to remind Americans of the great traditions behind our nation's founding. Kirk concentrated on English traditions in such books as *The Conservative Mind* (1953) and *America's British Culture* (1993), but he also wrote on biblical and classical traditions in *The Roots of American Order* (1974) and the appendix to *America's British Culture*, "What Did Americans Inherit from the Ancients?"<sup>1</sup> The alternative view—that early Americans rejected the past and based the Founding on the eighteenth-century French (or Scottish) Enlightenment and a few seventeenth-century predecessors—is widely held and was first proclaimed by Europeans in the eighteenth century.

In 1782 French immigrant Hector St. John de Crèvecoeur described Americans as rejecting tradition and embracing novelty in his *Letters from an American Farmer*: "What then is the American, this new man? . . . He is an American, who, leaving behind him all his ancient prejudices and manners, receives new ones from the new mode of life he has embraced, the new government he obeys, and the new rank he holds."<sup>2</sup>

De Crèvecoeur's vision was still alive and well 220 years later at the conclusion of Dinesh D'Souza's *What's So Great about America* (2002): "As the American Founders knew, America is a new kind of society that produces a new kind of human being. That human being—confident, self-reliant, tolerant, generous, future oriented—is a vast improvement over the wretched, servile, fatalistic, and intolerant human being that traditional societies have always produced, and that Islamic societies produce now."<sup>3</sup> Americans' rejection of tradition reappears in Charles Murray's *American Exceptionalism*. In 1789, "four million people . . . founded a new nation from scratch."<sup>4</sup> Scholars, however, have noted that the Founding was influenced by a number of older and even ancient traditions. Bernard Bailyn investigated the presence of the ancient classics, the Anglo-Saxon common law, and seventeenth-century Whig thought on the Founders, although he privileged the influence of Whig thought over the others. Carl Richard has argued for the importance of the ancient classics for the Founders.

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Although it is unsatisfactory to view early Americans as founding “a new nation from scratch” or “leaving behind all [their] ancient prejudices and manners,” scholars have had problems in identifying the role of tradition in the American Founding, because there is more than one significant tradition, as James Ceaser has pointed out. I would like to make a case for the influence on American ideas of liberty of the Germanic tribal culture of antiquity and the Middle Ages, while not denying the importance of other traditions.<sup>5</sup>

Yet the Founders felt that the different traditions they drew upon derived from a common source and that each preserved different and valuable aspects that have been lost or marginalized in the others. Carl Richard wrote, “To the founders, there was but one worthy tradition, the tradition of liberty, and they would not have understood the modern historian’s need to distinguish between the classical and Whig traditions and to measure the influence of one against the other.”<sup>6</sup> David Gress, on the other hand, argued that Western civilization arose from joining Greek and Roman traditions to Hebrew and Christian ones and that this cultural unity was enriched by Germanic, barbarian traditions.<sup>7</sup>

The Founders’ knowledge of Germanic traditions rests primarily on the observations of the Roman historian Tacitus. Although frank about German faults, Tacitus praises their personal and political virtues. David Gress writes, “According to Tacitus, the illiterate and barbarous Germans were undisciplined, emotional, disorderly, immoderate, and superstitious; to these chaotic qualities corresponded virtues: courage, honesty, love of freedom, devotion to family. They were capable of great generosity as well as cruelty; they were passionate in civil disputes and in war displayed extreme rage and fury, the *furor teutonicus*.”<sup>8</sup>

America’s Founders were as impressed by German public debating and voting as by their private morality. “The chiefs discuss less important matters, but everyone debates major issues. . . . If they dislike a proposal, they reject it by shouting. If they approve, they knock their spears together” (11). “They often discuss matters like ending feuds, arranging marriages and choosing chiefs, even peace and war at banquets. . . . On the following day the subject is examined again. . . . They debate when they are not able to pretend, but they make the final decision when they cannot make a mistake” (22). Whigs found in these passages the Germanic origins of parliament and were convinced that among the Saxons, “every Freeman, that is, every Freeholder, was a Member of their Wittinagemor [sic], or Parliament.”<sup>9</sup>

In *From Plato to NATO*, David Gress makes a serious case (despite the humorous title) for seeing Western civilization as characterized by the interaction of classical, Christian, and German. This is a return to a metanarrative popular among English Whigs and the American Founders, who valued these traditions as containing complementary elements essential for human fulfillment and political freedom. The German legacy was the source of personal virtue, consensual institutions, and the old common law before the Norman Conquest in 1066 introduced feudalism and inherited (instead of elective) monarchy. Ceaser explains its appeal: “Liberty and constitutionalism in this account owed their origins to robust Nordic habits and practices, not to philosophical thought.”<sup>10</sup>

Because the primary classical source for these ideas was Tacitus, the Whig Thomas Gordon gave up writing political polemics like *Cato’s Letters* with John Trenchard, and devoted the last forty years of his life to translating Tacitus with extensive introduc-

tions that drew Whig lessons from ancient history. William Blackstone, author of the influential *Commentaries on the Laws of England* (1770), urged lawyers to study the “fountains” of their profession, “the customs of Britons and Germans, as recorded by Caesar and Tacitus.”<sup>11</sup> In the previous century Sir Edward Coke presented Magna Carta as a defense not of feudal but of common law: “This Statute of Magna Charta is but a confirmation or restitution of the Common Law.”<sup>12</sup> Scholars now believe that the opposition to King John that led to Magna Carta in 1215 was based on the king’s refusal to honor his coronation oath.<sup>13</sup> Coke may have been wrong, but as Herbert Butterfield saw, Coke’s “anachronistic sins became a service in the cause of liberty.”<sup>14</sup>

This narrative is an essential element in the thinking of the American Founders. It is clearly expressed in the writings of Thomas Jefferson, who is often understood, wrongly, to be an Enlightenment rationalist, not a Whig traditionalist. Jefferson first came to the attention of his fellow Whigs in 1774 by the essay published by his friends as “A Summary View of the Rights of British North America.” There he based his argument on the fact that the ancestors of the British Americans had twice exercised “a right which nature has given to all men,” that is, emigrating from one land to a new one. The colonists’ position is often explained as a defense of their claim to the rights of Englishmen, an argument that indeed played an important role in the writings of John Adams, John Dickinson, and George Mason. In “A Summary View,” however, Jefferson stakes out a claim to the colonists’ rights as Germans.

Our ancestors, before their emigration to America, were the free inhabitants of the British dominions in Europe, and possessed a right which nature has given to

all men, of departing from the country to which chance, not choice, has placed them, of going in quest of new habitations, and of there establishing new societies, under such laws and regulations as to them shall seem most likely to promote public happiness. . . . Their Saxon ancestors had under this universal law in like manner left their native wilds and woods in the north of Europe, had possessed themselves of the island of Britain, then less charged with inhabitants, and had established there that system of laws which has so long been the glory and protection of that country. Nor was ever any claim of superiority or dependence asserted over them by that mother country from which they had migrated, and were such a claim made, it is believed that his majesty’s subjects in Great Britain have too firm a feeling of the rights derived to them from their ancestors, to bow down the sovereignty of their state before such visionary pretensions. And it is thought that no circumstance has occurred to distinguish materially the British from the Saxon emigration.<sup>15</sup>

According to H. Trevor Colbourn,<sup>16</sup> “The *Summary View* was an instant popular success with colonial patriots and sympathetic English Whigs because Jefferson was telling men what they wanted to believe and arguing the American cause in language immediately familiar. . . . He did not attempt to justify the colonial position with philosophy, but instead undertook an historical appraisal of the colonial case. In the process Jefferson, unlike a revolutionary, identified the good with the ancestral rather than with the purely rational.”

The Germanic origin of the English tickled the funny bone of Benjamin Franklin, who composed a bogus *Edict from the King*

of Prussia in 1773, in which Frederick the Great of Prussia makes the same demands on England that Parliament was making on the colonies.<sup>17</sup> Franklin wrote his son William that the hoax fooled hasty readers and amused “shrewd” ones.<sup>18</sup> Jefferson, “the humorless Virginian,”<sup>19</sup> took the idea seriously.

On July 4, 1776, the Continental Congress appointed Jefferson, Adams, and Franklin “to a committee to bring in a device for a seal for the United States of America.”<sup>20</sup> Adams recorded the discussion: “Mr. Jefferson proposed, the children of Israel in the wilderness led by a cloud by day, and a pillar by night—and on the other side, Hengist and Horsa, the Saxon chiefs, from whom we claim the honor of being descended, and whose political principles and form of government we have assumed.”<sup>21</sup> The seal was to show two groups of settlers: the Chosen People of the Bible and the colonists’ German ancestors. Jefferson’s commitment to Saxon England as a model for free institutions in America was no youthful whim. He wanted Anglo-Saxon taught at the University of Virginia according to the “Report of the Commissioners for the University of Virginia” (August 4, 1818) because of “the great instruction which may be derived from it to a full understanding of our ancient common law.”<sup>22</sup>

With the Declaration of Independence in 1776, states were faced with a host of constitutional issues. Edmund Pendleton of Virginia asked Jefferson about the issue of allodial land tenure versus feudal, that is, whether farmers should own the land they work or farm the land as tenants of the state or of large landholders. Jefferson answered on August 13, 1776, to say that he preferred private ownership of family farms. Those familiar with popular views of the Revolu-

tion will be confident they already know his reasons, because they have been told the Founders were under the influence of the Enlightenment philosophy of John Locke. Locke argued in his *Second Treatise of Government*, chapter 5 (“On Property”), that the only rational and just basis of asserting property is mixing a man’s labor with the fruits of nature. “As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property.”

Jefferson wrote: “Are we not the better for what we have hitherto abolished of the feudal system? Has not every restitution of the ancient Saxon laws had happy effects? Is it not better now that we return at once into that happy system of our ancestors, the wisest & most perfect ever yet devised by the wit of man, as it stood before the 8th century?”<sup>23</sup> Jefferson does not mention John Locke or any other eighteenth-century author. He talks of returning to what he took to be the land tenure system of the early Anglo-Saxon settlers of England, and he assumes this appeal will be found convincing.

Jefferson and Pendleton soon worked together on legal issues when they were elected to the committee for “A General Revisal of the Laws” of Virginia with George Wythe, George Mason, and Thomas Ludwell Lee. The full committee met in Fredericksburg January 13, 1777, and agreed on principles and details. Mason’s notes (January 13, 1777), Jefferson’s letters to George Wythe (November 1, 1778) and Skelton Jones (July 28, 1809), and his “Autobiography” are in basic agreement. (Slips in the “Autobiography” of 1821 can be corrected from the earlier sources.) The current laws were to be shortened and rewritten in simpler language, as Jefferson wrote to Wythe. “In its style I have aimed at accuracy, brevity & simplicity. . . . Indeed I wished to exhibit a sample of reformation in the barbarous style

into which modern statutes have degenerated from their ancient simplicity.”<sup>24</sup> Even in style the distant past is superior to the modern.

Mason in 1777 and Jefferson in 1809 agree on another point. Mason’s notes begin, “The Common Law not to be meddled with, except where Alterations are necessary.”<sup>25</sup> Jefferson echoes this language in the letter to Skelton Jones: “We concluded not to meddle with the common law, i.e. the law preceding the existence of the statutes, farther than to accommodate it to our new principles & circumstances.” After noting the need to revise “the barbarous tautologies and redundancies which render the British statutes unintelligible,” he proceeds, “From this, however, were excepted the ancient statutes, particularly those commented on by Lord Coke, the language of which is simple, & the meaning of every word so well settled by decisions, as to make it safest not to change words where sense was to be retained.”<sup>26</sup>

The Committee—not just Jefferson—wanted to preserve and restore the oldest levels of the common law, wherever possible, especially as ascertained by Coke in the preceding century. Jefferson’s campaign to abolish primogeniture and entail is often presented as based on Enlightenment hostility toward aristocracy, despite his clear statement in the letter to Pendleton of August 13, 1776, that he favored replacing feudalism by the restoration of the ancient Saxon laws.

For Dumas Malone in 1948, “[Jefferson’s] purposes may now be regarded as democratic.”<sup>27</sup> Malone refers to the letter of August 13, 1776, in his notes but does not quote it. He returned to the theme in 1981: “It should not be supposed that he became a champion of individual freedom and self-government *because of* what he read and believed about the Saxons, or that his democratic faith was dependent on the correctness of this particular view of early English history. He believed

that the rights of man—inherent, universal, and inalienable—were written in the book of Nature.”<sup>28</sup> In the Declaration of Independence, however, property is omitted from the list of mankind’s “inalienable rights.” (Compare the parallel passage in Mason’s “Virginia Declaration of Rights.”) Property is established by society, and Jefferson’s preference for allodial over feudal land tenure is based on “what he read and believed about the Saxons,” not a Lockean theory he did not mention and implicitly rejected.<sup>29</sup>

Malone explains Jefferson’s work on punishments similarly. “The main significance of Jefferson’s proposals lay in his attempt to relax the severity of punishments, and to make them at the same time more humane and more rational. This was quite in the spirit of the enlightened liberalism of the age which he so well embodied.”<sup>30</sup>

Malone describes Jefferson’s copy of the bill on punishments. “During the years 1776–1779, he gave more time to this bill than to all the rest together. It required him to go through the Saxon period of the law, consulting authorities like Bracton, and to study the chief writers on criminal law, such as Beccaria. The bill he drew after all this labor is notable for its studied simplicity, and the draft he submitted in advance to George Wythe represents, probably, the highest point he had yet attained in craftsmanship. . . . For the benefit of his own memory, he attached notes in Anglo-Saxon characters, in Latin, old French, and English, attesting the meticulous carefulness of his procedure. . . . Jefferson himself placed them in columns, parallel with the text, after the manner of his old lawbook, *Coke upon Littleton*.”<sup>31</sup> The form of Jefferson’s bill is a studied imitation of Coke because he was emulating Coke’s efforts to restore the common law. There was no need for all the historical information he provided for a legal code based on reason alone.

Cesare Beccaria, whom Jefferson cites, had argued for the abolition of capital punishment, but he had little influence on his own age. “The enlightened liberalism” of eighteenth-century England saw an exponential growth in the number of crimes punished with death, as Leon Radzinowicz explains. “At Common Law capital punishment was imposed for a few very serious offences such as treason, murder, rape and burning a dwelling-house.... In the eighteenth century, however, their number began spectacularly to rise. Thirty-three capital offences were created in George II’s reign—about one for every year—and a further sixty-three were added during the first fifty years of the reign of George III (1760–1810). Broadly speaking, in the course of the hundred and sixty years from the Restoration to the death of George III, the number of capital offences had increased by about one hundred and ninety. The extraordinary character of this trend may be judged from the fact that during the hundred and fifty years from the accession of Edward III to the death of Henry VII only six capital statutes were enacted; during the next century and a half, from the accession of Henry VIII to Charles II, a further thirty were passed; while the period from the accession of Charles II to 1819 saw the passing of no less than one hundred and eighty-seven new capital statutes.”<sup>32</sup> When Jefferson’s committee restricted the death penalty to murder and treason, it was a return to the early common law and ran counter to the practice of the age.

Jefferson expressed to Wythe reservations about the penalties the committee had approved to replace execution. “I have strictly observed the scale of punishments settled by the Committee, without being entirely satisfied with it. The *lex talionis*, altho’ a restitution of the Common law to the simplicity of which we have generally

found it so advantageous to return, will be revolting to the humanized feelings of modern times.” Jefferson’s fears were misdirected. When the bill finally came to a vote in 1787, it lost by a single vote, because the Committee, according to Madison, had abolished the death penalty for horse stealing: “The rage against horse stealers had a great influence of the fate of the Bill.”<sup>33</sup>

As Gilbert Chinard saw, in 1776 “Jefferson’s great ambition was to promote a renaissance of Anglo-Saxon primitive institutions on the new continent. This is the true foundation of Jefferson’s political philosophy. No greater mistake could be made than to look for his sources in Locke, Montesquieu, or Rousseau. Jeffersonian democracy was born under the sign of Hengist and Horsa, not of the Goddess Reason.”<sup>34</sup> “These ideas remained popular throughout the nineteenth century,” as H. Trevor Colbourn has shown.<sup>35</sup> Ceaser notes that the “Gothic thesis managed to survive the Revolutionary period and continue as a major theme of American political thought until the World Wars, when the German forests lost much of their luster, as well as their foliage.”<sup>36</sup>

As late as the 1950s, the “Gothic thesis” provided the implicit narrative behind Winston Churchill’s *History of the English-Speaking Peoples*, published after but conceived before World War II. While critical of many aspects of the thesis, he admits, “In the tribal conceptions of the Germanic nation lie, no doubt, many of those principles which are now admired, and which have formed a recognisable part of the message which the English-speaking peoples have given to the world.”<sup>37</sup>

The Founders were traditionalists in law, religion, and politics, and they believed in the coherence of the Christian, classical, and German traditions. For us, legislatures for-

mulate and pass new laws to solve problems inherited from the past or created by changed circumstances or to resolve crises that must be met by “thinking outside the box.” We find it hard to accept that, for Whigs, the role of legislators is not to create new laws but to discover and restore the original condition of the common law.

Bailyn sees the role of the common law in the Founding. “The common lawyers the colonists cited . . . sought to establish right by appeal to precedent and to an unbroken tradition evolving from time immemorial, and they assumed, if they did not argue, that the accumulation of the ages, the burden of inherited custom, contained within it a greater wisdom than any man or group of men could devise by the power of reason.”<sup>38</sup> So John Dickinson told the Constitutional Convention, “Experience must be our only guide. Reason may lead us astray.”<sup>39</sup> Douglas Adair explains that “‘experience,’ as used in the Convention, more often than not referred to the precepts of history.”<sup>40</sup>

I would, however, modify what Bailyn writes of “the accumulation of the ages, the burden of inherited custom.” The Founders and other Whigs were not burdened under what had accumulated; they were inspired by a passion to return to the pure sources (*ad fontes*). Sir Robert Molesworth wrote in 1711, “My notion of a *Whig*, I mean of a real *Whig* (for the nominal are worse than any sort of man) is, that he is one who is exactly for keeping up to the strictness of the true old *Gothic Constitution*.”<sup>41</sup> Jefferson favored the “restitution of the ancient Saxon laws” and returning to “that happy system of our ancestors . . . as it stood before the 8th century.”

The American Founders discovered the same reverence for German traditions in Montesquieu, whom they often quoted.<sup>42</sup> In *Spirit of the Laws* 11.6, the learned French noble explained that English freedom is

based on the separation of powers in the British constitution, which he attributed to their German ancestors. “In perusing the admirable treatise of Tacitus *On the Mores of the Germans*, we find it is from that nation the English have borrowed the idea of their political government. This beautiful system was invented in the woods.” *Ce beau système a été trouvé dans les bois*.

For Montesquieu the separation of powers requires both a king and a deliberative assembly, which he does not find in the ancient world. “The Goths, after conquering the Roman Empire, founded monarchy and liberty everywhere” (17.5). Greece and Rome had assemblies but not representative ones, nor they did possess a “clear idea of monarchy” (11.8). He found in the success of German arms the reason for the transition from the direct democracy described by Tacitus to the representative assembly found in Parliament. “The German nations that conquered the Roman Empire were, as we know, very free. To be convinced of this one need only glance at Tacitus *On the Mores of the Germans*. . . . When they were in Germany, the whole nation could assemble. When dispersed in conquest, they could do this no longer. It was still, however, necessary for the nation to deliberate on its affairs, as it had before the conquest. It did so by means of representatives. This is the origin of Gothic government among us” (11.8).<sup>43</sup>

The colonists were also traditionalists in religion. They sought religious truth in ancient texts preserved in the Bible. They admired primitive Christianity, and for them the word *primitive* was not an insult. As Barry Shain has shown, the Bible led them to congregationalism in church polity: the church was the local congregation.<sup>44</sup> Scholars who understand the implications of this insight often call them “communitarian,” but communitarianism is an internal

reaction against the rootless atomism that plagues liberalism. American Protestants were congregationalists out of traditionalism.

Protestantism began in Germany and so the Founders attributed to Germany the concept of the separation of church and state, which did not aim at driving faith and Christianity out of the public square but reflected Martin Luther's idea of the Two Kingdoms or Regimes.<sup>45</sup> God rules through his church, which offers Word and Sacrament, love, grace, and forgiveness to fellow Christians. He also rules through the state, which administers the law over all its subjects or citizens. James Madison says this clearly in his letter to Pastor F. L. Schaeffer, December 3, 1821, about Schaeffer's sermon on the separation of church and state: "It illustrates the excellence of a system which, by a due distinction, to which the genius and courage of Luther led the way, between what is due to Caesar and what is due God, best promotes the discharge of both obligations."<sup>46</sup>

Throughout most of the twentieth century, Protestant congregations still sang "Onward Christian Soldiers" to music composed by Sir Arthur Sullivan, of Gilbert and Sullivan fame, with words by Sabine Baring-Gould,<sup>47</sup> which portray Jesus as the warrior king. He was for the first German converts: "Christ the royal master leads against the foe. Forward into battle! See His banners flow! Onward Christian soldiers!" Today the hymn "Stand Up, Stand Up for Jesus, Ye Soldiers of the Cross" has been rewritten to eliminate lines that, during the presidency of Dwight Eisenhower, breathed the spirit of Tacitus's Germans and the Anglo-Saxons of *The Battle of Maldon*:<sup>48</sup>

Ye that are men now serve Him  
against unnumbered foes.

Let courage rise with danger and  
strength to strength oppose.

Today the words *man* and *men* have been systematically erased from hymnals. The ideal of the Christian soldier they proclaimed was meaningful in the context of the Christian, classical, and Germanic traditions, not Gunnar Myrdal's American Creed. To restore the American way of life, we must return to those traditions. Many forces oppose that restoration, but, as the old hymn reminded us, men do not retreat before unnumbered foes, whether they stand among Gideon's troops in the book of Judges or with the Three Hundred Spartans at Thermopylae or on the walls of the Alamo. Proponents of America as a Propositional Nation are not interested in these battles. After all, most of them ended in defeat. J. R. R. Tolkien, a Christian who knew the classical and German traditions well, wrote to his son Christopher: "You and I belong to the ever-defeated, never altogether subdued side."<sup>49</sup> T. S. Eliot was more optimistic: "There is no such thing as a Lost cause because there is no such thing as a Gained Cause. . . . We fight rather to keep something alive."<sup>50</sup> Tolkien preferred to quote W. P. Ker on the old Norse gods: "They are on the right side, though it is not the side that wins. The winning side is Chaos and Unreason, but the gods, who are defeated, consider that defeat no refutation."<sup>51</sup>

It all sounds pretty Germanic. Is it still meaningful to Americans? Near the end of a very American movie, Frank Capra's 1939 classic, *Mr. Smith Goes to Washington*, young Jefferson Smith (Jimmy Stewart) has pretty much reached the end of his tether delivering single-handedly a filibuster on the floor of the Senate to give the people of his state time to hear the truth about an unjust smear campaign against him. Joseph Paine, the corrupt senior senator from his state, played by the great character actor Claude Rains, enters with bushels of letters and



telegrams denouncing Smith, which have been arranged by the political machine that runs the state.

Jeff Smith rifles through the mail in growing despair, then slowly turns to his colleague and speaks: “I guess this is just another lost cause, Mr. Paine. All you people don’t know about the lost causes. Mr. Paine does. He said once they were the only causes worth fighting for. And he fought for them once, for the only reason that any man ever fights for them. Because of just one plain simple rule: ‘Love thy neighbor.’ And in this world today, full of hatred, a man who knows that one rule has a great trust. You know that rule, Mr. Paine. And I loved you

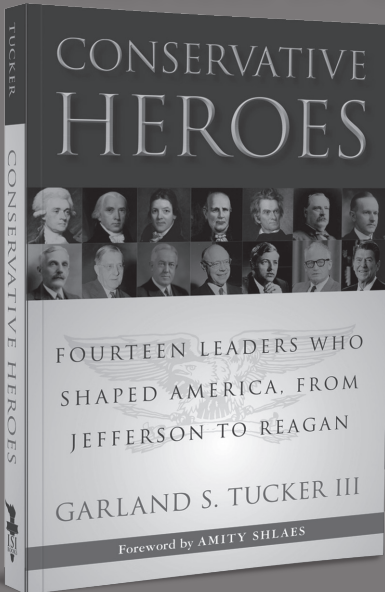
for it, just as my father did. And you know that you fight for the lost causes harder than for any others. Yes, you even die for them. Like a man we both knew, Mr. Paine.”

Jeff Smith did not find a contradiction between biblical truths and a Germanic fighting for lost causes, any more than Tolkien did. It is not just a question of the Battle of Maldon or the last battle of the Norse gods against the monsters. A country whose famous battles include the Alamo and Custer’s Last Stand used to know what Professor Tolkien and Senator Smith were talking about. If we do not know anymore, then the German barbarians may still have something to teach us. †

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- 3 Dinesh D’Souza, *What’s So Great about America* (Landham MD: Regnery, 2002), 192–93.
- 4 Charles Murray, *American Exceptionalism: An Experiment in History* (Washington, DC: AEI Press, 2013), 2.
- 5 Bernard Bailyn, *Intellectual Origins of the American Revolution* (Cambridge, MA: Harvard University Press, 1967), 22–54; Carl J. Richard, *The Founders and the Classics* (Cambridge, MA: Harvard University Press, 1994); James W. Ceaser, *Nature and History in American Political Development* (Cambridge, MA: Harvard University Press, 2006), 19, 26, 67–69.
- 6 Richard, *Founders and the Classics*, 183.
- 7 David Gress, *From Plato to NATO: The Idea of the West and Its Opponents* (New York: Free Press, 1998).
- 8 *Ibid.*, 204.
- 9 Richard Bland, *An Inquiry into the Rights of the British Colonies* (Williamsburg, 1766).
- 10 Ceaser, *Nature and History*, 19.
- 11 William Blackstone, *Commentaries on the Laws of England* (London, 1770), 1:35–36.
- 12 Steve Sheppard, ed., *The Selected Writings of Sir Edward Coke*, vol. 2 (Indianapolis: Liberty Fund, 2003), 2:697.
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- 15 Thomas Jefferson, *Writings*, ed. Merrill D. Peterson (New York: Library of America, 1984), 105–6.
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- 18 *Ibid.*, 20:436–39.
- 19 Richard, *Founders and the Classics*, 92.
- 20 *Journals of Congress*, vol. 517.
- 21 Letter of John Adams to Abigail, August 14, 1776, *Adams Family Correspondence*, vol. 2 (Cambridge, MA: Harvard University Press, 1963), 96.
- 22 Jefferson, *Writings*, 467–68.
- 23 *Ibid.*, 752.
- 24 Thomas Jefferson, *Papers of Thomas Jefferson*, ed. Julian P. Boyd (Princeton, NJ: Princeton University Press, 1950), 2:229–31.
- 25 Robert A. Rutland, ed., *The Papers of George Mason*, vol. 1 (Chapel Hill: University of North Carolina Press, 1970), 327; Jefferson, *Papers*, 325–28.
- 26 Thomas Jefferson, *Papers of Thomas Jefferson: Retirement Series*, ed., J. Jefferson Looney (Princeton, NJ: Princeton University Press, 2004), 1:381–82.
- 27 Dumas Malone, *Jefferson the Virginian* (Boston: Little, Brown, 1948), 252.
- 28 Dumas Malone, *The Sage of Monticello* (Boston: Little, Brown, 1981), 202.
- 29 Gilbert Chinard, *Thomas Jefferson: Apostle of Americanism* (Boston: Little, Brown, 1939), 83–84.
- 30 Malone, *Jefferson the Virginian*, 270.
- 31 *Ibid.*, 269–70.
- 32 Leon Radzinowicz, *A History of English Criminal Law and Its Administration from 1750* (London: Stevens & Sons, 1948), 1:4–5.
- 33 Jefferson, *Papers* (1955), 11:152.
- 34 Chinard, *Thomas Jefferson*, 86–87.
- 35 “The Saxon Myth Dies Hard,” in Colbourn, *Lamp of Experience*, 194–98.

- 36 Ceaser, *Nature and History*, 19.  
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 38 Bailyn, *Ideological Origins*, 33.  
 39 John Dickinson, August 13, 1787, *Records of the Federal Convention of 1787* (1956), 2:278.  
 40 Douglass Adair, *Fame and the Founding Fathers* (New York: Norton, 1974), 109.  
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# ARE WE ALL GERMAN NOW?

Samuel Goldman

In “The German Roots of American Order,” E. Christian Kopff makes the case for a provocative idea. Challenging interpretations of the American Revolution that emphasize the influence of the Enlightenment, Kopff contends that the movement for independence was partly inspired by those devoted enemies of Rome, the Germanic barbarians. We like to think of Jefferson drafting the Declaration of Independence with Locke or Cicero at his elbow. Kopff reminds us that shortly after the Declaration was signed, Jefferson proposed as symbols of Americans’ new freedom “Hengist and Horsa, the Saxon chiefs, from whom we claim the honor of being descended and whose political principles and form of government we have assumed.”

Although it has become unfamiliar, Kopff’s argument about the Teutonic sources of American liberty is not new. Until about the First World War, the so-called Gothic thesis was a staple of American historiography. In works with titles like *The Germanic Origin of the New England Towns*, historians such as Herbert Baxter Adams, a founder of the American Historical Association, argued

that the British settlers of North America were “merely only one branch of the great Teutonic race, a single offshoot from the tree of liberty which takes deep hold upon all the past.”<sup>1</sup>

The stakes in this debate were political as well as intellectual. Proponents of the Gothic thesis aimed to prove, in James Ceaser’s words, that “constitutionalism derived from mores or ‘culture’ rather than from theoretical principles.”<sup>2</sup> One implication was that people or peoples of non-Germanic origin lacked the habits and assumptions necessary to sustain ordered liberty. Not coincidentally, most admirers of Gothic liberty were old-stock Americans who opposed immigration from outside Northern Europe.

The Gothic thesis should not be reduced to crude racialism. But if it is to offer lessons to a multiethnic society, it has to be modified from its original form. Kopff is right that we can *learn* from the ancient Germans. In order to do so, however, we need to identify those aspects of their customs that teach something of permanent rather than merely contingent importance.

To put the same point in a slightly more abstract way, history cannot dismiss theory

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