

Will Republicans on Capitol Hill reclaim their right—and responsibility—to legislate?

Conservatism's Constitutional Moment

Greg Weiner

The essential question confronting American conservatism is what, precisely, it aspires to conserve. The ascension of Donald J. Trump not just to the Oval Office but also to the leadership of America's traditionally conservative party compels a serious confrontation of that question. He is not conservative in the senses in which the term has typically been understood. He is opposed to many dimensions of economic freedom, resists entitlement reform, and seems at best unaware of notions of constitutional limitation.

But what in the age of Trumpism—which is, if nothing else, an age of upheaval—are conservatives to conserve? The answer must be the constitutional regime underlying policy disputes that otherwise draw all emphasis into their impetuous vortex. Policy disputes are transient; the constitutional principles that frame and shape them endure. By focusing on

constitutionalism, conservatives can emulate the Framers' tradition of conserving reform that binds generations. Despite the common belief that the American regime was cast in the crucible of abstract philosophy, the Framers at Philadelphia in fact carefully adapted long-standing colonial forms. James Madison in particular grasped the idea of a constitution

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as an intergenerational compact through which the dead could obligate the living.

By any conventional measure, the signs for constitutionalism are inauspicious. A single party controls all elective mechanisms of government, and its appointees may soon hold a working majority on the Supreme Court as well. The president is a populist interested in maintaining an unmediated relationship with the public. Congressional majorities have historically lain supine before presidents of their own party. Yet as Geoffrey Vaughan, Daniel Stid, and others have argued, one benefit of the Trump presidency may be a congressional revival. There are intriguing reasons to believe this is actually conservatism's constitutional moment. Single-party rule in which members of Congress are known to disagree substantively with the president on major issues sets up a unique constitutional experiment that will test, without the obfuscating variable of partisan opposition, the Republican commitment to constitutional process. That is not to say congressional Republicans will always oppose the president, and still less that they should seek reasons to. Where they agree, collaboration is appropriate. Where Trump's policy agenda is vague, as Yuval Levin has perceptively noted, they can inform it. But even in cooperation, they can insist on a leading role for Congress. In opposition, they should especially do so.

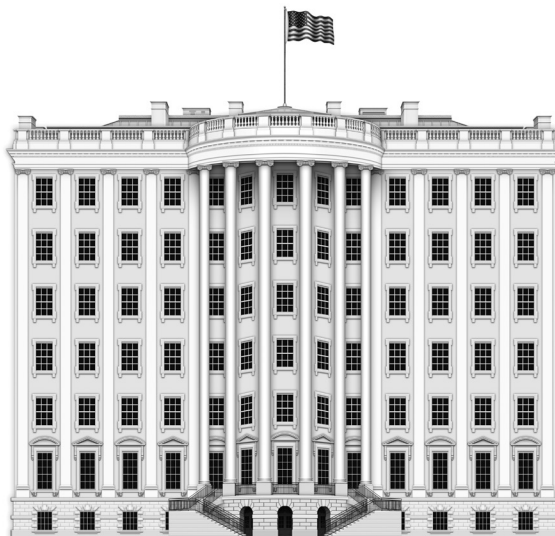
This is not to say that all Republicans are conservative, or that all conservatives are Republican. Neither is the case. But conserving Democrats are increasingly rare. A preservation of conservatism as a philosophical force depends on a Republican Party willing to mount a moral defense of it. Republicans have both an opportunity and a responsibility to demonstrate that their rhetorical commitment to constitutionalism and not merely to policy preferences or, worse, power is meaningful. This is the clearest test in generations of the endurance of the Philadelphia

regime against a creeping parliamentarism under which party loyalties run roughshod over institutional forms. Conservatives will not deserve power if they fail it.

Giving the legislature its due

The separation of powers is the hinge of this test. It is fitting that the concept itself as received in the United States was not an innovation of theoretical abstraction but rather a product of political necessity: the sharing of power between deeply rooted social classes in the mother country, a mechanism whose theoretical advantages Montesquieu—the most quoted philosopher of the founding period, Donald Lutz found—noticed and most fully developed. The separation of powers, in turn, assumes the legislature's priority in setting policy. Even by way of defending executive energy in *Federalist* No. 70, Alexander Hamilton specifies that the president should implement with speed *precisely because* the legislature has first decided with deliberation. James Madison, later at war with Hamilton over the extent of presidential authority in the Pacificus-Helvidius debates, writes: "The natural province of the executive magistrate is to execute laws, as that of the legislature is to make laws. All his acts therefore, properly executive, must presuppose the existence of the laws to be executed."

To be sure, *Federalist* No. 73 praises the president's veto as "an additional security against the enactment of improper laws. It establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of that body." The suggestion is of a presidency that serves as an occasional break on the impulses of the legislature. The practice is now reversed. The contemporary



So much for congressional supremacy

assumption is of a presidential regime the Congress periodically checks.

It too rarely does even that much. Even in explicit opposition, for example, a Republican Congress did not answer President Obama's executive unilateralism on immigration with legislative retaliation, for which its tools are ample. Members asked the courts to retaliate for them. (A statement from Speaker Paul Ryan's office offered the breathless if anticlimactic promise that "the House will take an unprecedented step to stop President Obama's executive overreach. That's right: In the coming weeks, the House will vote on filing an amicus brief.") Congress was listless, other than oratorically, when Obama used regulation to rewrite sections of the Affordable Care Act and unapologetically acknowledged that he was doing so because Republicans controlled Congress.

It may, ironically, take a president of their own party with whom Congress disagrees on a variety of important issues to restore the tension between branches that the separation of powers assumes. The first shot in what could be this emergent battle was fired a week after Election Day, when Trump economic adviser Stephen Moore, late of

the Club for Growth and suddenly of the school of protectionism, is reported to have announced summarily to House Republican whips that they now belonged to the party of Donald Trump, not of Ronald Reagan. In a report of the incident in *The Hill*, there is no record of dissent, only of astonishment.

This may reflect lingering wonder at Trump's ascent, but an initial reply—more on a constitutional one presently—might have noted that House Republicans garnered a three-million-vote majority in ballots cast for Congress, as against Trump's almost three-million-vote deficit in the popular vote for president. Trump wields a superior mandate only if it is measured in the incredulity gap that separated expectations from results in his victory.

To be sure, that is not to say that the public concerns into which Trump tapped are wholly to be dismissed on the grounds of a free-market dogmatism ill-suited to the temperament and perhaps the economics of the moment. But there is a difference between what Walter Lippmann called a "directed" and a "compensated" economy, the former of which seeks to rearrange markets to political purposes and the latter of which recognizes,

and thus seeks to insure individuals against their shortcomings. As Lippmann noted, even Franklin Roosevelt abandoned his aspirations to direct the economy. Trump seems to harbor such aspirations once more. The middle ground that congressional Republicans can strike is a robust, if market-oriented, system of social insurance that recognizes that there is no better system of distributing goods and services than markets, but they are not always ideal means of meeting all material needs.

In any event, some disagreements persist, and now both sides face a clarifying moment. Do Republicans on Capitol Hill intend to pay Trump deference on policy in those areas where they disagree, or reclaim their right—and responsibility—to legislate? The question would be obscured if they agreed with him across the board on policy, since they would appear simply to be falling in line. But they do not. Trump is a protectionist who thinks the power of government is appropriately used to dictate where goods are made, bought, and sold. Indeed, one of his first achievements as president-elect was to pressure a private company to locate manufacturing jobs where he felt they should be rather than where the diffuse preferences of buyers and sellers in the market dictated. Congressional conservatives, by contrast, have long campaigned on a philosophical commitment to open trade that is rooted politically—economic liberty is a bulwark against political tyranny, in no small part because a government empowered to limit commercial freedom has the capacity to limit other kinds too—as well as economically. Trump's voters depend on affordable imported goods, and what wages they stand to gain from the manufacturing jobs he alleges he has the power to restore would not begin to offset the inflation they would face from the trade wars he certainly has the ability to spark.

There are indications of other disagreements. It is difficult to see how the party that opposed the Obama stimulus can

endorse Trump's \$1 trillion infrastructure plan dictated not by actual needs for major projects but rather by Keynesian economics. An assumption that the market cannot build the Hoover Dam is one thing. It is entirely another to say that economic growth is best served by extracting funds from the economy through taxation and public borrowing, then pooling them for centralized political redirection. On Trump's signature issue of immigration, meanwhile, conservatism is committed to national sovereignty and thus rejects the idea that to preserve borders is inherently chauvinistic. Still, there are ample prudential and philosophical reasons to oppose a border wall and massive deportations. This opposition is already long recorded among at least some Republicans on Capitol Hill.

Of course, elections realign beliefs. They are supposed to. Moreover, presidents have inherent rhetorical advantages in the promotion of policy. It would be little surprise if some congressional Republicans came around to Trumpism. Something would be amiss if none did. Nor is there any call for gratuitous opposition where conservatives can more constructively inform Trump's agenda than oppose it. Regardless, the conditions are ripe for deep differences of opinion between the White House and Capitol Hill on at least some issues.

Since the differences are not obscured by partisan disputes, it is likelier that their terms can be understood to be constitutional. Had Trump faced a Democratic Congress, or a President Clinton a Republican one, the constitutional differences would have been impossible to see for the partisan ones. The situation of single-party control, however, accentuates the constitutional dynamics. Even if congressional Republicans stand up for Congress's authority solely for the sake of preserving their power to pursue policies in which they believe, rather than high constitutional principle, they will be operating on the motive of ambition that Madison

assumes will drive the separation of powers. Power might explain their motives, but partisanship would not. And if power is the point, constitutionalism prevails.

Dusting off The Federalist Papers

Thus, what would have been the constitutional response to Moore's announcement that Trump had displaced Reagan? Whether House Republicans belong to the party of Reagan or the party of Trump, they first belong to the institution of Congress. They do not answer to presidents; they are, on the contrary, duty-bound constitutionally to resist attempts to enlarge executive authority beyond its proper bounds. The political theory of the Constitution assumes they will. It consequently does not recognize political party and arguably assumes its absence: in other words, that institutional interests will trump ideological ones.

Federalist No. 51 presumes this when it assumes institutional loyalty: not merely that each branch will defend itself but also that individual members of each branch will defend themselves. Institutional loyalty, on this understanding, is not altruistic. The "ambition" that "must be made to counteract ambition," according to *Federalist* No. 51, is personal, and the ambition is the exercise of power by political man. George W. Carey, a frequent contributor to these pages, used to illustrate the point in this way: suppose a presidential candidate who, driven solely by a private lust for the mansion at 1600 Pennsylvania Avenue, fleet of jets, and budget for state dinners, bargains his authority to Congress in exchange for a mess of electoral support. That is difficult to imagine because we take it for granted that power is what motivates presidents: we hope for good purposes, perhaps for ill, but power nonetheless. They consequently jealously guard the office's authority.

The same drive is supposed to motivate Congress. Senators and representatives are not presumed to want the job if not for the power it confers. Madison, writing in *The Federalist* at a time predating a capital with imperial pretensions and a Congress with material inducements, can imagine no other. Perhaps we can. Glamor attaches to the national government, at least to elective or high appointive office under it. So does remuneration—if not for the job itself, then for the career options that follow.

The supreme irony of congressional abdication is that Congress's glamor derives from the aura of power, which can be maintained only by surrendering its substance. In the pursuit of reelection, members have divested themselves of the authority that makes reelection worthwhile. They have delegated broad swaths of it to the executive in ways that maintain what we might call Government by Press Release: the ability to proclaim broad goals while carping about the specific exercises of authority they require. In other cases, members of Congress conclude that their political success is aligned with that of a president of their party, such that marching in lockstep behind his authority and agenda serves their mutual interests. The permanent campaign for the congressional majority, similarly, entails either capitulation to the president or obstruction of him, depending on the partisan circumstances.

The consequent question is what good either reelection or the majority are since they do not occasion the exercise of power. More charitably, the common assumption is that Congress does not stand up for itself because it is burdened with a collective-action problem by which no individual will incur the concentrated costs of defending Congress because the benefits of doing so are diffuse. But any body of any size faces the same problem, and as late as 1887 Woodrow Wilson was complaining of decades of congressional ascendancy in

American politics, collective-action dilemmas notwithstanding. As Jeffrey K. Tulis has noted, the collective-action explanation cannot account for these long stretches of congressional dominance.

The unique situation in which Republicans now find themselves—of Trump’s party yet, on substantial issues, opposing him—clarifies these issues. They can restore the operation of the power motive in legislative politics. Defending their preferences against a president of their own party requires making a case for institutional propriety in addition to policy. If the question is simply the latter, Trump, with his demagogic tendencies, will have the upper hand. A clarifying conversation first needs to occur about the proper division of constitutional labor.

The dangers of “presentism”

Such a conversation demands a capacity to articulate why an understanding of constitutionalism, starting with the separation of powers, matters. In *Federalist* No. 47, Madison strikingly calls the combination of powers “the very definition of tyranny,” apparently regardless of how the powers are exercised. He is influenced by Montesquieu’s understanding that “political liberty in a citizen is that tranquility of spirit which comes from the opinion each one has of his security.” In a regime of blended powers, in which a single person or body wields the actuality or potential of arbitrary authority, no one can be confident of his security because no one can be sure what the sovereign will do next. For President Trump to be the citizens’ “voice” in a regime of functionally combined authorities would so empower him. Even his benevolent exercise of them would disrupt the tranquility of a thoughtful citizen. (Tranquility is one condition for investment, among other things. It is not too far a stretch to wonder whether an individu-

al’s willingness to invest in a business might be affected by the knowledge that a single authority, acting through the person of the president, can—without any balancing authority—exert pressure that determines where it locates its manufacturing.)

The concentration of powers in a single voice also presumes the desirability, not to say possibility, of a unified national will in a nation of 319 million people. Congress, because of its multiplicity and its necessary parochialism, is better positioned institutionally to register the subtlety and variety of views in a diverse and extensive republic. Trump’s voice, like that of any president, is necessarily binary, operating on behalf of those who agree with him. Those who do not agree are on the outs, often for the fullness of a four-year term. Congress, by contrast, is far able to represent the multifarious spectrum of American political beliefs.

The legislative branch is more sedate and deliberate in decision making than the executive as well. It is designed to be. Bicameralism requires two proverbial keys to launch a missile. Initially, Madison reminds us, the House and Senate were differently constituted to complicate combinations; even now, their distinct cultures make cooperation at least somewhat more challenging than it would otherwise be. The legislative process entails compromise and consensus. It takes time, which enables passions to dissipate and reason to take hold. The Senate plays an especially important role in ensuring that the “cool and deliberate sense of the community . . . ultimately prevail[s]” rather than the impulsive rule of “irregular passion[s].”

Congressional primacy is, in this sense, the appropriate vehicle for republican government, for the deliberate self-rule of political man. Congress is a forum in which individuals cannot demand all they want: to get some, they must give some. It is a place where, as Tocqueville understood, private and public goods converge, where personal participation

in the public good is meaningful because both are maintained. The personal is not wholly absorbed in the political, but neither is the public wholly subsumed in the selfish.

It is not this way in presidential politics. To the limited extent to which presidents can claim to speak for the people, it is the people as a mass movement and homogeneous force, not as individuals maintaining their distinct identities and ambitions. When combined with a personality cult, wholesale presidentialism entails an abdication of the individual to a parental figure whose locutions have emulated his predecessor's obsessive use of the first-person singular: "I am the only one who can make America great again!" "I alone can fix it." "I am your voice."

In the person of a president, as in the teeth of populist movements, decisions can be made on impulse. This is true of any president, but especially of a populist one. (That Trump insists on maintaining his tweeting habit—using his personal account for, among other purposes, taunting his media critics—suggests impulsivity is a personality trait he has yet to tame.) Presidential decisions are, in a sense, antipolitical: the work of a single, undifferentiated "voice," in Trump's formulation. There is no need for conversation or trade-offs.

Legislative primacy as part of a system of separated powers contributes to another, and related, conservative goal: the diffusion of power. It prevents a single authority, in this case the president, from either channeling or acting on mere will. This is only aggravated by the phenomenon of a president operating as a tribune of the people and concentrating the general will into a singularity. A president acting alone is powerful enough; a president powered by a public will for which he alone alleges the moral authority to speak is too much power to concentrate on any one head. Trump seems determined to stoke public passions. *Federalist* No. 71, by contrast, says

this of presidents: "When occasions present themselves, in which the interests of the people are at variance with their inclinations, it is the duty of the persons whom they have appointed, to be the guardians of those interests; to withstand the temporary delusion, in order to give them time and opportunity for more cool and sedate reflection." Trump's apparent unwillingness to play this part makes the Senate's cooling function all the more important.

Constitutionalism matters for other reasons that should appeal to conservatism to the extent it actually aspires to conserve. The constitutional regime is the work of generations. A growing body of literature, much of it leaning libertarian, holds that the Constitution is binding because it is good for us here and now. Madison had warned of "the hazards and difficulties incident to [constitutional] experiments, and of the great imprudence of unnecessarily multiplying them," but on contemporary libertarian accounts, constitutional experiments are an eternal recurrence. Randy Barnett, for example, argues that laws can "bind in conscience" only to the extent that they can be certified to be just.

Conservatism is incidental to these accounts, or rather coincidental. It is pure happenstance that the thing that is good for us today existed in the past and therefore ought to be conserved. If the good Constitution or just laws did not originate behind us, we would be compelled to scan the horizon in search of them. On this model, progressivism might easily be exchanged for conservatism; nothing morally commends the one over the other. Better put, the model is neither, for conservatism locates substantive value in custom, while progressivism's method is inherently focused on the future.

The libertarian method might more aptly be described not as conservatism or as progressivism but rather as presentism, and it will not succeed as a brief for constitutional obligation. If the terms of the conversation

are what works today, Americans will reasonably ask why a 230-year-old document should inhibit their contemporary policy preferences. If, they will wonder, the Constitution straitjackets us—inhibiting, for instance, the immediate accomplishment of the Trump agenda—and if the criterion of wisdom is what suits us today, why not unshackle ourselves? There are current and self-interested reasons not to, of course: immediate and impulsive self-government often does not serve the public's own good. Still, an argument rooted in the present is necessarily hobbled in justifying a document written so distantly in the past.

By contrast, conservatism on the model theorized by Edmund Burke and restored to the American mind by the likes of Russell Kirk and William F. Buckley can explain that obligation. It accords moral value to conservation. That is partly because conservatism, recognizing the limits of human reason, prefers concrete experience—Burke's "collected reason of ages"—to instant and abstract reflection. It is, in this sense, better for us now to pay due respect to the past. But, more important, conservatism regards custom as authoritative because society is, as Burke said, a contract between the dead, the living, and those to be born. Burke conceived of liberties as an "entailed inheritance," a metaphor that "furnishes a sure principle of conservation, and a sure principle of transmission; without at all excluding a principle of improvement."

The Framers, to be sure, were not Burkeans. But neither were they presentists. An American myth, a sort of ignoble lie, holds that our regime sprang forth from Philadelphia in the manner in which Burke satirized the revolutionary French Constitution: "ready made and ready armed, mature in its birth, a perfect goddess of wisdom and of war, hammered by our blacksmith midwives out of the brain of Jupiter himself." In fact, the American Constitution contains

few devices that are not traceable to earlier colonial forms. "Experience must be our only guide," John Dickinson had said at Philadelphia. "Reason may mislead us." In that vein, while Hamilton speaks in *Federalist* No. 1 of forming a government based on "reflection and choice," that reference is to the process of ratification, not the crafting of the regime itself. With respect to the latter, in *Federalist* No. 15, Hamilton calls experience "that best oracle of wisdom," whereas Madison, in *Federalist* No. 52, urges his readers to "consult experience, the guide that ought always to be followed whenever it can be found."

Similarly, when Jefferson absurdly proposed that no law endure longer than nineteen years, which his demographic tables told him was the average span of a generation, Madison responded that while it was true the earth belonged to the living, "the *improvements* made by the dead form a charge against the living who take the benefit of them. This charge can no otherwise be satisfied than by executing the will of the dead accompanying the improvements." The Framers so understood themselves. James Wilson thus cautioned the Philadelphia Convention that it was "providing a Constitution for future generations, and not merely for the peculiar circumstances of the moment." (Wilson, protesting the colonial authority of Parliament in 1774, had similarly spoken intergenerationally in proclaiming that the Americans would, rather than surrendering their rights, "leave our posterity as free as our ancestors left us.")

Among the striking facts of Trump's victory is his wholesale routing of the conservative elite, virtually all of which was arrayed against him. One reason may have been that the elite spoke substantially in policy positions, which, being transient by nature, are vulnerable to capture. The moral obligation of intergenerationality, the philosophical core of conservative argument, offers more enduring and binding value. Yet conserva-

tives are less accustomed recently to making this case in conserving terms.

Congressional Republicans, or at least their leadership, seem aware of the moral importance of intergenerationality. Speaker Ryan admonished candidate Trump that he had “inherited” the party of Lincoln and Reagan. Trump, however, replied, via Twitter, in terms that suggested an awareness only of the now: “Wrong, I didn’t inherit it, I won it with millions of voters!” That all-is-now mentality cannot be true of a political party that has existed for more than 160 years. If the Republican Party belongs to Trump in the same manner as a Midtown high-rise, can he demolish it? Would it be his prerogative to remodel it by swapping out its fundamental principles while retaining its brand name? The Burkean answer is that he cannot: debts are owed, to Lincoln, to Coolidge, to Taft, to Dirksen, to Goldwater, to Reagan, and, yes, in time, to Trump—but also to future generations to whom the work of those statesmen must be transmitted.

If this is true of a party, it is far truer of a constitution. The constitutional inheritance is not merely a gift to be expended or consumed; it is a responsibility to be stewarded. This sense of intergenerational obligation—debts to the past and future—is the most solid and powerful grounding for originalism and respect for constitutional form. In his introduction to the Liberty Fund edition of Burke’s *Reflections*, Francis Canavan, noting Hume’s observation that “human society is in perpetual flux,” writes: “In this everlasting continuity, which secures that the human race shall never be wholly old or wholly new, lies the guarantee for the existence of civilization.” We, too, stand on a continuum with our founders, as they did with their ancestors. We are free to modify their work, to be sure, but should do so modestly and reverently. We owe this both to those from whom we inherited it and those to whom we will pass it down.

Our Fourth of July rhetoric notwithstanding, Americans are a more naturally conserving than a revolutionary people. Patriotism is that: it is not a celebration of contemporary interest or of a future to be conquered. It is an essentially backward-looking virtue, one rooted in shared history. Our legendary, critics claim excessive, reverence for the Constitution arises largely from a sense of obligation and deference to custom, combined with a duty to generations to come, not from an immediate appreciation of constitutional excellence. An appeal to that sense can persuade. But the appeal must be made.

Will Congress exert its prerogatives?

Congressional Republicans must therefore argue that policymaking is a prerogative belonging to them. They are in no position to ace Trump out. The regime has passed pure congressional supremacy by. Madison, assenting to the constitutionality of the national bank whose legitimacy he once bitterly opposed, said enduring practice ratified by the people acting through all three branches of government could settle—he seems really to have meant “alter”—constitutional meaning. This need not scandalize; it is no more than Burkean prescription, the idea that long possession creates a rightful title. It is constitutionalism as a heavy anchor in deep water, not actually tethered to the bottom but exerting sufficient drag that any motion is imperceptibly slow. The motion in the direction of the presidency is now undeniable. A regime in which the president is at least an equal partner in policymaking is here to stay. But that means Congress has at least an equal place to claim as well, in addition to some authorities—taxation, declaring war, appropriating funds—that are clearly its own.

If the vagueness of Trump’s policy positions provides an opening for Congress to fill

in the details, so does the unconservatism of many of the positions he has specified. There are voices of constitutional independence in both chambers: Ben Sasse in the Senate, Justin Amash in the House. Ryan may be another: he has, for example, championed Medicare reform. The president's apologists say that, given that Trump was not elected on this issue, it should not be pressed. Commentator Ann Coulter, for one, suggested that if Ryan wants to reform Medicare, he should run for the White House. This is exactly why Ryan should press the issue, if only as a matter of constitutional instruction. Trump can veto a Medicare bill. He has that power, and was elected to wield it. Let it be seen that constitutional conflict will not sink the republic. It may help resurrect it.

There will also be tests where members of Congress do agree with the president. F.H. Buckley, a legal scholar and Trump supporter, proposed that President Trump's Department of Education emulate President Obama's in using "Dear Colleague" letters, for instance. The Obama Education Department used these to push its diversity agenda; Buckley argues that the Trump administration should use them to push viewpoint diversity. Yet as Peter Lawler has observed, if administrative imposition is constitutionally flawed in one case, as congressional Republicans correctly argued it was, it is flawed in the other. Here, too, Congress must stand for its prerogatives.

The great question pertains less to the Sasses and Amashes, or to the Ryans, than to those who disagree with Trump on policy but have not yet articulated a constitutional vision of Congress's role. This moment is their test. If Congress is prostrate now, Republicans will have no claim to constitutionalism. Nor would they have any title to authority, for their only claim to hold it would be to have emptied it of content. Voters would be entitled to inquire into their motives. Why would an otherwise success-

ful person expose himself to the indignities and costs of campaigning, interrupt a career that might otherwise have been lucrative and often already was, bear separation from family and the other burdens of office, merely to serve as a handmaiden to presidents or, at best, a safety brake on their behavior? The former smacks of the hangers-on at a medieval court. It was the sort of behavior that instantaneously normalized Trump, as in then-RNC chair Reince Priebus's declaration to ABC's George Stephanopoulos that a Trump victory would not split the party because "winning is the antidote to a lot of things."

By reputation, Ryan and his Senate counterpart, Mitch McConnell, are not courtiers. Between their Reaganism and Trump's Trumpism probably lies a new approach to conservative policy. But conservatism must ultimately be about Madisonianism. If so, the question is how self-conscious they are about what conservatism aspires to conserve. The questions confronting conservatism demand a return to first constitutional principles, and it falls to these congressional leaders to articulate them. That makes this the conservative constitutional moment.

Will constitutional conversation be compelling politically? Will the voters care whether a policy is of Congress born, so long as its substance is to their liking? If not, Madison might wonder of the Americans in 2016 what he did of the ancient Greeks in *Federalist* No. 38: Why would a people so jealous of their liberty be driven to "consider one illustrious citizen [Solon or Lycurgus] as a more eligible depository of the fortunes of themselves and their posterity, than a select body of citizens, from whose common deliberations more wisdom, as well as more safety, might have been expected?" Trump's supporters claimed they wanted constitutional restoration. This is their constitutional moment too. †