Dreams from Our Fathers

Liberty and Tyranny:
A Conservative Manifesto
by Mark R. Levin
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245 pages.

Reviewed by Daniel Mandel

The Obama Administration had been only a few weeks in office before Mark R. Levin, conservative radio talk-show host, political commentator, and former adviser to Reagan-era attorney general Edwin Meese, published *Liberty and Tyranny: A Conservative Manifesto.* It promptly achieved number one best-seller status and has sold over a million copies to date—feats that have eluded other thought-provoking works by Republican thinkers and strategists such as Glenn Beck, Ross Douthat and Reihan Salam, Mickey Edwards, and David Frum, all of whom also seek to revivify a bruised and bloodied conservative camp. What accounts for the popular success of Levin's book in what is clearly a competitive market?

One reason is its sheer readability: While covering an immense amount of ground, from health care and immigration policies to judicial activism and the global warming debate, Levin strikes a laudable balance between comprehensiveness and concision. Another is its tone: Although

withering in his critique of current liberal pieties, when he delves into the history and philosophy behind conservative tenets, Levin aims for an objective, professorial approach—and generally succeeds. But perhaps most important, Levin strives to ground his case for conservatism in timeless themes as opposed to sheer politics, and to make the book as much an exercise in applied political philosophy as a manifesto, subtitle notwithstanding. Therefore, if his remedies for America's current ailments are sometimes debatable, and his principled opposition to any reforms that smack of concession (even those that arguably reflect the will and interests of an increasing number of conservatives themselves) are sometimes *too* rigid, and thus vulnerable to attack, Levin's book must still be appreciated for its efforts to reveal the enduring wisdom and relevance of the Founding Fathers to American life today.

Although touted by many conservative commentators as a much-needed antidote to the "leftist ascendancy" marked by the Obama presidency, *Liberty and Tyranny* is directed no less toward warring camps within the Republican Party itself. It appears amidst an ongoing debate between "traditionalists" and "reformers," the former believing that conservatives lose elections when they stray from their true creed (small government, lower taxes, restricted immigration), and the latter claiming that the party must modernize or die. As "reformist" David Brooks put it in a November 2008 *New York Times* op-ed, Americans will not support a party "whose main idea is slashing government." Levin, in contrast, falls squarely in the traditionalist camp, eschewing the profligate spending of George W. Bush's "compassionate conservatism" and disdaining calls for renovation in the interests of electability. He sees Republicans' spending and governing like liberals as a recipe for ideological bankruptcy and irrelevance, not competitiveness. Levin seeks to convince his fellow conservatives (and Americans of all stripes) that the only way to regain the party's lost power is through a return to those principles that animated America's founders and the framers of its Constitution—namely, liberty, free markets, religion, tradition, and authority.

Yet above all, argues Levin, the conservative believes in the "harmony of interests" and the "rules of cooperation that have developed through generations of human experience," both of which may be found in civil society. There, the individual is free to discover his own potential and pursue

his own interests—while tempered by a moral order founded in faith and guided by the exercise of reason. In such a situation, insists Levin, both the individual and his social order thrive. The conservative must therefore take as his overarching goal the preservation and improvement of civil society.

If the conservative has always placed the individual and his rights at the center of his political vision, in the modern liberal version that place is reserved for the state. Indeed, maintains Levin, today's liberals view the individual's personal pursuits and imperfections as obstacles to utopia, to a state defined by egalitarian principles. While conservatives also recognize equality as a vital liberty, the modern liberal has adapted and prioritized it with the goal of producing *uniform* economic and social outcomes—in other words, of creating "a culture of conformity and dependency" in the guise of "compassion." He castigates both modern liberals and reformist conservatives who would swell governmental power toward this end:

> [They do] not ask, "How many enterprises and jobs might have been created, how many people might have been saved from illness and disease, how many more poor children might have been fed but for the additional costs, market dislocations, and management inefficiencies that distort supply and demand or discourage research and development as a result of the federal government's role?"

Of course, Levin maintains, conservatives are also compassionate; they also wish to alleviate the suffering of the poor and the sick. The crucial difference between them and their liberal counterparts, however, is how they go about doing so. Conservatives see *reform* as the proper vehicle of change, one that transforms by improvement; liberals, by contrast, advocate innovation, or transformation by substitution. As a result, says Levin, the modern liberal often elaborates new rights that on closer inspection require still further state intervention, often to the detriment of existing rights.

Levin calls such liberals "Statists," accusing them of calling for the concentration of ever more power in government as a foil to the individual's self-interest. Unlike the classical liberal, who was a staunch opponent of authority, today's liberal Statists seek a more centralized, powerful government *specifically for the purpose of imposing their own policy preferences*. This, Levin concludes, is not liberty, but a form of despotism. "For the Statist, liberty is not a blessing but the enemy," he writes. "It is not possible to achieve utopia if individuals are free to go their own way.… The

Statist's utopia can take many forms, and has throughout human history, including monarchism, feudalism, militarism, fascism, communism, national socialism, and economic socialism. They are all of the same species—tyranny." Levin therefore insists that conservatives not heedlessly support the status quo, as they are so often accused of doing. After all, today's status quo "may well be a condition created by the Statist and destructive of the civil society—such as 1960s cultural degradations."

In Levin's accounting, the liberal Statist's pursuit of uniform economic and social outcomes has been afforded by an essentially Gramscian takeover of institutions such as government bureaucracy, media, the film industry, and the universities. By means of a relentless attack on so-called bourgeois values, the derision of the concept of American exceptionalism, the promotion of multiculturalism, and the insertion of class-driven resentment into the national discourse, the liberal Statist obdurately pursues his agenda. No matter, concludes Levin—perhaps somewhat exaggeratedly—that in the Statist's world, "the individual must be drained of uniqueness and self-worth, and deterred from independent thought or behavior." Statists are all too happy to resort to various methods of economic punishment and political suppression.

Nowhere, according to Levin, has the liberal Statist agenda wreaked more havoc than in the economy, a discussion to which he devotes a good part of his book. Good conservative that he is, Levin is a firm believer in the dynamism and transformative energy of the free market. He derides the majority of liberal Statists who, while not actual Marxists, nonetheless remain beholden to an essentially socialist conception of society, in which the free market is the paradigmatic Root of All Evil.

Starting with the Great Depression, Levin observes that "the Statists successfully launched a counterrevolution that radically and fundamentally altered the nature of American society." Indeed, for Levin the significance of the resulting New Deal lies not in any one program, but rather in its sweeping break from America's founding principles and constitutional limitations. Through an array of federal projects, entitlements, taxes, and regulations, President Roosevelt and Congress brazenly overstepped the Constitution's bounds. When an uncooperative Supreme Court struck down New Deal programs as exceeding the limits of federal constitutional authority and state sovereignty, and blasted them for trampling on private property rights, the president simply threatened to pack the court with sympathetic judges instead. And although

Roosevelt's plan failed, the court had been intimidated into cooperation. In any case, new justices who shared the president's Statism gradually replaced older ones on the court, effectively turning it into a rubber stamp for Roosevelt's efforts to increase federal control over economic activity and, in turn, individual liberty.

Yet, Levin reminds us, the middle class—which undoubtedly stands to gain the most from the free market—is no *ancien régime* minority that can be overwhelmed by force. The economic strategy of Statists has been therefore been roughly that of Saul Alinsky, the radical Chicago community organizer whose writings influenced President Obama: to make the middle class the proper arena of activist work, and to persuade enough of its members to relinquish their liberties and throw in their lot with Statism—camouflaged, of course, as affirmative, non-threatening, prophylactic change. Levin is correct that this approach makes the conservatives' advocacy of free-market principles a hard sell. We humans, after all, easily become accustomed to booms and tend to view luxuries as entitlements, while conversely regarding busts and their concomitant privations as illicit violations of the natural order. Insulated from the norms of scarcity that have been the historical lot of most societies, the modern democratic citizen is particularly vulnerable to Statist nostrums on the subject of economic inequality. Yet, Levin writes, Statists have no answer to the fact that the free market is the only system to have procured a sustained (if not linear) rise in general prosperity. Moreover, though it is scarcely a new argument, Levin makes a strong case rebutting the notion that American industries and jobs warrant protectionist measures on account of globalization: Of the mass layoffs of 2004-2005, totaling one million members of the American workforce, only 4 percent resulted from the disappearance of American jobs to overseas competitors. And finally, Levin points out that Statists myopically ignore the benefits of free trade, whereby, for instance, the outsourcing to India of computer services results in cheaper computers in the United States, and the dramatic expansion in trade between the two countries has helped India liberalize its historically *dirigiste* economic structure. (Here Levin's point about Statist programs that do more harm than good recalls his scathing critique of the environmentalist movement—what he calls "enviro-Statism"—such as its banning, on spurious scientific grounds, the use of DDT as dangerous to human health, when in fact the consequent *suspension* of its use claimed untold numbers of lives in malaria-ridden climates.)

America's current economic crisis, whose roots lie in the country's housing bubble, is to Levin a perfect example of Statism run amok. First, in 1977, came the Community Reinvestment Act, which compelled banks to discard normal calculations of risk by offering loans to indigent borrowers; this, in turn, produced further legislation and administrative regulations—and facilitated the activity of Statist groups like the Association of Community Organizations for Reform Now (ACORN)—designed to exact compliance with that goal. The result was the subprime loan phenomenon. In 1992, government-chartered corporations Freddie Mac and Fannie Mae were forced to purchase such loans in bulk in an effort to further increase the pool of money available for lending, which in turn led to yet more disruptions of prudential monetary and commercial practices, and eventually to the housing bust and the global, shock-wave recession. By this accounting, the crisis could not have occurred as it did but for the perfect storm of legislative interference in banking and lending practices for the Statist purpose of achieving ideologically-driven economic goals (i.e., the expansion of home ownership) that the economy, left to its own devices, would not have allowed.

Unfortunately, Levin laments, the U.S. government has responded to the crisis, first under George W. Bush and now under Barack Obama, not with a chastened fiscal sobriety, but with massive spending designed to repair the damage and stem the hemorrhage of the original, interventionist mismanagement. The result thus far has been a federal bailout that exceeds in magnitude the cost of the New Deal, the Marshall Plan, the Korean and Vietnam wars, the race to the moon, and the savings and loans crises of the 1980s and 1990s put together. Liberal Statists, concludes Levin, are still clinging to the idea that it was unchecked capitalism that lies at the heart of the crisis. They may well learn the hard way that unchecked *spending* has even worse consequences.

The author of a critique of judicial activism, *Men in Black* (2006), Levin is particularly passionate when discussing Statism's disregard for natural law—a body of law, in other words, believed to be binding upon society apart from (or in conjunction with) laws established by human authority. He also criticizes Statism's antipathy toward religion, which, he claims, it seeks increasingly to cordon off from public life. Here Levin reminds us that the "wall of separation" between church and state that is today widely thought to warrant the exclusion of religion from public life

is of comparatively recent vintage: It is the result of the 1947 *Everson* decision, by which Justice Hugo Black, a former Klansman, decided that state subsidies for transportation to and from New Jersey parochial schools amounted to an indirect aid to religion. In this, Levin argues, Black merely succeeded in importing his anti-Catholic animus into American jurisprudence. For in truth, shows Levin, the Founding Fathers did not believe that natural law could be dissociated from divine Providence, nor religion from the public square: To do so would simply lead to arbitrary constructs of morality. Moreover—and more important, for the sake of his argument—he points out that a renunciation of natural law and religious liberty could easily lead to a kind of tyranny of its own: "It is Natural Law, divined by God and discoverable by reason, that prescribes the inalienability of the most fundamental and eternal human rights—rights that are not conferred on man by man. It is the divine nature of Natural Law that makes permanent man's right to 'Life, Liberty, and the pursuit of Happiness.'" Without this recognition, American courts are in danger of going the way of Islam's supreme religious councils, which dictate approved behavior.

To be sure, Levin is unexceptional among conservatives in his admonitions against judicial activism by the Supreme Court. His method of dealing with this challenge is to establish a legislative veto over the court's judicial-review power, so as to curtail what prominent conservative pundit George F. Will has called the "promiscuous minting of abstract rights and duties." In addition, Levin counsels the abolition of the lifetime tenure of justices, with its potential for several decades of judicial imprint upon American jurisprudence. It is less than clear, however, how this might alleviate the threat of Statist-minded justices: Being necessarily a general measure, it would curtail the tenure of conservative justices just as surely as that of liberal ones. It also makes little tactical sense, given that the court, in its present composition, consists of aging liberals and younger conservatives. In any case, until conservatives regain a congressional majority, such ideas are no more than desiderata.

However, Levin makes a further, more important, and more daring recommendation: "No judicial nominee should be confirmed who rejects the jurisprudence of originalism," or the doctrine that the law must scrupulously follow the letter and intention of its drafters. In practice, this exhortation to vote down activist nominees runs somewhat counter to traditional conservative impulses, which have

been to engender bipartisanship in such matters and to confirm liberal nominees, provided they have the requisite judicial experience. (In fact, two of the present court's four identified liberals were actually nominated by conservative presidents.) Yet Levin explains that since the 1980s liberals have consistently voted down conservative nominees no matter how well qualified, while liberal presidents unabashedly put forward justices close to their ideological hearts. Conservatives, Levin insists, should stop showing such unrequited generosity.

Given the stakes involved—the expanding extent of judicial purview, as well as the centrality of judicial activism to the statist agenda—there would indeed seem to be little incentive for conservatives to adhere to the old bipartisanship on judicial nominations. To do so would be yet another case of fruitless loyalty to a status quo that has not existed for quite some time.

Despite occasional queries as to argument, *Liberty and Tyranny* makes a strong case for reconsidering the direction in which America is heading and the role conservative ideas, properly understood, can play in charting a better course. Levin's claims on behalf of the free market and the principles that undergird it are especially persuasive—although they might have been more so if he had engaged the challenges raised by the reformist conservatives more seriously. For example, there are now a great many self-employed workers—i.e., a natural Republican constituency—who would rather absorb moderate tax increases than pay for their own, exorbitant health insurance. Likewise, there are many businesses that would prefer to push their employees onto a government-run "public option" rather than provide them with private health coverage. It is true that Levin provides an appealing argument for the enormous advantages of tax cuts to individuals, corporations, and the economy at large, but even here he might have said more: For instance, instead of confining his statistical demonstration to the Reagan era, he might have reminded a younger generation of readers of the economic benefits that flowed from President Clinton's reduction of the capital-gains tax by 8 percent in 1997, which nearly *doubled* federal capital-gains tax revenues just three years later—and how even the immensely unpopular George W. Bush instituted tax cuts that similarly produced record federal revenues. Generally, however, instead of addressing conservative conundrums directly, Levin puts his faith in convincing people of the immense value of the free market, and hopes in so doing

to win over a larger segment of the population to his worldview. But this strategy can only be so effective: At the end of the day, people vote their pocketbooks as much as they do their principles.

In addition, Levin's determined traditionalist stance sometimes lands him in the uncomfortable position of defending problematic policies simply by virtue of their having been discarded by liberals. It is mistaken, for example, to critique the 1965 Immigration and Nationality Act simply because it did away with the Immigration Act of 1924, whose basis was supposedly the "preservation of American society and the consent of the governed." For while Levin is correct that the 1965 act produced an excessive enlargement of immigration levels and a system of chain migration, the 1924 quota system deliberately set out to curtail the immigration of Eastern and Southern Europeans and more or less exclude Asians, thereby targeting immigrants who have by and large *prospered* in America, and helped America prosper in turn. This ought to have been obvious: Levin himself cites the Manhattan Institute's Steven Malanga's observation that the turn of the twentieth century's great immigration wave brought "Jewish tailors and seamstresses who helped create New York's garment industry, Italian stonemasons and bricklayers who helped build some of our greatest buildings"—precisely, that is, the groups whose entry to America was reduced to a trickle by the 1924 legislation. By the yardstick of a conservatism willing to welcome hard-working, law-abiding immigrants, the 1924 act was not good law designed for the "preservation of American society," and indeed called for change.

Despite such reservations, Levin has pulled off an ambitious effort to recalibrate the conservative debate, and has done so in a way that should also make challenging reading for inquiring liberals. Agree with him or not, Levin's book is a well thought-out and digestible primer on conservative thought. More significantly, however, it is a reminder of the values on which the American republic was based—values that, Levin shows, were as vital then as they are now, and which we dismiss at our peril.

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