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Political Culture, Identity Politics, and Political Compromise in Comparative Perspective¹

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Let us begin with some facts: the usages of the word “compromise” have changed, both across time and across cultures. On the one hand, across time, they have changed from the Roman and the medieval period to early modernity. From the original neutral Latin term—as a method of arbitration or election—“*compromissum*” became a polarizing one, to be either condemned or commended. On the other hand, across space, the usages of compromise became radically different between France and Great Britain throughout the entire seventeenth century, despite the increased intellectual exchanges across the Channel. While the French became worried about compromising themselves, their honor, their virtue, and the like, their British counterparts started to praise compromise as a virtue, largely assimilated with a compact or contract meant to avoid open conflict and to restore harmony.²

Even these few yet undisputable historical facts, until recently largely overlooked, have implications worth exploring not only for academic purposes, but also for bettering our understanding of many contemporary predicaments. If the concept of compromise has come under increased theoretical scrutiny it is because from the United States to Russia, and from Japan to the European Union, national, regional, and international politics is becoming more and more polarized and radicalized. It appears that for both politicians and voters, politics is no longer perceived as “the art of compromise.”

¹ This paper was presented at the International Conference on Global Ethics of Compromise, EHESS (CESPRA), Paris, in March 2019 [Editor’s note].

² It seems ironic that the country that was the first one praising compromise as a political virtue, is the same one that appears today unable to find a compromise when it comes to how to handle the Brexit. But, as I will try to explain later, this is not as paradoxical as it looks, once one takes into consideration the “glocalization” phenomenon nurtured by the digital revolution.

Some provisional conclusions can already be drawn. First, this largely forgotten history shows that the willingness to compromise (or lack thereof) is not immutable, but subject to change across time and across cultures. Second, the same historical facts suggest that the attitude toward compromise is less of a rational choice—as most of the normative literature has it—and more of an emotional attitude of the parties involved in the disagreement. The “rational component” has more to do with how one defines compromise, and reveals the overlooked connection between its meaning and its practice. Third, the evidence points toward the importance of political and self-identification in shaping the actors’ willingness to compromise. Last but not least, it reveals that *political* identities are largely *socially* and *culturally* constructed, thus indicating ways for addressing the overspread increased polarization and refuse to compromise, both at a national and at an international level.

As argued elsewhere, the opposite attitudes toward compromise across the Channel are to be explained by different understandings of political and self-representation, associated with different understandings of “the people.”³ By the beginning of the seventeenth century Great Britain pioneered the understanding of the people as a collection of individuals, united via mutual compact or compromise, with every single Englishman virtually represented in Parliament. Meanwhile, France continued, for more than a century afterwards, to preserve the medieval understanding of the people as an organic corporation, hierarchically structured. According with this latter understanding, individuals could be politically represented only qua members of a community, but never qua unique individuals. Yet, for reasons that I shall explain later, unlike the medieval *compromissum*, the French *compromis* lost its neutral meaning, being perceived as a threat to one’s identity.

I argue that the American founding offers a unique opportunity to further this approach, since the case is different from both the British and the French. For reasons that have to do more with historical peculiarities than with conscious theoretical approaches, in the New World the modern understanding of the people took a peculiar twist. Thanks

³ Alin Fumurescu (2013), *Compromise: A Political and Philosophical History* (Cambridge: Cambridge University Press).

to the Puritan's legacy of the bi-dimensional covenant, the understanding of the people both as a collection of individuals willingly creating "a people", and of the people as a corporation with a distinct identity became a trademark of the American founding. I label this dual understanding "the paradigm of the people's two bodies." In turn, this peculiarity explains why the American founding combines in a distinctive way the British embrace of compromise as a virtue with the French *méfiance* of compromise that came to characterize the entire seventeenth century and most of the eighteenth one.⁴

According to the Puritan bi-dimensional covenant, the idea of equal individuals consenting to form a new political body and to subject themselves to a new form of government was far from being a mere philosophical idea—it was a living reality, hence the later attractiveness of the social contract theory for the American political thinking. At the same time, once this body was formed, the details of setting up a specific form of government and its daily running was trusted in the hands of an elected aristocracy of merit similar to the medieval political contract between the rulers and the ruled. In other words, it was generally assumed that people enjoyed equal constituent power, but different political skills. Thus, the American understanding of the people has—from its very inception—a horizontal and a vertical dimension.

As a result, despite the many claims to the contrary, America was not founded solely on compromise, but also on a deeply rooted uncompromising attitude, manifested at key moments, from the Patriots during the Revolutionary War, to the Antifederalists during the ratification debates, and to the Southerners before the beginning of the Civil War.⁵ Thus, the distinction between the heroes and villains of the American founding are more blurred than the orthodox historiography has it. I shall argue that in all these instances—but these are only the most famous ones—the willingness to compromise (or the refuse to do so) has been associated with particular understandings of the people's two bodies, and consequentially with particular understandings of contractarianism and of

⁴ Alin Fumurescu (2019), *Compromise and the American Founding: The Quest for the People's Two Bodies* (Cambridge: Cambridge University Press)

⁵ For numerous quotes supporting the argument that "America was founded on compromise," from Alexander Hamilton to President Obama, see Fumurescu 2013, pp. 1-2. Since then, the number of similar claims has increased, both in the academia (e.g., Faber 2015, Gutmann and Thompson 2012, Robertson 2013) and in the public sphere.

representation. Scholars are still debating if the American founding should be interpreted from a liberal (mainly Lockean) perspective, from a republican one, or from a mixture of the two. In fact, a closer look reveals that there is more coherence than is readily apparent.

As such, this distinctive feature of the American founding can be used to illuminate not just many of the plights of contemporary American politics, but also similar plights obvious in the refuse to compromise in national and international settings all across the world. After all, regardless of context, a political compromise has inherently two sides: an affective and a contractual one. One can look at a compromise as involving mutuality and sacrifice for the sake of a greater good, but one can also look at it as a bargain between competing interests, almost in a commercial way. Hence, “its meaning can change as the emphasis on one or another element is changed” (Knupfer 1991, p. 13). Needless to say, the former is largely characteristic of the republican emphasis of a common good and the rejection of factionalism, and thus to the political compact between the people as a whole and its ruler(s), while the latter is closer to the classic liberal *Weltanschauung*, and thus to the social contract theory, ruled by a majority of wills. In the former case, political representation presupposes a representation of groups, in the latter, a representation of individuals. While scholars are usually contrasting the *active* liberty in civic humanism or in the classical republican paradigm (to participate in the political decision-making process) with the *passive* liberty in the natural rights tradition (a liberty that could be possessed without political activity,) the two people’s bodies approach, of Puritan descent, offers a solution to this apparent conundrum.

The paper begins by showing how the Roman and medieval neutral meanings of compromise are to be understood in correlation with by now largely forgotten dialectic of the individual self, and how early modernity put an end to this understanding. Challenged by the various pressures of historical changes, the dialectic of the individual split across the Channel between two different types of individualism, and consequently in two different attitudes toward compromise. As the second part of the paper shows, in the New World the modern understanding of the people took a peculiar twist, and so did the

attitude toward compromise. As a result, the American founding was shaped by a dual apprehension of the people, and an ambivalent attitude toward compromise, manifested throughout all its key-moments. In the last part, I will be using the lessons from the emergence of the first mass parties in the United States in order to comment on the contemporary crisis of parties nowadays, and the rapid ascension of identity politics. The digital revolution has scrambled once again the self-representation of the individual, creating the apparently paradoxical development of both globalization and localism (“glocalization”). I conclude by suggesting that the future of political compromises will be decided in a battle over meanings—a culture war, if you prefer, one in which the way we *talk* is as important as the way we *think*.

1. Compromise and the Dialectical Self

Compromissum appeared for the first time in Latin⁶ and it meant what it said—to promise together, or to co-promise. Two parties in dispute, unable to reach an agreement, consented to subject themselves to the arbitration of an independent and unbiased third party they both trusted, called a *compromissarius*.⁷ Plain and simple, it was a para-legal, *private* method of solving disputes, avoiding the hassles of appearing in front of a judge. It was a *verbal contract* to respect the authority of the arbitrator acknowledged as such even in court. Furthermore, the arbitrator had much more power than an official judge, for he was not restricted by any existing laws. In other words, his power was absolute.

What can we infer even from such scarce information? First, that in order to commit to a compromise one has to make oneself equal to the other party at least insofar as the issue at hand is concerned. As a matter of fact, this equality is precisely the cause of the disagreement. If we are equal, how can I trust that your judgment is better than mine? The first French dictionaries spelled this out: “*To compromise is to make oneself equal with the other party*” (Richelet 1680, Furetiere 1690). That is why, according to these dictionaries, a prince should never compromise with his subjects, a ‘superior’ with an ‘inferior’, etc. Second, that there is at least a potential for fowl play in any

⁶ Interestingly, the Greeks had no word for compromise, nor did they have one for representation.

⁷ The following section is informed by Fumurescu 2013.

compromise. One enters a compromise because one wants to avoid a formal trial. Here, once again, the first French dictionaries make it clear: “*One puts on compromise all but the doubtful affairs*”. Last but not least, it also means that one accepts the risks involved in an *undisputed* and *unrestricted* authority of a *compromissarius*/arbitrator.

During the Middle Ages, this meaning of compromise came to be extended so as to encompass a method of election as well, thus moving compromise from the private into the public sphere. It made sense – after all, what are elections if not methods devised for solving otherwise unsolvable disagreements? Hard to believe for many, during the “Dark Ages” elections were quite widespread, only then elections had a different rationale. They were meant not to *elect* but to *discover* the person chosen by God for a certain office. The famous maxim, *Vox populi, Vox Dei*, did not carry any strong democratic connotations—at least not in the way we understand it today—but meant what it said, namely that God speaks through the people. Therefore, unanimity was seen as the sure sign of expressing God’s will. However, as this ideal was hardly reached, *compromissum*/compromise became the favorite method of election. If consensus proved impossible, each constitutive group from inside the larger community—such as women, the poor, the guilds, and so forth—designated its own *compromissarius*, its own arbitrator. The only condition was that the number of *compromissores*, i.e., arbitrators, had to be odd, in order to avoid further stalemates. Properly speaking, it was these *compromissores* that made the final election.⁸

This second meaning of *compromissum* proves that there is indeed a built-in connection between compromise and politics. It also demonstrates that, if the medieval individual was neither in love with compromise, nor discarded it altogether, it was because the compromise never involved the individual qua individual, but the individual qua member of some community of sorts—a *universitas*. Throughout the Middle Ages, at least from the Roman lawyer Azo onward, “the people” were conceived simultaneously as a whole and as a multitude, as One and as Many. The same rationale informed both the

⁸ See also Alin Fumurescu (2018), “The Role of Political and Self-Representation in Compromise”, in *Compromise and Disagreement in Political Theory*, Christian Rostboll and Theresa Scavenius, eds. (New York: Routledge), pp. 179 – 94.

Church and the political bodies.⁹ That the body politic was to be distinguished from the physicality of its members, was a certitude for the famous Commentator Baldus de Ubaldis, who wrote in the fourteenth century: “Therefore separate individuals do not make up the people, and thus properly speaking the people is not men, but a collection of men into a body which is mystical and taken as abstract, and the significance of which has been discovered by the intellect.”¹⁰ Like the General Will that Rousseau would later describe, this “mystical body of the commonwealth” (*corpus mysticum republicae*) could not err.¹¹

As modern as it might seem today, the idea that governments are the creation of the corporate people and that rulers are responsible and subordinate to the people was a common trope throughout the entire medieval period.¹² Jacques Almain and John Mair, for examples, two lecturers at the University of Paris “were ... explicit ... about the power of the secular community over the ruler. The community retained a constituent power. It could change both the ruler and the form of the constitution for reasonable cause.”¹³ The first monarchomachian theories of justified resistance were based, not on some proto-social contractarianism, but on the medieval political contract between the people and their rulers. Thus, in Beza’s words, “those have the power to depose a King who have the power to create him.”¹⁴

There is no doubt, however, that in the medieval and even the early modern French understanding, the people entitled to remove an unworthy king were not the multitude but the *optimates*, i.e., the most reasonable part of it (*maior et sanior pars*.) However, who exactly could fulfill this role was open to debate. For François Hotman

⁹ David Ciepley (2017), “Is the U.S. Government a Corporation? The Corporate Genesis of Modern Constitutionalism,” *American Political Science Review*, 111 (2): 418-435. See also Alin Fumurescu (2013) *Compromise*, especially Chapter Three.

¹⁰ Quoted in Joseph Canning (1987), *The Political Thought of Baldus de Ubaldis* (Cambridge: Cambridge University Press), 187.

¹¹ It would be undoubtedly interesting to analyze how Rousseau’s distinction between the General Will and the will of all (as simple majority of individual wills) relates with the paradigm of the people’s two bodies. It would constitute, however, an entire project in itself.

¹² This understanding was common in both Western Europe and the Byzantine Empire. See Anthony Kaldellis (2015), *The Byzantine Republic: People and Power in New Rome* (Cambridge, MA: Harvard University Press) for a similar argument and a wealth of examples.

¹³ John H. M. Salmon (2007), “France,” in Howell A. Lloyd, Glenn Burgess and Simon Hodson eds. *European Political Thought: 1450–1700* (New Haven and London: Yale University Press), 462.

¹⁴ Theodore de Bèze [1970], *Du Droit de Magistrates*, introduction, édition et notes par Robert M. Kingdon. Geneva: Librairie Doz, 45. For more details and examples, see Alin Fumurescu (2013), *Compromise*, Chapter Three.

they were the supreme magistrates in the Estates, while for Beza, in the case of corruption of the Estates, the role could devolve to inferior magistrates. Yet, despite these differences, all authors from the period, Protestants and Catholics alike, carefully distinguished between the people as a conceptual whole and the majorities, i.e., between the people as One, and the people as Many. They would all have agreed with Bodin who had previously argued that “in popular assemblies votes are counted, not weighed, and the number of fools, sinners, and dolts is a thousand times that of honest men.”¹⁵

In this context, corporations (or offices) could have been represented and/or made compromises, but unique individuals could not. Thanks to the medieval dialectic of the individual, the general understanding was that no one could represent someone else in full, for no one could represent someone else’s uniqueness. The formalization of the distinction between *forum internum* and *forum externum* can be traced at least back to the conciliar literature, apparently dating from sometime after 1140 but is probably even older. The revival of Roman law and the distinction between public and private law (*lex publica* and *lex privata*) made the differentiation between the two almost ‘natural.’¹⁶ It referred to “the two broad arenas in which the Church’s canon law was operative: the external forum of ecclesiastical courts and the internal forum of conscience and of penance.”¹⁷ Although the wording sometimes differs, the sense remains the same. For most of the Middle Ages, instead of *forum internum* one finds, for example, *forum conscientiae* or *forum poenitentiale*, while for the *forum externum* one also finds the usage *forum giudiciale*. The inner self (*forum internum*) was the forum in which the individual was characterized by authenticity and autonomy (in the etymological sense of giving one’s own laws, *auto-nomos*), while the outer self (*forum externum*) was the one in which the uniqueness of the individual was ensured by his membership in some

¹⁵ Jean Bodin [1955], *Six Books of the Commonwealth*, abr. and tr. M.J. Tooley (Oxford: Basil Blackwell), VI.4, 193.

¹⁶ Comparato, Vittor Ivo, “A Case of Modern Individualism: Politics and the Uneasiness of Intellectuals in the Baroque Age” in Janet Coleman, ed. (2006) *The Individual in Political Theory and Practice*, ed. (European Science Foundation: Clarendon Press), 149.

¹⁷ Goering, Joseph, “The Internal Forum and the Literature of Penance and Confession,” in Wilfried Hartmann and Kenneth Pennington, eds. (2008) *The history of medieval canon law in the classical period, 1140–1234: From Gratian to the decretals of Pope Gregory IX*, (Washington DC: Catholic University of America Press), 379–80.

universitas—not just the Church, but also the village, the city, the province, even the *populus*, as Baldus would have it.¹⁸

And yet it would be a mistake to simplify this dialectic of the individual by attributing uniqueness solely to the *forum internum* and sameness exclusively to the *forum externum*. For the medieval man the interplay between uniqueness and sameness was present in both fora. The uniqueness of each individual was secured in the *forum internum* by the fact that one was a morally independent individual, accountable only to God and in the *forum externum* by performing a unique function inside the *universitas*. At the same time, the sameness among individuals was preserved in the *forum internum* by the fact everyone was created in God's image, and in the *forum externum* by everybody's membership in the same *universitas*. Simply put, one had a unique identity because one was identical with others, and one was identical with others because one had a unique identity.¹⁹

Since the inner self was impossible to represent, it was beyond the realm of political compromises which are inherently public. Consequently, regardless of the circumstances, for the medieval individual, compromise could only involve the external, public self (*forum externum*), *qua* member of a corporation (*universitas*), but never the inner, private self (*forum internum*). Thus, compromise, both as a method of arbitration (*arbitratio*) and as a method of election (*electio*) was a neutral term, neither to be praised nor to be feared, since there was no fear of “*being* compromised.”

Early modernity put an end to this understanding. Challenged by the various pressures of change, the dialectic of the individual between the two fora split across the Channel, tipping the balance toward one pole or the other. In France, the increased pressure on the *forum externum* as a consequence of the emergent absolutist regime made wider the gap between *forum internum* and *externum* to the point of severing them altogether. Both Montaigne and Charron clearly delimit the two facets of the individual, yet the sophistication of the medieval dialectic between uniqueness and sameness not

¹⁸ See the examples offered in Ernst H. Kantorowicz, (1957) *The King's Two Bodies* (Princeton: Princeton University Press, 1997 ed.) 209–10.

¹⁹ It is no accident if “identity” and “identical” share a common etymology – *id-ens*.

only *between* but also *within* each of the two fora was lost in the process: the *forum internum* became the sole repository of authenticity and uniqueness, while the *forum externum* came to be assimilated with blind conformism. The inner self came to be apprehended as the only ‘true’ self, while the outer self was relegated to the role of a mere costume. Centripetal individualism was born, which in turn helps us understand the almost obsessive French fear of ‘being compromised.’ As Charron put it, “*each one of us plays two roles and has two personae, the one alien and in appearance only, the other our own and essential to us.*”²⁰ This widening gap between the two fora had a double-edged consequence: on the one hand, the individual became increasingly aware of his or her uniqueness and suspicious of any perceived attempt to compromise his authenticity, i.e., his or her *forum internum*; on the other hand, fulfilling one’s duty in the *forum externum* remained the only basic political requirement.

If by the seventeenth century the French used compromise consistently with negative connotations, it was because *compromissum* as *arbitartio* over the *forum internum* was a risky enterprise. All three requirements for a successful classical compromise—namely the *recognized* authority of the arbitrator to *equally represent* the interests of both parties, the willingness to *accept the risks* involved in a third party’s judgment, and the basic *equality of the parties* involved in the dispute—came into question. Not accidentally, all the French usages of compromise involved, in one way or another, the same *forum internum*: “*I will not compromise my conscience, my honor, my virtue, or myself*” were all ways of saying “*I will not accept someone else’s arbitration over my forum internum, over what makes me first and foremost a unique individual.*”

Since any compromise presupposes the equality of the parties, and if the *forum internum* is apprehended solely in terms of uniqueness any arbitration is by definition suspect, creating a false equality between incomparable parties.²¹ Thanks to this centripetal individualism one can also better understand the common praise of the people as a conceptual whole and the demise of the people as a ‘thousand heads beast.’ In the

²⁰ Charron, Pierre [1604] (1986) *De la sagesse*, Texte revu par Barbara de Negroni (Fayard), Livre Premier, LXIX, 322.

²¹ Simmel, Georg (1950) *The Sociology of George Simmel* (New York: The Free Press), 222.

former case, ‘the people’ was characterized essentially by its highest qualities, including reason. In the latter, “individuals, in all their divergences, leave only the lowest parts of their personalities to form a common denominator.”²²

Considering the disconnect between *forum internum* and *externum* during France’s absolutist period, the later seemingly schizoid emphasis of the French revolutionaries on both individuals and direct participation and on the cohesion or wholeness of ‘*le peuple*,’ ‘*la Nation*’ or ‘*la République*’ starts to make sense. In this simplified picture there was no longer place for different overlapping *universitates* competing over the same *forum externum* of the individual. *L’État* absolutist was destroyed, but its legacy endured under new names and became even more jealous of what came to be perceived as contender *universitates*, as Tocqueville later observed in his *Old Regime and the Revolution*. Le Chapelier’s words from 1789 have resonated throughout modern French history: “*Il n’y a plus de corporation dans l’État; il n’y a plus que l’intérêt particulier de chaque individu et l’intérêt général. Il n’est permis à personne d’inspirer aux citoyens un intérêt intermédiaire, de les séparer de la chose publique par un esprit de corporation.*”²³ (“There are no longer corporations inside the State; there is only the particular interest of each individual, and the general interest. It is not allowed to anyone to inspire citizens to an intermediary interest, separating them from the public sphere by a corporatist spirit”).

If by the eighteenth century French revolutionaries were not willing to compromise, neither they were willing to accept a civil society that might function as bridge between the atomistic individual and the *universitas* of the Nation. They forgot that a bridge has a double function—it connects the two shores and yet at the same time separates them. Neither in theory nor in practice were the French prepared for something like this. Although my research did not go so far, I suspect that from this perspective the period encompassing the French revolution may offer new insights in this matter.

In England, on the other hand, the development of a different kind of individualism paralleled the peculiar understanding of representation as representation of

²² Ibid., 32.

²³ Quoted in Pierre Rosanvallon (2004) *Le Modèle politique Français—La société civile contre le jacobinisme de 1789 à nos jours* (Paris: Editions du Seuil) 13.

individual wills. Here, for the first time, the idea of every individual being represented without rest in the Parliament was widely accepted, along with an insistence on the majority of wills. The two fora collapsed into each other, and the end of the sixteenth century and the seventeenth witnessed the birth of the modern, one-dimensional man. If Condren is right asserting that in seventeenth century England the distinction between the private and the public was not a matter of fact, accepted more or less consciously as such by all the participants in the public sphere, it is because the borders between the *forum internum* and *externum* became fluid. If in France centripetal individualism focused almost exclusively on the *forum internum*, in England, the private was equated not with a sphere of independence, but with an absence of right. If “the only liberty was the liberty of office” it was because what mattered first and foremost was the *forum externum*.²⁴ “The true liberty of the subject has no location in any private realm.”²⁵ Hobbes made clear both in *De Cive* and the *Leviathan* that at a close scrutiny *forum internum* had no relevance. What happens “*in foro externo*” is all that matters. Hence, there was no reason for fearing compromise and contracts of wills became the basis of both civil society and government.

As a result, by the beginning of the seventeenth century, Great Britain pioneered the understanding of the people as a collection of individuals, united via mutual compact or compromise, with every single Englishman virtually represented in Parliament. Gilbert Burnet, for example, used ‘compromise’ to explain his *theoretical* version of the social contract:

“The True and Original Notion of Civil Society and Government, is, that is a Compromise made by such a Body of Men, by which they resign up the Right of demanding Reparations, either in the way of Justice against one another, or in the way of War, against their Neighbours; to such a single Person, or to such a Body of Men as they think fit to trust with it.”²⁶

²⁴ Condren, Conal (2006) *Argument and Authority in early Modern England: The Presupposition of Oaths and Offices* (Cambridge: Cambridge University Press) 73.

²⁵ Ibid., 76.

²⁶ Gilbert Burnet (1688), “An Inquiry Into the Measures of Submission to the Supream Authority ...”, in *A Collection of papers relating to the present juncture of affairs in England*, 2.

The assimilation of compromise with the contract that gave birth to *both* civil society and government presented the Englishmen with another conundrum: since both spheres, the civil and the political, were created as the result of individual wills, was civil society political or not? How to maintain the distinction between the public and the private since both were artificial creations and the distinction between *forum internum* and *forum externum* was lost? We are still struggling with these questions.

From this perspective, the founding of the American people may offer some valuable lessons. Thanks to its peculiar history, the paradigm of the people's two bodies came here as close as possible to being a living reality. On the one hand, the refusal to compromise with perceived "others" that came to characterize Puritans, Patriots, Antifederalists, and Southerners alike reveals largely ignored similarities between protagonists that otherwise are considered to have belonged to opposite camps in the story of America's founding. On the other hand, the willingness of Puritans to compromise, if only amongst themselves, and the calls for compromise made to their opponents not only by Loyalists, but also by Federalists, and even by most Northerners until civil war became a reality, signals – other practical and historical considerations aside – that these actors might have had a shared understanding of what "the people" stood for, and why they thought a compromising attitude *ought* to be praised.

As such, the story of the American people, precisely because of the ambivalence of the term "people" for the protagonists, offers researchers a unique opportunity by combining in a peculiar way the British willingness to compromise with the French unwillingness to do so. I shall argue that it was precisely this foundational double helix that is largely responsible for the versatility of American politics, and its eventual successes, but also for the persistent confusions both between the two understandings of the people, and between the social and the political compact, respectively.

2. The People's Two Bodies²⁷

²⁷ The following pages are informed by Alin Fumurescu (2019), *Compromise and the American Founding: The Quest for the Elusive Two People's Bodies* (Cambridge: Cambridge University Press).

If the American people was over two centuries in the making, it is because its creation began not with three groups defined by different cultures – moralistic in New England, individualistic in the Middle Atlantic, and traditionalistic in the South – and not even with thirteen groups, but with many more.²⁸ Practically, each group of Puritans and Pilgrims arriving on the shores of the New World *actually* created new, theologico-political “peoples” through the express consent of individuals to found both a church and a political community. “One could also speak of their creating a society, but this term is not quite strong enough.”²⁹

They were covenanted people, and covenantal theory permeated their entire *Weltanschauung* despite, or precisely because of, its sophistication. The Puritans distinguished between the covenant of works, the covenant of grace, and the covenant of justification, but also between the inner covenant of each individual with God, the church covenant, and the covenant of each church with God. However, out of these multiple covenants, only two proved to be long-lasting: the horizontal church covenant, among the equal members to form a church and a political community, and the vertical covenant between each church and God, that was politically reflected in the covenant of the newly created people with their elected leaders—the aristocracy of merit. It is easy to understand why this bi-dimensional covenant can be mistaken as either a proto-social contract theory or as a medieval political contract. However, the similarities in form cannot obscure the major differences in their fundamental assumptions about human nature and political membership.

The American Puritans, unlike their English counterparts, distrusted *forum externum*, for, like the French, they suspected it of being tainted with hypocrisy. Nor did they trust *forum internum*, as the French did, for, as the English, they believed it was deceitful, easy prey to devil’s tricks. As a result, they rejected both the British centrifugal individualism and the French centripetal form of individualism, embracing one of their own, which I labeled, for lack of a better word, “purged individualism.” Essentially, it

²⁸ For the famous tri-partition see Daniel J. Elazar (1972), *American Federalism: A View from the States* (New York: Thomas Y. Crowell).

²⁹ Donald S. Lutz (1988), *The Origins of American Constitutionalism* (Baton Rouge: Louisiana State University Press), xxiv.

presupposed to purge one's *forum internum* by effectively turning it inside out, thus replacing *forum externum* for everyone to see. Through detailed public confessions (admission tests) the internal self became the visible, external one, and the authenticity of its conversion or "purity" had to be vetted by the "visible saints." It was the necessary pre-condition for being admitted as a full member, with voting powers, in both the church and the political community. Put in modern parlance, no "conversion narrative," no "citizenship." For being admitted in the community, the invisible ought to be made visible.

By requiring the external approval of the hierarchy of saints, this purged individualism began a collision course with the horizontal understanding of the people *qua* free and equal individuals. As communities expanded, older and more educated religious authorities began to be contested, and the pendulum swung from "objectivity" to "subjectivity," from reason to will, and from the community to the individual. By the beginning of the eighteenth century, the American colonists became more British than their brethren across the Atlantic. Yet, by the same token, they also began developing their own particular identities.³⁰ Because the Great Awakening ended up permanently destroying the old theologico-political communities, new ways of identifying were needed. Since the British assumption was that a people was held together primarily by its own elected legislative, the colonial assemblies came to be seen as the equivalent of the British Parliament, creating as many peoples as colonies.

As the tensions between the metropole and the colonies intensified, the idea of different peoples inside the empire of Great Britain, held together only by political contracts between the king and each colony, became increasingly attractive. As the "arbitrator" or "*compromissarius*" between different parts of the empire, the role of the king for the colonists was emphasized to the extent that, to the surprise of many, including Lord North, they became more Tories than Whigs.³¹ In order to defend their

³⁰ Bernard McConville (2006), *The King's Three Faces: The Rise and Fall of Royal America, 1688-1776* (Chapel Hill: University of North Carolina Press); Nancy L. Rhoden (2013), "The American Revolution (I) – The Paradox of Atlantic Integration" in Stephen Foster, ed., *British North America in the Seventeenth and Eighteenth Centuries* (Oxford: Oxford University Press).

³¹ Eric Nelson (2011), "Patriot Royalism: The Stuart Monarchy in American Political Thought, 1769-75" in *The William and Mary Quarterly*, Vol. 68. No. 4.

corporate rights, the colonists had no choice but to renounce any pretention of being represented by or in the Parliament, either virtually or actually, as the social compact theory demanded, and make appeal to the political one, for all extra-colonial relationships. Thanks to the paradigm of the people's two bodies, throughout the Imperial Debate, the colonists proved more versatile, at least as far as theoretical justifications were needed on both sides of this confrontation.

This cherished corporate identity at the colonial level, made the Patriots increasingly unwilling to compromise, and when the time came, King George metamorphosed almost overnight in the colonial psyche and pamphlets from a benevolent Father into “the perfect scapegoat.”³² Although largely ignored in the first years after its adoption, the Declaration of Independence managed to depict the king as the main culprit of all colonial infringements of corporatist rights, all while reaffirming that “consanguinity” and the “Ties of our common Kindred” do not matter when “it becomes necessary for one People to dissolve the Political Bands which have connected them with another.”³³

The fear of a tyrannical executive left an undeniable mark on the state constitutions – and not only the first ones. These foundational documents shared a common feature: the emphasis switched one more time from the corporatist and hierarchical vision of the people to the horizontal and egalitarian one, and granted extended powers to the state legislatures. This commonly held egalitarian approach makes it easy to discuss the state constitutions of the late eighteenth century together with the ones from the first half of the nineteenth ones, despite some undeniable differences between the first and the latter.

Three of these differences are worth emphasizing. The first one is the transfer of the constitutional power from the legislatures, in which it initially resided, to the state ratifying convention, thus increasing popular control. The second is the relatively rapid abandonment of the secrecy of the debates in these conventions – a decision that impaired

³² Gerald Stourzh (2010) [1970], *From Vienna to Chicago and Back: Essays on Intellectual History and Political Thought in Europe and America* (Chicago: University of Chicago Press), 25.

³³ Barry Alan Shain, ed. (2014), *The Declaration of Independence in Historical Context: American State Papers, Petitions, Proclamations & Letters of the Delegates in the First National Congress* (New Haven and London: Yale University Press). It is worth noticing that in the Declaration “the people” is referred to both in the singular and in the plural, i.e., both as a corporation and as a multitude of individuals. This is also a peculiarity of the English language.

the chances to compromise and opened the door for a populist rhetoric. Finally, the third one is the increasingly rapid move away from providing representation for corporations – towns, counties, and the like – to providing representation for individuals.

Yet the corporatist vision of the colonial peoples was not to be abandoned when it came to establishing the Articles of Confederation. As in the case of the now largely forgotten Articles of the Confederation of the United Colonies instituted by the Puritans more than a century before, the theoretical equality of corporations, regardless of their actual size, made a compromise possible, despite the marked differences among the newly-created thirteen states. It was no small feat, considering that just a few years before, these differences – economic, religious, cultural, etc. – were considered by most actors and outsiders impossible to overcome. According to an anonymous British observer, the association of so many different peoples amounted to nothing more than “a rope of sand.”³⁴ He was proven wrong. Even if the Articles of Confederation turned out to be short lived and deficient in many respects, it was a constitution that formalized the idea of dual citizenship and made possible the compromises of the Philadelphia Convention.³⁵

To claim to have something new to say about the compromises that took place during the Philadelphia Convention and the successive ratifying conventions might appear pretentious, considering the amount of scholarship already dedicated to this topic. Nevertheless, without challenging (most of) these interpretations, I suggest that the main reason why the Constitution was, reverentially referred to by Henry Clay as “the greatest of all compromises,” was not primarily because it set up an example of how meaningful compromises can be reached by combining appeals to interests and to affections, but because it formalized with a surprising degree of success the paradigm of the people’s two bodies. The fact that the famous three words that open the Constitution, “We the People,” were never elaborated upon in the text that followed, far from being a weakness, allowed a lot of room for maneuver in defining “the people.” The delegates present in

³⁴ “Some Thoughts on the Settlements and Government on our Colonies in North America,” 10 March 1763, Add. Mss (Liverpool Papers), British Library – quoted in Jack P. Greene (1982), “The Background of the Articles of Confederation,” *Publius*, Vol. 12, No. 4, 19.

³⁵ Donald S. Lutz (1990), “The Articles of Confederation as the Background to the Federal Republic,” *Publius*, Vol.20, No.1, 55-70, 66.

Philadelphia in the summer of 1776 were faced, in this respect alone, with a double challenge: first, to decide if the United States was made up of one or of several peoples (or nations); second, to decide which of the two understandings of the people ought to be given priority.

Both of these challenges were solved through compromise. Elbridge Gerry's observation made in the convention, on July 5, proved convincing enough for most delegates: "We were neither the same Nation nor different Nations. We ought not therefore to pursue the one or the other of these ideas too closely."³⁶ The second compromise about the people was the hardest. Since in the Articles of Confederation the principle was clearly in favor of representing the people in their "corporate capacity," and the Articles proved defective, for politicians like Hamilton, it meant that it was "the great and radical vice in the construction of the existing Confederation," and ought to be replaced with its counterpart – representation of individuals.³⁷ Fortunately, the end result represented a compromise between the two, and not just by ensuring the representation of individuals in the House of Representatives, and of the corporate peoples in the Senate, but by creating a mechanism of checks and balances that would prevent, so to speak, one body of the people from taking over the other.

As Tocqueville noticed, "In America, the struggle between these two camps," one "wishing to restrain the power of the people, the other to extend it without limit," "never took the violent form that has often distinguished it in other countries. Both parties agreed about the most essential points," and, as he went on to explain, many of one camp's principles "ultimately became part of their adversaries' creed." Therefore the Federalists' success was, in his view, "one of the most fortunate events attending the birth of the great American Union," and he believed that "the federal Constitution ... is a lasting monument to their patriotism and wisdom."³⁸

However, not all the compromises of the new Constitution were to be applauded and, unsurprisingly, not all of them proved long-lasting. The (in)famous Three-Fifths Compromise, might have been necessary at that time both for finalizing the draft and for

³⁶ In James Madison (1985), *Notes of Debates in the Federal Convention of 1797* (Athens, Ohio: Ohio University Press), 243.

³⁷ *The Federalist* (2001), 71.

³⁸ Alexis de Tocqueville [2004] *Democracy in America*, translated by Arthur Goldhammer (New York: The Library of America), 200-201.

increasing the likelihood of its ratification, but it also turned out to be the least defensible. Nevertheless, for the first decades of the new republic, the institution of slavery was neither in the forefront of political debates, nor a direct threat to the Union. To the despair of the most committed abolitionists, such as William Lloyd Garrison, slavery was mainly discussed as an economic and constitutional problem, not as a moral one.

As a matter of fact, the first serious threat to the Union came not from the South, but from the New Englanders. What they perceived as a growing wave of populism, exploited by the Southern aristocrats, was seen as a direct threat to the republican principles upheld throughout the Revolutionary War and beyond by the American people.³⁹ This rather forgotten episode in American history has two valuable lessons to teach us. On the one hand, it shows that when a minority feels constantly abused, rightfully or not, by a majority, compromises become more difficult if not altogether impossible, being refused by both parties as either unnecessary (by the majority) or as “too little, too late” (by the minority). On the other hand, it also suggests that populism and the existence of an aristocracy of wealth, far from being incompatible, may very well coexist. Not surprising, the entire period of the founding is marked by two different kind of fears: on the one hand, the fear of the licentious mob, the people qua headless multitude whose strength relies on numbers, and, on the other one, the fear of unchecked power and the corruption of hypocrite leaders, pretending to rule for the common good. Then as now, if apprehended as distinct, each of the people’s two bodies becomes threatening. Yet, when it comes to political compromises, the final lesson of the American founding comes from the development of the first mass parties.

3. Parties without Partisanship and the War on Identity Politics

“It is chic to be anti-partisan today.”⁴⁰ This observation rings even truer now than it did over a dozen years ago, and could have rung equally true some two centuries

³⁹ Davis S. Brown (2016), *Moderates: The Vital Center of American Politics, from the Founding to Today* (Chapel Hill: University of North Carolina Press).

⁴⁰ Russell J. Dalton and Steven Waldon (2005), “Public Images of Political Parties: A Necessary Evil?,” *West European Politics*, 28 (5), 937.

earlier. Not just declared Independents and civic activists, but even quintessential party members, claim to be anti-establishment. If there could possibly be any doubt about it, the overall negative apprehension of parties is well documented not only by dwindling numbers of party members, but by other measures as well, all over the world.⁴¹ We are living in what Nancy Rosenblum called the “post-party depression” era, a time when self-organized identity groups on both Left and Right seek new and allegedly more meaningful ways of political involvement.⁴²

The stakes are high, since for decades the common knowledge has been that political parties are the backbone of liberal democracies. From Clinton Rossiter’s claim—“No America without democracy, no democracy without politics, no parties without compromise and moderation”—there is an entire tradition of equating parties with democracy and a compromising spirit.⁴³ Among other merits, parties are supposed to mediate between society and the state, distribute political information via short-cuts, mobilize and motivate citizens, nurture inclusiveness and responsibility, develop and implement policies, serve as watchdogs when in opposition, and foster meaningful political compromises, unlike other “anti-party parties” and populist movements. Given these purported benefits, the crisis of parties signals an urgent need to reconsider their role in contemporary liberal democracies as mounting empirical evidence points toward their decline in the electorate. By and large, “scholars have associated such seemingly contradictory trends as the disengagement of citizens from mass politics and the radicalization of citizens’ political passions to the shortcomings of political parties.”⁴⁴

It is encouraging that in the last decade there has taken place a rapid development of the literature intended to address the preexisting gap between democratic theory and

⁴¹ See, for example, Ingrid van Biezen, Peter Mair, and Thomas Poguntke (2012), “Going, going ... gone? The Decline of Party Membership in Contemporary Europe,” *European Journal of Political Research*, 51 (1): 24 – 56; Lise Esther Herman (2017), “Democratic Partisanship: From Theoretical Ideal to Empirical Standard,” *American Political Science Review*, 111 (4), 738 – 54; Carlo Invernizzi- Accetti and Fabio Wolkenstein (2017), “The Crisis of Party Democracy: Cognitive Mobilization, and the Care for Making Parties More Deliberative,” *American Political Science Review*, 111 (1), 97 – 109; Peter Mair (2103), *Ruling the Void: The Hollowing of Western Democracy* (London: Verso); Susan Scarrow (2015), *Beyond Party Members: Changing Approaches to Partisan Mobilization*. Oxford University Press.

⁴² Nancy L. Rosenblum (2008), *On the Side of Angels: An Appreciation of Parties and Partisanship* (Princeton and Oxford: Princeton University Press), 13.

⁴³ Clinton Rossiter, *Parties and Politics in America*. (Ithaca and London: Cornell University Press, 1964): 1.

⁴⁴ Lise Esther Herman (2017), “Democratic Partisanship,” 738.

party studies, in a declared effort to find new theoretical bases for the appreciation of parties *and* of partisanship, two concepts which until recently were the “indisputably orphans of political philosophy.”⁴⁵ Indeed, there is an entire philosophical tradition of ignoring (in the best case) or of deploring (most common) the existence of parties. Against this long-established tradition, the recent body of theoretical literature claims that parties *and* partisanship are to be seen not just as necessary evils, but rather as positive goods, able to develop an “ethical partisanship,” “inclusiveness, comprehensiveness, and disposition to compromise.”⁴⁶

Yet the history of the first party systems in the United States teaches us that there is an alternative to these approaches, which is equally sympathetic to the effort to stimulate an appreciation of parties, but without disregarding historical and empirical evidence. This alternative attacks one contemporary fundamental assumption that has so far gone largely unchallenged, namely that parties and partisanship are inseparable. Even when scholars observe that “a key to grasping party as an accusatory term, is revulsion to partisanship,” and agree that “[t]he two are separable,” they still believe that this decoupling is artificial. The separation is thought to be the result of “*contemporary* political thought where parties may be grudgingly accepted for instrumental reasons, but partisans ... are judged inferior to superior ‘Independents.’”⁴⁷ The “basic fact” that “a pragmatic defense of parties does not necessarily entail an appreciation of party spirit” is seen as motivation for defending the latter.⁴⁸ In such accounts, the assimilation of *party membership* with *partisanship* is taken for granted, and the only alternative left is a more-or-less illusory “independence.” Yet, paradoxically as it appears at first sight, this new partisanship goes hand in hand with the increase lack of trust in parties. Thus, considering

⁴⁵ Nancy Rosenblum (2008), *On the Side of Angels*, 6.

⁴⁶ Russell Muirhead (2006), “A Defense of Party Spirit,” *Perspectives on Politics*.4 (4): 713 – 27; Russell Muirhead (2014), *The Promise of Party in a Polarized Age* (Cambridge, MA: Harvard University Press); David Ragazzoni (2018), “Political Compromise in Party Democracy: An Overlooked Puzzle in Kelsen’s Democratic Theory,” in Christian F. Rostball and Theresa Scavenius, eds., *Compromise and Disagreement in Contemporary Political Theory*, (New York and London: Routledge); Rosenblum (2008), *On the Side of Angels*; Jonathan White and Lea Ypi (2016), *The Meaning of Partisanship*, (Oxford, UK: Oxford University Press).

⁴⁷ Nancy Rosenblum (2008), *On the Side of Angels*, 53 – emphasis added.

⁴⁸ David Ragazzoni (2018), “Political Compromise in Party Democracy”, 99.

all of the above, I argue that if one wants to make parties “chic again”, one has to sacrifice party spirit. One cannot save them both.

What the history of the founding can teach us in this respect is to avoid the confusion between the two. As overlooked as it is today, the distinction between parties and party spirit was in the forefront of political thought in the era. Few, if any, of the founders denied the existence – and, to a certain degree, the necessity – of parties, oftentimes understood as factions, or simply as divisions between a majority and a minority. But most, if not all, of them were just as quick to condemn the spirit of partisanship. Ideally, even the most loyal party members ought to have crafted their actions with an eye to the common good and to the building of bridges between majorities and minorities.

Civic educators also did their best to further embed the distinction between parties and partisanship (or party spirit as it was called) into American political culture. Andrew Young, for example, agreed that “where freedom of opinion and of speech is tolerated, *parties* must necessarily exist to some extent. (...) But *party spirit*, when unrestrained, becomes intemperate and revengeful.” According to him, “it must be evident to all who have observed the effects of party spirit among us, that the evils flowing from it overbalance all the good which can produce.”⁴⁹ Washington McCarthy, too, wrote in his civic manual that the “bloodless warfare” of parties in fact “demonstrated that democracy on an extended scale is practicable in these United States,” but only as long as the parties “stand on the common platform of republicanism, and fire a common artillery upon the diminishing ranks of legitimacy.” Yet he quickly specified, “We do not wish to be understood as defending or encouraging the spirit of partyism.”

Journals and magazines were filled with condemnations of party spirit as the greatest danger that threatened the Union. For example, in an 1828 issue of *Western Luminary*, a Presbyterian newspaper, one could read a full column on the dangers of party spirit, which began rather abruptly with: “Party Spirit Prostrates every thing which is venerable and sacred within the sphere of its commotion. It directs the attention of the people from their own common interest to the means of gaining ends to which prejudice

⁴⁹ Andrew Young (1836), *Introduction to the Science of government and Compend of the Constitution and Civil Jurisprudence of the United States ...* (Warsaw, N.Y.), 300 -301 – quoted in Peter B. Knupfer (1991), *The Union As It Is*, 81.

and passion may direct them; and the attention of the government from public good to the means of its own political existence.”⁵⁰ Unlike contemporary authors, mid-nineteenth century writers were convinced that, far from promoting compromise, party spirit promoted “universal anarchy and universal hate. And to what other result do such sweeping and absurd charges in both parties tend? How little to these leaders, on either side, care to what extent they inflame these already too morbid passions of the multitude beneath them, provided that they can secure votes, VOTES, VOTES.”⁵¹

The anonymous writer from 1843 was worried that party spirit, “instead of appealing to the reason of the people, and placing before them their principles that they may judge between the two parties, ... appeal[ed] to their passions, conceal their principles, and endeavor to entrap the mass by diverting them from the true issue.” At times, the description became truly poetic. Party spirit “crawls and creeps, and fawns, and leers, and whines around the multitude, and only asks to lick the sores of the body politic, and feed upon the crumbs that fall from its table.”⁵²

Nevertheless, the towering figure of this movement against the spirit of “partyism” was – and to a certain extent remains – George Washington, whose Farewell Address is as frequently invoked now as it was two centuries ago.⁵³ In it, Washington claimed that it is “the *unity* of government which constitutes you *one* people ... The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations.” The danger of sectional parties was in the forefront of his concern – “I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations.” But on a more general level, and in the long run, even more concerning was the *spirit* of party:

“Let me now take a more comprehensive view and warn you in the most solemn manner against the baneful effects of the *spirit of party, generally*. This spirit,

⁵⁰ Apr. 16, 1828, 4, 42.

⁵¹ *Niles' National Register*, Jul. 29, 1843, 14, 22.

⁵² *Ibid.*, 22. It is worth noticing that these commentators were not attacking the parties per se, but exclusively party spirit.

⁵³ The Farewell Address was regularly read in the Senate from 1888 until today (since 1893 on Washington's birthday,) and in the House from 1899 until 1984.

unfortunately, is *inseparable from our nature*, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.”

The reason for “the common and continual mischiefs of the spirit of party” is that it destroys the bonds of affection and mutuality necessary for the maintenance of *one* people. “It agitates the community with ill founded jealousies and false alarms, kindles the animosity of one part against another, foment occasionally riot and insurrection.” Far from encouraging the spirit of compromise, party spirit is inimical to it. “There is an opinion that *parties* in free countries are useful checks upon the administration of the government and serve to keep alive the spirit of liberty. This *within certain limits is probably true*,” concedes Washington. “But ... in governments purely elective, it is a *spirit* not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose.” Thus, the spirit of partisanship is “[a] fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest instead of warming it should consume.”⁵⁴

It seems that today’s defenders of party spirit forgot what during the eighteenth century most actors displayed an awareness of – that a partisan identity, by definition, cannot be conducive to the reinforcement of “the chords of affection” that values the community of citizens above any other identifications. The stakes are high, since even if *mass political parties* are about to become a thing of the past, *mass politics* is not. Old identities are replaced by new ones, more fluctuating and yet, precisely because of that, more aggressively defended – much like during the American founding, when populist movements started to coalesce around a variety of scapegoats, from immigrants to Masons, and from Catholics to abolitionists.

Far from being conducive to bipartisan compromises, the emergence of mass parties increased the polarization of public life. Elites divisions that eventually founded the Federalist and the Republican parties, ended up fostering, rather unintentionally, “a

⁵⁴ George Washington (1796) [2000], *The Farewell Address* - 106th Congress, 2nd Session, Senate Document No. 106 – 201 (Washington: U.S. Government Printing Office) – emphasis added.

populist spirit, particularly as competing elites appealed to hitherto only sporadically mobilized sectors of the population.”⁵⁵ Even if before the end of the eighteenth-century elections were not contested under party labels, newspapers started to openly assume partisanship. While formal appeals continued to be made to the common good instead of sectional interests, the rhetoric grew increasingly vicious throughout the entire period. Each side accused the other one of being “a party,” motivated by particular interests, while denying themselves the label. Ironically, as Aldrich points out, the first parties were the creatures of politicians who did “not have partisan goals per se.”⁵⁶

Real policies were not far behind this rhetoric. If in 1790 only Virginia, South Carolina, and Georgia explicitly reserved the right to vote for white males, by 1855 only five states—and all in New England—allowed free blacks to vote on the same basis as the whites. This was not a matter of “aristocrats,” i.e., Federalists, versus “democrats,” i.e., Republicans. For example, since in the early 1800s women and free blacks tended to vote Federalists, the Republicans worked successfully to deny both categories this right.⁵⁷ It was the beginning of identity politics.

While the anti-immigrant wave would have to wait until 1850 to start materializing in the Know Nothing party, other populist and identity movements, such as the Anti-Masonry party, realized rather soon that the only way to become effective was by using the formal political channels, becoming political parties and throwing their hats into the ring of elections, with various degrees of success. Under different labels, the Working Men’s parties of 1829 -35, for example, had only modest electoral gains. Yet their populist appeals had the paradoxical side effect that “many lower – and middle-class wage earners and independent artisans engaged in mob actions against abolitionists and African Americans.”⁵⁸

Even if one accepts the possibility that the declared anti-partisanship of so many seasoned politicians and civic educators throughout the latter part of the eighteenth century and the bulk of the nineteenth was more or less hypocritical rhetoric, one cannot

⁵⁵ Ronald P. Formisano, *For the People: American Populist Movements from the Revolution to the 1850s*, (University of North Carolina Press, 2008): 44.

⁵⁶ Aldrich, *Why Parties*, 5.

⁵⁷ Robertson, “Jefferson Parties, Politics, and Participation,” 114-18.

⁵⁸ Formisano, *For the People*, 87.

discard the real impact that such rhetoric had on the general public. One cannot ignore how this rhetoric, then as now, could change both electoral dynamics and parties' behavior in the legislative. Rhetoric matters. Paradoxically, then more than now, people seemed aware that "political words do more than mystify; they inspire, persuade, enrage, mobilize."⁵⁹

Considering the entire history of political philosophy, political theorists should be at the forefront of this battle over words, since they acknowledge that "The site of political conflict is ... the discursive field as a whole, including its vocabulary, its sedimented meanings, and indeed its silences, as much as consciously articulated views."⁶⁰ Ironically, as the state of the discipline now stands, theorists either refuse to grant normative merits to parties, or try to praise both parties and partisanship, misreading the lessons of the past.

In itself, however, the distinction between parties and partisanship is not enough to explain why the attempt to normatively salvage *both* parties *and* partisanship is not only prone to failure, but also dangerous for the very practical goal of reviving the practice of meaningful political compromises. If the normative is not to be too far removed from reality, one has to take into consideration the empirical evidence. The fact that secrecy in negotiations plays a crucial role in the ability of political actors to reach compromise was largely accepted – and became a requirement – from negotiating the Articles of Confederation to the Philadelphia Convention and all of the first state constitutions. Once this requirement was dropped, under populist demands for transparency, the debates became not just public but also publicized, oftentimes at the expense of the interested actors. As a result, the rhetoric inflamed, party spirit crept in, and compromises became highly unlikely.

The same applies today, when both politicians and political scientists (yet not the majority of political theorists) agree that "allowing negotiations to take place in private settings encourages pondering rather than posturing," thus facilitating the "search for fair

⁵⁹ Daniel T. Rodgers, *Contested Truths: Keywords in American Politics since Independence*. (Harvard University Press, 1998): 4.

⁶⁰ Jonathan White and Lia Ypi (2016), *The Meaning of Partisanship*, 66.

compromise.”⁶¹ It is an indirect indictment of partisanship, yet not of parties, nor of politicians. When removed from the sight of their electorates, politicians are less affected by party spirit. Following in the footsteps of Anthony Downs and Joseph A. Schlesinger, John H. Aldrich claims that politicians, in effect, are nothing but rational actors, willing to compromise as long as it serves their interests.⁶² Nevertheless, this is precisely what makes them untrustworthy in the eyes of the general public, furthering the negative image of parties and politicians.

As repeatedly illustrated, meaningful compromises, presuppose, besides a contractarian, rational-bargaining side, an affective component of mutuality and self-sacrifice. It was this latter component that was consciously and carefully cultivated during the founding era by responsible politicians and civic educators. It fostered praise among the general public for the virtue of political compromises transcending party spirit and promoting a vision of political unity and public good, going beyond the dichotomy majority vs. minority. The case is entirely different today. Many scholars have noticed that the increased erosion of trust in parties is accompanied by a rise of identity politics or what is called “the politics of difference.” This development is far from being conducive to political compromises precisely because it involves non-negotiable identities.⁶³ It is a fertile ground for the concerning growth of the new partisanship without parties. “The new information technology makes it easier than ever to conjure up an *esprit de parti* out of almost nothing, simply by allowing immediate responses to present events to cascade through the system.”⁶⁴

Realistically speaking, the problem of electoral identity remains the main challenge that parties have to face nowadays. As Richard S. Katz noticed a few years ago, the principal-agents models that so far have dominated the empirical studies of political parties are no longer relevant since there is no longer a unified “principal,” i.e., electorate. “Parties in office” are supposed to be the “agents” of the electorate; however, this

⁶¹ Cathie Jo Martin (2013), “Negotiating Political Agreements,” in Mansbridge and Martin, eds. *Negotiating Agreement in Politics*, 2.

⁶² John H. Aldrich (2011), *Why Parties? A Second Look* (Chicago: Chicago University Press).

⁶³ Carlo Invernizzi- Accetti and Fabio Wolkenstein (2017), “The Crisis of Party Democracy”; Mark Lilla (2017), *The Once and Future Liberal: After Identity Politics* (New York: HarperCollins); Rosenblum (2008), *On the Side of Angels*.

⁶⁴ David Runciman (2010), “The Paradox of Immediacy,” in *Political Theory* 38(1), 154.

electorate is characterized by deep identity fragmentation, both at the collective and at the individual level.⁶⁵ What the first generations of American statesmen knew instinctively is confirmed by recent studies in political psychology:

“All social identity theories share the recognition that individuals can—and usually do—derive their identities from more than one social group ... [and] managing multiple identities is something like an intellectual juggling act. [...] In a large, pluralistic society ... multiple crisscrossing social identities can become a source of increasing fractionalism or enhanced social stability, *depending on how competing identities are managed*.”⁶⁶

Thus, the problem is one of properly managing various identities, including political ones. Party identity, or the ideologically distinctive identity of a party, is one thing. Partisanship, understood as personal and passionate identification with a party, is another. On the one hand, parties are necessary and beneficial for a representative democracy, for they propose competing grand visions of the common good. Qua individuals, on the other hand, we are not defined by any single identity, and the all-encompassing one, from a political perspective, should be the political community of citizens. Inside this community, multiple identities are not only possible but also unavoidable. One can be, for example, an American and a member of a religious community, an American and gay, an American and Latino, or a combination thereof; one may favor the Republican Party on some issues and the Democratic Party on others, voting a Republican for sheriff, and a Democrat for the Board of Education, etc. Since each of us has more than one identity, no single party or politician can properly represent all of them.

I advance as a working hypothesis the possibility that the reason for increased polarization, and the resulting unwillingness to compromise, might be found in the rapid *identity fragmentation* brought forward primarily (although not exclusively) by the digital

⁶⁵ Richard S. Katz (2014), “No man can serve two masters: Party politicians, party members, citizens, and principal-agents models of democracy,” *Party Politics*, Vol.20 (2), 183.

⁶⁶ Marilynn B. Brewer (2001), “The Many Faces of Social Identity: Implications for Political Psychology,” *Political Psychology*, Vol. 22, No.1, 121, 123 – emphasis added.

revolution. These developments have changed not only “the technology of politics” but also the understanding of political and self-representation.⁶⁷

One main problem is that “identities are not primarily about adherence to a group ideology or creed. They are *emotional* attachments that transcend thinking” – and we have just seen how important the new social media is in forging and re-forging these group identities.⁶⁸ As the history of the Founding teaches us, the issue is not the affectionate embracing of several identities – most if not all of today’s identities existed back then as well – but their rapid politicization. However, one may also claim that the very term “identity politics” is something of an oxymoron, since identity “is actually a depoliticizing force.”⁶⁹ Lilla calls it anti-politics or pseudo-politics. In this respect, the story of the American people may also offer some valuable lessons.

Precisely because such group-identifications are primarily emotional attachments, they remain subject to manipulation—which might be a blessing as well as a curse. The very word “manipulation” might raise some eyebrows, for it suggests infringing upon individuals’ autonomy and freedom of choice. Yet in recent years scholars have become infatuated with the concept of “nudging,” which practically amounts to the same thing, exploiting the fact that choices and decisions are more often than not based on emotions, rather than on a rational cost-benefit analysis. It is, in the language of psychology, an “affective and nonconscious thought process.”⁷⁰ Developed initially in the field of behavioral economics, the concept was made popular by Richard H. Thaler and Cass R. Sunstein book, *Nudge*, and its application extended rapidly from health, to environmental issues, to retirement savings, organ donations and beyond.⁷¹

⁶⁷ See, for example, John Aldrich (2011), *Why Parties?* 6; Russell Dalton and Steven Waldon (2005), “Public Images of Political Parties,” 11-12.

⁶⁸ Achen and Bartels (2016), *Democracy for Realists*, 228 – emphasis added.

⁶⁹ Lilla (2017), *The Once and Future Liberal*, 137. As a declared liberal himself, Lilla focuses almost exclusively on liberal identity politics. Nevertheless, his diagnosis applies as well to other identities groups, from evangelical to Alt-Right. This is not to say that I endorse all of the claims he makes.

⁷⁰ David R. Marchiori, Marieke A. Adriaanse, Denis T.D. De Ridder (2017), “Unresolved questions in nudging research: Putting the psychology back in nudging,” in *Social and Personality Psychology Compass*, No. 11, 2.

⁷¹ Richard H. Thaler and Cass R. Sunstein (2009), *Nudge: Improving Decisions about Health, Wealth, and Happiness* (New York: Penguin Books); see also the most recent Cass R. Sunstein (2014), *Why Nudge? The Politics of Libertarian Paternalism* (New Haven and London: Yale University Press).

Defined broadly as the rearrangement of a choice context with the intention of gently suggesting a specific option, nudging was labeled by Thaler and Sunstein as “libertarian paternalism.” As they explained it, the “libertarian aspect of our strategies lies in the straightforward insistence that, in general, people should be free to do what they like – and to opt out of undesirable arrangements if they want to do so.” In turn, the paternalist aspect comes from the claim that it is “legitimate for choice architects to try to influence people’s behavior in order to make their lives longer, healthier, and better.” Although the jury is still out in terms of the ethical implications,⁷² it did not take long until researchers (including Sunstein, appointed head of White House Office of Information and Regulation Affairs by the Obama administration) have been coopted to advise politicians about the use of nudges, from the USA and Canada, to the Netherlands, and Denmark. This ought to come as no surprise, since the concept has elements that appeal to both Left and Right. It allows for elite intervention all the while respecting individuals’ freedom of choice.

In effect, nudging is what politicians have always done – it was called political rhetoric or sometimes “principled rhetoric.” “Principled rhetoric provides competing partisans with a shared rationale to support a given public policy, even if their specific policy preferences diverge.”⁷³ What I propose is both less and more ambitious than nudging or principled rhetoric. Less ambitious because it does not aim directly at making individuals live longer, healthier, and better lives, nor at implementing particular public policies beneficial to the environment, life expectancy, and the like. But, in a way, more ambitious because it aims at nothing less than restoring the health of the people’s two bodies, and thus the understanding of politics as “the art of compromise.”

⁷² See, for example, James J. Chriss (2015), “Nudging and Social Marketing,” in *Social Science and Public Policy*, No. 52: 54-61; Luke Gelas (2016), “Rights, Nudging, and the Good of Others,” in *The American Journal of Bioethics*, Nov., Vol. 16, No. 11, 17 – 19; Brent Pickett (2018) “The New Paternalists,” in *Polity*, Vol. 50, No. 2, 300-29.

⁷³ Mark A. Scully (2018), “Principled Rhetoric as Coalition Management: Speech in Reconstruction Presidencies of Franklin Roosevelt and Ronald Reagan,” in *Polity*, Vol. 50, No. 1, 129.