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## THE POLITICAL VIRTUE

Russell Muirhead \*

ROBERT GOODIN, *ON SETTLING* (2012). Pp. 128. Hardcover \$24.95.

AMY GUTMANN & DENNIS THOMPSON, *THE SPIRIT OF COMPROMISE: WHY GOVERNING DEMANDS IT AND CAMPAIGNING UNDERMINES IT* (2012). Pp. 288. Hardcover \$24.95.

RICHARD SENNETT, *TOGETHER: THE RITUALS, PLEASURES AND POLITICS OF COOPERATION* (2012). Pp. 336. Paper \$18.00.

According to the old teaching, American politics were marked by a stable consensus on fundamental values that ran so deep it constituted almost a pathology.<sup>1</sup> A pathology or perhaps a blessing, it endowed the polity with a stability that absorbed dissenting voices.<sup>2</sup> Amid the consensus of the mid and late twentieth century in the United States, parties famously overlapped so completely that they were indistinguishable. Most important legislation was passed by whopping bipartisan majorities in the period from 1945 to 1990. As David Mayhew wrote of the period, Capitol Hill was marked by a “mindset of problem-solving,” not one of ideological combat.<sup>3</sup>

By the late 1990s, however, the traditional teaching about American politics had grown noticeably obsolete. Several events combined in a short time that together suggested a country coming apart. Republicans in the House of Representatives, who in 1994 had won a majority for the first time in forty years, voted in 1998 to impeach a popular Democratic president. Only two years later, the country split almost perfectly evenly in the presidential election, and in the absence of widely-known procedures for settling the election, the United States Supreme Court stepped in with a vote that predictably mirrored the partisan split on the Court.<sup>4</sup> Only two years after that, President Bush’s politicizing of national security in the 2002 mid-term elections made foreign policy and national defense a divisive and partisan question.

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1. See generally LOUIS HARTZ, *THE LIBERAL TRADITION IN AMERICA: AN INTERPRETATION OF AMERICAN POLITICAL THOUGHT SINCE THE REVOLUTION* (2d ed., 1991); *THE CIVIC CULTURE REVISITED*, (Gabriel A. Almond & Sidney Verba eds., 1965).

2. See Herbert Marcuse, *Repressive Tolerance*, in *A CRITIQUE OF PURE TOLERANCE* 81, 95-97 (1969).

3. DAVID MAYHEW, *DIVIDED WE GOVERN: PARTY CONTROL, LAWMAKING, AND INVESTIGATIONS, 1946-1990*, at 134 (1991).

4. See *Bush v. Gore*, 531 U.S. 98 (2000).

These three events, married as they ineluctably were to polarizing personalities—Bill Clinton and George W. Bush—inflamed partisan passions in a manner perhaps not seen in American politics since the late nineteenth century. One might have thought at the time that the hyper partisanship of the day was a reflection of these idiosyncratic polarizing shocks to the political system, and that soon enough the normal patterns of American politics could reestablish themselves.<sup>5</sup>

Alas, normal politics is not coming back. Since 2010, when the Republican Party (again) won control of the House, passing what was once regarded as routine legislation has become almost impossible. Exhibit A, of course, is the debt limit debacle from the summer of 2011. But more obscure measures are also attributable to the partisan split, such as reauthorizing the import-export bank.<sup>6</sup> As the lopsided vote to pass President Obama's Affordable Care Act shows, important legislation is no longer passed by bipartisan majorities.<sup>7</sup> When the parties divide control of the legislature and the executive, it is difficult to pass *any* legislation (when Congress went into recess in the summer of 2013, only twenty-two bills had been passed by both Houses of Congress and sent to the President to be signed—the least productive legislative record for any Congress since political scientists started keeping track in the 1940s).<sup>8</sup> Rather than cooperate, even on the invisible margins, members of Congress prefer to repeat inconsequential symbolic votes, such as the forty (and counting) votes Congress has taken to repeal the Affordable Care Act since 2010.<sup>9</sup>

Ten years ago, the scholarly consensus was that this kind of hyper partisanship was an affliction of political elites: ordinary Americans who did not make a living off politics continued to share a broadly liberal, tolerant, non-judgmental, and anti-conflictual sensibility.<sup>10</sup> Today, the sense that America itself is 'divided' no longer looks like journalistic hype, and is increasingly corroborated by scholars who point out that the engaged public generally shares the more emphatically partisan views of political elites.<sup>11</sup> If we are not

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5. This reflected the sensibility of analysts such as Morris Fiorina and Alan Wolfe. See MORRIS P. FIORINA, SAMUEL J. ABRAMS & JEREMY C. POPE, *CULTURE WAR?: THE MYTH OF A POLARIZED AMERICA* 1-8 (2011); ALAN WOLFE, *ONE NATION, AFTER ALL: WHAT MIDDLE-CLASS AMERICANS REALLY THINK ABOUT: GOD, COUNTRY, FAMILY, RACISM, WELFARE, IMMIGRATION, HOMOSEXUALITY, WORK, THE RIGHT, THE LEFT, AND EACH OTHER* 16-17, 320-21 (1998).

6. See Ed O'Keefe, *Export-Import Bank Reauthorized by House; Senate Expected to Act Soon*, WASH. POST, May 9, 2012, <http://www.washingtonpost.com/blogs/2chambers/post/export-import-bank-reauthorization-set-to-pass/2012/05/08/gIQAoAzPBUBlog.html>.

7. The Act was passed sixty to thirty-nine in the Senate, with every Democrat and Independent voting against every Republican, and by 219 to 212 in the House, with 219 Democrats voting against every Republican and thirty-four Democrats. *U.S. Senate Roll Call Votes 111th Congress – 1st Session*, SENATE.GOV, [http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=111&session=1&vote=00396](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=1&vote=00396); U.S. House of Representatives, *Final Vote Results for Roll Call 165*, CLERKHOUSE.GOV, available at <http://clerk.house.gov/evs/2010/roll165.xml>.

8. Rachel Weiner & Ed O'Keefe, *Judging the (Un)productivity of the 113th Congress*, WASH. POST, Aug. 2, 2013, <http://www.washingtonpost.com/blogs/the-fix/wp/2013/08/02/judging-the-unproductivity-of-the-113th-congress/>.

9. See Amanda Terkel, *House GOP Votes to Repeal Obamacare for 40th Time*, HUFFINGTON POST, Aug. 2, 2013, [http://www.huffingtonpost.com/2013/08/02/gop-obamacare-vote\\_n\\_3695871.html](http://www.huffingtonpost.com/2013/08/02/gop-obamacare-vote_n_3695871.html).

10. See FIORINA ET AL., *supra* note 5, at 8; WOLFE, *supra* note 5, at 309, 320-21; John H. Evans, *Have Americans' Attitudes Become More Polarized?—An Update*, 84 SOC. SCIENCE Q. 71, 86-87 (2003).

11. See ALAN I. ABRAMOWITZ, *THE DISAPPEARING CENTER: ENGAGED CITIZENS, POLARIZATION, AND AMERICAN DEMOCRACY* x (2011); MARC J. HETHERINGTON & JONATHAN D. WEILER, *AUTHORITARIANISM AND POLARIZATION IN AMERICAN POLITICS* 16-17 (2009); Carl Desportes Bowman, *The Myth of a Non-Polarized America*,

coming apart, we are certainly not coming together.

As for the cause, the usual suspects are easy to locate. Narrow-casting news, primary electorates dominated by wing nuts, and the perfection of the gerrymander together punish anyone who puts governing above scoring symbolic points. Especially if *anyone* happens to be a Republican: nearly anyone in the Republican Party, even Senate Minority Leader Mitch McConnell, is vulnerable to a conservative challenger in the primary. Republicans are still better off to show no willingness whatsoever to get together with Democrats (as one Republican aide on Capitol Hill said, “[w]e actually want to cut spending and reduce government.”).<sup>12</sup> Given the state of partisan disagreement, no credit comes to those who discover ways of coming together—a skill always at the heart of the art of governing and the reason governing is always an art.

#### THE PROBLEM OF COOPERATION

Is the art of governing and, more generally, the art of living together at risk? Are we in danger of losing the skills that facilitate political cooperation? If people naturally cooperated for their mutual advantage, politics would be a very different thing—a science of coordination, akin to engineering. The open question in the history of political thought is whether people can cooperate for their mutual benefit without somehow being coerced to. It is only because people so reliably have difficulty getting out of their own way that politics is something more vexing (and interesting); the political problem is never finally solved.

In traditional political philosophy, the skills that hold political communities together are the consequence of an elaborate and intrusive education. “Education” hardly captures the extent to which the city reaches into and shapes every citizen. Statecraft is soul craft. The modern view seems to make coming together more a matter of argument, as if we should be reasonable enough to see the advantages of cooperation. But this argument relies on an education of its own that makes some purposes (longevity and prosperity) seem more publicly respectable than others (virtue or salvation). As it comes from a figure like Hobbes, the agreement depends on an epistemology that demotes revelation and obliterates the basis for justified pride. For both ancients and moderns, political cooperation requires a kind of skill or virtue—a way of being and seeing—that is always fragile.

Perhaps this fragility is being put to the test amid the hyper partisanship and refusal to compromise that marks contemporary American politics. Recent works by four prominent social and political theorists illuminate the habits of mind and character that political cooperation requires: Robert Goodin’s elegant *On Settling*,<sup>13</sup> Richard Sennett’s inimitable *Together: The Rituals, Pleasures and Politics of Cooperation*,<sup>14</sup> and Amy Gutmann and Dennis Thompson’s powerful analysis, *The Spirit of Compromise: Why Governing*

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HEDGEHOG REV. 65, 66-68 (2010).

12. Weiner & O’Keefe, *supra* note 8.

13. ROBERT GOODIN, *ON SETTTLING* (2012).

14. RICHARD SENNETT, *TOGETHER: THE RITUALS, PLEASURES AND POLITICS OF COOPERATION* (2012) [hereinafter SENNETT, *TOGETHER*].

*Demands It and Campaigning Undermines It.*<sup>15</sup>

Taken together, these books suggest we have to relearn, or think ourselves back into some very elemental political virtues. Calling them virtues does not implicate us in any kind of larger virtue theory, as if the only way or the best way to justify coercive legislation is by reference to some conception of the highest good. To classify the skills that bring us together and hold us together as ‘virtues’ only means that they are learned through doing, they are deployed independent of short-run selfish calculations, and they are easier to lose than to acquire.<sup>16</sup> Nor are these books about what Rawls calls “the first virtue of social institutions:” they are not about justice, but something more elemental.<sup>17</sup> The question is not what the most reasonable terms for social cooperation might be, but whether we can cooperate at all. These authors are focusing on something basic: political virtue, or the habits of mind and character that contribute to political community. Whether the community is just—whether it might be more just—are questions for a sunnier day, when we can take political cooperation, settling, compromise, and coming together more for granted.

Some might attribute the current difficulty of coming together to the contingent context of party competition in the United States, where, at the moment, each side can reasonably expect to run the whole government. In the past fifteen years, each party has enjoyed a moment of unified party control of the legislature and the executive, and each side looks to the next election as the event that may return it to full control. Under these expectations, neither party has much of an interest in cooperating with the other, especially if that cooperation makes the other side more successful and thus, more likely to fare well in the next election.

This analysis is fair enough, but what we have witnessed in the recent past goes well beyond matters of partisan calculations. When the minority leader of the Senate proclaims, just prior to an election, that “[t]he single most important thing [Republicans] want to achieve is for President Obama to be a one-term president,” something deeper than electoral calculation is at work.<sup>18</sup> To make this, rather than some larger policy or purpose, the avowed goal of a party, and to proclaim it without embarrassment on the eve of an election, reflects a public culture where opponents are made to be enemies, where responsibility for governing is viewed as dispensable, and where low partisan machinations displace high partisan purposes. Such a statement mocks the very ideal—elusive though it must always be—of a *common* good, and thus, there is no shame in adopting a policy of continuous obstruction. A statement like this says something not only about the person who utters it, but about the audience the speaker could take for granted. What we are up against is more than a matter of calculation.

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15. AMY GUTMANN & DENNIS THOMPSON, *THE SPIRIT OF COMPROMISE: WHY GOVERNING DEMANDS IT AND CAMPAIGNING UNDERMINES IT* (2012).

16. See ARISTOTLE, *NICOMACHEAN ETHICS* 27-31 (Roger Crisp trans., 2000).

17. JOHN RAWLS, *A THEORY OF JUSTICE* 3 (1971) [hereinafter RAWLS, *A THEORY OF JUSTICE*].

18. Glenn Kessler, *When Did McConnell Say He Wanted to Make Obama a 'One-Term President'?*, WASH. POST, Sept. 25, 2012, [http://www.washingtonpost.com/blogs/fact-checker/post/when-did-mcconnell-say-he-wanted-to-make-obama-a-one-term-president/2012/09/24/79fd5cd8-0696-11e2-aff-d6c7f20a83bf\\_blog.html](http://www.washingtonpost.com/blogs/fact-checker/post/when-did-mcconnell-say-he-wanted-to-make-obama-a-one-term-president/2012/09/24/79fd5cd8-0696-11e2-aff-d6c7f20a83bf_blog.html).

## COOPERATION AS CRAFT

“We are losing the skills of cooperation needed to make a complex society work,” Richard Sennett observes.<sup>19</sup> Indeed, Sennett sees a “new character type emerging in modern society, an uncooperative self,” prone to narcissism, withdrawal, and boredom.<sup>20</sup> The uncooperative self represents what Sennett called in an earlier book, “[t]he corrosion of character.”<sup>21</sup> Beset by its anxieties and fears, it cannot locate a settled relation between passions and actions and in the process liberate actions from the rule of passions.<sup>22</sup> Rather than “rising to difficult occasions,” the uncooperative self withdraws from disturbance.<sup>23</sup> “What gives voluntary withdrawal its psychological weight,” Sennett says, “is the desire to reduce anxiety, particularly the anxiety of addressing needs other than one’s own.”<sup>24</sup>

We are becoming, in Sennett’s view, what Tocqueville feared: hyper-individualists who retreat from the public into the private sphere where we can manage our discontents more successfully by escaping the disturbing differences and inequalities that public life makes plain.<sup>25</sup> In the process, we are happier but less powerful—and we lose the democratic skills by which people come ‘together’ and assert their claim.

For Tocqueville, the cause of excess privatism was democracy itself.<sup>26</sup> The “equality of conditions” made differential achievement more difficult to bear, which is why democratic people are, for Tocqueville, the most anxious.<sup>27</sup> Sennett, too, finds the cause in society generally—in social and economic inequality (which in Sennett’s analysis reflects an *inequality* of conditions).<sup>28</sup> For Sennett, the primary problem is the character of the work.<sup>29</sup> Returning to a theme he has illuminated more forcefully than any contemporary observer—and, in a sense, to the theme that unifies his career—Sennett puts work at the center of contemporary society and politics. What people do every day, over and over, the discipline they cannot escape—this is the site of the habitual activity that shapes who we are. And increasingly, Sennett argues, the experience of work is making us less cooperative.<sup>30</sup>

Especially in an elaborate division of labor, work is the quintessential form of cooperation: it is where we give one thing for the sake of getting others. But the refinement and extension of the division of labor itself makes the cooperative aspect of work less visible to the worker: it is difficult to see how one very particular and perhaps mundane task contributes to anything meaningful, and the experience of tending to one task repeatedly causes social skills to atrophy. This is what one might call the ‘old critique of

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19. SENNETT, TOGETHER, *supra* note 14, at 9.

20. *Id.* at 30, 182-90.

21. See RICHARD SENNETT, THE CORROSION OF CHARACTER: THE PERSONAL CONSEQUENCES OF WORK IN THE NEW CAPITALISM 9-10 (2000) [hereinafter SENNETT, THE CORROSION OF CHARACTER].

22. See SENNETT, TOGETHER, *supra* note 14, at 179.

23. *Id.*

24. *Id.* at 190.

25. See *id.* at 187-90; ALEXIS DE TOCQUEVILLE, 2 DEMOCRACY IN AMERICA CH. 2 (1840).

26. See *id.*

27. See *id.* at 187-88.

28. See *id.* at 191.

29. See *id.* 191-92.

30. See *id.*

work,' the critique that runs from Marx to Braverman.<sup>31</sup> In recent decades, the industrial structure of work that gave rise to the old critique has been transformed: post-industrial work is more about manipulating symbols than material things, is more about flexibility and specialization and less about mass production, and is more likely to take place in an office or retail setting than a factory. The new world of work might seem to offer some relief from the alienation so endemic to the old.

But in Sennett's astute analysis, the new world of work gives rise to a new kind of deprivation. The new workplace has little of what Sennett calls "earned authority:" the people on top are reviled by those in the back office for their lack of care, their incompetence, their disdain for making an enduring social contribution.<sup>32</sup> When the people running the place are just out for a quick buck, the people working the place no longer trust those in command. Beyond this loss of trust is a loss of skill. The ideal of skill only makes sense with reference to activities that can be done better or worse independent of how they fare in the market: a good carpenter may or may not be a successful one. With the demise of the long-term contract between workers and employers, with the rise of the expectation that everyone will change jobs multiple times over the course of a 'career,' it makes less sense to invest in firm-specific skills. As workers need to manage their personal brand more than their skills, the "ideal worker," Sennett says, is the "consultant"—someone who can deploy and even transform 'skills' to suit ever-changing projects.<sup>33</sup>

When skill becomes quaint and trust becomes scarce, we lose a way of talking and listening to each other. In particular, we are at risk of losing an ability to engage in "dialogical" conversation.<sup>34</sup> This kind of talk, unlike dialectical talk that aims for a decision point or a resolution, is comparatively aimless and unstructured.<sup>35</sup> It is more like gossip and less like a structured meeting. In dialogical conversation, we speak about our thoughts and feelings and listen to others', even if this does not bring us closer or lead to mutual understanding or culminate in an agreement. Dialogical conversation might illuminate differences more starkly—it might reveal how far apart we are. But in the course of discovering how far we might be from another, we learn something about how to situate ourselves with respect to others.

Respect is the key: we learn to respect others, in all their differences, even as we might not agree with them. In the course of this, we learn, perhaps without knowing it, something about how to cooperate with others.<sup>36</sup> We might say (though Sennett does not): *this* is public reason, the reason of the public.

Sennett sees craft work—and specifically, the work of repairing things—as central to cultivating a dialogical capacity.<sup>37</sup> Repair is not an algorithmic activity. There are 'how-to' guides, but no guide can supply all the familiarity that is necessary for a good

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31. See generally HARRY BRAVERMAN, LABOR AND MONOPOLY CAPITAL: THE DEGRADATION OF WORK IN THE TWENTIETH CENTURY (1975); Karl Marx, *Estranged Labour*, in ECONOMIC AND PHILOSOPHIC MANUSCRIPTS OF 1844, <http://www.marxists.org/archive/marx/works/1844/manuscripts/labour.htm>.

32. SENNETT, TOGETHER, *supra* note 14, at 148.

33. *Id.* at 161.

34. *Id.* at 24.

35. *Id.* at 18-20.

36. *Id.* 115, 127.

37. *Id.* at 199.

diagnosis or execution. To repair, one must know the material, the purpose, and be connected to a community of practitioners who share ideas and knowledge. This sharing is sometimes didactic, when one simply knows a lot more than another; but more often it is dialogical—exploratory, experimental, seeking without fully knowing what it is seeking for. To repair our world, we need to learn something about how to repair more generally.

Sennett's analysis is marked by a trace of nostalgia: he looks back fondly on the artisanal workshop, on the Boston bakeries where he did interviews in the early 1970s, and on the lost world of the post-war American working class where cooperation was something more natural.<sup>38</sup> Our world today is not a world that prizes repair; our political economy is predicated not on repair but replacement. Locating the vestigial practices that nourish an ethos of repair might be essential to remaking the habits of cooperation. These vestigial practices exist wherever the idea of skill continues to make sense and continues to bind people together in communities that transmit understandings of excellence and communicate innovations and discoveries.

Sennett is betting that no social world can entirely do away with skill. Every social world, even one that celebrates flexibility to the point where stability and long job tenures are signs of failure, will nonetheless elicit some kinds of skill. The kind of talk that might bring us together without making us the same—dialogical talk—is not something that needs to be grafted onto society like some cure from the outside. It is within the communities of skill we cannot entirely do without. The ingredients of coming together remain even as we might be coming apart.

Whether we can make use of these ingredients amid the insecurity that now besets the world of work is a further question. Profitable firms are bought out by new owners, who find efficiencies: with each change, workers are sized up anew, by the numbers, without regard for their skill or their service. Decent businesses are made unprofitable as managers take on catastrophic risks: workers are left to manage their own unemployment, their loyalty betrayed. The successful focus is not on what they can contribute, but on what they can take with them—they are 'flexible,' ready for change. In a time where change is capricious, Sennett looks back appreciatively to an earlier world of work where firms and jobs were more fixed.

#### FIXIDITY

Fixing things—not repairing them, but imposing some constancy on them, *settling them*—is a precondition of agency, Robert Goodin argues.<sup>39</sup> We settle up, we settle down, and we settle for what we settle on. Living is about settling. It is about striving as well, which is in some sense the opposite of settling; but before we start, we have to settle on what we are going to strive for, and when the race is won, we have to learn to settle for whatever we have managed to achieve. Goodin's exploration of settling is in part therapeutic philosophy. Settling on a personal level is a necessary counterpoint to striving, and living well involves settling well. Beyond the personal, politics too is about settling: politics begins when people settle. This is true in a literal sense, as settled agricul-

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38. *Id.* at 148.

39. GOODIN, *supra* note 13, at 36.



ture is the precondition for political community as we know it. When revolutions and wars end well they give rise to a settlement, at which point normal politics can begin. Within normal politics, fair legislation reflects some kind of settlement among intersecting and sometimes rival interests. To be political, we have to settle.

Unifying the various senses of the term, according to Goodin, is a “[m]aster [n]otion”: “[s]ettling [*o*]n.”<sup>40</sup> We settle *on* a place to live when we settle *in*. We settle *on* terms of agreement when we settle *up*. We settle *on* an option by settling *for* it. Settling *on* seems to be at the core of the concept.<sup>41</sup>

But perhaps this formulation elides the moral core of the concept. This core is a certain kind of acknowledgment of others and their claims. To acknowledge that another person has a legitimate entitlement or is deserving of something is to possess the virtue of justice: a just person gives others their due. Settling is related to this, but it calls for more than a just acknowledgment of valid claims. The status of many claims, perhaps most claims, is a matter of dispute. What constitutes fair taxation, for example, or a just public expense is the stuff of political contestation. Moreover, people can be counted on to advance claims that go beyond what they could reasonably be said to deserve. “[E]verywhere we come upon the dear self,” as Kant says, and it is perfectly ordinary to believe we deserve more than we in fact do, or to believe that others deserve less than they in fact do.<sup>42</sup>

Tempering this tendency, “settling” takes an ability to acknowledge the claims of others, whether they are just claims or not. Politics cooperation requires that we acknowledge others’ claims regardless of whether we think they are just. “‘Settling for,’” Goodin says, “is a matter of making do. It is a matter of deciding what is ‘good enough.’ It is a matter of settling for something less than ‘everything.’”<sup>43</sup> Both justice and, more simply, living with others in a political community, require citizens who can settle for “something less than ‘everything.’”<sup>44</sup> The disposition to settle might constitute *meionexia*, or a willingness to accept less than one’s due—a quality the Cynics thought a virtue but that under unequal conditions might be a kind of self-effacement that perpetuates injustice.<sup>45</sup> Yet where justice is in dispute (as it always is), and where people are prone to claim more than they are due (as they always are), the disposition to settle is a kind of virtue. There is perhaps no way to live together—peacefully, cooperatively, and democratically—without it.

This is what settling is about, politically speaking: acknowledging the claims of others and moderating one’s own somewhat independently of what everyone seems to deserve. It is a bit like conceding an argument while you think you might still be right. But it is not really a concession. It is simply an acknowledgment that there are other arguments, and yours has not persuaded everyone. If striving is the counterpoint to settling

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40. *Id.* at 27 (emphasis added).

41. *Id.* at 27-29.

42. Immanuel Kant, *Transition from Popular Moral Philosophy to the Metaphysic of Morals*, in *GROUNDWORK FOR THE METAPHYSICS OF MORALS* (1785), available at <http://ethics.sandiego.edu/Books/Kant/MM/Part2.html>.

43. GOODIN, *supra* note 13, at 25.

44. *Id.*

45. *Id.* at 26.

in personal affairs, the counterpoint in politics is striving to make your own claims rule—never giving up. It is a failure to recognize the claims advanced by others, to take them into consideration, and to come to any kind of accommodation.

Goodin is keen to point out that settling is not the same as compromising—it is not necessarily about giving up something (perhaps of principled importance) in order to get something.<sup>46</sup> Settling, in contrast to compromise, is sometimes just a matter of resolve, a willingness to try *something* among perhaps equally palatable and equally unpredictable options.<sup>47</sup> We settle on a policy to reduce carbon emissions because the problem is urgent and some policy is better than no policy.

But this presumes that the *we* in question is a unified actor, the political equivalent of a person. To accomplish anything personally or politically, we must settle, usually before we can know whether what we settle on is best. In politics, the *we* is always a disunified actor, which is what gives settling in its political sense a distinctive meaning. To settle in politics is always with others: we settle up, settle on, settle for, settle down, and settle in with other people. In all of these senses settling involves somehow taking into account the claims others advance. In this sense—politically—settling is a very close cousin of compromise. If not identical, they are similar in the way they express a willingness to acknowledge the claims others advance somewhat regardless of whether we think the claims are valid.

Our politics, at least in the U.S., is today full of insistence and striving—striving to embarrass one’s opponents, to defeat the agenda of the other side, to win the next election, to have our way. Perhaps we have forgotten something about how to settle.

#### THE *SPIRIT* OF COMPROMISE

The willingness to accommodate the claims of others, so at the heart of settling as a political matter, involves a kind of respect. Respect is also at the core of Amy Gutmann and Dennis Thompson’s astute and timely account of the “[s]pirit of [c]ompromise.”<sup>48</sup> If Sennett looks at the everyday practices of social life and Goodin at a fundamental concept hiding in plain view, Gutmann and Thompson look to the formal polity—especially the legislature. They notice that while “compromise” has always had a sharp edge (to be called “compromised” or be discovered in compromising circumstances is never good), it will always be a kind of virtue in democratic politics.<sup>49</sup> Democratic politics will be a contest, if not a cacophony. “[G]overning a democracy without compromise,” Gutmann and Thompson say, “is impossible.”<sup>50</sup> The common good is always a matter of disagreement. As Gutmann and Thompson say, “the common ground is more barren . . . than the inspiring rhetoric in its favor might suggest.”<sup>51</sup>

The difficulty of finding common ground is amplified by contemporary conditions of accentuated partisanship, but it is nothing new. Being uncompromising can seem no-

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46. *Id.* at 52-53.

47. *Id.* at 54.

48. GUTMANN & THOMPSON, *supra* note 15.

49. *Id.* at 21-22.

50. *Id.* at 1.

51. *Id.* at 13.

bler and more fun. As James Madison noted, we are more readily inclined to vex and to oppress each other than to cooperate for our common advantage. It is satisfying to take a stand on principle—but it can be even more satisfying to deny (“vex”) one’s opponents—so what if you are worse off as a result? When perfect victory is impossible (when is it not, in democracy?), defeating the other side is one of the few lasting pleasures politics offers.

Inducing people to overcome their temptation to indulge the pleasures of associability is the point of political science. Institutions can go a long way to teasing out compromises that are not, on their own, forthcoming. But the fundamental point of Gutmann and Thompson’s argument is that institutions are not a sufficient cure to the associable inclinations that beset political life.<sup>52</sup> Citizens—and especially officials—must bring to institutions a particular kind of “mindset.”<sup>53</sup>

A mindset is a psychological stance, a “cluster of attitudes and arguments” that culminates in an orientation to action.<sup>54</sup> A mindset is not the consequence of a cost-benefit calculation—it is not mere prudence or rationale self-interest. Rather, it is a psychological orientation that makes cost-benefit calculation possible. It frames what counts as a cost or a benefit. Is it better to stand on principle and get nothing, or to compromise and lose something important, while also getting something important? It is possible to write an algorithm that formalizes such a decision—but it is *not possible* to run such an algorithm in the real world. Uncertainties abound in the political world, and today’s losers often turn out to be tomorrow’s winners, though no one saw it coming. Given the unpredictability of political things, any algorithm than tries to quantify the benefits and costs of compromise would not be worth the paper it is scrawled on.

To be sure, whether to compromise will always depend in part on prudential calculation. For many Republicans, the current calculus of “getting primaried” is enough to overcome any mindset, especially in certain Republican districts. But this merely shifts the argument from officials who serve at the pleasure of their constituents to citizens more generally: why do voters, especially primary voters, prefer to get nothing from an uncompromising representative over getting something from an official who is willing to hammer out judicious compromises? Answering this compels us to go beyond the calculus of self-interest, and enter into the “mindset” of such voters. It is not as if we can reduce the causal importance of mindsets to something allegedly more real or calculable. Mindsets—habits of mind that make some actions more likely, or virtues by another name—are as real as it gets.

At the heart of the mindset of compromise is a certain kind of “mutual respect.”<sup>55</sup> The kind of mutual respect that the authors advance is not quite what is at the core of the ideal of public reason and deliberative democracy. There, respect is conceived of as reciprocity, or as a willingness to give and take reasons when advancing political goals. Giving and taking reasons, on its own, may or may not lead to compromise. What it expresses is the crucial thing. A willingness to give and to take reasons expresses a respect for

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52. See *id.* at 65-66.

53. See *id.* at 10, 64-69, 204-09.

54. *Id.* at 64.

55. See *id.* at 17, 34, 60, 100, 109-29, 178, 201.

other beings as reasonable and rational beings. The archetype of public reason understood this way—as Rawls says—is the Supreme Court.<sup>56</sup> In a full decision, the Court does not merely issue a conclusion (“*Remanded!*”). The decision comes with reasons attached. And the reasons of the majority are complemented by the reasons of the minority if the decision is split. But crafting a majority—on the Supreme Court or anywhere else—that is where the action is. The reasons that brought the majority together may or may not be evident from reading the majority decision. Beyond that, there is no reason to think that merely making one’s reasons clear will persuade anyone else: the minority on the Court is what it is in any particular decision because the majority could not persuade it.

Merely hearing reasons and giving reasons does not necessarily get us anywhere (together). Politics, especially the compromise that successful governing cannot do without, requires respect of a different sort. The respect at the heart of the mindset of compromise involves seeing one’s opponents in a particular kind of way. Perhaps it is more accurate to say that it involves *not* seeing them in a particular kind of way—not as enemies to be defeated, not as ethically deficient beings needing to be exiled, not as self-interested slobs who cannot think straight. *Not* seeing one’s opponents these ways means not seeing oneself in certain ways also: as bearing the full force of reason and moral righteousness, as unfailingly impartial and true, as possessing the superior intelligence untainted by selfish consideration. To have a compromising mindset involves seeing one’s opponents not only as bearers of reasons that can be given voice, but as legitimate—as inspired by a legitimate, possibly true, surely partly true conception of the common good. And to see oneself on par with one’s opponents (in certain respects) means seeing one’s own claims as also legitimate. In a contest of competing, possibly legitimate claims, compromise itself becomes more legitimate.

Whether this means we need to view opponents as reasonable is a tricky question, at least where the term “reasonable” refers to the standard of discourse required by the ideals of public reason and deliberative democracy.<sup>57</sup> “Reasonable” might denote a very basic standard—one where the terms of an argument are consistent with viewing citizens as free and equal. Formally speaking (without getting into putative motivations), one might say that all the various arguments at work in politics today—for and against health care, progressive taxation, even voter identification laws—are consistent with this very basic standard. But “reasonable” also might denote something more demanding: it might ask not only that the formal terms of a political argument be rendered in a manner consistent with freedom and equality, but further, that the motivations for offering the terms be consistent with seeing citizens as free and equal (they be offered in “good faith”). Or, more demanding still, the doctrine of “reasonableness” might require that the terms of political argument reflect the most demanding understanding of what it means to view citizens as free and equal.

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56. JOHN RAWLS, *POLITICAL LIBERALISM* 231 (1st ed., 1993).

57. See Joshua Cohen, *Democracy and Liberty*, in *DELIBERATIVE DEMOCRACY: CAMBRIDGE STUDIES IN THE THEORY OF DEMOCRACY* 185-224 (Jon Elster ed., 1998); John Rawls, *The Idea of Public Reason Revisited*, in *COLLECTED PAPERS* 573-615 (Samuel Freeman ed., 1996) [hereinafter RAWLS, *The Idea of Public Reason Revisited*].

Under these more demanding interpretations, many arguments that abound in contemporary political life might fail to satisfy the standard. Voter identification laws are arguably motivated less by a desire to combat voter fraud and more by a desire to discourage certain demographics (ones unlikely to vote Republican) from voting; if so, they are not offered in good faith. Arguments against campaign finance legislation or progressive taxation or health care arguably would have the effect of deepening social and economic inequalities, with the further consequence of cementing inequalities of political influence. From a more demanding perspective of what counts as “reasonable,” one might not view one’s opponents as “reasonable,” or as offering terms of argument consistent with the freedom and equality of citizens.

The “spirit of compromise” calls on us to accommodate political opponents even when we do not see them as “reasonable” in this (more demanding) sense of the term. It asks us to see them as legitimate even when we cannot see them as reasonable; in this sense, the spirit of compromise is a declension from the highest ideals of deliberative democracy. Perhaps declension is not right, since the spirit of compromise asks for more than deliberative democracy: we need to respect political opponents even when they do not seem respectable. As a declension that asks for more, the spirit of compromise is more worldly: it is something that workable, successful democratic politics needs.

Still, the possibility of compromising with opponents we do not view as reasonable points to obvious risks invited by a mindset of compromise. For their part, Gutmann and Thompson remain alive to these risks throughout.<sup>58</sup> To maintain a point-of-view that sees one’s opponents as legitimate risks the vice of trimming—of preferring the median position between two opposing views, regardless of the particulars.<sup>59</sup> Trimmers never see compromise as undesirable; at the extreme, they have no conviction or “ideal point” from which they might compromise. As a result, they cannot recognize cases in which compromise is undesirable, practically and morally. President Obama knows the House of Representatives has voted dozens of times to repeal his health care law of 2010. And he knows that he cannot compromise by meeting the House “half-way.” The half-way point would look something like this: repeal the individual “mandate,” so offensive to libertarian sensibilities; but keep the exclusion of pre-existing conditions. That combination, as politically attractive as it would surely be, is practically unworkable. The only way to cover everyone, even those with preexisting conditions, is to generalize the risk by including even to those who for some reason prefer not to insure themselves.

In some sense, compromise is never quite admirable, if only because compromises make little sense.<sup>60</sup> They often betray a jumble of competing intentions, and defy coherent explanation. Consider the so-called “farm bill,” which was defeated in the summer of 2013 in the House of Representatives.<sup>61</sup> The farm bill, which was first crafted in the

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58. See GUTMANN & THOMPSON, *supra* note 15, at 78-85.

59. While they affirm that compromise has its “limits,” Gutmann and Thompson suggest that “[t]rimmers may not deserve the negative connotation they have long endured.” *Id.* at 221 n.12; see also GOODIN, *supra* note 13, at 56 (for the negative connotation put forcefully).

60. See GUTMANN & THOMPSON, *supra* note 15, at 40-41.

61. Burleigh C. W. Leonard, *In the Aftermath of the Farm Bill’s Defeat*, ROLL CALL (July 10, 2013, 3:56 PM), [http://www.rollcall.com/news/in\\_the\\_aftermath\\_of\\_the\\_farm\\_bills\\_defeat\\_commentary-226254-1.html](http://www.rollcall.com/news/in_the_aftermath_of_the_farm_bills_defeat_commentary-226254-1.html).

1970s and re-passed routinely since then (until 2012, when its consideration was delayed and 2013 when it was defeated) is a collection of compromises. To attract members of Congress from urban districts, it appropriates money for food stamps, or the Supplemental Nutrition Assistance Program; to attract votes from rural districts, it appropriates money for agricultural subsidies paid to farmers. These subsidies involve a patchwork of further compromises among dairy, cotton, soy, and corn growers.<sup>62</sup> A bill that contains a web of subsidies for farmers and an anti-hunger program does not make much sense: if there is something for everyone to like, there is also something for everyone to object to. It is difficult to imagine justifying this sort of legislation in terms consistent with public reason; the only justification is practical. The alternative to the farm bill may be no bill at all.

The ethos of compromise points to a mode of public reason somewhat distinct from the one that has been worked out in relation to deliberative democracy. Public reason says that the reasons justifying coercive legislation need to be public and need to be consistent with viewing citizens as free and equal. In its most demanding form, the reasons justifying legislation need to be consistent with, if not derived from, a conception of justice. But the reasons that in fact justify the compromises that make democratic legislation possible seem to be of a different kind. As Gutmann and Thompson say, “[a] compromise is not meant to be coherent or principled in the way that laws are ideally supposed to be . . . . The outcome will not be satisfying if judged from the perspective of any single principle or set of principles.”<sup>63</sup> At bottom, the justification for compromise legislation is simply that governing in a democracy prevents us from getting all we claim; even if we think our claims are fully valid, at best, they can only be partly satisfied.

The idea that respectable political argument should be based in a complete and coherent conception of the common good is more at home in campaigning than in governing. Candidates’ “support and ultimately their success in the campaign depend[s] on reaffirming their uncompromising commitment to core principles and on distinguishing their positions sharply from those of their opponents.”<sup>64</sup> Especially when it concerns fundamental questions—and many ordinary political issues involve fundamental questions—this kind of argument based in a complete political conception nicely conforms to a certain ideal of public reason.<sup>65</sup>

But it can also amplify the uncompromising mindset. In Gutmann and Thompson’s analysis, the rise of the permanent campaign is largely responsible for the dominance of

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62. My understanding of the farm bill is informed by Harry Stein, Associate Director for Fiscal Policy at the Center for American Progress. Harry Stein, *The Farm Bill Is All About Compromise... and That's Why House Republicans Can't Pass It*, NOT ABOUT QUALITY BLOG (June 21, 2013), <http://notaboutquality.com/2013/06/21/the-farm-bill-is-all-about-compromise-and-thats-why-house-republicans-cant-pass-it/>.

63. GUTMANN & THOMPSON, *supra* note 15, at 37.

64. *Id.* at 147.

65. See RAWLS, *The Idea of Public Reason Revisited*, *supra* note 56, at 58 (stating that an “essential feature of public reason is that its political conceptions should be complete. This means that each conception should express principles, standards, and ideals, along with guidelines of inquiry, such that the values specified by it can be suitably ordered or otherwise united.”). Rawls is addressing arguments about “fundamental political questions,” but these arise in everyday politics just as forcefully as at constitutional conventions. *See id.* at 585-86.

the uncompromising mindset.<sup>66</sup> Governing calls on a far more nuanced instantiation of public reason than campaigning. One might support the farm bill not because one supports this or that agricultural subsidy, but because this seems the best way of solidifying political support for anti-hunger programs. “On the whole,” one might say, “this bill advances the common good, in spite of prominent parts that I think are wasteful or destructive.” That is the way justification in real politics goes—when real politics goes well. It is the kind of justification that anyone who cares about governance will appreciate.<sup>67</sup>

Cultivating this appreciation is the aim of Gutmann and Thompson’s book. In this partisan age, in the moment of the permanent campaign, they are trying to nourish an appreciation of the kind of public reason relevant to actual legislation. This will be a vastly more untidy species of public reason than the sort that is more aligned with campaigning or position-taking. While Sennett and Goodin are less concerned with formal politics, in a fundamental way they are saying the same thing. To appreciate the value of settling, we need to see that we cannot get everything we want, even if we deserve it. And to cultivate the skills of cooperation, we need—as Sennett says—to appreciate the seemingly inconsequential and non-linear character of dialogical conversation.<sup>68</sup>

#### CONCLUSION

To generalize from these three accounts, we might say that the public reason of democracy is untidy. It covers accommodations that will not be fully justifiable, and reflects a balance of competing ideals and interests that can never be fully reconciled. Campaigning—standing up for what we believe or know to be true—is easy. Governing—actually living together in a common political community—is something else: frustrating, compromising, and untidy. The public reason of democracy cannot but reflect that untidiness.

Each of these authors asks that we remember how to value the political virtues connected to cooperation: the mindset of compromise, a disposition to settle, and an openness to dialogical discussion. At the moment, politics (in the United States) does not seem to reward any of these traits.

Yet apart from the self-defeating histrionics that the partisan fray exhibits, it may be that partisans are framing a fundamental choice that voters need to make. For a generation, American politics has straddled two positions: one that values social insurance, effective regulation, military capacity, and other functions that government serves; and

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66. GUTMANN & THOMPSON, *supra* note 15, at 23.

67. Contrast this with the manner in which Rawls conflates the public reason of candidates and officials:

This ideal [of public reason] is realized, or satisfied, whenever judges, legislators, chief executives, and other governmental officials, as well as candidates for public office, act from and follow the idea of public reason and explain to other citizens their reasons for supporting fundamental political positions in terms of the political conception of justice they regard as most reasonable. In this way they fulfill what [Rawls] call[s] their duty of civility to one another and to other citizens. Hence, whether judges, legislators, and chief executives act from and follow public reason is continuously shown in their speech and conduct on a daily basis.

RAWLS, *The Idea of Public Reason Revisited*, *supra* note 56, at 576-77.

68. SENNETT, TOGETHER, *supra* note 13, at 14.

another that views government as more the problem than the solution to our problems. That straddle has produced an expansion of governmental activities (and its correlated expense) along with a succession of tax cuts, and, predictably, permanent structural budget deficits. Whether citizens want the national government to take an active role in addressing national problems is an open question in a way that it has not been for generations. In this context, the virtues of “taking a stand” are evident, and the value of compromise, settling, and open-ended dialogue is harder to see.

Taken together, these books are right to insist that we remember how to value the virtues of cooperation. As a polity, we may get stuck and find ourselves unable to resolve, even provisionally, the national government’s role. Or we may make a choice, and one party over the other may come to attract a durable national majority. *Either way*, we will need to recapture the virtues of living together. There are high stakes at risk in American politics at the moment: we are hammering out some of the fundamental terms of the public philosophy that will frame the compromises, settlements, and discussions of our public life. When the stakes are high, it seems right to take a stand. But regardless of how the contest of the moment is settled, we are at risk of losing a way of valuing a set of political virtues essential to living together.