

VOLUME II: RIGHTS AND LIBERTIES
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Supplementary Material

Chapter 5: The Jacksonian Era—Foundations/Principles

Democrats v. Whigs

The Democrats and Whigs were the two major national parties during most of the Jacksonian era. The national party platforms of each coalition focused on national powers. Democrats opposed the national bank, federally funded internal improvements, and protective tariffs. Whigs favored these measures. Democrats and Whigs in the states more often disputed rights and liberties. Whigs favored using government power to improve citizens and foster a uniform, Protestant culture. Democrats opposed such Whig initiatives as common schools and temperance laws. Whigs supported nativism and limiting voting rights. Democrats championed the rights of (white) immigrants and an expanded suffrage. Northern Whigs were far more inclined than northern Democrats to support the rights of women, blacks, and Native Americans.

The excerpts below were written by leading Democrat and Whig advocates. William Leggett (1801–39) was a prominent journalist. His editorials in the New York Evening Post and other papers railed against state chartered monopolies, protective tariffs, the commingling of religion and politics, and somewhat unusual for a Democrat, slavery. Horace Mann (1796–1859) was the Secretary of the Massachusetts State Board of Education and a Whig member of the Massachusetts and national legislature. A founder of public education in the United States, Mann was also a prominent anti-slavery advocate.

*Consider these excerpts in light of John Stuart Mill's *On Liberty* (1859). Mill's most famous passage declared,*

The object of this Essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties, or the moral coercion of public opinion. That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise, or even right. . . . The only part of the conduct of anyone, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.¹

To what extent do Leggett and Mann agree with these sentiments? When do each think government may regulate individual behavior? Imagine Leggett and Mann were asked to speak on such contemporary issues as abortion and school prayer. What position would they take?

William Leggett, "True Functions of Government" (1840)²

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¹ John Stuart Mill, *On Liberty*, 2nd ed. (Boston, MA: Ticknor and Fields, 1863), 22–23.

² William Leggett, *A Collection of the Political Writings of William Leggett*, ed. Theodore Sedgwick, vol. 1 (New York: Taylor and Dodd, 1840), 162–66.

The fundamental principle of all government is the protection of person and property from domestic and foreign enemies, to defend the weak against the strong. . . . The functions of Government, when confined to their proper sphere of action, are therefore restricted to the making of *general laws*, uniform and universal in their operation, for these purposes, and for no other.

Governments have no right to interfere with the pursuits of individuals, as guaranteed by those general laws, by offering encouragements and granting privileges to any particular class of industry, or any select bodies of men, inasmuch as all classes of industry and all men are equally important to the general welfare, and equally entitled to protection.

Whenever a Government assumes the power of discriminating between the different classes of the community, it becomes, in effect, the arbiter of their prosperity, and exercises a power not contemplated by any intelligent people in delegating their sovereignty to their rulers. It then becomes the great regulator of the profits of every species of industry, and reduces men from a dependence on their own exertions, to a dependence on the caprices of their Government. Governments possess no delegated right to tamper with individual industry a single hair's breadth beyond what is essential to protect the rights of person and property.

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This power of regulating—of increasing or diminishing the profits of labor and the value of property of all kinds and degrees, by direct legislation, in a great measure destroys the essential object of all civil compacts, which, as we said before, is to make the social a counterpoise to the selfish feeling. By thus operating directly on the latter, by offering one class a bounty and another a discouragement, they involve the selfish feeling in every struggle of party for the ascendancy, and give to the force of political rivalry all the bitterest excitement of person interests conflicting with each other. Why is it that parties now exhibit excitement aggravated to a degree dangerous to the existence of the Union and to the peace of society? Is it not that by frequent exercises of partial legislation, almost every man's personal interests have become deeply involved in the result of the contest? In common times, the strife of parties is the mere struggle of ambitious leaders for power; now they are deadly contests of the whole mass of the people, whose pecuniary interests are implicated in the event, because the Government has usurped and exercised the power of legislating on their private affairs. The selfish feeling has been so strongly called into action by this abuse of authority as almost to overpower the social feeling, which it should be the object of a good Government to foster by every means in its power.

No nation, knowingly and voluntarily, with its eyes open, ever delegated to its Government this enormous power, which places at its disposal the property, the industry, and the fruits of the industry, of the whole people. As a general rule, the prosperity of rational men depends on themselves. Their talents and their virtues shape their fortunes. They are therefore the best judges of their own affairs, and should be permitted to seek their own happiness in their own way, untrammelled by the capricious interference of legislative bungling, so long as they do not violate the equal rights of others, nor transgress the general laws for the security of person and property.

But modern refinements have introduced new principles in the science of Government. Our own Government, most especially, has assumed and exercised an authority over the people, not unlike that of weak and vacillating parents over their children, and with about the same degree of impartiality. One child becomes a favorite because he has made a fortune, and another because he has failed in the pursuit of that object; one because of its beauty, and another because of its deformity. Our Government has thus exercised the right of dispensing favors to one or another class of citizens at will. . . .

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Experience will show that this power has always been exercised under the influence and for the exclusive benefit of wealth. It was never wielded in behalf of the community. Whenever an exception is made to the general law of the land, founded on the principle of equal rights, it will always be found to be in favor of wealth. These immunities are never bestowed on the poor. . . .

Thus it will be seen that the sole reliance of the laboring classes, who constitute the vast majority of every people on the earth, is the great principle of Equal Rights; that their only safeguard against oppression is a system of legislation which leaves all to the free exercise of their talents and industry, within the limits of the GENERAL LAW, and which, on no pretence of public good, bestows on any

particular class of industry, or any particular body of men, rights or privileges not equally enjoyed by the great aggregate of the body politic.

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Horace Mann, The Ground of the Free School System (1846)³

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... [T]he universal and ever-repeated argument in favor of free schools has been that the general intelligence which they are capable of diffusing, and which can be imparted by no other human instrumentality, is indispensable to the continuance of a republican government. . . .

Again, the expediency of free schools is sometimes advocated on grounds of political economy. An educated people is always a more industrious and productive people. Intelligence is a primary ingredient in the wealth of nations. . . . The moralist, too, takes up the argument of the economist. He demonstrates that vice and crime are not only prodigals and spendthrifts of their own, but defrauders and plunderers of the means of others, that they would seize upon all the gains of honest industry and exhaust the bounties of Heaven itself without satiating their rapacity; and that often in the history of the world whole generations might have been trained to industry and virtue by the wealth which one enemy to his race has destroyed.

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I believe that this amazing dereliction from duty, especially in our own country, originates more in the false notions which, men entertain *respecting the nature of their right to property* than in any thing else: In the district school meeting, in the town meeting, in legislative halls, everywhere, the advocates for; a more generous education could carry their respective audiences with them in behalf of increased privileges for our children, were it not instinctively foreseen that increased privileges must be followed by increased taxation. Against this obstacle, argument falls dead. . . .

It seems not irrelevant, therefore, in this connection, and for the purpose of strengthening the foundation on which our free school system reposes, to inquire into the nature of a man's right to the property he possesses, and to satisfy ourselves respecting the question whether any man has such an indefeasible title to his estates or such an absolute ownership of them as renders it unjust in the government to assess upon him his share of the expenses of educating the children of the community up to such a point as the nature of the institutions under which he lives, and the well-being of society, require.

I believe in the existence of a great, immortal, immutable principle of natural law, or natural ethics,—a principle antecedent to all human institutions, and incapable of being abrogated by any ordinance of man,—a principle of divine origin, clearly legible in the ways of Providence as those ways are manifested in the order of nature and in the history of the race, which proves the *absolute right* to an education of every human being that comes into the world, and which, of course, proves the correlative duty of every government to see that the means of that education are provided for all.

In regard to the application of this principle of natural law,—that is, in regard to the extent of the education to be provided for all at the public expense,—some differences of opinion may fairly exist under different political organizations; but, under our republican government, it seems clear that the minimum of this education can never be less than such as is sufficient to qualify each citizen for the civil and social duties he will be called to discharge. . . . So far is it from being a wrong or a hardship to demand of the possessors of property their respective shares for the prosecution of this divinely ordained work, that they themselves are guilty of the most far-reaching injustice when they seek to resist or to evade the contribution. . . .

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³ Horace Mann, "The Ground of the Free School System," in *Old South Leaflets*, vol. 5 (Boston, MA: Directors of the Old South Work, 1902).

... A child has interests far higher than those of mere physical existence. Better that the wants of the natural life should be disregarded than that the higher interests of the character should be neglected. If a child has any claim to bread to keep him from perishing, he has a far higher claim to knowledge to preserve him from error and its fearful retinue of calamities. If a child has any claim to shelter to protect him from the destroying elements, he has a far higher claim to be rescued from the infamy and perdition of vice and crime.

... [T]hey who refuse to enlighten the intellect, of the rising generation are guilty of degrading the human race. They who refuse to train up children in the way they should go are training up incendiaries and madmen to destroy property and life, and to invade and pollute the sanctuaries of society. In a word, if the mind is as real and substantive a part of human existence as the body, then mental attributes, during the periods of infancy and childhood, demand provision at least as imperatively as bodily appetites. . . .

... In obedience to the laws of God and to the laws of all civilized communities, society is bound to protect the natural life of children; and this natural life cannot be protected without the appropriation and use of a portion of the property which society possesses. . . . But why preserve the natural life of a child, why preserve unborn embryos of life, if we do not intend to watch over and to protect them, and to expand their subsequent existence into usefulness and happiness? We are brought, then, to this startling but inevitable alternative,—the natural life of an infant should be extinguished as soon as it is born, or the means should be provided to save that life from being a curse to its possessor; and, therefore, every State is morally bound to enact a code of laws legalizing and enforcing infanticide or a code of laws establishing free schools.

... Massachusetts is *parental* in her government. More and more, as year after year rolls by, she seeks to substitute prevention for remedy, and rewards for penalties. She strives to make industry the antidote to poverty, and to counterwork the progress of vice and crime by the diffusion of knowledge and the culture of virtuous principles. She seeks not only to mitigate those great physical and mental calamities of which mankind are the sad inheritors, but also to avert those infinitely greater moral calamities which form the disastrous heritage of depraved passions. Hence it has long been her policy to endow or to aid asylums for the cure of disease. She succors and maintains all the poor within her borders, whatever may have been the land of their nativity. She founds and supports hospitals for restoring reason to the insane; and even for those violators of the law whom she is obliged to sequester from society she provides daily instruction and the ministrations of the gospel at the public charge. To those who, in the order of Nature and Providence, have been bereft of the noble faculties of hearing and of speech, she teaches a new language, and opens their imprisoned minds and hearts to conversation with men and to communion with God; and it hardly transcends the literal truth to say that she gives sight to the blind. For the remnants of those aboriginal tribes, who for so many ages roamed over this land without cultivating its soil or elevating themselves in the scale of being, her annual bounty provides good schools; and, when the equal, natural, and constitutional rights of the outcast children of Africa were thought to be invaded, she armed her courts of judicature with power to punish the aggressors. The public highway is not more open and free for every man in the community than is the public schoolhouse for every child; and each parent feels that a free education is as secure a part of the birthright of his offspring as Heaven's bounties of light and air. The State not only commands that the means of education shall be provided for all, but she denounces penalties against all individuals, and all towns and cities, however populous or powerful they may be, that shall presume to stand between her bounty and its recipients. In her righteous code the interception of knowledge is a crime; and, if parents are unable to supply their children with books, she becomes a parent, and supplies them. . . .

... From her earliest colonial history the policy of Massachusetts has been to develop the minds of all her people, and to imbue them with the principles of duty. To do this work most effectually, she has begun it with the young. If she would continue to mount higher and higher toward the summit of prosperity, she must continue the means by which her present elevation has been gained. In doing this,

she will not only exercise the noblest prerogative of government, but will cooperate with the Almighty in one of his sublimest works.



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