

O EAST OREGONIAN PINION

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OUR VIEW

In defense of patriotism

This nation started with a bang. It began with fighting words and we celebrate its birth every year with fireworks.

The Declaration of Independence, as it was soon known, laid down a brave vision for the United States. We were unified by the guiding principle that life, liberty and the pursuit of happiness were the rights of all people under God, and that a new country would be formed first and foremost to protect those rights.

We went to war for those ideals, throwing off a monarchy that believed it was the purveyor of God's divine will. We wrestled with how those rights should be interpreted in law and in government. Our forefathers went to great lengths to create a system that could be sustained and secured, even as competing interests would try to take it away or bend it to their will.

As we look back now — 242 years into this democratic experiment — it's amazing to see how much has worked. Our Constitution remains a garrison against government overreach and our

checks and balances in the courts and the Congress have kept tyranny at bay.

It has failed on other fronts, historically, as we trampled or outright ignored the rights of marginalized people who stood in the way of those in power. And every day it is threatened by those who think the country is theirs, singularly, rather than ours, collectively.

But the reason it has worked as well as it has is because of patriots who have put the good of the country ahead of themselves, even so far as laying down their lives and personal freedoms to protect it. They have shown with words and actions why this country's ideals are worth defending.

That's what patriotism does. It believes in the greater good of what the country stands for, and not merely the symbols that come along with it.

Nationalism, its dark cousin, demands homage to those symbols without respect for their underlying foundation — and it harbors suspicion and spite against those who understand those symbols differently.



Patriotism's power comes from a love of country and its people and ideals, while nationalism's power comes from a fear and hatred of the outside world.

Patriotism accepts past mistakes in hopes of building a better future. Nationalism ignores flaws, both past and present.

Patriotism inspires service to the country. Nationalism demands for allegiance to it.

Patriotism is more difficult. It is

not merely waving a flag or reciting a pledge. It requires earnest attention, reflection and action. It requires good-faith debate about how our ideals should be practiced, and at the same time camaraderie in building a better country. It doesn't allow minor differences to separate the greater unity and progress.

And true patriotism should always be on guard for the creep of nationalism, so the two will still be distinguishable in years to come.

OTHER VIEWS

Anthony Kennedy's imperial legacy

In the American republic's slow transformation into a judicial-executive dyarchy, with a vestigial legislature that lets the major controversies get settled by imperial presidents and jurists, Anthony Kennedy occupied a particularly important role. He was appointed to the Supreme Court at a time when the Republican Party was officially interested in curbing judicial activism and restoring power to the elected branches of government. As the court's swing vote, though, he instead consolidated the judiciary's imperial role — taking the expansive powers claimed by judicial liberals in the Warren era and turning them to his own purposes, his own vision of the common good.

He did this without a particularly coherent constitutional theory, which is why he never attracted the disciples who flocked to Antonin Scalia or the fans who celebrate Ruth Bader Ginsburg as the Notorious RBG. Kennedy preferred to rule the country like an oracle, agonizing behind the scenes but showing neither humility nor rigor in his ultimate decisions — overruling state and federal law more frequently than any justice to his right or left, pontificating in sweeping and self-righteous and faux-poetic prose, seeking to establish the court as the decisive and unifying authority for a sprawling and divided country.

If his constitutional theory was somewhat lacking, though, his guiding ideals were clear. Without being a completely consistent libertarian, he was a general champion of freedom — “the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life,” as his *Planned Parenthood v. Casey* decision famously put it — across both social and economic spheres. To borrow an overused but still useful word, Kennedy was the modern court's most “neoliberal” justice, embracing corporate freedom and sexual freedom as a kind of unity, attacking restraints on campaign spending and mandates to buy health insurance in the same spirit as restrictions on pornography or flag-burning or abortion.

I was not a great admirer, as you can no doubt tell. Like most conservatives, I favor a more limited role for our robed archons. I admired Scalia's originalism precisely because it establishes plausible limits on judicial activism, and I regard Kennedy's *Casey* ruling as a vapid Emersonian effusion, whose paean to individualism was really a license to kill inconvenient innocents. Even when he was right on the merits of an issue, he was still too aggrandizing, too eager to impose his own judgment, too quick to short-circuit legislative debates.

But in the last few years, the years

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of Obama's Caesarism and Trump's caudillo act and Congress' utter uselessness, I've developed a limited sympathy for Kennedy's imperial approach. If he contributed to our republic's deformation he did not act alone, and what he delivered was, in some sense, what both the political class and the public increasingly desire from their government: not republican deliberation but quasi-monarchical action.

Politics abhors a vacuum, and judicial activism increasingly fills the empty space created by legislative sclerosis and political cowardice, by the unwillingness of elected representatives to act on controversial issues. This abdication, persistent and ongoing, naturally impels partisans to look to the courts and the executive to act instead. Kennedy answered this desire too readily, but he didn't invent it, and there were times when he clearly tried to act as the “good emperor” that our decadent system and polarized country may require — by balancing his own liberal rulings on abortion and same-sex marriage, for instance, with subsequent decisions that allowed some space for pro-life activism and protected some religious liberties against the anti-clericalism of the left.

But even if you accept that our country increasingly craves a kind of stabilizing central power, Kennedy's freedom-first synthesis did not succeed in supplying it. Instead, our age of opioids and suicide and sterility, and the heartland populists and Bronxian socialists that anomie has conjured up, strongly indicates that his neoliberal model needs correction — that the freedom of capital and genitals is not enough for human flourishing, that community and solidarity need to have their day, even if it comes at the expense of certain liberties.

Here it may be that John Roberts, Kennedy's likely successor as our First Archon, is better suited than his predecessor to the imperial task. We know that Roberts is more temperamentally cautious than Kennedy, more interested in limited rulings than in sweeping ones. We also know that he's both more friendly to religious conservatism (witness his *Obergefell* vote) and more willing to let social-democratic policymaking stand (witness his vote to save Obamacare).

That combination could produce a Roberts court that doesn't lay down its extraordinary powers, but manages to use them in a different style, to further a somewhat more communitarian vision.

After Anthony Kennedy, I don't expect a court that ceases to be imperial. But I dare to hope for one that rules us a little more wisely than he did.

Ross Douthat, *The New York Times*

The Declaration of Independence

“The unanimous Declaration of the thirteen united States of America,

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the

People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. — Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government ...”

In Congress, July 4, 1776

YOUR VIEWS

Fast, reliable internet is key to rural economic success

Last weekend, FCC Chairman Ajit Pai and U.S. Congressman Greg Walden were in Weston for a meeting to discuss the importance of rural broadband deployment and adoption. I was fortunate to have the opportunity to attend and participate in a conversation about closing the digital connectivity gap between rural and urban areas in the Oregon and how we can support the best policies to make that happen.

Access to broadband is transformative, bringing new possibilities for public safety, education and healthcare to rural communities that are typically underserved. This is particularly important for areas like Eastern Oregon; Oregon ranks 25th nationally in connectivity and is 14 percent underserved — much higher than the national average.

One example of the power of connectivity is telemedicine. Rural communities often lack the healthcare resources of their urban counterparts; but with a strong broadband connection, residents can be diagnosed and monitored remotely, saving time and cost to receive what can be life-saving care. This is an area of particular emphasis for both Chairman Pai and Rep. Walden.

Just a few weeks ago Pai called for \$171 million increase in funding for rural healthcare access. And earlier this year Walden convened hearings in the House on this issue. Chairman Pai also discussed the impact of the FCC's recent Restoring Internet Freedom Order, which protects an open internet and encourages the investment, also important to our rural communities. The order replaces heavy-handed regulations with strong consumer protections and increased transparency that will also benefit the smaller ISPs that serve areas that are rural and lower-income.

Chairman Pai has also devoted much of his time and energy at the FCC to promoting 5G, the next generation of mobile technology that will change the way people in both urban and rural areas interact and use technology. Promoting smart policies while continuing to encourage private investment in mobile networks will ensure that rural residents have access to the same level of connectivity as those who live in more densely populated areas.

I'm proud of the work both leaders are doing to close the digital divide and believe that continuing to encourage broadband investment will be key.

Tom Gurr, executive director
Pacific Technology Alliance
Issaquah, Wash.

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