

VOLUME XXI, NUMBER 4, FALL 2021

# CLAREMONT

REVIEW OF BOOKS

*A Journal of Political Thought and Statesmanship*

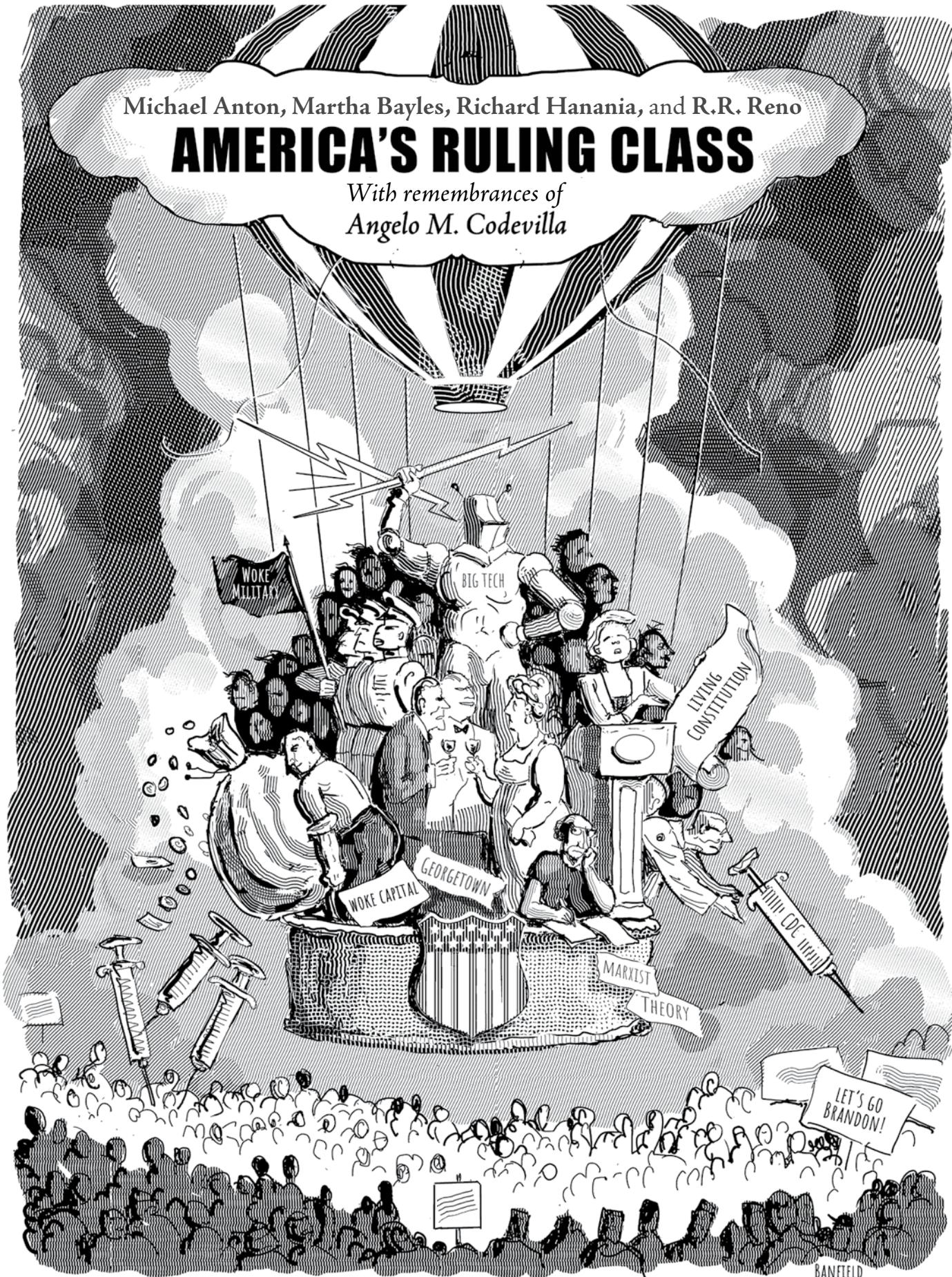
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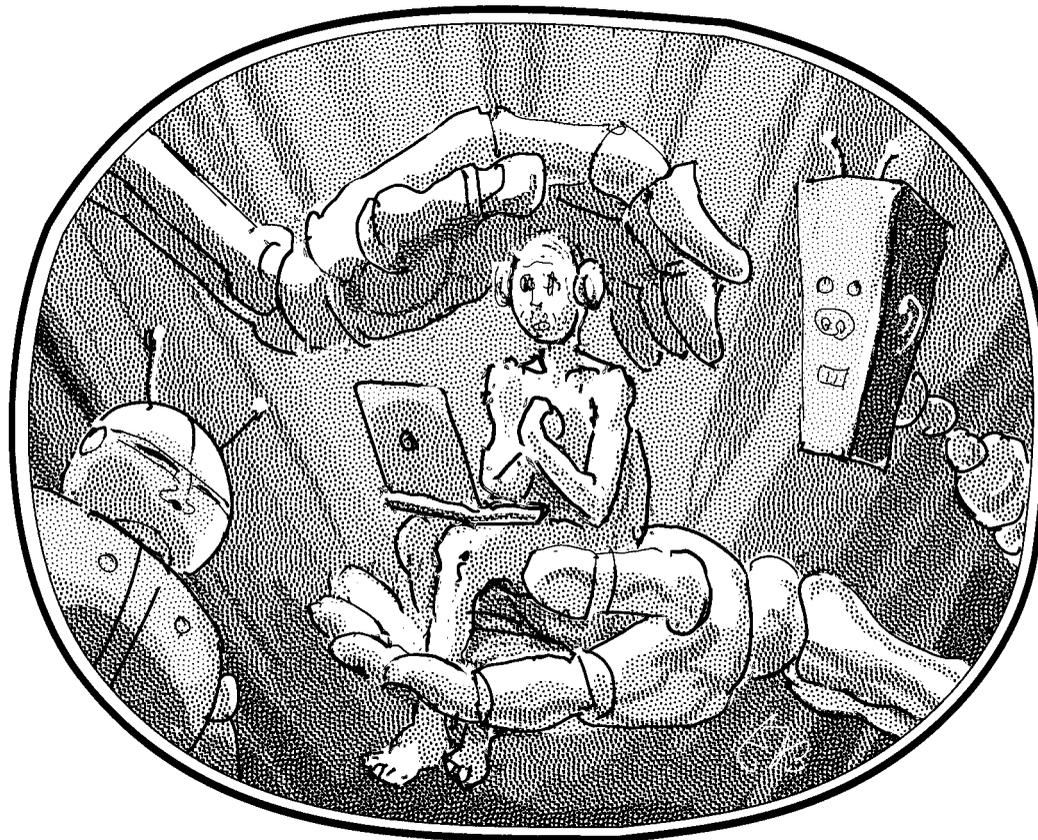


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Book Review by Jean M. Yarbrough

## TAKING A BIG STICK TO BIG TECH

*The Tyranny of Big Tech*, by Josh Hawley.  
Regnery Publishing, 200 pages, \$29.99



ALTHOUGH THE TITLE OF SENATOR Josh Hawley's (R., Missouri) new book gives no hint of this, *The Tyranny of Big Tech* packs three stories into one slim volume. First, briefly sketched, is the ugly backstory. Following President Donald Trump's 2020 defeat, Hawley announced he would challenge the certification of Pennsylvania's electoral college votes on January 6, the day Congress was to meet to ratify the results. But after demonstrators rioted in the Capitol, Hawley's publisher, Simon & Schuster, cancelled his contract—according to the *New York Times*, because Hawley was illegally attempting to overthrow the election results. Not long after, the conservative Regnery Publishing announced it would bring out Hawley's book. News of the cancellation did nothing to harm sales, and *The Tyranny of Big Tech* rocketed to the top of the bestseller lists when it appeared earlier this year.

The second and main story details the various ways in which Big Tech harms America. It steals our private data, surveils our every

move, addicts our children, and suppresses dissenting opinions, all of which endanger the bedrock principle of our republic: the capacity of citizens to govern themselves. Hawley's own experience bears this out. For a time, Amazon made it difficult to purchase his book, a tactic marginally better than simply refusing to sell the book, as Amazon had done with other authors. And it is not only Amazon. Facebook, Twitter, and YouTube have all suppressed information that does not align with their politics; they continue to do so with the encouragement of the Biden Administration. This underscores the urgency of Hawley's warning about the dangers of Big Tech. Though it won't come as news to anyone who is even half-paying attention, it is good to have these charges spelled out in one place, along with suggestions about what we as citizens, as well as our government, can do about them.

Finally, and regrettably, there is Hawley's attempt to place the tyranny of Big Tech in historical context, arguing that Amazon,

Google, Facebook, and Twitter, along with their affiliates Instagram, YouTube, and others, are heirs of the 19th-century robber barons. In his opening chapters, and sprinkled throughout the book, Hawley casts these tech giants as the foes of a republican political tradition stretching back to Rome and to the letters of Saint Paul, and realized most fully by the American Founders, whose last great champion was—Theodore Roosevelt! Hawley, who wrote his undergraduate honors thesis at Stanford on Roosevelt (published as *Theodore Roosevelt: Preacher of Righteousness* while Hawley was clerking for Chief Justice John Roberts; see my review "Progressive Conservative?," *CRB*, Fall 2008), insists that T.R. stood for a kind of republican politics that "we might call to our aid in the modern fight against monopoly." In Hawley's telling, Roosevelt exemplified the founders' distrust "of concentration, of *bigness*" (emphasis in the original). His antitrust policies, Hawley believes, were "distinctly populist and republican."

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IN THINKING ABOUT HAWLEY'S CLAIM, A well-known line from John Ford's *The Man Who Shot Liberty Valance* comes to mind: "When the legend becomes fact, print the legend." So, too, with T.R. His face is etched in heroic proportions on Mount Rushmore; Americans to this day know more about the legend of "Teddy" (a name he never used) than they do the actual man.

Hawley could be given a pass for not knowing much about American political thought, or political philosophy more generally, when he published his first book. He was, after all, a history major, and many of our leading American historians in the last decades of the 20th century were in thrall to "classical republicanism" as a way of understanding the founding. Much like the young T.R., Hawley was a well-educated political star with a bright future before him. But 15 years later, there is no excuse for repeating these discarded theories. Hawley is to be commended for his efforts to rein in Big Tech, but he is mistaken in his discussion of the founders' republicanism and wrong to suggest that Theodore Roosevelt can provide a useful model for how to deal with the tyranny Americans currently face.

Hawley grounds his overview of the founders' republicanism in the political thought of Thomas Jefferson and, to a lesser extent, James Madison. He is especially drawn to Jefferson's paeon to the yeoman farmer. Hawley extends it to the common man generally—which may be good politics, but is bad history. Jefferson was committed to the agrarian life because he thought it promoted the independence necessary for republican self-government. Those who labored for others could be too easily bossed around; only the man who derived a living from his own land could be truly independent. Factory workers and day laborers—especially city-dwellers—are also "common men," but they were not what Jefferson envisioned for republican America. Hawley's description more accurately applies to Jacksonian Democrats. For obvious reasons the Republican senator does not want to go there.

Hawley is not only mistaken about American history, he seems unfamiliar with how the "classical republicans" analyzed regimes. He repeatedly assails "aristocracy," at one point calling it "unnatural" without explaining why. (One surmises it has something to do with his understanding of Saint Paul, who proclaimed the dignity of all human beings in the eyes of God, though the political implications for the apostle were nil.) Yet both Greeks and Romans distinguished between aristocracy—the rule of the wise and virtuous for the common advantage—and its corrupt form, oligarchy—the rule of the few wealthy for their own

selfish good. By contrast, Hawley uses these terms interchangeably, often describing Tech barons as "aristocrats," which they clearly are not. This gets especially awkward when we consider the founders Hawley most admires. How can Hawley rail against aristocracy when Jefferson insisted that "natural aristocracy" is the best form of government?

As for Madison, Hawley briefly notes his discussion of faction but glides over his confident assurance that minority faction presents no real danger in a democratic republic. Yet this is precisely the threat posed by Big Tech. Google, Facebook, Twitter, and Amazon are a decidedly minority faction that deploy their enormous power (technological, financial, and political) for their own selfish ends, endangering both individual rights and the public good. They are oligarchs, pure and simple.

**M**ORE TO THE POINT, JEFFERSONIAN republicanism has *nothing to do* with Theodore Roosevelt. Roosevelt belonged to that small group of educated postbellum Americans who admired Alexander Hamilton—whom Hawley mentions only once. As Roosevelt himself put it, he "cordially despised" Jefferson, mostly for the latter's opposition to energetic government, especially on matters of national defense, but also because of his hypocrisy on slavery. Roosevelt's founding heroes were George Washington, Hamilton, and John Marshall, all of whom opposed the Jeffersonian Democrats. Yet, somehow, Hawley finds in Jefferson's opposition to concentration and bigness the germs of Roosevelt's antitrust policies.

There are several problems with this. First, Hawley lumps Roosevelt in with earlier populist discontent against the railroads. Chronology aside, early on Roosevelt can best be described as a Republican reformer, who battled the corrupt machine in New York politics. He was *never* a populist, though it is easy to see why Hawley uses this term rather than locate Roosevelt within the progressive movement in which he later played a leading role. Second, *pace* Hawley, Roosevelt was not, like Jefferson, an opponent of "bigness" *per se*. Although Hawley concedes that Roosevelt accepted the growth of large corporations as a natural stage of economic development, he does so with misgivings because he rightly understands that this implies the need for an expanded regulatory regime. Third, Hawley plays on Roosevelt's popular reputation as a trust-buster, but this, too, is more the stuff of legend than fact. Although as president Roosevelt initiated a few high-profile antitrust suits, he came to have serious reservations about breaking up these large combina-

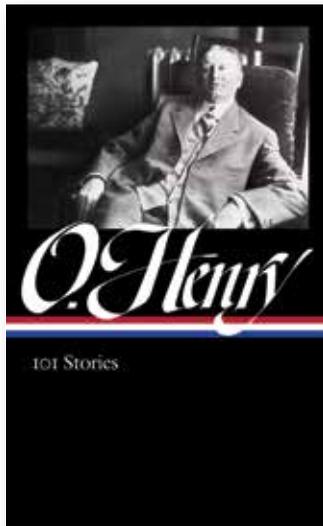
tions. Antitrust litigation took years to work its way through the courts, and its outcome depended upon how the justices understood the meaning of the Sherman Antitrust Act (see Daniel Oliver's "From Big Tech to Big Brother," *CRB*, Spring 2021).

Accordingly, after his landslide re-election in 1904, T.R. focused instead on regulating these behemoths, pressing Congress to expand the powers of his Bureau of Corporations. This would shift power away from the courts and back to the executive branch, where Roosevelt could exercise greater control. Only after Roosevelt's departure from the White House were antitrust suits revived as the weapon of choice to combat powerful combinations. William Howard Taft, Roosevelt's hand-picked successor, initiated more antitrust suits in his one term than Roosevelt did in his nearly two. Come to think of it, Taft, who would later go on to serve as Chief Justice of the Supreme Court, offers a better model for Hawley than the flashy T.R.

**H**AWLEY'S ACCOUNT OF REGULATIONS and "corporate liberalism" more generally relies heavily on the work of the late economic historian Martin J. Sklar, a principled man of the Left. In *The Corporate Reconstruction of American Capitalism* (1988), Sklar considers the various policies proposed by Roosevelt, Taft, and Woodrow Wilson to rein in the trusts. He analyzes the legislation Roosevelt backed in the waning days of his administration (but failed to get enacted) that would have significantly strengthened the regulatory regime. Had Roosevelt's proposals succeeded, Sklar maintains that the Bureau of Corporations would have become "a vast centralized planning and administering agency" that would have paved the way for "state-directed corporate capitalism." In his view, Roosevelt's proposals were more top-down and statist than those of Wilson and Taft, a telling point Hawley fails to mention. At most, Hawley concedes that some of Roosevelt's later proposals, such as the federal power to set prices and issue stocks, were "perhaps more dubious." This is surprisingly mild for a sitting Republican senator, who rightly fears the expanded reach of the federal government. Indeed, Sklar himself concludes that Wilson's proposals triumphed precisely because they were more aligned with an anti-statist—that is, Jeffersonian—American political culture.

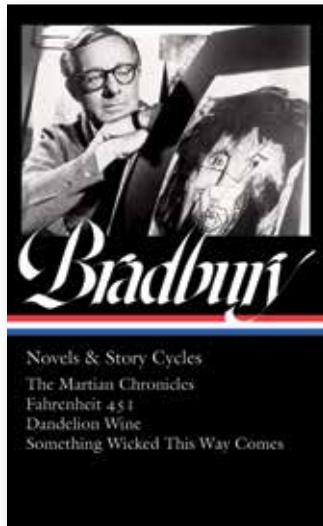
To be fair, Hawley is more interested in Sklar's discussion of how the rise of corporate capitalism transformed the American understanding of liberty. According to the older republican tradition, liberty meant independence and the right to self-government.

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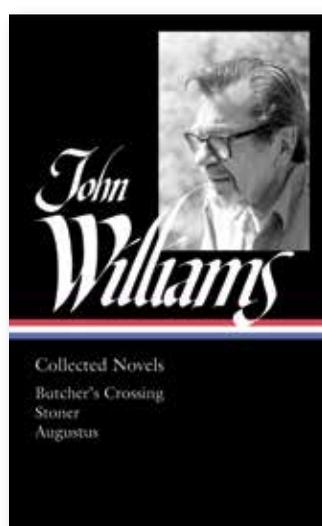
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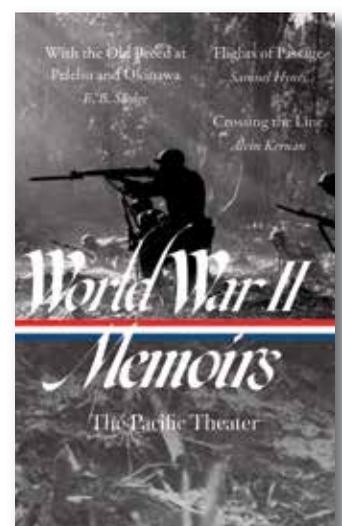
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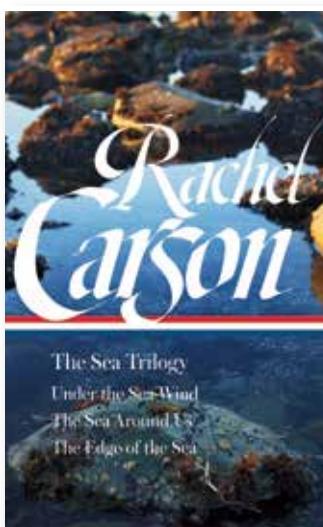
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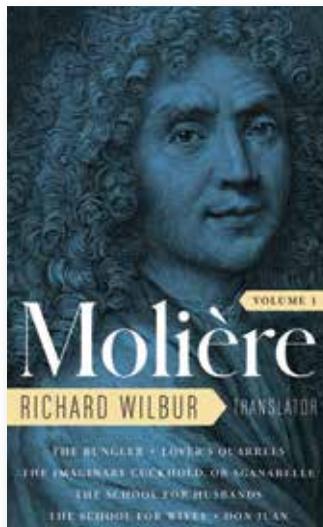
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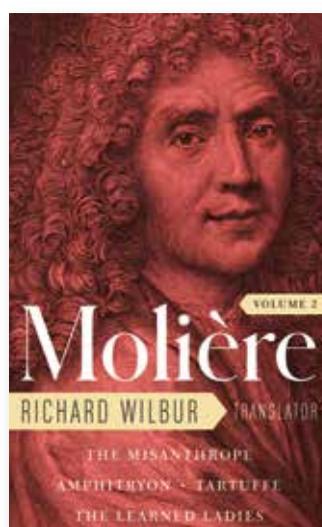
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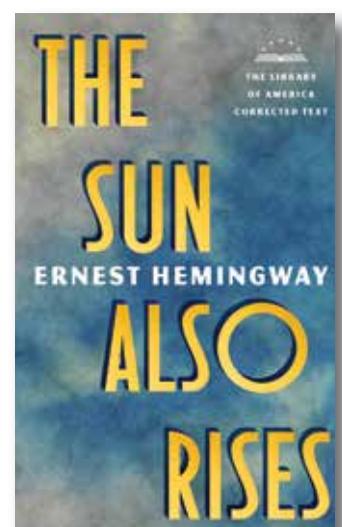
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Hawley has a point, but he goes too far, attributing to ordinary citizens a greater role in the formation of national policies than the framers intended. It was Madison, after all, who insisted in *The Federalist* that the principal difference between ancient republics and America lies in “the total exclusion of the people in their collective capacity from any share” in governing the latter (emphasis in the original). The people do participate at the local level, and they continue to deliberate about national policies, but mostly in their choice of representatives who give voice to their opinions and safeguard their interests. With the coming of the new corporate order, however, liberty was privatized; it came to mean the right of self-development and individuality. The older public dimension of liberty was consigned to a bygone age. “Control of the common man over his government,” argues Hawley, was replaced by the rule of unelected experts, who would determine public policy for the good of the ordinary citizen. In his account, this new corporate liberal order—the administrative state—is essentially the Democrat Woodrow Wilson’s doing, allowing Hawley to conclude by asking whether this new “aristocratic” regime is worth preserving.

**H**AWLEY IS WRONG, HOWEVER, TO lay the blame for “corporate liberalism” solely at Wilson’s feet. In 1909, Herbert Croly—a Republican—published *The Promise of American Life*, which surveyed the American political tradition from a Progressive perspective. Although Croly found both Jefferson and Hamilton wanting, he criticized the former’s influence as by far the more pernicious. Jefferson’s vaunted principle of equality encouraged mediocrity; the right of the common man to govern himself boiled down to promoting the “barren and insipid” aims of average individuals, without regard for the national good. Americans had moved beyond the time of the rural farmer as a jack-of-all-trades; the day of the specialist had arrived. What was needed were experts who would use their scientific knowledge to elevate and improve the material and spiritual lives of Americans. Croly’s book ends with a sketch of a new industrial policy for the country, one that would “transform” human nature by encouraging Americans to shed their selfish individualism for a new and higher form of individuality. Theodore Roosevelt loved the book and wrote to Croly to tell him he would incorporate its ideas in upcoming speeches.

Roosevelt was true to his word. In his “New Nationalism” speech delivered a month later (August 1910), the former president argued it was no longer enough for wealth to be

amassed honestly. Now, it must be shown to “benefit” the nation. Hawley cites this remark approvingly, without considering what Roosevelt had in mind. T.R. did not mean philanthropy, such as endowing private charitable organizations, or the establishment of cultural, educational, and scientific institutions. Nor did he mean improvements in the standard of living, lower prices for the consumer, greater efficiencies, or protection of small businesses, all of which have been invoked in support of antitrust suits. No, benefit meant primarily wealth redistribution, with the government deciding how much was too much and how much was too little. Roosevelt candidly admitted this would mean “a policy of far more active governmental interference with social and economic conditions in this country than we have yet had,” but he trusted that idealistic experts would set the tone for the moral and spiritual crusade he sought. To that end, Roosevelt (like Croly) looked forward to a time when businessmen would free

Google created a new search engine that enabled the Chinese Communist Party to watch its people and suppress the free flow of information more effectively.

themselves from “the taint of selfishness” and work disinterestedly for the good of the whole. Finally, like Croly, T.R. did not reject socialism. Indeed, while still in the White House, he made clear that there was much about socialism he admired. In his mind, socialism was merely an advanced form of liberalism. Croly’s book reinforced that view.

**R**OOSEVELT’S NEW NATIONALISM SPEECH was just his opening salvo. At the beginning of 1911, the ex-president was cautiously endorsing Western progressives’ calls for direct democracy by means of the initiative, referendum, and recall. By the end of the year, he was fully on board with these reforms. In this sense, Hawley is correct that Roosevelt wanted to return power to the common man—but T.R. did so in the belief that ordinary citizens agreed with him that the constitutional design of the framers no longer served their needs. Direct democracy would provide citizens with the tools to override

elected officials and advance the Progressive agenda.

From there, Roosevelt moved on to the judiciary. Announcing his candidacy against Taft in the sitting president’s home state, Roosevelt levied his most public criticism of the courts to date. His speech before the Ohio Constitutional Convention early in 1912 urged Ohioans to include a provision for the recall of “outworn” judicial decisions and possibly even of judges themselves. Although Roosevelt insisted that these reforms were only intended to apply to the states, his private correspondence suggested that the federal judiciary was also in his sights for standing in the way of the regulatory state. This was too much for Roosevelt’s staunchest allies, Henry Cabot Lodge and Elihu Root, who saw this attack as a threat to the constitutionalism of the framers and refused to support his presidential bid.

Roosevelt’s leftward lurch, begun during his second term as president and accelerating after he left the White House, is reason enough for Republicans to steer clear of him as a useful model for our present-day problems. But if more proof were necessary, it is worth remembering that the last great champion of a Roosevelt revival on the Republican side was John McCain, led by his cheerleaders William Kristol and David Brooks. How did that work out for the republic, or even for the Republican Party?

**L**EAVING ASIDE THIS MISGUIDED ATTEMPT to hitch our current political situation to the ghost of Theodore Roosevelt, Hawley’s book proceeds in its second half to lay out the very real dangers posed by Big Tech and sketches what both citizens and government can do. Big Tech clings to a misguided, almost childlike belief in an open, connected global community. As Mark Zuckerberg put it, Facebook was conceived as a social mission to transform society by reaching beyond local associations and even national boundaries. Of course, it is also a business that seeks to penetrate markets worldwide. What it sells is personal information, some of it supplied freely by individuals who want to link up with friends and acquaintances with common interests, but much of it extracted without their knowledge or consent. Users of social media seldom read the fine print or understand what they are allowing when they “agree” to the terms of service.

Even more ominous, Big Tech deceives its users about how much personal information it is acquiring and selling to advertisers. The key to Big Tech’s profitability is its proprietary algorithms, which enable businesses to



target potential customers based upon Big Tech’s surveillance of their every online movement. If, say, an individual searches on the web for information about a subject, clicks on an ad for a product, reads an online news source, asks Siri or Alexa to find something, or even privately messages someone, that information is captured, sorted, and sold. That’s why ads pop up on our screens that seem to read our minds. In some sense, they have. This goes way beyond psychological manipulation, which the advertising business has long been engaged in, because it is targeted to our individual and private (or so we thought) search histories. And the more these ads appeal to our unique interests and wishes, the more time we spend online, clicking on ads or stories (which in turn leads to more clicks and more ads). It’s addictive, and that’s the point—to get us to spend as much time as possible glued to our “devices” in the hopes that we’ll buy something we didn’t know we wanted.

**I**T COMES AS NO SURPRISE THAT SPENDING large chunks of the day online is not good for our mental and civic health. Our powers of concentration decline, our social skills deteriorate. We’re not summoned to make rational arguments or try to persuade. All we have to do is click “like,” or choose from

an ever-expanding world of skin-toned emojis, many designed to express anger. Outrage rules. As bad as this is for adults, it is even worse for children, especially vulnerable adolescent girls. The COVID crisis, which forced most students into remote learning for more than a year, exacerbated these problems. During the last year, cases of teenage anomie and depression skyrocketed. Parents, naturally, are the first line of defense against such abuses, but too many parents are themselves glued to their devices. (The one bright spot in this year-long experiment in “virtual” learning is that parents got to see what their children were studying and began to organize against it.) Hawley proposes raising the age that a child can open a social media account from 13 to 16. That’s a good idea, but it won’t by itself prevent older teens from becoming addicted to the internet.

Big Tech’s efforts to penetrate international markets, especially in China, have also come with serious downsides. Far from creating an open, connected, global community, Silicon Valley has helped shore up China’s oppressive regime. To mention two of the most egregious examples, Google created a new search engine that enabled the Chinese Communist Party to watch its people and suppress the free flow of information more effectively

(it was discontinued after public outcry), and Apple has moved parts of its production chain to China and turned a blind eye to allegations of slave labor.

As dangerous as these developments are, the greatest threat Americans face from Big Tech is the suppression and manipulation of news that is essential to an informed citizenry. One of Hawley’s longest and best chapters is devoted to the problem of censorship. Hawley deserves credit for compelling Facebook’s Mark Zuckerberg in Senate testimony to admit that its “moderation teams”—some of which include Chinese nationals—inordinately target conservative and right-leaning groups. The liberal psychologist Robert Epstein has testified to the power of Facebook to tilt elections in favor of Democrats. Although the number of votes Facebook can shift is open to debate, it seems likely that its one-sided maneuvers have *some* effect. (After all, the whole point of its surveillance is manipulation of our behavior.)

Nor is this all. In the month before the 2020 election, Twitter and Facebook refused to allow news of Hunter Biden’s laptop (with information harmful to the Biden campaign) to be retweeted, posted, or even messaged privately. And after the election, Twitter brazenly shut down the president of the United

## New and Noteworthy Books from AEI Scholars

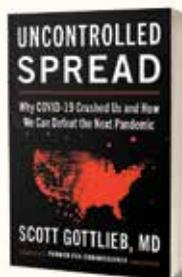
### Uncontrolled Spread

Why COVID-19 Crushed Us and How We Can Defeat the Next Pandemic

Scott Gottlieb

September 21, 2021  
Publisher: Harper  
ISBN: 978-0063080010

Has America’s COVID-19 catastrophe taught us anything? In *Uncontrolled Spread*, physician and former Food and Drug Administration Commissioner Scott Gottlieb shows how COVID-19 trounced America’s pandemic preparations and outlines the steps that must be taken to protect against the next outbreak. He provides an inside account of how level after level of American government crumbled as the COVID-19 crisis advanced. *Uncontrolled Spread* argues we must fix our systems and prepare for a deadlier coronavirus variant, a flu pandemic, or whatever else nature may threaten us with.



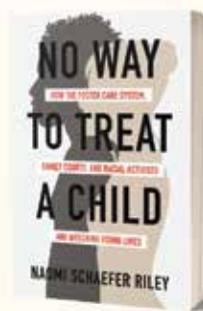
### No Way to Treat a Child

How the Foster Care System, Family Courts, and Racial Activists Are Wrecking Young Lives

Naomi Schaefer Riley

October 5, 2021  
Publisher: Bombardier Books  
ISBN: 978-1642936575

The American child welfare system is bent toward protecting adults, not children. Kids in danger are treated instrumentally to promote the rehabilitation of their parents, the welfare of their communities, and the social justice of their race and tribe—and inevitably their most precious developmental years are lost in bureaucratic and judicial red tape. It is time to start focusing on the most important question: Where are the emotionally and financially stable, loving, and permanent homes where these kids can thrive?



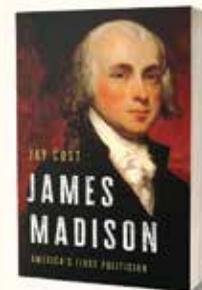
### James Madison

America’s First Politician

Jay Cost

November 2, 2021  
Publisher: Basic Books  
ISBN: 978-1541699557

How do you solve a problem like James Madison? The fourth president is one of the most confounding figures in early American history; his political trajectory seems almost intentionally inconsistent. As Jay Cost shows in this incisive new biography, the underlying logic of Madison’s seemingly mixed record comes into focus only when we understand him primarily as a working politician. Whereas other founders split their time between politics and other vocations, Madison dedicated himself singularly to the work of politics and ultimately developed it into a distinctly American idiom. He was, in short, the first American politician.



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States, while Apple removed start-up social networking service Parler from its app store, effectively shutting it down and preventing conservative challenges to the liberal narrative from being transmitted over the internet.

ONE WOULD THINK REPUBLICANS would be outraged—but that would be naïve. Some Republicans object to interfering with Big Tech on libertarian grounds. Others take campaign contributions from them or give in to the pressure of lobbyists, think tanks, and academics, many of whom are lavishly funded by the wealthiest interests on the planet. How then can the tyranny of Big Tech be overthrown? First, Hawley notes, we must explode the myth that Big Tech achieved its dominance through the free market. Big Tech benefitted massively from special privileges awarded to it by government. For years, Amazon avoided collecting state sales taxes if a merchant had no brick-and-mortar stores in that state. It also enjoyed subsidized shipping rates, compliments of the U.S. Postal Service. Hawley suggests something like an internet Glass-Steagall Act (which erected a wall between investment and commercial banking) to force Big Tech to choose between being either consumer-facing digital platforms or producers of goods and services—not both, as they currently are.

Most of all, the Tech monopolies enjoy the protection of Section 230 of the Communications Decency Act of 1996. Under this provision, they are granted immunities from lawsuits afforded to no other publishers of news. Although Congress originally intended to protect the social media sites from penalties for their users' posting of obscenity and the like, court decisions gradually allowed them to expand their "content moderation" of news without fear of being sued or paying any price at all for their blatant partisanship. This is where we are today—and with Democrats benefitting from this arrangement it is not going to be overturned until Republicans

are back in power. Hawley's proposed legislation—which would remove Section 230 immunity unless companies submit to an external audit to prove their political neutrality—is a useful start, but right now it's dead on arrival.

STILL, AS SOON AS FEASIBLE, THE BIG Tech monopolies must be broken up. Before that can be done, Congress must revisit its antitrust policy, since it is unlikely to accomplish much with the law as it currently stands and is interpreted. Under the old dispensation, monopolies need not be broken up if they provide a benefit to the public, understood as lower prices for the consumer and greater efficiencies. But as both Hawley and Daniel Oliver—the former head of the Federal Trade Commission (FTC)—argue, these monopolies cause harm in other ways, both to the individual and to the public. Lower prices, greater efficiencies, and ease of use do not outweigh the manipulative, addictive, and highly partisan sins of Big Tech.

What's more, enforcement of antitrust policy is currently divided between the Department of Justice (DoJ) and the FTC, with the FTC taking the lead. Hawley argues that the DoJ should be in charge because the FTC has often had too cozy a relationship with Big Tech and because the DoJ is—at least in theory—accountable to the people. But is that true? Although the attorney general and other top officials are politically appointed by the president and confirmed by the Senate, recent experience has made all too clear that permanent civil service appointees can obstruct and impede the policies of the administration, especially if a Republican is in office. It is no secret that the permanent bureaucracy skews heavily Democratic.

Some of the harms Hawley discusses could be remedied by relatively straightforward fixes, which Big Tech can nevertheless be counted on to oppose. For example, Congress could require tech giants to offer customers

a "do not track" option and make them live up to these new, more stringent terms of service. And customers could be empowered to sue tech companies themselves, instead of depending on the government to do it. Hawley's brief discussion of the monetary fines for such infractions, however, considers penalties that are a drop in the ocean as far as Big Tech goes. They could be much higher.

Still, the gravest problem Big Tech poses is the suppression and manipulation of news stories and views it doesn't like. In a free society, citizens must have access to a wide range of political opinions. The last election made plain that the tech monopolies acted in concert to shut down news that threatened their desired outcome, putting a lid on legitimate debate both before and after November 3. This is the problem we need to solve.

Senator Hawley deserves to be commended for his courage and for grappling with the threat Big Tech poses to America. Rather than trying to resurrect the fighting spirit of Theodore Roosevelt, however—whose top-down statist policies are no help to Republicans today—he would benefit from a closer look at the antitrust policies of William Howard Taft. Up to a point, Jefferson and Madison can also serve as useful allies, especially in defending the free flow of ideas so vital to republican self-government. But Hawley should also consider the political thought of Alexander Hamilton and John Marshall, who showed how government might judiciously intervene in markets to advance the genuinely liberal goals of a prosperous and free America.

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