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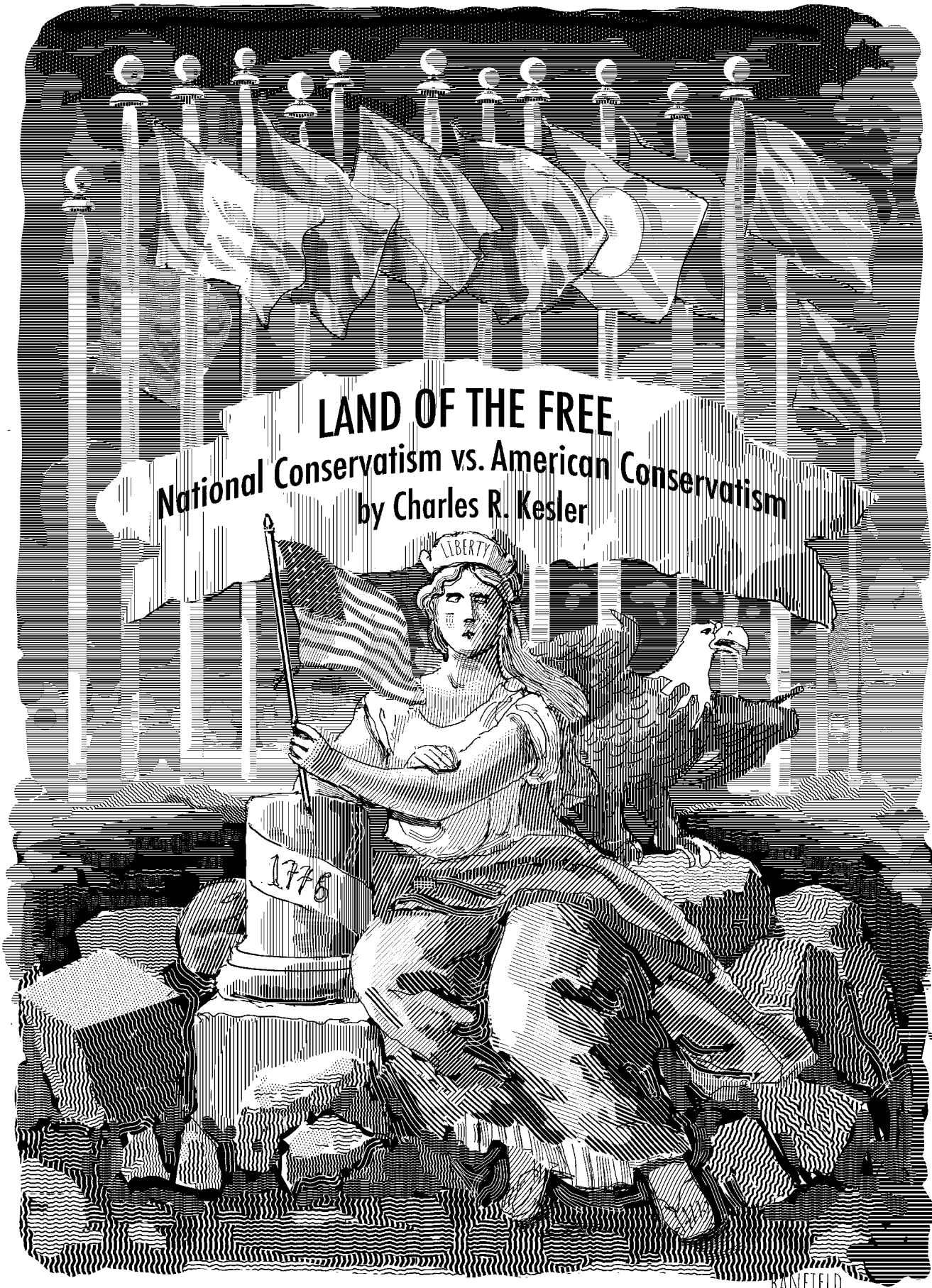
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TRUMP AND THE CONSTITUTION

by Charles R. Kesler

LET'S TAKE IT FOR GRANTED, SHALL WE, THAT PRESIDENT JOE Biden is a sympathetic figure, a "well-meaning, elderly man with a poor memory," as special counsel Robert Hur put it in his report declining to file charges against his ultimate boss. Biden might have preferred the charges, assuming they came with a finding that he is *compos mentis* and fit to stand trial. Now the only court he will have to face is the one he dreads most: public opinion.

In that court, however, he has shown he can behave as a prosecutor and not merely as a superannuated defendant. Starting in the 2020 campaign, he has built his case against Donald Trump as a dangerous demagogue who menaces the Constitution. You may recall Biden's speech two years ago at Philadelphia's Independence Hall, birthplace of both the Declaration of Independence and the Constitution, lit blood red for the occasion, in which he denounced "Donald Trump and the MAGA Republicans" for representing "an extremism that threatens the very foundations of our republic." They are "a threat to this country," he charged, because they "do not respect the Constitution...do not believe in the rule of law...[and] do not recognize the will of the people." A week before, Biden had told the Democratic National Committee that "the extreme MAGA philosophy" is "almost like semi-fascism..."

Why he pulled that last punch ("almost" like, "semi"-fascism?) is a mystery whose explanation is perhaps lost in the sagging folds of Biden's cerebrum. Certainly, it didn't represent any mellowing of his overall criticism. Describing, for example, the Republicans' resistance to the Democrats' highly partisan voting rights bills in 2021, Biden asserted from the White House, "The 21st century Jim Crow assault is real. We're facing the most significant test of our democracy since the Civil War." Whether he repudiated it for extremism, semi-fascism, or anti-black racism, Biden has consistently painted Trump's Make America Great Again movement as un-American.

Though he distinguishes routinely between MAGA and normal Republicans, don't be fooled. Back in 2012, campaigning for re-election as Barack Obama's vice president against the Republican team of Mitt Romney and Paul Ryan, he told Democrats in Danville, Virginia, "They're going to put y'all back in chains." One could hardly imagine a more establishment GOP ticket than Romney-Ryan—but Biden excoriated them, too, as un-American slaveocrats. Because he repeatedly diagnoses the country as suffering from "systemic racism," perhaps he regards America itself as hopelessly un-American.

AGAINST THIS STREAM OF POLITICAL VITUPERATION, HOW has Donald Trump responded? Surprisingly, he has said very little to defeat the charge of disloyal extremism, or to deflect it back onto Biden. In fact, he has gone out of his way to appear to live up to it, as in his attention-grabbing post on Truth Social in December 2022. He responded to journalist Matt Taibbi's revelation of internal Twitter communications showing that company officials had conspired to limit the spread of posts about Hunter Biden's Pandora's box of a laptop. "A Massive Fraud of this type and magnitude," Trump wrote, "allows for the termination of all rules, regulations, and articles, even those found in the Constitution."

To be sure, no one trolls liberals as well as the former president. Taking the bait, *The New York Times* lost no time in scorning the "extraordinarily antidemocratic statement" from him. "The explicit suggestion of suspending the Constitution," wrote reporter Maggie Astor, "was astonishing even by the standards of Mr. Trump, who has spent the past two years spreading lies about the 2020 election, which he lost, and promoting various illegal mechanisms for overturning it."

Right on cue, Trump fired back on Truth Social, expressing amazement that "the Fake News is actually trying to convince the American people that I said I wanted to 'terminate' the Constitution. This is simply more DISINFORMATION & LIES..." Well, he did write merely that such a Massive Fraud "allows" for the "termination of all rules, regulations, and articles, even those found in the Constitution." He didn't explicitly endorse such termination, and he left the cure for the fraud an open question: "do you throw the Presidential Election Results of 2020 OUT and declare the RIGHTFUL WINNER, or do you have a NEW ELECTION?" Either path would be fraught with extreme constitutional difficulties, to say the least—unless by a new election he means the regular 2024 one.

This episode, so typical of Trump's public image so far, shows the limits of trolling and of his approach to the 2024 campaign. Though he thinks he is playing offense, Trump is actually on the strategic defensive. In 2016 he promised to appoint judges who would "defend the Constitution." He kept that promise, fully and honorably. But he prefers shocking or amusing to persuading his audiences, and the hangover from the January 6 riot doesn't help. Does Trump want to defend, or to terminate, the Constitution? He denies the latter but having to deny it is a strange and reckless way to run for president.

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