

Let Freedom Ring!
the Rev. Edmund Robinson
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*My country, 'tis of thee,
Sweet land of liberty,
Of thee I sing
Land where my fathers died,
Land of the pilgrims' pride,
From ev'ry mountainside
Let freedom ring!*

It's been a week, and in the rush of events, many of us may have forgotten Sweden. But many of us can still remember that terrible recent terrorist attack – that didn't happen. For last Saturday, President Trump was giving a speech in Melbourne, Florida and in discussing terrorist acts in places like Paris and Brussels, he said

“You look at what's happening in Germany, you look at what's happening last night in Sweden. Sweden, who would believe this? Sweden. They took in large numbers. They're having problems like they never thought possible.”

There was no terrorist incident in Sweden.

Now I am one of the people outraged by this cavalier approach to facts.

I am not here to defend our current President on this, but I do want to contrast it with words of one of our nation's founders. We hold these truths to be self-evident, said Thomas Jefferson. We don't need proof, these propositions are so strong that reasonable people could not differ on them. What are these self-evident truths? There are three principal ones listed in this famous passage, and the third has three parts: (1) that all “men” are created equal; (2) that they are endowed by their creator with certain inalienable rights; (3) that among these are life, liberty and the pursuit of happiness. This is the general justification for the revolution against England, and the rest of the Declaration of Independence consists of specific grievances against King and Parliament.

The language Jefferson used is natural law language; the natural law tradition goes back centuries to Thomas Aquinas. Natural rights are not those given by the king, or hard-won through war or negotiation like those in the Magna Carta. They are inherent in the human condition, they are given by God to every human. And what are these God-given rights: life, liberty and the pursuit of happiness. This morning, let's focus on the second of this trinity. Liberty, as the Declaration uses it, is as important as life itself, and as important as the pursuit of happiness. It is given by God, and governments must not interfere in it and when a government becomes destructive of liberty, it is the right of the people to alter or to abolish it.

And yet... and yet the man who wrote those words kept hundreds of people

as property, as did many of the men who signed their names to the Declaration. One of them is an ancestor of mine, and he was a large slaveholder.

So to my mental exercise this morning: which is the bigger lie: Trump's claim of a terrorist attack in Sweden that didn't happen, or Jefferson's claim of a divinely-given right to liberty which he himself was not prepared to accord to the people closest to him, in fact, to the mother of some of his children? Would you not have to say that Jefferson's lie was more tragically consequential for the history of the nation?

Liberty or freedom is obviously one of the great themes in American history, and it is claimed today by both the right and the left. But they mean different things by it. For progressives, liberty would be finally making good on the promise that all are created equal, overcoming racism and all other oppressions and creating a society really dedicated to the common welfare and eliminating poverty and extremes of disparity of wealth.

As we just heard, Dr. King borrowed the phrase "Let Freedom Ring" to express the hope of liberation from racism and all that divides us. He consciously invoked the Biblical language of freeing the Jews from slavery in Egypt, which was the basis of the spiritual we sang just now.

Closer to the present day, "Let Freedom Ring" is also the title of a 2004 book by Sean Hannity, the Fox News personality. The subtitle of the book is "winning the war of liberty over liberalism." I haven't read the book, but I would bet that liberty is defined differently in Sean Hannity's book than in Dr. King's speech. I will bet that it has something to do with cutting taxes on the wealthy, cutting government spending on social welfare and getting rid of pesky government health and safety regulations such as pollution standards, energy-efficient light bulbs and car seatbelts.

Kris Kristofferson famously said "freedom's just another word for nothing left to lose," a hobo or homeless person may be the epitome of the free man, though few of us would want to trade places with him.

We talk about freedom to do things we want to do and freedom not to do them, we talk about freedom from bad things like Pharaohs and hunger and imprisonment. Franklin Roosevelt's four freedoms mixed both. I can't cover all the meanings of freedom in the time I have this morning; freedom is one of those words where we feel strongly about it and we think we know what it is, until we get to trying to define it and then it gets fuzzy very fast.

If you're unclear on what freedom is at the most basic level, I recommend visiting someone in a jail or prison. When you have to surrender your driver's license and keys, go through a metal detector, have a wand waved over your body, and hear these big metal bars clang shut behind you, you know that you are not physically free to leave. You know that you're only going to get back to your car when the guards decide you can leave. And you know that the person you've come to visit doesn't have even that privilege.

A few times in my legal career, I have had the experience of having a meal in a restaurant with a client whom our firm has just succeeded in getting released after years and years of incarceration. The prisoner is like Rip Van Winkle just

waking up: he has to relearn how it is to eat in a public restaurant. For these people, freedom is not a thing of slogans; it is not an abstract quality. It is a way of life which they had almost forgotten existed, the opposite of the way they had been living, where every move was subject to control from the guards.

But I want to get back to the matter of the Trump administration and the constitution. I framed the Freedom Forums as a chance to remind ourselves what freedoms are actually protected by the US Constitution, in the hope that this might relieve some of our anxiety as the new administration acts. I'm not sure that this will work. The Constitution is a deeply conservative document, passed by people suspicious of unchecked democracy. Liberty, they understood could be threatened as much from below as from above.

The Revolutionary War had been fought on credit, and at its end the new nation was deeply in debt, as were many of its citizens. The response of many debtors had been to get themselves elected to the state legislatures and begin printing money to cause inflation and make it easier on the debtors and harder on the creditors.

The other thing that brought about the Constitutional convention was Shays' rebellion, where debtors war veterans united to form a ragtag army determined to shut down courthouses to stop foreclosures here in Massachusetts. There was no national army, and the state militias had been disbanded after the war was over, so there was no military force to restore order, and the new state of Massachusetts was forced to hire private militiamen to put down the rebellion.

So a large part of the motive of the framers of the constitution had been to create a central government which would have a monopoly on arms and protect the creditor class, the propertied interests, from the more numerous debtor class. One of the models for the US Constitution was the Massachusetts state constitution, which today is the oldest written constitution in continuous effect in the world. It is largely the work of John Adams, who was later our second President and our first Unitarian one. Adams explicitly thought that one of the primary aims of government was to protect property; under the Massachusetts constitution as he drafted it, you could not vote unless you owned real estate, and you could not be in the legislature unless you were worth a specified amount of wealth, which was different for the different offices.

What I am trying to get at here is that, unlike the declaration of independence, the US Constitution was motivated by a deep distrust of the popular will. In the late twentieth century, certain clauses like the Equal Protection and Due Process clauses were read expansively to try to redress some of the injustices and inequalities still resulting from slavery and sexism.

On Friday, presidential strategist and chief ideologue Steven Bannon told a conservative political action group that the administration's effort was to "deconstruct the administrative state."

Now the word "deconstruct" has a particular meaning in the philosophical movement known as postmodernism, which was popular in academic circles for a few decades of the last century. The theory goes that most things that people say or write, most texts, work on several levels. All speech and writing is informed

by the social location of the writer or speaker, his or her position in society. In addition to what the words mean on their surface, a perceptive postmodern reader can look beneath the surface meaning to try to tease out how the speaker or writer is pursuing a different, hidden agenda, usually that of advancing his or her own power in the situation. Deconstruction in this sense is exposing these hidden agendas.

If this type of deconstruction is what Bannon means, if he's just about exposing hidden agendas of the Washington power structure, I am not concerned and nothing in the Constitution, as I read it, will stop this deconstruction project. We cannot suffer from too much insight.

But I suspect that insight is not what the administration is about. Here's what Steve Bannon said in a CNN interview: "Every business leader we've had in is saying not just taxes, but it is also the regulation. I think the consistent, if you look at these Cabinet appointees, they were selected for a reason, and that is the deconstruction. The way the progressive left runs is, if they can't get it passed, they're just going to put in some sort of regulation in an agency. That's all going to be deconstructed and I think that that's why this regulatory thing is so important."

It is as hard to make definite sense of these sentences as it is to parse what the President is saying, but this doesn't seem to be about exposing hidden agendas. It seems to be about repealing executive orders which the Obama administration had put into place when it found itself stymied in passing legislation in Congress.

In other words, Bannon is saying that repealing some of these regulations is going to increase freedom. This has been a commonplace of conservative thinking since the Reagan era; in some instances it might be true. In some instances, the industries regulated by the government depend on government regulation and the last thing they would want would be deregulation.

But if Bannon is talking about repealing executive orders and regulations, I see little in the constitution that would prevent them from doing this. The Constitution does not take a position on how much government we should have; because it is a government of limited powers, it could be argued that the giant regulatory behemoth is well beyond what the framers anticipated.

But the devil is in the details. Take the vexed issue of bathroom use by transgender students in public schools. It affects a tiny minority of people, but it's very important to those students, and it has high symbolism to the conservative base. The underlying statute law, Title IX of the Education Amendment of 1972, prohibit sex discrimination in educational programs. The law has lots of exceptions in its coverage, but the thrust of it is to prohibit discrimination on account of sex in all facets of public supported education.

The courts were just beginning to grapple with the question of whether requiring a transgender student to use the bathroom of their original gender was sex discrimination when the Obama Department of Education kind of got ahead of the curve by issuing a definitive administrative interpretation of Title IX which said that that law required that trans students be allowed to use the bathroom of

their chosen gender rather than their original one. That Obama regulation is what has just been rescinded by this administration.

Bannon presents this deconstruction as simplifying the nightmare of federal regulations, but does this simplify anything? No, it complicates things tremendously. The bathroom battle will now have to consume the time of local school boards, administrators and the courts. The underlying law has not been changed, sex discrimination in general is still prohibited, and ultimately the courts will have to rule on whether bathroom restrictions constitute sex discrimination. In the meantime, trans students will be left in a state of uncertainty. This deconstruction does not help freedom.

As my co-teacher Don Bakker said yesterday, it is a mistake to elevate the constitution to the status of holy writ. The men who passed it were mortals who put on their breeches one leg at a time, and the result is a pastiche of paper clips and chewing gum.

But there are hidden gems in it. One such is Article IV, Section 4: “The United States shall guarantee to every State in this Union a Republican form of government, and shall protect each of them against Invasion and, upon application of the Legislature (or the Executive, when the Legislature cannot be convened) against domestic violence.” This clause obviously resulted from Shays’ Rebellion. The Republican form of government does not refer to any particular party, but to representative democracy.

Some clever citizens of Massachusetts have gone to court under this provision, suing the federal government for proceeding with a Presidential election when the country had been “invaded” by the Russian computer hacking. I don’t hold my breath waiting for the Supreme Court to set aside the election results, but it is a creative use of the Constitution.

We will never settle what freedom means because freedom depends on your point of view. MY freedom to swing my arm ends where your nose begins, in the classic view. But each of us is affected by the actions and words of the others; none of us is free of all effects by others, as none us is free of the effects of our own actions and words.

Freedom is, under our system, a balancing act. The Constitution has certain checks and balances and our economic system has more. This is a great teaching moment for all of us, to see what our society is made of. Let freedom ring!
Amen.

Reading: From “I Have a Dream” Rev. Dr. Martin Luther King, Jr, 1963

I have a dream today.

I have a dream that one day every valley shall be exalted, every hill and mountain shall be made low, the rough places will be made plain, and the crooked places will be made straight, and the glory of the Lord shall be revealed, and all flesh shall see it together.

This is our hope. This is the faith that I go back to the South with. With this faith

we will be able to hew out of the mountain of despair a stone of hope. With this faith we will be able to transform the jangling discords of our nation into a beautiful symphony of brotherhood. With this faith we will be able to work together, to pray together, to struggle together, to go to jail together, to stand up for freedom together, knowing that we will be free one day.

This will be the day when all of God's children will be able to sing with a new meaning, "My country, 'tis of thee, sweet land of liberty, of thee I sing. Land where my fathers died, land of the pilgrim's pride, from every mountainside, let freedom ring."

And if America is to be a great nation this must become true. So let freedom ring from the prodigious hilltops of New Hampshire. Let freedom ring from the mighty mountains of New York. Let freedom ring from the heightening Alleghenies of Pennsylvania!

Let freedom ring from the snowcapped Rockies of Colorado!

Let freedom ring from the curvaceous slopes of California!

But not only that; let freedom ring from Stone Mountain of Georgia!

Let freedom ring from Lookout Mountain of Tennessee!

Let freedom ring from every hill and molehill of Mississippi. From every mountainside, let freedom ring.

And when this happens, when we allow freedom to ring, when we let it ring from every village and every hamlet, from every state and every city, we will be able to speed up that day when all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, "Free at last! free at last! thank God Almighty, we are free at last!"