

Updated Sunday, June 13, 2010



The arrest of Christ. Judas betraying Christ with a kiss, 1602
Oil on canvas by Caravaggio, 133,5 x 169,5 cm
Museum of Western and Eastern Art in the Black Sea port of Odessa
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Treason to the Constitution

By Vigdor Schreibman

The Golden Rule of **investor driven politics**¹ dominates the political value system, under which investor owned channels of political discussion (i.e., electioneering communications by broadcast, cable, or satellite communications), presently exercise a stranglehold over the American political system. This system can no longer be classified by the name of Republican Government. We have learned how corrosive and distorting the investor driven economy can become, from the same elite social class that plundered the global economy in the financial disaster of 2008,² guided by their self-destructive philosophy of greed with the goals of disaster capitalism.

This is not a sustainable or permissible formula for the American political system. It is essential to the definition of a Republican Government, according to James Madison, in **Federalist 39**,

1 Thomas Ferguson, *The Golden Rule* (1995), online at URL:
<http://www.press.uchicago.edu/presssite/metadata.epl?mode=synopsis&bookkey=3623075>

2 The New York Times Columnist Thomas L. Friedman provided an inventory of all the people who were in on the 2008 financial meltdown, "**All Fall Down**" (Nov. 25, 2008). This included "the total unabashed complicity of the upper class of American capitalism .. a near total breakdown of responsibility."

that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans, and claim for their government the honorable title of republic."

This definition is a necessary consequence of the first principle of democracy "**to form a more perfect Union" of the whole people**, which is the fundamental purpose of the U.S. Constitution set out in the Preamble.³ This was the clearly evident intention of "We the People" in the U.S. Constitution under which the broad diversity of the whole body of the American people would hopefully be integrated into a "**genuine Union**" of the whole people.

The evident conflict between the diversity of the people and the proposed Union of the people finds expression in the doctrines of the U.S. Supreme Court. Money-driven politics under which immense aggregations of wealth serving a favored class are put into play have been found to have a "corrosive and distorting" effect on the political process.⁴ However, this finding was overruled by the new radical right-wing conservative U.S. Supreme Court majority of Chief Justice Roberts, and Justices Alito, Kennedy, Scalia, and Thomas, who proclaim: "**The rule that political speech cannot be limited based on a speaker's wealth is a necessary consequence of the premise that the First Amendment generally prohibits the suppression of political speech based on the speaker's identity.**"⁵ However, the First Amendment though expressing the value of speech and publication does not quite get to the point of an absolute guarantee. It fails because "the Constitution has to be read as a whole,"⁶ and when it is, other values crop up in potential conflict with an unfettered right of speech and publication, the value of security for the nation and the value of democracy, itself, which is the nation's paramount purpose, may impose superior value choices on the Court, as in this case.

3 In his **Commentaries on the Constitution**, Joseph Story expounded upon the significance of the first principle of democracy established in the Preamble "to form a more perfect Union." This is what he said, *e.g.*:

§ 463. We have already had occasion, in considering the nature of the constitution, to dwell upon the terms, in which the preamble is conceived, and the proper conclusion deducible from it. It is an act of the people, and not of the states in their political capacities.... The language is, "We, the people of the United States," not, We, the states, "do ordain and establish;" ... We have the strongest assurances, that this preamble was not adopted as a mere formulary; but as a solemn promulgation of a fundamental fact, vital to the character and operations of the government. The obvious object was to substitute a government of the people, for a confederacy of states; a constitution for a compact.

§ 474 "One government can collect and avail itself of the talents and experience of the ablest men, in whatever part of the Union they may be found. It can move on uniform principles of policy. It can harmonize, assimilate, and protect the several parts and members, and extend the benefit of its foresight and precautions to each. ...

§ 475. The union of these states, "the more perfect union" is, then, and must for ever be invaluable to all, in respect both to foreign and domestic concerns."

4 *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, 660 (1990).

5 *Citizens United v. FEC.*, No. 08-205. slip op. at 34 (U.S., Jan. 21, 2010) 558 U. S. ____ (2010).

6 Harvard Commencement remarks, Justice David H. Souter, Harvard Gazette, May 27, 2010, online at URL: <http://news.harvard.edu/gazette/story/2010/05/text-of-justice-david-souters-speech/>

If the wealth of every person, however organized, is to have generally unlimited political expression in unregulated competition with every other person, who may have little or no wealth,⁷ the necessary consequence will be to drive the American political system toward a fascist plutocracy serving a favored class, effectively ending the paramount purpose of democracy in America. This is clearly not what the Founders intended. Americans today understand the true intention, they are [overwhelmingly opposed to this decision](#).⁸

From the wisdom of Madison, Jefferson, Webster, and Lincoln down to 21st century Americans it is recognized the Constitution is all about us “We the People”! The Constitution was written with the Union of the whole people in mind. It did not say we the corporations, or we the banks, we the wealthy elite, or we the white men, all of whom certainly may share in the blessings of freedom and liberty. The Constitution was written to protect the rights of the whole people and to enable and protect the paramount democratic purpose: to form a more perfect Union of the whole people.

The new Supreme Court majority brings their mad libertarian interpretation of the First Amendment into violent conflict with the democratic purpose of the U.S. Constitution, “to form a more perfect Union” of the whole people. This conflict is logically impossible to sustain. The necessary consequence of the First Amendment prohibition of any reasonable regulation of political speech based on the speakers wealth must give way to the necessary consequence of the paramount purpose of the Constitution explicitly established in the Preamble “**to form a more perfect Union” of the whole people**. The Constitutional Convention **explicitly rejected elections based on wealth**. Money is expressive but it is not speech, indeed, money governed by the philosophy of greed to which it is dedicated is absolutely contrary to speech governed by the paramount value of democracy to which “We the People” are dedicated.

Speech without a governing normative value is like a Constitution without legal principles. Who wants that? Only those who want the rule of fascist power. Where is it written that this nation's great diversity as expressed under the liberty guaranteed by the First Amendment was a license to disregard or destroy the paramount principle of democracy to form “more perfect Union” of the whole people, which was established in the Preamble as the very purpose of the nation? Certainly no such license was contemplated, nor established in the Constitution. What was contemplated is the everlasting need to build the bridges from diversity to the critical value of forming “the more perfect Union” of the whole people of the USA As Joseph Story wrote:⁹

§ 475. The union of these states, "the more perfect union" is, then, and must for ever be invaluable to all, in respect both to foreign and domestic concerns.”

⁷ In the United States, wealth is highly concentrated in a relatively few hands. As of 2007, the top 1% of households (the upper class) owned 34.6% of all privately held wealth, and the next 19% (the managerial, professional, and small business stratum) had 50.5%, which means that just 20% of the people owned a remarkable 85%, leaving only 15% of the wealth for the bottom 80% (wage and salary workers). G. William Domhoff, *Wealth, Income, and Power* (Updated February 2010), online at URL: <http://sociology.ucsc.edu/whorulesamerica/power/wealth.html>.

⁸ Poll: Large majority opposes Supreme Court's decision on campaign financing, in *The Washington Post*, Feb 17, 2010, online at <http://www.washingtonpost.com/wpdyn/content/article/2010/02/17/AR2010021701151.html>

⁹ J. Story, *infra*, note 3.

The (now famous) [Remarks of Senator Barack Obama “A More Perfect Union”](#) at Philadelphia, PA (March 18, 2008) (37 minutes) on the topic of Race & Politics has been compared favorably by Gary Wills [with another speech on race by Abe Lincoln](#). It is not the libertarian value of speech governed by money-politics and a philosophy of greed, but the normative value of speech governed by the first principle of democracy embedded in the Constitution of the United States, to form “a more perfect Union” of the whole people, which must govern the American Republic.

The libertarian system is values-free, but the normative system must be “values-full.”¹⁰ The Constitution is a normative system. In such a system it is absolutely essential to explicitly articulate the driving values that will govern the system.¹¹ There is the systemic scheme, to build the bridges, which must be used to integrate the nation from disconnected diversity toward “a more perfect Union.” Congress has the exclusive authority “To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”¹²

Reasonable regulation of money-driven speech true to the paramount democratic purposes of the nation, articulated in the Preamble, must therefore, be supported by the Supreme Court of the United States.

This Is the command of the Constitution. Those who refuse to obey that command, to institute a fascist plutocracy of a favored class effectively ending the paramount purpose of democracy in America, commit treason to the constitution. Cohen v. Virginia, 19 U.S. (6 Wheat.) 264, 404 (1821). “We the People” have the responsibility – by revolution if necessary – of **protecting democracy** to insure Lincoln’s blood soaked resolve at Gettysburg that “government of the people, by the people, for the people, shall not perish from the earth.” What should we do?

We should urge President Obama to **SEND IN THE MARINES** to rescue the Bush Court from its treason!



Ctrl-click to learn about the Marine Corps motto "Semper Fidelis"

10 R. ACKOFF, *Re-CREATING CORPORATION* 162 (1999) (observing “One who seeks to increase wisdom must be concerned with the value of outcomes This means that effective decisions must be value-full, not value-free.”).

11 Compare e.g., H. Ozbekhan, *Planning and Human Action*, in *HIERARCHICALLY ORGANIZED SYSTEMS IN THEORY AND PRACTICE* 123, 183-84 (P. Weiss ed. 1971) (discussing the absolute necessity to explicitly clarify normative values as a part of the planning and decision-making process); with C. ARGYRIS, *REASONING, LEARNING, AND ACTION* ch. 5 (1982) (discussion the critical importance to organizational effectiveness of explicit clarification of the governing values and organizational norms-in-use); with G. LODGE, *THE AMERICAN DISEASE* ch. 2 (1984) (discussing the critical importance of reasoned analysis and synthesis in the selection of any ideological strategy linking values with action); with R. ACKOFF, *infra*, note 10; and with A.N. CHRISTAKIS, *A RETROSPECTIVE INQUIRY OF THE PREDICAMENT OF MANKIND PROSPECTUS OF THE CLUB OF ROME* 17, 31 (1993) (Disclosing persistent conditions in the period 1970-1993 of “Growing irrelevance of traditional values and continuing failure to evolve new value systems.”).

12 U.S. CONST. art. I, § 8, cl. 18.

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Cornelia P. Atchley, artist,
Portrait of Vigdor in blue 2001
