

OPINION

Democratic Party isolation is getting worse

When Americans, it seems, continue to live in two separate countries. Consider two items in the news this week and the inconsistent responses they evoked.

One was the conviction in Florida of Ryan Routh, the second man who attempted to assassinate then-candidate Donald Trump in mid-September 2024. The news appeared on page A24 of the print edition of The New York Times.

Very different treatment was accorded to the return of Jimmy Kimmel, the third-highest-rated of the three broadcast network late-night show hosts, from the suspension imposed on him last week.

That action was prompted by Kimmel's statement that "the MAGA gang ... was desperately trying to characterize this kid who murdered Charlie Kirk as anything other than one of them, and doing everything they can to score political points from it."

Presumably, Kimmel thought he was speaking truth to power, but actually, he was speaking falsehood to people who were eager to believe it. This, of course, doesn't excuse Federal Communications Commission Chairman Brendan Carr from issuing thuggish threats that may have persuaded ABC to yank Kimmel from the air — a sharp and shameful contrast from Carr's justified protests at Biden administration speech suppression. The government shouldn't be repressing speech protected by the First Amendment.

Still, it's off-putting that Kimmel is hailed as a martyr for free expression when he was relaying what Biden Democrats were quick to label and often mislabel "misinformation." Kimmel's monologue was one example, perhaps an unwitting one, of what my Washington Examiner colleague Timothy Carney has described as "many prominent public figures peddling a conspiracy theory that Kirk's assassin was a Republican, right-winger, or MAGA type."

That theory was pretty well scotched by the release by law enforcement of emails sent by the accused killer and his trans boyfriend. But Democratic voters are apparently reluctant to draw the obvious conclusion. It hurts people to think that someone with views resembling their own has committed a horrific murder, particularly when you preen yourself on your enlightenment and moral superiority.

But faced with an ogre like Trump, some people don't mind. YouGov polling conducted after Kirk's murder showed that 10% of liberals and 24% of "very liberal" people considered it acceptable to be happy about a public figure's death, compared to 4% of conservatives and 3% who are "very conservative." Similarly, conservatives are significantly more likely than liberals to say that political violence is never justified.

The difference should not be overstated. One of the strongest and most heartfelt denunciations of political violence after Kirk's assassination came from Sen. Bernie Sanders (I-Vt.).

Political assassinations should not be treated as statistically meaningful events and are often the acts of delusional people. Examples include the shooting of then-Democratic Rep. Gabrielle Giffords in 2011 and the murder of former Minnesota House Speaker Melissa Hortman last June.

But violence from the apparently lucid recently seems to come disproportionately from the Left, dating back at least to the Sanders volunteer who shot four people and grievously wounded then-Majority Whip Steve Scalise (R-La.) at the House Republican baseball team practice in 2017. Sanders, as I noted at



Michael Barone
SYNDICATED COLUMNIST

the time, quickly denounced that attack unambiguously.

Sanders is a more prominent voice these days, but one fears that he speaks to many deaf ears. Young liberals in particular, as reflected in polls and seen on so many elite campuses, seem eager to celebrate or engage in political violence.

This may reflect a desperation as history suddenly seems not to be moving in their direction. Progressive Democrats, Ross Douthat writes in his Times column, have seen "a belief in a nearly inevitable leftward arc of history, a guaranteed multi-racial Democratic majority, giving way to repeated shocks of the populist era. A period of extraordinary cultural influence, of revolutionary zeal joined to institutional power, that peaked in 2020 and 2021 and has been dissolving ever since."

The liberal influencers who fled Twitter after Elon Musk acquired it and ended the suppression of non-leftist views for the new, all-liberal Bluesky have been isolating themselves from the rest of America. "The progressive epistemic bubble is getting really bad," writes analyst Nate Silver, a self-described liberal Democrat. "That suggests the bubble is expanding, slowly devouring the reality-based community, and that formerly rational commentators have trouble escaping it once they're past the event horizon."

An uncomfortably large percentage of people in that bubble are not averse to killing. Whoever leaked the draft of the Supreme Court opinion overturning Roe v. Wade had to know that it put the lives of several justices at risk, and indeed, it was just revealed that the man who tried to assassinate Justice Brett Kavanaugh contemplated killing three justices.

This past week, a former teachers union staffer fired gunshots at a Sacramento ABC affiliate, apparently protesting the Kimmel suspension, and left a note saying FBI officials were next.

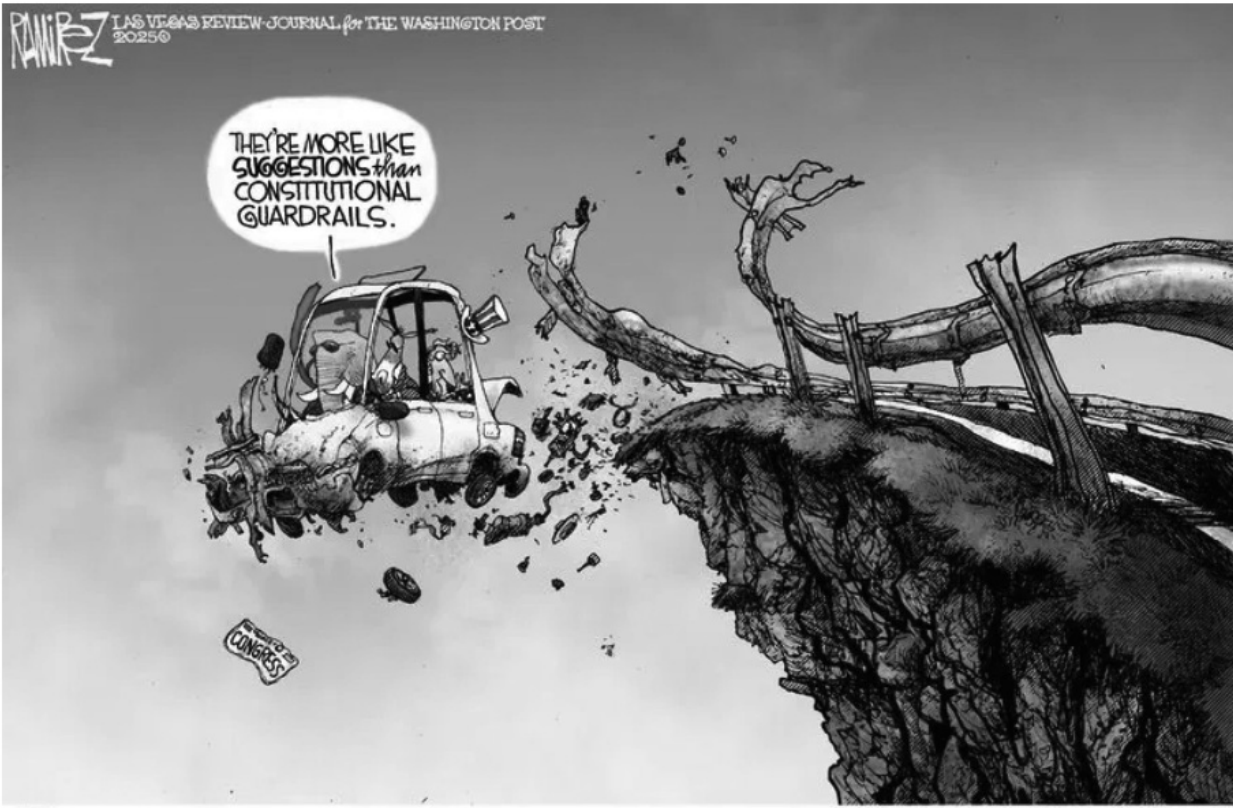
In contrast, Kirk "was one of the most effective institution-builders and coalition-crafters in the United States," China scholar Tanner Greer writes. "He figured out how to make conservative populism work." He taught other things as well.

"We do not respond to hate with hate," his widow, Erika Kirk, said at his memorial service, as she forgave the man who killed her husband.

That surely surprised — astonished — the other half of America that doesn't share her views. As Barton Swaim wrote in The Wall Street Journal last week, "Whereas conservatives are obliged to know what their correlatives on the left say and write — so pervasive are their ideas and assumptions in our cultural institutions — liberals and progressives feel no corresponding need to know the opinions of people on the right."

The half of America that takes its educational credentials as an imprimatur of moral superiority sees no need to understand the other half and resists acknowledging the violence wreaked by those on its side.

Michael Barone is a senior political analyst for the Washington Examiner, resident fellow at the American Enterprise Institute and longtime co-author of The Almanac of American Politics. His new book, "Mental Maps of the Founders: How Geographic Imagination Guided America's Revolutionary Leaders," is now available.



Amy Coney Barrett's originalism irritates some

When Amy Coney Barrett was growing up in New Orleans, her grandmother relied not on a written recipe but on years of practice making shrimp remoulade. Now the grandmother's granddaughter is a Supreme Court justice who must implement the nation's recipe for ordered liberty, the written Constitution, which "puts people on notice of their rights" and "government officials on notice of their obligations."

"Unwritten constitutions, like unwritten recipes," she writes in her new book, "Listening to the Law," "can be hard to pin down." So, however, can written ones. Unless pinned down as much as possible by adherence to the discoverable original public meanings of the words the Constitution's framers used, the Constitution will not constitute. It will not give a durable structure to a polity, or due notice to the government and governed.

For Barrett, as much pinning down as is possible is best done by originalism and textualism. These are principles that limit judges' discretion, lest they encroach on the Republic's institutions of representation. Judges need their discretion constrained by fidelity to the normal public meanings of the words used by those who wrote the texts of the Constitution and statutes.

Although Barrett is preternaturally nice, she irritates some people. The reason she does makes her



George Will
SYNDICATED COLUMNIST

an exemplary justice. It is her fastidious acknowledgment that certainty and precision are often elusive when construing, as an originalist, the Constitution's text ("due" process, "unreasonable" searches, "cruel and unusual" punishments, etc.) in modern contexts. Awareness of uncertainties justifies judicious restraint: The duty to construe texts does not empower judges to try to discover — or guess — the purposes or intentions of those who wrote the words.

To put the point less gently than Barrett might: Some people with mind-closing jurisprudential orthodoxies are exasperated by the tentativeness inherent in originalism and textualism. Critics misperceive this as a lack of principled rigor. In judicial reasoning, however, the importance of living with the limited utility of principles is a principle.

Barrett's originalism is not so tightly tethered to the past that it cannot create rules implied by the Constitution's text, history and structure. For example:

In 2023, the court blocked the Biden administration's enormously consequential action (about \$430 billion in student loan forgiveness)

based on 2003 legislation authorizing, in an emergency, the executive to "modify" terms of student financial assistance. The court cited the "major questions doctrine": An agency claiming an enormous power must demonstrate that Congress clearly granted it.

Critics on and off the court complained that this doctrine is "judge-made." Textualism, Barrett writes in her book, took the court to the conclusion that "modify" means "make modest adjustments," which the forgiveness was not.

Much of constitutional law is a tapestry of judge-made doctrines made to apply original constitutional precepts in contemporary contexts. In this case, the major questions doctrine was applied originalism, conforming to the Constitution's architecture, the separation of powers. Rather than augmenting its own power, the court was requiring Congress to clearly exercise its.

The Ninth Amendment says the Constitution's enumeration of certain rights neither denies nor disparages others "retained by the people." How, then, should we identify fundamental rights — those meriting robust judicial protection — without inciting courts to promiscuously proclaim such rights?

The court has devised a rule harmonious with the originalist frame of mind: A fundamental right is "deeply rooted" in U.S. history and tradition and "implicit in

the concept of ordered liberty." That concept, and the measurement of something "deeply" rooted, requires originalism's foundational self-restraint: One must always start, and often must end, with a deep dive into the nation's memory.

Often, originalists resurface with differing conclusions. So, arguments continue. Get over it.

In his just-published book, "Born Equal: Remaking America's Constitution, 1840-1920," Yale law professor Akhil Reed Amar emphasizes that America has an originalist political culture. This is because America, unique among nations, had a clear, emphatic origin. It was framed by two documents, the 1787 Constitution properly construed in the light cast by the 1776 Declaration of Independence.

In 1863, a politician with an originalist mentality summoned the nation to honor what its Founding Fathers originally said they had "brought forth" some "four score and seven years ago." Although he loathed slavery, before the war, this originalist scrupulously respected the Constitution's provisions that in several ways protected slavery.

Lincoln exemplified the painful patience sometimes demanded by what Barrett calls "our constitutional culture." Courts are secondary in maintaining this legacy of originalism. The public, inattentive and impatient, is primary.



Policy for letters to the editor

The Commonwealth Journal welcomes letters from readers and will print them on a first-received, first-published basis. All letters for publication must contain the name, address and telephone number of the writer. Letters submitted for publication must not contain material that is deemed offensive or libelous by the Commonwealth Journal.

All letters become the property of the Commonwealth Journal. We reserve the right to edit and/or reject any and all letters. In the case of frequent writers, we reserve the right to limit their number of published letters. The viewpoints of advertisers or community columnists do not necessarily reflect the opinions of the Commonwealth Journal. The Commonwealth Journal does not endorse political candidates, nor does it run letters of endorsement.

Email Letters to the Editor to scornelius@somerset-kentucky.com.