

Wimps, Boors, Ron Paul and the Constitution

In January of 2008, when Ron Paul was attracting considerable attention as a libertarian anti-war candidate for the Republican nomination, *The New Republic* published an article containing extensive quotes from a series of newsletters that had been published over his name, starting in 1978.¹ The author wrote that:

What they reveal are decades worth of obsession with conspiracies, sympathy for the right-wing militia movement, and deeply held bigotry against blacks, Jews, and gays. In short, they suggest that Ron Paul is not the plain-speaking antiwar activist his supporters believe they are backing — but rather a member in good standing of some of the oldest and ugliest traditions in American politics.

Ron Paul denied having written the articles in question, apologized for not keeping track of what was going out under his name, said he did not know who the author was, and pointed out that he never said that sort of thing. According to *Reason Magazine*:

a half-dozen longtime libertarian activists—including some still close to Paul—all named the same man as Paul's chief ghostwriter: Ludwig von Mises Institute founder Llewellyn Rockwell, Jr. ...

...

During the period when the most incendiary items appeared—roughly 1989 to 1994—Rockwell and the prominent libertarian theorist Murray Rothbard championed an open strategy of exploiting racial and class resentment to build a coalition with populist "paleoconservatives," producing a flurry of articles and manifestos whose racially charged talking points and vocabulary mirrored the controversial Paul newsletters recently unearthed by *The New Republic*.

Even before the *New Republic* article raised the issue of the newsletters, the libertarian movement was divided between Paul's supporters and critics. For some critics the issue was his non-interventionist foreign policy² but for most it was that they saw many of his positions as tailored to appeal to voters on the right, even when they fit poorly with libertarian views. Some argued that he was not a libertarian at all, merely a supporter of states rights, a doctrine mostly associated with southern conservatives.

The evidence offered for that claim takes two forms, for each of which I offer an example:

1. Ron Paul introduced a bill to [legalize raw milk](#) — but only where it was not in violation of state law.

¹ <https://newrepublic.com/article/61771/angry-white-man>. *The New Republic* published additional extracts from the newsletter in a second article, "More Selections from Ron Paul's Newsletters," <https://newrepublic.com/article/60696/more-selections-ron-pauls-newsletters>

²"Of all of Ron Paul's inadequacies, the severest (and one I haven't blogged about much so far) is his *suicidally insane* belief that Iran presents no serious threat to the United States." Timothy Sandefur <https://sandefur.typepad.com/freespace/2007/11/jim-babkas-defe.html>

To which I responded: "*I won't go so far as to describe your view on that subject as insane, but it does seem to take little account of the relative economic and military power of the two nations in question.*"

<https://sandefur.typepad.com/freespace/2008/01/i-got-this-note.html>

2. Ron Paul argued against the decision in *Lawrence*, on the grounds that the Constitution said nothing about a right of privacy or a right to engage in homosexual sex, hence Texas had a right to make a law against sodomy.

The obvious explanation of the first case is that Ron Paul was a federal legislator, not a state legislator; his job was preventing violations of individual freedom by the federal government. The fact that he did not also try to prevent violations of freedom by state governments is no more evidence that he supported them than the fact that I am not currently in North Korea trying to overthrow its government — or even contributing money to such a project — is evidence that I support that government.

The second case raises a more complicated issue. Quite a lot of libertarians express support for and admiration of the U.S. Constitution. Timothy Sandefur, in the course of attacking Ron Paul, wrote that in order to be a libertarian: “*You don’t have to be an Objectivist (or a Christian or a whatever), but you do have to believe at least in the principles of the Declaration of Independence and the Constitution of the United States.*” In response to my objection that the Constitution was in some ways non-libertarian—for instance, it explicitly forbade ending the slave trade prior to 1808—he backed off from his original statement.³ But it does, I think, reflect an attitude common in the libertarian community.

The problems with claiming moral authority for the Constitution were pointed out long ago by Lysander Spooner,⁴ but there remains the weaker claim that the Constitution sets up a structure of government favorable to liberty and should therefore be supported by libertarians. From this standpoint, when Ron Paul argues that the state of Texas has the right to ban homosexual sex he is describing its legal right under a legal structure he approves of, not its moral right. There is nothing inconsistent, so far as I can see, with both believing that the courts ought to interpret the Constitution literally and that some of the things which will be held constitutional if they do should still be opposed on other grounds.

What Paul actually wrote about the case:⁵

"Ridiculous as sodomy laws may be, there clearly is no right to privacy nor sodomy found anywhere in the Constitution. There are, however, *states’ rights* – rights plainly affirmed in the Ninth and Tenth amendments."

That is consistent with the interpretation offered above and inconsistent with the view that Ron Paul approved of state sodomy laws.

Was he right? So far as the grounds the courts actually used for the decision, I think he was, that both *Lawrence* and *Roe* were examples of the Court reading into the Constitution what they thought ought to be there. One might argue that those decisions could be defended as following from the Ninth and Tenth Amendments, but I think that would be a considerable stretch.

One of the issues that I have not seen seriously discussed in libertarian literature is the tension between support for strict interpretation of the Constitution and support for libertarian legal outcomes. Consider Justice Stephen Field, whom I once described as "Earl Warren in a White

³ <http://sandefur.typepad.com/freespace/2008/01/i-got-this-note.html>

⁴ In "No Treason: The Constitution of no Authority": <http://www.lysanderspooner.org/notreason.htm>

⁵ <http://www.lewrockwell.com/paul/paul120.html>

Hat."⁶ He was an influential 19th century Justice who first decided what ought to be in the Constitution and then went looking for ways of persuading his colleagues that it was already there, at least implicitly. On the whole, his interpretations were in a libertarian direction. Should we approve?

What I found missing in the argument that Ron Paul was not a libertarian was evidence that he supported state laws against sodomy, or against drug use, or other such violations of individual rights. There were lots of strongly stated claims that he supported, or at least did not oppose, such, but they all seem to depend on deduction not from what he said but from what he didn't say.

The one exception is abortion. Paul not only approved of state laws against it, he supported federal legislation that would ban it. While this is evidence that Ron Paul was not a consistent supporter of states rights, it is not evidence that he was not a libertarian, because some libertarians regard abortion as a violation of the rights of the fetus; it is, I think, a minority position, but not one inconsistent with being a libertarian.

Responding to Timothy's Sandefur's extensive criticism of Paul, I wrote:

Much of your critique of Paul hinges on the claim by his supporters that he is a straight talker. If he is, then his web site, after attacking particular free trade agreements, should add that the proper approach is for the U.S. to unilaterally abolish all its trade restrictions. After attacking particular problems with immigration, it should add that the proper solution is free immigration combined with legal changes that make new immigrants ineligible for welfare, at least for a considerable length of time — he might even propose, as I did long ago, that the new immigrants should also be free from taxes that go to pay for welfare. Similarly on other issues.

There are two explanations for why he doesn't do so. Yours, which is certainly possible, is that he isn't really a libertarian. The other, which is not merely possible but pretty obviously true, is that he is a professional politician and doing that would lose him votes and money. In other words, while he may perhaps be more of a straight talker than the competition, he is considerably less of a straight talker than his supporters would like to believe.

Part of what was going on, especially in the controversy over the newsletters, was a culture clash between different sorts of libertarians, between people who saw non-PC speech as a virtue and those who saw it as a fault, between people who approved of offending liberal sensibilities ("liberal" in the modern American sense of the term) and those who shared enough of those sensibilities to prefer not to offend them. The former group saw the latter as wimps, the latter saw the former as boors. It is a division that still exists.

Let me offer, as a simple example, possible reactions to the following sentence:

"According to [FBI statistics](#),⁷ almost half, perhaps more than half, of murderers are black, even though blacks make up only about thirteen percent of the U.S. population."

As it happens, the statement is true; the "perhaps" reflects the number of murderers whose race is unknown. The question is how different people would see it. The answer, I think, is that one group

⁶ http://www.daviddfriedman.com/Libertarian/Earl_Warren_in_a_White_Hat.htm

⁷ <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/expanded-homicide-data-table-6.xls>

of libertarians would prefer not to state it and, if stating it, would be inclined to qualify their statement in order to make it clear that they were not racially prejudiced. A different group would state it with mild glee in order to make it clear that they were not constrained by what they view as ideological commitments to shade the truth when it contradicts fashionable opinion.

This difference shows up in the strength of condemnations of the newsletter quotes by members of the first group, a strength appropriate in terms of current conventions of what one does or does not say in polite society but exaggerated in terms of the literal content of the quotes. It reminded me of the flap some years ago over H.L. Mencken's diary. That was a more extreme case, labeling an author racist and antisemitic for using currently unacceptable language despite clear evidence, in the diary and elsewhere, that he was less, not more, prejudiced than most of us.

In what sense were the quotes from the Paul newsletters racist? While I may have missed something, I do not think any of them asserted either innate inferiority of blacks or hatred of blacks qua blacks. What they did was express a derogatory opinion of particular blacks, Watts rioters or muggers, in a gleeful fashion. They were thus likely both to appeal to racists and to offend liberals — more generally, people who accepted current conventions of acceptable and unacceptable speech. My guess is that both effects were intentional.

When I posted something along these lines on my blog,⁸ it set off one of the longest comment threads I have ever gotten, a total of 170 comments. Like most such threads it tended to veer off in a variety of directions irrelevant to the main topic, but quite a lot of the comments were arguing either that the quotes were outrageous or that they were not, with some in the latter group arguing that it was a good thing if libertarians split along those lines.

A commenter on one side wrote:

The newsletter quotes were more racist than you portray them. "A Special Issue on Racial Terrorism" starts out with the (perhaps distorted) facts: "The criminals who terrorize our cities — in riots and on every non-riot day — are not exclusively young black males, but they largely [sic?] are." It moves on to conclusions such as "our country is being destroyed by a group of actual and potential terrorists — and they can be identified by the color of their skin", and "We are constantly told that it is evil to be afraid of black men, but it is hardly irrational."

Another responded that, whatever the tone, the substance of the comments was true, or at least defensible, and that:

Facts cannot be racist. People who have a problem with statements of facts being made, have a problem with truth and honesty.

The rebuttal:

... Sure, the facts aren't racist, but to what purpose should one state them? If one is to advocate anything with facts about race, it must be race-based policies or attitudes. I generally disagree with both anti-minority (racial profiling) and pro-minority (affirmative action) policies, so in regards to race I'm a wimp.

To which I replied

⁸ <http://davidfriedman.blogspot.com/2008/01/ron-paul-affair-and-libertarian-culture.html>

There is at least one other important reason to point out such facts — to rebut claims about outcomes as evidence of prejudice. If someone observes that blacks have (say) 90% of the average income of whites and takes it for granted that that is proof of racial discrimination, he is implicitly assuming that there are no average differences between blacks and whites that are relevant to income, such as differences in average intelligence. Similarly, how one views the implications of figures on what fraction of prison inmates are black depends in part on what fraction of criminals are black.

Gender differences present a much clearer example of the same point. If one accepts Darwinian evolution, one ought to expect behavioral differences between males and females; we have, after all, been "designed" for reproductive success, males and females differ precisely in their role in reproduction, hence it would be surprising if the same behavioral design was optimal for both. Yet popular discussions frequently take it for granted that differing outcomes can only reflect "sexism."

The fact that one cannot openly discuss some of these things means that bad arguments go without appropriate criticism. Both the Lawrence Summers affair⁹ and the more recent Watson affair demonstrate that certain arguments cannot be safely made in political discourse, not because they are false but because they are taboo.

I myself have somewhat mixed feelings on the issue of being deliberately non-PC. On the one hand, I find it disturbing that, in our society as it now exists, true statements about certain questions are likely to result in serious negative consequences for those who make them, with the forced resignation of Lawrence Summers as president of Harvard the most striking example. On the other hand, I think offending other people for the fun of it is both rude and counterproductive.

Which gets me to what I suspect is another difference between the two groups — for simplicity I will continue to label them "wimps" and "boors" — their attitude to those who disagree with them politically. The wimps have friends they respect who are well to the left on the political spectrum, hence are likely to think of opponents to the left as reasonable people who are mistaken. The boors are likely to see opponents to their left as stupid or evil. On the other hand, the boors are rather more likely to have friends who are conservatives, even kinds of conservatives, such as religious fundamentalists or neo-confederates, whom the wimps disapprove of. In that case the pattern reverses, with the wimps seeing those they disagree with as evil or stupid, the boors seeing them as holding some mistaken views. As one commenter put it:

⁹ Summers, in a talk at the National Bureau of Economic Research, had listed a variety of possible explanations for women being less common than men in high end scientific positions. One of them was that "It does appear that on many, many different human attributes—height, weight, propensity for criminality, overall IQ, mathematical ability, scientific ability—there is relatively clear evidence that whatever the difference in means — which can be debated — there is a difference in the standard deviation, and variability of a male and a female population. ... if one is talking about physicists at a top twenty-five research university, ... it's talking about people who are three and a half, four standard deviations above the mean in the one in 5,000, one in 10,000 class. Even small differences in the standard deviation will translate into very large differences in the available pool substantially out."

<https://www.thecrimson.com/article/2005/2/18/full-transcript-president-summers-remarks-at/>

He was ferociously attacked for that comment, and it was one of several things that led to his forced resignation as president of Harvard.

I would only add that I don't think paleos are by nature boorish and cosmopolitans are by their nature wimpy; I think both groups are both boorish and wimpy in relation to different cultural/political groups. In their relationships to liberal beliefs, sentiments, and taboos paleos are boors and cosmopolitans wimps; in their relationships to conservative/traditionalist beliefs, however, the roles reverse, and the cosmopolitans become boors and the paleos become wimps. Reason magazine's blog — and blog commenters — often attack and ridicule creationism, religion, conservative sexual standards, and the like, and clearly relish doing so. They're not at all averse to offending other people for the fun of it, they just have a different set of people they enjoy offending.

My own view is that Ron Paul is neither a racist nor a conservative, but did hold some nutty views. The were, however, nutty views concerning supposed conspiracies to violate our rights. On that basis at least, while he may be a nut, he is a libertarian nut.

The best comment on Paul that I saw from outside the libertarian movement:

This doesn't make Ron Paul a terrible person; it just makes him human. He believes in a constellation of ideas — some of them nutty, but some of them not - that have been shunted to the fringe of American political life. And people who find themselves in that position tend to be far, far more forgiving of their allies' various tics and idiosyncracies and yes, bigotries than would otherwise be the case. It's unfortunate, but it's also human nature: If someone agrees with you and supports you when the whole world seems to be against you, of course you'll be more likely to look past their tendency to suggest that Mossad was behind the 1993 WTC bombing, or their fondness for pre-apartheid South Africa.

(Conservative journalist Ross Douthat)