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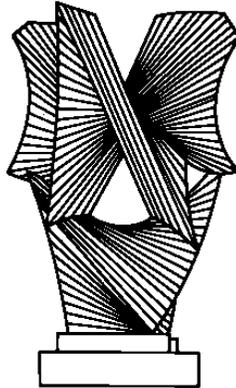
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TYRANNOPHOBIA

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Tyrannophobia

Eric A. Posner* and Adrian Vermeule**

Abstract. Tyrannophobia—the fear of dictatorship—is a dominant theme in American political discourse. Yet dictatorship has never existed in the United States or even been likely. The hypothesis that tyrannophobia itself has prevented dictatorship from occurring is implausible; better evidence exists for alternative hypotheses. We conclude that tyrannophobia is an irrational political attitude that has interfered with, and continues to interfere with, needed institutional reform.

Tyranny looms large in the American political imagination. For the framers of the Constitution, Caesar, Cromwell, James II and George III were anti-models; for the current generation, Hitler takes pride of place, followed by Stalin, Mao and a horde of tyrants both historical and literary. Students read “1984” and “Animal Farm” and relax by watching Chancellor Palpatine seize imperial power. Unsurprisingly, comparisons between sitting presidents and the tyrants of history and fiction are a trope of political discourse. Liberals and libertarians routinely compared George W. Bush to Hitler, George III and Caesar. Today, Barack Obama receives the same treatment, albeit in less respectable media of opinion. All major presidents are called a “dictator” or said to have “dictatorial powers” from time to time.¹

Yet the United States has never had a true dictator, or even come close to having one, and rational actors should update their risk estimates in the light of experience, reducing them if the risk repeatedly fails to materialize. By now, 233 years after independence, these risk estimates should be close to zero. Why then does the fear of dictatorship – tyrannophobia – persist so strongly in American political culture? Is the fear justified, or irrational? Does tyrannophobia itself affect the risk of dictatorship? If so, does it reduce the risk or increase it?

The plan of the essay is as follows. Section I offers some definitions and conceptual distinctions, principally to identify the varieties of tyrannophobia that we will

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¹ E.g., Stuart Taylor Jr., *The Man Who Would Be King*, ATLANTIC MONTHLY, Apr. 2006, at 25-26, quoted approvingly in SANFORD LEVINSON, OUR UNDEMOCRATIC CONSTITUTION: WHERE THE CONSTITUTION GOES WRONG (AND HOW WE THE PEOPLE CAN CORRECT IT) 81 (2006). Later, Levinson calls the U.S. Constitutional provisions on executive power “an open invitation for those who would defend something close to presidential dictatorship.” Levinson, *supra*, at 107. For another prominent example of tyrannophobia, see ARTHUR SCHLESINGER, JR., THE IMPERIAL PRESIDENCY 377 (1st Mariner Books ed., 2004) (1973) (arguing that Jefferson’s prophecy of “the tyranny of executive power” “appeared on the verge of fulfillment” (writing in 1973)); and see his apocalyptic introduction to the 2004 edition, Schlesinger, *supra*, at ix-xxiv.

consider. Section II examines fears of dictatorship in American history. Section III examines comparative evidence on the causes of dictatorship, and introduces new evidence on the relationship across countries between dictatorship and tyrannophobia. We find that tyrannophobia does little or nothing to prevent dictatorship.

Armed with this evidence, Section IV evaluates the relationship between tyrannophobia and dictatorship in American history. As to the original constitutional design, we suggest that the framers' choice of an independently elected executive may have created a risk of dictatorship, but that demographic factors, notably the wealth of its population, now ensure that the United States is highly unlikely to lapse into dictatorship. The very economic and political conditions that have created powerful executive government, in the modern administrative state, have also strengthened informal political checks on presidential action. The result is a president who enjoys sweeping *de jure* authority, but who is constrained *de facto* by the reaction of a highly educated and politically involved elite, and by mass opinion. We are skeptical that tyrannophobia itself accounts for the absence of dictatorship in the United States, and suggest that it is a historical relic that interferes with beneficial institutional change. A brief conclusion follows.

I. Concepts and Distinctions

Tyrannophobia is the fear of dictatorship, but what is dictatorship? The term is slippery in a family-resemblance sort of way, with many competing definitions and a great deal of vague usage. One recent treatment distinguishes “tinpot” dictators, who maximize personal consumption, from “totalitarian” dictators, who maximize power.² In general usage, “dictatorship” takes many forms. In one version, dictatorship is the endpoint of a continuum that runs from fully autocratic rule by one person alone, through oligarchy, to democracy. In this version, talk of democratic dictatorship, or perhaps even constitutional dictatorship, would be oxymoronic. In another version, dictatorship refers to the nature of the policies that government institutes; a “democratic” or populist government that violated civil liberties and arbitrarily confiscated property could coherently be called dictatorial. A third theme, especially pronounced in Anglo-American discourse, focuses on the executive and equates dictatorship with unchecked executive power, in which case legislative dictatorship would be the oxymoron.

Rather than attempting to identify a natural kind of dictatorship, which probably does not exist anyway, we will combine the first and third accounts by stipulating that dictatorship is a political system of legally unchecked rule by one person or an identified small group of persons. Legal checks can be divided into two categories: the requirement that the leader obtain the consent of other government officials (for example, legislators) before acting; and the requirement that the leader submit to periodic popular elections. Dictatorships tend to exist when both types of checks are weak or nonexistent. On this account, dictatorship lies on a continuum and is thus a matter of degree, so usage

² RONALD WINTROBE, *THE POLITICAL ECONOMY OF DICTATORSHIP* 43, 47 (1998).

implicitly varies: the fewer the checks, the more plausible the “dictator” label becomes, but some people use the label to refer narrowly to unelected leaders, some to elected leaders who need no consent from others, and some use “dictatorship” hyperbolically, to refer to abuses even by an (elected) executive who is subject to some legal checks.

As intensional definitions of “dictatorship” are so slippery, extensional definition may help indicate our interests. The paradigm cases we have in mind include absolute monarchies (but not constitutional monarchies), fascist dictatorship based on leader-worship, military dictatorships and juntas, and most of the stock tyrannies mentioned above. We mean to exclude various large-scale oligarchies and systems of collective rule, such as the Chinese communist party. Dictatorship is fully consistent with the existence of de facto political checks on the ruler; there will almost always be political forces the dictator(s) must be careful to reward or appease, such as the military or security services, mass public opinion, or an elite “selectorate”³ that influences the choice of dictators.

Indeed, it is common in the political economy literature on dictatorships to assume that a dictator stays in power by satisfying the preferences of some group—a subgroup such as the elites but potentially the entire population.⁴ If the dictator fails to satisfy this group, it will overthrow him. A democratic government is assumed to satisfy the preference of the median voter;⁵ if it does not, the median voter will select a different government. Accordingly, the dictator and the democratic government may act identically when the dictator needs the support of a majority of the entire population. The only difference is that the democratic government is constrained by the de jure power of the median voter, while the dictator is constrained by the de facto power of the median citizen. Whether in fact the person with the relevant de facto power would be the median voter under democracy depends on demographic and other variables, as we will discuss, so a dictatorship is in principle compatible with many more political outcomes than democracies are.

Given this definition of dictatorship, one of our major aims is to identify several varieties of tyrannophobia, and to do this several distinctions are necessary. The tyrannophobe may fear dictatorship in the extreme sense we have identified – the end-point of the continuum, where the leader faces no legal checks at all, neither elections nor the consent of others for lawmaking – or else the tyrannophobe may fear dictatorship in a weaker sense, such as abuses by an elected executive. In general, our claims will be stronger as the tyrannophobe’s fears are more extreme, weaker as the tyrannophobe is more moderate; the problems have a sliding-scale quality.

³ Bruce Bueno de Mesquita et al., *Policy Failure and Political Survival: The Contribution of Political Institutions* 43 J. CONFLICT RESOL. 147, 148 (1999).

⁴ DARON ACEMOGLU & JAMES A. ROBINSON, ECONOMIC ORIGINS OF DICTATORSHIP AND DEMOCRACY 118 (2006); Carles Boix & Milan Svolik, *The Foundations of Limited Authoritarian Government: Institutions and Power-Sharing in Dictatorships* 1-4 (Mar. 2, 2009) (unnumbered working paper, available at <http://ssrn.com.ezp-prod1.hul.harvard.edu/abstract=1352065>).

⁵ In these models; the median voter theorem is controversial and authors make other assumptions as well.

Another key distinction involves the nature of the fear that occurs in tyrannophobia. Some fears are rationally warranted by the evidence and can be described as justified fear. Alternatively, fear may be an emotional response that short-circuits rational consideration of the evidence, and thus constitutes an unjustified fear. Tyrannophobia is intrinsically ambiguous, and can refer to either variety of fear, so we will discuss both. We should note, however, that if tyrannophobia is rational—if it refers to a belief about the probability of dictatorship that reflects Bayesian updating—then the label has no explanatory value. In understanding (for example) why constitutional framers put constraints on the executive, we would refer to their justified beliefs rather than the emotion of fear. Tyrannophobia is interesting to the extent that it reflects irrational beliefs, in which case one wants to understand why people have these irrational beliefs, and what effect these beliefs have on constitutions and other political outcomes. Although we will discuss both versions of tyrannophobia, our focus will be on the irrational version.⁶

Furthermore, risks are a product both of the probability that an event will materialize – here, that a dictator will take power – and of the harms that will occur if the risk does materialize. On the margin of probability, the unjustified variety of tyrannophobia takes the form of exaggerated perception of the risk that a dictatorship will occur, through the creeping expansion of executive power, through a sudden seizure of executive power in a crisis, or through some other sequence. We consider versions of these claims in Sections III and IV.

On the margin of harm, the question is whether the tyrannophobe rationally considers the evidence about the costs and benefits of dictatorship. Liberal legalists sometimes imply that dictatorship has catastrophic effects on welfare, but this is a caricature, not supported by the evidence. It is not even clear whether authoritarian governments systematically offer different public policies than democracies do. A comparison of democracies and non-communist non-democracies between 1960 and 1990 finds that the two regime-types offer very similar substantive public policies; they differ principally in terms of policies related to winning or maintaining public office, in that nondemocracies are more likely to select leaders through violence.⁷ More generally, “[a]lthough some studies have established a significant positive link between measures of political freedom and [income] growth . . . , others have found that authoritarian regimes have better growth records”⁸ Likewise, a recent survey finds that “there is no

⁶ This paper can thus be thought of as a step in the direction of thinking about constitutional design from a behavioral law and economics perspective. That literature so far largely focused on private law and some non-constitutional public law issues. *See, e.g.*, BEHAVIORAL LAW AND ECONOMICS (Cass R. Sunstein ed., 2000).

⁷ Casey B. Mulligan, Ricard Gil & Xavier Sala-i-Martin, *Do Democracies Have Different Public Policies than Nondemocracies?* 18 J. Econ. Persp. 51, 51-52 (2004).

⁸ DENNIS C. MUELLER, PUBLIC CHOICE III 423 (2003).

evidence that constraints on the executive predict growth[.]”⁹ Some of these findings can be reconciled by the hypothesis that dictatorial regimes exhibit higher variance than democratic regimes and a higher dispersion of growth rates;¹⁰ more generally, democracy has both a lower downside and a lower upside.¹¹ Whether that tradeoff is desirable depends upon the nature of the status quo ante, the risk aversion of the population and on the absolute level of performance under the democratic alternative.¹²

As compared to democracy, recent evidence does show that dictatorships apparently provide fewer public goods,¹³ even controlling for variables that might conduce both to dictatorship and to low levels of public goods, such as low income and high heterogeneity of preferences. It is not our contention that dictatorship is superior to democracy. Among other problems, political freedom and equality are themselves components of welfare. Certainly, in the developed world, where democracies function well, dictatorship has little to recommend it. The cross-country evidence we have cited suggests more ambiguity about the developing world. It may be that a dictatorship that keeps order and delivers a few other public goods is superior to a democracy that quickly degenerates into anarchy. Our more modest point is just that institutional design of democratic institutions should not assume that the loss of well-being caused by a transition from democracy to dictatorship is higher than it in fact is.

Another distinction involves different types of safeguards against dictatorship. Even if dictatorship is a real risk, and even if it would be harmful if it occurred, the requisite precautions might be either institutional or else political and cultural. The former typically arise through deliberate constitutional design, involving familiar institutions such as legislative oversight, judicial review for statutory authorization or constitutionality, and (in some systems) the separation of powers. Political and cultural precautions arise, if at all, through decentralized action by many individuals. They can be arranged on a continuum from relatively formal modes of political organization, such as political parties capable of resisting dictatorship, to unwritten constitutional norms and conventions,¹⁴ such as the longstanding convention that that no president should stand for a third term (until Roosevelt did so), to a loosely defined ethos of libertarianism. We will

⁹ Edward L. Glaeser, Rafael LaPorta, Florencio Lopez-de-Silanes, and Andrei Shleifer, *Do Institutions Cause Growth?*, 9 JOURNAL OF ECONOMIC GROWTH 271, 282 (2004).

¹⁰ Glaeser et al., *Do Institutions Cause Growth?*, *supra* note, at 285.

¹¹ Mueller, *supra* note, at 424 (citing Jody Overland, Kenneth L. Simons & Michael Spagat, Political Instability and Growth in Dictatorships (2000) (unpublished working paper, later published in 125 PUB. CHOICE 445 (2005))).

¹² Philippe Aghion, Alberto Alesina & Francesco Trebbi, *Endogenous Political Institutions*, 119 Q. J. ECON. 565, 575 (2004), present a model in which a leader with relatively low insulation – meaning a leader who must gain the approval of (many) others before acting – is relatively more desirable as the risk aversion of the population increases.

¹³ Robert T. Deacon, *Public Good Provision under Dictatorship and Democracy*, 139 PUB. CHOICE 241, 243 (2009).

¹⁴ Jon Elster, *Unwritten Constitutional Norms*.

examine the relationship between institutional and noninstitutional constraints in later sections.

A last type of tyrannophobia has a temporal dimension. There is a long history of time-limited dictatorships.¹⁵ In the ancient Roman republic, for example, the senate could appoint a dictator to address an emergency. Some renaissance Italian republics had a similar rule. And many modern constitutions grant executives special (although usually not absolute) powers during emergencies. By our definition, time-limited dictatorships are not true dictatorships because the dictator derives his authority from the people or from elected officials. But time-limited dictatorships loom large in the imagination of the tyrannophobe because many time-limited dictators have refused to step down.

II. Tyrannophobia in American History

A. The Founding

The Declaration of Independence is the ur-text of tyrannophobia in the United States. Britain at the time had a constitutional monarchy and the king was by no means the sole or even leading figure in determining colonial policy but shared power with Parliament. Yet the Declaration focuses not on Parliament, or the British people, but on the king, and his supposedly tyrannical methods.

The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.¹⁶

A long list of the king's outrages end in this climax:

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.¹⁷

Parliament receives only a passing reference in the next paragraph. British policy toward the American colonies, although very much a joint product of king and Parliament, is personified in the king, a tyrant.

Why did Jefferson employ this rhetorical strategy? Parliament, whatever its defects, was a quasi-representative body. If Parliament is to be blamed for the injuries suffered by the American colonies, then so must the British people. Yet Americans had deep ties with the British—not just by consanguinity, as noted by the Declaration, but also commercial, religious, and ideological. Given Britain's mastery of the seas, it would have been difficult to imagine that the colonies, after independence, could flourish

¹⁵ See CLINTON ROSSITER, *CONSTITUTIONAL DICTATORSHIP: CRISIS GOVERNMENT IN THE MODERN DEMOCRACIES* 8 (Transaction Publishers 2002) (1948).

¹⁶ THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

¹⁷ THE DECLARATION OF INDEPENDENCE para. 30 (U.S. 1776).

without some sort of accommodation with the British. Indeed, the Declaration's references to the British people are notably gentle:

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.¹⁸

The effort to separate out the king for special obloquy, and to distinguish him from the British people and their parliament, exploited British historical memory and political currents in Britain at that time. British hostility to its own monarchy extended back to the seventeenth century, culminating in the regicide of Charles I. By the eighteenth century, there was an uneasy compromise between Crown and the people, but George III was not a popular figure. He was the target of a powerful political movement that accused him and the parliamentary leadership of corruption. "Country" critics of the king and Parliament argued that the Crown used offices and revenues at its disposal to bribe members of Parliament who would therefore no longer serve as a counterweight to executive power.¹⁹ Many Americans shared these views.²⁰ Although Americans greatly respected, even idealized, the king earlier in the eighteenth century, while having only a vague notion of what Parliament was, by the revolutionary period he had attracted intense hostility on the ground that he had violated the social contract.²¹ The exaggerated beliefs about the King's power, and the correspondingly vague sense of Parliamentary power, may explain why the King was blamed for British colonial policy. It was thus an obvious strategy to blame the king for the injuries that made the American revolution necessary, and absolve the British people as much as possible, in this way exploiting divisions in the British political class and laying the foundations for a return to friendly relations in the future.

The words were not just rhetoric. American political institutions during and after the revolution were notable for the weakness of the executive office. State legislatures inherited the executive powers of royal governors; state governorships were mostly weak, ministerial offices.²² The Articles of Confederation failed to establish an executive office

¹⁸ THE DECLARATION OF INDEPENDENCE para. 31 (U.S. 1776).

¹⁹ See, e.g., MAX M. EDLING, A REVOLUTION IN FAVOR OF GOVERNMENT: ORIGINS OF THE U.S. CONSTITUTION AND THE MAKINGS OF THE AMERICAN STATE 66 (2003).

²⁰ *Id.* at 67-68.

²¹ See BRENDAN McCONVILLE, THE KING'S THREE FACES: THE RISE AND FALL OF ROYAL AMERICA, 1688-1776, AT 8-9, 311 (2006).

²² GORDON S. WOOD, THE CREATION OF AMERICAN REPUBLIC, 1776-1787, AT 135-36 (1969).

for the national government. Suspicion of the executive ran deep. Yet as state legislatures used their new-found powers to cancel debts, redistribute wealth, and persecute dissenters, it soon became clear that “legislative tyranny,” a term that came into use at that time, was just as dangerous as executive tyranny.²³ Meanwhile, at the national level, the absence of a powerful executive hampered the war effort, limited the ability of the national government to respond to internal rebellions, and put the American people at a disadvantage in commercial disputes with foreign nations.

Hence one of the chief motivations for holding a constitutional convention was to strengthen the national executive.²⁴ The Federalists were pragmatists who were willing to abandon their earlier opposition to a strong executive because intervening experience had taught them that a weak executive spelled ruin.²⁵ But they ran into a strong tide of opposition. Indeed, the Antifederalists could simply cite the Revolution-era criticisms of George III. Again, the names of Caesar, Cromwell, and other historical tyrants were invoked.²⁶ Republics are often weak and internally divided, hence vulnerable to a charismatic leader who can promise unity and who controls the military. Once powerful figures obtained the office of the executive, institutional barriers against abuse would fall away. Antifederalists adopted the Country party’s rhetorical “logic of escalation,” “by which it tended to see in every limited act of government a larger plan aiming to subvert popular liberty.”²⁷ For the Country critics, Britain was constantly in danger of sliding back into the royal absolutism from which the Glorious Revolution had only temporarily and imperfectly saved the nation. For the Antifederalists, a powerful executive office in the United States would pose similar dangers. They imitated the tyrannophobic rhetoric of the Country party even after the United States was no longer threatened by Britain’s monarchical institutions and even though circumstances in the United States differed from those in Britain. Thus did tyrannophobic tropes enter American political discourse at an early stage, transplanted from a country that had experienced real tyrants in its recent past, but taking root in the soil of a country for which royal absolutism had no party. The rhetoric persisted after its foundation had vanished.

The debate about executive abuse was not resolved in the Constitution. The founders created a presidency and vested it with undefined executive powers. A handful of more specific powers that would turn out to be consequential did not have a clear meaning at the time of negotiations. The veto power might be understood just to mean the right to veto unconstitutional legislation, not legislation that the president rejected on policy grounds. The commander-in-chief power could refer only to tactical control, not military strategy and foreign policy in general. The power to receive ambassadors could

²³ Wood, *supra* note, at 404-12

²⁴ Wood, *supra* note, at 466-67, 550-51.

²⁵ Schlesinger, *supra* note, at 2.

²⁶ See, e.g., THE ANTIFEDERALIST NO. 3, at 8 NO. 25, at 66 NO. 70, at 204 (Morton Borden ed., 1965). The papers are replete with references to “tyranny,” “despotism,” etc.

²⁷ Edling, *supra* note, at 67.

refer to a ceremonial role, not (as it was later interpreted) the power to recognize states and governments. It was possible to conceive of the presidency as a ministerial position, similar to that of any number of weak governorships that existed in the American states, or as a much more important figure.²⁸ Ambiguous language papered over these disputes and the debate continued into the Washington administration.

B. Post-Founding American History

The trend of presidential power over two centuries resembles a graph of GDP or the stock market—a gradual trend upwards but with cyclical peaks and valleys along the way. The canonical list of powerful presidents includes Washington, Jackson, Polk, Lincoln, Theodore Roosevelt, Wilson, Franklin Delano Roosevelt, and Nixon.²⁹ Each powerful president was followed by one or more weak presidents, at least if we include among the weak Truman, who cemented American dominance of world institutions and ran an essentially unilateral war in Korea, but who also became highly unpopular and (thus) lost a major showdown with the Supreme Court.³⁰ Each powerful president was accused, at one time or another, of Caesarism (as were many weak presidents). Discomfort with the concentration of power in the hands of one man may well have led to a political backlash in each case, hampering the ability of the successors to exercise power. Many of these presidencies were also followed by formal constitutional and legislative changes designed to limit the power of future presidents.³¹ In other cases, the weakness of succeeding presidents may have owed more to the hostile political climate toward executive power that the powerful president left in his wake.

FDR's administration was the watershed.³² Many of the presidencies that followed it were powerful — Truman's for a time, Eisenhower's, Johnson's, Nixon's, Reagan's. Of these, only Nixon's abuses created a backlash, leading to the weak presidencies of Ford and Carter and to a series of framework statutes intended to check executive power. Historians usually invoke the cold war and the rise of the administrative state as the explanatory factors giving rise to the imperial presidency. The United States was, for the first time in its history, continuously engaged in a life-or-death struggle with

²⁸ Indeed, in Hamilton's comparison of the president to the British king and to American governors, he repeatedly emphasizes the more limited interpretations of the president's constitutional powers. *See* THE FEDERALIST NO. 69 (Alexander Hamilton).

²⁹ For a standard account, see Schlesinger, *supra* note.

³⁰ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

³¹ *E.g.*, Administrative Procedure Act, Pub. L. No. 79-404, 60 Stat. 237 (1946) (codified in various sections of 5 U.S.C.); term limit amendment after FDR, U.S. CONST. amend. XXII; various framework statutes after Nixon (War Powers Resolution, Pub. L. No. 93-148, 87 Stat. 555 (1973) (codified at 50 U.S.C. §§ 1541–1548 (2000)); National Emergencies Act, Pub. L. No. 94-412, 90 Stat. 1255 (1976) (codified as amended at 50 U.S.C. §§ 1601–1651 (2000 & Supp. III 2003)); International Emergency Economic Powers Act, Pub. L. No. 95-223, 91 Stat. 1626 (1977) (codified as amended at 50 U.S.C. §§ 1701–1706 (2000 & Supp. III 2003)); Ethics in Government Act, Pub. L. No. 95-521, 92 Stat. 1824 (1978) (codified as amended at 28 U.S.C. §§ 591–598 (2000)); and Foreign Intelligence Surveillance Act, Pub. L. No. 95-511, 92 Stat. 1783 (1978) (codified as amended at 50 U.S.C. §§ 1801–1863 (2000 & Supp. III 2003))).

³² *See, e.g.*, Schlesinger, *supra* note, at 122-23, 409.

a foreign power, over decades rather than years. A powerful executive was always thought necessary for planning and conducting military operations; accordingly, the powerful executive was institutionalized.³³ Meanwhile, the United States had developed a true national market that required regulation at a national level. The technological problems in the modern era seemed to require continuous monitoring and adjustment, tasks that only an executive bureaucracy can handle.³⁴

But if American presidents have gained more legal and political power over time, they remain vastly more constrained, at least politically, than the Caesars and the Cromwells that the founders feared. Indeed, the United States—unlike many other countries, including Germany, of course—has never had a dictator, nor has it come close. Every president has humbly submitted to an election after four years and stepped down (except for FDR) after eight. George Washington, in many respects a model of the constrained executive, devoted much of his Farewell Address to warning his fellow citizens about the risks and evils of tyranny.³⁵ Lincoln violated the law at the start of the Civil War but felt that he needed to obtain congressional ratification of his actions after the fact, and stood for election at the end of his first term. Wilson and Roosevelt also had tremendous power to conduct war, but presidential power has always contracted with the return to peace—or, put differently, while presidents are understood to have broad war-making powers, these powers have not resulted in peacetime dictatorships.

The peculiar danger reflected by Caesar and Cromwell, and later Napoleon, was that a charismatic military leader would become a dictator by popular acclimation. This never happened in the United States. The closest example is Andrew Jackson, and while he used his powers aggressively—notably, by ignoring a supreme court ruling and by refusing to comply with a statute that required the Treasury to deposit funds with the Bank of the United States—no historian considers him a dictator. Although Jackson's impact on the presidency was large in the long term—he was the first charismatic, populist president, and helped establish the modern party system—like so many other strong presidents, he provoked a backlash³⁶ and was followed by a string of mediocrities. A few historians think that Douglas MacArthur could have staged a coup d'état after being fired by Truman. This judgment is questionable, to say the least; MacArthur quickly became a figure of ridicule.³⁷ Eisenhower, while arguably a strong president, used his powers moderately. Americans admire the military but the culture is not militaristic; aside from Washington, Eisenhower, and Jackson, no great military leader has had any success as a politician.³⁸

³³ Schlesinger, *supra* note, at 127-28, 163-70.

³⁴ Schlesinger, *supra* note, at 210-12.

³⁵ George Washington, FAREWELL ADDRESS, Sept. 17, 1796.

³⁶ See John C. Yoo, *Andrew Jackson and Presidential Power*, 2 CHARLESTON LAW REVIEW 521 (2008).

³⁷ WILLIAM MANCHESTER, AMERICAN CAESAR: DOUGLAS MACARTHUR, 1880-1964, at 679-83 (1978).

³⁸ A few other distinguished military leaders became minor presidents, including William Henry Harrison, Zachary Taylor, and Ulysses Grant. Theodore Roosevelt, a great president, could not be considered a great military leader on the basis of his minor exploits in the Spanish-American War.

The worst decade for democracy was the 1930s, when global economic upheaval produced dictatorships around the world. Conditions were worse in the United States than in many of these countries. For a very brief period, some Americans admired Mussolini, who seemed to be able to get things done. In 1927, Studebaker even named one of its cars the “Dictator.”³⁹ But the rise of dictatorship in Europe and elsewhere, especially when it took an ugly turn in the 1930s, did not lead to imitation in the United States. The only serious American politician who could even remotely seem to fit the fascist mold was Huey Long, the governor of Louisiana from 1928 to 1932, and senator from 1932 to 1935. As governor and leader of a political party, Long advanced a populist platform of redistribution and public works. He was a charismatic leader who some believe sought to create a cult of personality and to obtain dictatorial powers.⁴⁰ Whether or not he had this goal, he never came close to achieving it. He obtained power in Louisiana through democratic means; maintained power by cooperating with the political establishment; and was assassinated before he had any serious prospect of running for president and obtaining national power.

C. Hypotheses

This quick historical sketch suggests several hypotheses about the role of tyrannophobia in American history. The first is that the inheritance of tyrannophobia, as reflected in the Declaration of Independence and founding debates, has served Americans well by providing a bulwark against abuse of executive power—either by motivating de jure constraints on the executive or popular skepticism toward demagogues who sought executive office. Such people could not gain traction at a national level or for any amount of time because they awoke historical memories of Caesar and Cromwell. Popular presidents like FDR faced similar tyrannophobic resistance.⁴¹ Tyrannophobia damaged FDR’s standing when he tried to pack the Supreme Court, and tyrannophobia would lead to the enactment of institutional constraints on the executive after FDR’s administration ended, such as the 22nd amendment, which limited the president to two terms, and the Administrative Procedure Act, which imposed procedural constraints on executive administration.⁴² On this view, a central feature of American political psychology—fear of executive power—serves as a constraint on the executive every bit as important as the separation of powers and other institutional constraints.

The second hypothesis is that American tyrannophobia has been a fundamentally irrational phenomenon that has interfered with needed institutional development. Caesar took control of a highly militarized and hierarchical society. The seventeenth-century England of Cromwell and the Stuarts was also profoundly different from that of the

³⁹ BENJAMIN L. ALPERS, *DICTATORS, DEMOCRACY, AND AMERICAN PUBLIC CULTURE: ENVISIONING THE TOTALITARIAN ENEMY, 1920S-1950S*, at 15 (2003). The name would be dropped in 1937.

⁴⁰ Raymond Gram Swing, *Forerunner of American Fascism*, in HUEY LONG 90, 90-103 (Hugh Davis Graham ed., 1970).

⁴¹ Alpers, *supra* note, at 105-07, 205-06.

⁴² Pub. L. No. 79-404, 60 Stat. 237 (1946) (codified in various sections of 5 U.S.C.).

United States—agrarian, poorly educated, riven by violent religious conflicts, aristocratic, and centered around a hereditary monarchy. What relevance could these examples have for the United States—relatively educated, egalitarian, and religiously peaceful from the founding, and then industrialized, highly educated, and secular over time? We might think of tyrannophobia as similar to other prejudices that perhaps had some social function under radically different circumstances in the distant past, but that have no place in modern times, and only retard institutional change that is needed to address modern challenges.⁴³ Indeed, if the aim is to minimize the risk of dictatorship, or just to take optimal precautions against it, tyrannophobia might be counterproductive, for reasons we will discuss.

The first two hypotheses treat tyrannophobia as a causal factor; another possibility is that it is epiphenomenal. Americans fear the executive, but this fear does not make the risk of dictatorship greater or less. Tyrannophobia is an effect, not a cause, and hence of little interest from a legal or policy perspective. We take up these hypotheses in the sections that follow, from a comparative perspective (Section III) and as applied to the United States (Section IV).

III. Comparative Tyrannophobia

One way to evaluate the hypotheses mentioned above is by doing cross-country comparisons. In this part, we attempt to test the hypothesis that tyrannophobia helps to prevent dictatorship. We find no evidence for that effect. Across polities, tyrannophobia is no safeguard of democracy. The literature attributes dictatorship to general demographic variables; our own look at the evidence leaves this conclusion undisturbed.

A. Does Tyrannophobia Prevent Dictatorship?

The hypothesis is that public fear of dictatorship—tyrannophobia—explains why some states never become dictatorships while others do. To test this hypothesis, one needs a measure of tyrannophobia. How does one do that? In our discussion of American history, we appealed to documentary sources. We do not have the expertise to conduct a similar analysis for other countries; nor is it obvious how one could convert documentary evidence into a quantifiable variable.

Indeed, tyrannophobia might be a culturally specific phenomenon, unique to the United States. It is difficult to think of another country where fear of the executive is such an important part of political discourse (although, as we will see, American tyrannophobia appears to be an elite phenomenon, not shared by the general population). Many countries are, of course, authoritarian, and people in authoritarian countries rarely criticize the government openly. Consider China and Russia. Among democracies, some

⁴³ Alpers, for example, argues that what we call tyrannophobia—an excessive fear of tyranny—led to persecution of dissenters and others who opposed American foreign policy during World War II and the cold war, which was presented by the government as a conflict with dictatorship. Alpers, *supra* note, at 301-02.

have an authoritarian streak, such as France with its Gaullist tradition. In Germany, the touchstone for political discourse is not dictatorship but nationalism. Britain, not threatened by dictatorship since the seventeenth century, is comfortable with its ceremonial monarchy, powerful parliament and (hence) exceptionally powerful prime minister. One might think that tyrannophobia would flourish in countries that have recently moved from dictatorship to democracy, such as Brazil, Argentina, Chile, and Indonesia, but one must recall that in many of those countries, partisans of the defunct authoritarian regime remain and wield substantial influence. By contrast, the United States kicked out its Tories after the revolution.

We have searched for quantitative proxies for tyrannophobia and the best we have found are results from the World Values Survey.⁴⁴ We focus on two questions. The first question asks whether having a “strong leader” is very good, fairly good, bad, or very bad.⁴⁵ The second question asks whether “democracies are indecisive and have too much squabbling” and gave respondents the choice of answering: agree strongly, agree, disagree, and strongly disagree.⁴⁶ We assume that tyrannophobes are more likely to answer the first question with “very bad” and the second question with “strongly disagree.”

We put together a dataset that includes the survey results (in both cases, the variable equals the sum of the percentages of the two positive responses), along with the Polity IV democracy score for 2000 (from 0 to 10, reflecting increasing democratization), per capita GDP for 2000, and information regarding whether the country was governed by a dictatorship at any time after 1950. We also include the Index of Executive Dominance (higher for countries with stronger executives).⁴⁷ Table 1 provides the information for 22 countries.

⁴⁴ World Values Survey, <http://www.worldvaluessurvey.org> (last visited July 15, 2009). The surveys we use were conducted over a ten year period from 1999 to 2008; different countries were surveyed in different years.

⁴⁵ *Id.*, question E114.

⁴⁶ *Id.*, question E121.

⁴⁷ AREND LIJPHART, PATTERNS OF DEMOCRACY: GOVERNMENT FORMS AND PERFORMANCE IN THIRTY-SIX COUNTRIES 132-33 (1999).

Table 1: Survey Results for Selected Nations⁴⁸

Country	“Strong Leader”	“Democracies Indecisive”	Polity IV Democracy (2000)	Per Capita GDP (2000)	Index of Executive Dominance	Period of Dictatorship (1950-2007)
Australia	24%	--	10	\$23,200	5.06	--
Belgium	33%	61%	10	\$25,300	1.98	--
Brazil	64%	--	8	\$6,500	--	1964-1984
Canada	22%	50%	10	\$24,800	4.90	--
China	36%	35%	0	\$3,600	--	1950-2007
Columbia	31%	--	7	\$6,200	3.00	1950-1956
Egypt	16%	29%	0	\$3,600	--	1952-2007
France	33%	74%	9	\$24,400	5.52	--
Germany	17%	35%	10	\$23,400	2.82	--
India	64%	66%	9	\$2,200	2.08	--
Indonesia	24%	25%	7	\$2,900	--	1957-1998
Iran	74%	28%	4	\$6,300	--	1950-1996 2004-2007
Japan	24%	43%	10	\$24,900	2.57	--
Mexico	58%	62%	8	\$9,100	--	1950-1987
Nicaragua	19%	--	8	\$2,700	4.17	1950-1983
Russia	57%	72%	7	\$7,700	--	1950-1991
South Africa	44%	52%	9	\$8,500	--	--
Spain	33%	36%	10	\$18,000	4.36	1950-1975
Sweden	18%	48%	10	\$22,200	3.42	--
United Kingdom	28%	45%	10	\$22,800	5.52	--
United States	33%	39%	10	\$36,200	1.00	--
Vietnam	9%	--	0	\$1,950	--	1954-2007

⁴⁸ World Values Survey, <http://www.worldvaluessurvey.org> (last visited July 15, 2009); Polity IV Annual Time-Series 1800-2007: Excel time-series data, <http://www.systemicpeace.org/inscr/p4v2007.xls> (last visited July 30, 2009); Central Intelligence Agency World Factbook, http://cia.gov/library/publications/download/download-2001/factbook_2001.zip (last visited July 30, 2009) (All values in 2000 dollars.); LIJPHART, *supra* note, AT 132-33 (1999). Data were obtained through the Online Data Analysis feature using both the fourth wave (1999-2004) and the fifth wave (2005-2008) of the World Values Survey. The primary survey data used were from the responses to "Political system: Having a strong leader (E114)," and "Future changes: Greater respect for authority (E018)" from the fifth wave. These data were supplemented with fourth wave data from those two questions and "Democracies are indecisive and have too much squabbling (E121)." Where there were data from both waves, only the most recent survey results were used. When the survey results had two options for positive responses, the response rates were aggregated. The Polity IV Democracy score "is an additive eleven-point scale (0-10). The operational indicator of democracy is derived from codings of the competitiveness of political participation (variable 2.6), the openness and competitiveness of executive recruitment (variables 2.3 and 2.2), and constraints on the chief executive (variable 2.4)." Monty G. Marshall and Keith Jagers, Polity IV Project: Political Regime Characteristics and Transitions, 1800-2007 Dataset Users' Manual 13, <http://www.systemicpeace.org/inscr/p4manualv2007.pdf> (last viewed July 30, 2007). The index of executive dominance is based on the duration of executive cabinets. For the details, see LIJPHART at 132-34. The period of dictatorship was determined by looking at both the Democracy score and the actual Polity IV score, which is the composite of the Democracy score and the Autocracy score. Marshall and Jagers at 15.

Our dataset is cross-sectional, so we cannot directly test whether a democracy with a tyrannophobic population is less likely to become a dictatorship. Instead, we simply looked for correlations. We do not find statistically significant correlations that support the psycho-cultural hypothesis.⁴⁹ A tyrannophobic public (as measured by answers to the survey questions) is just as likely to live in a non-democracy as in a democracy.

It turns out that tyrannophobia is positively correlated with wealth: people in rich countries distrust strong leaders more. But there is a more complex pattern. In richer countries, approval of strong leaders is negatively correlated with democratization; in poorer countries, approval of strong leaders is positively correlated with democratization.

To investigate these relationships more rigorously, we ran a cross-sectional logit regression with a democracy dummy (Polity IV score greater than six) as the dependent variable, Strong Leader as the independent variable of interest, and 2000 per capita GDP as the control. The data set consists of 84 countries. Although the signs are consistent with the correlations, the results fall just short of statistical significance; adding dummies for continent further diminished statistical significance.⁵⁰ Similarly, when we run separate regressions for rich and poor countries, the signs are consistent with those of the correlations but the results fall short of statistical significance.

What might account for these (weak) correlations? In rich countries, the median voter gets the institutional arrangement that she prefers. If that person supports democratic institutions, democratic institutions are sustained. This suggests that de facto political power of the average person when she is wealthy and educated translates into de jure democratic institutions. Causation could also go the other direction: perhaps people give their support to whatever institutions they have, as long as they are relatively wealthy and educated and thus presumptively happy. In poor countries, perhaps increasing democratization is often accompanied by greater social and political disorder, leading the average person to yearn for the strong hand of the dictator. When a dictator actually exists, however, that average person thinks differently. With less wealth and education, people cannot easily monitor the political situation, blame the existing institutions for their poverty, and support change.

How does the U.S. compare? In 84 countries, a mean of 35 percent of people say that a strong leader is very or fairly good. The United States, with 33 percent, is just a hair below the mean, and ranks 47th most-tyrannophobic out of 84. Looking at democracies only (Polity IV score above 6), there are 51 observations, a mean of 31 percent, and the United States is now 41st most-tyrannophobic out of 51. Looking at the

⁴⁹ The two survey variables are highly correlated. Our data set consists of 191 countries, but we have survey results for only 84 countries (in the case of Strong Leader) and 65 countries (in the case of Democracies Squabble). For Strong Leader, the mean was 35 percent, ranging from 3 to 78 percent. For Democracies Squabble, the mean was 49 percent, ranging from 13 to 80 percent.

⁵⁰ We also tried the Democracies Squabble variable; results in the same direction, but in some regressions not statistically significant and in all regressions weaker statistically.

top democracies only (Polity IV score equals 10), there are 26 observations, a mean of 25 percent, and the United States is now 20th most-tyrannophobic out of 26.

So the general population of the United States is somewhat less tyrannophobic than in other democracies: Americans as a whole tend to support strong leaders. At the same time, the United States has a relatively weak executive, according to the Index of Executive Dominance. What, then, accounts for tyrannophobic rhetoric in American political discourse? Perhaps, the historical legacy of the revolutionary war; or perhaps American tyrannophobia is an elite phenomenon not captured in the World Values Survey, reflecting the ancient fear that a dictator will redistribute from rich to poor.⁵¹

B. Alternative Explanations for the Absence of Dictatorship

If tyrannophobia does not prevent dictatorship, what does?

1. Demographics

Probably the most robust result of cross-country empirical work on dictatorship is that the best safeguard for democracy is wealth. No democracy has fallen in a nation whose average per capita income was greater than a little over \$6,000 in 1995 dollars.⁵² (In Weimar Germany in 1933, average per capita income was \$3,556, down from \$4,090 in 1928).⁵³ Stated in 2008 dollars, average per capita income in the United States is no less than \$39,751.⁵⁴ If this pattern reflects causal forces, the United States is unlikely to become a dictatorship in the foreseeable future, simply because of its enormous wealth.

What causes the association between wealth and the stability of democracy? The causes are uncertain, even if the pattern itself is robust. One account is that “the intensity of distributional conflicts is lower at higher income levels.”⁵⁵ On this model, as income rises, the marginal utility of further increases in income declines, so the relatively poor will have less to gain (in utility terms) from subverting the democratic order in order to redistribute wealth to themselves, while the relatively rich will have less to lose from majoritarian redistribution under democracy. The poor will accept less redistribution, the rich will accept more, the set of policies that are politically acceptable to both sides expands, and no social group thinks it is worthwhile to gamble on a bid for dictatorship.

A different but compatible model focuses on inequality between elites and masses.⁵⁶ Democracy, in the sense of the electoral franchise, arises when masses can

⁵¹ Survey results broken down by wealth support this hypothesis. Richer people in the United States are less enthusiastic about strong leaders than poor people are. See WVS 05-08, 99-04. The surveys break down responses by perceived social class (upper, upper middle, lower middle, working, lower).

⁵² See Przeworski, *infra* note; ANGUS MADDISON, *THE WORLD ECONOMY: HISTORICAL STATISTICS* 58-69, 87-89, 100-01, 105, 110, 142-48, 180-87, 218-24 (2003).

⁵³ MADDISON, *supra* note, at 62.

⁵⁴ Per Capita Personal Income by State, <http://bber.unm.edu/econ/us-pci.htm> (last visited Jul. 24, 2009).

⁵⁵ Adam Przeworski et al., *What Makes Democracies Endure?* 7 *J. DEMOCRACY* 39, 41 (1996) (citing SEYMOUR MARTIN LIPSET, *POLITICAL MAN: THE SOCIAL BASES OF POLITICS* 51 (Johns Hopkins Univ. Press 1981) (1960)).

⁵⁶ Acemoglu & Robinson, *supra* note, at 173-220; *see also* CARLES BOIX, *DEMOCRACY AND REDISTRIBUTION* 21-23, 37-38 (2003).

credibly threaten to revolt and to expropriate the wealth of rich elites. The elites want to buy off the masses with a measure of redistribution, but a promise to make direct transfers is not credible; the masses realize that once the revolutionary crowd has dispersed, elites will have no incentive to redistribute. Understanding this, elites offer the masses voting power so as to credibly commit to share the wealth.⁵⁷ In a majoritarian democracy with a skewed distribution of wealth, the median voter will vote for transfers from rich to poor. The model implies that democracy will come into existence only when inequality is neither too high nor too low; if inequality is very high, the elites will have too much to lose from redistribution and will choose to fight it out, while if inequality is very low, the masses will have too little incentive to organize for revolution in the first place.

So both wealth in the absolute sense and the distribution of wealth are relevant, to both the emergence of democracy and its stability over time. Empirically, factors besides wealth and moderate redistribution can also help to create or sustain democracy, although these factors appear less important.⁵⁸ A higher average level of education lowers the costs to citizens of mobilizing en masse to create a credible threat against elites, lowers the costs of obtaining and processing information about government action, and socializes citizens in the putative virtues of the democratic order in which they live. Ethnic and linguistic homogeneity are positively correlated with the stability of democracy,⁵⁹ perhaps because homogeneity lowers the costs of mass organization. Finally, where there is heterogeneity, the existence of “overlapping cleavages” – cross-cutting social structures rather than unified and hostile subgroups – helps democracy as well.⁶⁰

2. Institutional Design

The institutional design hypothesis is that constitutional structure and rights prevent dictatorship. A central controversy in the literature involves a possible connection between presidentialism and the failure of democracy. A number of scholars have argued that presidential systems are more brittle than parliamentary ones, in the sense that

⁵⁷ A problem with this model is that it is unclear why the promise of the franchise is any more credible than would be a promise of direct redistribution; if the revolutionary masses cannot reassemble, elites can revoke the franchise they previously promised or else engage in vote-rigging, as in Iran in 2009. The model must add an epicycle, to the effect that revoking elections is a more clear betrayal of the promise to redistribute and will thus create a focal point that allows the masses to coordinate on an uprising. Cf. Barry R. Weingast, *The Political Foundations of Democracy and the Rule of Law*, 91 AM. POL. SCI. REV. 245, 246 (1997). If this is common knowledge among elites and masses, then the initial promise of the franchise will be credible.

⁵⁸ Jess Benhabib & Adam Przeworski, *The Political Economy of Redistribution Under Democracy*, 29 ECON. THEORY 271, 274-75 (2006).

⁵⁹ There is a vigorous debate in comparative politics about whether the facts show that homogeneity – of ethnicity, language, religion or wealth – is conducive to or even necessary for democracy. Yet the weight of the findings holds that homogeneity on these dimensions is at least appreciably correlated with democracy. (For a recent overview of the literature and an argument against the conventional view, see M. Steven Fish and Robin Brooks, *Does Diversity Hurt Democracy?*, 15 Journal of Democracy 154 (2004)).

⁶⁰ Benhabib & Przeworski, *supra* note, at 274.

presidential systems are more likely to collapse into authoritarian rule.⁶¹ A key mechanism behind this result is that presidential systems “are highly vulnerable to legislative-executive deadlocks.”⁶² In times of economic or political crisis especially, such deadlocks create public demand for the strong hand of a dictator, and an elected president can more easily stage an autogolpe than can any other official.

On this view, presidentialism is especially risky in the presence of a fragmented party system.⁶³ Where parties multiply, gridlock follows, and an independently elected executive can appear to stand above party, offering decisive action while facing little in the way of organized countervailing power. The framers failed to anticipate the development of the modern political party,⁶⁴ and in America’s early history parties were fluid, fragmentary and ill-defined, so this path to dictatorship was a live possibility—at least if the theory is correct. However, an alternative view is that the empirical pattern is an artifact of selection effects: presidential systems collapse into dictatorships because presidential systems are selected in unstable countries.⁶⁵ At present, there is no scholarly consensus on the issue.

Where does this leave us? The demographic hypothesis looks stronger than ever in light of the weak or ambiguous results for the competitors. To be sure, our data analysis has been extremely tentative and crude. We think there is enough here, however, to justify skepticism toward the psychological hypothesis that tyrannophobia preserves democracy against the threat of dictatorship.

IV. Dictatorship and Tyrannophobia in America

Against this historical and comparative background, we turn to the relationship between tyrannophobia and dictatorship in the United States. If tyrannophobia were a crucial safeguard against dictatorship, it would have benefits (although, as we discussed in Part I, the benefits would not be as large as some assume). However, we believe that tyrannophobia is either not a safeguard against dictatorship, or is at best an unnecessary and costly one, akin to placing one’s house underground to guard against the trivial risk of a meteor strike. In the administrative state that flowered in the 20th century, demographic factors provide an independent and sufficient buffer against dictatorship. The United States of 2009 is too wealthy, with a population that is too highly educated, to slide into authoritarianism. Very likely, it really can’t happen here;⁶⁶ current tyrannophobia can only be of the irrational variety, and if it constrains institutions or

⁶¹ Przeworski et al., *supra* note, at 44-47.

⁶² *Id.* at 47; see Juan J. Linz, *Presidential or Parliamentary Democracy: Does It Make a Difference?*, in *THE FAILURE OF PRESIDENTIAL DEMOCRACY* 3, 6-8 (Juan J. Linz & Arturo Valenzuela eds., 1994).

⁶³ Wintrobe, *supra* note, at 259-62; Scott Mainwaring, *Presidentialism in Latin America*, 25 *LATIN AMERICAN RESEARCH REVIEW* 157 (1990)

⁶⁴ BRUCE ACKERMAN, *THE FAILURE OF THE FOUNDING FATHERS: JEFFERSON, MARSHALL, AND THE RISE OF PRESIDENTIAL DEMOCRACY* 27-35 (2005).

⁶⁵ José Antonio Cheibub, *PRESIDENTIALISM, PARLIAMENTARISM, AND DEMOCRACY* (2007).

⁶⁶ *Compare* SINCLAIR LEWIS, *IT CAN’T HAPPEN HERE* (1935).

policies that are otherwise desirable, tyrannophobia produces social costs for little in the way of offsetting benefits.

A. Causes of Tyrannophobia

As we saw in Part II, tyrannophobic rhetoric, possibly rational, played an important role in the American founding. The puzzle is that, even if it was justified in that period as a prophylactic against dictatorship (and it may well not have been), why has it persisted across two hundred years of political stability?

1. Bounded Rationality

Psychologists have offered a number of hypotheses for why people have incorrect beliefs about the risk of an event. These hypotheses center around bounded rationality, particularly cognitive biases and reliance on mental shortcuts called heuristics.⁶⁷ People exaggerate risks of events that inspire them with dread (cancer deaths rather than ordinary illnesses); over which they have no control (nuclear accidents rather than car accidents); and that have unusual salience. The first tendency is related to loss aversion, the attribution of greater weight to losses than to identical gains against an arbitrary reference point. People are also imperfect Bayesians: they update probability estimates in light of new information as they should, but they do not do this very well or very quickly. Instead they give too much weight to their initial estimates and discount new information that conflicts with it. Past probability estimates are stickier, over time, than would be the case with unbounded rationality.

Let us compare a relatively unconstrained executive and an executive who takes orders from a legislature. There is a straightforward tradeoff: the first executive can adopt policies very easily; the second must obtain the consent of a majority of the legislature. Accordingly, the first executive can more easily act to advance and undermine the public good; the second executive will have to choose from a narrower range of policy outcomes, with a limited upside and downside for the public.

We can immediately see that the executive's ability to inflict worse as well as better outcomes will engage the public's loss aversion. People will irrationally overweight the bad outcome, and hence they will exaggerate the downside of the strong executive relative to the upside. The limited executive, with its limited downside, will therefore be more appealing. More speculatively, it is possible that people feel that they have less control over the executive—a remote figure with a national constituency—than over the legislature, by virtue of their representation by an individual with whom they are more likely to have contact (or to know someone who knows him or her, etc.). Further, the president is a salient figure, the personification of government and the focus of the national media. It follows that the risks and consequences of executive power are also more salient than the risks of legislative and judicial power. Finally, and even more speculatively, imperfect Bayesian updating implies that possibly justified fears of

⁶⁷ SCOTT PLOUS, *THE PSYCHOLOGY OF JUDGMENT AND DECISION MAKING* 107-88 (1993).

executive overreaching that existed in earlier periods, including the founding, could outlast changes in circumstances.⁶⁸ Bayesian updating is an attribute of individual decisionmaking of course, but perhaps such a phenomenon could take place at a collective level. Successive generations inherit attitudes toward the executive held by previous generations; attitudes that might be justified at an earlier time are not adjusted by later generations in light of changed circumstances, such as the improved education of the citizenry.

One might even suggest that in a country such as the United States with strong traditions of equality and individualism, the president will frequently be the target of strong feelings of resentment and envy. The pomp of the office sits uneasily with republican sensibilities. The suspicion that any president will secretly attempt to obtain dictatorial powers might help resolve cognitive dissonance between these feelings and the evident inability of presidents to do much more than respond to crises and implement a tiny portion of their political agenda.⁶⁹ Tyrannophobia is an element of the broader paranoid style in American politics, which attributes vast, wrenching social changes to the machinations of individuals or small groups thought to have extraordinary power.⁷⁰

Overall, then, the suggestion is that ongoing tyrannophobia in the United States can be explained by cognitive biases and other psychological phenomena. Just as a single nuclear accident can cause people to overestimate the risks of nuclear energy and hence demand that government shut down that industry, with the result that no further accident can ever occur, the pre-founding brush with executive tyranny—followed by the dictatorships of such figures as Mussolini, Hitler, Stalin, and Mao—has caused Americans to overestimate the risk of executive power and hence recoil against even reasonable moves toward greater executive authority. Even though dictatorship has never existed in the United States, Americans fear dictators and refuse to support anyone who seems to have dictatorial ambitions, and are reluctant to support legislative and constitutional changes that could increase executive power; this reluctance persists even though circumstances have changed, and the actual risks of dictatorship are far lower than in the past.

2. Rational Updating

There is a second and related possibility, which resonates with American political culture; we will state it only briefly. On this account, the relaxation, over time, of *de jure*

⁶⁸ See our discussion in Part III regarding the greater likelihood that tyranny takes place in poorer societies (as the U.S. was before modern times) than in richer societies.

⁶⁹ See generally ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* (Harvey C. Mansfield & Delba Winthrop trans., Univ. of Chi. Press 2000) (1835), especially Part II, chapter 9 and Part IV, chapters 1 and 6. Tocqueville believes that American mores, ideological commitments, and institutions pose a number of dangers, but despotism in the usual sense is not one of them.

⁷⁰ See RICHARD HOFSTADTER, *The Paranoid Style in American Politics*, in *THE PARANOID STYLE IN AMERICAN POLITICS AND OTHER ESSAYS* 3, 29-40 (1965); RICHARD HOFSTADTER, *The Pseudo-Conservative Revolt - 1954*, in *THE PARANOID STYLE IN AMERICAN POLITICS AND OTHER ESSAYS*, *supra*, at 41, 46.

checks on the presidency has fed tyrannophobia, because the growth of de facto checks on the presidency is ignored. Tocqueville observed that Americans are legalistic,⁷¹ and it is still a striking fact of American political discourse that even elites tend to equate the absence of legal checks on the executive with the absence of any checks on the executive. Political checks on the executive are more amorphous and vague than legal checks; they do not often produce the sort of highly salient constitutional showdowns that occur when presidential power is tested and constrained by a decision of the Supreme Court. The epistemic costs of acquiring and processing information about political checks are higher than for legal checks, so even rational citizens might underestimate the extent and strength of the former relative to the latter. The consequence is that as legal checks erode, the populace will increase its estimate of the risks of dictatorship, while the actual risk may remain constant or even decline, depending on the actual strength of the political checks.

On this account, tyrannophobia need not rest upon bounded rationality in the sense of psychological quirks. It is merely an overestimate of the risks of dictatorship arising from positive information costs – more precisely, differences in the cost of acquiring information about different types of constraint on the executive. An implication is that if the costs of political information fall, due to the Internet and other technological advances, the public will know more about political checks on the executive, and tyrannophobia will abate.⁷²

B. The Effects of Tyrannophobia

1. Tyrannophobia and the Risk of Dictatorship

Tyrannophobia might itself affect the risk of dictatorship. This effect, if it exists, might run in either of two directions: widespread tyrannophobia among the public or elites might either reduce the risk of dictatorship or actually increase it. A third possibility, suggested by the survey results discussed in Part III, is that tyrannophobia has no independent causal force at all. We will consider these possibilities in turn.

On the first possibility, tyrannophobia is a fear that provides its own remedy. Perhaps the United States has never come close to dictatorship in part because tyrannophobia is widespread, causing political actors to take stringent precautions against executive abuses, including hyperbolic assertions that any increase in executive power is the harbinger of dictatorship. In the most optimistic version of this account, the framers premised central institutions of American constitutional law on the fear of dictatorship and geared them to minimize the risk, but this is desirable because the risk is high; eternal vigilance is the price of liberty. If the risk has never materialized, that is because our vigilance has never lapsed. Moreover, the longer the period with no dictatorship – a risk

⁷¹ Tocqueville, *supra* note, at 257-58.

⁷² This implication is, however, in tension with the data suggesting that in richer (and presumably technologically more advanced) societies, people are more likely to disapprove of a strong executive. See Part III.A., *supra*.

that has occasionally materialized in other nations, even seemingly liberal and democratic ones – the more the framers’ fears of dictatorship seem justified, in a cycle of self-confirming expectations.

Unfortunately, that optimistic possibility is observationally equivalent to two other possibilities: (1) dictatorship is not observed in the United States because it was never a real risk in the first place, even without the institutions erected to guard against it; (2) the precautionary institutions actually had the perverse effect of increasing the risk of dictatorship, but by fortuity that risk never materialized. In either case, the elaborate safeguards against dictatorship built into the constitutional structure are costs that create no expected benefit or that even create expected harm. A firm that hires expensive security guards and then experiences no robberies should realize that several different inferences are possible: the guards’ presence prevents the robberies (the optimistic scenario); or the risk was lower than initially feared and the guards are an unnecessary expense; or the guards’ presence actually exacerbates the risk of robberies, by signaling that the firm has valuables it needs to protect. The available information does not discriminate among these possibilities. A symptom of unjustified tyrannophobia is the assumption that the optimistic story simply must be correct.

In the worst possible case, tyrannophobia might actually increase the risk of dictatorship and thus prove self-defeating. Two mechanisms might bring this about. In the first, tyrannophobic constitutional designers set up elaborate vetogates, legislative and judicial oversight, and other checks and balances, all with an eye to minimizing the risks of executive dictatorship. However, these checks and balances create gridlock and make it difficult to pass necessary reforms. Where the status quo becomes increasingly unacceptable to many, as in times of economic or political crisis, the public demands or at least accepts a dictator who can sweep away the institutional obstacles to reform.⁷³ Here the very elaborateness of the designers’ precautions against dictatorship creates pent-up public demand that itself leads to dictatorship. Comparative politics provides (contested) evidence for this story,⁷⁴ and if Lincoln or Roosevelt had become a genuine dictator, a similar account would be natural. On this view, the United States was lucky not to have experienced dictatorship during earlier periods of its history; we return to this point shortly

In another mechanism, tyrannophobic constitutional designers create oversight bodies to check the executive, yet these oversight bodies themselves become tyrannical. In this way, tyranny sneaks up behind the back of the tyrannophobe, who is gazing vigilantly in the wrong direction. In Honduras in 2009, a democratically elected president proposed a constitutional amendment to abolish presidential term limits. Citing the risk of executive dictatorship, legislators and soldiers dragged him from his bed and hustled him

⁷³ See e.g., Jonathan Hartlyn, *Presidentialism and Colombian Politics*, in *THE FAILURE OF PRESIDENTIAL DEMOCRACY*, *supra* note, at 294, 295-96.

⁷⁴ *Id.*; Linz, *supra* note; Przeworski et al., *supra* note, at 44-46.

into exile – a classically dictatorial move. There are no such lurid cases in the United States, but mechanisms of legislative oversight have sometimes produced a kind of legislative tyranny writ small, as in the case of Joe McCarthy, many of whose abuses were effected through committee oversight of executive branch personnel and decisionmaking. The fear of “Government by Judiciary”⁷⁵ is best understood as a fear that judicial checks, intended to prevent legislative or executive tyranny, will themselves produce either judicial tyranny or, more plausibly, judicial gerontocracy.

Both these mechanisms suggest that precautions against tyranny can create the risks they aim to avert. Institutional design must then trade off two competing risks of tyranny, which can arise either because there are no institutional checks in place, or because of and through the very institutions set up to guard against it. Checks against tyranny embody a kind of precautionary principle. Here as elsewhere, however, precautionary principles can be self-defeating if precautions exacerbate the risk itself, so precautions must be entered on both sides of the cost-benefit ledger.⁷⁶

So in the abstract, it is plausible that tyrannophobia prevents dictatorship, but also plausible that it exacerbates the risks. Finally, tyrannophobia might simply have no effect on the risk of dictatorship at all. The comparative evidence surveyed in Part III clearly suggests this, although it does not conclusively demonstrate it. Across a large set of democracies and non-democracies, levels of tyrannophobia, defined as the inverse of support for a strong executive, are not significantly correlated with the type of political regime. Tyrannophobic publics are as likely to live in nondemocracies as in democracies. Tyrannophobia probably does not constitute a safeguard against dictatorship, in the United States or elsewhere.

2. Alternative Explanations

If tyrannophobia has not protected America from dictatorship, what has? We will examine two competing hypotheses: that America has avoided tyranny through the excellence of its constitutional design, and that America has avoided tyranny in virtue of its demographics. The second hypothesis has much more support.

Institutions: On Presidentialism and Luck. One theory is that America has never experienced dictatorship because of the foresight of the framers. Fearing Caesarism, Cromwellism, and monarchical prerogative, the framers on this account set up an elaborate system of separated powers accompanied by checks and balances. The premise of the system was that the union of executive, legislative and judicial powers in the same hands “may justly be pronounced the very definition of tyranny.”⁷⁷ The framers also limited the executive’s emergency powers, in part by providing safeguards against

⁷⁵ RAOUL BERGER, *GOVERNMENT BY JUDICIARY: THE TRANSFORMATION OF THE FOURTEENTH AMENDMENT* (1977).

⁷⁶ CASS R. SUNSTEIN, *LAWS OF FEAR: BEYOND THE PRECAUTIONARY PRINCIPLE* 27-32 (2005).

⁷⁷ *THE FEDERALIST* NO. 47, at 301 (James Madison) (Clinton Rossiter ed., 1961).

suspension of the writ of habeas corpus, whose central function is to ensure judicial review of executive detention.⁷⁸

Perhaps these institutional devices have succeeded in some broad sense, even considering the rise of the so-called imperial presidency in the 20th century. Roosevelt failed to pack the Court, in part because of widespread fear of executive dictatorship;⁷⁹ the Administrative Procedure Act, forced through despite a reluctant executive, creates procedural and judicial checks on executive power; Nixon was forced from office by the threat of impeachment; and Congress set up the framework statutes of the 1970s, such as the War Powers Resolution⁸⁰ and the National Emergencies Act⁸¹, in order to constrain future abuses. In each of the cases, the basic separation of powers—implying a powerful and independent legislature—hampered executive aggrandizement because the legislature resisted it. Although the separation of powers in the legal sense has undoubtedly been weakened in the 20th century, in part by the death of the nondelegation doctrine and the grant of massive rulemaking powers to the executive, its functions have been taken up, in part, by competition between political parties.⁸²

Viewed in terms of comparative constitutional design, however, the framers' choices seem in hindsight to have been poor ones, at least from the standpoint of minimizing the risk of dictatorship. The central decision to create an independently-elected executive – although rationalized in the Federalist Papers as a tyranny-prevention measure – was in fact adopted *faute de mieux*, after a protracted stalemate at the convention, which came very close to adopting a parliamentary model in which the executive would be selected by the majority party in Congress.⁸³ In comparative perspective, the choice of a presidential system turns out to have been risky, although to be fair the framers lacked the information needed to understand this.

As we saw in Part III, some scholars believe that presidential systems are more likely to collapse into authoritarian rule than parliamentary systems are, at least at low levels of wealth and especially in the presence of fragmented parties. If these scholars are correct, the separation of powers in the American sense of a separately-elected executive is a risk factor for dictatorship, rather than a precaution against it; to the extent that this is true, and if tyranny-prevention was the framers' major aim, the framers blundered.⁸⁴ By a happy accident of history, however, America inherited the first-past-the-post electoral

⁷⁸ Amanda L. Tyler, *Suspension as an Emergency Power*, 118 YALE L.J. 600, 627-30 (2009); *Boumediene v. Bush*, 128 S. Ct. 2229, 2247 (2008).

⁷⁹ See WILLIAM E. LEUCHTENBURG, *THE SUPREME COURT REBORN: THE CONSTITUTIONAL REVOLUTION IN THE AGE OF ROOSEVELT* 137, 146 (1995).

⁸⁰ Pub. L. No. 93-148, 87 Stat. 555 (1973) (codified at 50 U.S.C. §§ 1541–1548 (2000)).

⁸¹ Pub. L. No. 94-412, 90 Stat. 1255 (1976) (codified as amended at 50 U.S.C. §§ 1601–1651 (2000 & Supp. III 2003)).

⁸² Daryl J. Levinson & Richard H. Pildes, *Separation of Parties, not Powers*, 119 HARV. L. REV. 2311, 2316-30 (2006).

⁸³ FORREST McDONALD, *NOVUS ORDO SECLORUM: THE INTELLECTUAL ORIGINS OF THE CONSTITUTION* 250 (1985).

⁸⁴ Bruce Ackerman, *The New Separation of Powers*, 113 HARV. L. REV. 633, 643-46 (2000).

system from Britain, and that system has a well-documented tendency to create, over time, two dominant parties,⁸⁵ in turn reducing the risks of presidentialism. Thus the risks that a fragmented party system may create, under presidentialism, were avoided.⁸⁶ Here again the framers acted from ignorance, but their choices were fortuitous. In addition, the decision to give emergency powers to Congress (in the suspension clause), rather than the president, probably did not help forestall a dictatorship. Lincoln violated the clause, and Congress acquiesced..

This is not to say that institutional choice did not matter at all. After all, the founders could have, but did not, establish a dictatorship. One could plausibly argue that the federalist structure of the constitution helped deter the formation of a *national* dictatorship. Anyone who aspired to absolute power would have to contend with independent power centers in the states even after subjugating Congress and the federal judiciary. Federalism also weakens incentives to form a dictatorship in a state: ease of exit would deprive the dictator of rents. An independent judiciary, as opposed to one maintained and funded by the executive, also would be a nuisance to an aspiring dictator. All that said, however, it is at least plausible that the United States has avoided tyranny largely despite its constitutional design, not because of that design.

Demography and the Administrative State. The best explanation for the lack of dictatorship in America – at least in America today, as opposed to the 19th century – is neither psychological nor institutional, but demographic. Part III examined the strong comparative evidence that wealth is the best safeguard for democracy. Equality, homogeneity, and education matter as well. How does the United States, circa 2009, fare on these dimensions? Ethnic, religious and linguistic homogeneity have declined, but because of its high performance on other margins, there is little cause for concern about American democracy. The United States has an enormously rich, relatively well-educated population and multiple overlapping cleavages of class, race, religion and geography. Simply by virtue of its high per capita income, the likelihood of dictatorship in the United States is almost nil, at least if the historical pattern reflects causation. The highwater mark of the modern presidency’s approach to domestic dictatorship – Nixon’s “third-rate burglary” of the offices of his political opponents – was pathetic stuff in historical and comparative perspective, and immediately put Nixon on a slippery slope to disgrace. Likewise, comparisons between Weimar Germany and the United States of the Bush administration⁸⁷ were worse than irresponsible; they were ignorant.

⁸⁵ Duverger’s law. MAURICE DUVERGER, *POLITICAL PARTIES: THEIR ORGANIZATION AND ACTIVITY IN THE MODERN STATE* 217 (Barbara North and Robert North, trans., Wiley 2d Eng. ed., rev., 1963).

⁸⁶ There are significant scholarly controversies here. For a finding that fragmented parties do not create risks to democracy, and indeed that fragmentation and proportional representation (usually thought to produce fragmentation) are *negatively* correlated with democratic collapse, see Abraham Diskin et al., *Why Democracies Collapse: The Reasons for Democratic Failure and Success*, 26 INT’L. POL. SCI. REV. 291, 299-300 (2005).

⁸⁷ Entering the terms “Bush” and “Hitler” into Google yields 6,820,000 hits; “Obama” and “Hitler” yield twice that.

We add a less obvious point. Legal scholars, especially those of a libertarian or civil-libertarian bent, often express concern that the formal separation of powers has atrophied over the course of the 20th century. On this account, economic and security crises, the rise of the administrative state, the death of the nondelegation doctrine, the imperial presidency, the ineffectual character of the War Powers Resolution and the other framework statutes of the 1970s, all mean that in many domains presidents operate without substantial legal checks, although they have political incentives to cooperate with Congress and to seek statutory authorization for their actions. Among the framer's miscalculations was their failure to understand the "presidential power of unilateral action"⁸⁸ – the president's power to take action in the real world, with debatable legal authority or none at all, creating a new status quo that then constrains the response of other institutions. In the most overheated version of this view, such developments are taken to pose a real risk of executive tyranny in the United States.⁸⁹

We suggest, however, that the same large-scale economic and political developments that have caused a relaxation of the legal checks on the executive have simultaneously strengthened the nonlegal checks. Legal checks on the presidency have been relaxed largely because of the need for centralized, relatively efficient government under the complex conditions of a modern dynamic economy and a highly interrelated international order. Yet those economic and political conditions have themselves helped to create de facto constraints on presidential power that make democracy in the United States extremely stable.

The modern economy, whose complexity creates the demand for administrative governance, also creates wealth, leisure, education and broad political information, all of which strengthen democracy and make a collapse into authoritarian rule nearly impossible. Modern presidents are substantially constrained, not by old statutes or even by Congress and the courts, but by the tyranny of public and (especially) elite opinion. Every action is scrutinized, leaks from executive officials come in a torrent, journalists are professionally hostile, and potential abuses are quickly brought to light. The modern presidency is a fishbowl, in large part because the costs of acquiring political information have fallen steadily in the modern economy, and because a wealthy, educated and leisured population has the time to monitor presidential action and takes an interest in doing so. This picture implies that modern presidents are both more accountable than their predecessors and more responsive to gusts of elite sentiment and mass opinion, but they are not dictators in any conventional sense.

More tentatively, we also suggest that the relaxation of legal checks may itself have contributed to the growth of the political checks, rather than both factors simply being the common result of a complex modern economy. On this hypothesis, the

⁸⁸ Terry M. Moe & William G. Howell, *The Presidential Power of Unilateral Action*, 15 J. LAW ECON. & ORG. 132 (1999).

⁸⁹ Schlesinger, *supra* note, at 377.

administrative and presidential state of the New Deal and later has, despite all its inefficiencies, plausibly supplied efficiency-enhancing regulation, political stability, and a measure of redistribution, and these policies have both added to national economic and cultural capital and dampened political conflict. The administrative state has thus helped to create a wealthy, educated population and a super-educated elite whose members have the leisure and affluence to care about matters such as civil liberties, who are politically engaged to a fault, and who help to check executive abuses. While the direct effects of wealth, education and other factors on the stability of democracy are clear in comparative perspective, there is more dispute about the overall economic effects of regulation and the administrative state,⁹⁰ so we offer this as a hypothesis for further research.

C. The Costs and Benefits of Tyrannophobia

We have suggested that the framers' tyrannophobia, combined with the lack of dictatorship in later periods, plausibly fuels contemporary tyrannophobia, insofar as contemporary actors infer that the framer's design choices are what has allowed democracy to endure. However, the inference is invalid, for the key choice of presidentialism may itself have been a risk factor for dictatorship; if it was, then the framers inadvertently put self-government at risk, but were favored by fortune. Likewise, while it is possible that tyrannophobia has an endogenous tyranny-preventing effect, it is equally possible that it perversely increases the risk, and the most plausible conclusion of all is that it has no effect in either direction; to ignore the latter two possibilities is itself a major symptom of tyrannophobia. Tyrannophobia in the United States is real, and it may well be the result of the psychological and informational factors discussed above, but there is no evidence that it contributes to the absence of dictatorship in the United States, and some affirmative evidence that it does not do so.

Even if tyrannophobia has a weak effect of that sort, it seems clear that wealth and other demographic factors in all likelihood prevent dictatorship in the United States, quite apart from its tyrannophobic political culture. Even if tyrannophobia once checked dictatorship, that check is unnecessary today, in light of the exceptional stability of advanced democratic polities like the United States. Accordingly, if tyrannophobia hampers useful grants of power to the executive, it creates social costs—entrenched reluctance to transfer necessary powers to the executive—for little social benefit. Elsewhere, we have described a range of institutions and policy initiatives that would increase welfare by increasing executive power, especially in the domain of counterterrorism, but that are blocked by “libertarian panics” and tyrannophobia.⁹¹

⁹⁰ See, e.g., Hossein Jalilian, Colin Kirkpatrick & David Parker, *The Impact of Regulation on Economic Growth in Developing Countries: A Cross-Country Analysis*, 35 *WORLD DEV.* 87, 87-88 (2007).

⁹¹ For examples of “tangible security harms” resulting from civil-libertarian rules that constrain executive power, see ERIC A. POSNER & ADRIAN VERMEULE, *TERROR IN THE BALANCE: SECURITY, LIBERTY, AND THE COURTS* 24-26 (2007). See also Adrian Vermeule, *Libertarian Panics*, 36 *RUTGERS L.J.* 871 (2005).

There is another possibility, which is that even if tyrannophobia is not needed to prevent dictatorship, it does usefully prevent executive abuse that falls short of dictatorship. Consider the possibility, for example, that executives are naturally inclined to use their powers to spy on and otherwise harass political opponents—not to establish dictatorship, but just to obtain a marginal advantage in the next election.⁹² This is harmful behavior that should be deterred. If institutions can deter this behavior only with difficulty because executive officials all answer to the president, perhaps tyrannophobia can deter it. The executive, expecting overreaction by the public if word leaks out, does not engage in the abusive behavior in the first place.

This is certainly possible, and if the choice is between tyrannophobia and a completely inert and indifferent public, tyrannophobia might seem preferable. Better still, however, would be a rational and informed public that would express the appropriate amount of outrage when the executive engages in abuse, and that could distinguish gradations of abuse rather than treat all such actions as steps on the road to dictatorship. Modern economies, which feature falling information costs and a leisured elite, tend to create such publics, although for the reasons we have discussed tyrannophobia persists as well.

This thought suggests one last case for tyrannophobia. Suppose that rational members of the public would free ride on each other, with the result that actual public scrutiny of the presidency falls short of the optimal. Instilling people with tyrannophobia might give them the emotional impetus to overcome the collective action problem. But the presidency already has intrinsic interest for the public. “As the parties wasted away, the Presidency stood out in solitary majesty as the central focus of political emotion, the ever more potent symbol of national community.”⁹³ On this account, presidents already receive close public scrutiny; judiciaphobia and legislatophobia would be healthier political emotions.

Conclusion

Tyrannophobia is a central element of American political culture, and has been since the founding. We have offered several claims and hypotheses to illuminate its origins and importance. We suggest that tyrannophobia arises from the interaction between history and the quirks of political psychology, or from the differential costs of information about legal and political checks on the executive; that dictatorship, at least in any strong sense, is not a real possibility in the United States today, due to demographic factors; and that tyrannophobia therefore has little social utility in modern circumstances.

Whatever its possible utility in the past, a question on which we are agnostic, tyrannophobia today is just another misperception of risk, akin to a fear of genetically modified foods. Indeed, in light of the current evidence on the determinants of democratic stability, tyranny should be at the very bottom of the scale of public concern.

⁹² Nixon and many of his predecessors engaged in such behavior.

⁹³ Schlesinger, *supra* note, at 210.

The modern entrepreneurs of tyrannophobia – from George Orwell to George Lucas – ought not be lionized as defenders of the liberal state, but instead shunned, as purveyors of political misinformation.

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