



Written by [Joe Wolverton, II, J.D.](#) on February 20, 2017

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Third-party Players

“Adherence to men is often disloyalty to principles.”

— John Taylor of Caroline

Make America Great Again. This motto became very popular as the campaign catchphrase of Donald Trump, the 45th president of the United States.

Though Donald Trump’s margin of victory was, in the end, substantial, the presidential election of 2016 was exceedingly vitriolic, and there were attempts and rumors of attempts by disaffected voters to find, fund, and elect an alternative option, a third-party candidate.

In the end, there were a couple of candidates who received a statistical smattering of votes, not enough to make any impact on the inevitable choice between the Democrats represented by Hillary Clinton and the Republicans represented by the eventual winner, Donald Trump.

All the foregoing is widely known. What is less familiar is that there was another episode in American history that had several key similarities to the presidential campaign of 2016.

In this earlier era, the third party was committed to so strict a construction of the Constitution that in the end it even marked one of its own as a tool of tyranny. That alleged deserter to the cause: Thomas Jefferson.

His allies turned accusers: the Tertium Quids. And their story is interesting and illustrative.

There and Back Again, a Third Way

Following the enactment of the Alien and Sedition Acts, Republicans began developing strategies to spike the statutes and disgorge the Federalists of the immense power — power they were using, according to the Republicans, to deny Americans (and aliens) of their fundamental rights to free speech, freedom of assembly, and freedom of the press. Jacobinism, the radical political movement imported from Europe that fanned the flames of revolution and ushered in the Reign of Terror in France, was a very real threat to the young American Republic. But the violation of civil liberties in response to this threat was not the proper solution, any more than is the violation of liberties today the answer to the threat of terrorism.

One of the first salvos fired at the Federalists was launched by none other than the dynamic duo of Thomas Jefferson and James Madison. Together these two titans of liberty drafted the Kentucky and Virginia Resolutions, respectively. These proposals laid out in very plain language the authors’ understanding of the proper relationship between federal and state governments.

Republicans from Boston to Savannah cheered the passage of the measures by the two states’ legislatures, and although the authors’ identities remained unconfirmed for years, the Kentucky and Virginia Resolutions (followed soon thereafter by Madison’s Report of 1800) were adopted by advocates of limited government as articles of faith.

These rock-ribbed adherents of small government and state sovereignty were unwavering in their defense of federalism and in their efforts to prevent Federalists such as Alexander Hamilton, John Jay, John Adams, and others from accomplishing their aim of enlarging the sphere of federal authority and reducing the states to a permanently subordinate political status.



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At the beginning of the battle, Thomas Jefferson and James Madison served as de facto commanders of the Republicans, the name of the loose confederation of legislators, philosophers, and freemen who fought to force the federal beast back inside the confines of its constitutional cage.

With the election of 1800, the Federalists were defeated and Thomas Jefferson was elected president, thus bringing the excesses and usurpations of the High Federalists to a glorious end. Or so they thought.

Not long after Jefferson was inaugurated, many of his ersatz allies found themselves criticizing the Sage of Monticello for what they perceived as Jefferson's exercise of unconstitutional power. Although as a candidate and proponent of the Republican political philosophy he proclaimed allegiance to the Constitution and to the principle of limited government, as president, Thomas Jefferson softened his stance and took a more moderate tack.

This is not behavior the Old Republicans — as they had come to be known — could accept, particularly from one of their own. They did not seek to swap a Federalist tyrant for one calling himself a Republican. They saw Jefferson's measured reform of Federalist programs and policies — he never repealed any of the measures enacted by the Hamiltonians during the Federalist era — as a repudiation of republicanism and as an act of partisan self-promotion that they could not be coerced to either accept or advance.

This cadre of small government, state sovereignty supporters offered a different approach to administering the powers enumerated in the Constitution and to maintaining the bright lines separating state and federal bailiwicks. They offered a third way, a *tertium quid*, from the Latin for "third thing."

The Old Republican Guard

John Taylor of Caroline and John Randolph of Roanoke were the leading lights of the Tertium Quid cohort. They believed, as explained by F. Thornton Miller in his foreword to the Liberty Fund edition of Taylor's *Tyranny Unmasked*, that "those who were attracted to power — 'majority men' tended always to become corrupt and to abuse the trust and betray the best interests of the people. For this tendency, they had to be watched by 'minority men.'"

Taylor was a man of uncompromising fidelity to the principles of agrarian republicanism, popular sovereignty, consent of the governed, and the indispensability of virtue, valor, and vigilance on the part of the people.

He believed that there was no such thing as "the American people," as the Constitution did not create a nation, rather it was a compact among equal sovereigns whose intent was to unite them in a confederacy cooperating in the creation of a federal government endowed with a few and defined powers, with the residual authority remaining in the states and the people.

Taylor advanced the cause of state sovereignty as a method of checking the inevitable attempt by those possessed of federal authority to consolidate power into their own hands.

In fact, the closer the governors were to the governed, the better administered that government would be and the abler the people would be to keep a close, watchful eye on their elected representatives.

Despite his opposition to Jefferson and Madison, both of whom he believed had violated their staunch republican principles while serving as president, John Taylor's Republican bona fides were



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unquestionable. Taylor was the man selected by Madison to introduce the Virginia Resolution of 1798 to the Virginia Legislature. He served in that body, as well as in the U.S. Senate. It was while sitting in that body that he died in 1824.

Together with John Taylor, John Randolph was a member of the Virginia gentry who dutifully served his fellow citizens of the Old Dominion. And with Taylor, he believed that the Articles of Confederation could have been repaired and thus opposed the ratification of the Constitution, the document that replaced that prior pact.

Randolph was an eloquent and able advocate of the agrarian tradition that he held as the only hope of protecting and perpetuating the form of government that would remain small, limited, and under the close, ever-watchful eye of the governed.

Randolph, during his service in the House of Representatives, often reminded his colleagues and his constituents that true republican — that is, representative — government could only be maintained in a small geographical area. He considered the Madisonian vision of a large, commercial republic to be chimerical and to be the setting of an inevitable slouch toward social sycophancy, moral degeneracy, and political despotism.

As the leader of the Tertium Quids (once they had coalesced into something of a functioning faction), Randolph declared the group's philosophy in a speech he gave in opposition to the War of 1812:

Love of Peace, hatred of offensive war, jealousy of the state governments to the general government, a dread of standing armies, a loathing of public debt, taxes, and excises, tenderness for the liberty of the citizen; jealousy, Argus-eyed jealousy, of the patronage of the President.

He further articulated this ideology in a speech he made as a member of Congress during a debate on apportionment in 1822:

Government, to be safe and to be free, must consist of representatives having a common interest and a common feeling with the representatives.... No government extending from the Atlantic to the Pacific can be fit to govern me or those whom I represent. There is death in the pot, compound it how you will. No such government can exist, because it must want the common feeling and the common interest with the governed, which is indispensable to its existence.

It was this "common feeling" and "common interest" that Taylor and Randolph believed were betrayed by Thomas Jefferson, James Madison, and other republicans cum Republicans. They observed the telltale traits of a "majority men" mentality in the early days of the Jefferson administration.

The Old Republicans felt genuinely (albeit predictably) betrayed by Jefferson and the other officeholders once they occupied the federal billets. They received daily confirmation of this opinion in the exercise of extraconstitutional power by Jefferson and his associates in the federal government.

To Taylor, Randolph, and the others of their ideological ilk, there were two events during Jefferson's terms that widened the political gap between themselves and the president and James Madison: the Yazoo controversy and the plan concocted by Jefferson and Madison to acquire Spanish Florida.

Executive Excesses

The details of the Yazoo controversy and the reasons it resulted in a permanent schism between Jeffersonians and the Tertium Quids are succinctly explained in a selection from a biography of John



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Randolph penned by the inimitable Russell Kirk:

The Yazoo lands of the state of Georgia had been acquired by speculators, through bribery of the Georgia legislature. An indignant public elected new legislators, who proceeded to repudiate the corrupt bargain. But the Yazoo land companies appealed to the federal government for compensation for their losses, pleading that the claims had passed already from the original speculators to innocent purchasers in good faith.

Madison and Gallatin, backed by President Jefferson, advocated a compromise by which the Yazoo claimants would be paid some compensation from the federal Treasury, though only a fraction of the sums they desired. Randolph set his face against any payment — with success, until he was defeated temporarily in the congressional contests of 1813. Outraged at such circumventing of the will of a sovereign state, John Randolph never forgave the other Republican leaders for their dallying with the Yazoo men.

Randolph's reasons for his excoriation of Jefferson and Madison's meddling in matters constitutionally retained by the states were proclaimed in an address delivered during debate on the issue on January 29, 1805:

If no other reason can be adduced but a regard to our own fame, if it were only to rescue ourselves from this foul imputation, this weak and dishonorable compromise ought to receive a prompt and decisive rejection. Is the voice of patriotism lulled to rest? That we no longer hear the cry against an overbearing majority, determined to put down the Constitution, and deaf to every proposition of compromise?

And, he continues, "What is the spirit against we now struggle? Which we have vainly endeavored to stifle? A monster generated by fraud, nursed in corruption, that in grim silence awaits his prey."

Answering his own question, Randolph continues his denunciation in words that sound eerily applicable to our own political climate:

That spirit which considers the many, as made only for a few, which sees in government nothing but a job, which is never so true to itself as when false to the nation. When I see a certain party supporting and clinging to such a measure, almost to a man, I see men faithful only to their own principles; pursuing with step and untried zeal, the uniform tenor of their political life. But when I see associated with them in firm compact, others who once rallied under the standard of opposite principles, I am filled with apprehension and concern. Of what consequence is it that a man smiles in your face, holds out his hand, and declares himself the advocate of those political principles to which you also are attached, when you see him acting with your adversaries upon other principles?

Next, there was an attempt by Jefferson and Madison to acquire Spanish Florida in 1805. The pair sought to purchase the vast tract of land through public funds secretly earmarked for that purpose. As for the rest of the story, including the reason for the Tertium Quids' opposition, here's a summary again written by Russell Kirk:

Although he had supported the Louisiana Purchase, Randolph opposed with all his vigor the scheme to acquire Florida from the Spanish government. In effect, Randolph said, this would have been paying blackmail to Napoleon, for whom the Spanish regime was a mask. Irving Brant attributes this unyielding stand to Randolph's dislike of Madison, and to his private frustrations.

But the reasons for Randolph's attitude lie deeper far. As a champion of personal liberty, well before



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1806 Randolph had become disillusioned with the French Revolution.

Napoleon he detested and feared. Only for a brief while had he been a Gallophile; his real sympathies, all his life, lay with England. And Britain, in 1806, lay in grave peril. As much as any of the Federalists whom he condemned, Randolph took English society and culture for models. The abortive Florida purchase would have strengthened Napoleon; so Randolph went into opposition, his ties with the Jeffersonians already having been much weakened.

In speaking against the Florida negotiations, Randolph's words, once again, have a very familiar ring to those of the 21st century. He declared, regarding the war with Britain that would likely result from the purchase of Florida:

I declare in the face of day, that this government was not instituted for the purpose of offensive war. No — it was framed (to use its own language) for the common defense and the general welfare, which are inconsistent with offensive war. I call that offensive war which goes out of our jurisdiction and limits for the attainment or protection of objects not within those limits and that jurisdiction. As in 1798 I was opposed to this species of warfare, because I believed it would raze the constitution to its very foundation, so in 1806 am I opposed to it on the same grounds.

No sooner do you put the Constitution to this use, to a test which it is by no means calculated to endure, than its incompetency to such purposes becomes manifest and apparent to all. *I fear if you go into a foreign war for a circuitous, unfair foreign trade, you will come out without your Constitution.* [Emphasis added.]

The Tertium Quid Legacy and the Restoration of Republicanism

Despite the eloquence, the spirit, the zeal, and the constitutional soundness of the doctrines of the Tertium Quids, their efforts to keep the dogs of war on the leash of popular sovereignty and constitutional fidelity was futile. The War of 1812 was followed within less than half a century by the bloodiest conflict in the history of the United States, a war where every casualty was American.

Today, there are several groups who promote themselves as the latter-day legatees of the Tertium Quid philosophy. Whether these organizations are genuinely guided by the lights of the Old Republicans is debatable.

What is certain, however, is that the trajectory of the Third Way espoused by John Taylor of Caroline, John Randolph of Roanoke, and the rest of the now all-but-forgotten Old Republicans who composed the Tertium Quids should be studied by contemporary constitutionalists, small-government republicans, and anyone who opposes the enlargement of the federal government under successive terms of presidents both Democrat and Republican.

These principles deserve a second look and a time of diligent study by those who refuse to allow the states to be reduced to nothing more than administrative subunits of an all-powerful imperial authority. The writings and speeches of Taylor and Randolph should be read and re-read by those who believe that government is a necessary evil at best, and that for it to be kept from accumulating all political power, it must also be kept close enough to the governed for them to check usurpations at their very beginnings.



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And as for making America great again, the Tertium Quids considered virtue the sine qua non of self-government. There is no liberty without virtue, they believed. Without virtue (and the religious devotion that upholds and encourages it) men would allow themselves to be bewitched by a tyrant's proffer of luxury and comfort. Without the tether of virtue, Americans would exchange freedom — the greatest of God's gifts to mankind — for safety.

The Tertium Quids unwaveringly warned against succumbing to such seductions. Through the reading of their words, the Tertium Quids can, even today, boldly promise their modern countrymen that America will be great again when Americans become good again.



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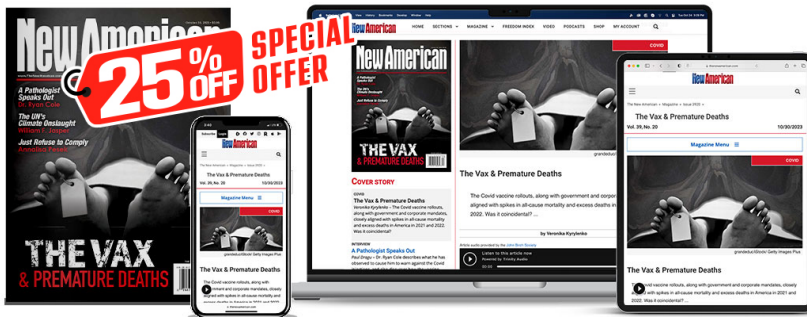
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