

# A Conservative Pundit Speaks Out on Immigration

REVIEWED BY PAUL NACHMAN

**M**ark Levin's recent book, *Liberty and Tyranny: A Conservative Manifesto*, is about the counter-revolution, starting with Franklin Roosevelt's administration, against the republic established by the founding generation and about Levin's prescriptions to reclaim that republic. Among the chapters detailing specific aspects of the counterrevolution, Levin's splendid one on immigration's contribution to the ongoing destruction should especially interest readers of *The Social Contract*.

Levin understands deeply our immigration regime and its consequences—at one point he writes “The evidence of civil society's degradation [under mass immigration] cannot be ignored”—so the chapter wastes no time wallowing in the lame and weary sentiments that are usually served up, by both the left and some on the right, in discussions of immigration. Indeed, this 28-page chapter (considered in detail below) is also an excellent, stand-alone essay about our immigration madness that you can give to interested fellow citizens who might not be ready to tackle the 250 pages of Mark Krikorian's definitive *The New Case Against Immigration: Both Legal and Illegal*.<sup>1</sup>

Levin, currently a talk-radio host, is a lawyer

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who served in the Reagan administration. He is a Conservative (always spelled in his book with a capital “C”) in pitched confrontation with “Modern Liberals”:

The Modern Liberal believes in the supremacy of the state, thereby rejecting the principles of the [Declaration of Independence] and the order of the civil society, in whole or part. For the Modern Liberal, the individual's imperfection and personal pursuits impede the objective of a utopian state.... Modern Liberalism promotes what...de Tocqueville described as “soft tyranny,” which becomes increasingly more oppressive, potentially leading to a hard tyranny (some form of totalitarianism).

To avoid confusion with the classical meaning of “liberal,” which is “opposite of authoritarian,” Levin subsequently uses “Statist” instead of “Modern Liberal.” (Of course, many of Levin's Statists call themselves “progressives,” which I find an annoyingly smug self-appellation.)

What drives Statists? While Levin certainly discusses this, I think David Horowitz has put it more memorably. (Horowitz was an icon of the left whose personal experiences with the Black Panthers in Oakland, CA drove him to second thoughts and to an ultimate destination as a stalwart of the right.<sup>2</sup>) Here's one of Horowitz's stabs at the subject:

If you're on the left, you believe in an earthly redemption of one sort or another. You regard yourself as a social redeemer. You see the problems of the world, social

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## **Liberty and Tyranny A Conservative Manifesto by Mark Levin**

**Threshold Editions: New York, NY, 2009  
256 pp., \$25**

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problems, as the result of bad institutions that can be changed, and you believe that there can be a world with no racism, no sexism, no homophobia, no Islamophobia, no poverty, no war, etc. This is really as close to the kingdom of heaven on earth as you can get. That's conceptually what the left's revolutionary fantasy—its fantasy of “social justice”—is about. It's an escape from the existential reality that we all face, which is a world full of misery and suffering. Which is what it has always been and—unless we re-engineer mankind genetically—always will be.<sup>3</sup>

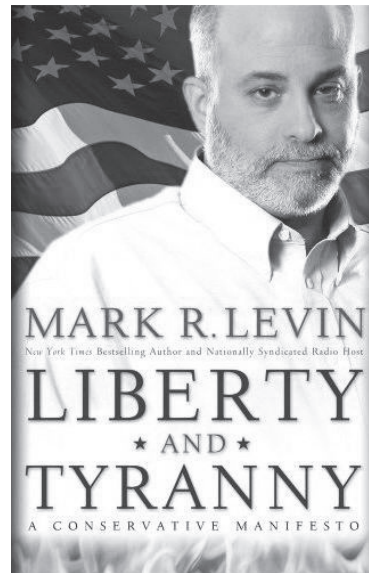
Levin writes that Statists began their redemption (to use Horowitz's word) of the Founders' republic during the Great Depression “through an array of federal projects, entitlements, taxes, and regulations known as the New Deal, [breaching] the Constitution's firewalls.... [The federal government] used taxation not merely to fund constitutionally legitimate governmental activities, but also to redistribute wealth,... set prices and production limits, create huge public works programs, and establish pension and unemployment programs.” The only effective opposition to these initiatives collapsed when, under Roosevelt's 1937 threat to pack the Supreme Court with additional justices sympathetic to his efforts, the newly intimidated Court began devotedly following the election returns.

Levin doesn't say so, but there surely had been matters of moment earlier during American history in which the national government winked at the Constitution. The Louisiana Purchase and the establishment of national parks come to mind. Probably all of us regard these events with approval and appreciation, but I don't think we'll find them authorized within our founding documents.

What's different, starting with Roosevelt's administration, is how systematic and pervasive our—and the justices'—disregard of the Constitution has become. As Robert Bork recently said, “I refuse to teach constitutional law, because it's so obviously politics and not law. The incoherence of some of those opinions is astounding. If you want to know what the Constitution means, you will not

learn it from the court.”<sup>4</sup>

For Statists, a seminal document in the implicit supplanting of the Constitution is Roosevelt's proposed “Second Bill of Rights,” which was part of his 1944 State of the Union speech. Such “rights” that depend upon the workings of a robust economic system are a far cry from the negative liberties (i.e., what the government can't do to you) contained in the actual 1791 Bill of Rights. Levin argues, “This is tyranny's disguise. These are not rights. They are the Statist's false promise of utopianism, which the Statist uses to justify all trespasses



es on the individual's private property. Liberty and private property go hand in hand.... The ‘Second Bill of Rights’ and its legal and policy progeny require the individual to surrender control of his fate to the government.”

I think Levin is on the mark here, but why can't the “Statists” see this?

Likely Levin would respond with a point from his introductory chapter: Liberty's workings and economic fruitfulness in American society often make “[liberty's] manifestations elusive or invisible to those born into it. Even if liberty is acknowledged, it is often taken for granted and its permanence assumed.” Such taken-for-granted-ness is described implicitly in another quote from Horowitz:

[S]ocialism could never have worked because it is based on false premises about human psychology and society, and gross ignorance of human economy. In the vast library of socialist theory (and in all of Marx's compendious works), there is hardly a chapter devoted to the creation of wealth—to what will cause human beings to work and to innovate,

and to what will make their efforts efficient. Socialism...is about dividing up what others have created. Consequently, socialist economies don't work; they create poverty instead of wealth. This is unarguable historical fact now, but that has not prompted the left to have second thoughts.<sup>5</sup>

In contrast to Statists' mania for equality of economic outcomes and for crowbarring "rights" to such equality into the Constitution, what moves Levin's "Conservatives"? The answer is distributed throughout his book, so it can't be condensed into a mere few paragraphs here, but I'll mention several salient points.

Levin tells us that Conservatives don't adamantly reject "change," since, to quote Levin quoting Edmund Burke, "[A] state without the means of some change is without the means of its conservation." But change should be incremental modifications to an existing order (that, in many ways, works) instead of change that makes the world anew and, in so doing, aims to sweep away all the sorrows of the past:

For Burke, change as reform was intended to preserve and improve the basic institutions of the state. Change as innovation was destructive as a radical departure from the past and the substitution of existing institutions of the state with potentially dangerous experiments.... The Conservative believes, as Burke and the Founders did, that prudence must be exercised in assessing change. *Prudence is the highest virtue for it is judgment drawn on wisdom.* The proposed change should be informed by the experience, knowledge, and traditions of society, tailored for a specific purpose, and accomplished through a constitutional construct that ensures thoughtful deliberation by the community. Change unconstrained by prudence produces unpredictable consequences, threatening ordered liberty with chaos and ultimately despotism...." [emphasis in original]<sup>6</sup>

Regarding the Constitution itself, the Conservative will seek "to divine the Constitution's meaning from its words and their historical context, including a variety of original sources—records of public debates, diaries, correspondence, notes, etc." Sometimes this won't suffice to steer us to a unique answer, as Levin acknowledges. (Indeed, in 1791, Constitution writers and signers Hamilton and Madison clashed with each other about the constitutionality of Hamilton's proposed national bank!) But, he argues, this procedure, carried out in good faith, is the only supportable one.

(In contrast to the Conservative's approach, Levin excoriates the astonishing recent tendency of some Supreme Court justices to use foreign laws in the Constitution's interpretation.<sup>7</sup> This is a frontal assault on the rule of law as it has always been understood in the American polity and, in its arbitrariness, certainly falls under Levin's rubric of "tyranny.")

Summing up at one point toward the end of the book, Levin tells us, "The Conservative believes that the moral imperative of all public policy must be the preservation and improvement of American society."

Thus we come to immigration.

Levin seems to get off on the wrong foot with the cringe-inducing concession that the U.S. is a "nation of immigrants," but he immediately refocuses: "to say this is a nation of immigrants is to say every nation is a nation of immigrants.... The implication is, however, that both legal and illegal immigration, no matter how extensive, is another moral imperative justifying the transformation of the civil society. This is not so."

Because most readers of *The Social Contract* are equivalent to at least "graduate students in immigration" (i.e., versed in immigration's *many* sub-topics!), I needn't go into detail on the plethora of facts Levin provides to ground his discussion of immigration. Instead, I'll just list a few examples of the sub-topics Levin addresses in this terrific chapter:

- The fraudulence of the concept "jobs Americans won't do";
- How the 1965 Hart-Celler Act started chain immigration, overthrowing the sys-

tem of skills-based admissions;

- The absurdity of birthright citizenship for children of illegal aliens;
- How, starting with FDR, the immigration-saturated big-city masses led to Democrats' electoral lock on the cities, "and, in the process, ended the traditional Republican majority in this country";
- The concentration of poverty among the foreign-born;
- The result of a large-scale amnesty would be irreversible "because of the enormous electoral clout such a significant and largely unassimilated ethnic population would exercise";
- The 1986 amnesty happened but the enforcement promised in the grand bargain didn't.

What sub-topics does he leave out? The impacts of mass immigration on the education of the native-born (via the mass infusion of non-English-speaking students to our schools) and the abuse of refuge and asylum come to mind.

Levin's motives and orientation presumably matter more to *The Social Contract's* readership than the particular immigration facts he provides. Informed by writings of, among others, Samuel Huntington, Thomas Sowell, George Borjas, Robert Rector, and Eugene McCarthy, Levin zeroes in on first principles. The Conservative, he says, unlike the Statist, recognizes that our government exists for the benefit of us citizens:

"[T]he Statist portrays the immigrant as universally more virtuous than the citizen. ... To say that the citizen, who is in fact primarily responsible for the nation's character and the culture to which the alien immigrates, is less valuable to American society than the immigrating alien is nonsensical."

Levin clearly sees—in Statists' demands for multiculturalism and their denigration of assimilation, in the burgeoning dependency among low-skilled immigrants and the resulting burden upon tax-paying citizens, in the *de facto* capture of our

immigration policy by the immigrants themselves, and in the loss of a common language—the dissolution of the American republic. For example, here he is on language:

How can the alien participate fully in American society if he does not share the language that binds citizen to citizen? How can he acquire better skills, pursue higher learning, or interact effectively in the marketplace if he does not speak English? How can he assess the benefit of entering into contracts or other legal arrangements if he cannot understand the terms and conditions to which he commits himself? And most important, how can the alien comprehend the nation's founding principles and pledge allegiance to them if he cannot be sure of their intended meaning? Clearly neither the alien nor the civil society is the better.

What is the motive for Statists in all this? "From the Statist's perspective," explains Levin, "the pool of future administrative state constituents and sympathetic voters is potentially bottomless." It's their expressway for making over American society.

Overall, then, Levin's views on immigration are grounded in prudence that's informed by a realistic, non-romantic picture of the nation's actual immigration history, and his treatment of our immigration peril is a *tour de force*.

Does Levin's book fall short anywhere? Yes. I think that his longest chapter (of ten), "On Enviro-Statism," is his weakest. Levin, like many conservatives, has apparently forgotten that "conservative" and "conservation" are words with a common root and that making rosy assumptions about the amount of abuse the ecosphere can absorb is not a *prudent* policy. He does make some plausible criticisms related to climate-change remedies (e.g. as a practical matter, how would a "cap and trade" regime of CO<sub>2</sub> emission permits be policed?). And he reproduces someone else's *long* compendium of alarms, many of them mutually and amusingly—

contradictory, about the potential consequences of man-caused climate change. But Levin's environmentalism chapter is also replete with *non sequiturs* and find-any-source-to-quote absurdities, providing they seem to refute claims of anthropogenic climate impacts.

In an example of *non sequitur*, he tells us that "More Americans are killed and maimed each year from CAFE [Corporate Average Fuel Economy] standards [i.e. by lightweighting of vehicles' structures to meet CAFE] than American soldiers have been killed on the battlefield in Iraq each year."

For pure nonsense, it would be hard to top the "argument" Levin lifts from a geologist named Dudley J. Hughes to the effect that, since CO<sub>2</sub> is "a natural part of the atmosphere" [true!] and present "only [at] about 4 parts in 10,000, the smallest volume of any major atmospheric gas," [also true!] *of course it's not a problem, q.e.d.* [Huh?!?!] I'm not convinced that human-induced climate change has been proven, but, as a physicist, I certainly recognize such signs of appalling scientific illiteracy.

Levin, in turn, is appalled by the notion that nature has intrinsic value and exists for its own sake, ideas that he explicitly lampoons. In this, Levin undoubtedly represents the vast majority of humanity that Aldo Leopold was thinking of when he wrote, famously, "One of the penalties of an ecological education is living alone in a world of wounds."

The book's 13-page epilogue, "A Conservative Manifesto," contains Levin's policy prescriptions for a country trying to recover from Statism. His recommendations are clustered in ten groups under such headings as "Taxation," "The Administrative State," and "Entitlements." Of most interest here are the three prescriptions given under "Immigration." In my words, they are:

1. End chain immigration;
2. Enforce all the immigration laws; and
3. End multiculturalism and bilingualism in public institutions; promote assimilation, including making English the official national language.

Those three points, fully realized, would end immigration as a public policy concern for Americans. *Mark Levin truly knows our subject!*

As a final note, it's disappointing that the book has no index. Since it was likely to sell well (as it indeed has— it's spent many weeks at number 1 on the *New York Times*' bestseller list), judging from Levin's prior books and the popularity of his radio show, couldn't his publisher have sprung for this "luxury"? In the book's favor, though, Levin includes copious notes (more than 350), many to sources accessible online, with URLs provided. ■

#### ENDNOTES

1. Mark Krikorian, *The New Case Against Immigration: Both Legal and Illegal* (New York: Sentinel HC, 2008).
2. David Horowitz, *Radical Son: A Generational Odyssey* (New York: Touchstone, 1997).
3. "Who Is The Enemy?," *FrontPageMagazine.com*, January 16, 2008, <http://www.frontpagemag.com/readArticle.aspx?ARTID=29401>.
4. Stuart Taylor, "The View From 1987," *Newsweek*, June 29, 2009, <http://www.newsweek.com/id/202874>.
5. David Horowitz, "Taking on the Neo-Coms, Part II," *FrontPageMagazine.com*, May 2, 2003, <http://www.frontpagemagazine.com/readArticle.aspx?ARTID=18398>.
6. For a memorable, independent explication of such ideas, see Peter Robinson's wonderful video interview of Thomas Sowell available online at <http://www.hoover.org/multimedia/uk/33647984.html> Note, particularly, the contrast illuminated between "the constrained vision" and "the unconstrained vision" in the opening 14 minutes of the interview.
7. John Leo, "What have Zimbabwe's laws to do with ours?," *TownHall.com*, July 13, 2003, [http://townhall.com/columnists/JohnLeo/2003/07/13/what\\_have\\_zimbabwes\\_laws\\_to\\_do\\_with\\_ours?page=full&comments=true](http://townhall.com/columnists/JohnLeo/2003/07/13/what_have_zimbabwes_laws_to_do_with_ours?page=full&comments=true).