



An Unconventional Odyssey

Roger Pilon

As I contemplate reducing my nearly 80 years to fewer than 2000 words, as requested for this volume, I'm humbled to be doing so on this Memorial Day 2022, and grateful for the sacrifices of so many who've enabled me to live those years in relative peace and freedom. America truly is unique in human history. Understanding that, countless millions have long left their homelands to begin life anew under its promise. Yet increasingly we see so many among us who deeply misunderstand the great principles that constitute us as a nation. Today, objectivity, due process, free speech, and even the rule of law itself are under assault in our institutions—even in our educational institutions.

I cannot say precisely when all of that became clear to me. It occurred over time, but it has animated my life, directed my moral, intellectual, and professional evolution, and culminated in the magnum opus that now consumes my attention, presently titled “The Moral Case for America: Rights, Powers, and the Constitution.” The fruition, at last, of my 1979 University of Chicago doctoral dissertation on the theory of rights, the book's aim, against moral skeptics and moral dogmatists alike, is to

R. Pilon (✉)
Cato Institute, Washington, DC, USA
e-mail: RPilon@cato.org

develop the epistemological foundations of the “self-evident truths” that inspired America’s birth and to locate those principles in the Constitution and trace their history to the present.

But to my story. My odyssey has been unconventional. Born in rural northern Vermont during World War II’s early days, I was the first of three children. My father was a tool and die maker, the fourth of 14 French Canadian children. My mother, adopted as an infant by a postman’s family, graduated from a two-year normal school before teaching eighth grades in a one-room school. When I was almost five we moved to upstate New York, in the foothills of the Adirondack Mountains, where I grew up. Distant from urban and suburban America in the 1940s and ’50s, rural life encouraged independence, self-reliance, and individual responsibility, which doubtless helped shape my later views. But other forces were at play too. I did well in the first five one-room schools I attended before the central school was built, then did well there too, with multiple activities: sports, scouts, starting the school’s first rock-‘n’-roll band, and more.¹

A separate force also deserves notice. In second grade I learned that Catholic students could be excused for weekly one-hour religious instruction from nuns visiting from a nearby town. When I asked my mother what religion I was, she said my father was Catholic, by birth, so I signed up, only to discover that I’d never been baptized. I then arranged for my siblings and my baptism, took my instruction seriously thereafter, and became an altar boy until I was 17. Alas, it was not to continue as I soon started to question my faith. There followed a transition to agnosticism, or Deism at best. Still, the Christian idea that we’re each responsible for our eternal salvation must have been formative, even when translated into self-respect and the Aristotelian virtues.

My freshman year at Syracuse University marked a move from being a big fish in a small rural pond to the reverse. I began as an engineering major but soon realized I didn’t really want to be an engineer, so I switched to my love, music. But at year’s end, I still didn’t know what I wanted “to be”—basically, I had a trade school understanding of college—so I decided to drop out for a year or two. It turned out

¹ For a fuller account of the personal history sketched here and below, see this long interview: Lindenberg, David Meyer. (2017) Cross: Roger Pilon, Defending Liberty At Cato. *Mimesis Law*; <https://web.archive.org/web/20210902193232/http://mimesislaw.com/fault-lines/cross-roger-pilon-defending-liberty-cato/16364>.

to be seven years of intense personal and intellectual growth, some of it reflecting the frivolity of an arrested adolescence, but there was serious work too, mostly as a successful insurance salesman. Paying taxes for the first time, as an independent contractor, was another formative experience.

And so we come at last to libertarianism. Clearly, during my childhood and adolescence I had developed many libertarian values, but my understanding of my political identity came only later, slowly. At 17, still a Catholic, I was attracted to John Kennedy during the 1960 election cycle, but I had also liked Ike, and my first vote, at 21, was for Barry Goldwater. What changed? I had. Between Kennedy and Goldwater I had begun reading, voraciously: Bill Buckley's "National Review," Goldwater's *Conscience of a Conservative*, Fyodor Dostoevsky's *Crime and Punishment*, and more. A girlfriend gave me Ayn Rand's *Atlas Shrugged*, which I devoured; like Goldwater for politics, Rand put together an even bigger picture. Soon enough, though, as I read beyond, I came to see the limits of her vision. Yet it impressed upon me the importance of philosophy, which I read into further as my understanding grew.

Meanwhile, as the '60s wore on, the world was going to hell, or so it seemed. The civil rights movement came not a moment too soon, but not the riots, the drug scene, the campus takeovers, or, most important for the nation's long-term institutional integrity, Lyndon Johnson's Great Society. By the early spring of 1968, living now in Manhattan, far from my rural roots, and now seeing myself as something of a libertarian conservative, I decided at last what I wanted "to be"—a philosopher. So I walked on to the Columbia University campus, which later that day would explode, took the entrance examination for the School of General Studies—average student age, 24—arranged for transmitting my Syracuse transcript and was soon admitted. Supporting myself by driving a taxi nights and weekends, I received my A.B. in philosophy, with honors, three years later. I was off then to the University of Chicago for my M.A. and Ph.D.

At Chicago, I met my future wife, Juliana, also a philosopher who at 14 had emigrated with her family from communist Romania. Needing no instruction on the virtues of freedom, she found my unorthodox views a breath of fresh air—yes, even at Chicago, ideological corruption was abundant. But practical problems loomed, for the academic job market had flipped. In the '60s, facing baby-boom enrollments, universities had hired ABDs who were now tenured. By the mid- to late '70s,

the ratio of job applicants to faculty openings reached as high as 600 to 1. We were fortunate, though, to have supplemented our intellectual lives with occasional forays into the political world, for that would eventually be our salvation. Thus, in 1972 we were Republican election judges in Mayor Richard Daley's Chicago. And in 1976, we were alternate delegates to the Republican National Convention, pledged to Ronald Reagan. When Reagan was elected in 1980—after we'd knocked about academia for four years, including four cross-country moves—the political contacts we'd made would lead, in April 1981, to an invitation to join the new administration.

But back to the evolution of my thinking. At Columbia, I focused mainly on the history of philosophy. I arrived at Chicago as a moral consequentialist, but Prof. Alan Donagan would soon ease me toward deontology. In that vein, Prof. Alan Gewirth would then acquaint me with his own work in moral rationality, which opened great vistas for me. Within days of our first meeting that year, so sure was I of the direction of my thinking that I told Gewirth that I would be writing my dissertation on the theory of rights. He took my notice in stride. He and Donagan would become the first and second members of my dissertation committee. And such was Chicago's interdisciplinary latitude that the third would be Milton Friedman, who agreed with alacrity, perhaps intrigued by the dissertation's subtitle, "Toward Limited Government." On that score, I profited also from lengthy discussions about the common law with Prof. Richard Epstein after he arrived at the law school. In fact, before leaving Chicago I would review his four essays on strict liability and the law of torts for the Institute for Humane Studies' "Law & Liberty."

But well before that, on the political side of things, I had grown increasingly troubled by conservative attacks on the Supreme Court's "rights revolution." After all, hadn't America been founded on the idea that we're all endowed with unalienable natural rights? Thus, even as I was focusing on the epistemological foundations of classical liberalism's theory of rights, I was thinking also about the role of judges in securing those rights under our Constitution. And it struck me that neither constitutionally untethered liberal judicial activism nor conservative judicial restraint amounting to judicial abdication was morally or constitutionally proper. Fortunately, it was around 1975 that IHS's Leonard Liggio and Davis Keeler discovered Juliana and me asking questions at the Philadelphia Society's annual meetings in Chicago. They soon put me on their speaking and conference schedules, and over the latter half of the '70s

my thinking would expand to include those constitutional elements, especially after I secured a visiting appointment at the Emory University Law School and after I met my co-conspirator against both Left and Right, Prof. Bernie Siegan at the University of San Diego Law School. Thus the origins, in part, of the modern libertarian legal movement.²

Alas, reality imposed a partial pause on that effort. Following our dismal four-year peripatetic search for regular employment in an overcrowded, ideologically hostile academic world, we found opportunities beyond academia in Washington, as noted, and the move was not without compensating benefits, besides compensation. Over nearly eight years, as a senior official at OPM, State, and Justice, I gained valuable practical insights about the workings of government. And I was able to earn a law degree at night, just up the street at George Washington University, while continuing to speak and write, albeit at a reduced pace.

But as the Reagan administration was concluding, I was anxious to get back in the game with my critique of both liberal judicial activism and conservative judicial restraint, the latter the now ascendant view. In 1983, I had urged Cato Institute President Ed Crane to hold a conference on “Economic Liberties and the Judiciary,” and I drew up a program for it. Cato did so in 1984, which included several of us in the inchoate judicial engagement school. Thus, in September 1988, appreciating that only institutional arrangements could further my project, I called Ed again. By mid-October I was on board at Cato, preparing the ground for Cato’s Center for Constitutional Studies, which we unveiled in January 1989.

For the next 30 years, I directed the Center, handing the reins over to my chosen successor, Ilya Shapiro, on January 1, 2019. During that time I wrote hundreds of articles, op-eds, and blog posts on a wide range of moral, political, legal, and economic subjects; gave over a thousand speeches and debates at every major law school in the country, mostly through the Federalist Society, and spoke often abroad as well; ran conferences and forums featuring prominent experts in several fields; testified often before Congress; did TV and radio; created Cato’s amicus brief program, our annual *Cato Supreme Court Review*, and our annual Constitution Day Symposium; edited numerous books and studies by outside and inside scholars; mentored interns and young legal associates; and,

² See Roger Pilon, *On the Origins of the Modern Libertarian Legal Movement*, 16 Chap. L. Rev. 255 (2013), available at: <https://digitalcommons.chapman.edu/cgi/viewcontent.cgi?article=1284&context=chapman-law-review>.

not least, hosted Supreme Court justices for luncheons with my Cato staff—all with an eye toward changing the way we understand the Constitution and the role of judges under it. As I wrote in the preface to the Cato Pocket Declaration and Constitution, which relates the two documents through their underlying principles, the Constitution creates a government of delegated, enumerated, and thus limited powers, the purpose of which is to secure the libertarian promise of the Declaration of Independence. To date, we've distributed over seven million copies.

In sum, if we're to move toward that promise—we've a ways to go, as earlier noted, against entrenched institutions that are pulling us in the opposite direction—we will need a better understanding of its virtues than too many Americans now have. As history demonstrates, the struggle to secure liberty is never finished. I press on.