

# SOUTHERN HONOR AND THE POLITICS OF CIVILITY

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**Abstract:** Based on a panel discussion of political civility, this Essay moves through two scenes of honor—dueling and honor codes—to sketch a connection between that ancient political virtue and the virtue of civility. Communication research explains contemporary incivility, which destroys political culture in similar ways that hubris destroyed southern culture. In order to cure the defects of rowdy partisan violence and mass social alienation, empathy and honor are encouraged as the twin norms of civility to be studied, advocated, and enacted.

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## I. INTRODUCTION

Although honored to be invited to a conference on civility at the Charleston School of Law, the panelists thought it a little hypocritical that four South Carolinians—a politician, a lobbyist,

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a lawyer, and an academic—would discuss ways to improve the national political climate. This should cause alarm, given a quick glance at the historical record.

Perhaps most obtuse in our shared public mind is the “You Lie!” comment, voiced by Representative Joe Wilson at President Obama’s healthcare pitch.<sup>1</sup> That story shares all sorts of resemblances to a more dangerous attack that occurred a little over 150 years earlier—the caning of Senator Charles Sumner.<sup>2</sup> Representative Preston Brooks, assisted by Laurence Keitt, beat Sumner to the floor for his 1856 “The Crime against Kansas” speech, which not only took aim at “popular sovereignty” and the Kansas-Nebraska Act, but also at Brooks’ cousin, South Carolina Senator Andrew Pickens Butler.<sup>3</sup> Both Brooks, in 1856, and Wilson, in our times, formally apologized.<sup>4</sup> Yet in both of these scenarios, many South Carolinians supported their statesmen; although Brooks offered resignation, both he and Wilson won reelection.<sup>5</sup> Whether in the form of new gutta-percha canes or campaign contributions, both Brooks and Wilson gained political means and notoriety within their home state.<sup>6</sup>

Even beyond particular moments of incivility, though, there might be reason to be concerned about South Carolinians’ models for political action. Francis Marion, a Palmetto hero, roamed the swamps to take down British soldiers with tactics of guerilla warfare.<sup>7</sup> Cockfighting was common and inspired the legendary

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1. *Joe Wilson Says Outburst to Obama Speech “Spontaneous,”* CNN POLITICS (Sept. 10, 2009), <http://www.cnn.com/2009/POLITICS/09/10/obama.heckled.speech/index.html?iref=allsearch>.

2. T. LLOYD BENSON, *THE CANING OF SENATOR SUMNER 1* (Clark Baxter et al. eds., 2004).

3. WILLIAM JAMES HULL HOFFER, *THE CANING OF CHARLES SUMNER: HONOR, IDEALISM, AND THE ORIGINS OF THE CIVIL WAR* 1, 3 (2010).

4. *Joe Wilson Says Outburst to Obama Speech “Spontaneous,”* *supra* note 1.

5. See Bob Adelman, *Rep. Joe Wilson’s Political Problems*, THE NEW AM. MAGAZINE (Nov. 26, 2010, 2:05 PM), <http://www.thenewamerican.com/index.php/usnews/politics/5307-rep-joe-wilsons-problems>.

6. Mike Soraghan et al., *Wilson’s “You Lie” Brings Him Notoriety*, THE HILL (Sept. 10, 2009, 8:22 PM), <http://thehill.com/homenews/house/58273-rep-wilsons-you-lie-brings-him-notoriety?page=2#comments>.

7. Amy Crawford, *The Swamp Fox*, SMITHSONIAN (July 1,

awe of “The Gamecock,” Thomas Sumter, another mythical figure in South Carolina’s founding.<sup>8</sup>

As is well known, such fervor did not wane following the successful Revolution. Slave owners continued their passionate pursuit of hedonism and unbridled freedom into the Antebellum Age.<sup>9</sup> Romantic oratory in defense of states’ rights doctrines brought the idea of secession to the forefront of South Carolina politics.<sup>10</sup> From the tariff controversy and defense of secession offered by John C. Calhoun,<sup>11</sup> to the Ordinance of Secession in 1860,<sup>12</sup> and up through contemporary times, Southern leaders have been righteously protective of their money, their economic system, and their culture.

Yet the panel allowed new ideas to emerge on norms of political virtue and their effect on political discourse. In this Essay, I build from our collective reflections an idea about how Southern honor could become a locus of greater political civility, based on an organic political virtue. When calls for civility are made, they often function as a way to silence opponents or to call for an ethic that stifles strong leadership. Politicians should “play nice” or speak in “polite” ways, so the conversation goes. Even President Obama has called for an ethic of empathy as the key to civility.<sup>13</sup> Connecting civility to its historically prior term, “honor,” might help institute a more pragmatic way to make communication more orderly and productive, and it might help our current age not repeat the same mistakes committed by our occasionally grizzly forebears.

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2007), <http://www.smithsonianmag.com/history-archaeology/biography/fox.html>; WALTER EDGAR, *SOUTH CAROLINA: A HISTORY* 234–35 (1998).

8. See ROBERT D. BASS, *GAMECOCK: THE LIFE AND CAMPAIGNS OF GENERAL THOMAS SUMTER* 3 (1961); EDGAR, *supra* note 7.

9. JAMES C. COBB, *AWAY DOWN SOUTH* 9–33 (2005).

10. ERIC H. WALTHER, *THE FIRE EATERS* 160–94 (1992).

11. JOHN C. CALHOUN, *UNION AND LIBERTY: THE POLITICAL PHILOSOPHY OF JOHN C. CALHOUN* 367–400 (1992).

12. JOHN AMASA MAY & JOAN REYNOLDS FAUNT, *SOUTH CAROLINA SECEDES* 76–81 (1960).

13. President Barack Obama, Remarks by the President at University of Michigan Spring Commencement (May 4, 2010) (transcript available at <http://www.whitehouse.gov/the-press-office/remarks-president-university-michigan-spring-commencement>).

## II. GRAPPLING WITH SOUTHERN HONOR: TWO MODELS

Honor is a contested political virtue. The term generally denotes esteem, respect, and the ability to abide by a set of guidelines to communicate in a fitting manner.<sup>14</sup> Men of the eighteenth and nineteenth centuries United States were caught up in a system of honor, even regarding physical appearance.<sup>15</sup> To disfigure another gentleman's face was the gravest assault on his honor; Andrew Jackson even had a man try to pull his nose in order to assault his honor.<sup>16</sup> Even so, in a rough age of rowdy politics, honor had an important effect of holding society together and placing certain constraints on political action. Deference to the Founding Fathers and respect for order, for example, often formed a shared basis for political argument.<sup>17</sup> Despite our penchant for remembering the man of that era as a lonesome cowboy without a code, most men learned a set of innate guidelines for interaction in society. Only when groups were excluded from this system of honor (*e.g.*, slaves, women, Native American Indians) were there gaping holes of ethical mores.<sup>18</sup>

Thomas Jefferson harnessed this power-driven political virtue for better uses.<sup>19</sup> The "honor code" known at many American colleges and universities is a Jeffersonian inheritance—first instituted when he was on the board at William and Mary, then brought to his school, the University of Virginia.<sup>20</sup> Rather than ruling students through fear of

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14. HONOR AND GRACE IN ANTHROPOLOGY (J.G. Peristiany & Julian Pitt-Rivers eds., 1992).

15. Kenneth S. Greenberg, *The Nose, the Lie, and the Duel in the Antebellum South*, 95-1 AM. HIST. REV. 57, 57 (1990).

16. *Id.* at 72.

17. ANDREW S. TREES, *THE FOUNDING FATHERS AND THE POLITICS OF CHARACTER* 1 (2004).

18. Greenberg, *supra* note 15, at 57, 65.

19. Letter from Thomas Jefferson to George Ticknor (July 16, 1823), in 12 THE WRITINGS OF THOMAS JEFFERSON, at 455–56 (Paul Leicester Ford ed., G.P. Putnam's Sons 1905).

20. C. Alphonso Smith, 'I Certify On My Honor—' *The Real Story of How the Famed 'Honor System' at University of Virginia Functions and What Matriculating Students Should Know About It*, RICHMOND TIMES DISPATCH, Nov. 29, 1936, available at <http://richmondthenandnow.com/Newspaper->

disciplinary action or excessive bureaucratic regulation, Jefferson hoped that honor would correct conduct. Moreover, Jefferson was keenly aware that the students of these schools would be the leaders of the new republic. Thus, Jefferson believed that giving these students the greatest latitude of freedom and experience with the dictates of personal honor would best prepare them for political service.<sup>21</sup> In Jefferson's view, excessive rules would teach them to be slaves rather than free-thinking masters.<sup>22</sup>

Having just written the nation's first honor code—pledging “our Lives, our Fortunes, and our sacred Honor”<sup>23</sup> to the new nation—Jefferson hoped to return to Virginia and to begin building a truly American system of education.<sup>24</sup> Under the new plan, William and Mary would become the pinnacle of education in Virginia.<sup>25</sup> With the institution's grammar school eliminated and the acceptance of older students at the college, such as army officers who had served in the Revolution, Governor Jefferson and other Board members did away with stringent regulations on dress and deportment.<sup>26</sup> Yet Jefferson's vision would not last long to control Southern adolescents with American revolutionaries as role models. The culture of honor was largely determined by sufficient education and the aristocratic elite whose positions depended on wealth and independence from the “base” desires of the lower classes.<sup>27</sup>

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Articles/ Honor-System.html.

21. Joseph F. Kett, *Education*, in THOMAS JEFFERSON: A REFERENCE BIOGRAPHY 235 (Merrill D. Peterson ed., 1986).

22. “Repeating therefore my incompetence to the dispensation proposed, with assurances that the part I take in the affairs of the university is with the sole view of rendering them worthy in themselves, valuable members of society, and fit successors of their fathers in the government of their country . . . .” Letter from Thomas Jefferson to Robley Dunglison (June 29, 1825), in GARRY WILLS, MR. JEFFERSON'S UNIVERSITY 125 (2002).

23. THE DECLARATION OF INDEPENDENCE para. 5 (U.S. 1776).

24. Norbert Sand, *The Classics in Jefferson's Theory of Education*, 40-2 THE CLASSICAL J. 92, 95 (1944).

25. SUSAN H. GODSON ET AL., 1 THE COLLEGE OF WILLIAM AND MARY: A HISTORY 130 (1993).

26. *Jefferson's Attempts at Change*, WILLIAM & MARY, <http://www.wm.edu/about/history/tjcollege/tjattemptstatchange/index.php> (last visited, Mar. 26, 2011).

27. KENNETH GREENBERG, HONOR AND SLAVERY 15 (Princeton Univ. Press

At William and Mary, drinking, gambling, and rioting became major problems in the wake of Jefferson's school reforms.<sup>28</sup> To remedy the problems, students were divided among private homes around Williamsburg and asked to follow "that kind of conduct . . . conducive to the Honor & Prosperity of the University."<sup>29</sup> Despite this first honor code, the students continued to misbehave regularly: throwing bricks through windows, smearing excrement on the parish pulpit, unearthing a corpse and displaying it in a crude position, and dueling.<sup>30</sup> School administrators returned to harsher disciplinary regulations once Jefferson left to serve in national politics.<sup>31</sup> Despite the need for some disciplinary restrictions, the honor system flourished in American universities.<sup>32</sup> When planning the University of Virginia in 1823, Jefferson wrote that Virginia schools were the bastions of a new form of American education that would teach the republican virtues that he found lacking in northern universities.<sup>33</sup> Even in the face of the pranks and poor humor of these aristocratic boys, Jefferson believed there was a place for honor in American education.

The other infamous place to find honor paramount in that time period was the duel. In a long series of exchanges that would sometimes result in violence, men would be held personally accountable for their words and deeds to one another.<sup>34</sup> Of course, the idea of dueling was always contested since it robbed families of fathers and brothers and nations of leading statesmen. By the 1830s, laws were passed nationwide

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1996).

28. Mark R. Wenger, *Thomas Jefferson, The College of William and Mary, and the University of Virginia*, 103 VA. MAG. OF HIST. & BIO. 339, 369–70 (1995).

29. *Honor Code*, WILLIAM & MARY, [http://www.wm.edu/offices/deanofstudents/services/studentconduct/documents/Honor\\_System.pdf](http://www.wm.edu/offices/deanofstudents/services/studentconduct/documents/Honor_System.pdf) (last visited, March 26, 2011).

30. GODSON, ET AL., *supra* note 25, at 132.

31. *Id.*

32. See W. Le Conte Stevens, *The Honor System in American Colleges*, POPULAR SCI. MONTHLY, Feb. 1906, at 176.

33. GARY WILLS, MR. JEFFERSON'S UNIVERSITY 117 (2002).

34. Joanne B. Freeman, *Dueling as Politics: Reinterpreting the Burr-Hamilton Duel*, 53 WM. & MARY Q. 287, 294 (1996).

to confront the frequency and hazards of duels.<sup>35</sup> But despite our modern conception of dueling as an arcane “fight to the finish,” early American dueling was often a ritualistic performance.<sup>36</sup> Unless a serious nerve had been struck, most gentlemen fired into the air or used weapons knowing that blows were unlikely and that any injury would likely not be lethal.<sup>37</sup> Further, the public protocol leading up to the gun match was complex, entailing gifts, a series of letters, and private meetings.<sup>38</sup> Through these performances, duelers and their “seconds”—friends, agents of contact, and witnesses to the duel—usually resolved the issue without the need for gunfire.<sup>39</sup>

South Carolina reigns supreme in its problematic history of honor. Despite a state law that levied a \$2,000 fine and up to a year imprisonment for duelists and their seconds, South Carolina Governor John Lyde Wilson authored one of the foremost guidebooks for duels in the nineteenth century: *The Code of Honor*.<sup>40</sup> First published in 1838 and republished due to its popularity in the 1850s, *The Code of Honor* showed that the state obviously lagged behind the North in turning away from a controversial practice. Governments were growing better in their capacity to prosecute crimes, and name-calling seemed to be a silly reason for such a protracted series of obligations and potentially violent rituals.<sup>41</sup>

The pamphlet acknowledges these issues.<sup>42</sup> Wilson wrote that dueling should not be used as a primary tool for resolution.<sup>43</sup> Wilson put it this way:

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35. CLAYTON E. CRAMER, CONCEALED WEAPON LAWS OF THE EARLY REPUBLIC: DUELING, SOUTHERN VIOLENCE, AND MORAL REFORM 85 (1999); see also *id.* at 50 (discussing the relationship between regulation concealed weapons and dueling).

36. Freeman, *supra* note 34, at 294.

37. *Id.* at 301–02.

38. *Id.* at 300–01.

39. *Id.* at 301.

40. JOHN LYDE WILSON, THE CODE OF HONOR; OR RULES FOR THE GOVERNMENT OF PRINCIPALS AND SECONDS IN DUELLING (1858), available at [http://www.skynet.ie/~nvl/cfi/resources/files/THE\\_CODE\\_OF\\_HONOR.pdf](http://www.skynet.ie/~nvl/cfi/resources/files/THE_CODE_OF_HONOR.pdf).

41. *Id.* at 1.

42. *Id.*

43. *Id.*

If a man be smote on one cheek in public, and he turns the other, which is also smitten, and he offers no resistance, but blesses him that so despitefully used him, I am aware that he is in the exercise of great Christian forbearance, highly recommended and enjoined by many very good men, but utterly repugnant to those feelings which nature and education have implanted in the human character.<sup>44</sup>

Certainly Christian ethics ought to have their place, Wilson was saying, and any issues covered by the law ought to seek redress through government.<sup>45</sup> But, Wilson still saw a place for dueling for the “oppressed and deeply wronged individual” when legal redress could not be found and when human liberty impeded selfless Christian forgiveness.<sup>46</sup> Wilson even compared the nation to the individual: If a nation can take up arms for its liberties, why could individuals not do so over personal grievances?<sup>47</sup>

Duels among South Carolina leaders were common.<sup>48</sup> Wilson challenged Thomas S. Grimké, the important attorney and brother of the more famous abolitionists and women’s rights activists, to a duel for questioning his use of the state’s finances as Governor.<sup>49</sup> Preston Brooks, already noted for his leading role in the caning of Senator Sumner, challenged Anson Burlingame of New York to a duel.<sup>50</sup> Burlingame had scored political points at home by calling Brooks “the vilest sort of coward.”<sup>51</sup> Unfortunately for the historical record of Southern honor, Brooks backed out of the duel, knowing that Burlingame was a master marksman and had the ability to choose the weapon (rifles) and

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44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

48. See EDGAR, *supra* note 7, at 306.

49. JACK K. WILLIAMS, DUELING IN THE OLD SOUTH: VIGNETTES OF SOCIAL HISTORY 4–8 (1980).

50. Alison L. LaCroix, *To Gain the Whole World and Lose His Own Soul: Nineteenth-Century American Dueling As Public Law and Private Code*, 33 HOFSTRA L. REV. 501, 544 n.129 (2005).

51. *Anson Burlingame*, OUR CAMPAIGNS, <http://www.ourcampaigns.com/CandidateDetail.html?CandidateID=115173> (last visited Mar. 31, 2011).

location.<sup>52</sup> Burlingame had chosen the Canadian side of Niagara Falls because of the illegality of dueling in the United States, which probably signaled to Brooks that the representative from New York meant serious business.<sup>53</sup>

These historical examples are sufficient to draw a few lessons. When illegitimate, honor looked like a superficial, insincere ruse instead of a meaningful, ethical system of exchange. The same is true of civility. American universities created honor codes to try to allow the maximum amount of student freedom while maintaining order.<sup>54</sup> Similarly, civility was and is often used in that realm of political life in which legal constraint could restrict free speech, yet in which some order is necessary for community functioning. Jefferson's codes had little success, given the privileged upbringing of his students, just as civility codes today have little effect in a society that has forgotten civil argumentation and reasoning. With both civility and honor, the ethical claim is that the stakes are one's integrity. Yet, in practice, opinions circulated in news and gossip was paramount to political credibility. Because attacks and limits can effect fundamental rights of speech and reputation, both can legitimate violence in the last instance.

### III. CONTEMPORARY INCIVILITY AND THE LOSS OF HONOR

To say that civility has declined in the U.S. is nothing new. After the shooting at Tucson,<sup>55</sup> it became clear even to the pundits of the news corporations that the levels of polarization and disrespect in American politics had reached a new low in mainstream politics since at least the Great Depression. Some

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52. Anson Burlingame, BURLINGAME HIST. SOC'Y, <http://www.burlingamehistorical.org/page191.htm> (last visited Mar. 31, 2011).

53. See OUR CAMPAIGNS, *supra* note 51.

54. Stevens, *supra* note 32, at 176.

55. See Shailagh Murray & Sari Horwitz, *Rep. Gabrielle Giffords Shot in Tucson Rampage; Federal Judge Killed*, WASH. POST. (Jan. 9, 2011), <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/08/AR2011010802422.html?hpid=topnews>.

blamed the problems on racial bias regarding the President<sup>56</sup> (who has been accused of being of “foreign” origin, a socialist, and a Nazi), while others pointed to conservative fear-mongering by Glenn Beck, Rush Limbaugh, and Sarah Palin, and the like.<sup>57</sup> While these are certainly the most prominent faces of our current polarization, communication research in the last two decades points to a much more pervasive and long-term adjustment in media that brought about this change.<sup>58</sup>

The political economy of the news media transformed. The mid-twentieth century in the United States was driven by three central networks that strived toward a centrist model of “journalistic objectivity,” with local newspaper and news affiliate outlets reflecting that centralizing tendency.<sup>59</sup> Because of the limits of technology and dissemination, as well as the perceived Cold War need for political unity, marginal viewpoints remained at the margins.<sup>60</sup> As the Cold War ended, and as expanded cable, satellite, and Internet technologies became widely available, fragmentation and polarization were dominant trends.<sup>61</sup> Although major media outlets are still held by relatively few major conglomerates and on-the-ground reporting is handled by relatively few groups (e.g., AP, Reuters), access to hundreds of outlets has allowed consumers to cherry-pick their news framing.<sup>62</sup> Given the psychological concepts of “selective exposure” and “selective attention,” people turn on and pay attention to media outlets that suit their ideological

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56. See, e.g., Gregory S. Parks & Matthew W. Hughey, *The Mind Works in Mysterious Ways: Unconscious Race Bias & Obama*, OUPBLOG (Mar. 14, 2011, 11:35 AM), <http://blog.oup.com/2011/03/race-bias/>.

57. See, e.g., Tom Curry, *Conservatives Scoff at Attempted Linkage to Shooting*, MSNBC.COM (Jan. 10, 2011), <http://www.msnbc.msn.com/id/41006982/ns/politics/>.

58. ROBERT E. DENTON, JR., POLITICAL COMMUNICATION ETHICS: AN OXYMORON? 91–92 (2000).

59. See *id.* at 98–99; see also Henry Jenkins, CONVERGENCE CULTURE: WHERE OLD AND NEW MEDIA COLLIDE 5 (2006).

60. See BRUCE ALLEN BIMBER, INFORMATION AND AMERICAN DEMOCRACY: TECHNOLOGY IN THE EVOLUTION OF POLITICAL POWER 7 (2003).

61. See *id.*

62. See *Ownership Chart: The Big Six*, FREEPRESS.NET, <http://www.freepress.net/ownership/chart/main> (last visited Mar. 26, 2011).

inclinations.<sup>63</sup> They are, therefore, able to avoid cognitive dissonance—any “noise” that disagrees with their perceived outlook on the world. Thus, political liberals do not hear the potential risks of universal healthcare (either because they flip the channel or “zone out”). Likewise, conservatives do not hear commentary about environmental degradation. Major conglomerates quickly realized that they captivate audiences best by targeting particular networks and channels to particular audiences; profits and consumer attention drove a new partisan press—similar to the U.S. presses from the late 1790s to the 1840s.<sup>64</sup>

Research has also shown that the effects of these shifts are greater than a return to previous polarization.<sup>65</sup> In the early nineteenth century partisan press, gentlemanly bonds between citizens, even across partisan lines, sometimes sustained robust argument and oratory.<sup>66</sup> The Senate oratory of Daniel Webster,<sup>67</sup> Henry Clay,<sup>68</sup> and John C. Calhoun<sup>69</sup> are legendary; stump speeches allowed local orators to outline the major points of their partisan viewpoints.<sup>70</sup> Even in more recent times, Senators modeled honor and deference. After giving good reasons for their viewpoints, Senators might go out to lunch or a local pub.

63. See generally Soontae An, *Voter's Election Involvement and Media Attention: Intention to Vote, Commitment to a Candidate, and Partisanship*, AEJMC ARCHIVES (Dec. 22, 1998), <http://list.msu.edu/cgi-bin/wa?A2=ind9812D&L=AEJMC&P=55>.

64. See generally Jamie L. Carson & M.V. Hood III, *THE EFFECT OF THE PARTISAN PRESS ON U.S. HOUSE ELECTIONS, 1800–1820*, Annual Meeting of the Midwest Political Science Association (2008), available at <http://www.polls.uga.edu/APD/Carson&Hood.pdf>.

65. See *id.*

66. JEFFREY L. PASLEY, “THE TYRANNY OF PRINTERS”: NEWSPAPER POLITICS IN THE EARLY AMERICAN REPUBLIC 1 (2001); see also MICHAEL WARNER, *THE LETTERS OF THE REPUBLIC: PUBLICATION AND THE PUBLIC SPHERE IN EIGHTEENTH-CENTURY AMERICA* 76 (1990).

67. Daniel Webster, Senator, *The Constitution and the Union* (Mar. 7, 1850).

68. Henry Clay, Senator, *The American System* (Feb. 2, 3, 6, 1882).

69. John C. Calhoun, Senator, *The Clay Compromise Measures* (Mar. 4, 1850), available at <http://www.nationalcenter.org/CalhounClayCompromise.html>.

70. ALBERT J. BEVERIDGE, *THE ART OF PUBLIC SPEAKING* 3 (1924).

Despite disagreement, colleagues saw underlying patriotism and fellow-feeling among others. Of course, the downside of such gentlemanly fellow-feeling was that those close bonds were often premised on exclusion; slaves, women, and ethnic minorities often could not sit down at the table.

But as the table became bigger, changes in media made minds smaller. Citizens and leaders lost the capacity for argument, empathy, and understanding. Without knowing legitimate arguments on both sides of an issue, essential to legal training since Greek antiquity, citizens became prone to moral absolutism. Communities began to split along religious and political viewpoints. Reason-giving also suffered. Citizens know “sound bites” about particular issues but are unable to find the basis of their disagreement or see the shared grounds for that disagreement. Michael Schudson, a historian of U.S. media and citizenship, believes we have thus traded the “informed citizen” for the “informational citizen.”<sup>71</sup> We know more bits of information about the world than ever before, but our ability to think through and argue them has declined significantly.

Partially as a result of this community breakdown and partially because of the American luxuries of technology and distance, there is also a decline in social responsibility in speech. No longer are we obligated to present ourselves as passionate citizens ready to stand up for our beliefs to others—when Americans can stay at home and watch television to be ‘informational,’ drive to the polls from a suburban home, and skip jury duty because of inconvenience. The most obvious iteration of this phenomenon is the anonymous comment online. With a flair for the sarcastic, the obscene, and the over-simplistic, anonymous posts on news sites become abusive *ad hominem* attacks, which label the writer or speaker as un-American, stupid, or ideologically zealous.

Again, there are better precedents in U.S. history for anonymity. In the American Revolution, authors hid their identity behind Roman allonyms and monikers, like “A

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71. Michael Schudson, *Creating Public Knowledge*, in *MEDIA AND DEMOCRACY* 29, 30 (Everette E. Dennis et al. eds., 1998).

Pennsylvania Farmer,” to protect the author and assure future communication in times of British occupation.<sup>72</sup> This tradition continued well into the next century as “Publius” argued for a new federal Constitution and “Brutus” against it.<sup>73</sup> By hiding the identity of the author, public duty was placed above personal notoriety.

Certainly it helps allow the minority viewpoint to be expressed, that is, when that minority is not afraid of censorship, slander, or violent retribution from vigilantes. Without some strong notion of honor or civility, many of these potential benefits of anonymity wane. Comment forums become filled with flaming rants, ad hominem attacks, and *non sequiter* arguments. Readers stop paying attention, or worse, start to recognize those comment forums as an accurate representation of the American public, while minority voices become lost in the clutter.

Although it might be satisfying to say that everything is normal, based on the long history of incivility and partisanship in the United States, it seems we are indeed faced with a particularly toxic ecology for political communication. As media have fragmented and polarized, and as critical thinking skills have declined in relation to standardization, we are increasingly becoming inept at meaningful civil engagement. In its place, attention has increasingly gone to fragmented sound bites of ideological discourse and the mocking of such discourse, rather than complex reflection on issues. Perhaps this is not entirely new either. But what is most disappointing is that this incapacity comes at a moment in U.S. history when we have the capital, education, and technological means to make democratic communication work for all—not just wealthy white men.

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72. Robert Restalrig Logan, Logan Collection of John Dickinson Papers, in COLLECTION 383, 7 (The Historical Soc’y of Pa., ed., 2009), available at <http://www.hsp.org/files/findingaid0383logan.pdf>.

73. James Jasinski, *Heteroglossia, Polyphony, and “The Federalist Papers,”* 27 RHETORIC SOCIETY QUARTERLY 23–46 (1997).

## IV. PRACTICING CIVILITY, REFRAMING HONOR

President Obama has given speeches on civility at the National Prayer Breakfast,<sup>74</sup> the University of Michigan commencement,<sup>75</sup> and the Tucson shooting.<sup>76</sup> During his speech at the University of Michigan, the President offered sound advice: (1) a healthy suspicion of government should be tempered with a respect for historical progress, a recognition that democratic government is vested in popular sovereignty, and a respect for the public goods the government provides—such as public universities like the University of Michigan; (2) civility should be guided by avoiding labels that cast out political opponents as un-American, by diminishing the power of fringe ideologies in mainstream news, and by varying sources as news consumers; and (3) meaningful political participation such as community service and acts of civic pride should replace polarization and cynicism.<sup>77</sup>

However, the President's practical advice is grounded on a more radical claim that politicians base their arguments in empathic civility—a deep understanding of others' plights and their life stories. In all three speeches, the President suggests that citizens realize commonalities and embrace differences in this ethic of empathy, even before they begin to participate in political argument. Such understanding would be the new basis for political speech and rescue the idea of "civility" from being a quaint term of etiquette books.

Despite a little media reflection following the Tucson shooting and a new seating pattern at the 2010 State of the Union Address, it is unclear that such discourse is effective.

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74. President Barack Obama, Remarks by the President at the National Prayer Breakfast (Feb. 4, 2010) (transcript available at <http://www.whitehouse.gov/the-press-office/remarks-president-national-prayer-breakfast>).

75. Obama Michigan Speech, *supra* note 13.

76. President Barack Obama, Remarks by the President at a Memorial Service for the Victims of the Shooting in Tucson, Arizona (Jan. 12, 2011) (transcript available at <http://www.whitehouse.gov/the-press-office/2011/01/12/remarks-president-barack-obama-memorial-service-victims-shooting-tucson>).

77. Obama Michigan Speech, *supra* note 13.

Conservative commentators attack the forty-fourth President's rhetoric as a silencing tactic used toward Republicans.<sup>78</sup> This is an accusation to be considered because, as critics of public discourse know, dissent has often been policed by calls for order, politeness, and gradualism, famously so in the U.S. Civil Rights Movement.<sup>79</sup>

It is also questionable whether political leaders themselves can be effective in disciplining discourse by direct instruction. In times of war and external threat, fear can inspire a chilling effect on speech and bring speech into moderation. But, amplifying or echoing the call for civility can lead politicians into an appearance of hypocrisy when they need to make strong arguments for their own viewpoint. Rather than appearing bold and inspired by vision, politicians who preach "civility" can look timid, uninspired, and unable to carry convincing arguments.

Thus, President Obama might do better, after Tucson, to embody civility rather than advocate the concept. For example, by taking up the arguments of his opponents as serious and legitimate, the President can embody the sort of understanding he seeks to instill in the general population. His speech on abortion at the University of Notre Dame serves as a nice example of this capacity to see others' views and moderate rhetoric based on shared premises.<sup>80</sup>

This power-restricting idea of civility—one based on moderation and empathy—could be supplemented with a power-granting idea of honor. This is where Southern politicians, despite their troubled history with the term, might have something special to contribute. Although honor would have to be tempered with moderation and empathy, it could serve as a communal ethic to guide judgment. It might be acceptable, for

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78. President Barack Obama, Remarks by the President in State of the Union Address (Jan. 27, 2010) (transcript available at <http://www.whitehouse.gov/the-press-office/remarks-president-state-union-address>).

79. Robert L. Scott & Donald K. Smith, *The Rhetoric of Confrontation*, 55 Q. J. SPEECH 1, 1–8 (1969).

80. President Barack Obama, Remarks by the President in Commencement Address at the University of Notre Dame (May 17, 2009) (transcript available at <http://www.whitehouse.gov/the-press-office/remarks-president-notre-dame-commencement>).

example, to be incensed and critical over negative campaign ads that damage a candidate's image unfairly. Rather than merely empathizing, communities might respond with taking up the defense of the maligned party. Areas that cannot be disciplined in terms of law—areas like free speech that Jefferson might have protected at his schools—could be judged and acted upon as matters of honor.

In *Nicomachean Ethics*, Aristotle wrote that a right attitude toward honor is essential, even if it is false to believe that life should be exclusively and indiscriminately aimed at honor.<sup>81</sup> A wrongful insult against another citizen could be prosecuted as *hubris*.<sup>82</sup> Such hubris was the most apparent among the causes for anger and retribution in classical Greece.<sup>83</sup> Although it could refer to literal plunder, hubris often meant denying somebody a privilege they deserved.<sup>84</sup> Most important for Aristotle was the state of mind: “The cause of pleasure to those who give insult is that they think they themselves become more superior by ill-treating others. That is why the young and the rich are given to insults; for by insulting they think they are superior.”<sup>85</sup>

Aristotle goes on to say that this wrongful personal gain through hubris is tied to a certain emotional disposition that does harm throughout the community.<sup>86</sup> If Aristotle's condemnation is a bit broad, it should be remembered that this same sort of critique is evident in contemporary hate crime laws. Chief Justice Rehnquist stated, in a unanimous decision upholding state hate crime legislation, “bias-motivated crimes are more likely to provoke retaliatory crimes, inflict distinct emotional harms on their victims, and incite community unrest.”<sup>87</sup> The

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81. ARISTOTLE, *NICOMACHEAN ETHICS* 6 (Robert Williams trans., Longmans, Green & Co. 3d ed. 1879) (c. 384 B.C.E.).

82. Douglas M. MacDowell, *Hybris in Athens*, 23 *GREECE & ROME* 14, 24 (1976).

83. *Id.* at 24–29.

84. *Id.* at 19.

85. ARISTOTLE, *ON RHETORIC: A THEORY OF CIVIC DISCOURSE* 126 (George A. Kennedy trans., Oxford University Press, 1991).

86. *Id.* at 126–28.

87. *Wisconsin v. Mitchell*, 508 U.S. 476, 488 (1993) (upholding a Wisconsin hate-crime statute that provided enhanced penalties for crimes motivated by

difficulty of proving motive made the charge rare in Athenian courts as well.<sup>88</sup> In fact, there is no extant record of a single case. Significantly, the legal case of hubris was not a private *dike* but a *graphe*—an offense against the entire community for which any citizen could prosecute.<sup>89</sup> If the accused was found guilty, he paid the penalty to the state rather than to the accuser.<sup>90</sup>

Although we cannot prosecute for hate crimes on protected political speech, even when it verges on abusive, we ought to keep in mind as citizens the dangerous tendency of such speech to damage communities and abuse personal integrity. We ought to judge more acutely with our votes and our political capital. Athenians were especially concerned with the shame or *aidōs* caused by dishonorable actions, and in order to correct the deficit of honor caused by hubris, they would support one another as friends whose honor would transfer to their maligned colleagues.<sup>91</sup> Because hubris affected the entire political community, not just a single person, it was a shared duty to respond.<sup>92</sup> Through supporting speech and gestures, citizens should ideally rush to aid a victim of another's hubris.

If performed correctly, a working notion of honor would lead not to radical individualism and violence, but instead toward such communal defense and solidarity. This is the sort of honor seen in small Southern towns when neighbors come to the defense of other neighbors. In such communities, like my hometown of Saint Matthews, political speech is often more civil because residents are caught up in a web of respect and honor—to shame one person is to shame their family, their church, or their school. The economy logic of honor, as a scarce resource and emotional practice, could make societies work without institutional oversight.<sup>93</sup> As Aristotle explained in *Nicomachean*

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racial animus).

88. See MacDowell, *supra* note 82, at 29.

89. *Id.*

90. *Id.*

91. DOUGLAS L. CAIRNS, *AIDOS: THE PSYCHOLOGY AND ETHICS OF HONOUR AND SHAME IN ANCIENT GREEK LITERATURE* 13–14 (Clarendon Press 1993).

92. MacDowell, *supra* note 82, at 29.

93. PIERRE BOURDIEU, *OUTLINE OF A THEORY OF PRACTICE* 15 (1977); see also PIERRE BOURDIEU, *THE LOGIC OF PRACTICE* 110 (1990).

*Ethics*, “everything must have a price, for in that way there will always be exchange, and then there will be community.”<sup>94</sup> The motive to achieve honor, understood as a scarce resource, was a chief factor in the stability of the first democratic government. We would do well to foster a reason-giving community of support and judgment, especially in a time when people increasingly feel isolated, spouting off seemingly-anonymous speech without taking care of a neighbor’s legitimate reply.

## V. CONCLUSION

At his inaugural address at Furman University, university President Rodney Alan Smolla encouraged a national movement for civility to begin anew.<sup>95</sup> As a liberal arts institution based in rigorous search for truth, it seemed a logical place to begin. I add an additional reason to begin in South Carolina: as one of the worst culprits of incivility, across historical moments, the state ought to take a leading role in redemption. Honor is a virtue and an emotion that will not disappear as long as power, personal integrity, and community judgment are involved in politics. Rather than pretending honor does not exist as a political motive, we would do well to harness it for positive uses.

Research even supports the notion that honor has not disappeared in the U.S. South. In a famous book and study at the University of Michigan, Richard E. Nisbett and Dov Cohen argued that regional differences still exist in matters of honor.<sup>96</sup> “Bumped” in the hallway on a way to the testing, Southern male students showed higher levels of anxiety and testosterone than their Northern peers.<sup>97</sup> Nisbett and Cohen believed this display and defense of honor led all the way back to the herders of

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94. ARISTOTLE, NICOMACHEAN ETHICS, 1133b15-17 (Robert Williams trans. Longmans, Green, and Co. 1879)

95. Rodney Alan Smolla, President, Inauguration Address at Furman University (Oct. 22, 2010), *available at* <http://www.furman.edu/inauguration/speech.htm>.

96. RICHARD E. NISBETT & DOV COHEN, CULTURE OF HONOR: THE PSYCHOLOGY OF VIOLENCE IN THE SOUTH (1996).

97. *Id.* at 46–48.

Scotch-Irish, whose descendants populated the South.<sup>98</sup> But it seems that we need not go so far back in the gene pool. Southerners still have political models and cultural legacies from an era of slave-owner duels and honor codes, of states' rights advocates and Romantic orators.

There is of course a deadly negative aspect to this Southern honor—a young Citadel cadet fired on the *Star of the West* to begin the American Civil War.<sup>99</sup> Impetuously and arrogantly, hubris often clouds judgment and becomes confused with honor in a society that prizes individual liberty over community achievement and full equality. However, if calibrated towards higher ends, it seems that community honor might be worth defending as a basis for responsibility and integrity. Empathy and moderation will never completely tell the story of Western politics, although President Obama is right to encourage them.

Instead, leaders will always need to show strength, vision, and commitment that come embodied in charismatic individuals. Titles, handshakes, eulogies, and endorsements, when meaningful and sincere, ought to be the basis for a non-discriminatory community of honor. A few citizens will always test the margins of the most heinous political speech. But, a sense of judgment, empathy, and honor would redirect the general citizenry toward the common good and common decency. There are times for raucous and loud dissent, but by losing discernment and a communal form of honor, citizens slip precipitously toward a loss of basic civic trust.

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98. *Id.* at 7–9.

99. 1 MEN & MASCULINITIES: A SOCIAL, CULTURAL, AND HISTORICAL ENCYCLOPEDIA 149 (Michael Kimmel & Amy Aronson eds., 2004).