

# VITAL SPEECHES *of the day*

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## THE INSTITUTIONS OF LIBERTY AND LIBERAL DEMOCRACY: WHAT IS OLD MUST BE NEW AGAIN

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Thank you Barbara. When you say such flattering things about me, the temptation is to say thank you and return to my seat. It was an introduction that my father would have been proud to hear and my mother would have believed.

The venue is spectacular. Thank you to our warm-hearted hosts.

The companionship is superb. And the proceedings during the meetings have been an intellectual feast.

Classical liberals of every stripe have gathered to share information, build human capital, and to learn how to create and maintain the institutions of liberty.

However, tonight I come with a

warning. Political institutions are breaking down and some of our erstwhile allies are turning a blind eye to natural rights.

Let's take those in turn.

Many of the most recognizable transnational institutions of the past 80 years are under tremendous stress. Brexit is reshaping the European

Union. Cracks are emerging in the free trade consensus sustained by the World Trade Organization. The United Nations Security Council is increasingly ineffectual. NATO is both expanding and still searching for its 21st Century role.

Some of these institutions won't survive in any recognizable form. Some will adapt, but not necessarily improve. And we know that still other new institutions will emerge.

For example, I see opportunity in the combination of Brexit and NATO. The UK could lead the creation of a free trade zone stretching from Scandinavia, across the British Isles, Iceland, Greenland and inclusive of Canada and the United States. We could call it the North Atlantic Trade Organization.

We wouldn't even need to change the acronym.

Most politicians understand that 20th Century institutions are not necessarily suited to fostering prosperity today. However, they don't know what to do about it and so they cling to the familiar. Which brings us to our role as think tank leaders, academics, and philanthropists.

From the Dutch elections to America trying to accommodate itself to President Trump to the current elections in France, new populist fervor is real. It is powerful. And it is aided by global forces as diverse as YouTube, population shifts, and aging workforces.

I won't try to speak for developments in all of our countries, but I speak to you all as classical liberals, leaders, and people of influence. We all need to be wary of the inflamed passions of the majority.

What does this mean for those of us who gather here tonight?

We are at the crossroads of classical liberalism and liberal democracies. The classical liberal tradition calls for respecting the liberty of individuals and of conscience, the freedom to trade goods and services, and even the mobility of people.

Yet, all around us is a focus on the

demos—the populist elements of our governing institutions. Each time I turn around, I'm asked about Trump and his rallies, the Trump administration, Trump foreign policy, and Trump's relationship to our Congress. It is typically about his popular standing rather than the wisdom of his policy proposals.

In America we have recently come through a national election where clearly the two most animated forces were the socialist Bernie Sanders, who ignited the passions of the Left, and Donald Trump, a man who claimed the mantle of the Right without any conservative credentials. One went back to the U. S. Senate while the other is in the White House.

Both campaigned as populists and without clear, practical governing philosophies. Both made strong indictments against elite political leaders and institutions. However, neither of these populist candidates showed concern for the real-world consequences of their policy pronouncements. Critically, neither appealed in any way to the natural law principles that are the foundation of liberty.

And, their success has spawned legions of know-nothing copycats and acolytes.

I submit that what makes us alike are our natural rights. What holds us together, in this room as allies and in our respective nations, as we move into a wave of 21st Century populism, are the institutions of liberty.

Populism places too much emphasis on democracy without the leavening agents of classical liberalism. It is dangerous because it elevates a process, namely majoritarianism, above what we know to be the just goals of government—to secure the natural rights of all, among them life, liberty, property, and the pursuit of happiness.

The Brexit vote is a valuable example of how a populist movement can successfully incorporate respect for natural rights. Voters rejected rule by bureaucratic fiat from Brussels and did so with one eye keenly focused on sovereignty and through adherence to the

rule of law. Our British cousins did the right thing, the right way.

Pure populists by contrast, elevate the process itself. The logical extension of this philosophy would be continuous popular votes on every new law and policy. This would be wholly compatible with Leftists of all stripes and would deny the rights to individuals in favor of authority granted to groups. It is an outlook that calls for fast, oftentimes radical, reform of society.

Some 230 years ago, America's founders had a deep knowledge of both liberalism and democracies. James Madison studied the democracies of the past—notably, failed democracies—in Athens and Rome. He looked closely at the features of confederated leagues like the city-states of Italy and the legal structures for the semi-autonomous cantons of Switzerland.

But his greatest insight didn't come from the focus on democracies. It came from the intellectual heritage of the Enlightenment. Among others, Madison learned from the Scottish philosopher David Hume that representation in our governing institutions can refine the popular will. A dose of republicanism, cools the tempers of the most impassioned.

Madison was adamant that only men of character and virtue should serve as governing representatives. To use Hume's phrase, "refinement of the popular will" would best lead to protection of the rights of minorities, application of the law without prejudice, and pursuit of national instead of local concerns by the federal government. He also knew, in perhaps his most famous turn of phrase, if men were angels we would need no government.

I've seen many people in government and have not seen any angels. Therefore, governing institutions must both be limited, and limit the authority of any one faction.

Many of my friends look at the support for our new president and say, "This is what people want. It must be good." These friends see every

pronouncement, every Tweet, every breach of protocol, as a nail and popular will reflected through Trump is their hammer. We can do better than that.

I'd like to remind everyone of Madison's wry observation in *Federalist No. 55*.

"If every Athenian citizen had been a Socrates, every Athenian assembly would still have been a mob."

Large popular mandates are nice as far as they go. They are oftentimes necessary to effect big changes—and we have a lot of big changes in mind—but they are insufficient.

The question is not whether our government will be controlled by an elite group or by the democratic masses. The people holding political authority will always, by definition, constitute an elite. The question is whether our future governing elites will respect and defend our rights or sweep them aside.

Tonight I've asserted that many familiar 20th Century institutions are coming undone. They will be remade or they will be replaced. I've warned explicitly against too much faith in populism that is divorced from our shared principles.

But lest there be any confusion, popular support, in and of itself, is not a bad thing.

In our state of California, popular support for a ballot initiative called Proposition 13 was a remarkably durable and powerful catalyst for America's modern tax reform movement. In American politics, in the past three decades, there has been no more potent populist force against the dead hand of regulatory failure than the school choice movement. The result has been a stunning set of successes, giving parents more control over how their children are educated and offering students alternatives to failing school systems.

But while nearly always necessary, popular support must not become an end in itself. It makes possible the higher order goods associated with the natural rights that we know are grounded in liberty—the link between our classical liberalism and liberal democracies the world over.

At the Competitive Enterprise Institute, our work is focused on regulatory power, perhaps the area of law most allergic to popular will.

America faces a fundamental question for economic regulation. Will we adopt an increasingly technocratic regime and move toward the full embrace of the precautionary principle?

Not on my watch. Not while CEI exists.

Moreover, a reasoned interpretation of the Trump phenomena parallels what we saw with Brexit. Voters understand that we cannot continue to embrace the agendas of Barack Obama and Hillary Clinton. Policies that stagnate wages, put high quality jobs out of reach, and extinguish the flame of entrepreneurship have become intolerable.

Americans are fed up. They wanted to break the cycle, change the path of more government control in their lives. I'm not convinced they know what they want next. I'm sure that most have not thought thoroughly about how to support the institutions that will safeguard their liberty. But they do have the wisdom to see a need for change.

Our job now is to inject a healthy dose of local knowledge and common sense into an ailing system poisoned by politically fashionable "expert opinion" and unaccountable bureaucrats.

We know that law is a tool of economic dynamism. It sets familiar boundaries for contract, fraud, property, and trespass, maximizing

opportunity within a common framework.

Regulation, by contrast, is a tool for control. It permits behavior and creates monitoring systems for enforcement. It minimizes perceived risk and increases the investment necessary to comply with expert, technical codes.

U.S. voters elected the candidate who was not an expert in government, but who had promised to break the cycle of ever-more government control. He frequently and flagrantly demonstrates his disregard for political precedent.

What we are getting is exactly what was advertised. President Trump does not appear to fully understand the machinery of our national government nor appreciate that the only way to advance an agenda is to devolve authority to a wide array of trusted leaders.

We must recognize that he will not build the institutions of liberty that will sustain my children, and if God willing, my grandchildren. He may advertise himself as a real estate developer and a builder, but I see a man more adept at channeling the id of populist sentiment. He is a marketer of ideas but only of the ideas that generate the biggest crowds, the most Twitter followers, and the highest television ratings.

Like you, I have a different standard of success.

I want to see a society where people are in charge of decisions about their own lives. A tolerant society. A society based on laws rather than on men. It means, simply, that I'm with you. I lead a think tank and our role is to promote the institutions of liberty, now and always, the new and emergent, as well as the old.

Thank you, and good evening.  
Hvala.