

## Walter Lippmann: The Prophet of Liberalism and the Road not Taken\*

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### Abstract

This article shows how in *The Good Society* Walter Lippmann argues that the very idea of a liberalism worth having is a spiritual project: it involves a spiritual transformation over extended historical time even if the true destination is unknown or uncertain. Along the way, I argue that Lippmann is also acutely aware of the dangers of theorizing that merely affirms an imperfect (or worse) status quo. He is, thus, attractive for those who wish to revive liberalism. In addition, Lippmann's sensitivity to the role of power and technological change generates a potentially important philosophy of law. This article sketches his understanding of a liberalism that embraces a "spirit of adaptation" without too much deference to a status quo. The second part shows that despite his sensitivity to the risks of demagogues in politics, Lippmann did not turn away from democratic politics. In particular, he has an attractive conception of the vital nature of a pluralist politics inherent to liberalism. Along the way the key limitation of Lippmann's political philosophy is diagnosed: his depoliticized, juridical conception of political representation and legislation.

*JEL Codes: B12, B31, D72, P14, P16*

### 1. Introduction

With the benefit of hindsight, there are two obvious shortcomings in 20<sup>th</sup> century liberal thought broadly conceived.<sup>1</sup> First, a key feature of 20<sup>th</sup> century post-war liberal thought, associated both with the Mont Pèlerin Society and with Rawls (1971), is what one may call a "technocratic conception of science and politics." In it science and politics aim at generating consensus and through scientific progress helps to eliminate disagreement, and which, simultaneously, tends to presuppose, at key junctures,

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<sup>1</sup> See also Goodwin (2014, 238–239).

considerable value unanimity (Schliesser 2015; Blattberg 2019).<sup>2</sup> What is notably absent from this conception is the role of power in politics and, in particular, a thick description of politics.<sup>3</sup> Two reasons to be concerned about this is that it leaves liberal thinkers with few resources to reflect on the possibility of theorizing how scientific truth may reinforce an unjust status quo,<sup>4</sup> or how liberal ideas can be promoted in political life and expected to have uptake in liberal fashion (Stigler 1971a, to be discussed below).

Second, liberal thinkers increasingly left the spiritual needs and commitments of people to the private sphere, opting for a neutral state and public reason.<sup>5</sup> This may not be a problem when liberalism could piggyback on protestant commitments,<sup>6</sup> but it becomes more problematic when it must appeal to people's hearts in competition with political outlooks grounded in religious and metaphysical commitments, including race and nation.<sup>7</sup>

By contrast, in this article I show, first, how in *The Good Society*, Lippmann argues that the very idea of a liberalism worth having is itself a spiritual project: it involves a spiritual transformation over extended historical time even if the true destination is unknown or uncertain. Along the way, I show that Lippmann is also acutely aware of the dangers of theorizing that merely affirms an imperfect (or worse) status quo. He is, thus, attractive for those who wish to revive liberalism while facing a new crisis today. In addition, Lippmann's sensitivity to the role of power and technological change generates a potentially important philosophy of law. I sketch his understanding of a liberalism that embraces a "spirit of adaptation" without too much deference to a status quo.

In the second part of the article, I show that despite his sensitivity to the risks of demagogues in politics, Lippmann did not turn away from democratic politics. In particular, he has an attractive conception of the vital nature of a pluralist politics inherent to liberalism. I also present the key limitation of Lippmann's political philosophy: his depoliticized, juridical conception of political representation and legislation.

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<sup>2</sup> The Chicago economist Henry Simons thought that the consensus of expert opinion made possible guidance by experts of collective action. This feature is emphasized by Aaron Director in "Prefatory Note" (Simons 1948, v); and Stigler (1974, 2). Director and Stigler allude to Simons' "Hansen on Fiscal Policy" republished in Simons (1948). For the significance of Simons to Lippmann (Goodwin 2014, 244).

<sup>3</sup> For fuller details, see Mouffe (2005). For a recent sophisticated argument that traces the absence of power politics in 20<sup>th</sup> century (classical) liberal political philosophy, see Levy (2019) and Blattberg (2019).

<sup>4</sup> This is also true for analytical Marxists. For details of the argument, see Schliesser (2018). For a more general argument of the phenomenon, see Dotson (2018).

<sup>5</sup> For a critical discussion of Rawls and Charles Larmore, see Mouffe (1994).

<sup>6</sup> See the discussion inspired by Waldron (2002).

<sup>7</sup> In practice it prevents certain utterances as counting toward public reason (Rawls 1997).

## 2. Lippmann's Philosophical Prophecy

From the very first pages *The Good Society* situates itself in an urgent and simultaneous rejection of both a “complacent” defense of the status quo as well as of the leading alternative political programs which purport to have an answer to a generation-long period of “one great crisis after another” (Lippmann 1937, x). Lippmann affirms the reality of the crises. What makes Lippmann worth returning is that in the midst of crisis, he keeps – and now I quote out of context the authority of an informed critic, John Dewey – his (earlier) “faith” in a “reasonable conception of democracy”<sup>8</sup> (Dewey 1925, 52–54).

Faith is a useful category because the way Lippmann understands his liberal project, and explains it to the participants of the 1938 Colloque Walter Lippmann (CWL) in Paris devoted to discussing his book, has many similarities to what one might call religion: “it is a long-term task that requires sustained efforts, sustained support,” Lippmann said, “and the noble patience of those who sincerely and humbly seek the truth. Before it is achieved, humanity will go through, I believe, a very profound and vast religious experience: it will have to evaluate science and its relationship to philosophy and morality anew, it will have to revise the idea of the State, of property, of individual rights and the national ideal” (Reinhoudt and Audier 2018, 105). At stake in his “it” is a kind of intellectual salvation: the discovery of, “the ideas that permit the momentum [*élan*] toward freedom and civilization to triumph over all the obstacles resulting from human nature, historical circumstances, the conditions of life on this earth.” (*ibid.*, 105).

To avoid confusion about what I am claiming. Lippmann is committed to four claims: first, unlike collectivism (Lippmann 1937, 382–389), which only permits religion if it can be used to its own political ends, (i) liberalism defends true freedom of religion, and (ii) is able to reconcile the demands of religion and individual freedom (*ibid.*, 312).<sup>9</sup>

Second, Lippmann's very idea of a good society deviates from “state neutrality,” by advancing a moral conception of society.<sup>10</sup> This moral conception does not involve the (Platonic or republican) idea of state-craft as (individual) soul-craft, but rather the Smithian idea that a properly functioning ordered great society will have morally valuable characteristics and encourage moral behavior.<sup>11</sup> In the language of the day,

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<sup>8</sup> I return to Lippmann's analysis of democracy below. That Lippmann's fondness for expertise was not anti-democratic has been argued by Schudson (2008); see also Goodwin (2014, 231).

<sup>9</sup> I do not mean to suggest Lippmann's claims are persuasive or unproblematic. Some of Lippmann's examples draw on tropes familiar from British colonial practice in India (Lippmann 1937, 312). For criticism of such tropes, see Spivak (1988).

<sup>10</sup> The point is obliquely recognized in Amable (2010, 11).

<sup>11</sup> Lippmann understands himself as an heir to Smith, and I think correctly on this point. For details of my views (Schliesser forthcoming). Lippmann's self-consciously humanistic views

Lippmann advocates for a good society (see also Simons 1948, 1). The intended way this is achieved is, in large part, through design of incentives that make the market work more properly. For example, “it becomes necessary to make the seller liable for an untruthful presentation of his wares, to make it unlawful to sell harmful products, to stipulate that only goods of the same quality shall bear the same label, to provide the purchaser with effective means of finding out whether he is getting the best that can be had for the money [...] a liberal state cannot be neutral as between those who have too little bargaining power and those who have too much power” (Lippmann 1937, 222).

Third, as the passage quoted from his address to the CWL shows, the development of liberalism has itself characteristics that are familiar from religions or rely on known religious features.<sup>12</sup> While Max Weber is barely mentioned in *The Good Society* and during the CWL, we might say that Lippmann wished to create the *seeds* for a world-historical, intellectual revolution that would, if successful, completely reorder the self-understanding of humanity in most facets of life. Lippmann implies that to attain such a revolution, first in thought, requires the Protestant virtues (e. g. “sustained efforts, sustained support [...] noble patience of those who sincerely and humbly seek the truth.”).<sup>13</sup>

In fact, we are in the realm of philosophical prophecy, because in the narrative of *The Good Society*, Lippmann explicitly recognizes true prophets and false prophets (see e. g. the treatment of Smith and Marx (1937, 177, 237 and 381). While Lippmann also uses “prophecy” in the colloquial sense of a prediction, his contrast between true and false prophets centers on the structured ways in which possible futures can be shaped by intellectual legislators (Schliesser 2013). This aspect of Lippmann’s project goes unmentioned in the CWL discussion.<sup>14</sup>

That such prophecy is required according to Lippmann is implied by his diagnosis of the nature of the crisis. According to him all the projects that “seek to improve the lot of mankind” in response to the crisis (and have attracted considerable “allegiance”) believe “they must undo the work of their predecessors” (Lippmann 1937, x) by which

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on the moral characteristics of the great society are spelled out more in length in Lippmann (1929, chapters 12–14). In it Lippmann treats Smith as the misguided prophet of 19<sup>th</sup> century *laissez-faire*. A very good treatment of Lippmann as a political theorist is to be found in Jackson (2012), but it does not mention Lippmann (1929).

<sup>12</sup> For suggestive remarks on how ordoliberalism would have received these, see Hien (2018, 147–150).

<sup>13</sup> On the (complex) significance of Weber to the founding generation of neoliberals, see Kolev (2018). For a scholarly treatment of the relationship between Luther and the thought of Max Weber, see Harrison (2007, 59).

<sup>14</sup> In his review of *The Good Society*, Frank Knight recognizes the issue, however, by noting that Lippmann does not trust deliberation about the intellectual future of mankind to the elected legislature: “To a large extent, also, the legislature, as the fundamental thinking and deciding organ in a free society, must face general questions and formulate principles for the guidance of future change in the structure as well as the policies of government. Mr. Lippmann’s picture seems to hold hardly any place for [such] fundamental public and constitutional law” (1938, 870).

Lippmann means the attainments of liberalism.<sup>15</sup> And because Lippmann does not think all the critics of liberalism and their adherents are acting in bad faith, he – de facto – grants that the appearances strongly suggests that liberalism is to blame for the succession of crises.<sup>16</sup>

To simplify, Lippmann’s strategy in response to this is to grant the critics that 19<sup>th</sup> century self-styled liberals had made a mistake to associate liberalism fundamentally with a defense of property rights and to present these rights as somehow a-political, timeless, and absolute. He writes that “at this point that 19<sup>th</sup> century liberalism came to a dead end: where it chose to treat property and the powers of the business corporation as in effect absolute and untouchable” (Lippmann 1937, 273).<sup>17</sup>

Lippmann understands the mistake not in political or rhetorical terms, but in conceptual and ontological terms: “the rights of property have no existence outside the law: they are simply the rights which courts of law will recognize” (Lippmann 1937, 274). For when it comes to property rights, Lippmann is a certain kind of legal realist. According to Lippmann *such* rights are context dependent (*ibid.*, 275–276), often involve the play of political power, which has the possibility to create and confer rights, and the “wise reconciliation of collaborating and competing interests” (*ibid.*, 280).<sup>18</sup>

In particular, what the self-styled liberals of the 19<sup>th</sup> century failed to understand on Lippmann’s account is in fact the very character of modernity subsequent to the industrial revolution. (This lack of understanding they share with many “collectivist” critics of liberalism on Lippmann’s account.) According to Lippmann, modernity is characterized by an extensive division of labor which reconstitutes the great society by ceaseless change.<sup>19</sup> This “requires not only an alteration of the economy but a re-adaptation of human nature and of usage” (*ibid.*, 168).<sup>20</sup> By making (existing) property

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<sup>15</sup> Stefan Kolev fruitfully suggested, in correspondence, that Lippmann’s embrace of what I have called “philosophic prophecy” may have emboldened the Hayek-Popper-Röpke generation 1) to start writing on normative questions (e.g. Hayek’s *Freedom and the Economic System*, which anticipates many themes of the *Road to Serfdom* and appears in a first version in 1938); and 2) to start thinking about their own utopia/anti-utopia pronouncements in the 1940s. When it comes to Hayek, this fits the general arc of argument in Jackson (2012). Neither Popper nor Röpke needed much external emboldening. But this awaits further research.

<sup>16</sup> This was, of course, more widely shared among early generation of neoliberals, see Biebricher (2019, 21–25).

<sup>17</sup> For context of Lippmann’s view in light of Franklin D. Roosevelt’s ambitions during the Great Depression, see Sunstein and Barnett (2004, 209).

<sup>18</sup> The quoted passage suggests there is a normative element (“wise”) to Lippmann’s legal philosophy which is why I use “modified realism.” One can accept Lippmann’s criticism of 19<sup>th</sup> century liberalism without endorsing his legal realism.

<sup>19</sup> Lippmann treats ancient Rome as an earlier “great society” (*ibid.*, 162 and, especially, 165).

<sup>20</sup> The eugenic implications are spelled out a bit later: “The economy of the division of labor requires, and the classical economics assumes, a population in which these eugenic and educational problems are effectively dealt with” (*ibid.*, 202). Here he is describing the classical

rights too absolute, the 19<sup>th</sup> century liberals failed to facilitate what we may call “the spirit of adaptation.”

The spirit of adaptation also involves accepting that the future is not fully predictable. This is due to the crucial role of technology in driving change characteristic of modernity: “The future technology cannot be predicted, organized, and administered, and it is therefore in the highest degree unlikely that an elaborately organized and highly centralized economy can adapt itself successfully to the intensely dynamic character of the new technology” (Lippmann 1937, 16). Technological innovation is not possible on demand.<sup>21</sup>

The failure of 19<sup>th</sup> century liberalism was, in turn, rooted in a (liberal) failure to understand the implications of Smithian “classical economics” which is not an “apologetic explanation of the existing order,” but, rather, “when properly understood, a searching criticism of that order” (*ibid.*, 201). This proper understanding involves showing “how law and public policy may best be adapted to this mode of production which specializes men’s work, and thereby establishes an increasingly elaborate interdependence among individuals and their communities throughout the world” (*ibid.*, 174).

That is, Lippmann applies the demand for the embrace of the spirit of adaptation not just to society, but also to liberalism itself. According to Lippmann things go wrong conceptually with Ricardo (*ibid.*, 202). “Had the liberal economists realized this implication of their own hypothesis, they would have embarked at once upon the task of exploring the legal, psychological, and social circumstances which obstructed and perverted the actual society. They would not have left the criticism and the reform of society to those who did not understand, or were determined to abolish, the new mode of production” (*ibid.*, 201). The bad fork that begun with Ricardo did not inhibit the progress of liberal ideas at first. But they created a kind of garden path which eventually caused intellectual and subsequent political stagnation: “It may be said, I believe, that between, say, 1848 and 1870 the intellectual climate of western society began to change. At some time in that period the intellectual ascendancy of the collectivist movement began. A phenomenon of this sort cannot, of course, be dated precisely, but it is fairly clear that after 1870 liberal philosophy was on the defensive in theory, and that in practice the liberals were fighting a losing rear-guard action” (*ibid.*, 46). By not embracing the spirit of adaptation the misguided liberalism of the 19<sup>th</sup> century became associated with stagnation and a defense of the status quo.<sup>22</sup> Lipp-

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economists, but on p. 226 he endorses this in his own words. Knight (1938, 866) also noticed the point. I thank David M. Levy for raising the issue with me. Lippmann could be a very informed critic of the claims of eugenicists, see Lippmann (1923). On this latter text see Allen (2011, 314–325). On the “semi-racist” element in Lippmann’s thought, see Goodwin (2014, 226–227).

<sup>21</sup> This argument, which is offered without evidence and *ex cathedra*, is distinct from his commitment to the Mises/Hayek line in the socialist calculation debate (*ibid.*, 94).

<sup>22</sup> J.S. Mill is treated by Lippmann not as the great defender of experiments in living, but as somebody who de facto recognizes this stagnation (*ibid.*, 46).

mann's attack on the late 19<sup>th</sup> century abuse of the Fourteenth amendment – intended “to protect the personal rights of the newly emancipated Negro” – by liberal minded Supreme Courts in order to protect corporate interest from democratic regulation is especially vehement (*ibid.*, 258).

The context of this attack is also important for understanding Lippmann's position on democracy. Lippmann was a critic of the Supreme Court's tendency to use its authority to restrict the influence of democratically elected legislators. This is important because unlike many of the other participants at the CWL,<sup>23</sup> he defended, as Knight notes approvingly, “the supremacy of the legislative branch, based on the representative principle, itself preserved through a wide suffrage and free campaigning and elections, and freedom of party organization” (Knight 1938, 868). While Lippmann would not defend the wisdom of any particular legislative body, he sees such regulation as a way to respond to changing circumstances and occasionally as a countervailing power against corporate interests.

What I have been calling the “spirit of adaptation” Lippmann describes as “the historic mission of liberalism” (Lippmann 1937, 174) that is, “the tradition that Adam Smith founded” (*ibid.*, 201–202). This mission guards against “status quo” bias and aids true liberals to be “intellectual leaders of” the tradition's “necessary reform” (*ibid.*, 202).<sup>24</sup> Reform is *always* necessary because of the character of modernity. For the modern division of labor to work, there must be constant adaptation to change; and one must guard against the constant temptation of trying to prevent such change.

The significance of intellectual and (a certain understanding of) political legislation come together for Lippmann in the other part of Lippmann's strategy, which is to argue that what is needed is a *recovery* of this spirit of adaptation: “the prospects of freedom depend very largely upon whether the intellectual leaders of the modern world can recover the intellectual habit of looking for a solution of social problems by the re-adjustment of private rights rather than by public administration” (Lippmann 1937, 282). The refounding of liberal politics is, then, a rejection of the temptation to rule by public administration (Steel 2017, 324). Here Lippmann anticipates the position of recent classical liberal thought (e.g. Niskanen 1994; Hamburger 2014). So, what does a refounded liberal politics amount to? This is the topic of the next section.

### 3. Toward a Liberal Account of Politics

From his time in The Inquiry and the Peace Conference in Versailles onward, Lippmann was, of course, very informed about the workings of actual politics and

<sup>23</sup> For an especially uncharitable reading see Biebricher (2019, chapter 3).

<sup>24</sup> Lippmann seems to have believed something like this from the early *Drift and Mastery* onward: “we have changed our environment more quickly than we know how to change ourselves” (1914, 92). His view of Adam Smith's significance improved, however.

what follows cannot do full justice to his views (Steel 2017, 127–171; Goodwin 2013).<sup>25</sup> Before I characterize Lippmann’s views on politics, it may be useful to distinguish among five different approaches that liberal thinkers tend to have toward politics.<sup>26</sup> These five approaches are ideal typical and, in practice, blends among them are possible. This will help characterize the distinctive nature of his approach to politics in *The Good Society*.

The first is characterized by the diagnostic use of the tools and attitudes now associated with public choice theory, but which are really co-extensive with the early history of liberalism.<sup>27</sup> (Of course, many public choice insights were known to critics of democracy and liberal ideas before liberalism was invented.) This involves the thought that the state can be captured by groups and individuals (often cloaked in scientific seeming garb) who are too partial or self-interested and know what they are doing when they influence or have power (Buchanan and Tullock 1962; Stigler 1971b). The idea is as visible in Smith’s treatment of mercantilism (too partial to capital) and of physiocracy (too partial to agricultural interests) in *The Wealth of Nations* as it is in *Unsere Aufgabe* (Biebricher and Vogelmann 2017, 27–29).

Now, sometimes liberalism is tempted by two other theories of politics both of which “black-box” politics. Second, one suggests that in politics unreason rules. One finds this attitude in some Hayekians (see e.g. Pennington 2010), but, as George Stigler notes correctly, one can find traces of it going back to Smith (even though Stigler (1971a) misreads Smith in some of his own examples).<sup>28</sup> On this view, politics is simply unpredictable and corrosive to any rational ideals (or both) – it often is accompanied by the idea to keep one’s distance from politics and reduction of state power.

Third, the other (which also black-boxes politics) implies that good normative ideas are automatically implemented by benevolent and truth-apt legislators and then executed by a rule-following/Weberian bureaucracy. This is a world without search and coordination costs for ideas and political entrepreneurs to implement them. Stigler (1971a) notes nobody would assent to holding such a theory explicitly, but a lot of policy advice assumes it in practice.<sup>29</sup>

A fourth approach is advocated by Stigler (1971a). It requires not just the diagnostic features of public choice, but also knowledge of “the political forces which

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<sup>25</sup> In what follows, I ignore the similarities in outlook between Lippmann and Keynes, who influenced Lippmann. They share in the felt need to embrace a high-minded governance elitism. For a discussion, see Goodwin (2014, 135–143). I thank Stefan Kolev for stressing this.

<sup>26</sup> See Biebricher (2019, chapter 5) for a survey of the issue in neoliberal thought. Biebricher does not engage with Lippmann.

<sup>27</sup> This was obscured a bit in the long period when utilitarianism was dominant within liberalism because it often presupposes philanthropic legislators.

<sup>28</sup> Even so, Stigler’s argument has inspired my five-fold division.

<sup>29</sup> In the closing paragraphs Buchanan (1996) treats it as a “faith” he holds. But in context it is clear he thinks ideas may well require some rhetorical assistance and good timing.

confine and direct policy.” This, too, has roots in Adam Smith’s strategy of promoting second best ameliorative reform with the grain of society (Levy 2015, 154; Schliesser 2017, 180; Schliesser forthcoming).<sup>30</sup> This requires knowledge of the sort that empirical political science, public policy, and sociology can supply. In particular, from this perspective, any policy advice must include a constituency or coalition that can promote the policy effectively (and have a grasp of the ways bureaucracies may react to them).<sup>31</sup>

Okay, let me now turn to Lippmann’s views on politics, which, while building on elements of the other approaches (especially the first and fourth), is a distinctive fifth and different liberal approach to politics. It consists of an account of what we may call the ideal structure of the political system and the way governance ought to work. On the latter, Lippmann’s approach to governance has a distinctly normative mindset (recall the “wise reconciliation of collaborating and competing interests” (1937, 280), it involves the embrace of a “particular mode of governing” (*ibid.*, 267). This normative mindset is a response to the empirical reality that democratic practice is (quite often) “corrupt, arbitrary, exacting, inefficient, parasitical, irresolute, and insensitive” (*ibid.*, 264). His response is a particular version of the rule of law: “social control by a common law which defines the reciprocal rights and duties of persons and invites them to enforce the law by proving their case in a court of law” (*ibid.*, 265–266).

It is important to recognize what this is not: it is not a defense of spontaneous order.<sup>32</sup> As we have seen, Lippmann thinks judges are quite capable of undermining the proper functioning of the law when they protect privilege from (perceived) legislative meddling. And, in particular, for Lippmann the *setting* of law is a legislative task for elected politicians (1937, 266). Lippmann is not so much defending common law (although one can find texts that would imply it), but defending “a common law.” What Lippmann means is a bit obscure, but he seems to convey that legislatures – not judges or juries – are responsible for the development of new law in light of changing circumstances. For all common law presupposes the state and the assignation of rights and duties by the legislature protected and enforced by the state in courts of law.<sup>33</sup>

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<sup>30</sup> I am grateful to one of my referees for insisting on this.

<sup>31</sup> Recent political philosophy can treat these as belonging to a certain class of feasibility constraints. Obviously, the promise is that this may increase the chances of uptake; it also makes all policy proposals much more status-quo friendly. Sometimes the concession to feasibility makes liberalism appear as a handmaiden to conservatism even if the path is honorable.

<sup>32</sup> Jackson (2012, 61) treats Lippmann’s views as akin to Hayek’s. But while they share a dislike of planning and law by executive fiat, Lippmann’s legislature is given much more freedom to set law in response to technological change and perceived social needs than Hayek would grant (although Jackson makes a strong case that Hayek was more tolerant of the “exertion of legislative power” in the 1930s and 40s than he would be later).

<sup>33</sup> Lippmann clearly seems to think that he is sidestepping the debate between state and market that has come to dominate so much of 20<sup>th</sup> century thought. I do not mean to suggest that Lippmann is unique; some ordoliberalists would have resonated with some of his views. I thank Karen Horn for discussion.

This creates a peculiar understanding of the nature of legislatures and legislators. As Knight critically puts it, Lippmann “seems to think that little or nothing is required beyond a determination to maintain the institutions and the efficacy of case law. He places the legislature in essentially the same position as the courts (pp. 285–286); that is, it also is only to adjudicate conflicts of interest, merely more general and permanent conflicts, between interest groups rather than parties in a particular case” (1938, 869–970). I do not mean to suggest this is the only criticism by Knight. Knight’s underlying criticism is correct, but he is mistaken to see Lippmann’s approach as oriented toward maintenance of the institutions and the efficacy of case law.<sup>34</sup> The Lippmannian legislator ought to be responding to change in order to facilitate the working of markets in light of equity and fairness (Lippmann 1937, 285–286), including facilitating market entry and market power of various vulnerable populations (and a willingness to subsidize various corporations (*ibid.*, 306)).

The real problem is that the Lippmannian democratic representative both represents, as Knight notes, particular enduring interests and simultaneously, and more frequently, must act impartially: “the temper of officialdom in a liberal society must be *predominantly* judicial [...] the legislators and executive as well,” (*ibid.*, 284, emphasis in original.) It is hard to see how legislators who are, of course, beholden to electorates (and subject to capture by particular interests) could act in accord with the “primary of liberal statesmanship [which] is to judge the claims of particular interests asking a revision of laws, and to endeavor amidst these conflicting claims to make equitable decisions” (*ibid.*, 284–285).<sup>35</sup> While one can imagine that an occasional president can act in such a statesmanlike manner and that some (unelected) officials (say in the executive branch) are able to maintain an *esprit de corps* that is public spirited, it seems odd to expect this generally and to assume a thoroughgoing concern with fairness from those who aim to be re-elected. Given Lippmann’s reservations about the New Deal it is also surprising.<sup>36</sup>

So, when it comes to governance Lippmann’s project shares with 20<sup>th</sup> century post second world war liberals a normative tendency to *de-politicize* political life.<sup>37</sup> But (normatively) Lippmann expects a lot more from run of the mill politicians than most other liberals. While I have some sympathy with Lippmann’s focus on public spirit, I view his approach as decidedly unpromising.

But lurking in Lippmann are a set of observations on the nature of the political structure that deserve renewed attention. These have to do with the project of in-

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<sup>34</sup> Knight, who ascribes (incorrectly in my view) to Lippmann a proto-road-to-serfdom thesis, has a general tendency to read Lippmann (plausibly) as a follower of Mises. However, others think Lippmann does anticipate Hayek. See Jackson (2012, 55).

<sup>35</sup> Lippmann is more Smithian than Stigler (1971a) would allow (see Schliesser forthcoming).

<sup>36</sup> See Goodwin (2014, chapters 4–5).

<sup>37</sup> For example, James Buchanan’s positive interpretation of politicians is without illusion. But Buchanan requires quite a bit of public spirit from constitutional legislators.

tellecual legislation I discussed earlier and that reveal what I have called the “religious” tenor of Lippmann’s liberalism. In his address to the CWL, he claims that it “is the great mission of contemporary thinkers: uncover and formulate, make explicit that which civilized men hold in common, that which men, seemingly holding such different biases and opinions, find today necessary to defend together.”

He goes on to say,

A great work of analysis of the old conflicts and the old confusions will be necessary so as to build a great synthesis in which all the permanent interests of civilized humanity will find their rightful place and rank. The world that we have known before the war is dying of its confusion and its incoherence. But in the agony that it goes through and has yet to go through, the civilized world can only seek and find a universal philosophy that, by its total humanity, will be able to maintain the tradition of civilization in spite of a totally inhuman enemy. [...] Some among you may deem all of that to be far removed from the immediate political questions confronting [us] in our time. I do not apologize for this, because I am profoundly convinced that this revision of human ideas, that this analysis and this synthesis that we will call the reconstruction of liberalism, is the necessary discipline, the indispensable experience in which the vital energies of the civilized world must unite in order to defend themselves against the danger that threatens them (Reinhoudt and Audier 2018, 108–109).

It is not much of a stretch to suggest that the doctrine of human rights became the unity that Lippmann sought for a post-war, reconstructed liberalism. By this I do not mean to suggest that the 1948 Declaration is itself indebted to Lippmann. Rather, what Lippmann discerned is that humanity, what I will call “total humanity,” would be the glue with which anti-totalitarianism – now recast as “inhuman” – came to understand itself.<sup>38</sup>

Lippmann himself recognizes the significance of human rights in *The Good Society*. While his discussion of human rights is brief, I want to note three features: first, he sees them as work in progress (that are “developed” through time). Second, for him the core feature of human rights is the right not to be treated arbitrarily by anyone else and a concurrent duty not to treat others arbitrarily (Lippmann 1937, 348). It is directed, in particular, against “arbitrary power.”<sup>39</sup> Third, he thinks that human rights express underlying “moral commitments” which support what he calls the “true law”

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<sup>38</sup> The conceptual and normative connections among “humanity,” “civilization,” and “non-factionalism” (and even “interests” albeit rightly understood) were forged, as Hanley (2011) shows, by David Hume in the 18<sup>th</sup> century. (David Hume would remain controversial for many in the “common ground” ascribed by Lippmann.) Lippmann, who is a more than competent reader of the past, quotes from Hume’s political-economic essays in *The Good Society*, so it is not impossible that Lippmann knows his source is Hume. For criticism, see Schmitt (2007 [1932], 36).

<sup>39</sup> Here Lippmann anticipates the revival of Republican ideas within a liberal framework (Pettit 1997).

(*ibid.*, 346). In the CWL lecture he captures this with the idea that what must be protected are the “essential elements of human life.”<sup>40</sup>

Of course, that to be attacked in common requires that some (reasonably interesting) principle of unity among those attacked is presupposed can reasonably be doubted. Since Rawls (2005) settled for a rather pragmatic, overlapping consensus, most liberals do doubt it. Lippmann’s hoped for “synthesis” that would absolve all political contradictions seems naive. But he points to two significant features of his epoch of liberalism, one to be regretted and one worth recovering.

First, and as noted at the start of my argument, I consider this is a somewhat tragic tendency in (mid-) 20<sup>th</sup> century liberalism – namely the idea that there must be some hunkering toward a fundamental consensus.<sup>41</sup> Lippmann here echoes, as we have seen, Simons and Lionel Robbins, with whom he corresponded in 1937 (Jackson 2012, 56–57 and accompanying notes). That hankering was, while understandable, a technocratic mistake (which supplied Isaiah Berlin with one of his overarching critical themes). But in Lippmann it is expressed with a conflicting and more interesting impulse.

Second, and more importantly, Lippmann recognizes that from a certain vantage point ordinary, rather vehement partisan political opposites within a working (for lack of a better word) system may well share something in common against those that wish to blow up that political system.<sup>42</sup> The interesting point here is not when they understand that their foes are antagonists (losing to whom is painful but not disastrous) rather than “inhuman enemies” (losing to whom is a disaster). But rather the insight that the antagonists may well in an important sense be dependent on each other (Sabl 2019).

In context, Lippmann is not thinking of any particular party-system, but rather the whole class of antagonisms characteristic of 19<sup>th</sup> century European and American political lives. This mutual dependence of competing antagonists is, for Lippmann, both practical – at the level of functioning and surviving – and spiritual. (It is no coincidence that Lippmann’s language echoes Hegel at times.) For Lippmann liberalism is itself a multi-generational, open-ended spiritual project that aims to be transformative of the human condition (and this is where some of his eugenic sensibilities also enter in). While for Lippmann the content of the ideal is itself left open, it does, and this makes it partially utopian, require conditions under which war is largely banished.

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<sup>40</sup> Presumably the articulation and enforcement of human rights are liable to the same dangers as practices instantiated by misguided 19<sup>th</sup> century liberal jurisprudence. It is unclear how Lippmann can avoid this.

<sup>41</sup> Biebricher (2019, 80–94) treats the issue in terms of a widespread neoliberal rejection of “pluralism.” The terminology is misleading, but he does point to a real phenomenon.

<sup>42</sup> Here he anticipates ideas – agonistic pluralism – that are now associated with Isaiah Berlin and Chantal Mouffe (Gray 1995; Mouffe 1999; Riley 2001).

That is to say, in the moment of its possible defeat, Lippmann's liberal vision grasps that for a non-totalizing liberalism to survive and thrive it may well require a political structure in which illiberal parties and commitments are present both to maintain liberalism's own vitality and thereby the vitality of the whole. Liberalism then simultaneously comes to endorse its own fundamental commitments and a commitment to a kind of *unreasonable* pluralism. It is this affirmation that was increasingly forgotten in the apparent victory of the 20<sup>th</sup> century.

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