

## The State of the American Idea

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**[00:00:03.2] Jeffrey Rosen:** Hello, friends. I'm Jeffrey Rosen, President and CEO of the National Constitution Center, and welcome to We the People, the weekly show of constitutional debate. The National Constitution Center is a nonpartisan nonprofit chartered by Congress to increase awareness and understanding of the Constitution among the American people. In this episode of We the People, I am delighted to share a great dinner conversation about the American idea with Charles Cooke of the National Review, Melody Barnes of the University of Virginia, and Sean Wilentz of Princeton University. We discuss the core principles of the American idea, liberty, equality, democracy, and federalism, and explore the ways they've been contested and embraced throughout American history. Enjoy the conversation. Let's begin our conversation in a spirit of openness and learning, a willingness to listen to perspectives we may disagree with, the possibility of changing our minds, but always a commitment to opening our minds, which requires learning and deliberation and growth. It's especially meaningful to talk with this group of special friends about the American idea, because the American idea is under siege.

**[00:01:20.5] Jeffrey Rosen:** On the left and the right, extremists are questioning the basic ideals of the Declaration and the Constitution embodied in ideals like liberty, equality, democracy, federalism, separation of powers, the rule of law, and there are some who wonder if the American experiment will succeed. And indeed we meet in a fraught time for our politics and our culture, and no one should underestimate the seriousness of the challenges that we face. But the National Constitution Center is built on a radical premise, namely a premise of faith in the American idea, and a faith that with deliberation and discussion, and a commitment to the shared framework for discussion that the Constitution creates the vital center of America will continue to embrace the basic principles of liberty, equality, and democracy, and will ensure the survival of our republic. It is, in any event, an experiment, as our founders reminded us, and the experiment includes a commitment to the conversations we're about to have. There's no better way to start this conversation than with three of the greatest scholars and thinkers of the American idea. Please join me in welcoming Charles Cooke from the National Review, Melody Barnes from UVA, and Sean Wilentz of Princeton.

**[00:02:52.6] Jeffrey Rosen:** It is really meaningful to talk about the three ideals of the Declaration, and I said that we would begin with liberty, equality, and democracy with these three scholars. As it happens, they have written about them definitively from a historical perspective, and have invited us to look at the way that our understandings of liberty, equality, and democracy have changed over time, and will help us set the terms of the debate. So we'll just jump right in with the world expert on the age of Jackson, Sean's award-winning book on the

evolution of democracy in the Jacksonian era. We'll start with democracy and ask Sean what was democracy for Thomas Jefferson, and how did it evolve between Jefferson and Lincoln in a way that makes you say that Jefferson and Lincoln were the two greatest avatars of democracy in the 19th century?

**[00:03:45.4] Sean Wilentz:** Wow, you have read my book.

**[00:03:46.0] Jeffrey Rosen:** Well, I read the preface anyway.

**[00:03:51.1] Sean Wilentz:** I tried to put it all in there though.

**[00:03:52.7] Jeffrey Rosen:** Yes, absolutely.

**[00:03:56.3] Sean Wilentz:** Well, first of all, you used a phrase in introducing us that is really important, which is the vital center. It's a phrase of Arthur Schlesinger Jr. And it referred to in the 1940s, the politics in the 1940s, the distinction between those who were in the middle fighting like mad, a vital center, not a dead center, but that there was something outside that that we had to prevent from taking over. Then it was fascism and communism. That was what he was talking about. And I think that within America, with democracy, any of the things we're talking about, that vital center is crucial, that vital center is crucial. When it broke down, the one time it's broken down until now, we had a civil war. There was no vital center then. But with regard to democracy, actually all of the things you mentioned, I like to think of this from the beginning as something that's contested, that we didn't have any one thing. Jefferson was perfectly fine. He did write the Declaration. Very, very good, but there were lots of people who had a very different idea of what all of the Declaration was about. And I think that in American history, if you want to understand American history, you have to understand it from the very beginning as a history of conflict rather than consensus.

**[00:05:14.5] Sean Wilentz:** We are very disagreeable people. We disagree with each other about lots of different things. What holds us together, however, is this idea of the vital center, that we will not take up arms against the government, for example. The one time they did, we saw what happened, but within that, there's a constant evolution. Evolution doesn't just happen magically, mystically, abstractly. It happens because people disagree and sometimes one idea moves further out. We've seen swings in American history around democracy in particular, but that's because of conflict, that's because of struggle, and I think that that's something we have to establish at the start in understanding any of these things.

**[00:06:00.2] Jeffrey Rosen:** Crucial insight right up front that the goal is not consensus, but productive conflict.

**[00:06:08.0] Sean Wilentz:** Correct.

**[00:06:08.6] Jeffrey Rosen:** In ways so that it's made for people who fundamentally disagree as Justice Holmes said, but always united about the meaning of those ideals themselves, which provide the touchstone for the vital center to structure their productive conflict.

**[00:06:19.7] Sean Wilentz:** That's right.

**[00:06:21.9] Jeffrey Rosen:** Melody Barnes, in the inspiring mission statement of the Carr Center, you talk about Jefferson's commitment to democracy and the Carr Center's commitment to democracy. Tell us how you define democracy and how you think it's evolved over time.

**[00:06:36.1] Melody Barnes:** Well, first of all, it's wonderful to be here. And when I think about democracy, I wanna pick up on something that Sean was talking about. There's the big idea, the big 18th century idea of self-government. And what's interesting, and I think ties directly to what you were just saying, Sean, is the contestation and the expansion that took place over the next 150 plus years till we get to this late 20th century idea. In fact, the bigger idea, I think, of self-government as a multi-ethnic, multi-racial democracy and that is actually a relatively new idea. I will tag myself. I turned 60 in April and when I was born, those ideas legislatively were just beginning to take hold. 64 Act, 65 Act, built on the 13th, 14th, 15th Amendment. The ideas that you were talking about, equality, liberty, freedom, we've talked about separation of powers, all of those are fundamental ideas that allow for democratic institutions and democratic practices to allow us to shape this idea of self-government, allow us to move forward productively, allow us to protect the rights of the minority, allow us to move forward with the goals that have been established by the majority, allow for the expanding participation of all people.

**[00:08:11.5] Melody Barnes:** And at the same time, if we don't focus on how those values and how those ideas are actually shaping democratic culture, those institutions and those practices that allow for self-government are on paper. They are not real, and I think that is one of the big questions and challenges for us today. What does our democratic culture look like and just how healthy is it based on those values that you've articulated?

**[00:08:42.9] Jeffrey Rosen:** Such a crucial reminder of the evolution of democracy to embrace those previously left out. As you said, it became increasingly multi-ethnic and multi-racial. You have written about how for Jefferson it was democracy for poor white men and it took the civil war and the civil rights movement to extend it to previously excluded groups. And still always the struggle to ensure that the institutions live up to those ideals is ongoing. Crucial. Charlie Cooke, there's so many angles that you could take this from and you've written so powerfully about immigrants and democracy. I'm also interested as a conservative. You've written about the debate between are we a republic or a democracy? It was a debate that Hamilton and Jefferson famously had. The constitution makers, as the historian Hofstadter famously said, feared democracy. The whole constitution is set up to avoid mobs and direct expressions of populist will. Are we a republic or a democracy and how has that understanding evolved over time?

**[00:09:49.0] Charles Cooke:** Well, we're both and finding the balance can be difficult. What I think is one of the most important questions at the moment is at what point are the conflicts, the contests that were described resolved? There's two ways of dealing with that sort of conflict and goodness knows we have a lot of it in America at the moment. One way of dealing with it is you nationalize every question and you see who can get more votes and the people who lose lose and they're pushed along by the law. And another way of dealing with it is you fracture power. You fracture democracy into different groups and I think we've stopped taking advantage of that part of the American system in the way that we should have and I think one of the reasons everyone

is so angry with one another is because of that. Now this is to your point about democracy and republicanism, there is a balance there. There are certain things that should not be locally decided. Civil rights is one of them, the Bill of Rights is another, but most of the questions that we argue about can be without really impinging on the American ideal, transportation policy, education, health, taxes, and so on. And I think that the map for American renewal does not actually lie in who wins the next presidential election.

**[00:11:28.9] Charles Cooke:** Much as both sides keep telling us it's the only election that will matter, the most important election we've ever had, potentially the end of the country and what you will, I think that the restoration of America lies in a return to a system in which we agree more readily to live and let live, and I think we have that already within our constitutional order. So I agree 100% that the soul of the American system is conflict, the contestation of ideas, ambition, free speech, differences. But I think the best way you deal with that in a country that really is profoundly divided as America is is to lower the stakes of your national politics and this is the thing that alarms me the most. This is the last point I'll make here. This is the thing that alarms me the most at the moment, is the number of people, and I have friends who are Democrats and friends who are Republicans, who really do seem to believe that if the other team wins next time around, that's it.

**[00:12:28.1] Charles Cooke:** And we should be taking advantage of the fact that Massachusetts and Florida are both really good places to live, depending on your political view and they can be good places to live without really affecting each other. They're both good models. Which one is better is a matter of taste. So I think to me that's an important function of our system that's been ignored, and one reason why we're so cross with one another about everything.

**[00:12:56.1] Jeffrey Rosen:** So thank you for centrally putting on the table a value not from the Declaration, but the Constitution, and that is federalism. And as you note, the initial constitutional debate between Hamilton and Jefferson was national power versus states' rights. Not only republicanism, which is a limited franchise and ruled by elites against democracy, which is ruled by the people, but Jefferson wants, as you said, democracy at the lowest possible level, local democracy. And the historian, Herbert Crowley, argued that all subsequent debates in our constitutional history have rehearsed that Hamilton-Jefferson battle over states' rights versus national. And Sean, in the 19th century, of course, it was the central division over how to end slavery, was whether or not the Missouri Compromise was unconstitutional to expand federal power after reconstruction, and then our debates about the Progressive Era, the New Deal, and the backlash of the Reagan era with the new federalism. So federalism as a value, I just gave a rough historical evolution. How would you describe the evolution of the debate over federalism throughout American history? You can do it. We've got 35 minutes left.

**[00:14:12.0] Sean Wilentz:** I'll do the oral exam again.

**[00:14:15.2] Jeffrey Rosen:** Absolutely.

**[00:14:15.6] Sean Wilentz:** Yes, Professor.

**[00:14:16.0] Jeffrey Rosen:** Extra credit.

**[00:14:17.3] Sean Wilentz:** I'll do what I can. We should move from abstractions to concrete. I mean, the point about federalism in the decades before the American civil war, states rights and so forth, became attached to a very specific thing. That wasn't the case when the Virginia and Kentucky Resolutions, for example, were passed in 1798. That was Thomas Jefferson and James Madison trying very, very hard to keep the federalists from running amok with their Alienist Addition Acts and so forth. Actually, they were almost nullifiers. They came very close, but the issue was not an abstraction. The abstraction continues, but the issues change. And so by the time you get to the 1830s, when you have real nullification, and by the time you get to the 1850s, when you have secession, well, then slavery is the issue. Slavery becomes the issue. So we can't divorce our sense of what these concepts are from how they're adhering in particular ways at particular times. I think it's crucial to do that. And again, I think we'd all agree, in terms of civil rights, civil rights has always had to be a national issue. You cannot leave it up to the localities, because then little local oligarchies are gonna run everything.

**[00:15:32.3] Sean Wilentz:** And that's going to include the subjugation of black people. So it always had to be national. And it's for that reason, in fact, that, for example, in the 1960s, when I was coming up, much of the states' rights talk coming out of the 1940s and into the Wallace campaign was all about civil rights and race. Now, it doesn't have to be about civil rights and race. In many cases, it oughtn't to be about civil rights and race, but for some reason in American history, it's often about civil rights and race, and there are reasons for that. So when talking about the development, I would want us to at least understand that development is not happening in the abstract. I like to tell my students, for example, I'll give you a little history lesson for a second, okay? In the 1840s and '50s, there was a gigantic conflict over fugitive slaves. When fugitive slaves would run to the north, there was a fugitive slave clause in the Constitution, then there was a Fugitive Slave Act in 1793, and then there was a Fugitive Slave Act, a super act in 1850, okay?

**[00:16:40.8] Sean Wilentz:** Now, much of the time, the slaveholders had been talking about states' rights, states' rights, states' rights. To counteract those Fugitive Slave Acts, northern legislatures started passing things called personal liberty laws, in which the states would have the power to determine whether they were gonna return the slaves or not. States' rights, they said. So in a sense, it's sort of states' rights for me, but not for thee. It depends on the issue. So it's not an abstraction. I think historians ought to see the patterns at which, not just how federalism evolves, but where the issue is being located. I think that's really important.

**[00:17:23.7] Jeffrey Rosen:** Crucial point. And there's a wonderful new book which just won the Pulitzer Prize last year by Jackson Cowles about white resistance to federal power and he really traces the resistance to civil rights first before the civil war, after Reconstruction, during the civil rights era with Wallace at Pettus Bridge, to opportunistic invocations of states' rights. Melody Barnes, let's put it on the table now, let's return to our declaration values from the federalism value of the Constitution. Equality, one way to tell the story, as Sean began to tell it, is a federalism story of efforts by the north to embrace national power to end slavery, leading to the Reconstruction Amendments, a failure to enforce them, and then the second civil rights movement being resurrected. How would you tell the story of the evolution of equality in America?

**[00:18:19.0] Melody Barnes:** Well, I think about equality. I also think about one of those first big values that's articulated. Equality, you're talking declaration. One of the first big words articulated in the Constitution is justice. And I am also thinking about Charles's comment about why we are so cross with one another and I think that embodied in the value of equality and the idea of justice as we pull that through from the declaration to the Constitution, there's a sense of fairness, access to opportunity, the opportunity to participate in government, the exercise of the franchise and the expansion of that. I think that the concern that people have about the non-abstract, the real experience that they are having on the ground, is that they are not being treated fairly, that I am not being treated justly. I don't know how many of you read the book, "Strangers in Their Own Land" by Arlie Russell Hochschild, and she talks about this experience she had living for five years in a small parish in Louisiana.

**[00:19:42.5] Melody Barnes:** And those that she got to know, she was studying the rise of the Tea Party and that was the period when she was living there and the sense that people kept jumping in line in front of me. Whether it's the snail darter or the federal government complicit with the rights of others that are not me, I'm living my life by the rules and somehow I keep getting behind. And I think that that is the question. And from so many different vantage points, people feel as though they are not being treated equally, that they are not being treated justly and fairly and they don't understand how democracy is providing for that in their lives because it isn't an abstract sensibility. It is a kitchen table set of questions for people and that's also what it means just to come back to this idea of federalism.

**[00:20:39.7] Jeffrey Rosen:** While I think about my constitutional law professor who would say yes and no, Ms. Barnes, which of course is not helpful when you're about to take a test. People are at cross with one another, but I don't think that they're at home fretting about federalism. I do think we can talk about a rebalancing between I've worked at both ends of Pennsylvania Avenue between Congress and between the idea of the Imperial Presidency. I think we can talk about that. I think we can talk about the nationalization of media and what that means and how people see their own experiences. But I think ultimately what people are so cross about and so angry about is that they don't feel as though they're being treated fairly.

**[00:21:26.5] Melody Barnes:** And quite frankly, if the government were to come in and deliver answers to their challenges, keep your hands off my Medicare, they would accept and embrace that just as well as when they articulate a frustration about the role of the federal government versus the role of the states. So I think the ideals are absolutely important to understand, to debate, but at the same time, I believe we have to move beyond the abstraction to understand what people are experiencing day-to-day to understand how they are relating to this idea of democracy. And they will continue to be angry until they believe that democracy is responsive to their needs.

**[00:22:15.8] Jeffrey Rosen:** That is such a powerful linkage of the abstraction of equality in the declaration and the way people experience it with the ideal of justice and the preamble to the Constitution. And indeed, the king on the mall invokes the declaration for the promissory note, but he says, the arc of justice bends upward and that is what mobilized the civil rights movement, not the abstraction. Charlie Cooke, much to say about the evolution of equality. Just to start off

the strong debate among liberals and conservatives about equality of opportunity versus equality of result, how would you describe the evolution?

**[00:22:49.9] Charles Cooke:** So just before I get to that, I just wanna respond quickly to something you said, Melody. I don't think it is an abstraction. I agree that people probably aren't sitting around meditating on the nature of federalism.

**[00:23:00.9] Melody Barnes:** Well, maybe we are.

**[00:23:02.7] Charles Cooke:** We are. Yeah.

**[00:23:04.5] Sean Wilentz:** We do.

**[00:23:05.7] Charles Cooke:** Actually we do.

**[00:23:06.9] Sean Wilentz:** We get paid for it.

**[00:23:07.0] Charles Cooke:** But look, as someone who lives in northeast Florida, federalism is not an abstraction. I have watched over the last seven years the license plates come in. Now these are different people that would move the other way, and those people exist too, but more of them are moving into Florida than the other way around. I have watched those people come in from New York and New Jersey and Pennsylvania and Delaware and Maryland, and even California, and they live next door now and they did that because there is a difference between the states that they want to take advantage of. And I don't judge someone if they go the other way, but it's not an abstraction in that sense. That is a real thing that people are doing because they have a particular set of preferences that they believe will be better met by the democracies. Florida is no less democratic than Delaware, the democracies in a state other than the one in which they live.

**[00:24:02.8] Charles Cooke:** So I think that is a very powerful thing, and it's a way of alleviating some of people's differences with one another without having to go up to the national level and scream on the quad angle, if Donald Trump is elected or in 2020, try and overthrow the election, both of which are a manifestation of the same fear and both of which are sad in a country that is committed to individual liberty. On the question of equality, my main concern here is that the United States does not abandon its belief in the promises and this will sound abstract, I concede. In the promises of the declaration, which are extraordinary, and I say that very obviously as an immigrant, the criticisms of America's assets have existed, are absolutely warranted. Right from the beginning, the United States in almost every place, perhaps every place did not live up to the Declaration of Independence.

**[00:25:14.6] Charles Cooke:** We had slavery and Jim Crow and redlining, and we still have problems, but that north star that is included in that document is magical and unique. And it's not an accident that it was invoked by Frederick Douglass and by Lincoln, and then by Martin Luther King, and is still invoked today. And I said this last time I was here, but my wife is from Hong Kong, she's not Chinese, but she grew up in Hong Kong. She was born in Hong Kong. And when Hong Kong was taken over properly by China, when China reneged on its promise to the British and started to impose in that place many of the totalitarian aspects that had obtained

on the mainland, what was it that the people, the hundreds of thousands of people who went out and protested, held up American flags, the Declaration of Independence? Now that doesn't in any way change the fact that the United States had a terrible, terrible history of chattel slavery, that the Atlantic slave trade was a holocaust of sorts.

**[00:26:29.2] Charles Cooke:** It doesn't change any of that, but what worries me in recent years is that there is a certain movement in this country, which is exemplified in the 1619 project, and in the work of figures such as Robin DiAngelo and Ibram X Kendi, which holds the promise is a lie. Not that the promise wasn't held up, that's true, but that the promise itself was a lie, that it was contingent, that it was a deliberate falsehood, and that everything that has flowed from that is polluted. And I don't believe that. To me, the American ideal is incredibly powerful and it was powerful as well in America. And forget Hong Kong for a minute. All of the abolitionist societies in the northeast, especially in Pennsylvania, start popping up. Once the Declaration of Independence is out there, it changes the facts on the ground. So I will happily concede so much of American history has been mired in hypocrisy, but if we lose belief in that goal, in that north star, then we will lose everything. And I think fighting that intellectual battle is one of the big challenges we currently face.

**[00:27:44.9] Sean Wilentz:** Absolutely.

**[00:27:47.1] Jeffrey Rosen:** You can applaud if you like that very moving statement of the meaning of the Declaration to immigrants, which when Charles talked about it last year was as moving as it is now and you're so powerful when you talk about it. Sean, Charles has said that throughout American history, liberals from Frederick Douglass, King, David Walker, the 19th and 20th centuries have invoked the Declaration to live up to its promise, always affirming the ideals while questioning the reality. And he says that now there are some who question the Declaration is at all and say, the Declaration is a lie, and that society is not based on individual achievement, but on group power, and power must be restructured to achieve not equality, but equity. You're well familiar with this debate, and you wrote about those people who questioned liberalism in the 19th century leading up to the civil war. And your definitive book, "No Property In Man", so powerfully argues that when Frederick Douglass read Madison's notes, which were published in 1840, and saw that the Constitution refused to admit into it the idea that there could be property in men, it changed his conception of himself as a man, as a citizen, and convinced him that this Constitution was not a pro-slavery document, but was a glorious liberty document. So it summarizes your argument so well, but takes it away.

**[00:29:16.4] Sean Wilentz:** I'm speechless. Look, I couldn't agree more. And as a foot soldier in the fight about all that stuff that you mentioned, I do think the idea that America was either saintly or devilish at its inception is crazy. It's crazy. There were just two points I wanted to make. First of all, as an historian, I look to the past pre '70, '76, and what was wrought by the American Revolution was an extraordinary break in history. Nothing like it ever before. There were republics, the Dutch had the republic. Nothing came close to the Declaration of Independence now and was looked upon as madness, as utter madness. How can these people do this? Who is this man Jefferson? So I can do nothing.



**[00:30:13.7] Sean Wilentz:** And I agree, it's a problem. It's an intellectual problem that we're facing right now. I think it's a problem that comes from despair, from political rejection. I think it's because people don't feel much hope. My students don't feel much hope frankly for the way the world is, but I think that that has a pattern. But I agree intellectually, it doesn't make sense as long as you don't go to the other extreme. And I don't know. The 1776 project or what have you, this is part of the polarization. This is the part of the vital center coming undone. So that's what the argument is about and if you try to make an argument other than that, you get misunderstood.

**[00:30:53.8] Sean Wilentz:** But one thing I wanted to add, and just maybe I don't wanna mess up the conversation, but let me add another concept from the Constitution that I think also has a history, and that's general welfare, and the general welfare clause right at the beginning, the preamble of the Constitution, because that involves a lot of the things that we've been talking about. To embrace a concept, there is such a thing as the general welfare beyond having a military that's gonna protect us from foreign invasion, etcetera, etcetera. No, there's something beyond that that we do share in something. We may have our localities, we have federalism. That's the genius of the constitution to me. And indeed when the abolitionists got going, that was the clause they seized upon even more than the declaration at first. They seized upon the general welfare clause as a guarantee that black people should not be enslaved. That's what they believed. That's a very pregnant idea, the idea of general welfare, and it's one, I think, that doesn't get examined enough in understanding what American history's about.

**[00:32:00.0] Jeffrey Rosen:** That's so important that you put that on the table. I think your next book is about the evolution of understanding of equality in the anti-slavery.

**[00:32:08.1] Sean Wilentz:** Well, it's about the anti-slavery movement.

**[00:32:11.3] Jeffrey Rosen:** And so important to invoke the preamble and to remind us that it was invoked in the 19th century. Melody Barnes, let's keep on equality until we wanna move to liberty, but you talked about justice as a twin to equality. Does the general welfare count too? And what are your thoughts? Sean says that there is a vital center that embraces the ideals of the Declaration still as extremists reject it. Do you agree or not?

**[00:32:43.3] Melody Barnes:** I absolutely do and I think that there's a tradition and a tradition that exists in the African American community for that.

**[00:32:53.3] Sean Wilentz:** Absolutely.

**[00:32:54.8] Melody Barnes:** In fact, we recently at UVA had Melvin Rogers come and speak about his important new book, "The Darkened Light of Faith". And in fact, I know that he was also a guest with Jamel who I don't know if he's here yet at the National Constitution Center talking about these 19th century black intellectuals who thought about and had faith in the American idea, even when evidence didn't necessarily say that you should have faith in the American idea. They were racing ahead to what they believe to be the fulfillment of the aspiration of that idea. And you see it in Frederick Douglass and Ida B. Wells and David Walker and the list goes on.

**[00:33:51.0] Melody Barnes:** So I think we can pull that tradition through, and it exists today. I mean, you speak of the views of an immigrant, and I think about this as the embodiment of so many different traditions, immigrant ancestors who were slaves, ancestors who were indigenous people. And what all of that means as we do this work in democracy and think about, and focus on and believe in the idea of justice and the work that we do at the University of Virginia as I lead my team is that our objective is to close the delta between reality and the aspiration. It is an ongoing journey and an ongoing project, and it is exemplified in the expansion of justice that we have seen across American history. I think the frustration comes when after one lesson after another, a war gets fought, 600,000 people die.

**[00:34:55.1] Melody Barnes:** The list goes on and on. When it feels like we've taken two steps forward, but we've taken another step back. And I think that's where people become very deeply frustrated and angry, and you see that in the literature well into the 20th century as well. So I believe that to be true. I mean, I also want to go back and we should probably have coffee or a drink or something later, and talk about this idea of federalism and what I meant when I talked about the abstraction.

**[00:35:36.6] Melody Barnes:** As someone who's written about community wealth building and the idea of a local focus of the expansion of wealth for those who have not had access to opportunity and the social and economic conditions that make democracy possible, I believe that there's an important place for the local, but I do that and say that without issuing the importance of the federal, because otherwise, I feel like there's a great big notwithstanding clause when you look at the progress that's been made over the course of the 20th century to where we are today that absolutely requires the federal government to be involved and to enforce and to make that real as a blanket of the expression of the rights and responsibilities that people have as citizens in the United States.

**[00:36:35.3] Jeffrey Rosen:** Wow. The experience with the community welfare programs is such a powerful example. And that program with Jamel Bowie that you mentioned about the black intellectual tradition and abolitionists who invoked the Declaration and defended the American idea to expand rights was riveting. And the precision of the legal arguments that black people made to demand that the Declaration's promise be fulfilled is really exciting. So that's an important way of telling the story historically.

**[00:37:06.0] Jeffrey Rosen:** Let's put on the table liberty and the first liberty that Jefferson believed was the first of our unalienable rights was liberty of conscience, freedom to think as you will, and speak as you think, because we can't command ourselves or anyone else to think as we please. We're creatures of reason and the mind must be free, the illimitable freedom of the human mind. At the same time, Jefferson and Hamilton disagreed about how to protect freedom and Jefferson thought every increase in power threatened liberty and Hamilton thought that increases in state power could promote liberty. How would you introduce Liberty, Charlie Cooke, and what stories would you want to tell?

**[00:37:51.1] Charles Cooke:** Well, the first thing I would say is often Americans don't appreciate the extent to which they are freer than everyone else. And they ought to know that, and they ought to wake up every morning and kiss the carpet or whatever they have on the floor

of their house. I, again would add the caveat that this has not always been equally applied to everyone, but now we live in a system that has so many of the virtues of 18th century classical liberalism and an equality of liberty that is to be envied. And I think this is an astonishing thing. Now, I by no means came from a tyranny. I came from England. It's a very nice country, but it is a lot less free than the United States in lots of important ways. I mean, it's less economically free. We can argue about the politics of that.

**[00:38:52.0] Charles Cooke:** I'm a conservative. Not everyone here is. That's fine. But we probably agree on most of the other freedoms. The First Amendment is an outlier in the world and a virtuous outlier in the world. And it is an expression of freedom of conscience that my friends back home, even if I agree with them on most things, often think is crazy. They will say to me, how is it that some crazy Florida pastor can burn a Quran and not be arrested? How is it that you allow people who hate the country to talk about having a revolution or starting a civil war? If you look at the Seminole and the controlling Supreme Court case on freedom of expression, *Brandenburg v. Ohio*, the people who were in the government's targets in that case are absolutely awful and they are the worst people in the world.

**[00:39:49.7] Charles Cooke:** They stood up on that stage. They were armed, and they used the N word, every Jewish stereotype and slur you can think of, they promised Revengeance, they praised the clan and they still weren't sent to prison. And this is a beautiful, beautiful thing because what the decision determined was that you can never tell who's gonna be the person on the stage. If you go back through the early republic, what you'll find is that most of the free speech laws actually get enforced against abolitionists. I know there's a gag rule in Congress. In the States, you're not allowed to advocate against slavery. The federal government and the southern states, to put it lightly, were not friendly towards the civil rights activists in the 1950s and '60s. And this decision has this wonderful abstract principle, this neutral principle in it, which says, yeah, these people are awful, but we don't want to set that precedent.

**[00:40:50.6] Charles Cooke:** Well, where I'm from, again, great country, not a tyranny by any stretch to the imagination, but that is just not the law. In England, England is an equal opportunity censor. The Muslims go to jail for criticizing the Christians, and the Christians go to jail for criticizing the Muslims and the atheists go to jail for criticizing both of them and on and on and on. We have people being arrested outside of abortion clinics for praying. So this country has maintained these ideas that came over the Atlantic from England, Scotland. Much as it pains me to say as an Englishman but Scotland was a key part of the enlightenment, and they got set down in aspect, and they got pushed into the culture as well. And when James Madison introduces the Bill of Rights, which of course he didn't want because he thought the Enumerated Powers doctrine will be enough, but he says that this is a great document because it will help instill in the hearts of the people a respect for these rights, and it did. And that's still here in a way that we don't have anywhere else in the world and I just think this is a beautiful thing that has stayed with this country and that has made it what it is.

**[00:42:00.4] Jeffrey Rosen:** It is a beautiful thing. And it is important to tell the story of how that shining principle in the *Brandenburg* case, that speech can only be banned if it's intended to and likely to cause imminent violence. The principle that was at stake in the Supreme Court oral argument this morning about whether or not President Trump engaged in insurrection makes

America a glorious global outlier, the most speech protective country in the world, a crown jewel of our Democratic tradition. And that ideal, which came from Tacitus and Milton and Cato's letters and Spinoza, and was inscribed by Jefferson into the Virginia Declaration of Religious Freedom, and then by Louis Brandeis into the US Reports makes America an inspirational beacon of freedom. Sean, isn't that right?

**[00:42:55.0] Sean Wilentz:** Correct.

**[00:43:00.2] Melody Barnes:** I think for fun you should have said nope.

**[00:43:04.1] Sean Wilentz:** Yeah, right. Are you crazy? Absolutely. Well, one thing that strikes me as Charlie was talking, I mean, America began not only in the Enlightenment, which is actually in certain precincts, in rather bad odor these days, which it ought to be. I mean, we began with the Enlightenment and we began as an anti-monarchical society. Those are the two intellectual prisons of all the people we're talking about and I think that a lot of what we're all praising up here stems from those two things. And it's only by refreshing our appreciation of those two things that we're going to be able, I think, to revivify our civic culture. Without them we're dead and the Enlightenment is not just about reason. It's a much deeper thing than all of that, but it certainly strikes on the liberties that we were talking about in all of those ways. You were giving a reading list to the crowd.

**[00:44:10.8] Sean Wilentz:** Those are crucial, crucial texts that are living, that are very much alive and that I commend to everyone. Many of the black intellectuals, by the way, I'm just from reading about this, were actually very deeply involved in all of that stuff, reading all of that stuff, but a lot of the enlightenment people too that it has many inflections. There's no one enlightenment. But without it, I think the American experiment is sunk and that's for the anti-monarchical stuff. Well, that we forget, we forget what the world was like in 1776. We forget, even when Lincoln was talking in the 1860s about secession and the country falling apart, he said we are the one best hope of mankind because we're the only democratic republic in the world, the only important one. And if we fail, which is why he hated secession, then it fails, this grand idea that was born four score and seven years ago. But those ideas are what I'm talking about and I just hope that we can find a way that the Constitution Center can do this, can help do this, is to broaden our appreciation of that specific body of ideas and how it's enriched American life.

**[00:45:32.8] Jeffrey Rosen:** Well, that's exactly what we're gonna do, a campaign for the Enlightenment and the American idea and the Declaration and the Constitution. And it is inspiring to see how the three of you, we didn't meet before the panel coming from very different perspectives are all committed to the American idea. And you share that perspective even as you disagree vigorously about the ideals of liberty, equality, and democracy that make it up. Melody, I think why don't you have the closing thoughts on liberty? And Frederick Douglass says, the constitution's a glorious liberty document. When he's forbidden to learn how to read, he feels like a new blow has enslaved him, and learning to read, he says, give him a liberty he couldn't have known. And indeed black intellectuals throughout history have read these classical works that you all should read too, and fought for liberty. How would you tell the liberty story?

**[00:46:30.5] Melody Barnes:** While you were quoting Douglas, there was a video that went quickly through my mind's eye. I thought about my father, my uncle, my grandfather, men who all actively enlisted and went into the military to fight for these ideas. That was an act of faith and belief in the promise of liberty, the promise, the aspiration of equality. I thought about newly freed slaves who one of the first things they did was to open savings accounts. That is an aspirational idea. That is a belief in the promise and the idea of liberty, of equality, of justice, of more, something more that's out there. I think about some of the young people in another part of my life that I work with who were some of them in foster care. If you don't know how horrible the foster care system is, please understand how bad it is.

**[00:47:45.7] Melody Barnes:** Juvenile justice system, homeless. Now all of these things, but who have come together, hundreds and hundreds and hundreds of them to articulate a view of their role in American society and the American community and their view and their vision of how they can contribute to America moving forward and the responsibility they have to this country. These are all instances of individuals who must have faith in this idea of liberty, of freedom, of the responsibilities and the rights that come with it. And I think that all of those are examples for us and rationales for us to believe that we can and must continue to fight as, again, to close the delta between what is being experienced and the idea, the document that documents the values that we say are central to self-government, and to the American principles and values and ideals.

**[00:49:06.9] Jeffrey Rosen:** Opening up savings accounts with newfound liberty is the most inspiring expression of faith in the American idea that one could possibly have. Charlie, why don't you send us out? You're supposed to finish and you so powerfully have defended why Americans should be grateful for our exceptional First Amendment freedoms. Why as an immigrant do you believe that Americans should continue to preserve, protect, and defend the American idea?

**[00:49:40.2] Charles Cooke:** Because it's the best idea that there is. And there are very few people, and again, I say this with no animosity whatsoever toward that country, but there are very few people right now who are lying in bed thinking, if I get a chance, I really want to move to Portugal. There's a reason that this country is the beacon. And some of it, of course is its economic prosperity, but then you have to ask why is that economic prosperity there. I don't think it's just 'cause America has magic soil. I think it's because the way it's governed and the way that it's built is conducive to freedom and to an expression of human nature. And that we didn't really talk too much about the Constitution, but that, by the way, is why the Constitution survives and ought to survive because it understands human nature.

**[00:50:45.6] Charles Cooke:** The French revolutionaries didn't understand human nature. They tried to remake it. The Soviet Union didn't understand human nature. The Nazis didn't nor did the Communist Chinese, but the American founders did understand human nature and they understood that it didn't change. And when you combine a constitution that accounts for human nature and fractures power, and the declaration that sets those aspirations up, so people do lie in their home at night thinking, if I could move somewhere, it would be America, then you have this idea, which is the best idea of all of them, and it's why what is it? 240-something years later, we're all sitting here at the National Constitution Center praising that document.

**[00:51:21.0] Jeffrey Rosen:** It's such an important reminder that we must continue our discussion by focusing on the values of the Constitution, including federalism, separation of powers and independent judiciary, Bill of Rights, and the view of human nature on which it rests. We will do that for the rest of our time together, but for inspiring all of us to defend the American idea, please join me in thanking our panelists.

**[00:52:04.7] Jeffrey Rosen:** Today's episode was produced by Lana Ulrich, Samson Mostashari, and Bill Pollock. It was engineered by Advanced Staging Productions and Bill Pollock. Research was provided by Samson Mostashari, Cooper Smith and Yara Daraiseh. Please recommend the show to friends, colleagues, or anyone anywhere who's eager for a weekly dose of constitutional illumination and debate about the American idea and more. Sign up for the newsletter at [constitutioncenter.org/connect](https://constitutioncenter.org/connect). And always remember that the National Constitution Center's a private nonprofit. We rely on the passion, the generosity, and the engagement of people from across the country who are inspired by our nonpartisan mission of constitutional education and debate. Support the mission by becoming a member at [constitutioncenter.org/membership](https://constitutioncenter.org/membership), or give a donation of any amount to support our work, including the podcast at [constitutioncenter.org/donate](https://constitutioncenter.org/donate). On behalf of the National Constitution Center, I'm Jeffrey Rosen.