



DECONSTRUCTING THE REPUBLIC
VOTING RIGHTS, THE SUPREME COURT,
AND THE FOUNDERS' REPUBLICANISM RECONSIDERED

By Anthony A. Peacock

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Although the Voting Rights Act of 1965 (VRA) did more to fortify American republicanism than any other civil rights legislation in American history—securing the right to vote for black citizens in the Jim Crow South almost one hundred years after passage of the Fifteenth Amendment—as currently interpreted, the landmark law actually undermines the Founders' vision of American government.

In *Deconstructing the Republic: Voting Rights, the Supreme Court, and the Founder's Republicanism Reconsidered* (AEI Press, April 2008) political scientist Anthony A. Peacock argues that the Founders' vision rests on the idea that individual citizens can choose their representatives based on public debate and argument, without regard to their race, creed, or class. Peacock contends that the way the VRA has been implemented undermines this vision, replacing it with judicially mandated multicultural politics.

Peacock argues that the politics of multiculturalism is an elite vision of America in which race and ethnicity are permanent features of American politics which require certain groups—blacks and Hispanics, particularly—to be awarded seats in the House of Representatives and state legislatures in proportion to their share of the population. By institutionalizing political identities based on illiberal conceptions of race and ethnicity, today's VRA displaces the Constitution's emphasis on individual rights in favor of corporate, race-centered rights—and removes the public good from the calculus of representation.

Deconstructing the Republic shows step by step how the VRA changed from a law designed to protect the individual's right to vote to one designed to protect a group's right to representation:

- In 1969, the Supreme Court ruled that the VRA provides minorities both the right to vote and the right to an “undiluted vote”—what amounts to a guarantee of electoral office for designated racial groups.
- In 1977, the Court made clear that its VRA jurisprudence was based on a multiculturalist orthodoxy that identified race with political interest and had little, if anything, to do with the actual tenets of the act. In effect, this multiculturalism translated to a right to proportional racial representation.

- In 1986, the Court again affirmed that minorities—which included not only blacks but Hispanics, Asian Americans, and Native Americans—had a right under the VRA to roughly proportional representation in federal and state elections.
- In the 1990s, the federal Department of Justice, which administers Section 5 of the VRA, demanded proportional representation of racial groups before offering preclearance for states' congressional redistricting plans, resulting in bizarrely shaped electoral districts.

Deconstructing the Republic demonstrates how, over the past forty years, the VRA has become a racial and ethnic entitlement. The multiculturalist orthodoxy enshrined in the act's implementations has cleaved American society into simple, binary racial classes, with the oppressed on one side and the oppressors on the other.

Such simplification of American social and political life has concentrated American republicanism on questions of race and ethnicity rather than the political and economic issues the Framers of the Constitution intended. Peacock contends that the Supreme Court's multiculturalist interpretation of the VRA threatens American republicanism like few other current developments in domestic politics.

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Advance Praise for *Deconstructing the Republic*

“Following the Founders’ original meaning ought to be the touchstone of American politics and jurisprudence, yet Congress and the courts frequently cast aside their wisdom. Anthony Peacock’s book shows how judges and politicians are misinterpreting the Voting Rights Act, replacing the Founders’ vision of democratic self-government based on individual rights with a multicultural republic based on group rights. His argument should concern anyone who loves American democracy.”

—**Edwin Meese III**, former attorney general of the United States and Ronald Reagan Distinguished Fellow in Public Policy at the Heritage Foundation

“*Deconstructing the Republic* is an extraordinary book. For anyone who wants to truly understand the Founders’ concept of ‘inalienable rights,’ Professor Anthony Peacock has given us a new textbook. The American people are reshaping our national political landscape, reconstituting the civil contract that we have with each other and the relationship that we have as citizens to our government. *Deconstructing* helps us understand our history, the dynamics of current conflicts involving our ‘rights,’ and the consequences of making decisions that further erode republicanism as the centerpiece of America’s governmental system. You owe it to yourself to read *Deconstructing the Republic*.”

—**Ward Connerly**, cofounder and president, American Civil Rights Institute