Richard Nixon and Civil Rights: Explaining an Enigma

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During Richard Nixon’s extraordinary, almost half-century career in public life, he never fit the models we used to order our political universe. As a national Republican politician, he was a tireless party loyalist, yet always a loner. The subcategories of Republicanism used as shorthand by journalists never captured Nixon’s restless, opportunistic quest for political advantage. Not an eastern seaboard liberal, like Nelson Rockefeller or Clifford Case, not a traditional midwestern conservative like Robert Taft or Everett Dirksen, nor a western libertarian conservative like Barry Goldwater or Ronald Reagan (or a southern social conservative, like Strom Thurmond or Jesse Helms), Nixon was sui generis, like Huey Long. Early in his presidency, Nixon forged an agenda of surprising innovations—the opening to China, détente with the Soviet Union, the Family Assistance Plan, path breaking environmental legislation, centralized wage and price controls. Late in his presidency, the Tricky Dick of the 1940s was rediscovered, building an enemies list, abusing the power of the IRS, the CIA, and the FBI, corrupting the Justice Department.

Similarly in civil rights policy, Nixon’s behavior as president was inconsistent and incoherent. Elected in 1968 as the centrist in a three-way contest featuring Hubert Humphrey as the candidate of the liberal coalition and George Wallace as the protest candidate for disgruntled populists and southern segregationists, Nixon was left plenty of running room in civil rights policy. And he used most of it. In the pre-Watergate media, President Nixon was seen as a racial conservative whose “southern strategy” for re-election in 1972 led him to nominate southern conservatives to the Supreme Court and to propose a constitutional amendment to ban school busing for racial balance. Yet he signed voting rights amendments in 1970 and equal opportunity legislation in 1972 that in most ways reflected the policy preferences of the Leadership Conference on Civil Rights and feminist advocacy groups. More strikingly, Nixon encouraged the development of affirmative action regulations that required minority preferences in government contracts and both public and private employment. The Watergate episode pre-empted his presidency, and scholars for a generation have puzzled over the motives of the enigmatic Richard Nixon and the meaning of his legacy.

Nixon as Racial Conservative

From the beginning of his presidency Nixon was associated in the press and broadcast media with a “southern strategy” calculated to appeal to Wallace voters. This was part of a larger, nationwide appeal to the “Silent Majority” of working-class and “middle” Americans, many of them southern whites and ethnic Democrats in the northern and western cities who resented the urban rioting, anti-war protest, and countercultural youth style of
the late 1960s. A popular college textbook, William Chafe’s *The Unfinished Journey*, captures this standard assessment of Richard Nixon:

> Shrewdly and effectively, Nixon mobilized his constituency of “silent” or “forgotten” Americans around the “social issues” of patriotism, alarm about crime, and traditional middle-class values. Brilliantly pursuing his “southern strategy,” Nixon used his opposition to civil rights, his anger at the Supreme Court’s liberalism, and his contempt for student demonstrators to forge a new base for the Republican Party in a “Sun Belt” — the states of the Old Confederacy and the American West.

In this version of the Nixon presidency, civil rights policy followed a re-election strategy crafted by Kevin Phillips, an aide to John Mitchell, Nixon’s 1968 campaign manager and subsequent attorney general. In *The Emerging Republican Majority*, published in 1969, Phillips argued that Americans were ready to rebel against a Democratic party they associated with centralized government, welfare clients, militant minorities, radical youth, and intellectual and media elites. Accordingly, Nixon struck an agreement with a leading southern Republican, Senator Strom Thurmond of South Carolina, to ease federal pressure for desegregation. Nixon hired Thurmond aide Harry Dent as deputy counsel to the president, and the White House followed through with a two-pronged civil rights policy.

First, soon after Nixon’s inauguration the Department of Health, Education, and Welfare (HEW) reversed the policies it had followed since 1965 by requesting a slowdown under desegregation guidelines for school districts in South Carolina and Mississippi. In a parallel shift, the Department of Justice also reversed itself in 1969, arguing for the first time since the 1954 *Brown* decision for a delay in court-ordered school desegregation. In 1970, Nixon forced the resignation of Leon E. Panetta, director of HEW’s Office for Civil Rights, for resisting the administration’s policy of easing school desegregation guidelines. Second, during his first year in office Nixon nominated to the Supreme Court two federal appeals judges who were southern conservatives: Clement F. Haynsworth, a respected jurist from South Carolina whose decisions had angered organized labor and black civil rights organizations, and G. Harrold Carswell, a Florida-based judge with weak credentials. Nixon’s slow-down efforts, however, were generally rejected by Congress and the federal courts. The Supreme Court quickly rebuffed the Justice Department’s request for school desegregation delay, and the Democrat-controlled Senate rejected the nominations of Haynsworth and Carswell.

Though frustrated, Nixon had made his point in symbolic politics. He identified his administration with opposition to racial busing, and shifted the onus of federal government coercion in school integration policy from executive agencies in the presidency to the federal courts. By 1972, when Nixon asked Congress to pass a constitutional amendment against school busing for racial balance, the national chairman of the NAACP, Bishop Stephen G. Spottswood, declared in his keynote address at the organization’s Detroit convention that “the NAACP considers itself in a state of war against President Nixon and ‘his Constitution wreckers.’” Even Roy Wilkins, the NAACP’s moderate coalition builder, maintained that Nixon sought to “turn the clock back on everything” and was on the side of “enemies of little black children.” According to John Ehrlichman, “Nixon said he believed America’s blacks could only marginally benefit from Federal programs because blacks were genetically inferior to whites.”

**Nixon as Tory Socialist: the Father of Affirmative Action**

Yet in civil rights policy, as elsewhere, Nixon’s policies were too variable, unpredictable, and even contradictory to sustain a characterization as racial reactionary. One of Nixon’s earliest initiatives as president, acting on his campaign support for “black capitalism,”
was to create in the Commerce Department an Office of Minority Business Enterprise.\textsuperscript{6} During his first administration, Nixon sent budgets to Congress that increased agency appropriations for civil rights enforcement from $75 million in 1969 to $2.6 billion by 1972. Despite his anti-busing rhetoric, Nixon supported the quiet but effective efforts of George Shultz, first as labor secretary and then as Office of Management and Budget (OMB) director, to coordinate peaceful school desegregation throughout the South. Partly as a consequence, the proportion of black children attending all-black schools in the South fell from 68 percent in 1968 to 8 percent in 1972 (compared with a decline from 40 percent to 12 percent nationwide). Nixon also supported a shift in the Bureau of Indian Affairs toward self-determination policies for tribal Indians, and continued (grudgingly) his long-established support for the Equal Rights Amendment.\textsuperscript{7}

Nixon’s most radical, and puzzling, departure from traditional Republican principles, however, came with his promotion of the Labor Department’s plan for minority hiring preferences in federally assisted contracts. The Republican party since its founding in the Civil War era had promoted government support for business expansion and opposed government regulation of private enterprise. Since 1964, when Senate Republican leader Everett Dirksen shaped the final form of the Civil Rights Act, and Republican Senator Barry Goldwater of Arizona, who opposed the Civil Rights Act, was crushed in the presidential election, Republicans had agreed that the Civil Rights Act, like the Constitution, was color blind. The Nixon administration’s Philadelphia Plan, however, required race-conscious employment policies to compensate for past discrimination.

The initiative was taken early in 1969 by Nixon’s newly appointed labor secretary, George P. Shultz, a labor economist and former business dean at the University of Chicago. Shultz was familiar with an unsuccessful attempt under President Johnson’s labor secretary, Willard Wirtz, to require proportional representation of minority workers in all construction projects aided by federal dollars. The Philadelphia Plan, developed within the Labor Department’s Office of Federal Contract Compliance (OFCC) during 1966–1967, required federally aided construction contractors to submit hiring schedules that within five years would produce a work force that approximated the minority demographics of the metropolitan region (in Philadelphia, for example, this meant a goal for black employment in construction projects of 30 percent in 1968). The original plan was struck down in 1968 by the comptroller general of the U.S., Elmer Staats, as a violation not only of open bidding protocols, but also of Title VI of the Civil Rights Act of 1964, the statute under which the OFCC justified its minority hiring requirements. Title VI’s sole substantive prohibition provides: “No person in the United States shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.”\textsuperscript{8} Staats ruled that the Philadelphia Plan amounted to reverse discrimination. The federal courts, however, in 1968 began upholding race-conscious policies involving pupil and teacher assignments in school desegregation cases as compensation for past discrimination.

Shultz, long a critic of the exclusionary, father-son traditions of the skilled construction trades, where ethnic guilds had traditionally dominated the AFL craft unions (plumbers, electricians, sheet metal workers, stone masons), saw in Labor’s moribund Philadelphia Plan a way to force the hiring halls of the skilled trades to include minority workers. This would enlarge the nation’s skilled work force, lower construction costs, open high wage jobs to minorities, and ease social unrest in the wake of urban rioting. Accordingly, in the spring of 1969 Shultz resurrected the Philadelphia Plan and persuaded Nixon of its several benefits. In addition to the economic and social benefits, attractive to the academic economist Shultz,
the plan appealed to Nixon’s political instincts. It would drive a wedge between two traditional Democratic constituencies, organized labor and black civil rights groups. “Nixon thought that Secretary of Labor George Shultz had shown great style,” John Ehrlichman wrote in his memoirs, “in constructing a political dilemma for the labor union leaders and civil rights groups.”

Nixon’s support for the affirmative action plan was crucial to its survival. Organized labor, alarmed by the Philadelphia Plan’s threat to the seniority principle in determining jobs and benefits, attacked the plan’s minority preference provisions in Congress. This, ironically, drew labor into an alliance with conservative southern Democrats like Senator Sam Ervin of North Carolina, who rallied behind him in 1969 to defend the principle of color blindness they had steadfastly opposed as recently as 1964. In December of 1969, a moment of strange political alliances, the Nixon White House summoned loyalist Senate Republicans to join forces with liberal Democrats and defeat an amendment Ervin proposed to ban the Philadelphia Plan’s affirmative action preferences.10

Within a month, the Labor Department issued Order No. 4, extending the Philadelphia Plan’s proportional hiring requirements from construction projects to all federal contractors. To qualify as bidders for government contracts, employers were obliged to submit written affirmative action plans with detailed goals and timetables for minority hiring that would remedy “underutilization.” Underutilization meant worker distributions in all job classifications that failed to reach proportional employment for protected classes (African Americans, Hispanics, Asians, Native Americans). In 1970, the Labor Department’s contract compliance regulation covered 250,000 contractors employing more than 20 million workers. The following year, in December 1971, the Labor Department issued Revised Order No. 4, which extended affirmative action coverage to sex discrimination, in effect adding women as a protected class under Title VI.

That same year, 1971, the Supreme Court upheld a lower-court ruling in favor of the Philadelphia Plan and, in the pathbreaking Griggs decision, adopted an “adverse impact” theory of discrimination that shifted enforcement emphasis from equal treatment to equal results.11 Under the Griggs ruling, statistical evidence in employment of minority underutilization shifted the burden of proof to employers. Unless employers could demonstrate a business necessity that required a work force lacking proportionate minority employment, plaintiffs would prevail. Because the OFCC and the Equal Employment Opportunity Commission (EEOC) defined “business necessity” narrowly, employers submitting inadequate minority hiring plans stood little chance of winning government contracts. By 1972, when Nixon signed legislation that extended the jurisdiction of the EEOC to cover state and local governments (including educational institutions), empowered the EEOC to bring suit in federal courts, and prohibited sex discrimination in all levels of education, Nixon could claim a mantle of liberal reform appropriate for a modern day Disraeli.

Nixon as Liberal Statesman

Ironically, but not surprisingly, Nixon’s chief defenders in recent years have come from the left. When the Reagan and Bush administrations attacked social engineering by government bureaucrats using “quota” policies, and filled the federal bench with conservative appointees, liberals rallied to defend the constitutional and institutional legitimacy of minority preference programs. A revisionist historiography arose that emphasized the liberal consequences of Nixon’s domestic programs and verified his role—whatever the mix of his motives—as the institutional father of affirmative action. Writing in this journal, J. Larry Hood conceded the political utility to Nixon of sponsoring a program resented by organized labor
and opposed by powerful Democrats in Congress. But he insists that Nixon's motives as president reflected the personal ideals he manifested by taking "a strong, moral stand against racial discrimination" while a law student at Duke in the 1930s. Hood's study, based on published documents and interviews, concentrates on the congressional battle over the Philadelphia Plan in late 1969. But his perspective is presentist and straightforward: Nixon should be credited with providing, through his affirmative action programs, "the means to an avowed good end" and "a morally good goal."\

The stoutest and most comprehensive defense to date of Nixon's liberal legacy appeared in 1994 in Nixon Reconsidered, a study by historian Joan Hoff based on extensive research in Nixon's presidential papers. Hoff, approving the liberal thrust of Nixon's initiatives on behalf of welfare, health, the environment, and civil rights for minorities and women, takes Nixon at face value when he retrospectively claimed, in his memoirs and in the personal interview he granted her, that he worked for a moderate path of civil rights progress between the extremist demands of civil rights activists and die-hard conservatives. Hoff is not uncritical of Nixon's civil rights record. He was justifiably attacked by civil rights advocates, she writes, for employing delaying tactics in the South, "and particularly for not endorsing busing to enforce school desegregation in the North after the April 20, 1971, Supreme Court decision in Swann v. Charlotte-Mecklenburg Board of Education." In the field Hoff knows best, policies involving women's rights, she faults Nixon for his tepid support for the Equal Rights Amendment, for his hostility to Title IX, for vetoing a child care bill in 1971, and especially for his "strong personal" opposition to abortion rights. Nixon, long a critic of unrestricted abortion, in the spring of 1971 sent a directive to the Defense Department requiring that the termination of pregnancies in military hospitals and clinics must conform to state, not national, law.

Hoff's main argument, however, is that Nixon's administration has been given insufficient credit for advances in civil and political rights for women and minorities that "far outweigh those of his predecessors." This is a remarkable claim, elevating Nixon's credentials as a champion of civil rights above those even of Lyndon Johnson. To do this, Hoff claims for Nixon's presidency achievements whose provenance owes far more to the decisions of Congress and the federal courts. On school desegregation, for example, Hoff concedes that "the administration found itself dragged into producing an impressive statistical record on school desegregation." Yet she concludes that "the Nixon administration desegregated southern schools." The 91st and 92nd Congress, where Democrats controlled both houses by decisive margins, repeatedly forced Nixon's hand in major civil rights legislation, especially the Voting Rights Act of 1970, the Equal Employment Opportunity Enforcement Act of 1972, the Education Amendments of 1972 (Title IX), and ratification of the ERA in 1972. Nixon in 1972 signed into law Title IX of the education amendments, even though he regarded it as a "monstrosity" that might end athletic scholarships. Hoff recognizes the leverage Congress exercised on Nixon's domestic agenda, for example in environmental policy, where Nixon was a late and reluctant participant. But she tends to assign blame for illiberal policies to Nixon's conservative advisers, especially H. R. Haldeman, Patrick Buchanan, Harry Dent, and Charles Colson. More enlightened policies are associated with John Ehrlichman, "Nixon's liberal inside adviser," and to more liberal aides such as Leonard Garment, Kenneth Cole, Raymond Price and, especially on welfare reform, Daniel Patrick Moynihan.

* Editors' Note: This is not true of most articles commenting positively on Nixon's domestic record in this issue.
Nixon the Enigma

Even Hoff, however, concedes that Nixon’s behavior was often contradictory, his liberal policies frequently reluctant, tactical, disingenuous, politically driven. In his memoirs, John Ehrlichman described Richard Nixon as convinced that “the majority of Americans did not support open housing, affirmative action, busing to achieve racial balance, Model Cities, the Equal Employment Opportunity Commission and the other federal civil rights activities.” The daily White House diaries of Nixon’s chief of staff and loyalist defender, Haldeman, published posthumously in 1994, reveal a president of extraordinary cynicism. The Haldeman Diaries confirm, but in greater detail and with unchallenged authority, a portrait of Nixon familiar from the many aide memoirs and from Ehrlichman’s extensive notes of White House meetings, as insecure, vindictive, obsessed by his enemies, and driven by the imperatives of re-election. These sources present a complex Nixon, neurotic but gifted, a politician of great intelligence, experience, and persistence. But in The Haldeman Diaries especially, Nixon the Tory socialist, the liberal statesman newly defended by the academic left, disappears.

As amanuensis at White House strategy sessions reaching from January 1969 to April 1973, Haldeman records his “P” [president] in understated shorthand. A grand geopolitical strategist, P was determined to dominate the global stage of leadership. Domestic issues held no intrinsic interest for him. They engaged his attention, however, in proportion to their potential for enhancing his re-election prospects for 1972—a concern for the politics rather than the substance of policy that Haldeman repeatedly calls Nixon’s “obsession.” President Nixon’s attention, as recorded in Haldeman’s diary and virtually every other first-hand source, concentrated on Vietnam and other global issues. He turned to domestic issues, such as Supreme Court nominations, when success offered political advantage or when defeat by a Democratic Congress threatened political damage. On issues like voting rights, federal college aid, or environmental protection, where Republicans traditionally defended local and private control and opposed an expanded Washington role, Nixon signed bills shaped primarily by liberal Democrats in Congress. He had no intention of running for re-election as an opponent of voting rights, tuition aid, equal opportunity for minorities and women, or environmental protection. Yet Haldeman’s diaries, filling 675 pages of printed text, record almost no discussion of these issues.

On black Americans, Nixon’s views were unambiguous. On April 28, 1969, discussing welfare, Haldeman recorded: “P emphasized that you have to face the fact that the whole problem is really the blacks. The key is to devise a system that recognizes this while not appearing to. Problem with overall welfare plan is that it forces poor whites into same position as blacks (p. 53).” Nixon pointed out that “there has never in history been an adequate black nation, and they are the only race of which this is true.” In February 1970, discussing southern school desegregation: Nixon “feels we have to take some leadership to try to reverse Court decisions that have forced integration too far, too fast. Has told [Attorney General] Mitchell to file another case, and keep filing until we get a reversal (p. 126).” Nixon told Ehrlichman to move fast on developing a constitutional amendment banning school busing for racial balance. “Feels we should bite bullet now and hard, if its called racism, so be it! Feels we have to take a black or white position (didn’t even notice the pun), can’t be on both sides because we just get hit from both and please no one. Feels the only good thing we’ve done in this area is to fire Panetta. Says an act is better than a statement, because it comes through loud and clear (p. 132).”

By the summer of 1970, Nixon was concentrating almost exclusively on the politics of domestic issues and policy. “P has changed his mind,” Haldeman wrote, “has reached
a new conclusion. Is convinced policy of sucking after left won't work, not only can't win them, can't even defuse them (p. 187).” Nixon insisted that “all scheduling and other decisions [be based] on political grounds. Especially emphasize Italians, Poles, Elks and Rotarians, eliminate Jews, blacks, youth,” Haldeman wrote. “About Family Assistance Plan, wants to be sure it's killed by Democrats and that we make big play for it, but don't let it pass, can't afford it (p. 181).” Nixon was “very upset that he had been led to approve the IRS ruling about no tax exemption for segregated private schools.” Nixon read Dent's memo analyzing problems with the South and issued a “whole series of orders about no more catering to liberals and integrationists to our political disadvantage. . . . Wants me to tell all staff P is conservative, does not believe in integration, will carry out the law, nothing more (p. 184).”23 On federal enforcement of school desegregation: “Had me tell Mitchell not to open Southern offices and not to send his men down en masse, only when needed on a spot basis. Also set policy that we'll use no federal troops or marshals to enforce, must be done by locals (p. 185).” “We take a very conservative civil rights line,” Nixon instructed (p. 208).

Nixon’s macho tough talk may be partially discounted as locker room bravado. The White House advisory network surrounding the president, an all-male body of “the President's Men” until it was sexually integrated by Jimmy Carter, was an intensely gendered coterie under Nixon. Their masculinist solidarity helped compensate, perhaps, for political compromises extracted by a Democratic Congress, a Supreme Court effectively led by Justice William Brennan, and entrenched bureaucrats in the mission departments and regulatory agencies. But Ehrlichman's notes and Haldeman's diaries of hundreds of White House meetings with the “P” confirm persistent themes with a level of candor that far exceeds the self-serving pap of memoirs. Nixon was determined to screw the liberals. Yet he rescued their Philadelphia Plan.

Conservative members of Nixon's administration were dismayed by the ideological incoherence of his presidency. White House speech writer Patrick Buchanan, writing in 1971, described his president as a political transient, shuttling back and forth between liberal programs and conservative rhetoric: “Left and right, both now argue aloud that the President, and his Administration, do not take decisions on the basis of political principle—but on the basis of expediency; that ours is 'ad hoc government,' which responds only as pressures mount from left to right.”24 “Neither liberal nor conservative,” Buchanan complained, the Nixon administration “is a hybrid, whose zigging and zagging has succeeded in winning the enthusiasm and loyalty of neither left nor right, but the suspicion and distrust of both.”

Like Nixon's contemporaries, his recent interpreters have had more success in describing than in explaining his enigmatic political behavior. Of all the contradictions in the Nixon presidency, the most glaring in domestic policy is the tension between the crusading opponent of racial school busing and the father of the Philadelphia Plan. Journalist Tom Wicker, emphasizing in his biography Nixon's pragmatic neo-Whiggery and his lack of emotional involvement in racial issues, concentrates on the contest for influence between Nixon's lieutenants, especially John Mitchell at Justice, Robert Finch at HEW, and Moynihan in the West Wing.25 Political scientist Michael Genovese, emphasizing Nixon's ambivalence, sees an anti-civil rights shift by late 1970 that married Mitchell's “southern strategy” to Moynihan's “benign neglect.”26 Historian Stephen Ambrose, comparing Nixon's civil rights stance with that of his immediate predecessors, finds a “meanness of spirit.”27 Ambrose scarcely noticed the Philadelphia Plan. Nixon biographer Herbert Parmet, however, called the Philadelphia Plan a “complete contradiction” to Nixon’s ideology of concern for forgotten Americans in the silent majority.28 Until recently, when liberal revisionists rallied to defend
Nixon and his affirmative action initiatives, most of Nixon’s interpreters said little about the Philadelphia Plan and its consequences. 29

My own assessment, originally presented at the Hofstra conference on the Nixon presidency in 1987, emphasized Nixon’s inattention to domestic policy, the disorganization that characterized his domestic agenda, and above all the primacy of political motives in his quest for re-election. Nixon’s civil rights policies appeared as an incoherent patchwork, a collection of ad hoc initiatives governed by no inner logic or coherent design. 30 Like most of Nixon’s interpreters, I evaluated Nixon’s achievement within a political context set by his immediate postwar predecessors, especially Johnson and Kennedy. It did not occur to me or others to compare Nixon’s presidency to administrations that predated the Brown decision and the modern civil rights movement, much less to all American presidencies. My own historical reach, like that of the many Nixon scholars whose work I have cited, was confined largely to the terrain of the “modern” presidency. Not so limited, however, is the vision of political scientist Stephen Skowronek.

Presidential History and the Politics of Preemption

Presidential biographies, though implicitly comparative, stress the unique conjunction of a leader and his era. The study of the presidency as an institution, an inherently comparative enterprise, has concentrated on the “modern” presidency developing from Franklin Roosevelt’s leadership in depression and war. Recently the historical scholarship of political scientist Stephen Skowronek, however, has illuminated the nature of presidential leadership in ways that offer a clarifying logic to account for Richard Nixon’s puzzling political behavior. Readers of the Presidential Studies Quarterly may be familiar with the four-fold structure of presidential authority described in Skowronek’s 1993 book, The Politics Presidents Make. 31 I offer a brief recounting here, as prelude to seeking, in the political patterns that Skowronek labels preemption, a plausible, historically-based explanation for Nixon’s conflicting mix of program and rhetoric.

Most presidential scholarship, Skowronek observes, has ignored the pre-1933 presidency. Even historical studies of presidential leadership have concentrated on evolving, instrumental structures of power, for example expanding cabinet government, constitutional aggrandizement, party leadership, legislative agenda setting. Instead, Skowronek turned his attention to recurrent patterns of political authority. Power refers to the formal and informal resources presidents have at their disposal to get things done. Authority, on the other hand, reaches to public expectations which surround the exercise of power, to perceptions of what is appropriate to justify presidential action and secure the legitimacy of the changes affected. The president’s political authority is thus his warrant for action. He derives it from his relationship to the pre-existing regime. Presidents come to power either opposed to that regime, as Lincoln was opposed to the regime of Buchanan, Wilson to that of Taft, or affiliated with it, as was Hoover to Coolidge, Johnson to Kennedy. Presidents are thus classified in one dimension as either affiliated or opposed. The other, cross-cutting dimension of analysis, turns on whether the governing commitments of the previous regime are resilient, because they claim widespread political and institutional support, or are vulnerable to attack as failed or irrelevant solutions to the nation’s problems. Skowronek’s core insight was that constitutionally the presidency was a disruptive force. Yet paradoxically the presidency has been both order-shattering and order-affirming. When power and authority were in alignment, the great presidents rejected the old order and transformed it into a new orthodoxy. But such presidents were rare. Richard Nixon was not among them.
Skowronek's historical analysis thus gives us four structures of authority that define the possibilities of presidential leadership. Robbed of their subtleties here, they are best described by example. First, we recognize the heroic presidents of our textbooks—Jefferson, Jackson, Lincoln, FDR. They are the "great repudiators," riding to power on a mandate of opposition to a vulnerable regime. They practice a politics of reconstruction, shattering the failed establishment and creating a new political order. Second, in the opposite cell we find the politics of articulation, where leaders affiliated with a resilient order—Monroe, Polk, Theodore Roosevelt, Johnson—work to fulfill its promises. Lyndon Johnson's Great Society fulfills the promises that Kennedy inherited from Truman and Roosevelt. Third, when affiliated presidents confront a vulnerable legacy—Hoover confronting the Coolidge ruins, Carter carrying the flickering torch of the Great Society—we have what Skowronek calls "the almost impossible leadership situation" of the politics of disjunction.

But Richard Nixon fits none of these. Instead, as a president opposed to the still-resilient regime of Kennedy-Johnson social policies—the Civil Rights Act, Medicare, aid to education, environmental protection—Nixon faced a politics of preemption. To Skowronek, this is the "most curious of all leadership situations," and the one most peculiar to the American constitutional system. Like John Tyler, Andrew Johnson, and Woodrow Wilson before him, Nixon enjoyed the freedom of his independence from established commitments. He could attack with relative impunity the floundering efforts of the war on poverty and the more exaggerated claims of the Great Society. But unlike the heroic repudiators who led great partisan realignments, Nixon found that his repudiative authority was limited by the strength, the political appeal, of his predecessors' commitments. He could not attack as illegitimate the core legacy of the Kennedy-Johnson regime—the destruction of Jim Crow segregation in the South, the legislative commitment to nondiscrimination in employment, voting rights expansion, open housing, medical care for the elderly, clean air and water. Yet Nixon's political future depended on setting himself apart from the legacy of his Democratic predecessors, undermining the perceived legitimacy of the New Deal-Great Society legacy, discrediting its successes, disrupting its coalition base, recruiting new constituencies.

Skowronek calls such presidents the "wild cards" of presidential history. They are noted for their aggressive employment of the powers of their office and for their wrenching political impact. Skowronek's description of the wild card behavior associated with preemptive politics, where opposition leaders confront resilient regimes, summons Richard Nixon's ghost, his hands flung high in V-for-victory defiance:

Intruding into an ongoing polity as an alien force, they interrupt a still vital political discourse and try to preempt its agenda by playing upon the political divisions within the establishment that affiliated presidents instinctively seek to assuage. Their programs are designed to aggravate interest cleavages and factional discontent within the dominant coalition, for therein lies the prospect of broadening their base of support and sharpening their departure from the received formulas.

Nixon, eager to punish organized labor for its Democratic affiliations in general and for labor's role in defeating his Supreme Court nomination of Judge Haynsworth in particular, recognized in Shultz's resurrected Philadelphia Plan the potential for setting the unions and civil rights organizations at odds by "tying their tails together." Just as Nixon's tirades against busing encouraged southern whites to abandon the party of Lyndon Johnson, his sponsorship of affirmative action regulation alienated urban ethnic voters who attributed its minority preferences to the party of McGovern.

Clearly this was a tricky business, denouncing busing while quietly furthering it, rejecting racial quotas and deadlines while requiring minority hiring goals and timetables.
As Skowronek observes, the political terrain to be negotiated by opposition leaders in resilient regimes is always treacherous. When presidents playing the disruptive politics of preemption probe too aggressively and too deeply without a clear warrant for breaking with the past, they get caught in a showdown crisis of constitutional proportions. They are often singled out for flaws of character, and tend to get themselves impeached.

**Factors Shaping Nixon’s Civil Rights Policies**

In his relentless determination to crush his political opponents, Nixon intruded into the political process as an alien force, interrupting its normal discourse, overstepping the boundaries even of customary partisan chicanery. And for his sins he got himself impeached. Humiliated and forced to resign, he lived long enough to watch the maturing process of the seeds he planted. Revisionist historians like Hoff rightly insist that Nixon’s accomplishments in international affairs and domestic policy should not be viewed through the narrow lens of Watergate. From the perspective of civil rights policy, viewed from the 1990s, Nixon’s seed of the Philadelphia Plan has grown, like the minority contract set-aside programs of the Carter administration, into a pervasive system of affirmative action requirements that liberals have defended. The Nixon we see in much revisionist history appears as the forgotten progressive of liberal America. But this Nixon cannot be reconciled with the attitudes and behavior recorded in the presidential archives and described in a quarter-century of aide’s memoirs punctuated most recently by *The Haldeman Diaries*.

Skowronek’s analysis of the politics of preemption, however, offers an explanation that accommodates contradictory behavior. Nixon, like Woodrow Wilson, the newly elected president of his birth (1913), and William Jefferson Clinton, president in the year of his death (1994), entered the White House as the leader of an opposition party winning little more than 40 percent of the vote. Such opposition presidents, unable to repudiate received commitments outright, try to preempt its agenda by playing on the political divisions within the dominant coalition. Wilson, leader of an anti-statist and anti-corporate party, presided over a regime that expanded central authority and vested powers in new regulatory agencies that supported and legitimized the corporate reconstruction of the American economy. Clinton entered the White House emphasizing proposals that repackaged the opposing party’s commitments—deficit reduction, crime control, welfare reform, free trade.

Thus preemptive presidents, needing to broaden their base of support and sharpen their departure from the received formulas, design their programs to aggravate interest cleavages and factional discontent within the dominant coalition. But the preemption model must not be applied in reductionist fashion, flattening the distinctive attributes of individual presidents and presidencies. Nixon, like all presidents, brought to the White House unique values and personality traits and faced a mixture of problems and obstacles distinctive to his presidency. In civil rights policy, where Nixon’s most significant programmatic legacy has been the Philadelphia Plan as the wedge program leading to the modern affirmative action regime, elements that were peculiar to his personality and political circumstance mix with broader factors of the preemptive context. My own understanding of Nixon’s role in civil rights policy, stressing six areas, owes much to Skowronek’s comparative patterns and creative historical vision, but respects Nixon’s uniqueness.

First, Nixon was uninterested in domestic policy except as it related to his political ambitions. Unlike conservative Republicans in his administration, like Patrick Buchanan or William Safire, or liberals like Robert Finch or George Romney, Nixon was untethered by the constraints of ideological coherence. So uninterested was Nixon in domestic policy issues or their resolution that he campaigned for the presidency with virtually no domestic
program, formed no policy task forces as president-elect, entered the White House planning overseas trips, gave no State of the Union address, was hounded by his aides into crabbing together a bundle of poorly articulated first-year proposals, then shifted domestic responsibility toward Ehrlichman and the Domestic Council. Nixon’s passions were easily aroused, his combative instincts quickened, by the politics of domestic policy, but not by their issue content.

Second, this generalized uninterest or lack of emotional commitment included civil rights policy as well as most other domestic areas, yet it is not inconsistent with Nixon’s professed concern to build the black middle class. As Herbert Parmet observes in his biography, Nixon throughout his career had favored a jobs strategy to invest black Americans with a stake in the system; expanding black capitalism would strengthen the Republican party. The same concern helps explain Nixon’s unexpected flirtation with a guaranteed annual income under the Family Assistance Plan. Republican sponsorship of the black bourgeoisie had historic party roots, and found subsequent resonance in federal funding for black colleges and the expansion of contract set-aside programs under presidents Reagan and Bush.

A third factor distinctive to Nixon’s personality was his court star system. Nixon periodically discovered new lieutenants whose ideas and talents enthralled him, at least for a season. George Shultz was one of these. Others were Moynihan, Henry Kissinger, and John Connally. Shultz, an academic intellectual, free-market economist, former business school dean, and Princeton ex-Marine, proposed in the Philadelphia Plan a program designed to free employers from shackles forged by the craft unions. The plan could be sold as expanding the national pool of skilled labor, easing wage pressures on employers, reducing urban violence, strengthening national defense. Nixon signed off on Shultz’s plan in the spring of 1969, then rallied to its defense that fall when the civil rights coalition, working through the Democratic Congress, rejected the Haynsworth nomination and thereby defeated a capstone element of Nixon’s grand political strategy.

Fourth, the Philadelphia Plan was a wedge program, but in a dual sense. Viewed from today’s perspective, it is recognizable as a successful wedge program in Lyndon Johnson’s understanding of pluralist politics: a small, entering-wedge program around which constituencies would organize, benefits would expand, interest groups would coalesce, and iron-triangle networks would grow. For Nixon, especially in the wake of the Haynsworth defeat in November of 1969, the Philadelphia Plan was a wedge program in Skowronek’s sense: a program designed to aggravate interest cleavages and factional discontent within the dominant coalition. For Nixon the wedge factor emphasized the primacy of re-election politics. When a bipartisan coalition of Senate liberals rejected the Haynsworth nomination in late November, the angry president forced Congress into a late-December session and cracked the whip for party solidarity. The Philadelphia Plan was saved in the process. AFL-CIO president George Meany, a victor in the Haynsworth fight but a loser against the Philadelphia Plan, called it “a concoction and contrivance of a bureaucrat’s imagination” to offset criticism of Nixon’s civil rights record; Clarence Mitchell, chief Washington lobbyist for the NAACP, called it a “calculated attempt coming right from the President’s desk to break up the coalition between Negroes and labor unions.”

We have no evidence that Nixon paid any attention to the Philadelphia Plan after December 1969. In the Ehrlichman notes and Haldeman diaries, which closely tracked the president’s day-to-day discussions, the plan is scarcely mentioned in 1969 and is invisible thereafter. But in hindsight, it figured silently as a coalition-splintering wedge issue in the president’s growing obsession with the politics of re-election. By the summer of 1970, Nixon was attacking Democrats and their social engineering, especially forced busing, effectively
wooing the votes of white southerners. To break the Democratic allegiance of urban ethnic voters in the northern and western cities, Nixon appealed to the forgotten Americans of the silent majority, attacked the vulnerable extremes of youth radicalism, and unleashed Vice President Spiro Agnew's populist polemics against the elite left. In an age of television news, millions of blue collar white voters who rallied to Nixon in 1972 over "the social issue" probably never heard of the Philadelphia Plan or understood its Republican provenance. The Democrats, marching toward a presidential fiasco of almost Goldwateresque dimensions under the banner of McGovern, were in no position to call Nixon on his double game.

**Nixon as Godfather of Speaker Gingrich**

In the elections of November 1994, only months after Nixon's funeral, the Republican party won majorities in both houses of Congress, sweeping Democrats from control of the House of Representatives for the first time in forty years. Bill Clinton's presidential victory over George Bush, hailed by Democrats in 1992 as a voter rejection of the conservative Republican policies of the 1980s, appeared only two years later as something different, a manifestation of voter impatience with partisan gridlock and swollen government. Historians above all should be cautious in drawing conclusions from such mercurial recent events. We cannot impute to President Nixon or project back upon his administration political knowledge that we possess today. But whatever the complex amalgam of Nixon's motives, ranking high among them was a passion for re-election and, beyond his presidency, for a national realignment under a Republican majority. He lived long enough to look backward on a quarter-century of divided government pitting Republican presidents against a Democratic Congress, with the one-term Carter presidency providing a post-Watergate exception that appeared to prove the rule. One year after Nixon's death, his party, campaigning on a Contract with America that Rep. Newton Gingrich of Georgia had engineered with the advice of Richard Nixon, won the whole enchilada.40

This new Republican majority may prove ephemeral. But Republican Speaker Gingrich symbolizes a transformation in which the civil rights policies begun under Richard Nixon played a large and arguably decisive role. White voter resentment of the minority preferences required under affirmative action programs of the 1970s and 1980s grew stronger in direct proportion to their regulatory spread under the protection of Congress and, until the late 1980s, the federal courts. The Republican Contract with America of 1994 did not directly address civil rights issues, perhaps because it did not have to. By 1994 a generation of opinion surveys and voting studies had confirmed what Nixon as president had instinctively understood: that after the 1960s American voters identified the Democrats as the party of minorities, civil rights programs, and affirmative action preferences. A supreme irony of Nixon's long and convoluted career was his ability, playing the risky, high-stakes game of political preemption, to win re-election for himself and, arguably, national realignment under a Republican majority, by opposing the consequences of his own handiwork.

**Notes**

19. Given the modern presidency’s cumulative patterns of growth in programs and budgets, this claim may be made for most presidents over their successors. In civil rights policy, for example, the minority set-aside program in government contracts was established by Congress in 1977 and implemented by President Carter. Yet the Reagan administration far exceeded its Democratic predecessor in both the dollar amount and the programmatic expansion of set-aside requirements for minorities and women in federal government contracts.
23. Nixon, noting polls showing there were twice as many conservatives as Republicans, wanted to change the name of the Republican party to the Conservative party. Haldeman, *Haldeman Diaries*, p. 181.


33. Skowronek, The Politics Presidents Make, p. 43.

34. Interestingly, the main section of Skowronek’s book, where he applies his historical model of presidential leadership to the major party systems associated with four Great Repudiators—Jefferson, Jackson, Lincoln, and Franklin Roosevelt—the politics of reconstruction, articulation, and disjunction are developed but the politics of preemption are left out. The reconstruction-articulation-disjunction cycle well defines the rise and decline of party systems in American history. But the “wild card” politics of preemption, a pattern that includes Richard Nixon and Bill Clinton, must await explication in Skowronek’s next book.

35. Skowronek, The Politics Presidents Make, p. 43.


40. In 1982, following a loss of twenty-six House seats that wiped out the Republican gains won when Ronald Reagan was elected in 1980, Gingrich sought Nixon’s advice in New York. Nixon told the thirty-nine-year old congressman that the House Republican party had to become “more interesting, more energetic and more idea-oriented,” that “all the way back to when he was in the House there had not been an aggressive enough attitude about ideas.” Quoted in Dan Balz and Charles R. Babcock, “How Newt Gingrich Climbed the Hill,” Washington Post National Weekly Edition, January 9–15, 1995.