

Center Stage

Republican primary voters must decide whether to play it moderately safe.

by W. James Antle III

SEN. JOHN CORNYN'S FACEBOOK FRIENDS aren't in a very friendly mood. The Texas Republican's page on the popular social networking website has been filled with comments like this one from a Florida real estate broker: "As soon as I read of your endorsement of Charlie Crist, I sent in a donation to the Marco Rubio campaign."

A new Facebook group has since cropped up challenging members to give "not one penny" to the National Republican Senatorial Committee (NRSC), of which Cornyn is chairman. The online group's description says: "First they supported Chafee. Then they supported Specter. Now they support Crist." Its organizer and "admin" is Erick Erickson of the popular conservative blog RedState.

This isn't just a story of how cutting-edge technologies can cut both ways. Cornyn has found himself caught up in the struggle between conservatives and moderates over the Republican Party's future. Several primaries in upcoming races will feature party-backed moderate candidates facing off against strong conservative challengers. The showdown brewing between Florida Gov. Charlie Crist and former state House Speaker Marco Rubio for Republican Mel Martinez's U.S. Senate seat is just the latest front in this ongoing battle.

Cornyn's decision to weigh in on behalf of Crist can be explained by a headline that appeared in *The Hill* in February: "Florida Senate poll shows Crist annihilating field." The numbers haven't changed much since then. A Mason-Dixon poll taken in May shows Crist leading Democratic Rep. Kendrick Meek 55 percent to 24 percent and Democratic state Sen. Dan Gelber 57 percent to 22 percent. Rep. Ron Klein, a Democrat who has twice won in a Republican-leaning district, is considered somewhat less likely to run. Crist last led him by 34 points.

Rubio doesn't fare much better than the Democrats. Mason-Dixon shows Crist clobbering him 53

percent to 18 percent, with 29 percent undecided. But head-to-head matchups show Rubio would be competitive if he managed to make it to the general election. "Rubio could win but he'd need our help," says a Senate Republican staffer. "Crist would be the overwhelming favorite and we wouldn't have to lift a finger." The idea is to keep the Florida Senate seat safe while Republicans—already a beleaguered minority—have to defend more ground than the Democrats.

Except that the GOP also needs to repair its image and offer a bold contrast. Many conservatives believe that a Senator Rubio would do that more effectively than a Senator Crist. "Rubio is everything older Republicans like Crist should be encouraging," argued Dan McLaughlin on RedState. "He's young but already experienced as a leader, he's telegenic and a good speaker, he's conservative, and yes, he's Latino, a demographic that a more inclusive Republican party would be reaching out to, not spurning."

The conservative Hispanic Leadership Fund had a similar reaction. "We are highly disappointed that the Republican establishment would slam the door on Marco Rubio, who is the kind of candidate that the GOP should be eagerly supporting," read a statement from the group. "We have heard a lot of talk about how the party wants to find qualified Hispanic candidates to run for office but in the end we see once again that this is nothing but lip-service."

Conservatives have gotten angry with the NRSC before. Despite the recent focus on the Club for Growth, the NRSC has intervened in competitive Republican primaries and helped rescue moderate-to-liberal incumbents from conservative challengers. The NRSC—along with then Sen. Rick Santorum and then President George W. Bush—came to the aid of Sen. Arlen Specter in Pennsylvania five years ago, helping him narrowly beat back a strong primary challenge from Pat Toomey. When it looked like they would be unable to defeat Toomey a second time,

Behind the liberal protests against the harsh treatment of enemies, I sometimes sense the view that all war crime has its origin in *us*. Bad things are certainly done by Americans in war. But the victims of American ill treatment frequently make loud noises in the worldwide media; the victims of the Syrian *mukhabarat* utter loud noises too, but these noises are never heard outside the place where they occur. That distinction says a lot about the *real* difference between “them” and “us,” and about the kind of enemy we are now confronting.

In the case of Guantanamo, we are not dealing with torture used as a legal punishment. People held there have been held as prisoners of war. The rules of habeas corpus were said not to apply. However, there had been no declaration of war, and the prisoners have all denied that they were at war or under orders. The only way to conceive of their imprisonment therefore is as part of a *preemptive* strategy. There is no such thing, in English and American law or in natural justice, as preemptive punishment. Even if I know you are going to kill someone, I would be committing a crime by imprisoning you to prevent this.

So the first question is: when preemptive action is justified, against whom and how? I don’t regard imprisonment, harsh interrogation, and the milder forms of torture as so very different from each other that you can say: of course one is allowed but not the other. We are in a very difficult area here. All of those actions involve an invasion of individual rights. And this invasion has been justified by the Bush administration on grounds of public utility. By doing this, it was claimed, we obtain the information necessary to prevent crimes so dreadful that our actions are justified by the result. Is that ever true? If so, might it be true in the present case? If it is true in the present case, could it be that torture of the guilty is necessary to prevent far worse crimes against the innocent? And what if we are not sure that the victim is even guilty?

Some people think that utilitarian reasoning is never sufficient to override an individual right. Such people would have to conclude, not merely that we should not torture, but that we should not imprison or harshly interrogate the people captured in the course of the “war on terror.” There is a lot to be said for this position, and I think there are hints of it in

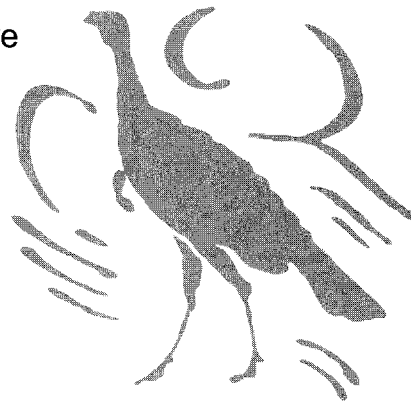
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President Obama's response—he believing that we must be seen to stand by the principles that distinguish us, and in particular by the respect for individual rights which is so eminently lacking in the conduct of the terrorists who threaten us. But is it, in the circumstances, a realistic strategy? Christians are taught to turn the other cheek to those who strike them. But this does not entitle the person who is guardian of a child to turn the child's other cheek to the bully who has struck her. Governments, like parents, are responsible for protecting those in their charge. They have to use whatever violence is necessary to achieve this aim, within the constraints of natural justice. In the Middle Ages philosophers and jurists discussed what this involved. When is a war just, and what are the just means of conducting it?

Harsh retaliation is sometimes the only option—the only way of fulfilling the obligation that lies on every government to protect the citizens under its charge.

What if your enemy does not make war in a just manner, taking hostages, killing civilians, arbitrarily inflicting maximum suffering for the sheer joy of it? Aquinas thought that you must not be the first to take hostages or threaten civilians, but that up to a point you are entitled to retaliate, provided your purpose is to compel the other side to fight fair.

BUT THAT BRINGS US BACK TO the general difficulty that we are confronting. There is no "other side," just a lot of individuals who have declared war in their hearts against the Great Satan. The existing strictures, enshrined in the Geneva Conventions, simply don't specify what to do in this case. Nevertheless, the moral sense is not silent: all of us, when growing up, learned to distinguish situations in which "fair fighting" was the only rightful response from the "no holds barred" emergency. And when a government encounters such an emergency, through no fault of its own, it must draw on the reserves of moral sense that we all acquired on the children's playground. It must feel free to imprison and interrogate people who are serious suspects, and interrogation might have to be harsh if it is to protect the innocent from atrocities. In the immedi-

ate aftermath of 9/11 the United States government felt called upon to act in ways that would not be sanctioned by the legal and moral principles that constrain its normal conduct. For it had been presented with vivid evidence of a dangerous and implacable enemy, with no moral scruples and no regard for innocent life. In such cases harsh retaliation is sometimes the only option—the only way of fulfilling the obligation that lies on every government to protect the citizens under its charge.

However, we may well wonder whether the conditions still endure in which it is reasonable and morally justified to override the rules of fair fighting. The situation today is not that of the immediate aftermath of 9/11. Plans may well be afoot to blow up a Western city with a nuclear bomb, or to spread contagious and lethal infections. But our approach should be to guard against these dangers, if we can, within the legal and moral norms of democratic government. In particular we must devise a strategy of long-term defense which will enable us not only to abide by habeas corpus, so that all punishments are administered, if at all, only after due process of a valid court of law, but also to enforce the law against torture. If we cannot do that, then we will live beneath a permanent cloud of distrust and recrimination, unable to believe in our own goodwill.

As that suggests, however, torture has been pushed to the top of the political agenda only now, when a shared sense of security makes the moral high ground safe. It is only because of the success of the war on terror that Americans can take a principled stance in opposition to it, safely expressing sentiments that, in the wake of 9/11, would have seemed as self-indulgent to liberals as they seem to conservatives today. One way for the liberal critics to avoid the painful recognition of this truth is to put President Bush and his administration in the dock alongside al Qaeda. This kind of "moral equivalence," which furthers the cause of America's enemies, makes the flight from reality look like a deeper confrontation with it. The liberal view of history is once again confirmed, with all disasters laid at the door of unprincipled conservatives, and the liberal vanguard leading ever onward toward the light. ❄

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