



The Second Bill of Rights: FDR's Unfinished Revolution and Why We Need It More Than Ever

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In 1944, Franklin Delano Roosevelt gave a State of the Union Address that was arguably the greatest political speech of the twentieth century. In it, Roosevelt grappled with the definition of security in a democracy, concluding that "unless there is security here at home, there cannot be lasting peace in the world." To help ensure that security, he proposed a "Second Bill of Rights" -- economic rights that he saw as necessary to political freedom. Many of the great legislative achievements of the past sixty years stem from Roosevelt's vision. Using this speech as a launching point, Cass R. Sunstein shows how these rights are vital to the continuing security of our nation. This is an ambitious, sweeping book that argues for a new vision of FDR, of constitutional history, and our current political scene.

The Second Bill of Rights: FDR's Unfinished Revolution and Why We Need It More Than Ever Details

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Mel says

Sunstein's arguments on why we may have not gotten the second bill of rights are a bit oversimplified, but helpful in thinking legally about how to reintroduce them politically.

Dominique says

Relevant for our Economic Times and Capitalistic Society

[Note: Review transitioned from Barnes & Noble website]

This book was well done. Although the book is labeled as a politics/history book, it covers quite a bit on law, including theoretical law.

That said, this book was not a light reading, it took me an extra day to get through it.

The author discusses the little known Second (Economic) Bill of Rights that Franklin Roosevelt proposed in 1944. That bill, in a basic sense, was to offer a simple form of economic security for the citizens of the United States obviously inspired by the Great Depression.

The bill was never implemented but it set the stage for the creation of the Universal Declaration of Human Rights which has influenced the creation of constitutions around the world that carry the Roosevelt legacy of economic security for those countries citizens and is mentioned in the book.

Because of the failure to pass the Economic Bill of Rights, people in the United States still do not make a decent living, lack access to a good education, etc.

With overwhelming evidence, the author discusses why this Bill of Rights should be implemented and how, as the author claims, it came close to being established. Regardless of the fact that some people will claim the program is socialist it is not, according to Cass Sunstein.

Something to think about after reading this book regards the economy itself. What if we had a Second Bill of Rights? Would we have had to deal with the current Great Recession?

This book probably is not for people with a right-leaning political preference.

Steve Mayer says

Cass Sunstein's book on FDR and his proposals for a second bill of rights is interesting and well thought out. However, I would've liked to of seen some analysis of how the two South African constitutional court cases he discusses were implemented, as well as an analysis of how substantive provisions in state constitutions have been interpreted.

Cameron Wilson says

The book is good because of the interesting factoids about FDR and his administrators. There's a lot of very frustrating moments of analysis where Sunstein is so close to a radical conclusion but pulls back. Sunstein is clearly excited about expanding the health and wealth of people through the second bill of rights, but his anti communism and excitement to preserve markets dilutes the power of his advocacy.

Mark Fitzpatrick says

I enjoy Sunstein and I am sympathetic to FDR's Second Bill of Rights. This is a good book to explore the history, concept, and debate about the rights for US society.

Robert says

Great premise and well-written book about an often overlooked part of FDR's legacy. However, the book could have used a stronger structure and a bit more editing. It would have helped if the author (who ended up for a brief time in the Obama Administration) actually talked about *why* we need it now more than ever. He certainly was able to go into depth about the Constitution, but not much about the ills that currently plagued America at the time the book was written. Perhaps, this was intentional to make the book more timeless, but leaving it out for the most part injures the book.

Otherwise, liked the author's examination of why FDR ended up proclaiming the "Second Bill of Rights" and why America has rejected it up to this point. The book is definitely worth taking a look at, especially for those interested in the subject.

Eileen says

A must read.

Brad McKenna says

This is a great book, one that gets you thinking. Even if you don't agree with his ideas, it raises some tough questions.

It's amazing that something that's thought of as extremely left wing today was first brought up by one of our greatest presidents over 60 years ago.

The Second Bill of Rights, encompasses such wacky ideas as the right to education, health insurance, and a home. FDR wasn't so naive to think that there would be anyway to ensure everyone has those rights; money, laziness, the fact that life is just unfair sometimes can and would get in the way. Just the same though, just

because you can't get 100% doesn't mean you should strive for it.

Akim McMath says

Ask a modern American what she thinks of “the right to a useful and remunerative job.” Or of “the right of every family to a decent home.” Or of “the right to adequate medical care.” Certainly, she is likely to say, these are all fine things. But rights? The idea is positively foreign (or worse, downright Scandinavian). She may be surprised to discover that these words were spoken by one of America’s greatest presidents.

In *The Second Bill of Rights*, Cass Sunstein gives new life to the kinds of social and economic rights that Franklin D. Roosevelt advocated 70 years ago. The book is two things at once. First, it is a book about the history of an idea—about why the idea has withered in its country of origin, and why it has flourished around the world. Second, it is a book of advocacy—about why contemporary Americans should adopt the second bill, not in spite of their values, but because of them. Sunstein’s argument is clear and convincing on both fronts, but is not without a few shortcomings.

Why has modern America given up on the second bill? For Sunstein, the answer is simple: the election of President Nixon in 1968. For a time during the 1960s, the Supreme Court seemed sympathetic to the idea that social and economic rights were protected by the Constitution. Then, after a series of judicial appointments following the 1968 election, the Court changed course. The second bill quickly fell out of favour and has yet to reemerge. There are competing explanations to this simple story. Some people think that there is something distinctive about American culture that is hostile to social and economic rights. Others think that such rights, while appealing in principle, are unenforceable in practice. Sunstein skilfully rebuts these alternate explanations. The Nixon story seems most plausible.

Why have social and economic rights enjoyed such popularity abroad? On this question, Sunstein is less convincing. He says little about the role of Eleanor Roosevelt in drafting the Universal Declaration of Human Rights and its impact on later agreements and constitutions. He seems to suggest that there is a direct line from Franklin Roosevelt, to the Universal Declaration, to the modern constitutions of countries such as India and South Africa. But, as Sunstein himself acknowledges, Roosevelt was not the first to propose social and economic rights, and some European constitutions included such guarantees long before Roosevelt’s presidency. The extent of Roosevelt’s influence abroad is not made entirely clear.

So much for history. Why does all this matter today? The question can be divided into two parts: What are the objections to adopting the second bill? and What is the case in favour of the second bill? Sunstein succeeds brilliantly in addressing the former question, while neglecting the latter almost entirely.

Critics of the second bill sometimes claim that the Constitution protects only negative rights—that it merely places limits on what the government may do. Social and economic rights, on the other hand, require positive government intervention. Sunstein shows that this is nonsense. The right to free speech, for example, requires the government to maintain public spaces, and if necessary, to provide protection for people with unpopular views. Civil and political rights require government intervention just as much as social and economic rights. Other critics claim that the second bill is opposed to that quintessential American value: freedom. It is fashionable these days to think that freedom means freedom from government intrusion. But, as Roosevelt observed, “necessitous men are not free men.” Far from being opposed to freedom, the second bill is essential for ensuring freedom.

Why, then, do we need the second bill “now more than ever”? Although the question appears in the subtitle,

Sunstein never provides a direct answer. Perhaps the omission seems particularly evident given the events in the ten years since the publication of the book. America has experienced the most serious economic crisis since the Great Depression—the event that spurred Roosevelt to advocate the second bill. Inequality has been rising for decades, and seems only to be accelerating. And like the Supreme Court of the 1930s, the current Court seems entirely willing to oppose social and economic legislation on constitutional grounds, as we have seen in its response to Medicaid expansion. Contemporary America seems much more like Roosevelt's America than it did ten years ago.

Cass Sunstein's *The Second Bill of Rights* is an extremely important book. His counterarguments against those who oppose the second bill are especially convincing. While the book is not without its shortcomings, these should not deter anyone from reading it. We need this book now, in 2014, more than ever.

Michael VanZandt says

Sunstein (whom I hope will be Obama's appointees to Supreme Court as soon as one of those fogeys retires) re-visits a forgotten aspect of FDR's presidency, which had not only demonstrated how the country had come since the Depression, but also help to lay the foundation for the Universal Declaration of Human Rights. Many critics of the Second Bill of Rights - commitment to social and economic rights - have derided it as eroding the sense of individualism and work ethic (if you excuse the over-simplification). Others critique it on the basis of laissez-faire politics and economics. Sunstein defends the disadvantaged not only from a moral perspective, but also through a legal and constitutional approach, which is enlightening and so appropriate for our current station of politics. Thorough and very readable.

R.C. says

From the title, one could assume that the book was to lay out the second bill of rights that FDR talked about in 1944, why each is beneficial, and then why we need it. Instead, the rights are listed out before the 1st numbered page, followed by 9 chapters in two sections that bounce around from the writing of the constitution to Civil War to pre-Civil War to WWI to WWII to Sept. 11th and back again.

I would be lying if I said I read it word for word, because I could not contain my urge to jump forward. It is well written, but the author made an assumption that the reader knows nothing of the constitution and the bill of rights. He even goes so far as to explain why certain rights were needed. He also branched out into other countries constitutions, agreements, and proclamations. I appreciate the research and effort he makes, but sometimes having too much backstory is detrimental to the flow and intentions of a book. In this case the back story basically is the book. Honestly, I learned more about FDR's second bill of rights from Wikipedia.

In the book, the author discusses the difference between constitutional rights (things protected by the written constitution) and what he calls *constitutive commitments* (things that have become so ingrained in society that a radical shift would need to occur to get rid of them, like Social Security and free public education). What blew my mind though was the contradiction of the title itself. He essentially goes on to argue that many of FDR's second bill of rights have already become constitutive commitments and argues that they don't need to be made as amendments. Furthermore, he states that FDR wouldn't have wanted them to be amendments anyway, similar to things like social security and other facets of the New Deal.

Ok, so let me get this straight: we need FDR's second bill of rights more than ever, but we don't really need

them because we already have most of them in place already as constitutive commitments? Right.

In the end, this book was not what I expected, which might be why I'm so harsh. FDR nor his bill of rights were even the focus for much of the book though, which grew tiresome. I will say that it was well written, well researched, well documented, and he did a great job in showing how FDR was not some liberal wackjob that the right wing try to portray him as. What Cass Sunstein did not do, however, was explain why we need FDR's second bill of rights more than ever; at least the ones that we don't already have.

Drew says

I so looked forward to reading this book by Cass R. Sunstein. I loved FDR, our best president so far, especially his New Deal programs like the Works Progress Administration (WPA) and the Federal Transient Service. FDR's ideas are now back on the front burner with our economic turmoil. So, it was sad to actually crack open the binding of this book and see that what was inside didn't live up to its exciting topic and great subtitle.

The book could have been edited down to a lengthy article for a weekly news magazine. It's repetitive throughout and sometimes includes stories that are more about praise of FDR than about his stated topic of a push on economic, social, and cultural rights (ESC). The book wasn't meant to be a biography of FDR, and that's a good thing since it fails there. There's also sloppy editing, e.g. claiming Lake Shore Drive (in Chicago) was built by the WPA (p. 47) and then two pages later, claims that the Public Works Administration was responsible for that same project.

The author has a poor grasp of some important issues. He defines American Exceptionalism as "the absence of a significant socialist or even a social democratic movement in the United States" (p.106). While that may be a manifestation he attributes to this concept, American Exceptionalism is simply a theory that states the US differs qualitatively from other nations by way of its beliefs, its maturation, its ideals or its composition. The term was introduced by Tocqueville. His definition, without attribution or explanation, is simply incorrect. Another example is the "Rule of Law." Sunstein has fetishized this concept into something much more than what it is, and also fails to explore that once law is created, how it is applied to different people and groups can subvert the original intent.

This two examples are illustrative of the work overall. He uses them to further his own argument, without looking at any other data that might cast doubt on his interpretation. Another example is his "prescient" ability to decide, without any doubt in his mind, how people who were not appointed to the Supreme Court during the Nixon Administration, would have adjudicated cases if they'd been on the Court. He blames America's turning away from FDR's conception of ESC rights on people Nixon appointed to the Court. His logic is that the Court was moving towards accepting ESC rights as US rights, but that the Court backpedaled under Nixon's new picks. He claims that if Hubert Humphrey had won, his appointees to the Court would have enshrined ESC rights and the world would be a better place. Unfortunately, it's impossible to predict, with 100% accuracy, how justices will decide. The Supreme Court (and lower courts) are replete with nominees chosen for their ideological purity who go against the views for which they were supposedly chosen. It'd be one thing for Sunstein to say that the Court may have been different, but he stretches belief with his certainty.

Finally, on a more personal note, I take issue with his unfettered faith in free trade as the panacea for all that ails America, and the world. Second, he offers simplistic views suggesting that new rights extended by the government will undermine individual incentive and motivation. Finally, he's opposed to the living wage movement, claiming that raising wages for all to a "livable" level will only lead to greater joblessness as

companies hire fewer workers.

If you're interested in a good book that covers some of these topics, especially homelessness and how FDR approached it (which treads into these ESC rights), check out Kenneth Kusmer's "Down and Out, On the Road: The Homeless in American History."
