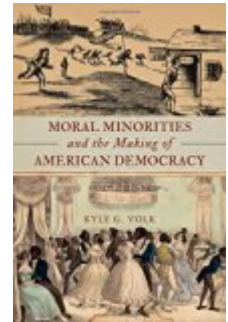


**Kyle G. Volk.** *Moral Minorities and the Making of American Democracy.* New York: Oxford University Press, 2014. 312 pp. \$34.95, cloth, ISBN 978-0-19-937191-4.



**Reviewed by** Elizabeth Hull

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What role do minority groups play in a democratic republic dedicated to majority rule? What are their legitimate rights and to what extent does the assertion of these rights strengthen the larger society? Historian Kyle G. Volk addresses these questions in *Moral Minorities and the Making of Modern Democracy*. While this country's dissidents have attempted to safeguard their interests at least since the first colonists settled in Jamestown, the author confines his study to protest groups that were active during the roughly three decades preceding the American Civil War. During this era, newly energized majorities were flexing their muscles and emboldened minorities were asserting their rights, thereby providing Volk an appropriate context within which to explore their uneasy coexistence.

Volk focuses on three groups that militated against what they considered unfair and even unconstitutional laws—laws that prohibited commercial activities on Sunday; the sale and consumption of alcohol; and, in the northern states, the racial integration of schools and public accom-

modations. The author refers to their members as “moral minorities” because in seeking redress for their grievances they raised fundamental questions of right and wrong. Volk is less concerned with the normative worth of any movement’s particular objective than he is with the way such movements, collectively, prodded a sometimes complacent public into contemplating the limits of majority rule. Still, his selections are troublesome features of an otherwise estimable book. Why should those opposing Closing Laws and prohibition be considered moral minorities when they sought nothing beyond their own self-interest—a perfectly legitimate but hardly transcendent goal? Why would the author align such groups with abolitionists, whose crusade against slavery and racial apartheid was arguably the single-most noble one in American history?

Volk’s implicit response, if not totally convincing, merits respect: even if the groups he details pursued less than lofty goals, by serving as pioneers in the struggle for minority rights, they ensured that the protection of these rights would be

the proper concern of a well-functioning democracy. Regardless of their respective goals, moreover, they enriched democracy by forging alliances that cut across racial, religious, partisan, and class lines—as when liquor vendors and manual laborers, say, aligned with recent immigrants to protest dry laws. In terms of fostering coalition politics and civic engagement, their success rate was second only to that achieved by political parties.

Minority movements were gaining notable strength, ironically, about the same time Andrew Jackson assumed the presidency in 1829 and set about making good on his campaign pledge that “the first principle of our system [is] that the majority is to govern” (p. 17). During this heady era, new western states were scuttling property requirements for voting and office-holding. Some eastern states were reapportioning their legislatures to reflect demographic changes, enlarging the franchise and even electing their judges.

Resisting this democratic surge were two not-necessarily congenial alliances. One represented the Old Guard, Protestant ministers and their conservative followers who launched their own grassroots movements to preserve their notion of a virtuous and Christian nation. The other variously consisted of abolitionists, Jews and Seventh-Day Baptists, Free Thinkers, immigrants, Catholics, and Know-Nothings, bound together for mutual benefit.

By challenging what they considered illegitimate legislative policies, dissidents confronted the citizens of a fledgling nation with the same dilemma that has preoccupied political theorists since antiquity and, more recently, vexed those who framed the United States Constitution: how to establish the proper balance between majority rule and minority rights. Among the framers, James Madison, most notably, was convinced that majorities, if left unchecked, would inevitably trample the rights of minorities—in particular property owners and creditors. In *Federalist 10*, he con-

sequently lauded the new, as-yet unratified constitution for establishing a republic in which elected representatives, rather than the citizenry directly, would rule, and in which abundant “auxiliary precautions”—a federal system, for instance, with staggered elections and judicial review—would further serve to distance the majority’s cup from its mouth.

After touring the United States in 1831, two French intellectuals, Alexis de Tocqueville and Gustave de Beaumont, echoed Madison’s fear that unrestrained majorities could wreak havoc, although they were concerned not with the rights of creditors but with the well-being of nonconformists. Tocqueville knew of no other country in which “the pressures to conform exerted by the majority were as coercive as formal governmental power” and “in which there is less independence of mind and true freedom of discussion than in America.” Beaumont was appalled by the institution of slavery, and lamented how the “irresistible” power of the majority “crushes, breaks, [and] annihilates everything which opposes its power and impedes its passions” (p. 7). (Volk observes, however, that both Frenchmen toured the country well before the emergence of the kinds of grassroots movements he details in his book.) Tocqueville noted that voluntary associations were among the few countervailing trends that offered minorities some shield against “the tyranny of the majority” (p. 23). Several decades later, curiously, anti-prohibitionists turned this argument on its head, averring that the emergence of large and tightly knit associations actually facilitated this oppression.

Volk illustrates the critical role minority movements played during the antebellum era with three detailed case studies. The first, arising in protest over the proliferation of laws prohibiting commercial activities on Sunday, was composed largely of Jews and Seventh-Day Baptists (as they were then called) whose religiously prescribed day of rest was Saturday, and business

owners whom these laws would economically penalize. The Protestant establishment fervidly promoted Sunday Closing Laws, reasoning, said Volk, that Sabbath breaking was but “a steppingstone to more shocking vices ... that would spell national Armageddon if not quelled” (p. 192). In response to Free Thinkers like Thaddeus Stevens, who castigated such legislation for breaching the rights of conscience, their proponents also defended them as unavoidable unless the majority were to indulge the minority’s every vagary: “if laws could be made to conform to all the religious caprices that frenzied fanaticism would suggest,” said Democrat James Mill, “there would not be days enough in the week to accommodate such conscientious scruples. Mohammedans would want Friday, another sect another day, &c. & c. The laws against bigamy would have to be declared unconstitutional, because of the consciences of those who would desire a plurality of wives” (p. 62).

Volk next addresses the prohibition movement organized by people who, for cultural or commercial reasons, opposed the “Local Option” laws that abounded during the antebellum era. Their supporters hailed these laws as “the very essence of popular sovereignty,” since they allowed communities to decide for themselves whether or not to outlaw “the drunkard-making business” (pp. 69, 70). (Local options, which were often embraced by elected officials as a convenient way to placate majorities while conveniently sidestepping personal responsibility, were eventually outlawed by federal courts on the grounds that they represented unconstitutional delegations of legislative power.)

Capitalizing on what Volk calls the “ascendant ethos of majority rule,” prohibitionists enjoyed great success (p. 69). In 1846, for instance, 80 percent of New York State’s 813 towns voted themselves dry. Yet, he says, the movement to ban alcohol, “perhaps more than any other policy issued before the Civil War, brought home the perilous place of minority rights within America’s bur-

geoning democracy” (p. 180). In fact, in his 1859 treatise, *On Liberty*, the British political theorist John Stuart Mill singled out the local option law, along with Sabbath legislation, as “two quintessential examples of majority tyranny” (p. 202). Those hardest hit by both movements—the one seeking liquor bans, the other Sunday Closing Laws—were individuals whose cultural, religious, or business practices offended mainstream Americans. As one liquor opponent explained, the rum selling business has fallen very much “into the hands of immigrants, especially the whiskey-drinking Irish and beer-drinking Germans, and particularly the Catholics among them” (p. 71).

Not everyone who considered themselves an aggrieved minority was necessarily high-minded: among those opposing prohibition, for instance, were slaveholders like John Clayton as well as moral leaders like Thaddeus Stevens. If it served their purposes, freedom fighters and racists alike were not above hijacking and repurposing the classic arguments against majority rule. Clayton, for instance, warned darkly that if “needy majorities” were allowed to infringe upon the rights of propertied minorities, “no one’s property would be safe.” “Who will say,” he asked, “that the question of slavery is not as proper to be submitted to the people’s decision in this form of legislation as the question of retailing liquor?” (p. 93). Not surprisingly, Volk observes, “the Democrats who applauded the end of prohibition were the loudest in preaching respect for the Supreme Court’s Dred Scott decision” (p. 189).

The controversy surrounding local options, in general, and prohibition, in particular, accelerated the death of the two-party system as it had existed since the 1830s. The northern Whig Party was already near-collapse, largely in response to the sectional divisions that slavery occasioned in the national party. The Know-Nothing Party captured notable support in the mid-1850s as a result of its antipathy both to alcohol and the groups that were presumably its chief consumers, but its

popularity was short-lived. The new Republican Party would soon emerge from the wreckage.

In his third case study, Volk addresses the early abolitionist movement, which was then engaging in the first skirmishes of what would become the monumental struggle to end racial apartheid in the United States. Its members, both black and white, represented a decided minority—one whose rights, Volk notes, were fragile indeed in a two-party system catering to a majority rife with racial prejudice. Those opposing segregation fought valiantly, although with mixed success, against laws in northern states that proscribed interracial marriage or integrated schools and transportation systems. Two-tiered public transportation sparked particularly impassioned debates over the extent to which white majorities, in deference to their own personal comfort, could abase their black neighbors. Volk quotes a columnist who was “shocked” at the prospect of a train compartment in which “a Negro wench [was] tightly sandwiched between two ladies” (p. 138).

Abolitionists eventually persuaded legislatures in several New England states to integrate public accommodations, including trains and coaches, but Volk points out that blacks endured abysmal conditions in the many years antedating these partial victories: they “typically remained on ship decks exposed to rain, wind, extreme temperatures and rough seas. Conductors relegated them to cramped and unclean second-class cars known variously as the ‘dirt,’ ‘dog,’ or ‘Jim Crow’ cars after the minstrel show’s peculiar caricature of black America” (p. 135). Segregationists, predictably, defended racial barriers as appropriate responses to majoritarian preferences and sensibilities. They also railed against “fanatics” who were not only attempting to sabotage the Fugitive Slave Laws, but for reasons of conscience also were claiming immunity from prosecution. However principled, should such law breakers, they asked, be exempted from the legal penalties deemed appropriate by the majority? Abolition-

ists believed ardently that legislative power was not without limits—that in this case, specifically, the black minority had rights beyond the reach of any majority. In response, their antagonists accused them of being intellectually dishonest—proclaiming minority rights in one instance and disavowing the same rights when asserted by slaveholders.

Volk’s *Moral Minorities and the Making of American Democracy*, my earlier criticism notwithstanding, is an uncommon achievement: a book that is both scholarly and hard to put down. It is a book, moreover, that will engage the student of current social movements no less than the historian because its themes are as relevant today as they were in the turbulent decades preceding the Civil War. The participants and the particular causes change, of course, but the dynamics remain the same: aggrieved groups—gays and lesbians, immigrants, the disabled, ex-felons—are claiming their rightful place in American society. They are deploying the same strategies that their forerunners refined during the 1830s and 1840s: petitioning government agencies, seeking judicial review, building coalitions with like-minded allies, and in particular hoping to sway public opinion by appealing to their fellow citizens’ highest ideals. Yet for all their occasional or even substantial successes, racial and ethnic minorities, women, and gays and lesbians still confront formidable discrimination in their quest for full equality. Newly assertive groups will tread their same uneven path, making progress, enjoying milestones along the way, but ultimately discovering for themselves that this quest rarely has an end point.

Volk concludes by observing that America’s battles have now become “much of the world’s battles,” as one country after another struggles to balance majority rule and minority rights. He points out that in the aftermath of the Arab Spring in 2011, citizens in many Middle Eastern countries were learning the same lessons that Americans were learning in the nineteenth century—

that “there’s more to democracy than voting, elections, and majority rule,” and that no democracy can remain strong when minority rights are not guaranteed (p. 217).

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