



**Duke University**  
**Terry Sanford Distinguished Lecture**  
*Divided We Fall – Restoring Trust in our Democracy*  
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I must begin by thanking President Brodhead for his very kind introduction and for his amazing service as President of this great institution. Even more, I want to thank him, as well as Dean Kelly Brownell, for bestowing on me the honor of being the first ever Terry Sanford Distinguished Fellow in Public Policy.

Those of us who were fortunate enough to know Terry Sanford either as a lawyer, Governor, United States Senator or President of Duke University or perhaps in several of these roles were all affected by his humble nature, his superior intellect, his common touch and his statesmanlike greatness. I remember campaigning door to door for him in 1972 when he was running for President and interacting numerous times with him when he was in the Senate. I greatly admired Terry Sanford and believe to this day that he was one of North Carolina's greatness leaders and public servants. As Judge Dick Phillips, one of his closest friends from childhood and one of my mentors, said at his funeral, Terry "took an oath when he was 12 years old and kept it. It started out, 'On my honor, I will do my best to do my duty to God and my country.'" I took that same oath as a child, and so the honor of being in a position bearing his name is extremely significant to me and I am very appreciative that President Brodhead and Dean Brownell allowed me the privilege.

I am also very grateful to all of you for attending this lecture. I have given literally hundreds of public speeches in my career. I don't believe I have ever been more nervous or intimidated than I am tonight. I thought it was difficult to prepare and deliver my presidential inauguration speeches at my undergraduate Alma Mater and my graduate University, but this feels even more difficult – It could be because of all of you, but actually, I think it is because of the topic.

I was pretty sure I knew exactly what I was going to say before November 8. I had it outlined in great detail in my mind and could easily have written my remarks in a few short minutes. Then came the election. Though my wife and others here tonight would tell you, I had a clear feeling about the outcome well before Election Day, when I awoke on November 9, I confess I was knocked a bit off center. One thing for certain, I decided my well thought out remarks were now meaningless in the context of where our nation finds itself today. So I decided to start over, and



ever since I have struggled with what I might say to you tonight that would add value to the already vigorous discussion of what happened in this election and what it means for our future.

Even as I stand here before you I am not exactly clear about what to say. So, I have decided that instead of addressing my advertised topic, I will talk about refereeing in college basketball because, as anyone who has watched a game with me knows, it is a topic about which I know a lot. Or, at least I think I know a lot more about it than the referees.

Seriously, I hope you will bear with me for a few minutes as I try to share what is on my mind about what this election means and what are possible paths forward.

The recent election taught us a great deal. It confirmed we are a divided people. A recent Gallup poll found that 77% of the people surveyed believe we are seriously divided on the most important values – a higher percentage than at any time since 1993 when the question was first asked. So, in fact, perhaps the only point of agreement among most Americans is that we are seriously divided. We are divided by socio-economic status, by educational attainment, by age, by race and ethnicity, by geography, by political party and in many other ways.

One could also conclude from this election that many Americans voted out of emotion more than based on facts and issues. In my opinion, the dominant factor that drove many of the voters' decisions on November 8 was fear – it was not issues like the economy, health care, or national security. It was not even emails. It was fear – fear of change, fear of people who look different, fear of people who think differently, fear of losing one's place in society or in the economy. It was fear of the future and what one's place in it might look like – it was fear.

Anger was also a clear factor in why people voted the way they did. We saw a lot of anger in the electorate this year. Anger at the elite, at Wall Street, at ISIS, at immigrants and at the supporters of the candidate we were not supporting. Anger is often a reflection of fear, but not always. Sometimes it is based in one's own situation or in the comparison of one situation with where others are or are perceived to be. We saw particular anger in the not clearly defined group we call the middle class driven by the reality as well as their perception that others were "getting ahead" while they were stuck without wage growth and unable to advance economically. Whatever the reasons, we have come out of this election still extremely divided and still with a great deal of fear and anger.

My remarks are entitled, "Divided We Fall – Restoring Trust in our Democracy." I don't think I had to come here tonight to convince you that we are divided. You know it as well as I. But, I suspect most of you here tonight believe our democracy is always going to be here or, at least, that is resilient and will survive, no matter what the situation. After all it has survived many



challenges including a civil war, presidential assassinations and impeachments, world wars, civil unrest, legal segregation by race, and more. But Democracy, like other forms of government, is not fail-safe. I refer you to Plato. In my view, if we take it for granted and do not do everything possible to nurture and protect it, it can fail. In fact, I believe a case can be made that our democracy is, at this very moment, inching towards failure. If we do not recognize this fact or choose to ignore the situation in which we find ourselves, we do so at our peril.

Another one of the messages I believe we should learn from this election is that there are millions of Americans who believe government is not working for them. These Americans are in both parties and are found across the political spectrum. They are found among those that supported the President-elect and they can be found among the supporters of Bernie Sanders and Hillary Clinton as well as among the third party candidates. And in a democracy, their voices count just as much as each of ours. That is the nature of self-rule. All voices matter.

As I think about this circumstance, I conclude some of these Americans have this belief about government because they feel the political system is broken or “rigged” as we heard during and since the election. They reach this view because of their disgust with the amount of money in politics, the never-ending TV ads attacking every candidate, and the pay to play they believe is rampant. They also see gerrymandering as keeping them from having a meaningful voice and gridlock from allowing government to do its job for them. They are sick and tired of the partisan bickering and division. Some of this feeling about the system being broken surfaced in a desire to see dramatic change – a desire as one candidate successfully argued, to drain the swamp – and they went out and voted for the person they thought could bring them that change.

However, lest we forget, proof of these feelings about government also can be found in the fact that more than 4 in 10 eligible voters did not even bother to vote in this year’s presidential election – the lowest percentage turnout in 20 years. We must ask if those Americans have simply given up any hope of government working for them or for meaningful change.

Others feel government is not effectively fulfilling the role and responsibilities they believe government should perform. With a few exceptions, and those exceptions are very disturbing, virtually all Americans agree we need government to play a significant role in our lives individually and as a Nation. Also, most Americans agree government can and should work better. It is not perfect and should be better. As I said, there is general agreement that we need government. Where there is often sharp disagreement is in deciding what are the appropriate roles and responsibilities for government – the classic big government/small government argument. There is also disagreement about what causes government not always to work well and what are changes needed to make it work more effectively.



I have concluded that the sharp division among our people and the fear and anger many Americans are feeling result as much from their feelings about what they perceive as the failure of government both in doing its job and in its politics as from the catalog of other issues and reasons we often hear and discuss. There is no question issues of race, the wealth divide, and the power of the elite play a major role in where we are as a Nation, but underneath it all may well be a sense that all of these issues could and should be solved by government if it only worked better both in the political arena and the operational arena.

If I am right, and it is certainly possible I am not, the most important question we face today is can government still be part of the solution? If we fix some of the many problems in our politics and if we can make government more effective in meeting its responsibilities, will these results restore trust not only in our democracy, but trust in each other, in our common interests and in the common good? Would we become a more united Nation?

As was mentioned in my introduction, I now work for the Volcker Alliance. Our work is focused on making the administration, management, and policy implementation of government more effective. Paul Volcker, Chairman of the Federal Reserve under Presidents Jimmy Carter and Ronald Reagan and Chairman of the Economic Recovery Advisory Board under President Obama and the founder of the Alliance, believes that if government does its job effectively people will have more trust in it and will understand the value it adds in their lives.

The truth is government works quite effectively in many aspects of our lives and we often take those well-executed responsibilities of government for granted. When you wake up in the morning and flush the toilet you do so without thinking about your community's sewer systems and waste water facilities. You eat your breakfast without worrying if the fruit has been sprayed with toxic or cancer-causing chemicals or if the bacon or sausage is contaminated as a result of improper meat processing. If you take prescribed medicine, you do so without really thinking about whether it was manufactured in FDA approved and inspected facilities and was properly tested and approved for human use before it ever hit the market. You make your way to work or about your daily activities without worrying if the roads, bridges and tunnels you use were built to certain safety standards. You rely on the rules of the road, the stop signs and traffic lights. I suspect you don't think daily about whether someone will come to your aid if your house catches on fire or if you have a medical emergency. I suspect you mostly assume our military, intelligence officials and law enforcement are protecting us from cyber or other kinds of attacks. You don't think about the air traffic control system when you fly or the safety requirements for the toys with which your children or grandchildren play.

Those of you who are as chronologically gifted as I am have seen the water quality in our rivers and lakes improved substantially since the 60s and 70s. Though we still have issues with water



quality as we have seen recently in Flint, Michigan. Our water and air quality in this state and around our nation is far better today than it was 40 years ago. Why? Because government has worked through effective public policies and regulations that resulted in significant cleanup efforts aimed at making things better. Perhaps when we get to the question and answer session we can explore how good public policies are developed and enacted and what we can do if we want to have similar future successes.

A great deal of what government does adds value to and improves our lives. We don't spend much time writing government officials to say – good job handling my trash today or thank you for delivering my social security check on time. Rarely do we see the media or anyone celebrate the good work government does or recognize the millions of talented public servants in our local, state and federal governments.

Instead we talk about, highlight and complain about the parts of government that need to be improved. We all know government can be better and do better in lots of areas. Our justice system, to pick one I know a little about, though fairer and better than those in most in the world, makes mistakes and fails to deliver true justice to many. Our financial systems and the government regulations of it are not perfect as the 2008-09 financial meltdown and the recent profit making scheme by one large national bank remind us. There is still waste in government. We read about fraud in Medicaid and other programs as well as dramatic overspending in government contracting. And in most states, there is the motor vehicle department. Enough said.

At the Volcker Alliance, we believe if we can help make the government work better and if we can help highlight where government is working well, people will view their government differently. They will again believe we need a strong, well-functioning government, particularly, if we are going to “provide for the Common Defense, promote the General Welfare and secure the Blessing of Liberty” as the Preamble to our Constitution states. Not an easy task, but one we feel we must tackle if trust in government is to be restored.

We currently work at both the state and federal levels and are likely to expand to local government soon. We use a range of strategies and techniques including white papers, interventions designed to grow and enhance the government's talent pipeline, shining light on best practices and bringing attention to practices that need attention and improvement. We also directly intervene when asked to assist in solving particular problems. We are currently re-examining how we might use our resources even more effectively and would love your ideas and input.



But even if we fix the administration and operational side of government to a state of near perfection, I do not believe we will be out of the woods. We must also fix our politics – the political/policy making side of government.

Part of my work at Duke is focused on one aspect of the political side of government – redistricting. When I say redistricting I refer to the requirement that we reapportion election districts once every 10 years based on Census Data.

Why focus on redistricting you might ask? I believe it is the key to solving the most broken aspects of our political system. Specifically, I am convinced moving to non-partisan redistricting systems in America may be one of, if not the most, important change we can make, if we wish to preserve our democracy and make it work well again. Why do I feel this way? In my opinion, and in the opinion of many others in both major political parties and unaffiliated with either, non-partisan redistricting leads to fairer districts in which voters have a greater voice and politicians must be more accountable. In a gerrymandered system, voters in the general election have little choice. And let me be clear – this is not a Republican creation. The Democrats have been equally at fault. Both parties have used the current system to gain an advantage. Using computers, those in power have become even more adept at drawing districts that are not competitive between the major parties so that once the party nominee is selected that person is virtually guaranteed of election. Over time, I contend this has pushed many candidates further to the extreme positions in their party. Even more troubling, since re-elections are mostly certain when districts are gerrymandered, elected officials have much less need to listen to voters, compromise to accomplish generally desired results or be accountable to the electorate. As a result, voters become increasingly disillusioned and frustrated with the political system and then completely disengaged as we saw with more than 40% of the eligible voters in this presidential election.

When districts are drawn without regard to party registration or voting history, they tend to be more competitive. More competitive districts return a meaningful voice to voters and might well result in voters becoming more engaged and having more trust in the outcome. Further, more competitive districts will likely require candidates to move more to the middle where they find it possible to compromise and accomplish positive policy outcomes. Finally, candidates who must fight to be re-elected are much more likely to pay attention to voters and are more accountable to them. Many believe the ultimate result of non-partisan redistricting will lead to less gridlock and over time will reduce the bitter political divisiveness that now exists. So, my work at Duke has centered on how we might move more states to use of a non-partisan process for their redistricting. Part of our effort is to better educate students here at Duke on the issues while at the same time working to educate policy makers and the media.



So, let me talk a bit about our project to date. Our main focus this year has been to run a simulation of what it would be like to have a non-partisan redistricting commission draw congressional districts for North Carolina. We brought together 10 retired justices and judges – 5 who ran for office as Democrats and 5 who ran for office as Republicans. This was a distinguished group that included 5 former Chief Justices of our Supreme Court, one former associate justice of the Supreme Court, two Court of Appeals judges, one of whom served for a number of years as Chief Judge and two Superior Court Judges. We asked these jurists to use the criteria found in a bill introduced in the North Carolina General Assembly which called for a non-partisan redistricting system. By the way, that bill passed the Republican-controlled State House in 2011, but was not considered by the Senate. The criteria were relatively simple – draw districts that were contiguous, were as compact as possible, without considering party registration, voting history, or incumbency and do so breaking as few county and other political subdivision lines as possible.

The judges met three times and ended up agreeing on a map that, in the view of most who have seen it, is much more sensible and reasonable than the ones drawn by the General Assembly. After the judges agreed on the map we took the districts they drew and did a political assessment of each district using voting history in order to determine the competitiveness of the districts.

For context, the Legislative map under which the most recent election was conducted was acknowledged by those who drew it to have been drawn to maximize the partisan advantage of the Republicans. And, they were successful. In the recent election 10 congressional districts were won by the Republican candidate and 3 by the Democrat candidate. Further, the percentage of the vote obtained by the winner in the closest race among the 13 was 56%. If one looks at the total votes cast for congressional candidates in all 13 districts you find the 53% of the total votes were cast for the Republican candidates and 47% for the Democrats. If you apply these percentages to 13 seats it results in 7 seats for the Republicans and 6 seats for the Democrats.

For comparison, the political analysis we did of the map drawn using non-partisan principles produced the following results – 6 seats would likely be Republican, 4 seats would likely be Democrat and 3 would be toss ups. So, I think we demonstrated that using non-partisan rules when drawing districts will result in districts that are more compact and more competitive. In addition, the outcome in elections held under the map drawn by the judges would much more closely match how the voters of North Carolina vote.

We have also worked with Jonathan Mattingly, who is here tonight and is a Math professor here at Duke, and a number of his students. They tested the competitiveness of more than 100,000 variations so of the districts all drawn using the same criterion as the judges. The results show a



dramatic variation between the districts drawn by the judges and those drawn randomly compared to those drawn by the legislature.

So, I have talked way too long, but before I stop for questions, I want to talk for a minute about what we all can do to address the two-pronged problem we have with public confidence and trust in government. First, on the political side, I hope you will all join me and the team at Duke in working for a non-partisan redistricting process. I believe reform is possible but probably only if there is an organized public movement to force change.

I should pause here to say there may be another path to reform and that is through the courts. You may have seen last week that a Federal 3-judge panel ruled the Wisconsin legislative districts unconstitutional based on partisan gerrymandering. Historically, the courts have not been open to attacks based on partisan gerrymandering, only on racial gerrymandering, indicating such attacks raise “political questions” that are not traditionally resolved by the courts. To my knowledge, the Wisconsin case is the first of its kind. If it is appealed and the Supreme Court affirms it, redistricting processes will change nearly everywhere and the entire political landscape in America could quickly be transformed. Some have hope this may happen since at least one Justice on the Court appointed by a Republican president has signaled that if partisan gerrymandering goes too far it could violate the Constitution. The question is how do you draw the line? The Court in the Wisconsin case accepted a mathematical model as the method to test whether partisan gerrymandering has gone too far. The idea of a mathematical formula or model as the test is exactly on what Jonathan Mattingly and his students are working. Their work could become really important in helping define with specificity what is partisan gerrymandering. There are two cases now pending in North Carolina alleging that the existing Congressional seats are unconstitutional because of political gerrymandering and similar cases in other states. So, keep your eyes on those cases and on Jonathan’s work.

I also believe we must do all we can to insure that our system of voting is fair and without any defects while also being as open and available to our citizens as possible. What we have seen since November 8 – nationally, the allegations of hacking and illegal voting by millions of illegal immigrants and, and in our State, allegations of large numbers of dead people and felons voting, can do irreparable harm to our democracy when such allegations are made without any factual basis. The harm will come in a loss of confidence in our elections and the outcomes of them. If a large segment of the public experiences this loss of confidence, democracy will fail. All we have to do is look around the world for examples of elections that are not trusted by the populace and we know the results that follow – dictators, tyrants and banana republics.

This is a place where both major political parties, those unaffiliated with any party and, indeed, all Americans have a lot to lose. We all need to come together with solutions designed to ensure



a fair, inclusive, election system, free from defects or fraud. The solutions must address real problems, not perceived or made up ones and must do everything possible to ensure confidence in the outcomes.

We can explore use of better technology, post-election audits and other procedures that both encourage participation and make voting convenient while also protecting against any nefarious activity. There is a cost, but what could be a more important expenditure than investing in our democracy. What must stop is the making of unfounded allegations of improprieties for political gain. It is simply too dangerous.

On the administration/policy implementation side of government, I hope we will all remind our friends, family and ourselves about the important ways government makes our lives better so we will stop taking government for granted. I also hope we will help our fellow citizens understand that paying taxes is an investment in government and that without that investment we will not get the returns from government we need, want and demand. By the same token, we need to get involved in helping government be more effective. We need talent and innovation and new ideas for positive change. These are needs the students here tonight are particularly well placed to tackle. So, I urge the students here tonight to think about going into government. The pay may not be as high as with a big consulting firm, but the impact you may have on your fellow citizens could be much greater.

When I was a young lawyer in Greensboro, I belonged to a group called the Conversation Club. We met once per month, usually over dinner and discussed an important issue facing our community, state, nation or the world. The group was diverse politically, chronologically and racially. The discussions we had were civil, enlightening and informative. I learned a great deal in those discussions. Today, I spent all day in a meeting of the North Carolina Leadership Forum, a group of North Carolina leaders from both major parties who have widely different views. We talked about how to solve a real problem – the ability of North Carolina workers to earn enough to take care for their families. We talked about the minimum wage, earned income tax credit and other issues in a very civil, thoughtful discussion.

I think each of us here tonight needs to create our own “conversation club” and fill it with people who are diverse in every way possible, particularly socio-economically and based on educational attainment. These were big areas of divide in the recent election. We need to discuss the serious issues we face as a people at times other than in the heat of an election cycle. We need to know each other better. We need to be better informed. And we have work to restore civility in debate and discussion of difficult issues. If you don’t want to have a “conversation club,” you can “adopt” – not in the legal sense – another citizen/voter who thinks differently than you do and engage that person in a regular, serious discussion about democracy, our political system and



what kind of government we need and want. We can and must convince people of the value of our form of government even if we have to do it one person at a time. We can't wait until elections to have these conversations. Emotions are running too high in those times. We need to be constantly vigilant and to make a serious effort if we are to preserve and protect our democracy. Democracy will work best when we listen to and really hear all voices and all voices feel they have been heard.

I don't know why you are here tonight. It might be the five dollars they gave you to attend or maybe it is the food at the reception I am keeping you from attending. I suspect it is really because you care about our democracy and you are searching for answers to our problems. Well, I don't have any magical solutions or silver bullets. I can only hope to help you understand the urgency of action if we are to preserve our form of government and the need to engage among ourselves and with others in finding solutions.

John Gardner, who was Secretary of Health Education and Welfare under President Lyndon Johnson, said in a 1968 commencement address at Cornell University that the essential institutions of our society, particularly government, were "caught up in a savage crossfire between uncritical lovers and unloving critics." He argued that on the one side are people who so admire and love institutions as they are that they do everything possible to protect them from "life-giving criticism" and, in effect, "smother them in an embrace of death." On the other side were "a breed of critics without love, skilled in demolition, but untutored in the arts by which human institutions are nurtured and strengthened and made to flourish."

Gardner warned that if institutions are "loved without criticism" it brings stagnation while criticism without love brings destruction. I would contend that Gardner's warning is more relevant today than ever before. I fear both our democracy and our government are stagnating and in need of real change and innovation if they are to thrive. By the same token the constant criticism of government by many without any desire to really tackle its problems will lead to destruction.

Gardner argued we need to seriously study our institutions, particularly our government, and that we must "become expert in the art of modifying them." This is exactly what the Sanford School does so well. The faculty and students engage in serious study about our government and learn to become experts in the art of modifying it.

Tonight we are in desperate need of many more people who love democracy and government enough that they will willingly study our governmental institutions and our form of government seriously so that they can provide meaningful critiques while at the same time being willing to invest in loving and nurturing them both. The question is – are we going to be those people?