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Vaclav Havel and the Velvet Divorce

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VÁCLAV



HAVEL

Almost five years have passed since the breakup of Czecho Slovakia on Dec. 31, 1992. It may not be too early to start the process of appraising the role played by Václav Havel in the Czech-Slovak constitutional negotiations that ended in the dismantling of the state. While most records of the last crucial phase are not available as yet, some direct participants are prepared to talk about their experience. Moreover, because the time elapsed is relatively short, the historic reality of the outcome has not settled so firmly as to make difficult a consideration of alternative choices of conduct that might have been available at critical stages of the negotiations.

— BY ERIC STEIN

and the Velvet Divorce

The following essay is based on the book, Czecho/Slovakia: Ethnic Conflict, Constitutional Fissure, Negotiated Breakup, recently published by University of Michigan Press, © 1997. Publication is by permission.

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Havel's position as the last federal President bristled with paradoxes relating both to his persona and to his political activities. His performance — and his writings — disclose a deep ambiguity toward power. As a product of the Czech bourgeoisie who enjoys the small pleasures of the "little Czech man," and as an artist at heart, he denies "any desire for power or love of it," and is horrified by its temptations, according to author Marián Leško. Yet power holds a fascination for him, a gate to a great adventure in which a simple lad of the Czech folktale becomes a powerful king. Yet again, during a University ceremony at which he was given an honorary degree, he confessed to expecting at any moment one of the familiar men from Kafka's "castle" to enter, wrench his freshly acquired diploma from his hand and evict him from the aula as an impostor. Although he appears from the outside as the very "antipode" of Josef K., his sense of non-belonging and self doubt is, he suggests, the motor propelling him into the most unlikely exploits such as the Presidency. Yet again — and finally — this alienated modern intellectual believes strongly in a transcendental Being as a measure of all human values and individual responsibility; any societal change, in his view, must come from within the individual.

With great personal courage he was able to confront the Communist regime, and after its collapse, to articulate artfully the ideals and ills of his evolving new society and of modern democracy in general. He emerged after 1989 with great prestige, but with the sole experience of a dissident totally excluded from the public political process, confined to the world of samizdats, secret get-togethers of kindred souls, seminars and theatrical happenings in private apartments, all under the ubiquitous eye of the Big Brother, and in

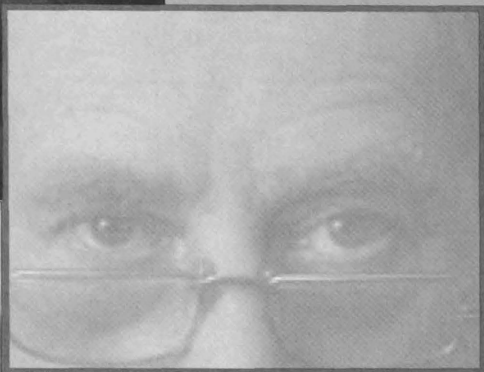
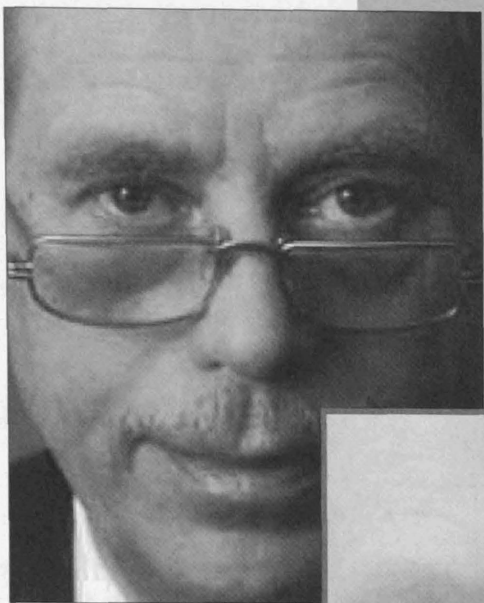
the end — a prison cell. He has described this pitiful caricature of "public life" as "anti" or "non-political politics" which allowed him to preserve his personal integrity but did not prepare him for high office in a democracy.

His critics have charged — and he has vehemently denied — that he consciously continued to adhere to the "non-political politics" in his new environment because of his aversion, on moral grounds, to the normal give-and-take of the political process. Again, Havel's critics point to his public pronouncements evidencing a degree of diffidence toward traditional political parties, which he has explained by the experience in the First Republic where the ruling political parties, with their own press, labor unions, cooperatives, sport and education facilities, exerted excessive influence over the life of the country. This posture, it is said with some justification, must have inspired the 1990 election slogan "parties are for partisans, the Civic Forum is for all." He was a founder of the Civic Forum, a dominant political force after 1989.

There has been little comment on the way in which Havel orchestrated the first phase of the negotiations for a new federal constitution, starting with his meeting in a Prague pub with Slovak Prime Minister Vladimír Mečiar and extending over the many peregrinations "from castles to manors" in 1990 and early 1991. In the nominally tripartite negotiations (the spokesmen of the federal and of the two component Republics) the "federals" and the Czechs tended toward common positions as against the Slovaks; Havel, as a high federal organ and a Czech could not be disassociated from one of the parties. He is blamed in the first place, for having promised Mečiar a re-allocation of competences between the federation and the Republics to be enacted promptly in advance of the new constitution because, it is said, he could not conceive that a parliament, elected under the Communist regime, could frame a democratic constitution. With his influence at its peak, he might have been able to force an

agreement on a full constitution at that time. However, he was not given enough time to acquire the indispensable skills of working with the fragile, groping institutions which were the ultimate arbiters of the constitutional issues, or to strike out on an extra-constitutional route. He never succeeded in forming a good working relationship with Alexander Dubček, the Slovak leader of the 1968 Communist reform movement and the kindly, but not very effective, Chairman of the Federal Assembly, or with its important committees. As his staff, Havel brought with him to "the Castle" people whom he met primarily as dissident journalists, artists and musicians, who shared his beliefs and excelled in their dedication and enthusiasm rather than in competence for governmental affairs. Yet, if one listens to his first Chancellor, persons with the needed background and training were simply not available, particularly if "the ruling circles" of the old regime were to be excluded. Havel remains fiercely loyal to his "old time friends" and collaborators and — as President of the independent Czech Republic since January 1993 — promotes them to positions for which, at times, they are not suited.

When he first came into federal office, Havel was impressed by "the unusually extensive powers of the President, almost as extensive as in the so-called presidential system" and he felt that in a new constitution "the power of the President could still be somewhat weakened." Not long thereafter, however, when in the course of his learning process he became aware of the increasing divisions in the Parliament and of the serious threat of an unresolvable deadlock due to the unworkability of the prevailing Communist Constitution, he proposed a series of legislative measures including a bill for increasing his powers. With one exception, all of these proposals failed of adoption. Heřman Chromý, a former deputy in the



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federal Parliament and Havel's ardent supporter, deplored the President's isolation and described the circumstances of the failure of his legislative initiative:

Some of the advisors acted as if they did not know (or did not want to know), what they were really expected to defend in parliamentary committees . . . The high distinction and erudition of Professor Klokočka (a Czech emigré law professor at the University of Munich and a consultant to the President) were for a number of deputies . . . unintelligible talk. Most of the deputies shunned his seminars on . . . the premises of the Parliament.

When the negotiations under the President's patronage ran into the ground and the representatives of the two Republic Parliaments took over, Havel continued to "intervene" at the margin. Concerned about the lack of progress in the talks between the parliamentarians, Havel offered his own draft of a federal constitution and, in November 1991, proposed that the Czech side accept the Slovak demands on the deadlocked formal issues relating to the parties and legal nature of a treaty to be concluded by the two component Republics as a new foundation of the common state. The Czech side, however, almost unanimously recoiled against this suggestion with varying degrees of sincere or feigned horror.

Finally, in November 1991, when another series of his constitutional proposals was in dire distress in the Federal Assembly, Havel decided to appeal to the citizens over the heads of the parliamentarians. He was encouraged to take this risky route by more than two million signatures (mostly Czech) on a petition urging the preservation of the common state. Some thousands of Prague citizens responded in a manifestation at the historic Václavské Square. It was perhaps at this point that the President had to decide whether to come out openly in support of a looser, "confederate" structure of the state demanded by the Slovak negotiators. Such a move would have brought him into a direct confrontation with the newly emerging Czech team lead by Václav Klaus. Shortly after the first mass meeting, Havel declared that there was no need for further demonstrations, leaving behind a feeling of disappointment and — more important — an irritated Parliament, which then proceeded to defeat again his proposals for breaking the constitutional logjam. With the bulk of the Czech population more or less indifferent and the Slovaks generally distrustful of him, it is not at all clear what would have happened if Havel had decided to continue his campaign for popular support.

When the President ran for reelection in the summer of 1992 he was repeatedly defeated in the Federal Assembly by the Slovak vote. His relationship with Slovakia was not an easy one. His original eight advisors included only one Slovak, who left after six months. At the outset, Havel was no less ignorant of the Slovak situation than any other Czech intellectual and no less surprised at the outburst of Slovak nationalist rhetoric during the early parliamentary debate on the new name for the federation. On one of his visits to Bratislava he was forcibly prevented from speaking by Slovak separatists. More important, he earned the undying hostility of the Slovak Prime Minister Mečiar, first, because he was said to have opposed Mečiar's appointment to a high federal office, then because of the alleged involvement of "the Castle" in Mečiar's "first" removal from the office of Slovak

Prime Minister, and finally because in his appeal before the 1992 elections he abjured the voters by clear implication from voting for Mečiar's new party, which nevertheless received the highest number of votes in Slovakia. Mečiar, "who never forgets or forgives," tried to use Havel's office as a bargaining chip with Václav Klaus, by then leader of the strongest Czech party and his negotiating protagonist, but Klaus refused.

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At the same time, he intervened actively and with limited success in the ongoing negotiations for a new Czech Constitution, often airing the views of the opposition. Contrary to the position of Klaus' party, he advocated a direct election of the Czech President by the people in order to strengthen the authority of that office. His view did not prevail, but he carefully avoided an open confrontation. Having decided to run for the Czech Presidency, he was well aware that Klaus' support was essential. In January 1993, he was in fact elected President of the newly independent Czech Republic by a large majority of the Czech Parliament.

Although sincerely dedicated to the preservation of the Czech-Slovak state, Havel was unable to sustain that objective. This, however, is only one perspective from which to view his role. His is a moving story of a courageous struggle to preserve personal integrity under the Communist regime, learning and adapting with some difficulty and mixed success to the post-Communist world, of living with internal conflicts, of coming to terms with his own limitations, of making difficult judgments of "the reality" calling for often distasteful compromises.

One might think about a parallel with Abraham Lincoln, the consummate lawyer-politician. Could Havel have done more to uphold the "union"? Lincoln acted from a solid political base established by his party's victory in the national elections of 1860. Havel's great prestige was reduced by a series of failed initiatives and missteps in Slovakia, and his influence was gravely impaired by the 1992 elections, which swept most of his supporters from the political scene. Lincoln seized on a compelling idea, the necessity to salvage the novel American experiment in governance, the federal republic, "the city on the hill" of the early tradition, beckoning the people longing for freedom everywhere. He employed this theme, buttressed subsequently by the call for the abolition of slavery, with great skill. Havel, with no experience in politics, had no program of comparable potency, no nationally based political party. Perhaps the most apt analogy is to the position held by the aging King Oscar II in 1905 as he presided over the peaceful dissolution of the Swedish-Norwegian state when Norway decided to leave the union.

Today, as President of the newly born state, Havel remains the most respected public figure in the Czech Republic. He and the Czech Prime Minister Klaus have established a delicate but apparently stable relationship. The Prime Minister, both because of his constitutional position and his assertive ways, has been the undisputed leading force. But Havel has made full use of the prerogative of his office, having vetoed several bills adopted by the Parliament. Unlike the German Federal President, who keeps aloof from daily squabbles, he has commented with abandon on any issue before the public,

even castigating the bureaucrats for overcharging Tom Cruise's *Mission: Impossible* film crew for the rent of a palace in Prague. Some believe he is trivializing the high office, yet the people at large applaud and deluge him with petitions. He has not hesitated to criticize the government at the risk of exacerbating divisions within the coalition. This evidently has posed a challenge to the Prime Minister's self restraint. With Havel articulating the moral values and Klaus, "the pragmatist," the Czechs have enjoyed a remarkable political stability during the important early years of the independent Republic.

Historians will have to address the question of whether Havel — in the face of prevailing reality — could have done more to save the Czech-Slovak state, and whether his efforts would have made a difference in the outcome. If I am cornered with a demand to answer this question, I would respond that it was not within Václav Havel's power to avert the breakup. The structure prevailed over the "hero" even though in the final phase the drama was played out by other heroes (or villains, depending on the beholder's view).

Hessel E. Yntema Professor of Law Emeritus **Eric Stein**, '42, was a member of the International Commission on the Revision of the Czechoslovak Constitution, a group of lawyers invited by President Václav Havel to consult with the Czech and Slovak authorities on constitutional issues during 1990-92. A graduate of Charles University in Prague and the University of Michigan Law School, with honorary doctorates from both Free Universities of Brussels, he joined the Law School faculty in 1955, has taught in Europe and the U.S. and has been professor emeritus since 1983.

