

## Chapter 11

**Final Remarks****§ 1. The Life of Citizenship**

To live is to encounter the world around us, to be acted upon by powers and circumstances in that world, and, in our individual turns, to act upon it. That world is dynamical, changeable, empirical, and in a great many particulars unpredictable by individual minds because all predictability is based upon empirical human understanding – and misunderstanding – of it. *Homo sapiens* is both a social being and a selfish being, and a great deal of life involves activities undertaken by the individual to find the best balance he can between these two contrary – but not contradictory – facets of being human. The human association we call a nation is no different in this than is any other aspect of living one's life.

A great many people, including your author, find themselves wishing from time to time that life could be simpler, more stable, more predictable, and that the institutions we erect for ourselves could be endowed with a permanence of unchanging character. But this sort of permanence is unknown in the world of human experience and so each of us must take the world as we find it and do the best we are able in coming to terms with it. George Santayana wrote,

Whatever forces may govern human life, if they are to be recognized by man, must betray themselves in human experience. Progress in science or religion, no less than in morals and art, is a dramatic episode in man's career, a welcome variation in his habit and state of mind; although this variation may often regard or propitiate things external, adjustment to which may be important for his welfare. The importance of these external things, as well as their existence, he can establish only by the function and utility which a recognition of them may have in his life. The entire history of progress is a moral drama, a tale man might unfold in a great autobiography, could his myriad heads and countless scintillas of consciousness conspire, like the seventy Alexandrian sages, in a single version of the truth committed to each for interpretation. What themes would prevail in such an examination of heart? In what order and with what emphasis would they be recounted? In which of its adventures would the human race, reviewing its whole experience, acknowledge a progress and a gain?

When all is said and done, government of the people by the people for the people is nothing more and nothing less than our collective efforts to understand our common interests, our diverse interests that are mutually compatible, and to use these understandings in such a way that each of us is able to make real (realize), to the best and fullest extent one is able to achieve, his or her individual potential in seeking for that happiness that can justly be called the common cause of humankind. Government is in a quite fundamental way our collective institution to empower ourselves, as best we know how, for becoming whoever the person is that each of us individually would choose to become. It would not be unduly romantic to say that life itself is the process by which each of us comes to understand what sort of person we wish to be and to understand how best to become that person. If one chooses to see this

as the real purpose and real meaning of life – well, this is not a bad way to understand it.

We form political communities to better empower ourselves for the accomplishment of this. If there were any real *ontological* basis of validity in the idea of the general will under the Social Contract, it might then be possible for us to discover that there is some one perfect, complete, unchanging, and all-encompassing manner of government that could bring Utopia to all of us at once and in our own lifetimes. But that is not the nature of the general will. The general will subsists in our striving to do better, to discover the ways and means to this better life through our cooperations. We share not some one pristine common object as a goal but, rather, a common sense of direction. We have the power to discern imperfection but not the power to apprehend perfection itself. Absolute perfection is an object altogether too sublime to fit into the experience of *homo phaenomenon*.

And so it is left to each of us, in our individual capacities as *homo noumenon*, to strive to seek a better state of perfection for that corporate benefit which is also one's own benefit. In fundamental aspect, that is what practical citizenship means. Our individual efforts for self-betterment in this can be seen as living what Santayana called "the life of reason." Our collective efforts in this could likewise be called "the life of determination." Put together in a synthesis of combination, we can call the product of this synthesis *the Life of Citizenship*.

This treatise is written to contribute to the Great Conversation over this topic. It has proposed many reformations seen by its author as those that will promote the better perfection of the Idea of the American Republic. Like all ideas of propositions, we must expect those presented in these pages to need further refinement, to need the collective wisdom of many minds for filling in the blanks left by the finite experience of its author from the manifold experiences of his fellow citizens. As manifold as the imperfections in our Republic are today, the vision of the Founding Fathers is still the best vision that has yet been imagined over all the ages of human striving. The Founding Fathers knew this vision was still a portrait being painted, that the Constitution and the government it was to set into being were not yet perfect – merely more perfect than what then existed in America. September 17, 1787, was the closing day of the Constitutional Convention, and on that day Benjamin Franklin rose to speak the following words (Farrand, *Records*, vol. II):

I confess that I do not entirely approve of this Constitution at present, but Sir, I am not sure I shall never approve it: For having lived long, I have experienced many Instances of being obliged by better Information or fuller Consideration, to change Opinions even on important Subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow the more apt I am to doubt my own Judgment and to pay more Respect to the Judgment of others. . .

In these Sentiments, Sir, I agree to this Constitution, with all its Faults, if they are such: because I think a General Government necessary for us, and there is no *Form* of Government but what may be a Blessing to the People if well administered; and I believe farther that this is likely to be well administered for a Course of Years, and can only end in Despotism, as other Forms

have done before it, when the People shall become so corrupted as to need Despotic Government, being incapable of any other. I doubt too whether any other Convention we can obtain may be able to make a better Constitution . . . It therefore astonishes me, Sir, to find this System approaching so near to Perfection as it does; and I think it will astonish our Enemies, who are waiting with Confidence to hear that our Councils are confounded . . . Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure that it is not the best. The Opinions I have had of its Errors, I sacrifice to the Public Good.

Not all of the delegates at the Convention were as at ease in their minds about the new Constitution as Franklin. Three of them – Randolph of Virginia, Mason of Virginia, and Gerry of Massachusetts – could not "in conscience" bring themselves to sign the Constitution, although the Constitution itself was approved by a vote of twelve states for, none against<sup>1</sup>. In his notes of that day, Madison recorded Randolph's reason why he declined to sign his name:

Mr. Randolph then rose and with an allusion to the observations of Dr. Franklin, apologized for his refusing to sign the Constitution, notwithstanding the vast majority and venerable names that would give sanction to its wisdom and its worth. He said however that he did not mean by this refusal to decide that he should oppose the Constitution without doors. He meant only to keep himself free to be governed by his duty as it should be prescribed by his future judgment – He refused to sign, because he thought the object of the Convention would be frustrated by the alternative which it presented to the people. Nine States will fail to ratify the plan and confusion must ensue. With such a view of the subject he ought not, he could not, by pledging himself to support the plan, restrain himself from taking such steps as might appear to him most consistent with the public good. . . He repeated that in refusing to sign the Constitution, he took a step which might be the most awful of his life, but it was dictated by his conscience, and it was not possible for him to hesitate, much less, to change.

Mason's reasons for not signing the Constitution stemmed from his belief that its provisions regarding taxation and commerce powers were hostile to the interests of the southern states, but he did not voice his objections for the *Records* on the final day of the Convention. Gerry rose to explain his reason for not signing it:

Mr. Gerry described the painful feelings of his situation, and the embarrassment under which he rose to offer any further observations on the subject which had been finally decided. Whilst the plan was depending, he had treated it with all the freedom he thought it deserved – He now felt himself bound as he was disposed to treat it with the respect due to the Act of the Convention – He hoped he should not violate that respect in declaring on this occasion his fears that a Civil war may result from the present crisis of the U.S. – In Massachusetts, particularly, he saw the danger of this calamitous event – In that State there are two parties, one devoted to Democracy, the worst he thought of all political evils, the other as violent in the opposite extreme. From the collision of these in opposing and resisting the Constitution, confusion was greatly to be feared. He had thought it necessary for this and other reasons that the plan should have been proposed in a more mediating shape, in order to abate the heat and opposition of parties – As it had been passed by the Convention, he was persuaded it would have a contrary effect – He could not therefore by signing the Constitution pledge himself to abide by it at all events.

As history would later show, the fears and concerns of these delegates were not without foundation.

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<sup>1</sup> Rhode Island sent no delegate to the Convention.

But history would also show that that the decision reached that September day was a sound one. As the delegates were signing the Constitution, Franklin made a comment Madison recorded for posterity in his journal:

Whilst the last members were signing it, Dr. Franklin – looking towards the President's Chair, at the back of which a rising sun happened to be painted – observed to a few members near him, that Painters had found it difficult to distinguish in their art a rising from a setting sun. I have, said he, often and often in the course of the Session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President without being able to tell whether it was rising or setting: But now at length I have the happiness to know that it is a rising and not a setting Sun.

In a very pragmatic sense, it is the Life of Citizenship that keeps the sun rising over the American Republic.

## § 2. A Little Rebellion Now and Then

The words that have been borrowed to title this section were written by Thomas Jefferson in a 1787 letter to James Madison:

Societies exist under three forms sufficiently distinguishable. 1. Without government, as among our Indians. 2. Under governments wherein the will of everyone has a just influence, as is the case in England to a slight degree, and in our states in a great one. 3. Under governments of force: as is the case in all other monarchies and in most of the other republics. To have an idea of the curse of existence under these last, they must be seen. It is a government of wolves over sheep. It is a problem, not clear in my mind, that the 1st condition is not the best. But I believe it to be inconsistent with any great degree of population. The second state has a great deal of good in it. The mass of mankind under that enjoys a precious degree of liberty and happiness. It has its evils too: the principal of which is the turbulence to which it is subject. But weigh this against the oppression of a monarchy, and it becomes nothing. . . Even this evil is productive of good. It prevents the degeneracy of government, and nourishes a general attention to public affairs. I hold it that a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical. . . An observation of this truth should render honest republican governors so mild in their punishment of rebellions as not to discourage them too much. It is a medicine necessary for the sound health of government.

Merely because a government calls itself republican or because a nation calls itself a republic, this does not mean that government or that nation is an American Republic. To be a republic only means that government is entrusted to the hands of representatives of the citizens, and so a nation in which only one person in every one hundred thousand is a citizen, and every one hundred thousand less one is a slave, can legitimately call itself a republic. It cannot, though, call itself an American Republic. This is what Madison was saying in *The Federalist*, no. 39, when he wrote,

It is essential to such a government, that it be derived from the great body of the society, not from an inconsiderable proportion of it, or a favored class within it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans, and claim for their government the honorable title of republic.

Jefferson was, of course, not correct when he characterized the Native American tribes as people

existing under no government; here he was as culturally blinded in his opinion as was every other person of European descent in his day. Tribal government, through its councils of elders or picked head men and women, bore – and still bears – a far closer resemblance to the direct democracy of Athens than he and other white Americans probably ever suspected, but one far more lacking in the bellicose turmoil that characterized democracy in Athens, and of far greater similarity to the township governments of colonial New England than white Americans would have ever been likely to admit. What the tribal governments lacked – which European Americans, acclimatized as they were by centuries of monarchy, could not help but perceive as a key sign of the absence of government – were *rulers*. A tribal council could *govern* the affairs of a tribe; it could not *rule* these affairs. The European cultural habit of equating governing with ruling was a difficult habit to break, and we see the effects of this habit even in *The Federalist* and other records when the writer slips back into the habit of calling an agent of government a "ruler." It is a cardinal error of the highest magnitude to confuse governing with ruling. The American Republic requires agents to *govern* its affairs; it can never tolerate *rulers*. Under the Social Contract, the rule of the Republic can never be the responsibility of any except the Sovereign people themselves. When rulers reappear in institutes of government, or come forward to sway the mechanisms of government, it is time for one of Jefferson's little rebellions to occur.

In essence, a little rebellion is what this treatise aims to begin. For slightly less than two centuries, America has been drifting away from the ideas and principles upon which the Constitution is based and away from fidelity to the Social Contract that is the sole bond between people who freely choose to live, associate, and conduct peaceable commerce among themselves. The rebellious spirit of this treatise is not a rebellion against the Idea of the American Republic, but rather rebellion against violations of its principles that are reflected in the present day governments in America and which have drained the Republic's civic spirit from so many of its citizens. When he was just a boy, your author placed his right hand over his heart and made the following Pledge:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, indivisible, with liberty and justice for all.

This Pledge has no term limit and no conditions. Your author has never lived in the true Republic to which this Pledge is made, but by his free taking up of the obligation it became and remains his duty as an American to work for the better day when the Idea of the American Republic is more closely realized than the reality of its political community stood the day before. That this has meant a lifetime decorated in spots by "a little rebellion now and then" came with the territory. It was the accident of his life to have lived the formative years of it during a time of great civil turmoil when injustice was battled openly on the streets of America. The incongruity of that injustice with the American Ideal provided the motive to undertake a lifetime of learning what this word *Republic* really means, and to

learn that the Republic can never be taken for granted. He has likewise never taken liberty and justice for granted because he has learned that liberty with justice is *never* granted; it is won and kept in every generation by active citizenship, and by that alone.

The foundation of the Republic is the Social Contract everyone who would be a citizen must freely enter into. It is from this foundation that spring the six true and only objectives of Republican government: To form a more perfect union; to establish justice; to insure domestic tranquility; to provide for the common defense; to promote the general welfare; and to secure the blessings of liberty to ourselves and our posterity. Every word in this treatise was written in the service of these objectives. The American Republic will be a moral society – moral in the only sense in which that word can achieve universal objective validity among a diverse people: deontological morality. When every American citizen – everyone who has freely taken up the obligation of citizenship the Social Contract requires – can agree that together we have forged a civic moral society, then we will know that the Great Experiment in government begun in 1776 has been *made successful by our efforts*.

We are human beings, and it is the burden of being human that we make our own individual mistakes. To make an honest mistake is no sin and carries no moral culpability. To willfully refuse to recognize mistakes or, recognizing them, refuse to try to correct them is a vice called lack of good character. Perhaps the greatest mistake in the political history of our country was in allowing the mechanisms of election to fall into the hands of political parties, for those who control the mechanisms of election soon control the government of the country as well. Washington wrote,

I have already intimated to you the danger of parties in the State . . . Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the Spirit of Party generally.

This Spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. – It exists under different shapes in all Governments, more or less stifled, controlled, or repressed; but, in those of the popular form, it is seen in its greatest rankness, and is truly their worst enemy. –

The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. – But this leads at length to a more formal and permanent despotism. – The disorders and miseries, which result, gradually incline the minds of men to seek security and repose in the absolute power of an Individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of Public Liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight), the common and continual mischiefs of the spirit of Party are sufficient to make it the interest and duty of a wise people to discourage and restrain it. –

It serves always to distract the Public Councils and enfeeble the Public administration. It agitates the community with ill-founded jealousies and false alarms, kindles the animosity of one part against another, foment occasionally riot and insurrection. – It opens the door to foreign influence and corruption, which find a facilitated access to the Government itself through the channels of party passions. Thus the policy and will of one country are subjected to the policy

and will of another.

There is an opinion, that parties in free countries are useful checks upon the Administration of the Government, and serve to keep alive the spirit of Liberty. – This within certain limits is probably true – and in Governments of a Monarchical cast, Patriotism may look with indulgence, if not with favor, upon the spirit of party. – But in those of the popular character, in Governments purely elective, it is a spirit not to be encouraged. – From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose, – and there being a constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. – A fire not to be quenched; it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume.

We cannot ban political parties, for that destroys the civil liberty of free association. We likewise cannot refuse to hear the concerns spoken by the collective voice of any community of party, for this is incongruent with liberty as well as with justice. We can, however, deny them control of the mechanisms of election and deny them the power to rule, and this we must do for the sake of liberty, for the sake of justice, and for the protection of the minority from the majority and that tyranny of the majority that is and ever will be the vice of pure democracy. This is why this treatise has proposed making a civil place for what Washington called the Spirit of Party within the House of Interests. That this reformation might, and probably would, lead to a proliferation of political parties is not a political evil. Ask yourself: Is it justice that the two-party system, among its other tyrannies, has been able to subvert the Electoral College to hinder and crush efforts to form new parties?

The fault does not lie with the principle of electoral colleges. The fault lies with party control of the membership of the Electoral College. The two major parties have had an easier time in entrenching their power over the elected representatives of the general and state governments, and the governments of the larger cities. They have had lesser success in entrenching this power in the local governments of the small communities. The best example of party tyranny can today be found in the state of Idaho, a state where the two party system has collapsed, through undeniable propaganda skills in the dominant party organization and its leaders. Idaho is under the rule of a one party system in which the power of the dominant party is matched in our time only by the example of the dominance of the Communist Party in the old Soviet Union. This party maintains and furthers its political success by means of policies for keeping the state's public school system and its universities enfeebled and hard-pressed to provide more than the barest rudiments of vocational education. Republican government in Idaho is effectively extinguished today even as its facade is kept up and maintained.

The easy proliferation of political parties was a safeguard that the Framers of the Constitution counted upon – apparently rather naively, as the political experiment has actually turned out so far. Madison wrote in *The Federalist*, no. 10,

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. . . . When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its

ruling passions or interest both the public good and the rights of other citizens. To secure the public good and the private rights against the danger of such a faction, and at the same time to preserve the spirit and form of popular government, is then the great object to which our inquiries are directed. . .

By what means is this object attainable? Evidently by one of two only. Either the existence of the same passions or interest in a majority, at the same time, must be prevented; or the majority, having such co-existent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together; that is, in proportion as the efficacy becomes needful.

He returned to and amplified this point in *The Federalist*, no. 51:

It is of great importance in a republic, not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. . . If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil; the one, by creating a will in the community independent of the majority, that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable. . . The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority. In a free government, the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other, in the multiplicity of sects. The degree of security in both cases will depend on the number of interests, and in the other, in the multiplicity of sects; and this may be presumed to depend on the extent of the country and the number of people comprehended under the same government.

Unfortunately, the Framers badly underestimated how easy it would eventually become for factions (political parties) to ignore state boundaries and concert on the large scale. Once they were able to do so, it was then an easy matter for them to gain control of the election mechanisms and, by doing so, achieve precisely the concert the Framers thought would be "impracticable." Reform is needed. This treatise proposes objectives for this reformation.

Sociologist Michael Schudson has pointed out that the turn of the twentieth century saw a number of major reforms, all aimed at curbing the venality of political parties. This is true. He called this the transition from the party-affiliated citizen to the informed citizen. He also holds that since the 1960s another kind of citizenship, the "rights-bearing citizen," has begun to emerge onto the political landscape. Schudson is a bit hard to pin down precisely on what he sees the implications of this to be, but – admitting the risk of misunderstanding his thesis – he seems to say that consciousness of civil rights merges with the "informed citizen" to produce what your author would call the "rights-conscious informed citizen." Your author must confess he is skeptical about how well informed the informed citizen can be when both political parties consistently misrepresent the positions of the other,



are far less than candid about their own positions and intentions, and understand quite well that all they need to accomplish to achieve their goal is control the plurality of public opinion on one crucial day in November every two years. In any event, Schudson proposes no remedies in his book although he does appear to take the position that there is much still to be done in perfecting American government and American politics.

*What* is to be done is, however, still the question, and to answer that question it is necessary to have a standard for judging alternative ideas of what is to be done. This treatise was written to explain what that standard must be for a community of free citizens devoted to civil liberty with justice for all. It is a standard holding that: the power and the authority of government cannot justly extend beyond the limits of the *common* interests of the community it governs; that agents of government may only govern and *never* hold the right to rule; that the community of the American Republic is a moral and a civic community definable by deontological objectivity in ethics without imposition of subjective opinions of consequentialist or virtue ethics; that government and citizen alike have duties arising from obligation freely committed to without coercion; that too little government and too much government are both social vices and contrary to duty; that perfection of government and perfection of civil community alike require widespread understanding of the nature of government and free society; and that it is the responsibility of the political community – and therefore also of government – to see to it this understanding is communicated to every citizen. As Horace Mann wrote,

He who has been a serf until the day before he is twenty-one years of age cannot be an independent citizen the day after; and it makes no difference whether he has been a serf in Austria or in America. As the fitting apprenticeship for despotism consists in being trained to despotism, so the fitting apprenticeship for self-government consists in being trained for self-government. – Horace Mann, "Report for 1845."

The purposes of reformation set out in this treatise are intended to supply that understanding of the aim to be sought and achieved. The objectives set out here are intended to provide the seed for the refinement of ideas, for well-reasoned discussion and debate leading to civic reforms that are to be *actually put into practice*. This treatise is not a call for a new Constitutional Convention. One is not needed. The Framers of the present Constitution produced an accomplishment that is truly amazing in the extent to which they succeeded in their purpose. That they did not perfectly succeed once and for all times is not relevant; let every reform called for in this treatise, properly refined as well as possible by the most intelligent twenty-first century minds, be put into practice – and still the work of perfecting the American Republic will not be complete. Perfection is a process of striving toward the Ideal, not an actual state-of-being in the realization of that Ideal. Duty requires no more than that each generation seek greater perfection. But to seek is *to do, to enact, to accomplish practically*. Without action, words and theories are useless.

We do not need a new Constitutional Convention. We do need Constitutional amendments – carefully thought out, carefully deliberated upon, and carefully vetted against the supreme standard of the Social Contract of the American Republic. This is not the responsibility of our politicians, nor can it safely be delegated to them, bound as they are to their political parties. It is the responsibility and the duty of every American Citizen.

Let every city and township in America call for a Constitutional Conference. Let every township name and offer its most trusted Citizen as a candidate to the Conference Delegation. Let the Citizens of every State, Reservation, and Territory organize its Delegation and send its chosen representatives to Philadelphia, where the American Republic began and where the Voice of the Sovereign can take inspiration.

A little rebellion now and then is a good thing and necessary as air for the Breath of Freedom.

### § 3. References

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