

Devoted Citizens: Ancient Greece and the American  
Founding

by

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## Acknowledgements

Week one, week two, month one, month two, my zzz's!  
Now lays to judge text complete as will be.  
A word, a phrase, a paragraph, whoopee!  
A document that's not written with ease,  
Full of trials passed thanks to these devotees:  
The love and aid of Mom and Dad and Matt.  
And Nancy – a friend and a mentor that  
Got me through line one, line two, and line three.

And could I alone have started without  
My Aunt Shelia? Or survived alone my  
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To a final product – a thesis learned.  
I hope for you this shows it's well-returned.

## Introduction

A citizen is a small but distinct member of society. Assembled together, individual lives are essential to the welfare of the nation: they define the dominant culture and give power to the government – without them, a nation is meaningless. In each society, specific institutions determine the obligations of citizens, and in a successful government, citizens fulfill their roles and help make the nation productive. In writing this thesis, my original goal was to discover how we could, as citizens, act collectively and positively influence our country. I was particularly interested in how the American founders conceived of the citizen's role in government. How were we supposed to act? And in what ways did the founders expect citizens to contribute to their nation?

One of the first books I read in the research process was Derek Heater's *A Brief History of Citizenship*. In the introduction, Heater claims that modern scholars define citizenship through the liberal or republican tradition of thought.<sup>1</sup> This led me to ask what these two traditions were and where they came from. My first chapter consequently explores their origin and value in modern society. Heater claims liberal citizenship is identified with a strong protection of rights. As a result, I came to view it as a contractual citizenship. In chapter one I use Thomas Hobbes and John Locke to define the contractual relationship between subjects and their government. The actual definition of liberal citizenship that I use is, however, influenced by T. H. Marshall, in *Class, Citizenship and Social Development*. His book distinguishes liberal citizens as possessing civil, political and social rights, whereas Hobbes and Locke describe subjects interacting

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<sup>1</sup> Derek Heater, *A Brief History of Citizenship* (New York: New York University Press, 2004), 3-5.

governments to gain a basic form of civil rights. Taking their arguments together, I suggest a theoretical origin for modern liberal citizenship. I then relate the liberal tradition to republican citizenship.

Republican citizens are characterized by their participation and commitment to government. I agree with Heater's interpretation of the civic republican tradition – that it is linked to similar strains of thought throughout western history – and I came to believe that it was very similar to classical, Greek citizenship. It is my belief that Aristotle and the Greeks defined a form of republican citizenship long before the tradition existed. To link the classical ideas to the modern republican tradition, I use Hannah Arendt and Wilson Carey McWilliams. Arendt's theories of power explain why republicanism is necessary to legitimize governmental power, and McWilliams's understanding of equality explains the importance of a committed civic body to the nation – citizens, claims McWilliams, must equally share the responsibilities of ruling their country. Having started chapter one with the liberal tradition and then incorporated the republican tradition, I explore how the two traditions came to co-exist in modern theory, and how they relate to each other.

The second chapter, a study of Sparta and Athens, provides a context for the institutions later formed in America. Greek citizens and institutions, first, exemplified the republican tradition I emphasize in America, and second, greatly influenced the founding fathers. Additionally, I wanted to know how institutions could make citizens desire to serve their country. I study Spartan and Athenian institutions at their height, from about the mid-sixth century to the early fourth century BCE; this is notably the democratic age of Athens that greatly influenced the founders of America. I discovered that republican devotion was not

necessarily produced by the specific institutional structures, but was instead the result of each polity training their citizens from an early age to greatly value a life of public service and duty.

The third and final chapter addresses the central question of my thesis – what does it mean to be a citizen America? I analyze the founding of the United States in 1787 and examine historical evidence to show how the country was governed during the nineteenth century. I describe how the liberal and civic republican traditions could be produced in the institutions created by the founders. I note how citizens can or should interact with their institutions. I then draw conclusions about what it actually means to be a citizen in America, and how we can best serve our country. In the conclusion, I use each chapter to argue that the American institutions create a framework that allows citizens to act collectively and positively to change their country.

## Chapter One: Modern Liberal and Republican Citizenship

Citizenship is an old concept; if you consider *The History of the Peloponnesians Wars*, written circa 430 BCE by Thucydides, to be one of the first western historical texts, then citizenship is as old, if not older, than written history itself. In *Politics* (c. 350 BCE), Aristotle acutely observed that, “the citizen under each different kind of constitution must also necessarily be different.”<sup>1</sup> Today, Aristotle’s statement remains true. To classify citizenship the concept must be looked at in a particular governmental institution, at a particular time.

Students of western citizenship mainly define the concept through two traditions, “namely a distinction between what are usually termed the ‘civic republican’ and ‘liberal’ traditions.”<sup>2</sup> The two thoughts are distinct and sometimes contradictory. Civic republicanism demands an active and engaged citizenry, while citizenship in the liberal tradition is defined by the passive possession of rights. For civic republicanism, citizens have an equal right and expectation to participate in governance: “a ‘republic’ was impossible without the active support and participation of citizens.”<sup>3</sup> The liberal tradition, on the other hand, emphasizes the duty of the states to supply citizens with equal civil rights. In the liberal tradition a state “exists for the benefit of its citizens, [and has] an obligation to ensure that [citizens] have and enjoy certain rights.”<sup>4</sup> The modern western institutions balance both traditions – citizens possess the active and passive rights of the republican and liberal tradition respectively.

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<sup>1</sup> Aristotle, *Politics*, trans. and ed. Ernest Barker (Oxford: Clarendon Press, 1948), 108.

<sup>2</sup> Heater, 4.

<sup>3</sup> *Ibid.*, 5.

<sup>4</sup> *Ibid.*, 5.

Hobbes, Locke, and a theoretical foundation for western citizenship

To have civic rights implies the possession of some form of social contract. In *Leviathan* (1651), Thomas Hobbes defined social contract as a “transferring of right,” meaning both parties, government and subject, transfer a right, and therefore are each obligated to fulfill a duty. Hobbes was the first theorist to provide a succinct and reasoned argument for social contract, although the concept appears in thinkers as early as Socrates, who accepts the penalty of death as his civic duty.<sup>5</sup> The theory of social contract developed by Hobbes and later John Locke in *The Second Treatise of Government* (1690) explains how citizens have rights guaranteed by governments. Hobbes and Locke answer two important questions. First, why do men consent to government? And second, how does the relationship of subject and government function? The answer to these questions provides a basis for twentieth century thinkers, such as T. H. Marshall and Hannah Arendt, to formulate ideas central to the liberal and republican traditions of thought.

The theories of social contract are based on a reasoned, but fictionalized account of the natural human condition. Hobbes claims that in nature there exists no law to restrict human passions, desires or actions. The natural condition, said Hobbes, is governed by the right of nature, “the liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature.”<sup>6</sup> In other words, the right of nature is the liberty, or absence of external impediment, to have, possess, and use everything, even to another’s body.<sup>7</sup> Hobbes makes two

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<sup>5</sup> “Social Contract Theory is a right associated with modern moral and political theory and is given its first full exposition and defense by Thomas Hobbes.” Celeste Friend, “Social Contract Theory,” *Internet Encyclopedia of Philosophy* (October 2004), <http://www.iep.utm.edu/soc-cont/> (accessed November 25, 2009).

<sup>6</sup> Thomas Hobbes, *Leviathan*, ed. J. C. A. Gaskin (Oxford: Oxford University Press, 1996), 86.

<sup>7</sup> Hobbes, 86.

conclusions about humans in this natural condition. First he claims they are equal because differences in intelligence, merit, or worth between human beings did not matter – “the weakest [had] strength enough to kill the strongest.”<sup>8</sup> Second, Hobbes believes humans by nature are self-interested, and therefore constantly quarrelling for “competition” (gain), “diffidence” (safety), and “glory” (reputation).

In itself, this equality is not necessarily bad, but because Hobbes said humans beings had a “restless desire of power after power, that ceaseth only in death,”<sup>9</sup> he understood man to be in continual conflict, and to be never “content with moderate power...[which does not] assure the power and means to live well, which he hath present, without the acquisition of more.”<sup>10</sup> Man’s drive for power made the state of nature a state of war, “of every man, against every man.”<sup>11</sup> Consequently there is no assurance of peace, no industry, no law, no justice, and no property; the life of man is “solitary, poor, nasty, brutish, and short.”<sup>12</sup>

Locke opposes this conception of a natural condition, and argues that in the state of nature men work towards the preservation of all mankind, loving each other as equals in liberty and freedom.<sup>13</sup> Locke states his difference with Hobbes best: nature is a “state of liberty, [and] not a state of license.”<sup>14</sup> Nature for Locke is governed by the natural law of reason. Humans understand they each possess an equal right to life, meaning that men have the right to dispose of their person and possessions, but not the right to destroy himself or any other creature. Like

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<sup>8</sup> Hobbes, 82.

<sup>9</sup> Ibid., 66.

<sup>10</sup> Ibid., 66.

<sup>11</sup> Ibid., 83-84.

<sup>12</sup> Ibid. 84-85.

<sup>13</sup> John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing Company, 1980), 8-9.

<sup>14</sup> Locke, 9.

Hobbes, Locke views men as equals in nature, but equals because they possess an equal right to their natural freedom, not because of the equal ability to kill each other.<sup>15</sup> “Equality...” said Locke, “[is] that equal right, that every man hath, to *his natural freedom*, without being subjected to the will or authority of any other man.”<sup>16</sup> And because Locke argues that men are governed by reason, which dictated they should not harm each other, the equality of their state will not lead to war.<sup>17</sup> “Being all *equal and independent*, no one ought to harm another in his life, health, liberty, or possessions...”<sup>18</sup>

Despite this difference in thought, Locke concludes like Hobbes that life is insecure in the state of nature. Humans, says Locke, have two important natural rights that destroy the peace of nature.<sup>19</sup> The first right – “to do whatsoever he think for the preservation of himself, and others” – is expansive and becomes problematic as Locke’s fictional natural world develops.<sup>20</sup> In the state of nature, “labour being the unquestionable property of the labourer,”<sup>21</sup> man removes “out of the common state [what he] hath *fixed* [his] *property* in.”<sup>22</sup> This right of property coming from man’s first right is antithetical to the peaceful state of nature, because, “labour indeed ... puts the difference of value on every thing ... improvement of labour makes the far greater part of the value.”<sup>23</sup> As men gain riches, individual property expands, and other disparities occur, jealousies develop and break the natural peace – no longer is there “the equality of a simple poor way

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<sup>15</sup> Locke, 67.

<sup>16</sup> *Ibid.*, 31.

<sup>17</sup> *Ibid.*, 67.

<sup>18</sup> *Ibid.*, 9. If citizenship in twentieth century is defined by both the liberal and republican tradition, then this ideological division between the two thinkers is perhaps why the modern liberal tradition prefers Locke to Hobbes, and “a state of peace, goodwill, preservation, and mutual assistance,” to a “...condition of enmity, malice, violence, and mutual destruction...” *Ibid.*, 15.

<sup>19</sup> *Ibid.*, 67.

<sup>20</sup> *Ibid.*, 67 and 9.

<sup>21</sup> *Ibid.*, 19.

<sup>22</sup> *Ibid.*, 20.

<sup>23</sup> *Ibid.*, 25.

of living, confining their desires within the narrow bounds of each man's small property, made few controversies, and so no need of many laws to decide them, or variety of officers to superintend the process...where there were but few trespasses, and few offenders."<sup>24</sup>

Man's second natural right, the right to punish, makes justice in the state of nature perverted.<sup>25</sup> Even though men should follow reason when punishing, Locke says the right to punish is not perfect, and justice cannot be assured in nature. Locke argues that "every one in that state being both judge and executioner of the law of nature, men being partial to themselves, passion and revenge is very apt to carry them too far, and with too much heat, in their own cases; as well as negligence, and unconcernedness, to make them too remiss in other men's."<sup>26</sup> With the increase of private protect in nature, infractions are likely to become more frequent, and men are thus apt to execute their second right of punishment thereby corrupting justice.

Furthermore, Locke concedes that not all men are governed by reason. There exist men, says Locke, who are not "under the ties of the common law of reason, have no other rule, but that of force and violence, and may be treated as beasts of prey, those dangerous and noxious creatures, that will be sure to destroy him whenever he falls into their power...."<sup>27</sup> Thus as society expands in the state of nature, men are apt less to follow reason, "that law, teaches all Mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his Life, Health, Liberty, or Possession."<sup>28</sup>

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<sup>24</sup> Locke, 57.

<sup>25</sup> Ibid., 67.

<sup>26</sup> Ibid., 66.

<sup>27</sup> Ibid., 14.

<sup>28</sup> Ibid., 9.

Despite the fact Hobbes and Locke disagree about man's natural condition, they both agree that the lack of authority in nature endangers human life. As Locke says, "were it not for the corruption, and vitiousness of degenerate Men," men would live together according to reason without common superior on earth with authority to judge between them.<sup>29</sup> This fictionalized account helps to explain why humans need an authority to regulate their relationship, and ultimately why citizens unite to form governments. For Hobbes and Locke both, corrupt, vicious, and degenerate men drive humans to enter into society and form a covenant or contract that institutes authority and a known law to end the natural state of violence.

#### From covenant to government

For Hobbes, covenants are a natural extension of the right of nature, that right to self-preservation at all costs.<sup>30</sup> Hobbes claims that men act in predictable ways, following a set of natural laws. They seek peace, or security of life, which is non-existent in the state of war, and they are and must be "willing, when others are so too...as for peace, and defence of himself...to lay down his right to all things; and be contented with so much liberty against other men, as he would allow other men against himself."<sup>31</sup> These natural laws seem antithetical to Hobbes' state of war. Like Locke, Hobbes agrees that men in the natural state seek peace, with the difference being that Hobbes' man pursues a peace that is self interested for his self preservation, not because natural reason dictates that all humans deserve freedom, and not a peace for the sake of the community of man.

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<sup>29</sup> Locke, 67 and 15.

<sup>30</sup> Hobbes, 86.

<sup>31</sup> Ibid., 87.

In addition, a key difference between Hobbes and Locke was whether or not justice was an artifice of covenant or existed naturally. Hobbes believed justice was the result of man-made covenants, while Locke vehemently argued that there were natural laws that provided justice and peace before humans entered into contracts.<sup>32</sup> So while Hobbes' first two natural laws dictate that man's self-interested creation of covenant creates the artifice of justice, Locke argued that covenants were made respecting an already existing justice. For Locke, covenants create an "*established, settled, known law*,"<sup>33</sup> reflecting the laws of nature.

The notion of justice being natural or man made is important to the conception of social contract and civic rights. Are governments based on human laws? Or are they do they enforce of a pre-existing code? Hobbes believed justice to be a uniquely human entity resulting from covenants, where justice is completing or complying with the covenant, and injustice is failing to act according to the covenant. Justice, argued Hobbes, does not exist in nature: "the notions of right and wrong, justice and injustice have there no place. Where there is no common power, there is no law: where no law, no injustice. Force, and fraud, are in war the two cardinal virtues. Justice, and injustice are none of the faculties neither of the body, nor the mind."<sup>34</sup> Locke, on the other hand, argues that God has given men the ability to reason and discern laws in nature, and thus justice exists prior to covenants.<sup>35</sup>

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<sup>32</sup> "...the law of nature... which willeth the peace and *preservation of all mankind*, the *execution of the law of nature*, in that state, put into every man's hands, whereby every one has a right to punish the transgressors of that law to such a degree, as may hinder its violation: for the *law of nature* would, as all other laws that concern men in this world, be in vain, if there were no body that in the state of nature had a *power to execute* that law...*every man hath a right to punish the offender and be executioner of the law of nature.*" Locke, 9-10.

<sup>33</sup> *Ibid.*, 66.

<sup>34</sup> Hobbes, 85.

<sup>35</sup> Locke, 9-10.

Both theorists lived during the scientific revolution, when the role of God in human affairs was being challenged. The belief that providence directly controlled the human world had been the predominant ideology since antiquity. This thought was later propagated by the Catholic Church and remained unchallenged until the sixteenth and seventeenth century, when humans began to question church doctrine and the metaphysical explanations of the physical world. The work of Hobbes and his contemporaries, such as Galileo Galilei, René Descartes, and Isaac Newton, questioned the God relation with the human world. Galileo proved the earth was not the center of the universe, Descartes attempted to scientifically prove the existence of God, and Newton defined the forces of gravity. In short, scientific reasoning replaced divination, God became the ‘clockmaker’ of human affairs, and humans were left to study how His machinery functioned.<sup>36</sup>

For Hobbes, the idea that humans, not a God, created societal structures and laws was of central importance to his understanding of government. In the introduction of *Leviathan*, Hobbes explicitly states that human reason alone could be used to understand the interactions and nature of man.

Nature (the art whereby God hath made and governs the world) is by the *art* of man, as in many other things, so in this also imitated, that it can make an artificial animal... for what is the heart, but a spring; and the nerves, but so many strings; and the joints, but so many wheels, giving motion to the whole body, such as was intended by the artificer? *Art* goes yet further imitating that rational and most excellent work of nature, *man*. For by art is created that great LEVIATHAN called a COMMONWEALTH, or STATE, which is but an artificial man; though of greater stature and strength... and in which, the *sovereignty* is an artificial *soul*, as giving life and motion to the whole body...the magistrates and

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<sup>36</sup> Ethan Kleinberg, (Lecture on the scientific revolution, College of Letters, Butterfield College, Wesleyan University, Middletown, CT, November 4<sup>th</sup>, 2009). God had designed the universe, but it ran by itself, and humans could study and understand the machinery.

other officers...artificial joints; rewards and punishment...are the nerves; the people's safety, its business; counselors...are the memory; equity, and laws, an artificial reason and will; concord, health...civil war, death; the pacts and covenants...resemble fiat, or *let us make man*, pronounced by God in the creation.<sup>37</sup>

Hobbes' introduction rejects any divine or reverent reason for the existence of government. The human world is governed by the *art* of man, with the commonwealth an extension of the *artificial* man, a Leviathan and "mortal God,"<sup>38</sup> and therefore the world must be explained with man's art, the art of reasoning. As Satan says to Eve in John Milton's *Paradise Lost* (1667-1674), eating of the fruit of knowledge makes humans gods of earth: "Ye eat thereof your eyes, that seem so clear / Yet are but dim, shall perfectly be then / Opened and cleared and ye shall be as gods / Knowing both good and evil as they know. / That ye should be as gods since I as Man, / Internal Man, is but proportion meet: / I of brute human, ye of human gods. / So ye shall die perhaps by putting of / Human to put on gods: death to be wished..."<sup>39</sup>

For Hobbes, the implications of the scientific revolution on human governance are clear: government is a construct of humans to be understood through the limited human faculties of reasoning – covenants are made by men and held accountable by men. Locke's covenants are likewise man-made, but not explicitly enforced solely by man's hand. Firstly, man is governed by the natural law of reason, which is given to man by God. Therefore, covenants to be made to secure man's life, liberty and property follow God's natural laws, making the covenant itself divine. The different beliefs indicate that the covenants, the basis of rights in citizenship, can be viewed either as resulting from a human-created

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<sup>37</sup> Hobbes, 7.

<sup>38</sup> Ibid., 114.

<sup>39</sup> John Milton, *Paradise Lost*, ed., Gordon Teskey (New York: W.W. Norton & Company, 2005), 216.

and controlled construct, or as reflecting the will of God. With either belief, men enter into covenants to secure their life and provide means to execute justice.

Hobbes' covenant creates the third natural right, artificial justice, which in turn becomes the basis of modern civil rights. In the narrow sense of the covenant, Hobbes believes they ensure the natural right of nature – that of human self-preservation.<sup>40</sup> But this the covenant implies an expansive notion of rights because the rights necessary to assure life are many. “All the laws of nature and all social and political duties or obligations,” write Leo Strauss and Joseph Cropsey, “are derived from and subordinate to the right of nature, the individual's right to self-preservation.”<sup>41</sup> Thus the covenant, which is formed by humans in the interest of self-preservation, expands to include the rights to resist being killed, wounded, or imprisoned, the rights of “complaisance,” that “every man strives to accommodate himself to the rest,” the rights “against pride,” that “everyman [should] acknowledge another for his equal by nature,” the rights “against arrogance,” that “no man require to reserve to himself any rights, which he is not content should be reserved to every one of the rest,” the rights for “equity” or distributive justice, that there be “equal standards of judging for everyone,” and the rights against partiality of judgment in courts.<sup>42</sup> The full implication of Hobbes' covenant is a collection of civil rights that are explicitly liberal: “to the extent that modern liberalism teaches that all social and political obligations are derived from and are in the service of the individual rights of man, Hobbes may be regarded as the founder of modern liberalism.”<sup>43</sup>

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<sup>40</sup> Hobbes, 89.

<sup>41</sup> Leo Strauss and Joseph Cropsey, eds., *History of Political Philosophy*, 3<sup>rd</sup> ed. (Chicago: University of Chicago Press, 1963), 401.

<sup>42</sup> Hobbes, 103-104.

<sup>43</sup> Strauss and Cropsey, 401.

According to Hobbes, a covenant is powerless to protect the rights of individuals without an external power to enforce its law. Human nature, said Hobbes, refuses to obey a contract when not bound by force.<sup>44</sup> For this reason, men unite together in a social contract and form a commonwealth to enforce their covenants. The social contract is an agreed upon compact between all entrants to give up their rights to a governing body. In entering, men state: “I authorize and give up my right of governing myself, to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner.”<sup>45</sup> Because all men want to secure their individual lives, the introduction of restraints through social contract and the creation of commonwealth is what Hobbes calls “the final cause, end, or design of men.”<sup>46</sup> A successful contract creates a commonwealth that has the right and power to secure the life, liberty and property of society, for actions of the past, present, and future.<sup>47</sup>

Locke agrees that social contracts are necessary, but disagrees with Hobbes about the creation of justice. Social contract in *The Second Treatise* affirms the natural laws and justice of God; it does not create law – it legitimizes laws. Men create covenants firstly because in the state of nature there “wants an *established*, settled, known *law*, received and allowed by common consent to be the standard of right and wrong ... [secondly because,] in the state of nature there wants a *known and indifferent judge*, with authority to determine all differences according to the established law...[And thirdly because] in the state of nature there often wants *power* to back and support the sentence when right, and to give

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<sup>44</sup> Hobbes, 111.

<sup>45</sup> Ibid., 114.

<sup>46</sup> Ibid., 111.

<sup>47</sup> Ibid., 90.

it due *execution*.”<sup>48</sup> In entering into social contract, Locke argues that man gives up his right to punish in order to secure justice.

The power of punishing he wholly gives up, and engages his natural force (which he might before employ in the execution of the law of nature, by his own single authority, as he thought fit), to assist the executive power of the society, as the law thereof shall require: for being now in a new state, wherein he is to enjoy many conveniencies, from the labour, assistance, and society of others in the same community, as well as protection from its whole strength; he is to part also with as much of his natural liberty, in providing for himself, as the good, prosperity, and safety of the society shall require...<sup>49</sup>

Thus the commonwealth made by social contract creates a reciprocal relationship between government and subjects – the subjects sacrifice certain rights to the government and assist the government when needed in return for protection of their life, liberty, and property. This relationship is central to understanding the modern definition of citizenship: social contract explains that liberal rights are founded on the reciprocal duty of subjects and governments.

In their theories of social contract, Hobbes and Locke both agree that subjects owe the commonwealth obedience. The government, following Hobbes, “is called SOVEREIGN and said to have *sovereign power*; where every one beside, is [the government’s] subject.”<sup>50</sup> Man agrees to obey the government just as man obeys himself, because “every subject is by this institution author of all the actions, and judgments of the sovereign instituted...every particular man is author of all the sovereign doth...”<sup>51</sup> The social contract is an agreement to act as the ruler commands. Locke likewise states that the government, made by the consent of the majority to be “one body politic” where the “majority have a right to act

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<sup>48</sup> Locke, 66.

<sup>49</sup> Ibid., 67.

<sup>50</sup> Hobbes, 114.

<sup>51</sup> Ibid., 117.

and conclude the rest,” makes it “thus that every man, by consenting with others to make one body politic under one government, puts himself under an obligation, to every one of that society, to submit to the determination of the *majority*, and to be concluded by it; or else this *original compact*, whereby he with others incorporates into *one society* would signify nothing, and be no compact...”<sup>52</sup> For Locke, a social contract confers the power necessary to achieve the ends of the commonwealth. As Locke says, social contract is “*all the compact* that is, or needs be, between the individuals, that enter into, or make up a *commonwealth*.”<sup>53</sup>

However, the duties and allegiance of subjects owed to the commonwealth are restricted in two important ways. First, the government must act in the subject’s benefit. Hobbes states: “The law is made by the sovereign power...[and] a good law is that, which is *needful*, for the *good of the people*, and withal *perspicuous*.”<sup>54</sup> Locke equally believes that the commonwealth must work for the good of its subjects.

The power of the society, or *legislative* constituted by them, can *never be supposed to extend farther, than the common good*; but is obliged to secure every one’s property, by providing against those three defects above mentioned, that made the state of nature so unsafe and uneasy. And so whoever has the legislative or supreme power of any commonwealth, is bound to govern by established *standing laws*, promulgated and known to the people, and not by extemporary decrees; by *indifferent* and upright *judges*, who are to decide controversies by those laws; and to employ the force of the community at home, *only in the execution of such laws*, or abroad to prevent or redress foreign injuries, and secure the community from inroads and invasion. And all this to be directed to no other *end*, but the *peace, safety, and public good* of the people.<sup>55</sup>

Secondly, if the government should happen to work counter to the interest of its subjects, then it violates the social contract, and returns to men their right to

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<sup>52</sup> Locke, 52.

<sup>53</sup> *Ibid.*, 53.

<sup>54</sup> Hobbes, 230.

<sup>55</sup> Locke, 68.

defend themselves. For Hobbes, it is implicit that the right of self-preservation can never be sacrificed to a covenant.<sup>56</sup> Furthermore, Hobbes contends that when a commonwealth threatens to violate the natural right of man to his self-preservation, the man is no longer bound by the artifice of covenant and returns to the state of nature. Similarly Locke states that the people always hold the power to alter the commonwealth or remove it. If the end goal of a commonwealth is neglected, Locke states the subject's trust is forfeited, and men have recourse to their "unalterable law of *self-preservation*."<sup>57</sup>

In the social contract theory of both Locke and Hobbes the institution of government and the notion of subject form simultaneously. A social contract is an agreement to create a power to which the underwriters will submit. In essence, this union is the agreement to a commonwealth, to which subjects owe obedience and demand rights. Similarly, the relationship between citizens and their government is contractual. A citizen's identity comes from "the rights conveyed by the state and the duties performed by the individual citizens."<sup>58</sup> Social contract is the mechanism that creates the government-citizen identity. It is the Hobbian "transferring of right." Citizens are guaranteed rights in return for their compliance to the government's laws, and through their willingness to providing the government with the means, power, and legitimate authority to rule.

But to define citizenship in the limited scope of the theories of Hobbes and Locke – as subjects possessing rights – is inaccurate and fails to encompass the twentieth century liberal and republican conception. While Hobbes' understanding of covenant does in a sense provide the basis for liberalism as noted

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<sup>56</sup> Hobbes, 99.

<sup>57</sup> Locke, 77-78.

<sup>58</sup> Heater, 2.

by Strauss and Cropsey, his notion of a subject's right is not equal to what Marshall develops as the twentieth century definition of citizenship. And while Locke may be read as sympathetic to the civic republican tradition, his theory of social contract neither specifically includes the right to participate in ruling nor provides an adequate definition of legitimate power that Hannah Arendt develops in the twentieth century. A contemporary understanding of the liberal and republican traditions requires a twentieth century philosophical understanding of citizenship and power. Marshall and Arendt help define what citizenship has come to mean today.

#### Social contract in the liberal tradition: from subjects to citizens

The rights of citizens in the liberal tradition closely resemble those assured to subjects by social contract, only more extensive. In *Class, Citizenship and Social Development*, Marshall divides citizenship into three elements, civil rights, political rights, and social rights. Heater says this triad is the modern liberal definition of citizenship.<sup>59</sup> Civil rights, said Marshall, are those rights necessary for individual freedom: "liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice."<sup>60</sup> Political rights are the rights to participate in the exercise of political power as a member invested with political authority.<sup>61</sup> Social rights are a "whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being

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<sup>59</sup> Heater, 5.

<sup>60</sup> T. H. Marshall, *Class, Citizenship and Social Development* (Chicago: University of Chicago Press, 1963), 78.

<sup>61</sup> Marshall, 78.

according to the standards prevailing in the society.”<sup>62</sup> According to Marshall, modern citizenship is a combination of these three elements, beginning with civil rights and evolving with time to incorporate social rights.<sup>63</sup>

Marshall claims that the civil aspect of citizenship arose in the eighteenth century, the political in the nineteenth, and the social in the twentieth. But as Strauss and Cropsey point out, civil rights traces back to Hobbes’ definition of social contract in the seventeenth century as a transferring of right. Marshall said that civil rights provide first and foremost a “...right to justice.”<sup>64</sup> For Hobbes, justice exists when there is the power to enforce a covenant – the union under a social contract to create a commonwealth creates the artifice of justice. Marshall however, argues that the power to enforce a covenant is not necessarily the power to assure that citizens receive justice. To protect a right does not assure citizens can enjoy this right.

For Marshall, justice comes from the ability of citizens to use the rights conferred by their government. A modern citizen therefore requires political and social rights to achieve justice in contrast to a simple subject-government relationship created through social contract.<sup>65</sup> And while for Hobbes an encroachment to the subject’s rights would terminate the bond of covenant, retuning the subject to the state of war, for Marshall, an encroachment of this nature would not necessarily end the relationship of citizen and government. In modern citizenship a violation of civil rights, could be solved through political and social rights, making the institution of citizenship both more powerful and durable than that of the subject in a social contract.

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<sup>62</sup> Marshall, 78.

<sup>63</sup> Ibid., 78-134.

<sup>64</sup> Ibid., 78 and 81.

<sup>65</sup> Ibid., 78.

In short, Marshall argues that citizenship is necessary for subjects to enjoy the full rights of a social contract. Before the development of political and social rights, Marshall argues that “equality before the law did not exist. The right was there, but the remedy might frequently prove to be out of reach.”<sup>66</sup> The institution of citizenship provides a means to demand that the government uphold its end of the covenant. “Inequalities are not due to defects in civil rights, but to lack of social rights.”<sup>67</sup> Thus Hobbes’ social contract, the mutual transfer of right, does not provide what Marshall calls the “remedies” of civil rights – in other words, social contract does not guarantee the full enjoyment of civil rights.<sup>68</sup>

Marshall believes that modern citizenship developed because civil rights were “instruments for...establishing the claim...to certain social rights.”<sup>69</sup> Citizens, according to Marshall, were unable to access their rights because of the barriers of calls and economic status. “The first [barrier] arose from the automatic class prejudice and partiality, the second from the automatic effects of the unequal distribution of wealth, working through the price system.”<sup>70</sup> Marshall contends that citizenship and social class are opposing systems.<sup>71</sup> A citizen’s socio-economic status impairs him or her from attaining the full and uniform collection of rights endowed by being a member of a nation.<sup>72</sup> Consequently, the development of the Marshall triad of rights may be viewed as reactive: citizens were first granted civil rights and found them inadequate to assure an equality of status. As a result, they demanded political and social rights to break down the

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<sup>66</sup> Marshall, 97.

<sup>67</sup> Ibid., 97.

<sup>68</sup> Ibid., 97.

<sup>69</sup> Ibid., 103.

<sup>70</sup> Ibid., 97.

<sup>71</sup> Ibid., 93.

<sup>72</sup> Ibid., 79.

barriers of class and economic status. Starting with civil rights, the concept of citizenship evolved to incorporate political and social rights.

Marshall's hypothesis functions through a worth and value system first enumerated by Hobbes. With a government-subject relationship based solely on civil rights, a subject benefits from society only when his power or worth is such that he is valued. Hobbes claims that a man either has the natural power of his body and mind, or instrumental power that he acquired.<sup>73</sup> From this power, the 'worth' of a man is defined by the price that would be offered for his power, and thus the value of any human being is based on the worth of his power at a particular time.<sup>74</sup> In Marshall's analysis, the worth of individuals is based on their ability to gain access to and enjoy civil rights. An individual's class or economic status can devalue or increase his power and consequently his worth as a citizen. A citizen without an education to understand his or her civil rights, for example, will not have the ability to access them.<sup>75</sup> For this reason, civil rights are of minimal value without the development of the institution of citizenship.<sup>76</sup>

Marshall's thesis is that modern citizenship was created as a reaction to the rise of an opposing system, capitalism; he claims that the differences of power and worth inherent in this system prompted political and social rights, and ultimately the concept of liberal citizenship, to develop.<sup>77</sup> The parallel growth of two antithetical institutions leads Marshall to ask the question, how did citizenship, a system of equality, develop along side capitalism, the ultimate

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<sup>73</sup> Hobbes, 58.

<sup>74</sup> Ibid., 59.

<sup>75</sup> Marshall, 78.

<sup>76</sup> Ibid., 71-134

<sup>77</sup> Marshall writes: "If I am right in my contention that citizenship has been a developing institution in England...since the latter part of the seventeenth century, then it is clear that its growth coincides with the rise of capitalism, which is a system, not of equality, but of inequality." Ibid., 92.

system of inequality – or to use Hobbes’ words, a system value and worth?

Marshall asks,

How is it that these two opposing principles could grow and flourish side by side in the same soil? What made it possible for them to be reconciled with one another and to become, for a time at least, allies instead of antagonists? The question is a pertinent one, for it is clear that, in the twentieth century, citizenship and the capitalist class system have been at war.<sup>78</sup>

Hobbes provides an answer to Marshall’s question. Although Hobbes says man sacrifices rights when he enters into covenant, he does not claim that man’s nature is changed. Rather, the goal of a covenant is to preserve his life so that his nature may continue. Therefore, the subject and government are in a perpetual conflict. Man enjoys the protection of covenant, but covenant is still a restriction of his nature. This contentious relation of subject and covenant later develops into Marshall’s definition of citizenship. According to Marshall, citizenship was created to both counter and propagate the capitalist system. Citizenship protected the abuse of civil rights, but supported the very inequalities that allowed those abuses to be made.

As Marshall says, although “the equality implicit in the concept of citizenship, even though limited in content, undermined the inequality of the class system, which was in principle a total inequality,” it at the same time justifies a continuation of that inequality.<sup>79</sup> For Marshall,

class-abatement in this form [citizenship] was not an attack on the class system. On the contrary it aimed, often quite consciously, at making the class system less vulnerable to attack by alleviating its less defensible consequences. It raised the floor-level in the basement of the social edifice, and perhaps made it rather more hygienic than before. But it remained a basement, and the upper stories of the building were unaffected.<sup>80</sup>

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<sup>78</sup> Marshall, 92-93.

<sup>79</sup> Ibid., 93-95.

<sup>80</sup> Ibid., 95.

In Marshall's study of the development of capitalism, citizenship equalized people in terms of their rights. Regardless of their status, a citizen would receive the same protection under the law. Marshall's hypothesis concludes that this equalization of passive rights allowed the social structure to be unequal because differences in wealth did not equate to a difference of civic status. Therefore, the propagation of citizenship by the capitalist state was self-interested; in citizenship "there is a kind of basic human equality, associated with full community membership, which is not inconsistent with a superstructure of economic inequality."<sup>81</sup>

Citizenship in this tradition is created as a political necessity, be it as Hobbes suggests a subject's sacrifice of rights to preserve life, or in the case of Marshall, to provide an unequal system with the veil of equality. Thus, as the liberal tradition of citizenship develops, it moves forward by balancing a conflict between an individual rights-based equality and the wants of a capitalist system. Modern citizenship, according to Marshall, aims to break the barriers of class and economic status while understanding the "...limits inherent in the egalitarian movement."<sup>82</sup> The modern liberal institution of citizenship is as a result, an incomplete ideal – the concept is defined by a forward movement and an expansion of political and social rights to achieve an civil equality. As Marshall says, there is no universal principle of citizenship; it is unique to each community and defined as "a developing institution [which creates] an image of an ideal

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<sup>81</sup> Marshall, 128.

<sup>82</sup> Ibid., 128.

citizenship against which achievement can be measured and towards which aspiration can be directed.”<sup>83</sup>

#### Reconciling republicanism with the modern liberal citizen

Republican citizenship is in tension with the theories of Hobbes and Marshall that notably define the liberal tradition. As Marshall says, liberal citizenship is based on a contract and remains “an agreement between men who are free and equal in status, though not necessarily in power.”<sup>84</sup> Civic republican citizenship, on the other hand is founded on equal power and an equal expectation to rule. It is “a citizenry of politically virtuous men, and a just mode of government – the state must be a ‘republic’ in the sense of a constitutionally governed polity, not one governed arbitrarily, not a tyranny.”<sup>85</sup>

Hobbes’ ideal form of government – a Leviathan – is the polar opposite of a civic republican institution. A Leviathan requires the passive obedience of subjects, whereas the civic republican tradition teaches that citizens are actively engaged in ruling. This government offers no way to reconcile the civic republican tradition with the liberal. Locke’s liberalism, however, does not necessarily exclude civic republicanism.

Political power is that power, which every man having in the state of nature, has given up into the hands of the society, and therein to the governors, whom the society hath set over itself, with this express or tacit trust, that it shall be employed for their good, and the preservation of their property.<sup>86</sup>

Locke’s argument is that political power originates from the subjects, giving the subjects the power to alter the legislative body or remove it at any time, and thus

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<sup>83</sup> Marshall, 92.

<sup>84</sup> Ibid., 96.

<sup>85</sup> Heater, 4.

<sup>86</sup> Locke, 89

keeping power in the subject's hand.<sup>87</sup> “And thus the *community* perpetually retains a supreme power to remove or alter the legislation.”<sup>88</sup>

Locke however, does not provide the idea central to the republican tradition of thought – that citizenship is defined by the right to rule. The closest Locke comes to this definition is his argument that subjects are the judge of the commonwealth. “*Who shall be judge*, whether the prince or legislative act contrary to their trust? This, perhaps, ill-affected and factious men may spread amongst the people, when the prince only makes uses of his due prerogative. To this I reply, *The people shall be judge*; for who shall be *judge*...but he who deposes him...”<sup>89</sup> Hobbes notably disagrees with this point, arguing that “there can happen no breach of covenant on the part of the sovereign,” and furthermore, that a sovereign was just in every action because “all that is done by such power, is warranted, and owned by every one of the people; and that which every man will have so, no man can say is unjust.”<sup>90</sup>

For this reason, the civic republican tradition has a closer association with Locke, while it seems at great odds with Hobbes. But the base idea of the civic republican tradition – that participating in ruling the commonwealth defines citizenship – is not treated by Locke.<sup>91</sup> This understanding of citizenship hearkens back to antiquity, when Aristotle defined the democratic citizen in the *Politics*. A citizen, said Aristotle, is not defined by residence, for “resident aliens and slaves share a common place of residence [with citizens, but they are not citizens].”<sup>92</sup> Nor is a citizen defined by civil rights, because “this is a right which belongs also

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<sup>87</sup> Locke, 77-78.

<sup>88</sup> *Ibid.*, 77-78.

<sup>89</sup> *Ibid.*, 123.

<sup>90</sup> Hobbes, 116 and 230.

<sup>91</sup> Heater, 4-5.

<sup>92</sup> Aristotle, 106.

to aliens who share its enjoyment by virtue of a treaty.”<sup>93</sup> Aristotle argues that “the citizen in this strict sense is best defined by the one criterion, ‘a man who shares in the administration of justice and the holding of office...’ [and] We may thus conclude that the citizen of our definition [one holding the indeterminate office of judge in a court and member of an assembly] is particularly and especially the citizen of a democracy.”<sup>94</sup>

Aristotle’s definition of the citizen is applicable to the republican tradition today. Hannah Arendt, in *On Violence* (1970), proves in the twentieth century that all government action is illegitimate if the citizen has not been involved in the political process. According to Arendt, power forms when humans unite and act in concert. Power, she concludes, appears when an individual transfers his or her strength onto a group. This power exists only in the context of the group, and can be conferred onto the members or an entity with the restriction that it should disappear when the group disbands.<sup>95</sup> The basic form of power is what Arendt calls the rule of man over man, it relies on command and obedience, and fosters a form of governance “fit for slaves.”<sup>96</sup> The rule of man over man is neither mutually beneficial to society, nor can it provide justice. Arendt therefore argues that legitimate power comes from the classical forms of government, where citizens were involved directly in the ruling process.

Arendt claims that eighteenth century philosophers began to look back to antiquity to find legitimate power structures for governance and to end the rule of man over man. She argues that she chose the Greek power structure because it was lawful, based on the consent of men. Rather than requiring the subject’s

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<sup>93</sup> Aristotle, 106.

<sup>94</sup> Ibid., 107-108.

<sup>95</sup> Hannah Arendt, *On Violence* (Orlando: A Harvest Book Harcourt, inc., 1970), 44.

<sup>96</sup> Arendt, 41.

unquestioning obedience to a ruler, the citizens of Greece supported and made the laws which governed them.<sup>97</sup> Arendt describes this form of government to be the “rule of law, resting on the power of the people, [where] support lends power to the institution, [and the people] rule those who govern them.”<sup>98</sup> As such, Arendt said the classic form of government vests power with *authority*, the “unquestioning recognition by those who are asked to obey [where] neither coercion nor persuasion is needed.”<sup>99</sup> For Arendt, power of this nature never needs justification.<sup>100</sup>

Arendt’s second concern is that a government’s power structure should not limit man’s natural abilities, and this becomes a foundation for the civic republican belief that citizens must participate in ruling. According to Arendt, power is an unnatural phenomenon and potentially harmful to those from whom it originally emanates. Power, she concludes, should always dissipate when the individuals who create it separate. But when a group confers its power on laws, the power becomes invested in inorganic institutions, such as laws, and such cases, despite the fact that individuals united to create the power, the power is no longer in their control. For Arendt, a structure with power that lacks the consent of its members loses its authenticity, and therefore must resort to violence, an action which ultimately leads to its demise.<sup>101</sup>

To produce a successful, long-lasting form of power, a government must preserve what Arendt calls man’s “faculty of action,” meaning the nature of man that allows him to be political.<sup>102</sup> Man’s faculty of action “enables him to get

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<sup>97</sup> Arendt, 40-41.

<sup>98</sup> *Ibid.*, 40-41.

<sup>99</sup> *Ibid.*, 45.

<sup>100</sup> *Ibid.*, 52.

<sup>101</sup> *Ibid.*, 81-87.

<sup>102</sup> *Ibid.*, 82.

together with his peers, to act in concert, and to reach out for goals and enterprises that would never enter his mind, let alone the desires of his heart, had he not been given this gift—to embark on something new.”<sup>103</sup> The faculty of action continually renews the legitimacy of power. Every new action reconfirms the power of the group and ensures the health of the nation, for it renews man’s agreement to act in concert.<sup>104</sup>

The implications of Arendt’s power structure for citizenship are clear. If civic republicanism is a form of citizenship as Aristotle says, defined by the right to rule, then in the twentieth century, the importance of this idea has gained renewed weight. The civic republican tradition is necessary to legitimize the power of governmental institutions. Without the right to rule, governments must use violence to control their citizens, which is neither a durable nor just form of power. Like Marshall’s thesis which demonstrates the political necessity of a liberal citizenship, Arendt shows the importance of the civic republican tradition. Modern citizenship is a dual tradition because necessity; the necessity to provide civil rights and the necessity to provide a legitimate power structure to governments. These necessities have made citizenship an institution in tension with itself.

As Marshall suggests, the equality of liberal citizenship is at war with the realities of class and economic status. And the civic republican tradition itself is at odds with the liberal tradition of citizenship. The liberal tradition’s strong emphasis on individual rights negates the duty of ruling, necessary for legitimate power. As Aristotle said, “we must not regard a citizen as belonging just to

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<sup>103</sup> Arendt, 82.

<sup>104</sup> *Ibid.*, 82.

himself; we must rather regard every citizen as belonging to the state.”<sup>105</sup> The modern liberal tradition seems to ignore this fact by making individual rights the most important aspect of citizenship. This tension, between the self interests and community oriented duties of modern citizenship, is central to Wilson Carey McWilliams’ essay, “On Equality as the Moral Foundation for Community.”

McWilliams first argues that equality is measured intrinsically and extrinsically. Intrinsically, human beings are equal by the fact that they are genetically very similar. Extrinsically, humans can be equal through an external condition, such as a rank or a right.<sup>106</sup> For McWilliams, political equality is always extrinsic, and never implies that human beings are equal at all.<sup>107</sup> Modern citizens, argues McWilliams, are extrinsically equality. He asserts this fact by studying the natural condition of man hypothesized by Hobbes and Locke. In such a condition, where humans are extrinsically equal, McWilliams argues that men will only consent to government if they are treated as such.<sup>108</sup> As McWilliams says, consent to government “requires that human beings be treated *as if* they are equal, otherwise they would not consent to be governed at all.”<sup>109</sup> Equality is therefore, “a concession to political necessity, a recognition of the rights inherent in the individual and the basis for orderliness, not a reflection of

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<sup>105</sup> Heater, 20-21.

<sup>106</sup> Wilson Carey McWilliams, “On Equality as the Moral Foundation for Community,” in *The Moral Foundations of the American Republic*, ed. Robert H. Horwitz (Charlottesville: University Press of Virginia, 1986), 283.

<sup>107</sup> McWilliams, in Horwitz, 283.

<sup>108</sup> For Hobbes, humans are equal because of an equal ability to kill each other, and for Locke, because of an equal right to freedom.

<sup>109</sup> Humans, according to McWilliams understanding of Hobbes, will never consent to a government that lowers their value. Locke likewise argued that humans, being natural freedom and equality, required that they be treated as equals in order to form civil government. McWilliams, in Hortwitz, 298

equal worth.”<sup>110</sup> Following McWilliams’ argument, equality is both a precondition and goal of government.

In modern citizenship, the tension between the liberal and civic tradition is a manifestation of the conflicting ideals of extrinsic and intrinsic equality. The liberal tradition emphasizes the citizen’s extrinsic equality; his or her entitlement to equal rights, while the republican tradition emphasizes an intrinsic equality of citizens; their equal right to participate in government. The former concludes that citizens can be treated as equal without actually being equal, while the later concludes that citizens must be treated as equal in nature. McWilliams’ uses Alexis de Tocqueville to claim that the liberal tradition provides a “depraved taste” form of equality, based on an equality of exchange.<sup>111</sup> And the civic republic is a “manly and lawful” form of equality, based on a communitarian equality.<sup>112</sup> The liberal stresses the needs of the individual, while the republican places emphasis on the importance of the group.

These traditions of thought describe two citizenries with conflicting ideals. The liberal form of citizenship demands a “freedom from claims, obligations, and dependence. The goal, even if granted to all claimants, is liberation from *shared* dependence and *mutual* claims of civic equality.”<sup>113</sup> As a result, the liberal tradition defined by a “demand for equal *treatment* founded in a combination of individualism, self concern, and felt weakness which, resenting being ruled, despaired of command.”<sup>114</sup> In contrast, the civic republican tradition insists “that fellow citizens share burdens and responsibilities in governing. Demanding an

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<sup>110</sup> McWilliams, in Hortwitz, 299.

<sup>111</sup> Alexis de Tocqueville, *Democracy in America*, trans. H. Reeve (New York: Schocken, 1961), 1:lxvii; in McWilliams, in Hortwitz, 286.

<sup>112</sup> de Tocqueville, 1:61-65, 292-94; in McWilliams, in Hortwitz, 283-284.

<sup>113</sup> McWilliams, in Hortwitz, 286.

<sup>114</sup> *Ibid.*, 284.

equal share in ruling, such partisans of civic equality also claimed an equal right to be ruled.”<sup>115</sup>

Despite the fact that the ideals of the liberal and civic republican tradition of thought are competing and in many way mutually exclusive, both forms of citizenship are necessary to make the institutions of government viable. Men would not consent to government without the passive rights guaranteed by the liberal tradition, and the government would not have legitimate power without the active rights of the civic republican tradition – it is up to a particular government to find the proper balance between passive and active rights.

As both Aristotle and Marshall said, the concept of citizenship is unique to each community. For Aristotle, this means that the concept of citizenship must be understood through the lens of a particular constitution.<sup>116</sup> For Marshall, this means understanding that every government has an ideal concept of citizenship that balances the interests of the individuals with the equality of the community as whole. For Marshall, this balancing act is what defines forward movement of progress in citizenship.<sup>117</sup> These conclusions lead to the question of this thesis, what is the ideal tradition of citizenship of America?

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<sup>115</sup> McWilliams, in Hortwitz, 284.

<sup>116</sup> Aristotle, 108.

<sup>117</sup> Marshall, 92.

## Chapter Two: Greek Devotion, A Model for Civic Republicanism

The founding of America was coterminous with the Enlightenment. As a result, the inclusion of the liberal tradition of citizenship into the civic body seems self-evident. In America, the consent of citizens to the Constitution and the strong protection of civil rights in the Bill of Rights led, as T. H. Marshall suggested, to a liberal form of citizenship, which possesses civil, political and social rights.<sup>1</sup> Does the American tradition, however, include a strong civic republican tradition? And what causes such a tradition to exist?

This chapter analyzes the institutions of Sparta and Athens, from about the sixth century to the fourth century BCE, in order to better understand how the civic republican tradition of citizenship is produced. In one sense, such an analysis is an anachronism: the concept of civic republicanism came into existence long after the Greek polis had disappeared into history. Nevertheless, for students of occidental history, Greek citizens exhibit an unparalleled sense of virtue and duty, qualities that later define the civic aspects of republicanism.<sup>2</sup> Given that the American tradition has a modern conception of citizenship, biased by the liberal tradition, discovering how the Greeks were able to achieve a devoted citizenry will be key to answering the question of whether or not American institutions can achieve a civic republican citizenship.

The purpose of this chapter is to examine the Greek institutions that made citizens devoted. With a look at how Greek citizens in Sparta and Athens were

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<sup>1</sup> The liberal tradition of thought starts in the seventeenth and eighteenth century and is coterminous with the founding moments of America defined as the Declaration of Independence, the Constitution, and the Bill of Rights. The liberal tradition argues that the “state exists for the benefit of its citizens, [and] has an obligation...to ensure that they have and enjoy certain rights.” Heater, 5. For further reading, see Marshall, 71-134.

<sup>2</sup> In the civic republican tradition of thought, “Both elements – good civic behavior and a republican form of state – were essential, hence the term ‘civic republican’.” Heater, 5.

trained to meet the needs of their city – to be devoted citizens – we will then be able to compare the training of American citizens, and determine whether or not the civic republican tradition existed or can exist in the American civic body.<sup>3</sup>

## Sparta

Not all Spartans were devoted to their city. Three populations inhabited the realm of ancient Sparta, with one population, the Spartiates, suppressing the far more numerous Lacodians and helots. The select and elite group of Spartiates were equals with one another and kept dominion over the region. The helots were Spartiate slaves, working under the constant threat of death. Because Spartiates did not have to labor, they spent their days keeping their bodies in peak condition to assure their status would not be challenged. The stability of their government required Spartiates to be vigilante and devoted to their country. Without such commitment, it is likely that the other inhabitants would have revolted.<sup>4</sup>

More a chain of command than a deliberating body, the government instilled civic devotion in their citizens from a young age. As a result, the Spartiates demonstrated remarkable commitment: a Spartiate would rather die on the battlefield than return defeated.<sup>5</sup> If the status of citizenship was achieved, a feat in itself, a man was granted equality with his fellow citizens and a significant role in governing the region.

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<sup>3</sup> This paper will use the term citizen to mean a specific and select group of individuals who ruled the Greek cities and were recognized by the Polis as citizens. Sparta and Athens both had large bodies of people inhabiting their land who were considered non-citizens. Additionally, I will stress an interpretation of Spartan government that emphasizes the role of every citizen in ruling. Some scholars claim Spartans did not have that much power; see Michael Whitby, ed., *Sparta* (New York: Routledge, 2002), 45-46.

<sup>4</sup> Heater, 8.

<sup>5</sup> Anton Powell, "Dining Groups, Marriage, Homosexuality" in Whitby, 101; Fustel de Coulanges, *The Ancient City: A Study on the Religion, Laws, and Institutions of Greece and Rome*, 7<sup>th</sup> ed., Trans. Willard Small (Boston: Lee and Shepard, 1889), 294-295; Hodkinson, Stephen, "Social Order and the Conflict of Values in Classical Sparta" in Whitby, 123-124.

Sparta had a mixture of monarchic, oligarchic, and democratic elements of government. Two kings composed the monarchical element, a council of elders called the gerousia the oligarchic, and five executives called ephors along with the Spartan assembly comprised the democratic aspect.<sup>6</sup> In contrast to the kings who had strong executive power only when supported by both the ephors and assembly, the five annually elected ephors held permanent executive power, making the executive largely representative of popular civic will.<sup>7</sup> The ephors had a hand in every aspect of governance, from monitoring the education of children to arresting the king. They furthermore decided the composition of the battalion, and if needed, could call the army to action.<sup>8</sup>

Legislative power was divided between the assembly and the gerousia. The gerousia had important privileges over the assembly. They determined when to convene the assembly, controlled what the assembly could discuss, and could even overturn any decision reached by the assembly. This gave significant power to the two reigning kings and 28 elected elders who composed the gerousia. The elders were sixty years or older, elected by the assembly, and held the position until death.<sup>9</sup> The gerousia could filter out public opinion and prevent quick, unreasoned decisions of the assembly; they acted as the high court, having the power to exile citizens and implement punishments of loss of citizenship and death.<sup>10</sup>

The assembly however, played a vital role in legislation and had control over the ultimate composition of the gerousia. Because the elders were elected by

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<sup>6</sup> Whitby, 45.

<sup>7</sup> A. Andrewes, "The Government of Classical Sparta" in Whitby, 59-61

<sup>8</sup> Andrewes, in Whitby, 51-53, 57, and 60; Hodkinson, in Whitby, 129; Paul Cartledge, *Ancient Greece, A History in Eleven Cities* (Oxford: Oxford University Press, 2009), 78.

<sup>9</sup> Whitby, 45-46; de Coulanges, 462; Cartledge, 77-78.

<sup>10</sup> Andrewes, in Whitby, 50, 60 and 67.

the assembly and each member of the gerousia had an equal voice, the council was representative of the assembly's will.<sup>11</sup> Scholar A. Andrewes furthermore emphasizes the power of the assembly in the law-making process to say that Spartan legislation was more democratic than it has been thought in the past. He argues that the consent of Sparta's assembly was required for any law to be passed. The ephors and gerousia could appeal to the assembly to act, but ultimately the assembly was the sole institution that could pass legislation.<sup>12</sup>

Because almost every citizen attended the assembly, the Spartan civic voice was the most powerful feature of the government. All decisions to make war needed the approval of the assembly, and the assembly chose which king would lead the troops into battle. The ephors and the gerousia were dependant on the assembly: the assembly controlled the outcome of an election and acted autonomously in the conduct of foreign affairs. The assembly also received ambassadors and could negotiate the polity's foreign policy.<sup>13</sup>

The most important institutions in Sparta were the messes. A mess consisted of about 300 men who spent their life together; they ate together, trained together, and battled together.<sup>14</sup> The mess was the center of political activity and public opinion; it created a uniform civic body and prioritized collective interests.<sup>15</sup> Mess membership and citizenship were synonymous – to be expelled from a mess was to lose one's citizenship. Spartiates joined a mess at age twenty and departed only with death. The mess was diverse in that men of all classes, ages, and heritage dined together. Each member paid an equal monthly fee.

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<sup>11</sup> Whitby, 45-46; de Coulanges, 462; Cartledge, 77-78.

<sup>12</sup> Andrewes, in Whitby, 50-53, 56-57, 60-63, and 68.; Whitby, 45-46. Some scholars argue that Spartans did not have such decisive power.

<sup>13</sup> Whitby, 4; Andrewes, in Whitby, 50-63.

<sup>14</sup> Hodkinson, in Whitby, 117.

<sup>15</sup> Hodkinson, in Whitby, 109.

Elders were expected to guide the younger men. Over meals, Elders would tell stories of battles and recount actions men had preformed. They would then ask the young members of the mess to determine if these battles had been just or if the men had acted with virtue. Elders would similarly assess the conduct of the mess members at each meal. For the Spartiates, the mess provided a continual evaluation of their worth to the unit.<sup>16</sup>

Mess members referred to each other as *homoimoi*, meaning that they were equals or peers. Although the mess unit was a cross section of the greater population of Spartiates, being composed of men of different classes, different families, and different ages, all men ate the same food, wore the same clothes, and treated each other as equals. Standing among members changed according to experience and merit. Elders, respected because of their service towards their country, distinguished emerging citizens: they determined who should be advanced in position by judging the actions of the young citizens. Good behavior in the battlefield translated to an improvement in rank. In this way, the Spartiates were in continual competition to demonstrate their worth in the community. A high status in the mess was almost never certain, and one could be replaced should he fail to exhibit favorable qualities or be outshone by another Spartiate. Citizens continually worked to show their merit of advancement. Rich men, for example, would be distinguished by contributing finer food to the mess, but anyone could be advanced by their actions on the battlefield or in training.<sup>17</sup>

A strict government-controlled training program fostered the Spartiate's competitive sense of devotion. Compulsory education started at the age of seven,

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<sup>16</sup> Heater, 8-10; Hodkinson, in Whitby, 115-119; Powell, in Whitby, 91 and 95.

<sup>17</sup> Heater, 8-10; Hodkinson, in Whitby, 115-119; Powell, in Whitby, 91 and 95.

and the rigorous program was specifically designed to kill the weak.<sup>18</sup> During this period, the trainee was purposely separated from his father's control to assure his complete devotion to the state. A young man lived in a barracks with the same group of boys until his twentieth birthday, when he joined a mess. It was not until his thirtieth birthday that he would be permitted to live with his wife.

If the physical separation from his parents was not enough to weaken familial affection, Spartan law separated young men from their father's authority. A child's behavior was the responsibility of every Spartan citizen – the law gave any citizen the right to punish any child, regardless of their relation. Furthermore, at the age of twelve, Spartan children were paired with a young adult in his twenties. The young adult was not yet a full citizen, and the mentoring of the young boy was a duty and part of his education. The relationship between the two was extreme. "The young adult...was responsible for the conduct of his boy...shared his honour or disgrace and, together with the latter's kinsfolk, supplied the material needs of his household."<sup>19</sup> Furthermore, the boy became the young adult's lover and was not allowed to go to the market alone till he turned thirty.<sup>20</sup> The strong non-familial adult presence taught Spartans to respect elders and conform to their elders' opinions – the state itself became his family.<sup>21</sup>

In his military education a young Spartan learned quickly that the fittest boy would be placed in charge of their training unit. This position was not guaranteed and would change frequently. They were taught obedience through

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<sup>18</sup> Powell, in Whitby, 100. The trainees went barefoot, wore one garment in all seasons or weather, were whipped, and intentionally kept hungry. Stealing to survive was encouraged and being caught a crime.

<sup>19</sup> Hodkinson, in Whitby, 109.

<sup>20</sup> Heater, 8-10; Cartledge, 78; de Coulanges, 295; Hodkinson, in Whitby, 109.

<sup>21</sup> Hodkinson, in Whitby, 109; Powell, in Whitby, 95. The strong sense of devotion towards one's country can partly be attributed to the relationship of the lovers. From their training and mess membership, the young adults understood that the state was always first. They taught this to their boy, and in extreme cases, requiring the sacrifice in battle, the two would face death side-by-side.

this shifting command. Those who refused the orders of the leader would be punished severely, sometimes being whipped to the point of death.<sup>22</sup> Exemplary students would undergo a special training called *krypteia*. They would be sent out with a knife and basic rations in a test to see if they could survive in the wild alone.<sup>23</sup> During their travels, the students were encouraged to kill helots, especially those standing “out for their physique and strength.”<sup>24</sup>

If the young Spartan survived his training, at the age of twenty he would apply to a mess.<sup>25</sup> The Spartan had to be unanimously elected to the mess, because “all should be happy in each other’s company.”<sup>26</sup> Because of this strict selection method, the messes tended to be uniform in character. Each new member was granted a unit of communal land and helots to work the plot. Slave labor enabled the Spartiate lifestyle as they were required to spend their life training. “Citizenship and [any form of] manual work, even the pursuit of craft, were ... incompatible ...”<sup>27</sup>

The Spartiates’ training and living situation enforced a strict civic discipline. Their livelihood depended on the health and power of the state: without their elite and militaristic lifestyle, the Spartiates’ would not have been able to keep the helots in a condition of oppression. As a result, Spartiates were beholden to each other and the state.<sup>28</sup> Beyond the material forces requiring the devotion to his state, a Spartiate’s upbringing taught him from a young age to

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<sup>22</sup> Hodkinson, in Whitby, 108-111; Heater, 8-9.

<sup>23</sup> Heater, 8-9.

<sup>24</sup> Plutarch, *Plutarch on Sparta*, trans. and intro. R. J. A. Talbert, (Harmondsworth: Penguin, 1988), 40-41, in, Heater, 9.

<sup>25</sup> Hodkinson, in Whitby, 105-106.

<sup>26</sup> Plutarch, 40-41; in Heater, 9.

<sup>27</sup> Heater, 8 and 10.

<sup>28</sup> Powell, in Whitby 90.

value public welfare over private, and to “defer [his opinions] to the opinions of others.”<sup>29</sup> As the Greek historian Plutarch recounts,

[Spartiates were expected] to have [neither the] desire for private life, nor knowledge of one, but rather to be like bees, always attached to the community, swarming together around their leader, and almost ecstatic with fervent ambition to devote themselves entirely to their country.<sup>30</sup>

Among the Spartiate class, a citizen’s highest aim was the esteem of his state and fellow citizens. A Spartiate’s life was spent in the service of the public. At the age of sixty a Spartiate was permitted to retire from active military service, but his instructive role in the community and at mess dinners did not end until his death. And only those who died on the battlefield would be honored by having their name placed on their tombstone. The rest lay at rest without recognition, demonstrating that worthy citizens were those who gave everything to their country.<sup>31</sup>

## Athens

The Athenian people viewed themselves as distinct from the citizens of Sparta – in their eyes, the Spartan system of governance was savage. “[The Spartan] system of legislation,” complained Aristotle, “is directed to fostering only one part or element of goodness – goodness in war...The Spartans...did not know how to use leisure which peace brought; and they never accustomed themselves to any discipline other than that of war.”<sup>32</sup> The Athenian statesmen

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<sup>29</sup> Powell, in Whitby, 101. “The other male groupings, the age-classes, the shared barrack life until age 30 and the common messes, also acted as counterweights to the household. In all this the collective interest was reinforced by the multiplicity of male groupings...” Hodkinson, in Whitby, 109.

<sup>30</sup> Plutarch, 37; in Heater, 10.

<sup>31</sup> Powell, in Whitby, 92-93 and 101; Hodkinson, in Whitby, 123-124.

<sup>32</sup> Aristotle, *Politics*, trans. and ed. E. Barker, (Oxford: Clarendon Press, 1948), 1271b; in Heater, 12.

Pericles added that, in contrast to the laws of Sparta, “if we look to the laws [of Athens], they afford equal justice to all in their private differences...the freedom which we enjoy in our government extends also to our ordinary life...[and] this ease in our private relations does not make us lawless as citizens.”<sup>33</sup> Athenians prided themselves on the fact that, “each single one of our citizens, in all manifold aspects of life, is able to show himself the rightful owner of his own person.”<sup>34</sup>

Despite their cultural differences, the Athenian and Spartan civic bodies were both homogenous, valued public life over private, and exhibited a strong sense of devotion towards their government. In Athens, as in Sparta, these qualities were instituted both in the training of prospective citizens and in the quotidian aspects of life. Although Athenian children did not undergo extreme physical challenges like those of Sparta, their training was under the continual review of their peers and they risked expulsion from the training program, exile from the city, and life-ruining fines. In Sparta, the training created a militaristic uniform civic body. In Athens, however, the training created a uniformity that was political in nature, resulting from the Athenian democracy.<sup>35</sup>

Political power in Athens was shared by all citizens. Every citizen had the right and opportunity to preside in the city’s three governing bodies: the council called the *boulē*, the assembly, and the courts. The *boulē* had 500 members, each of which had first been nominated by the people, and then selected by lottey to hold office. Council-members held office for a year and could not be nominated

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<sup>33</sup> Robert B. Strassler, ed, *The Landmark Thucydides* (New York: Free Press, 1996), 114.

<sup>34</sup> Thucydides, *The Peloponnesian War*, trans. R. Warner (Harmondsworth: Penguin, 1954), 118; in Heater, 25.

<sup>35</sup> Peter Connolly and Hazel Dodge, *The Ancient City, Life in Classical Athens and Rome* (Oxford: Oxford University Press, 1998), 28; Heater, 22. It should be noted that Athens was not always a democracy. It had been at times monarchic and aristocratic. The reforms of Solon in the early fifth century BCE began the institutional change to a democracy. The era of interest for the following section, is the democratic era. All Greek vocabulary in this section and the following institutions refer to the democratic era of the Athenian polis, from about 500 to 330 BCE.

for consecutive years; they were also prohibited from holding the office more than twice in their lifetime. All members had equal power, received a stipend and shared communal meals. The *boulē* received ambassadors, was responsible for the military, and supervised public administration. Like the gerousia of Sparta, the Athenian *boulē* also determined the agenda for assembly meetings, although the assembly held the power to alter this agenda. Ultimately, about one half of the approved legislation had been suggested by the *boulē* and the rest from the direct requests of the assembly.<sup>36</sup>

The Athenian assembly was an ideal model of democracy. Six thousand citizens convened once every nine days to vote on legislation. Not only did every citizen have the right to attend and speak at assembly, attendance was publically enforced. The vote was taken by a show of hands from all citizens. And although the assembly could discuss only matters approved by the *boulē*, it had the power to order the *boulē* to place items on the agenda for the next meeting. The decisive power to vote and pass legislation lay in the hands of the assembly.<sup>37</sup>

Equally important to the legislative process was the court system. The courts were the decisive bodies of Athenian government.<sup>38</sup> For the most part, they debated cases of a political nature – criminal cases and disputes were dealt with outside of the people’s court.<sup>39</sup> The courts primarily dealt with questions of legality. Any citizen could bring a charge against a law or public official. A charge of illegality effectively voided the power of the law in question until the

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<sup>36</sup> Bernard Manin, *The Principles of Representative Government* (New York: Cambridge University Press, 1997), 15-30; Connolly, 26-28

<sup>37</sup> Connolly and Dodge, 22, 26-30. Heater, 24-25.

<sup>38</sup> Connolly and Dodge, 22, 26, 29-30. Manin, 15-30. Excepting serious legal infractions and those cases of illegality involving members of the *boulē*, the court heard all cases.

<sup>39</sup> Manin, 18-19.

courts rendered a decision.<sup>40</sup> Like the assembly, the courts were a model of democracy, the judges being a body of six thousand citizens elected each year. In a typical court case, a large and odd number of citizens out of this six thousand would be selected to judge.<sup>41</sup> There was no deliberation, only a vote of innocent or guilty.<sup>42</sup>

Furthermore, a legal definition of the city's laws came from the collective understanding of the Athenian people – there was no written legal code or set authority.<sup>43</sup> Athenian judges swore an oath, “pledging [either] to vote in accordance with the laws and decrees of the Assembly and the Council [or] to decide in accordance with their own sense of what is just in cases not covered by the law...”<sup>44</sup> Ultimately, the law was “the quality of a man belonging to [a system of social ethics ... it was a] moral virtue as well as a legal quality.”<sup>45</sup> And because of the large number of judges, it can be asserted that the law was nothing more than the opinion of the presiding citizens.<sup>46</sup> Ernest Barker writes,

... the Athenian [judges] were not administering a strict legal system of justice. They were seeking to express, as samples and representatives of the civic community, the idea of what was ‘right’, or ‘straight’, or (we may even say) ‘fair’.<sup>47</sup>

In Athens, the civic body determined what was right and just, and ultimately determined what institutions, actions, or people were appropriate for and in their city.

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<sup>40</sup> Manin, 14-20.

<sup>41</sup> Ibid., 18-19.

<sup>42</sup> Connolly and Dodge, 29-30. The judges heard short speeches of the defendant and plaintiff and then immediately cast their vote.

<sup>43</sup> Ernest Barker, “Note on the Vocabulary of the *Politics*,” in Aristotle, xviii-xix.

<sup>44</sup> Barker, in Aristotle, 18.

<sup>45</sup> Ibid., xix.

<sup>46</sup> Ibid., xix.

<sup>47</sup> Ibid., xx.

The actual governance of the city was likewise performed by the large body of citizens themselves. The city was managed by magistrates, who were for the most part selected by lottery for a year-long term. Citizens could not hold magisterial offices for consecutive years and were not allowed to fill the same position more than once. The selection by lot gave every citizen of thirty years or older an equal chance of participation.<sup>48</sup> Magisterial power was mainly municipal; they “prepared the agenda for the assembly, conducted preliminary investigations prior to lawsuits, summoned and presided over courts, and carried out the decisions made by the assembly and the courts.”<sup>49</sup> Scholar Bernard Manin points out that “they did not hold what was regarded as decisive power...[nor did they] make the crucial political choices.”<sup>50</sup> He suggests that magistrates “acted at the request of ordinary citizens,” discussing only those “motions that ... citizens proposed.”<sup>51</sup>

To make these democratic institutions function required an engaged citizenry. For example, fifty percent of Athenian citizens had presided over the *boulē* at least once in their lifetime.<sup>52</sup> From a young age, a citizen’s training prepared him to fill the many political roles expected of him. The state decided what would be appropriate for a child’s education and had a hand in determining who would be the educator: “the state,” wrote de Coulanges, “considered the mind and body of every citizen as belonging to it; and wished, therefore, to enable

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<sup>48</sup> Connolly and Dodge, 26; Heater 24-27; Manin 11-15. Out of the 700 magistrates, only 100 were selected through election. Those chosen by election held the most prestigious positions, being generals, chief administrators, chief financial officers, while those selected through lot were primarily administrative. The elected positions were filled every year, but not term limited. Some statesmen, such as Pericles were elected for more than twenty years. Elective posts were filled by a select and distinguished citizenry, providing the elite with “the most important [powers]: the conduct of war and the management of finance,” positions which “affected what happened to the city more than any other function.” Manin, 14.

<sup>49</sup> Manin, 15.

<sup>50</sup> Ibid., 15.

<sup>51</sup> Ibid., 15.

<sup>52</sup> Ibid, 15-30.

it to draw the greatest advantage from them.”<sup>53</sup> Though this may be an overstatement, the Athenian children like those of Sparta, were taught from a young age to value the city.<sup>54</sup> As Plato theorized in *Laws*, “the children belong less to their parents than to the city.”<sup>55</sup>

Upon turning eighteen, a young adult would apply to become a citizen. Both his family history and his age would be checked for eligibility. Candidates who did not qualify could be sold into slavery.<sup>56</sup> Those accepted swore an oath demonstrating their commitment to the state:

I will leave my country not less, but greater and better, than I found it. I will obey the magistrates and observe the existing laws, and those the people may hereafter make. If anyone tries to overthrow or disobey the ordinances, I will resist him in their defence.<sup>57</sup>

The candidates then departed for two years of military service and would be granted partial rights upon returning to the polis at the age of twenty. Though now allowed to vote in the assembly, he was still ineligible to hold office.

From then until his thirtieth birthday was perhaps the most important time of his pre-citizen life. The young man was now an actor in the political realm. He, like all citizens, was expected to state his opinions and help in the legislative process. While Spartans spent ten years of their life living in a mess before gaining full citizenship, Athenians spent ten years of their life acting in the political realm before they could become citizens. During this time, the young man exercised the central freedom of the Athenian people, *parrhesia*. This freedom was of individual speech, thought and action, and vital to the operation of

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<sup>53</sup> de Coulanges, 296.

<sup>54</sup> “Athenian children on their way to school...march in serried ranks, through rain, snow, or scorching heat. These children seem already to understand that they are performing a public duty.” Aristophanes, *Clouds*, 960-965 sic.; in de Coulanges, 295.

<sup>55</sup> Plato, *Laws*, VII sic.; in de Coulanges, 295.

<sup>56</sup> Heater, 26.

<sup>57</sup> W. Boyd, *The History of Western Education*, 3<sup>rd</sup> ed. (London: A. and C. Black, 1932) 21-22; in Heater, 26.

the assembly. Heater writes that *parrhesia*, “had to be preserved at all costs.”<sup>58</sup> *Parrhesia* however, was more of a requirement than a freedom. Now eligible to attend assembly, the prospective citizen was required to exercise this right.

He was obliged to vote in the assembly ... Athenian law permitted no one to remain neutral; he must take sides with one or the other part. Against one who attempted to remain indifferent, and not side with either faction ... the law pronounced the punishment of exile with confiscation of property.<sup>59</sup>

Just as the Spartiates were expected to train their bodies daily, Athenians were expected to keep their minds sharp with active political participation.

Exercising the freedom of *parrhesia* was a luxury, but could also pose dangers. Both the law and the larger civic body encouraged diverse opinion, but within certain limits: young man and elder alike risked punishments ranging from heavy fines to death for holding unpopular political views.<sup>60</sup> For example, each year by law the assembly voted to exile one citizen for ten years.<sup>61</sup> Called ostracism, the decision was purposely left to the assembly to avoid the difficulty of conviction through the court system.<sup>62</sup> De Coulanges described it as a trial of “incivism—that is to say for want of affection towards the state.”<sup>63</sup>

At the age of thirty, the trainees were finally granted full citizenship. Now having the right and the duty to become magistrates, they were faced with additional institutionalized tests of political leanings. Before a citizen could put

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<sup>58</sup> Heater, 25.

<sup>59</sup> de Coulanges, 295. Heater says the same thing: “Civilian duty conscientiously performed was also expected of the good citizen. This would involve virtuous obedience to the laws and participation in the Assembly. What is stressed by authorities such as Xenophon and Plutarch is the penalty of loss of citizenship for any man whose behavior fell short of these expectations.” Heater, 11; Connolly and Dodge, 28, write that people would be punished for not attending assemblies.

<sup>60</sup> Socrates, for example, was sentenced to death by the Athenian people because they feared he was corrupting the youth. See Plato, *The Trial and Death of Socrates*, trans. by G. M. A. Grube (Indianapolis: Hackett, 2000). Manin, 18-19, writes that political trials were very common.

<sup>61</sup> Heater, 23; Connolly and Dodge, 28.

<sup>62</sup> de Coulanges, 297.

<sup>63</sup> *Ibid.*, 297.

his name into a lottery, he would undergo tests of character; the history of the candidate's parents and his own individual tax and military history would be evaluated to determine whether or not he could hold office. These tests were carried out by the *boulē* and courts. If accepted, their names would be put forth into the lottery.<sup>64</sup>

Once in office, magistrates were under “constant [surveillance] by the courts and assembly.”<sup>65</sup> It was impossible to hold office without being judged by the body of citizens. During the year, “any citizen could at any time lay a charge against them and demand their suspension.”<sup>66</sup> Even popular magistrates would regularly be judged at principal assemblies, where a vote on every magistrate's conduct was “a compulsory agenda item.”<sup>67</sup> Any magistrate receiving a “vote of no confidence” from the assembly was sent to the courts; being found guilty could mean exile or loss of citizenship.<sup>68</sup> Additionally, at the end of a term the magistrates conduct in office would be judged. Called *euthynai*, every magistrate had to “render account” to the assembly upon leaving office.<sup>69</sup>

Outside of the instituted public review, citizens could bring forth a charge against another at any time. However, initiating a proceeding was not treated lightly – if the accuser failed to receive one fifth of the judge's vote in his favor, he was heavily fined. Similarly, if he removed his complaint before a decision was rendered, the accuser lost his right to ever bring forth a case again in addition

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<sup>64</sup> de Coulanges, 295-297.

<sup>65</sup> Manin, 11-12.

<sup>66</sup> Ibid., 12.

<sup>67</sup> Ibid., 12-13.

<sup>68</sup> Ibid., 12-13.

<sup>69</sup> Manin, 11-12; “Before entering office they had to undergo an examination (*dokimasia*) by the Boule and the law courts of birth qualifications, physical fitness, treatment of parents, and military activity; at the end of their term, they underwent an examination (*euthyna*) of their conduct, especially financial, while in office.” *Encyclopedia Britannica Online*, s.v. “archon,” <http://www.search.eb.com/eb/article-9009298> (accessed March 2, 2010).

to being fined. Both the plaintiff and defendant were responsible for representing themselves. They were given a fixed time to present their case, and they suggested what the punishment should be if proven guilty.<sup>70</sup> Manin claims that a citizen found guilty was fined so heavily that “he became a debtor to the city for the rest of his days, thus stripping him of his civil rights.”<sup>71</sup>

Because citizens were in frequent contact with each other, the risk of holding an unpopular political belief was great. A citizen’s attitude would have certainly been widely known among friends, if not the greater civic body. Political discourse was an integral part of everyday life. Because of the city’s layout, every citizen by necessity had to pass by the marketplace called the *agora*. It housed the governmental offices, law courts and dinner halls, and was connected to the acropolis, the city’s temple and home of the treasury – in short, the *agora* was the “political and legal center of the city.”<sup>72</sup> As he passed the *agora*, the citizen was expected to stop and discuss daily affairs. As the mess and similar Sparta institutions prevented anyone from escaping public evaluation, the institutions of Athens made it impossible for citizens to escape public review.<sup>73</sup>

#### Greek life and the civic republican tradition

No doubt the devotion of Greeks to their polis was a result of their extensive training and intensely public life. The public spirit of Spartan and Athenian citizens was maintained through a variety of government-controlled regulatory institutions. In Sparta, the mess maintained and established virtues. Elders continually monitored the characters of younger citizens. In Athens, the

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<sup>70</sup> Manin, 14-21; Connolly and Dodge, 29-30.

<sup>71</sup> Manin, 21.

<sup>72</sup> Connolly and Dodge, 22.

<sup>73</sup> Connolly and Dodge, 22 and 26-27; Cartledge 90-19.

institutions of government themselves enabled a continual public review of the citizen's political standing. The effect of these institutions was to compel Spartans and Athenians to make the priorities of the state their own, which, in turn, the citizens had played a role in determining. In Sparta, this meant following a chain of command. In Athens, it meant acting in line with the political opinion of the general civic body.

A large part of the citizen's devotion came from being treated as an equal and thus being expected to equally share the responsibilities of the country. A Spartan had equality when fulfilling his military duties. On the battlefield, all had a fair chance of executing their authority and advancing in rank. From foot soldier to general, prestige, responsibility, and power were diffused among the whole mess unit. Almost all were in charge of someone else, and everyone had the opportunity to demonstrate their potential and gain a higher rank.<sup>74</sup> In Athens, the citizen's equality was political. Each citizen had an equal right and duty to rule justly. Athenian democracy was the "first [and] only real democracy."<sup>75</sup> There were "no professional politicians ... all decisions were taken by popular vote ... [and] no one could defy the will of the people and expect to get away with it."<sup>76</sup>

The divergent forms of governance made the civic voice of Sparta very different from that of Athens. The Athenian voice was dynamic – new political ideas could be widely accepted and easily adopted. As Pericles said, every Athenian citizen was ready to discharge their opinion.<sup>77</sup> Spartiates, however, had a static and conservative civic voice. Their dynamic character came to life on the

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<sup>74</sup> Hodkinson, in Whitby, 119-22.

<sup>75</sup> Connolly and Dodge, 9.

<sup>76</sup> *Ibid.*, 9.

<sup>77</sup> Thucydides, 118; in Heater.

battlefield; otherwise they were known for their lack of discourse.<sup>78</sup> While in Athens the opinion of the civic body was constantly being questioned, in Sparta actions were judged after they occurred. For any legislation to pass in Athens, it had to be approved by the assembly, meaning that every citizen had to state their opinion. In Sparta, no time was given to assess the virtue of an immediate action – on the battlefield, life or death did not wait for deliberation. As a result, Athenians could question any law and every citizen at any time, but Spartans in contrast had to obey orders – in Sparta there existed a specific time and place to question the citizenry.

The equality of Greek citizens depended on the extreme inequality of those excluded from the status of citizen. The total population of citizens was small. In the fifth and fourth century BCE, there were roughly 30,000 Athenian citizens out of a total population of 120,000.<sup>79</sup> In Sparta, the conditions of life for non-citizens were miserable. Females and those other inhabitants ineligible for citizenship, conditions were outsiders, “treated as a slave[s]” and “punished without process of law, the city owing [them] no legal protection.”<sup>80</sup> The Spartiate’s militaristic civic body suppressed the helot population in order to maintain their oligarchy.<sup>81</sup> Their unity enabled them to hold a position of extreme inequality over the other inhabitants.<sup>82</sup>

The inequality between citizen and non-citizen raises serious questions about the Greek institutions and the civic republican tradition. In many ways, the

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<sup>78</sup> Cartledge, 70-72; Heater, 9-13. Spartans were prohibited from travelling. Their leaders did not wish for them to acquire foreign habits or lifestyle. Plutarch, 40; in Heater, 12.

<sup>79</sup> Heater 20-22; Manin 18-20 44-45. Athens granted a limited set of rights to legally free immigrants called metics. Metics could not attain the status of citizen, but nonetheless were taxed and subject to military duty.

<sup>80</sup> de Coulanges, 262.

<sup>81</sup> Cartledge, 84.

<sup>82</sup> de Coulanges 463; Powell, in Whitby, 90.

institutions that fostered republicanism in Greece were a result of the exclusion of non-citizens. For Sparta in particular, it may be asked if Spartiates freely devoted themselves to their country, or if it was as a result of needing to suppress helots? Without placing the needs of the state before the individual, would Spartiates have been in serious peril? The plausible answer to this question is yes, but whether or not the Spartiates themselves would have viewed their civic devotion as resulting from a great need to suppress the helot population seems debatable. It is more reasonable to say that a Spartiate's training taught him not to question the actions of his state and to be willing at all times to give everything to his state. The Spartiate underwent a "social and 'ritual' system ... [that] compelled [him], especially during his upbringing, to accept a common, public way of life."<sup>83</sup> It seems plausible that in Sparta as well as Athens, both the government training of young children and regulatory methods instituted later in life produced an exemplary tradition of civic republicanism. The next chapter investigates whether similar institutions were in place in America, and if American institutions were able to provide the citizen body with the republican tradition.

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<sup>83</sup> Hodkinson, in Whitby, 104.

### Chapter Three: The U.S. Constitution and 19<sup>th</sup> Century America

The previous chapter concludes that Greek institutions of government produced a “republican” citizenry. The outstanding devotion exhibited by Greek citizens was primarily due to the intense training they had undergone. The select few who gained and held the title of citizen were those chosen for their ability to serve the needs of the country. The American founders idealized Greek citizens and hoped their new government would achieve such a virtuous and devoted civic body. Samuel Adams, founding father and second cousin of John Adams, desired that America be a “Christian Sparta.”<sup>1</sup> The founders hoped the 1787 Constitution would promote a civic body like that of Greece, because they believed republican citizenship necessary for the success of the government.<sup>2</sup>

The American Constitution however, provided for the creation of institutions very different from those of Greece. Under the Constitution, America would have a federal form of government; governance would be divided between the nation and the states. In Sparta or Athens no such division existed. By comparison, American citizens would interact and have a very different relationship with two spheres of government –nation and state. This dual civic relation complicates a comparison of the American citizen to the Greek. Federalism requires that the citizen be analyzed at the national and local level in order to accurately capture the full character of the people.

Additionally the American founders, having been influenced by the Enlightenment and modern political science, believed in a strong, irrevocable

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<sup>1</sup> Cushing, ed., *Writings of Samuel Adams*, IV, 238 sic.; in Gordon S. Wood, *The Creation of the American Republic, 1777-1787* (Chapel Hill: University of North Carolina Press, 1998), 118.

<sup>2</sup> Barry Alan Shain, *The Myth of American Individualism, The Protestant Origins of American Political Thought* (Princeton : Princeton University Press, 1994), 34, 52-53.

protection of civil rights. America would have a strong liberal citizenship, defined by the possession of contractual rights – an idea that did not exist in Sparta or Athens. In Greece, the ultimate power of the state over individual rights was the reason citizens exhibited the strong sense of virtue the founders so admired. But, in the eyes of the founders, the power of the Greek state to invade the citizen’s rights was unjust. How then, could a sense of devotion be instilled in American citizens if the government would not have the same power over the civic body?

The founders did not doubt that the ability to produce a Greek citizenry without violating a citizen’s essential rights. Their government would foster citizens who would be “independent,” “self-reliant,” and devoted to the state – ideals that in many ways are contradictory.<sup>3</sup> It is my belief that federalism resolves the conflicts between civic republican and liberal citizenship. Under the federal system, the national government would allow citizens to have wide, expansive rights of the liberal tradition, and at the same time, receive moral instruction from the local, state-approved institutions.<sup>4</sup> This unique combination of national and state or local institutions united the civic republican and liberal traditions of citizenship.

The adoption and origin of the American institutions of government

In the late eighteenth century, the Constitutional Convention drafted the Constitution of the United States of America with two principal goals. First, the Constitution was designed to protect the civil rights of the American people.

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<sup>3</sup> James A. Morone, *The Deomcratic Wish, Popular Participation and the Limits of American Government*, revised ed. (New Haven : Yale University Press, 1998), 41-42.

<sup>4</sup> It should be noted that the founders designed the Constitution to encourage non-governmental institutions to play a large role in the development of the citizen’s character, morality, and ethics.

Second, it would promote a virtuous and devoted civic body.<sup>5</sup> Articles I-III of the Constitution describe the institutions of the national government, while articles IV-VII define state authority, provide a process for Amending the Constitution, declare the supremacy of the document, and explain the ratification of the Constitution. The history behind the founders' two goals – the protection of liberty and the promotion virtue – explains why they produced the principles that would come to define American government: federalism, the separation of powers, a divided legislature, and representation.

For the founders, assuring the rights of citizens was a primary goal. They believed the Articles of Confederation had failed to adequately protect civil rights and as a result, the “protection for property ... [became] a central purpose of the new constitutional order.”<sup>6</sup> To prevent the government from overstepping its authority and violating the rights of the people, the founders created a complex system of checks and balances; they believed the only way to protect citizens was by requiring their consent to every department of the government. Under the Constitution, a citizen's approval would be needed for every political action because they consented to their state legislators and Congressmen. The founders thought this consent would also legitimize the government. With each branch of the government being separated and the rulers receiving the direct or indirect consent of the people, the founders believed they had protected the citizenry's liberty and property.<sup>7</sup>

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<sup>5</sup> Donald P. Kommers, John E. Finn, and Gary J. Jacobsohn, *American Constitutional Law, Essays, Cases, and Comparative Notes*, second ed. (Lanham: Rowman and Littlefield Publishers, 2004), 502-503.

<sup>6</sup> Morone, 57-59; Kommers, Finn, and Jacobsohn, 502.

<sup>7</sup> David M. Kennedy, Lizabeth Cohen, and Thomas A. Bailey, *The American Pageant, A History of the Republic, Volume I To 1877*, 12<sup>th</sup> ed. (New York: Houghton Mifflin Company, 2002), 181-187.

For several states, the ratification of the Constitution was contingent on the adoption of a strong Bill of Rights to further safeguard the rights of the civic body. These states believed that the people's consent to the Constitution did not sufficiently assure civil rights. In contrast, those opposed to a bill of rights viewed its inclusion as "superfluous" and "dangerous."<sup>8</sup> They argued that no law could pass and no representative could be put in power without the consent of the people. Furthermore, they feared that the specific enumeration of rights would compromise the non-listed civic rights.<sup>9</sup> Nevertheless, six out of the thirteen ratifying states approved the Constitution with the promise of a Bill of Rights to "protect individual liberties."<sup>10</sup> The Bill of Rights must therefore be viewed as part of the "package deal" in the creation of the Constitution. The first ten amendments were a prerequisite to the Constitution's ratification, and they are particularly important in understanding how the founders expected the local government to function.

For the states fearing the violation of non-enumerated rights, the ninth and tenth amendments made clear that the states and people retained any right not delegated to the government.<sup>11</sup> Following a strict interpretation of these amendments, the powers of the central government were limited to those enumerated by the people and the states. Furthermore the people retained power in their own spheres. The national government, for example, would be prohibited to act in ways not stipulated by the Constitution, leaving these powers in the hands

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<sup>8</sup> Kommers, Finn, and Jacobsohn, 432 ; Wood, *The Creation of the American Republic, 1776-1787* (Chapel Hill: University of North Carolina Press, 1998), 536-543.

<sup>9</sup> Kommers, Finn, and Jacobsohn, 432 ; Wood, 536-543. Michael Kammen, "The Nature of American Constitutionalism," in *The Enduring Debate, Classical and Contemporary Readings in American Politics*, 4<sup>th</sup> ed., eds. David T. Canon, John J. Coleman, and Kenneth R. (New York: W. W. Norton and Company, 2006), 43.

<sup>10</sup> Kommers, Finn, and Jacobsohn, 434; Sarah Vowell, *The Wordy Shipmates* (New York: Riverhead Books, 2008), 244

<sup>11</sup> US Const., amd. 9 and 10; connection illuminated in Kommers, Finn, and Jacobsohn, 434.

of the states or people.<sup>12</sup> As a result, the states and the people retained ultimate power.<sup>13</sup> As Alexis de Tocqueville observed when he toured America in the nineteenth century, “the sovereignty of the people...spreads freely, and arrives without impediment at its most remote consequences.”<sup>14</sup>

It may be debated however, whether or not the people actually gave their consent to the constitution, or if the Constitution adequately assures the people’s consent to the government. The Constitution itself had theoretically received the consent of the citizens. The founders had each been elected by their states to the constitutional convention for the explicit purpose of creating a constitution. In Federalist 39, Madison writes that the founders were “deputies elected for the special purpose,” and as a result “the Constitution [was]...founded on the assent and ratification of the people of America.”<sup>15</sup> In reality, a select group provided the consent to draft the Constitution – this consent being the result of one fourth of all the white, adult males who had been allowed to vote for delegates. Furthermore, if the ratification of the Constitution had been on the basis of popular vote – the ultimate form of consent because every voice is equalized – in states such as New York, it would not have passed.<sup>16</sup>

The Constitution additionally failed to define a right to suffrage, leaving this decision up to states.<sup>17</sup> The lack of such a declaration left women and minorities unable to consent or object to the government. Even in a perfect system, where all were granted the right to consent, the system of representatives

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<sup>12</sup> Kommers, Finn, and Jacobsohn, 231-233.

<sup>13</sup> Alexis de Tocqueville, *Democracy in America* (New York: The Modern Library, 1981), 95.

<sup>14</sup> de Tocqueville, 46.

<sup>15</sup> Clinton Rossiter, ed., *The Federalist Papers, Alexander Hamilton, James Madison, John Jay*, introduction and notes by Charles R. Kesler (New York: New American Library, 1999), 239.

<sup>16</sup> Kennedy, Cohen, and Bailey, 186.

<sup>17</sup> Kommers, Finn, and Jacobsohn, 366

“largely removed ‘the people’ from the business of governance.”<sup>18</sup> Given this evidence, the founders’ claim that the government would protect individual rights on the basis of the people’s consent seems absurd.<sup>19</sup>

However the founders believed the people’s consent would safeguard their liberty; it is true that in modern times there has been progress in assuring every citizen the right of franchise. In a world where everyone is able to vote, the Constitution functions as a social contract and protects the individuals by making the people indirectly rule the government. For the founders, the American people had not consented to a ruler; they had consented to a Lockian contract among themselves, where their united voice would rule.<sup>20</sup> In theory, it was a form of social contract where “no laws [could] have any validity or binding force without the consent and approbation of the people.”<sup>21</sup>

For the founder’s second goal, the promotion of virtue, the Constitution was designed allowed republicanism to flourish by protecting against the dangers of faction and self-interest.<sup>22</sup> The checks and balances of the federal government would control the ambitions of rulers which led to their corruption.<sup>23</sup> Madison famously wrote:

If men were angels no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on

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<sup>18</sup> Sheldon S. Wolin, *The Presence of the Past: Essays on the State and the Constitution* (Baltimore: Johns Hopkins University Press, 1989); and Michael Parenti, “The Constitution as an elitist Document,” in Richard Goldwin and William Schambra (eds), *How Democratic is the Constitution?* (Washington: American Enterprise Institute, 1980), 47; in Kommers, Finn, and Jacobsohn, 503.

<sup>19</sup> Kammen, in Canon, Coleman, and Mayer, 41.

<sup>20</sup> Wood, *The Creation of the American Republic, 1776-1787*, 282-289.

<sup>21</sup> Hamilton; Syrett and Cooke, eds., *Hamilton Papers*, I, 105 sic.; in Wood, *The Creation of the American Republic, 1776-1787*, 162.

<sup>22</sup> Kennedy, Cohn, and Bailey, 146; Kommers, Finn, and Jacobsohn, 503-504.

<sup>23</sup> Rossiter, *Federalist # 51*, Madison, 36-37.

the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.<sup>24</sup>

The constitutional system would assure the rulers would be disinterested by preventing anyone from having a majority power. A representative would have to create laws that would be approved by his fellow rulers – laws that each branch believed would protect the collective rights and liberties of citizens. The property protected by the constitution was “expansive and complex...understood to be closely connected to *all* individual liberties.”<sup>25</sup> Because no corrupt individuals could pass laws independently, the structure preserved the communal liberty of all citizens.<sup>26</sup>

The founders’ impulse to protect the community’s large body of citizens over the interests of individuals came from their appreciation of Greek polities. The Greek public spirit greatly influenced the founders. An American love of classical republicanism, likely to have come from thinkers such as the widely-read Montesquieu, made Greek values well-known during the late eighteenth century.<sup>27</sup> The classical influence became so commonplace, that Gordon Wood concludes “the names of the ancient republics – Athens, Lacedaemon, Sparta – had ‘grown trite by repetition’ ...”<sup>28</sup> For the founders, the virtues produced by the ancient polities would greatly influence the creation of the Constitution.<sup>29</sup>

The founders claimed that the government should promote the public welfare before the interests of individuals. It was clear that “the collective good of ‘the people’ matter[ed] more than the private rights and interests of the

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<sup>24</sup> Rossiter, *Federalist # 51*, Madison, 319.

<sup>25</sup> Kommers, Finn, and Jacobsohn., 503-504

<sup>26</sup> Wood, *The Creation of the American Republic, 1776-1787*, 61-64.

<sup>27</sup> Shain, 35-36.

<sup>28</sup> Edward W. Maonagu, *Reflections on the Rise and Fall of the Antient Republics ...* (London, 1759), 14 sic.; in Wood, *The Creation of the American Republic, 1776-1787*, 51.

<sup>29</sup> Wood, *The Creation of the American Republic, 1776-1787*, 51-53.

individuals.”<sup>30</sup> But the founders also realized that their government would be different from the ancient polities which too often allowed public will to govern. Their understanding of human corruption guided the construction of the government: the founders were more concerned by making a government that would promote order and justice than a government that the people would accept. John Adams complained that the ancient polities had failed partly because of their inability to control their civic bodies. The ruler Solon, wrote Adams, was “obliged to establish such a government as the people would bear, not that which he thought best, as he said himself.”<sup>31</sup>

By contrast, the American Constitution established a government that would protect against the self-interested desires of citizens. The American government would not be ruled majority interest, but by the people at large and the greater population. Supreme Court Justice John Jay ruled in 1790 that “Civil liberty consists in a right to every man to do just [what] ... the equal and constitutional laws of the country admit to be consistent with the public good.”<sup>32</sup> The American government permitted individuals to act in the interest of the greater public, not in the interest of a faction.

Because each branch would act independently however, the founders believed the health of their government would depend on having a virtuous civic and ruling body. It was widely believed that the Greek polis collapsed because the citizens became corrupt and failed to promote the common good.<sup>33</sup> Like the Greek institutions, where governmental action depended on the will of the citizen, if American citizens and representatives failed to serve the government, and failed

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<sup>30</sup> Kennedy, Cohen, and Bailey, 146.

<sup>31</sup> Carl Richard, *The Founders and the Classics* (Cambridge: Harvard University Press, 1994), 137.

<sup>32</sup> Charles Warren, *The Supreme Court in United States History*, vol. 1, 1789-1821 (Boston: Little, Brown, 1922), 60; in Shain, 32.

<sup>33</sup> Richard, 124 and 148.

to provide their consent to laws and rulers, the government would collapse. The republican form of government required a people who were willing and eager to rule;

Because political power no longer rested with the central, all-powerful authority of the king, individuals in a republic needed to sacrifice their personal self-interest to the public good.<sup>34</sup>

Under the classical and American institutions of government, the authority of the nation would depend on the action of the citizens and disinterested ruling of the political actors. Citizens had to select their rulers and obey their laws, while rulers had to act in the interest of the people. The virtue of the American republic therefore depended on this reciprocal relationship between the rulers and the people, which in theory made them dependant on each other.<sup>35</sup> A great republic was made by “the character and spirit of ... [the] people. Frugality, industry, temperance, and simplicity ... were the stuff that made a society strong.”<sup>36</sup>

Despite wanting to produce a Greek citizenry, the founders and their contemporaries viewed a direct use of Greek institutions in crafting the U.S. Constitution as anachronistic.<sup>37</sup> How could antiquated institutions work in contemporary governance? An eighteenth century chronicle mocked such a notion, writing that “while we are pleasing and amusing ourselves with Spartan Constitutions...our political constitutions and manners do not agree...”<sup>38</sup> The founders did wish their government to inspire a Greek-like devotion through similar institutions, but they equally believed that modern political science would

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<sup>34</sup> Kennedy, Cohen, and Bailey, 146

<sup>35</sup> Wood, *The Creation of the American Republic, 1776-1787*, 66-67.

<sup>36</sup> Wood, *The Creation of the American Republic, 1776-1787*, 52.

<sup>37</sup> “Can the orders introduced by the institution of Solon, can they be found in the United States? Can the military habit and manners of Sparta be resembled in our habits and manners? Are the distinctions of Patrician and Plebeian know among us?” Charles Pinkey at the Constitutional Convention, sic.; in Richard 144.

<sup>38</sup> *Independent Chronicle*, 3 June 1779, sic; in Shain 37.

be need to create such a government. Specifically, they thought that through institutions such as representation, they could, as John Adams wrote, avoid “the tumultuous commotions, like raging waves of the sea, which always agitated the ecclesia of Athens.”<sup>39</sup> The American institutions, said James Madison, would “anchor against popular fluctuations.”<sup>40</sup>

Adams argued that there had been three improvements since Spartan times: representation, the separation of powers, and the division of the legislature.<sup>41</sup> The Greeks, however, did in some way have these institutions in place. The Spartan ephors and prominent political positions in Athens were filled by elected representatives and played an important role in the government. Both institutions also separated the powers of the government between branches. In Sparta, the power to declare war was that of the assembly, but the kings and the ephors were in charge of the army, and the courts of Athens were able to overturn legislation enacted by the assembly. Finally, Adam’s claim of the uniqueness of a divided legislature is not all-together accurate. Certainly the American form is very different from the classical institutions, but Sparta and Athens also divided the power to propose legislation between their respective councils and assemblies. The three principal features of American government Adams mentioned, a separation of powers, a division of the legislature, and the representative form of governance, were therefore not altogether unique.

A fourth quality, the institution of federalism, truly distinguishes the American government from that of the ancient Greek polis. In Sparta as well as in Athens, the powers of the state rested with one authority, whereas in America,

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<sup>39</sup> Richard, 137-138.

<sup>40</sup> Ibid., 140.

<sup>41</sup> Ibid., 134.

federalism divided authority between the state and national government. So while the Greek institutions of government produced one voice and one administration, America would have multiple, at local and national levels. Yet federalism, the institution so different from that of the ancient polis, was exactly the structure that could achieve a civic body characterized by the Greeks.

The research of the previous chapter would suggest that the Greek devotion and virtue came from two attributes of their citizenry: the training they had undergone and the uniformity that this training produced. In a country as large and diverse as America, such a national uniformity was nonexistent. A national institutionalized training program for citizens was also out of the questions. To create such a program would have been impossible given that the founders were men of such varied opinion and background. Federalism, however, gave each state the police power: the “authority to promote and safeguard the health, morals, safety, and welfare of the people, [and was] a power essentially reserved to the states by the Tenth Amendment.”<sup>42</sup> With police powers, the states could potentially create training programs for citizens, and in theory had the power to decide its own moral direction, as long as it did not violate the authority of Congress or the Constitution.

Federalism therefore allowed for the citizens to have a strong liberal protection of rights at the national level, while at the same permitting states, through local and often non-governmental institutions, to provide a stricter and more intrusive regulation of their citizens. The ability of the federal constitution to combine the liberal and republican tradition of citizenship remains a contentious point. Scholars like Manin write that the national institutions of

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<sup>42</sup> John G. Grumm and Russell D. Murphy, *Governing States and Communities, Organizing for Popular Rule* (Englewood Cliffs: Prentice Hall, 1991), 342.

American government produce a form of equality between citizens very different from those of classical governments. His argument implies that the way American citizens interact with their national government produces an equality based on civil rights that negates the republican tradition. This argument does not take the institution of federalism into account.

Only by comparing the national and local institutions can a full picture of the American citizen be seen. It seems that the national institutions support the liberal tradition of citizenship but do not remove prevent the civic body from being virtuous. Furthermore, the structure of the states and localities under the federal constitution in the nineteenth century shows that the mechanisms of governance in place trained the citizenry to be precisely the republican civic body the founders believed necessary for the success of the national government.

The liberal tradition in national American institutions of government

The national government created a superstructure that would allow democratic governance to flourish without endangering the liberty and property of individuals and minority groups. When Adams or Madison wrote that the federal system would “anchor” the government from “tumultuous waves” of public opinion, they were describing a national system that would prevent majorities from unjustly imposing their will on minorities.<sup>43</sup> By dividing responsibility among three branches – the executive, legislative, and judiciary – the founders hoped to prevent any faction or majority from dominating the creation, execution, and interpretation of legislation.<sup>44</sup> Under this national system, self-interested rulers would be powerless because political action required the approval of each

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<sup>43</sup> Richard, 137-138, 140.

<sup>44</sup> Rossiter, *Federalist* # 10 and # 39, Madison.

branch.<sup>45</sup> To further safeguard against majority opinion, the founders chose to have citizens rule indirectly through representation. The use of an elected body of representatives prevented unreasonable, ill-conceived opinions from infecting the national legislature – public opinion would be filtered through the representatives. These two features would allow the government to represent of public will without suffering the ill effects of democratic passion.

The founders designed a national power structure that did not have to rely on the consistent virtue of the people or the rulers. At the national level, representatives would have to act in the interest of each independent branch to pass legislation.<sup>46</sup> As a consequence, if the rulers failed to be disinterested, the national government would not be able to produce laws. America, wrote Adams, “will be a fair trial, whether a government so popular can preserve itself.”<sup>47</sup> The structure implies that the national government would not be responsible for creating virtue, but that it would protect the citizens from corrupt rulers.

The American separation of powers largely removed citizens from the direct legislative process. Under the new constitution, the executive branch had the power to veto legislation, appoint judges and run the executive departments. The chief executive officer, the President, who possessed these powers, was also the commander in chief of the military. The people elected the President indirectly every four years through an electoral college. Each state was granted a number of electors determined by the seats it respectively held in Congress, and the state legislature filled these seats in a manner they saw fit. The ultimate

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<sup>45</sup> Wood, *The Creation of the American Republic, 1776-1787*, 475.

<sup>46</sup> Rossiter, *Federalist # 51*, Madison.

<sup>47</sup> Richard, 137-138

decision of who was President was left to the state legislatures, effectively separating the selection of the president from the people's voice.<sup>48</sup>

The legislative branch provided for a split Congress, a House and a Senate. On the one hand, this gave the people a voice in government because House members were directly elected by the people for a term of two years. The House furthermore had the sole right to create tax bills, giving the people in theory a vital say in their creation. But on the other hand, this was the only aspect of national government whose members would be directly elected, and all bills had to be approved by both the House and the Senate. Senators, two per state, were elected indirectly by state legislatures for a term of six years.<sup>49</sup>

The Constitution granted the judiciary branch power to interpret and overturn Congressional acts. The people had no direct control over the selection of the justices. Candidates were first selected by the executive officer and then approved by the Senate. Members were granted tenure as long as they acted with good behavior. The judiciary had no means to enforce their rulings, and therefore required the support of the executive and legislative branch to enforce the law.<sup>50</sup>

The whole effect of the separation of powers was that each branch relied on the others to achieve its will, and because each had been elected for different terms, at

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<sup>48</sup> John W. Kingdon, *America the Unusual* (St. Martin's: Worth, 1999), 7-9; Kennedy, Cohen and Bailey, 180

<sup>49</sup> Kingdon, 7-9; Kennedy, Cohen and Bailey, 180; Rossiter, *Federalist #39*, Madison; Grumm and Murphy, 35; Manin, 115-117; The bicameral congress was an additional mechanism that assured that all members of society, regardless of their rank, were represented in congress. The term limits and different representative sizes, would assure all public opinion was valued in the legislative process without overwhelming the government. The House of Representatives would be elected from smaller districts, and the two year term was deemed "short enough to secure proper dependence on their electors." Manin, 107. The Senate, having a much larger electoral body and being elected every six years had the freedom to act in the best interest of the people even when the people thought it incorrect action. The two houses of Congress balanced the fear of having a representative who was independent of the electors with the fear of a representative controlled by the civic body. The House would be an accurate picture of the people, and the Senate, limited to two per state and distinguished by their longer term, would retain a degree of freedom from popular opinion.

<sup>50</sup> Kingdon, 7-9.

different times, and from different bodies, no one public opinion could dominate the national government. With this system and the indirect election of the President, Senators and the Judges, the national government would be shielded from the public opinion.<sup>51</sup>

The concept of a separation of powers in itself was not unique to America; it was as old as Aristotle.<sup>52</sup> The severe limitation of the people's power in the creation of legislation however, seems extreme in comparison to the polities of Athens and Sparta. In both Sparta and Athens, laws were enacted directly by citizens. In Sparta, the citizen run assembly voted on legislation, and the ephors, who acted for the most part as executives, were elected annually by a direct vote of the assembly, making the institutions representative of civic opinion.<sup>53</sup> Similarly, in Athens the assembly and courts charged with legislating and interpreting the laws were filled by citizens. In Athens, the passage of legislation was in the hands of the citizens.

Because of the direct power Greek citizens had in every legislative process, even with a separation of powers, the deliberative bodies always remained controlled by the citizens. The Greek citizens had an equality resulting from this equal right to rule.<sup>54</sup> "He," said Aristotle, "who enjoys the right of sharing in deliberative and judicial office...attains thereby the status of a citizen of his state."<sup>55</sup> In contrast, American institutions prevented the people from directly

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<sup>51</sup> Rossiter, *Federalist* # 39, Madison.

<sup>52</sup> Kommers, Finn, and Jacobsohn, 108.

<sup>53</sup> I have not mentioned the gerousia or the kings because my research indicates that power of governance was largely in the hands of the ephors and the citizen assembly.

<sup>54</sup> In Athens in particular, magistrates and judges were filled by citizens mainly through lottery. As a result, a large portion of the citizenry was directly responsible for the governance of the city. In Sparta, it is less easy to define the way in which citizens governed directly. It is some combination of their united ruling on the battlefield, their united duties to their mess and the education of younger prospective citizens, and their united ruling of helots. Regardless of this difference, citizenship in both polities was a status defined by equality in ruling.

<sup>55</sup> Aristotle, 1275b; in Heater, 18.

ruling. The Constitution therefore provided for a different form of equality, one based on equal consent.<sup>56</sup>

National political equality in the American republic resulted from an equal right to representation and the equal opportunity to be a national political actor. A citizen's status was determined by equal suffrage and an equality of condition.<sup>57</sup>

All citizens had the right to vote regardless of station, and all had the equal chance to be elected.

Who are to be the electors of the Federal representatives? Not the rich, more than the poor; not the learned, more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States of America...who are to be the objects of popular choice? Every citizen whose merit may recommend him to the esteem and confidence of his country. No qualification of wealth, of birth, of religious faith, or of civil profession is permitted to fetter the judgment or disappoint the inclination of the people.<sup>58</sup>

In theory, America would be run by a natural aristocracy – as Wood said, a “ruling elite” based on “merit” – but because all citizens were equal, the natural aristocracy was open to everyone.<sup>59</sup> The founders expected the system to judge eligible candidates on the basis of their merit, which any citizen could demonstrate. In America, “the rising self-made man could be accepted into this natural aristocracy...through education or experience [in] its attitudes, refinements, and style.”<sup>60</sup> The founders believed that no titles or heritage could assure status of the elected body: any change in the electorate would effectively

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<sup>56</sup> Manin, 90-93.

<sup>57</sup> Wood, *The Creation of the American Republic, 1776-1787*, 165 and 182; Gordon S. Wood, *The Radicalism of the American Revolution* (New York, Vintage Books, 1991), 233.

<sup>58</sup> Rossiter, *Federalist # 57*, Madison, 348-349; quote also in Manin, 115.

<sup>59</sup> Wood, *The Creation of the American Republic, 1776-1787*, 279-460

<sup>60</sup> *Ibid.*, 480.

change the composition of the elite representative body. Holding office, therefore, could not assure a class's status or power over the people.<sup>61</sup>

The natural aristocracy provided for great social mobility in the United States. Without titles, all citizens could move up and down in rank because categories such as “wealth, education, experience, and connections” could be achieved by anyone. The equality of citizens within the natural aristocracy would also assure that virtuous men would run the government. Because men were equal, their “associations with other men and the state depended solely on ... merit,” a quality the founders believed would distinguish rulers for their good character and wisdom; and for their demonstrated ability to rule judiciously in their non-governmental capacities.<sup>62</sup>

Furthermore, the founders expected the election of representatives to improve the effectiveness of the government. Because citizens had selected their rulers, they would have “obligation and commitment towards those whom they [had] appointed.”<sup>63</sup> The consent of the electors assured their allegiance to the representatives and the government. Similarly, rulers would be beholden to the people:

Duty, gratitude, interest, [and] ambition itself, are the cords by which [representatives] will be bound to fidelity and sympathy with the great mass of the people.<sup>64</sup>

The consent of the electors to their representatives meant consent to a “particular outcome” – the electorate agreed to obey the orders of the ruler they chose,<sup>65</sup> The

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<sup>61</sup> Manin, , 128.

<sup>62</sup> Wood, *The Creation of the American Republic, 1776-1787*, 70-72

<sup>63</sup> Manin, 86.

<sup>64</sup> Rossiter, *Federalist #57*, Madison, 350-351.

<sup>65</sup> Manin, 85.

rulers similarly consented to act in the citizen's best interest.<sup>66</sup> In this way, both aspects of the government, ruled and ruler, would be devoted public servants.<sup>67</sup>

Opponents to representation and a natural aristocracy believed election would result in a ruling class distinguished by their wealth and property rather than merit. In large districts, candidates "would have to be particularly conspicuous and prominent," a kind of prominence only attainable through wealth or birth.<sup>68</sup> Additionally, in practice election prevents rotation in office. "Freedom to elect," wrote Manin, "is also freedom to re-elect ... [and] it must even be assumed that if a citizen has succeeded in attracting votes once, he has a good chance of getting them again."<sup>69</sup> In this way, it can be argued that election was aristocratic or oligarchic, undermining the democratic characteristics the founders hoped to maintain.<sup>70</sup>

For Manin, the inability of every citizen to rule was a violation of civic equality central to democratic justice that made Athenian citizens devoted.<sup>71</sup> In his opinion, the Athenian citizen's "reasonable expectation of serving his country" was key to fostering civic republican virtue.<sup>72</sup> In such conditions the continual rotation of office allows citizens to understand the full implications of their government, making not only the ruling wise, but their citizenry virtuous.<sup>73</sup>

Manin's conclusion that the selective method of lot involves citizens in governance more so than election proves sound. As Heater writes, lot "indicates a

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<sup>66</sup> Manin, 85.

<sup>67</sup> Wood, *The Creation of the American Republic, 1776-1787*, 57 and 269-270; Manin 85-86 and 119.

<sup>68</sup> Manin, 114 and 131.

<sup>69</sup> *Ibid.*, 31.

<sup>70</sup> *Ibid.*, 41.

<sup>71</sup> *Ibid.*, 31-33, 114 and 131.

<sup>72</sup> *Ibid.*, 71. As Manin suggest, lot allows any citizen the right to be a serious candidate to hold office and therefore produces a form of equality central to the definition of democratic citizenship; "it was a question of guaranteeing anyone who so desired – the 'first comer' – the chance to play a prominent part in politics." *Ibid.*, 71.

<sup>73</sup> *Ibid.*, 27-33

form of citizenship in which individuals are directly involved, in rotation: it is not just turning out to vote...if you feel so inclined.” Furthermore, Manin is correct in understanding democratic citizenship to be each citizen having equal participation in the state’s governance. But to say that virtue can only be produced through this rotation in office is incorrect. Election does not prevent citizens from ruling. In fact, it values the voice of all citizens and prevents an individual, unauthorized voice from dominating the legislative process. Election is based on the belief that all citizens consent to their rulers as opposed to having decision makers who are put in place by a method that does not recognize the people’s choice.<sup>74</sup> In election, “ordinary people” judge who is in power, and “good republicans ... believe in the common sense of the common people.”<sup>75</sup>

Additionally, it seems that virtue can be produced outside of specific systems of governance. Sparta and Athens demonstrate that a citizen’s sense of devotion was the result of training and constant tests of character. The civic body in Sparta was if anything more devoted to their country than that of Athens despite lacking a large, citizen-filled magisterial body that governed the Athenian polity. A citizen was devoted to his country because he had been taught this was appropriate conduct, and any citizen who acted contrary to the public good would be punished. “Appropriate education,” Heater wrote, summarizing Aristotle, “will lead to a desire to act as a good, dutiful citizen, a life that can be effectively led only when the body of citizens form a real community.”<sup>76</sup> In the classical polities the specific institutional composition was not responsible for giving citizens a sense of devotion. Rather, instruction facilitated by the institutions made citizens

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<sup>74</sup> Wood, *The Radicalism of the American Revolution*, 235-239.

<sup>75</sup> *Ibid.*, 235.

<sup>76</sup> Heater, 20.

committed to their country.<sup>77</sup> The founders idealized the Greeks for their virtue, not for their exact institutions. They were impressed by the fact that Greeks were “instruct[ed] from early infancy to deem themselves the property of the State ... [and to be] ever ready to sacrifice their concerns to her interests.”<sup>78</sup>

Like Manin, the founders understood that a sense of virtue could not be taught by the national institutions. However they did not believe the national institutions would prevent the republic from having a virtuous civic body. The founders expected the kind of training experienced by the Greeks to occur at the state and local level of governance. And, “as [the national] government [would be] composed of small republics, it [would] enjoy the internal happiness of each.”<sup>79</sup> The many small localities would work together to achieve a virtuous and devoted citizenry and as result, the citizens in this institution could be republican, but have their rights protected by a strong national structure.

#### The civic republican tradition in state and local institutions

During the nineteenth century, power and governance in America were held by state and local institutions. Despite the existence of a federal government, the independence of local institutions defined the American republic.<sup>80</sup> This resulted from America having what Tocqueville described as a centralized government and a “decentralized administration.”<sup>81</sup> The localities directly control their own interests, maintained the morals of their communities, and did the

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<sup>77</sup> Heater, 20.

<sup>78</sup> John Warren, *An Oration, Delivered July 4<sup>th</sup>, 1783* ... (Boston, 1783), 7-8, sic.; in Wood, *The Creation of the American Republic, 1776-1787*, 53.

<sup>79</sup> Rossiter, *Federalist* #9, Hamilton, 70.

<sup>80</sup> de Tocqueville, 48 and 70; James Bryce, *The American Commonwealth*, Louis Hacker ed. (New York: Capricorn Books, 1959), 91 and 97-99.

<sup>81</sup> de Tocqueville, 60-63

majority of governance in the federal system.<sup>82</sup> The combination of a central government and a decentralized administration allowed America to “frequently [accomplish] what the most energetic centralized administration would be unable to do.”<sup>83</sup>

The Constitution aimed to multiply public life at each unit of governance – each town would be independently governed and the important ties citizens would feel towards the nation would be a result of participating at local levels.<sup>84</sup> State and local institutions, like the towns and counties, would nurture a public spirit essential to republicanism. In these localities, citizens would be taught virtue and a sense of duty in a similar fashion to that of the ancient polis. In New England in particular, the unique power of the localities, combined with a strict religious authority, made J. R. Pole call the town “the polis of America.”<sup>85</sup>

Paradoxically, the unique power and character of the states and localities during the nineteenth century was due to both the success and failure of federalism to be properly executed. The ninth and tenth amendments granted states and localities a large degree of autonomy, but the Constitution also stated that congressional legislation was to be the supreme law of the land and that Congress had the right to overturn any state statute. As a result, the authority of the national power was ambiguous, and a clear balance of the national, state and local jurisdiction was not defined until the twentieth century. States took advantage of the vague description of their powers, using “legal as well as

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<sup>82</sup> de Tocqueville, 67-69

<sup>83</sup> Ibid., 69.

<sup>84</sup> Ibid., 401.

<sup>85</sup> J. R. Pole, *Political Representation in England and the Origins of the American Republic* (London: Macmillan, 1966), 39.

political weapons to minimize [the] central government[’s] power.”<sup>86</sup>

Furthermore, because state governments had existed long before the constitution, they in many ways continued to act as if they were independent after its adoption. The states believed their role in the creation of the federation gave them ultimate discretion in interpreting the Constitution, and the right to prevent the national government from interfering in their sphere.<sup>87</sup>

The Constitutional amendments gave the states the power to govern in their sphere, while the national government had the “burden” to prove its authority.<sup>88</sup> The states believed that the national government possessed only the powers necessary to make the union function: the Constitution had been established for the sole purpose of creating national standards, providing for protection of the states, and handling interstate relations. During the nineteenth century, a state would have viewed federal funding for highways or canals as unconstitutional.<sup>89</sup> Culturally as well, the idea that the states had greater rights, roles, and responsibilities than the national government was widely held throughout the America. In a nineteenth century study of American government, James Bryce declared that “a state commands the allegiance of its citizens...”<sup>90</sup> The Constitution, for example, was not as widely known as the Declaration of Independence, a document that taught quite a different message.<sup>91</sup> Additionally, national citizenship was granted after state citizenship, making the latter symbolically more important than the former.<sup>92</sup>

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<sup>86</sup> Duane Lockard, *The Politics of State and Local Government*, 2<sup>nd</sup> ed. (New York: Macmillian, 1969), 78; Bryce, 99.

<sup>87</sup> Lockard, 30, 67 and 75.

<sup>88</sup> Bryce, 97-99.

<sup>89</sup> Lockard, 30.

<sup>90</sup> Bryce, 98.

<sup>91</sup> Lockard, 67.

<sup>92</sup> Bryce, 97-99.

The states also controlled the structure of their local governments. Under the Constitution, states were required to create republican institutions, but other than the structure of the national Constitution itself, they were offered no guidance; consequently state governments cannot be generalized.<sup>93</sup> The states, like the national government, faced problems in asserting their authority over their localities. A locality's power could only come from some form of contract or charter with the state.<sup>94</sup> In practice, the towns possessed the political power to rule autonomously and did not worry about receiving power from the state. Often localities had existed long before their state and felt no need receive its approval for the direct governance of their local affairs.<sup>95</sup> States, furthermore, had neither the political power to disband localities nor the ability to communicate quickly and effectively to their local organs of government. As a result, in the nineteenth century governance was widely in the hands of independent and local institutions.<sup>96</sup>

The federal Constitution furthermore encouraged non-governmental institutions to play a vital role in local governance by supporting churches and civic groups.<sup>97</sup> These institutions would successfully govern the localities and produce a healthy, public spirit: "religion and republicanism would work hand in hand to create frugality, honesty, self-denial, and benevolence among the people."<sup>98</sup> The influence of the churches was so great, that even after the

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<sup>93</sup> Lockard, 84; Bryce, 95.

<sup>94</sup> Lockard, 79; Allen J. Smith, *The Spirit of American Government, A Study of the Constitution: Its Origin, Influence and Relation to Democracy* (London: Macmillan, 1912), 234-244.

<sup>95</sup> de Tocqueville 51-52.

<sup>96</sup> Lockard, 30 and 79; Smith, 243-244; de Tocqueville, 51-52.

<sup>97</sup> Thomas Engeman and Michael Zuckert, eds., *Protestantism and the American Founding*, (Notre Dame: University of Notre Dame Press, 2004), 5; Tocqueville 404.

<sup>98</sup> Wood, *The Creation of the American Republic, 1776-1787*, 118; Engeman and Zuckert, 5 and 269; Mark Noll, "The Contingencies of Christian Republicanism: An Alternative Account of Protestantism and the American Founding," in Engeman and Zuckert, 245.

ratification of the Constitution in 1787, both Connecticut and Massachusetts did not disestablish their churches until 1818 and 1833 respectively.<sup>99</sup>

The right of civic association, also guaranteed by the Constitution, allowed a strong community and public spirit to flourish in America. Americans developed citizen action groups for every kind of problem; to solve political questions, “to give entertainments, to found seminaries, to build inns, to construct churches...”<sup>100</sup> Associations were seen as “the only means of action.”<sup>101</sup> These groups trained citizens by allowing ideas to be tested and political opinions to be vocalized. They also taught citizens to act together and gave them an interest in their country.<sup>102</sup> “The science of association,” was so important that Tocqueville claimed it to be “the mother of science; [with] the progress of all the rest depend[ing] on the progress it has made.”<sup>103</sup> Like the churches and associations, extra-governmental institutions supplemented the government. Through these local institutions, citizens were educated, trained politically aware, and became devoted to their country.

The church’s role in educating American citizens was as old as the country. The Puritans founded the colonies with the belief that an educated mind would provide for a good society.<sup>104</sup> In Puritan towns, both the government and religious institutions had been responsible for local governance. “The town was a civic community ... coterminous” with the religious community.<sup>105</sup> Together, they regulated every aspect of life down to the right of community members to

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<sup>99</sup> Wood, *The Creation of the American Republic, 1776-1787*, 118; Engeman and Zuckert, 5 and 269; Mark Noll, in Engeman and Zuckert, 245; de Tocqueville, 183; Pole, 40.

<sup>100</sup> de Tocqueville, 404.

<sup>101</sup> *Ibid.*, 404.

<sup>102</sup> *Ibid.*, 100-106, 136, and 403-408.

<sup>103</sup> *Ibid.*, 408.

<sup>104</sup> Vowell, 14.

<sup>105</sup> Pole, 44.

receive visitors in their homes. This extensive regulation carried out by religious communities existed for practical purposes – the towns simply could not be burdened with the extra responsibility of supporting another member.<sup>106</sup>

In many ways, the Puritan faith had been the original teacher of an Athenian-like democracy because the church involved all town members in its governance. Democratic methods ruled Protestant denominations: each congregation was in charge of everything from hiring and firing ministers, to creating the liturgy, to determining which charities the church would support.<sup>107</sup> Furthermore, the local meeting house and the church were often the same building, representing the union of governance with moral instruction.<sup>108</sup>

As a result of being active at the local level, these religious localities trained citizens to be smart, independent, and morally conscious republicans: Americans were self-governed and devoted to the community.<sup>109</sup> Federalism supported the idea each community knew best how to govern itself and American citizens were consequently very independent.<sup>110</sup> “From infancy,” Americans were taught to rely upon themselves. They distrusted authority and asked for help only when absolutely necessary.<sup>111</sup>

This upbringing strengthened the republican character of citizens and the national government. Citizens saw the importance of their communal work – they were members of a “free and strong community” which “deserve[d] the care spent in managing it.”<sup>112</sup> Tocqueville characterized the Americans as acting according to

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<sup>106</sup> Pole, 42.

<sup>107</sup> Engeman and Zuckert, 2-3.

<sup>108</sup> Pole, 44.

<sup>109</sup> de Tocqueville, 191; Bryce, 306.

<sup>110</sup> de Tocqueville, 59; Smith, 251; Bryce, 309.

<sup>111</sup> de Tocqueville, 101.

<sup>112</sup> *Ibid.*, 53.

“the principle of self-interest rightly understood.”<sup>113</sup> Because Americans knew their individual success depended on the success of the community, the citizen’s self-interest was naturally in the success of the community.<sup>114</sup> Living in a town created a “habit” of virtue: citizens sacrificed private interest for the power and stability of the community.<sup>115</sup>

The local American institutions, like the polities of antiquity, had a strict moral code. The failure of a member to uphold these values would result in his or her exclusion from the community. Acting counter to widely held public beliefs, Bryce writes that “a citizen’s life would become unpleasant...”<sup>116</sup> The community at large had the right and power to define what was just, and individuals were expected to obey.<sup>117</sup> Americans, however, could leave their town and settle elsewhere. Each community created its own set of ideals, and if citizens failed to find an acceptable community they could start their own.

Federalism, which made the citizen act at both the local and national, assured that citizens would be taught to be devoted at a local level and have a strong, national protection of their civil rights. Training at the local level prepared Americans to live in the republic. The citizens’ local lives taught them to be virtuous and active citizens, interested in the welfare of the country.<sup>118</sup> This local education was viewed by the founders to be indispensable to the health of the republic. As John Adams wrote, “wisdom and knowledge, as well as virtue, diffused generally among the body of the polity [are] necessary for the

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<sup>113</sup> de Toqueville, 415.

<sup>114</sup> The American citizen “rejoice[d] in the general prosperity by which he profits.” Ibid., 68.

<sup>115</sup> de Tocquielle, 119 and 415-416; Bryce, 307.

<sup>116</sup> Bryce, 277.

<sup>117</sup> de Tocqueville, 148 and 78; Smith, 277.

<sup>118</sup> “A man comprehends the influence which the well-being of his country has upon his own ; he is aware that the laws permit him to contribute to that prosperity, and he labors to promote it, first because it benefits him, and secondly because it is in part his own work.” de Tocqueville, 134-135.

preservation of their rights and liberties...”<sup>119</sup> Together, the national, state, and local institutions of government produced a citizenship where the liberal and republican tradition thrived: “the Union [was] happy and free as a small people, and glorious and strong as a great nation.”<sup>120</sup>

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<sup>119</sup> Vowell, 15.

<sup>120</sup> de Tocqueville, 84.

## Conclusion

The first chapter evaluates both traditions of citizenship and demonstrates the importance of their union in the twentieth century. Today, American citizenship seems to be mainly characterized by the liberal tradition. With a strong protection of civil rights and a powerful central administration funded by tax support, it may be asked whether the republican tradition still exists or is even necessary. In day-to-day life, the American government asks practically nothing of its citizens. From a functional road system to a public school system to police protection, a citizen's responsibility to America has become private – he or she is responsible for paying taxes, but little more. Furthermore many republican roles have become permanent administrative positions. These paid officials act for the citizen, often without his or her knowledge or interest. In contemporary America, citizens for the most part are freed of the republican responsibility that once was essential to the nation. Certainly it is not unexpected that American citizenship has changed since the founding of the country, but does a lack of republicanism have a negative impact on the way the country functions?

Although the Constitution has been amended and widely interpreted by the Supreme Court, the core document has remained practically unchanged since its adoption in 1787, and it is my belief that the founders expected Americans to remain both liberal and republican. Each tradition appears to be essential for the health of the nation and its citizens. What would citizens gain from being in a society that did not protect their rights and property? And how can a society succeed if citizens do not work for its economic, social and political success? Each tradition has its strengths and weaknesses, but together, they act to mitigate

their respective failings. Republicanism aims to counter the individualistic nature of liberalism, and liberalism provides a legal equality for all citizens, even to those who for whatever reason do not conform to the republican morals of the community. When the traditions are combined, they can act to cancel out their respective faults and produce a strong liberal-republican citizenship.

In American history the combination of the two traditions has allowed citizenship to progress towards its “image of an ideal citizenship,” as T. H. Marshall might say.<sup>1</sup> The civil rights movement is an example of a dynamic liberal-republican movement – its ideological aims were liberal and its actions republican. Yet when it achieved its liberal goal, its republican actions ceased to continue. Minorities are granted equal protection under the law, but no one continues to demand equal means for all individuals to succeed in society. Furthermore, the strong legal equality gained by the civil rights movement has made citizens complacent. Today, the failure of an individual is often seen as a result of his or her own misgivings, rather than the result of being systematically excluded from the socioeconomic avenues of success.

The founders believed that there would be no permanent assurance of an elite, upper-class and constant social mobility. In order to continue the progress of citizenship, it seems that the republican demands for an equality of opportunity must be revitalized; only then will citizens be distinguished by merit and not status. However, it is not clear exactly how to produce the tradition today. It is difficult to break the stupor that come to pervade the American political atmosphere since the civil rights movements – one that has compelled people to believe that equal protection under the law equates to an equality of opportunity,

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<sup>1</sup> Marshall, 92.

and it is not easy to teach citizens to love a nation that fails to provide them with equal treatment. Citizens who do not love their nation will not work to improve it.

The Greeks may be exemplary models of republicanism, but in contemporary times, it is hard to image instituting a brutal training program like that of Sparta to revitalize American republicanism. Additionally, America is much larger and lacks a uniform civic body, making it difficult to produce a strong national republican citizenship. Through whatever means it is achieved, a revitalization of the civic republican tradition is essential to equalize the disparities of condition between American citizens today. Once citizens realize that their individual success depends on the success of the community as a whole (large or small), they may be willing to commit themselves to its improvement. A country – as the founders believed – is only as strong as its citizens, and a strong civic body comes from the protection of rights under the liberal tradition and a republican community that commits itself to the betterment of all citizens, and in turn, the nation.

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