The Learning of Liberty

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The Yeomanry Backbone of the Citizenry

A leading and abiding concern shared by most Americans of the Founding era was the preservation of the independent, agrarian way of life that they saw as the womb of virtue. At the time of the Revolution, the Americans' growing consciousness of themselves as a separate people was rooted in the perception that, unlike the Europeans, they were mainly a nation of yeoman farmers; and it was to this that they attributed, in large measure, their unusual capacity for self-rule. In Jefferson's oft-cited words:

"Those who labour in the earth are the chosen people of God, if ever he had a chosen people, whose breasts he has made his peculiar deposit for substantial and genuine virtue. It is the focus in which he keeps alive that sacred fire, which otherwise might escape from the face of the earth. Corruption of morals in the mass of cultivators is a phenomenon of which no age nor nation has furnished an example. It is the mark set on those, who not looking up to heaven, to their own soil and industry, as does the husbandman, for their subsistence, depend for it on the casualties and caprice of customers. Dependance begets subservience and venality, suffocates the germ of virtue, and prepares fit tools for the designs of ambition."¹

As Franklin puts it, a life of independent farming breeds the "country habits" of temperance, frugality, and industry. By contrast, cities harbor extremes of opulence and poverty, and create the greatest opportunities for idleness, dissipation, and luxury.²

Americans were especially horrified by the exploitation and misery they saw in large British factories, and most were determined to avoid industrialization as long as possible. Cottage industry, on the other hand, they welcomed, especially
if it employed idle hands in the production of solid necessities and added to a family's self-sufficiency. Indeed, the varied modes of production on a well-run farm were part of what was thought to make the farmer a superior citizen. "Where people live principally by agriculture, as in America," Noah Webster explains,

every man is in some measure an artist—he makes a variety of utensils, rough indeed, but such as will answer his purpose—he is a husbandman in summer and a mechanic in winter—he travels about the country—he converses with a variety of professions—he reads public papers—he has access to a parish library and thus becomes acquainted with history and politics, and every man in New England is a theologian. . . . Knowledge is diffused and genius roused by the very situation of America.³

Nevertheless, there were tensions and complexities in the American view of country simplicity. The Anti-Federalists tended to outdo the Federalists in praising the virtues of small, austere, agrarian republics. Yet, despite reservations about the civic character of merchants, they did not and could not advocate anything but a commercial agrarian republic. Not only were they deeply attached to the gain, comfort, and convenience that commerce brings, but they discerned an intimate link between commercialism and individual liberty. "Commerce is the hand-maid of liberty," said the Anti-Federalist "Centinel" (probably Samuel Bryan), thus foreshadowing Jefferson's First Inaugural Address. Moreover, they detected in commerce, moderately regulated, a foundation for civic solidarity or fraternity. A leading Anti-Federalist series of letters by "Agrippa" proclaimed that the spirit of commerce is the great bond of union among citizens. This furnishes employment for their activity, supplies their mutual wants, defends the rights of property, and producing reciprocal dependencies, renders the whole system harmonious and energetic. Our great object therefore ought to be to encourage this spirit. . . .

. . . A diversity of produce, wants and interests, produces commerce, and commerce, where there is a common, equal and moderate authority to preside, produces friendship.

A Maryland "Farmer" (probably John Francis Mercer) and "A Newport Man" (the sole Anti-Federalist writer to rely on Rousseau) could cite with praise the example of San Marino ("a little bee-hive of free citizens, who have made a delicious garden of the top of a bleak barren mountain"). Yet as the Federalist John Adams tellingly observes, using just this example:
A handful of poor people, living in the simplest manner, by hard labor, upon the produce of a few cows, sheep, goats, swine, poultry, and pigeons, on a piece of rocky, snowy ground, protected from every enemy by their situation, their superstition, and even their poverty, having no commerce nor luxury, can be no example for the commonwealth of Pennsylvania, Georgia, or Vermont, in one of which there are possibly half a million of people, and in each of the others at least thirty thousand, scattered over a large territory.4

In the Americans' rejection of the austerity of San Marino or Sparta or Xenophon's Persia lies one of the sharpest contrasts between the ancient and the modern republican concepts of virtue. Franklin, who expresses the new outlook with unrivaled clarity, identifies virtue not with self-sacrifice but with the industry and prudence that lead to prosperity. He sees a danger in loving wealth too much—loving it to the exclusion of everything else—but unlike the classical republicans, he recognizes no natural limit to the amount of wealth that can be useful or desirable. Indeed, he also sees a danger in loving wealth too little: "Is not the Hope of one day being able to purchase and enjoy Luxuries a great Spur to Labour and Industry? May not Luxury, therefore, produce more than it consumes, if without such a Spur People would be, as they are naturally enough inclined to be, lazy and indolent?" For the frontier farmer this was a special temptation, since without commercial intercourse he could all too easily lapse into a life of isolated, savage subsistence with few ties to civilization and little concern for his country. Following this logic, Franklin and Jefferson sought a middle course between the overly austere constraints of the precommercial republic and the dangerous inequalities of a fully developed manufacturing, urbanized economy. If the arrival of the latter was ultimately inevitable, it could be postponed by promoting frontier settlement, and the industry of the settlers could be assured by providing access to markets. Hence opening the Mississippi and securing direct trade with the West Indies and France became major objectives in the early republic, especially for Jefferson. Since, according to this vision, a healthy republic should rest on agriculture with "commerce as its handmaid," westward expansion and free trade became the core of the Jeffersonians' policy.5

But this balance, however attractive, was unstable. Virtually all previous agrarian societies have been aristocracies, with the ruling class tied to the land by family pride and tradition, and the laborers by necessity. Such had been the colonial structure of Tidewater Virginia. Yet this model of agrarian society Jefferson consciously and decisively rejected. As Frederick Jackson Turner observes, Jefferson's ground-breaking legislation to abolish entail and primogeniture, his opposition to slavery and to the established Anglican church, his advocacy of universal education, and his untiring encouragement of agricultural societies
and scientific farming all worked to break the power of the plantation aristocrats and to promote a new type of farmer— independent, educated, hardworking, and prosperous—who would in many ways bear closer resemblance to a small businessman than a traditional country aristocrat. This new model of country life proved immensely attractive to Americans, as long as there was free land. Attempts to stem the flow of settlement were invariably unsuccessful; but it was precisely the popularity of something like the Jeffersonian vision of the rural businessman and democrat that led rather soon to its demise. The “many centuries” of free land Jefferson had anticipated proved to be only one, and in 1893 Turner issued his famous declaration that the American frontier had closed.6

Almost from the outset the forces that Jefferson helped set in motion began to erode his agrarian ideal. As farming became a business, it became subject to the pressures of business—the efficiencies of scale, the mechanization that leads to fewer employees, the alacrity with which workers leave one business when another promises greater profits. As young people became better educated, they became more sophisticated and eager to leave the farm for the glitter and luxury of the city. And as American agriculture grew ever more productive, it generated a growing demand for manufactured goods, and thus an impetus to further urbanization. Alexander Hamilton, seeing the tendency of a free economy to lead in this direction, openly welcomed manufacturing in the United States, and even cheerfully accepted the prospect of women and children working in factories, insofar as such labor promoted their prosperity and the nation’s strength. Hamilton was more consistent than his Jeffersonian opponents in not depending for continued freedom on a permanent agrarian order that his liberal principles undermined. But Jefferson and the Anti-Federalists, for all their ambivalence, were concerned with problems of civic spirit that Hamilton never addressed.7

Law and the Governmental Process as Vehicles of Education

While looking to the agrarian way of life to provide basic support for honesty, industry, and self-reliance, Jefferson, along with the Anti-Federalists, emphasizes the importance of other institutions that might give a more directly political education to the American people. One of the Anti-Federalists’ central criticisms of the Constitution is that it pays insufficient attention to this problem of ensuring the right spirit and principles in the citizenry. According to Melancton Smith: “Government operates upon the spirit of the people, as well as the spirit of the people operates upon it—and if they are not conformable to each other, the one or the other will prevail. . . . Our duty is to frame a government friendly
to liberty and the rights of mankind, which will tend to cherish and cultivate a love of liberty among our citizens."s

The Anti-Federalists call again and again for a bill of rights, not only to prevent usurpation but to educate the people in their nation's fundamental principles. As one of the minor writers puts it, the enumeration of rights, "in head of the new constitution, can inspire and conserve the affection for the native country; they will be the first lesson of the young citizens becoming men, to sustain the dignity of their being." The "Federal Farmer" (thought to be Richard Henry Lee) lays out clearly the arguments for enumerating and reaffirming rights.

We do not by declarations change the nature of things, or create new truths, but we give existence, or at least establish in the minds of the people truths and principles which they might never otherwise have thought of, or soon forgot. If a nation means its systems, religious or political, shall have duration, it ought to recognize the leading principles of them in the front page of every family book.

"Natural and inalienable rights," the Federal Farmer observes, belong to everyone always, but they do not by themselves make men free. The difference between nations that cherish and enjoy natural rights and those that allow them to be violated is one of education. The English correctly insisted on recording their rights in the Magna Carta, and yet even this

wise men saw was not sufficient; and therefore, that the people might not forget these rights, and gradually become prepared for arbitrary government, their discerning and honest leaders caused this instrument to be confirmed near forty times, and to be read twice yearly in public places, not that it would lose its validity without such confirmations, but to fix the contents of it in the minds of the people, as they successively come upon the stage.

The Federal Farmer likewise praises the American revolutionaries' wisdom in "constantly keeping in view, in addresses, bills of rights, in newspapers, etc. the particular principles on which our freedom must always depend." In a similar way, the Anti-Federalists were especially alarmed because they felt the proposed constitution did not sufficiently protect the right to trial by jury. They valued trial by jury not only as a safeguard for the rights of the accused in criminal cases but as a means of preventing encroachments in all types of cases and keeping the people educated and informed about public matters. Again, the Federal Farmer makes this concern most explicit.

By holding the jury's right to return a general verdict in all cases sacred, we secure to the people at large, their just and rightful control in the judicial
department. . . . Nor is it merely this control alone we are to attend to: the jury trial brings with it an open and public discussion of all causes, and excludes secret and arbitrary proceedings. This, and the democratic branch in the legislature . . . are the means by which the people are let into the knowledge of public affairs—are enabled to stand as the guardians of each other's rights, and to restrain, by regular and legal measures, those who otherwise might infringe upon them.

What is more, juries can educate the citizens by keeping them practiced in moral reasoning. The Maryland Farmer, answering the charge that "the Commons" are too ignorant or irrational to be entrusted with legal decisions, concedes that their judgment is often poor, because they are too seldom called upon to exercise it: "Men no longer cultivate, what is no longer useful,—should every opportunity be taken away, of exercising their reason, you will reduce them to that state of mental baseness, in which they appear in nine-tenths of this globe—distinguished from brutes, only by form and the articulation of sound—Give them power and they will find understanding to use it."

To a lesser extent this kind of solicitude was present among the Federalists also. James Wilson in particular took a broad view of the educative function that law, juries, and judges could and should perform in a free country. In his inaugural lecture as the College of Philadelphia's first law professor, addressing his audience with a subtle blend of praise mixed with exhortation to make itself worthy of praise, he characterizes the virtues of the best republican citizens.

Illustrious examples are displayed to our view, that we may imitate as well as admire. Before we can be distinguished by the same honors, we must be distinguished by the same virtues.

What are those virtues? They are chiefly the same virtues, which we have already seen to be descriptive of the American character—the love of liberty, and the love of law. But law and liberty cannot rationally become the objects of our love, unless they first become the objects of our knowledge.

One means that Wilson and other members of the federal judiciary found to educate citizens in the law was through the instructions they gave to grand juries. A prime example is Wilson's charge to a Virginia grand jury in 1791, which presents a clear and concise summary of the entire criminal law of the United States. But Wilson's goal is to do more than simply inform. Intending to kindle in the jurors a pride and reverence for their country's laws, he argues for the superior effectiveness, humanity, and simplicity of American law, compared even with such a widely admired legal system as that of England. And once again, his praise and reverence are mingled with exhortation. By showing the
crucial role of a good criminal code in attaching citizens both to the law and to the principle of lawful self-restraint, he encourages the jurors to care about having the best laws possible and to actively look for improvements to recommend.\textsuperscript{12}

Wilson took issue with the cultlike practice of wrapping the law in layers of abstruse language, intelligible only to the learned few: “The knowledge of those rational principles on which the law is founded, ought, especially in a free government, to be diffused over the whole community.” Consequently, he devoted his last years to preparing a digest of the laws of Pennsylvania that would reduce them all to plain English.

By the first assembly of Pennsylvania an act was made “for teaching the laws in the schools.” This noble regulation is countenanced by the authority and example of the most enlightened nations and men. Cicero informs us, that when he was a boy, the laws of the twelve tables were learned . . . as a piece of composition at once necessary and entertaining. The celebrated legislator of the Cretans used all the precautions, which human prudence could suggest, to inspire the youth with the greatest respect and attachment to the maxims and customs of the state. This was what Plato found most admirable in the laws of Minos.

If youth should be educated in the knowledge and love of the laws: it follows, that the laws should be proper objects of their attachment, and proper subjects of their study. Can this be said concerning a statute book drawn up in the usual style and form? Would any one select such a composition to form the taste of his son, or to inspire him with a relish for literary accomplishments?\textsuperscript{13}

Jefferson shared Wilson’s distaste for mystifying legal jargon, as well as the conviction that law should go beyond cataloging rules and sanctions to give an account of the principles we live by. Hence he attached preambles to his most important bills, with memorably worded statements of first principles. But if Jefferson and Wilson wanted the nation’s youth to know and love their country’s laws, it was in a very different spirit from that of the ancient republics. There, reverence for the laws was intertwined with reverence for what was old, for ancestral custom, and for the gods who were said to have inspired the lawgivers. The American Founders boldly sought to ground reverence on an entirely different basis—on reason and the adherence to self-evident principles. Wilson, in his charge to the Virginia grand jury cited earlier, reveals the tightrope walk that such a project entails: inspiring a reverence that must not tip over into unthinking complacency; inspiring a zeal for reform that must not turn into arrogant
disregard for the Founding principles and a blind pursuit of pet projects or of self-interest. Jefferson, as noted in chapter 6, was less conscious of the problem.

In retrospect, one cannot help but feel that this effort to teach a popular knowledge of and reverence for the law was a losing battle almost from the start—not simply because of the dry and impenetrable language that seems endemic among lawyers, but above all because of the public attitudes that have allowed law to become the province of technical specialists in the first place. Citizens of ancient republics were much more inclined than Americans to see law as constitutive, as an honored guide and not a necessary evil, as a defender and supporter of what is noble. Paradoxically, where citizens' knowledge of and involvement in legal and political matters is less essential, as in the United States, the lesser but still necessary degree of interest can be even harder to sustain.  

How can a free country of unprecedented extent and diversity keep its citizens interested in and informed about the workings of its government, and how can a distant government retain their confidence and affection? The Anti-Federalists, for whom these questions were so vivid, focused on the legislature as the most important point of contact between the people and their government. As the Federal Farmer writes, it is "in the representative branch" of the legislature that "we must expect chiefly to collect the confidence of the people, and in it to find almost entirely the force of persuasion." And as "Brutus" (perhaps Robert Yates) argues, the confidence of the people in government requires not only that they choose the legislators but that they know them personally; the representatives ought to "be viewed by the people as part of themselves," with the same interests and feelings. Hence the number of representatives needed to be increased, the Anti-Federalists thought, to the point where ordinary men and not just the learned and wealthy few could expect to win election. This would have the further advantage of allowing the people's honest virtues to be reflected in the government. For, as Melancton Smith puts it in a familiar argument, those in "middling circumstances" face less temptation because they are less able to gratify their passions and are more obliged to develop steady, industrious habits; hence they are "more temperate, of better morals, and less ambitious than the great." Where confidence in government is lost and the laws are not upheld by persuasion and the patriotic attachment of the people, they must be maintained by military force, at which point even the semblance of liberty will be lost.  

The Anti-Federalists contended that the smaller republics of the states were better suited to provide an adequate representation in their legislatures and to hold the affection of the people; thus they sought to preserve as much as possible the sovereignty of the states. A few went further. The Maryland Farmer argued for a return to a modified form of direct democracy, as it was then practiced in some of the Swiss cantons.
Every Swiss farmer is by birth a legislator, and he becomes a voluntary soldier to defend his power and his property. . . . A free Swiss acquires from his infancy, a knowledge of the fundamental laws of his country, and the leading principles of their national policy are handed down by tradition from father to son—the first of these is never to trust power to representatives, or a national government. . . .

The love of the Switzers for their country is altogether romantic and surpasses the bounds of credibility. . . . The same amor-patriae, the same divine love of their country, universally pervades the bosom of every citizen, who in right of his birth, legislatizes for himself.

In keeping with this classical tone, the Maryland Farmer calls for sumptuary laws to “guard the public manners” and a council of censors to punish offenses against morality. As the capstone of his system, he proposes that

Seminaries of useful learning, with professorships of political and domestic oeconomy might be established in every county; discarding the philosophy of the moon and skies, we might descend to teach our citizens what is useful in this world—the principles of free government, illustrated by the history of mankind—the sciences of morality, agriculture, commerce, the management of farms and household affairs—The light would then penetrate, where mental darkness now reigns.—Do these things, and in a very few years, the people instead of abusing, would wade up to their knees in blood, to defend their governments.16

Such views are, however, at an extreme even in the spectrum of Anti-Federalist thought. Yet in its very radicalism, the Maryland Farmer's contribution to the ratification debate illustrates how deeply American society would have needed to change in order to acquire the sense of community and the high degree of personal involvement of a classical republic.

Occasionally, other Anti-Federalists speak of the moral education that a small, representative democracy can provide by encouraging the political aspirations of numerous citizens: “A well digested democracy has this advantage over all others,” writes “Cato” (perhaps George Clinton), in that

it affords to many the opportunity to be advanced to the supreme command, and the honors they thereby enjoy fill them with a desire of rendering themselves worthy of them; hence this desire becomes part of their education, is matured in manhood, and produces an ardent affection for their country, and it is the opinion of the great Sidney, and Montesquieu that this is in a great measure produced by annual election of magistrates.
But more typical is the protective tone of the Anti-Federalists' preference for smallness that is evidenced in Cato's quotation of a frequently cited passage from Montesquieu.

It is natural to a republic to have only a small territory, otherwise it cannot long subsist: in a large one, there are men of large fortunes, and consequently of less moderation; there are too great deposits to intrust in the hands of a single subject, an ambitious person soon becomes sensible that he may be happy, great, and glorious by oppressing his fellow citizens, and that he might raise himself to grandeur, on the ruins of his country. In large republics, the public good is sacrificed to a thousand views; in a small one the interest of the public is easily perceived, better understood, and more within the reach of every citizen; abuses have a less extent, and of course are less protected.17

For most of the Anti-Federalists, the modified small republic of the American states is indeed an important teacher, but the education for which it is valued is of a decidedly conservative stamp. Rather than inspiring Americans to acts of heroism and self-sacrifice, they seek to preserve the sound and sober morals they believe Americans already possess. Rather than emphasizing the potential of political participation to elevate and enrich citizens’ lives, they stress the need to keep a lid on dangerous ambition by limiting temptations or opportunities to amass great wealth and power. The Anti-Federalists thus show particular concern about the potential for corruption in the projected federal capital city, which the Maryland Farmer calls “a lure to the enterprising ambitious” and which Cato predicts will breed all the vices of courts—the idleness, pride, flattery, intrigue, and “above all, the perpetual ridicule of virtue.” Likewise, they feared a standing army—typical of large countries and not forbidden by the Constitution—for its habits of indolence and violence: “When a standing army is kept up, virtue never thrives.” Finally, the Anti-Federalists’ conservatism shows itself in their discussions of religion, which include few positive proposals for fostering religion and instead reveal a concern with shielding the diversity of mild religious establishments that then existed in the states.18

What is striking in the Anti-Federalists’ praise of the small republic is the education they do not generally expect it to provide—a direct education in justice and courage and self-control, an education in austere devotion to the common good. For them, politics, and especially political ambition, are cast in largely negative terms. Centinel expresses this spirit of wariness when he asks, “What is the primary object of government, but to check and control the ambitious and designing?” Seen in this light, government is indeed, as Patrick Henry puts it, only a necessary evil. But this outlook, in turn, makes the Anti-Federalists’ cele-
bration of the small republic ring rather hollow. Part of the charm of a small republic is that it needs its citizens, but why should they pour out their time and talents for it if there is little inherent reward or fulfillment in doing so?¹⁹

This is perhaps the most troubling unanswered question that haunted Jefferson's ward system. Jefferson amassed compelling arguments to demonstrate that it is prudent for communities to handle their own affairs as much as possible, and that many matters will be more safely, economically, and effectively managed if left to those most immediately affected. What he could never quite bring himself to say is that it is good for individuals to spend their time serving on local committees and running for local office, that individuals will be happier sacrificing their private economic and familial concerns for public concerns. It is not surprising that Jefferson's ward system and the Anti-Federalists' small republic remained unrealized dreams: their theories were simply unable to breathe the fire into local political life that would allow it to hold men's hearts.²⁰ Talk about the dignity of collective self-reliance fudges and fails to meet the issue. History suggests that it is only the danger and excitement of disaster and warfare, the resistance to or drive for imperial expansion, and the threat from challenging competitors at every level that evoke the sort of passionate political commitment which must be resuscitated from time to time to keep vital even the smallest and most mundane communal life. Can any substitute be found in pacific, just, commercial, day-to-day existence?

This fundamental problem receives, not its definitive answer, but its most profound and suggestive treatment in the somewhat melancholy study of democracy in America written in the 1840s by the great French liberal theorist Alexis de Tocqueville. What Tocqueville praises in American civic life is not precisely the practice in ruling and being ruled, as Aristotle characterizes republican political life in his Politics, but rather the cooperative efforts of people who feel their need for one another and join spontaneously in projects for mutual benefit. Whereas Aristotle focuses in his Ethics on the difficult virtues that can be elicited and honed by political competition and rule, Tocqueville's interest is in something at once gentler and more rudimentary: forging a sense of connectedness and drawing men out of themselves. It is especially critical for citizens in a democracy to form a habit of entering into political and civil associations, Tocqueville argues, because the unprecedented "individualistic" spirit inextricably embedded in modern democracy tends relentlessly toward a narrowing isolation. "Sentiments and ideas are revitalized, the heart is enlarged, and the human mind is developed only by the reciprocal action of men upon one another," Tocqueville observes; and "this action is almost null in democratic countries. It must therefore be artificially created. And this can only be accomplished by associations." Although the common life that modern democratic man needs is not exclusively political, Tocqueville asserts that it must be rooted in politics.
The political arena is the first and most obvious place where individuals realize that they must combine to attain their ends. But in doing so, they cannot help learning lessons about conducting meetings and working together on large projects; success in political associations encourages them to combine for other purposes, including bold entrepreneurial ones. “Political associations may therefore be considered as large free schools, where all the citizens go to learn the general theory of association.” Freedom at the local level is crucial for nurturing this process because it is at this level that people feel most keenly the effects of public policy upon their lives and their own ability to act and make a difference.

On the other hand, Tocqueville recognizes that state and national politics have a different power to draw people out of their narrow private lives: the excitement of great issues and great contests, especially party contests. “Whatever natural repugnance may restrain men from acting in concert, they will always be ready to combine for the sake of a party.” The Founders looked with unease at factionalism, as they called it, and made no plans for a party system; but Tocqueville, feeling more strongly the dangers of apathy and reclusive individualism in society, and seeing more clearly how the political spirit that divides men can also lead them ultimately into a vast web of social and economic associations that knit them together, cautiously welcomes it. Tocqueville, viewing America from the perspective of the Old World, is able to grasp perhaps more deeply than did the Founders the educative value of the political system they established. Through the rich opportunities this system offers for political and other associations, we learn perhaps the central lesson of our moral education: that we are not isolated beings but part of a larger whole, and that in turning from ourselves to cherish the connections with our fellows, we may make ourselves better and even happier.