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325. Anglo-American Constitutional Thought

November 2004

Dr. Robert W. Sutherland, Instructor



[Click here](#) for a version that is easier to print using [Adobe Acrobat Reader 5.0](#). Quizzes and a mid-term exam may be added to the **GRADES** paragraph below, so the online version of the course outline is the only definitive one. Changes in reading assignments will not, however, be made 24 hours immediately preceding class meetings.

INSTRUCTOR: Robert Sutherland, 305 South, Ext. 4226. [E-mail Link](#): the quickest and most reliable method of contacting me. I rarely check voice mail.

CLASS MEETINGS: See [Assignments](#) below

TEXTS: Hobbes, *Leviathan*, Hooker, *Laws of . . . Polity*, Locke, *Two Treatises of Government*, *American Political Writings*, 2 vols; *Benjamin Franklin's Autobiography*

GRADES:

1. **PAPER**--30%, topic to be announced.
2. **EXAMS**--15% take-home, 30% final.
3. **PRESENTATION**--25%, see [p. 2 for details](#).

Poor preparation for class or frequent absence may lead to unannounced quizzes and an adjustment in the percentage of the final grade determined by the exam and paper. Both the final exam and the final paper remain with me for future reference in revising and improving the course. They can be picked up at my office immediately after Politics 325 is offered again. Portions of the Catalogue on adding and dropping courses and portions of the Compass on dishonesty in academic work are incorporated here by reference. A discount of 5% per hour will be applied to the grades of late papers, except for documented emergencies. The grading scale for the course is A = 1750-2000, A- = 1650-1749, B+ = 1550-1649, B = 1450-1549, B- = 1350-1449, C+ = 1250-1349, C = 1150-1249, C- = 1050-1149, D+ = 950-1049, D = 850-949, D- = 750-849, F = 000-749. The number of points possible on any given exam or paper is the product of 20 points times the importance of it measured in percent of the final course grade. For letter grade equivalents, multiply the percentage times: 18 = A, 17 = A-, 16 = B+, 15 = B, 14 = B-, 13 = C+, 12 = C, 11 = C-, 10 = D+, 9 = D, 8 = D-.

SYNOPSIS:

I. Introduction: Limited vs. Unlimited Government and the Rule of Law

II. Week I: Hobbes and the Logic of Unlimited Government

1. in educational and moral terms
2. in constitutional terms

III. Week I-II: Hooker and the Logic of Limited Government

1. in educational and moral terms
2. in constitutional terms

IV. Week II-IV: Locke and Anglo-American Constitutional Thought

1. Locke
2. Franklin
3. American political writings

ASSIGNMENTS--To be done before class on the day indicated:

Week I**Day 2--1:30:** *Leviathan*, 28-37, 42-49, 54-55, 80-85, 98-125, 129-144, 159-164,

Week I**Day 3--1:30:** *Leviathan*, pp. 198-260

Week I**Day 4--1:30:** *Laws of . . . Polity*, pp. 52-74

Week I**Day 5--9:30** *Laws of . . . Polity*, pp. 74-87

Week II**Day 6--9:30:** *Laws of . . . Polity*, pp. 87-99

Week II**Day 7--1:30:** *Two Treatises*, pp. 141-151, 267-318

Week II**Day 8--1:30:** *Two Treatises*, pp. 318-374

Week II**Day 9--1:30:** *Two Treatises*, pp. 374-418; *American Political Writings*, pp. 3-18, 62-66, 109-136, 231-9

Week II**Day 10--9:30** *APW*, pp. 137-157, 340-367, 638-655

Week III*Day 11--9:30:** *American Political Writings*, pp. 699-704, 884-899; *Federalist #10*

Week III*Day 12--1:30:** *APW*, pp. 936-949, 1042-54 *Benjamin Franklin's Autobiography*, 1-76

Week III*Day 13--1:30:** *APW*, pp. 1299-1348 *Benjamin Franklin's Autobiography*, 76-146

Week III*Day 14--1:30:** Take-home, Essay Final Exam Due, 5 pm by e-mail attachment

Week III*Day 15--9:30 & 1:30:** Oral Presentations

Week IV**Day 16--9:30 & 1:30:** Oral Presentations

Week IV**Day 17--8:00:** Short Answer Final Exam

Week IV**Day 18--Noon: Final Paper Due. Hardcopy Only!!**

INDIVIDUAL PRESENTATION: INSTRUCTIONS, SCHEDULE, & SUBJECT:

INSTRUCTIONS: Some class time will be reserved for oral work during each regular class meeting in weeks III-IV. Each student will be responsible for one formal presentation during the term and several informal discussions of key concepts and terms in the reading assignments. Grades on oral work are determined by performance in content and style. Strength in content depends on a clear presentation of main ideas, careful subordination of explanation and examples, and close attention to logical transition. Elements of style include skill in referring to notes (**do not read a prepared text**), in managing the time available (**consult the instructor**), in oral expression (**watch rate of speed in speaking**), in eye contact, and in variety of emphasis. The content and scheduling of presentations depends heavily on student initiative. The instructor will, however, urge you to focus on contemporary constitutional thought in a wide variety of terms and forms. Films have recently been used to show the legacy of Hobbes and Locke on the state of

nature (see, for example, *No Escape*, *High Plains Drifter*, *Lord of the Flies*). Fiction is also a form in which constitutional thinking is reflected, especially B. F. Skinner's *Walden Two* and A. Huxley's *Brave New World*. More conventional topics with an international focus include the new Russian Constitution, constitutional development in South Africa and Latin America, and American efforts to help east-central European nations frame new, democratic constitutions. For those who have taken, POL 225 or 315, a paper on constitutional development and political corruption offers an opportunity to use what you have learned in prior courses, especially in terms of the rule of law. For the examples of Latin America and Eastern Europe, see especially the work of [Transparency International](#) and the [Global Forum on Fighting Corruption and Safeguarding Integrity](#). For those interested in constitutionalism and Islam, the place to start is Cole Library and its books on Islamic law and Muhammedan jurisprudence. Conventional topics with a domestic focus include the constitutionality of the Independent Counsels, the pardoning power of presidents and its limitation, if any, recent books on constitutional theory, and the effort by President Bush and various Republican governors to revive federalism by reclaiming for the states functions which the national government has recently attempted to perform.

CRITERIA FOR EVALUATION OF PAPERS:

An "A" paper has the following elements:

1. Good, clear, complete discussion of major parts of the topic
2. A penetrating thesis statement connecting the parts to each other,
3. Accurate, skillful use of argument and evidence in supporting the thesis,
4. A strong conclusion anchored in a tightly drawn organization of thesis, argument, and evidence, plus
5. No more than one error per page of the sort outlined in *English Simplified*.

A "B" paper has the following:

1. Adequate on the parts, using familiar phrases from the class discussion & the readings,
2. Clear thesis but more weakly stated than in an "A" paper,
3. Argument and evidence systematically offered but not finely gauged to the difficulty or complexity of the issue; transitions become increasingly tentative,
4. Broad, general conclusion based on adequate organization with no more than two errors per page

A "C" paper has:

1. Incomplete discussion with weak thesis followed by loosely related arguments or evidence to which objections are obvious, missing transitions,
2. Brief conclusion, sketchy organization, no more than three errors per page

A "D" paper:

Garbled, inaccurate discussion, no thesis, little evidence or argument, abuse of quotations, assertion in place of conclusion, gaps in organization, a multitude of errors.

An "F" paper:

See the *Compass* on plagiarism

KEY TERMS AND PHRASES IN THE *LEVIATHAN*

Chaps. 3-4: Mental vs. verbal discourse, the kinds (even sub-kinds) of each, the uses, even the special uses (and abuses) of the latter; true & false speech, importance of geometry

5-6: Right reason, its use; error & absurdity, causes of the latter; science vs. prudence, the signs of science.

11: Felicity, as conceived by "old moral philosophers" vs. Hobbes's conception; contention, its sources; vs. obedience, its sources; associations of love and hate, of praise and ambition; confidence in others, its sources, & custom, its sources

13: Human equality and the "causes of quarrel" or war.

14-15: Nineteen laws of Nature, the "science of these laws," & moral philosophy.

17: Security, what it means and where it is and is not to be found, a commonwealth, the Leviathan **18:** Instituting a commonwealth and the consequences which follow from it

19: Kinds of institution: monarchy, aristocracy, & democracy, how related to tyranny, oligarchy, & anarchy; the advantages of a monarchy over assemblies large or small

21: Liberty, necessity, covenants and laws, sovereign power and the liberties of subjects

26: Law written, how related to the sovereign, to custom & usage, to laws of nature and unwritten laws; interpretation, its purpose, its agency (i.e. who does it and within what limits, the role of precedent, etc.), natural vs. positive law; divine positive law

27: Sin vs. crime; crime, its source, its cause, esp. false principles and how they are promoted by varied agencies and why; fear as a cause; comparison of crimes plus circumstances extenuating and aggravating;

28: Punishment, what it is and is not; kinds of punishment; reward

29: Dissolution of the commonwealth, by want of absolute power in private judgments, whether by erroneous conscience or pretense of inspiration; in dividing sovereign power and its consequences, esp. related to mixed government, public funds, and rivals for sovereign power in people and places **30:** Sovereign representative, purpose and duties, esp. in teaching; two objections to teaching & responses to yeach; what is to be taught, role of the universities; in taxation and public welfare, in legislation, esp. what a good law is.

S T U D Y G U I D E for LAWS, Book I . Chapters 1 - 10

1a. Who has the advantage in a discussion of law: the advocate of change or the defender of established practice. What disadvantages does Hooker consider his discussion to suffer from and how does he respond to them?

1b. For what cause does Hooker write?

2a. What does the term "*law*" refer to, especially eternal law?

2b. How is such law related to virtue?

3a. What kinds of law are sketched here?

3b. What kinds of agents?

4a. What are angels?

4b. What laws correspond to their natures?

5a. How is desire related to goodness?

5b. What degrees of goodness are there for human beings?

6a. What purposes inform Chapter Six? For Hooker's retrospective account of an important purpose, see the first relative clause in the first sentence of Chapter Ten.

6b. What hierarchy exists in nature and what is the place of humankind in it?

6c. What is the purpose of the art of learning and how is it accomplished? What role is assigned to common sense?

6d. What does Hooker think of his own age? Key terms: natural reason (also natural knowledge & natural discourse, natural wit, natural understanding); sensible knowledge

7a. What purposes inform Chapter 7? See the relative clauses following the one cited above.

7b. How is reason stirred into action?

7c. What is the relationship between choice and will and what position in nature is reflected in them?

7d. What are the "two principal fountains of human action" and how are they related to appetite and affections.

7e. What is "right reason" and what two considerations demonstrate its operation?

7f. What two circumstances account for the "choice of evil"? Be specific about what Hooker means by the "prejudice of sensible experience."

7g. Connect the "painfulness of knowledge" to its benefits, its promise, and its poverty. Key terms: things unsensible, choice, will, appetite, affections, voluntary operations, right reason

8a. What part of Ch. 7 forms the basis for 8 and how is 8 related to the purpose to be fulfilled in 6 & 7?

8b. What two ways are there of discerning goodness and which is the one Hooker follows?

8c. What token is discussed here and how is it related to the cause of goodness?

8d. What is law and how does it apply to the hierarchy of nature?

8e. What are the two self-evident principles of reason?

8f. What levels of knowledge are active in the "law of nature" (see also "law of reason or human nature")?

8g. What is the "law of nature" and how is it related to the rule of comparison and the hierarchy of nature?

8h. What are the two "grand mandates" imposed by the law of nature?

8i. What three kind of "sentences" does reason offer?

8j. What three "marks" distinguish the law of nature?

8k. What effect does custom have upon the law of nature?

9a. What distinctions apply to reward and benefit and to hurt and punishment.

9b. What does keeping mean or what exceptions apply to the above distinctions?

10a. What are the two foundations of public societies?

10b. How are laws politic perfected?

10c. When are people happy?

10d. What impediments obstruct the pursuit of happiness?

10e. What is the purpose of government?

10f. What is essential to it? What is inessential?

10g. Distinguish between rule of a person and the rule of law. What three advantages support the latter?

10h. Why do the laws vary?

10i. What distinguishes human law or mixed law from "merely human law"? What other term corresponds to the latter?

10j. What is the law of nations?

10k. What distinguishes primary from secondary laws?

STUDY GUIDE FOR THE *SECOND TREATISE*

141-151: Filmer's "short Model" or "System of Politics;" the "old way" Governments are made; examples of Filmer's carelessness in supporting his "System," esp. his dependence upon "Fatherhood" and "Fatherly Authority;" logical errors in Filmer's work, organization of Locke's reply to Filmer in the First *Treaties*.

267-284: How the two treatises are linked, the main issue defined by Locke as the subject of the second; political power. State of nature and its relationship to Hooker's *Laws*; natural equality and authority conferred by the law of nature in responding to transgression; "inconveniences" in the state of nature and the origins of civil government; purpose served by the closing quotation from the *Laws*. State of war; the purpose of freedom; the difference between the state of war and the state of nature plus the relationship of each to civil government. How slavery is related to the previous terms.

285-302: Origins of property and an objection to Locke's account, the advantages of Locke's account in recognizing and rewarding those who work hard; the problem of common land, of measuring and transferring wealth and value, the invention and use of money.

303-318: Paternal power and the mistake associated with such a term; freedom, equality, and law; the power parents have over their children in the light of these terms; in what senses the authority of parents constitutes a kind of government; the duties of children and of parents; what conclusion can be drawn and applied to Filmer's argument, previously discussed.

318-349: How a "Politick Society" differs from a "conjugal" one, origins of the former considered as a prelude to discussing the danger of absolute power. How "Political Societies" begin. Two objections to the account given and replies to each. "Express Consent" distinguished from "tacit Consent"-- the implications and limitations of tacit consent.

350-380: Preservation of property as the "great and chief end" of political society. What property means and the ways in which it is preserved by government. The original "right and rise" of "Legislative and Executive Power." What a commonwealth is, however formed. What the legislative power is and the four limitations by which it is circumscribed. Separation of legislative and executive power. Executive power related to federative power. Legislative supremacy and executive power, detailing joint operations. Prerogative defined and limited.

380-428: Key terms reviewed preliminary to a discussion of conquest, usurpation, tyranny, and the dissolution of government. Conquest considered in the light of understanding how important consent is in a political society. Power of the conqueror over those that conquered with him. Power of the conqueror(s) over the subdued, their property, and their relations. Tyranny and usurpation distinguished. The right of revolt against tyranny asserted and circumscribed according to whether a person rules or the law does, whether there is a right of appeal, and whether coordinated resistance is easy or difficult. How governments are dissolved, with specific reference to the dissolution of parliamentary governments. "Trust," why it is key to understanding the issue, despite objections from those who fear instability and those who fear rebellion. Specific replies to the latter. Right of resistance confirmed by reference to other authorities.

KEY CONCEPTS IN *MADISON'S TENTH FEDERALIST*

FACTION: its causes, definition, & consequences. Its cure by removing causes & by controlling effects, in a minority, in a majority. Majority factions: how prevented, how rendered ineffective. Republic: why superior to a democracy: representation--its advantages enhanced by federalism and the separation of powers & size of republics--effects on forming a majority.

MADISON'S TENTH FEDERALIST

Purpose: popular gov. to control rivalry and violent factionalism

Among the numerous advantages promised by a well-constructed Union none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular governments never finds himself so much alarmed for their character and fate as when he contemplates their propensity to this dangerous vice. He will not fail, therefore, to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it. The instability, injustice, and confusion introduced into the public councils have, in truth, been the mortal diseases under which popular governments have everywhere perished, as they continue to be the favorite and fruitful topics from which the adversaries to liberty derive their most specious declamations. The valuable improvements made by the American constitutions on the popular models, both ancient and modern, cannot certainly be too much admired, but it would be an unwarrantable partiality to contend that they have as effectually obviated the danger on this side as was wished and expected. Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty, that our governments are too unstable, that the public good is disregarded in the conflicts of rival parties, and that measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority. However

anxiously we may wish that these complaints had no foundation, the evidence of known facts will not permit us to deny that they are in some degree true. It will be found, indeed, on a candid review of our situation that some of the distresses under which we labor have been erroneously charged on the operation of our governments; but it will be found, at the same time, that other causes will not alone account for many of our heaviest misfortunes, and particularly for that prevailing and increasing distrust of public engagements and alarm for private rights, which are echoed from one end of the continent to the other. These must be chiefly, if not wholly, effects of the unsteadiness and injustice with which a factious spirit has tainted our public administrations.

Faction defined. Cures and causes considered. Relief in removing causes?

By a faction, I understand a number of citizens, whether amounting to a majority or a minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens or to the permanent and aggregate interests of the community.

There are two methods of curing the mischiefs of faction: the one, by removing its causes; the other, by controlling its effects.

There are again two methods of removing the causes of faction: the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.

It could never be more truly said than of the first remedy, that it was worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it could not be less folly to abolish liberty, which is essential to political life, because it nourishes faction than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive nature.

Mutual animosities and violent contention among factions

The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other, and the former will be objects to which the latter will attach themselves. The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man, and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power, or to persons of other descriptions whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good. So strong is this propensity of mankind to fall into mutual animosities that, where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts. But the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors and those who are debtors fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a money interest, with many lesser interests, grow up of necessity in civilized nations and divide them into different classes actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operations of the government.

Regulating factions by their advocates or by a rare genius in government?

No man is allowed to be a judge in his own cause because his interest would certainly bias his judgment and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? And what are the different classes of legislators but advocates and parties to the causes which they determine? Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are, and must be, themselves the judges, and the most numerous party or, in other words, the most powerful faction must be expected to prevail. Shall domestic manufactures be encouraged, and in what degree, by restrictions on foreign manufactures are questions which would be differently decided by the landed and the manufacturing classes, and probably by neither with a sole regard to justice and the public good. The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality, yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice. Every shilling with which they overburden the inferior number is a shilling saved to their own pockets.

It is in vain to say that enlightened statesmen will be able to adjust these clashing interests and render them all subservient to the public good. Enlightened statesmen will not always be at the helm. Nor, in many cases, can such an adjustment be made at all without taking into view indirect and remote considerations, which will rarely prevail over the immediate interest which one party may find in disregarding the rights of another or the good of the whole. The inference to which we are brought is that the causes of faction cannot be removed, and that relief is only to be sought in the means of controlling its effects.

Effects controlled by the "republican principle" if a minority faction

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its

sinister views by regular vote. It may clog the administration, it may convulse the society, but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed. Let me add that it is the great desideratum by which this form of government can be rescued from the opprobrium under which it has so long labored and be recommended to the esteem and adoption of mankind.

Means for controlling a majority faction

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

Whether a democracy or a republic controls majority factions better

From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert result from the form of government itself, and there is nothing to check the inducement to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention, have ever been found incompatible with personal security or the rights of property, and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians who have patronized this species of government have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union.

The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens and greater sphere of country over which the latter may be extended.

The effect of the first difference is, on the one hand, to refine and enlarge the public views by passing them through the medium of a chosen body of citizens whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs may, by intrigue, by corruption, or by other means, first obtain the suffrages and then betray the interests of the people. The question resulting is whether small or extensive republics are more favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter by two obvious considerations:

Whether a large or small republic is better at controlling majority factions

In the first place, it is to be remarked that, however small the republic may be, the representatives must be raised to a certain number in order to guard against the cabals of a few, and that, however large it may be, they must be limited to a certain number in order to guard against the confusion of a multitude. Hence the number of representatives in the two cases not being in proportion to that of the two constituents, and being proportionally greater in the small republic, it follows that, if the proportion of fit characters be not less in the large than in the small republic, the former will present a greater option and consequently a greater probability of a fit choice. In the next place, as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practice with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free will be more likely to center in men who possess the most attractive merit and the most diffusive and established characters.

It must be confessed that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors you render the representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these and too little fit to comprehend and pursue great and national objects. The federal Constitution forms a happy combination in this respect: the great and aggregate interests being referred to the national, the local and particular to the State legislatures.

The other point of difference is the greater number of citizens and extent of territory which may be brought within the compass of republican than of democratic government, and it is this circumstance principally which renders factious combinations less to be dreaded in the former than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other. Besides

other impediments, it may be remarked that, where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary. Hence it clearly appears that the same advantage which a republic has over a democracy in controlling the effects of faction is enjoyed by a large over a small republic--is enjoyed by the Union over the States composing it. Does the advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union increase this security. Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the Union gives it the most palpable advantage. The influence of factious leaders may kindle a flame within their particular States, but will be unable to spread a general conflagration through the other States. A religious sect may degenerate into a political faction in a part of the Confederacy, but the variety of sects dispersed over the entire face of it must secure the national councils against any danger from that source. A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project will be less apt to pervade the whole body of the Union than a particular member of it, in the same proportion as such a malady is more likely to taint a particular county or district than an entire State. In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans ought to be our zeal in cherishing the spirit and supporting the character of Federalists.

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