

**MADISONIAN CONSTITUTIONALISM
AND
THE CHALLENGE OF CIVIC EDUCATION**

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The requirements of civic education are set by the meaning of citizenship and, as Aristotle pointed out long ago, the meaning of citizenship varies depending on the nature of the political order. That means that we must be clear about what citizen we expect civic education to produce. But I believe that we are not often clear. Instead, we tend to conflate the characteristics of citizenship in two different political orders: civic republicanism and liberal democracy. And we fail to see the truly revolutionary implications of American constitutionalism in the Madisonian tradition. The challenges faced by civic education today and in the years to come can only be adequately addressed by thinking carefully—theorizing—about the social world in which we live, about the nature of constitutionalism itself, and about the features of the future world we hope to create.

The Republican Citizen and the Liberal State

Think of the standard list of challenges to civic education in our time. People are no longer actively involved in public affairs, choosing to stay home rather than take part in civic activities. People, we are told, have even ended their involvement in those secondary associations that are training grounds for public action, or at the very least serve as sites for discussion of public issues. People, in other words, have lost their social capital, leaving the government in the hands of the few. No wonder, then, that government is distrusted and “political” has become a term of abuse. Worse, people have lost a sense of, and lost a desire to achieve, the common good; instead of the public interest, people are much more concerned with their own personal interests, their own self-expression, their own self-promotion. Individuals are preoccupied with their own individual economic concerns, leaving little time, energy, or interest for civic engagement. Finally, our societies are pervaded by severe economic inequalities, creating a situation in which a few can wield vastly more power than can the poor and, increasingly, the middle class—and those who find themselves cut out of the benefits of society sooner or later withdraw their support from that society.

Now the interesting thing about this common list of concerns is that they have their roots in a particular tradition of political thought: the republican tradition—or what I prefer to call “civic republicanism”—a tradition that itself grew out of the classical model of Aristotelian citizenship. In this tradition, good citizens evince civic virtue: a concern for the common good rather than personal, private interest. Further, in keeping with the Aristotelian notion of the citizen as one who rules and is ruled in turn, republican citizenship calls for active participation in political affairs either directly or, in its modern Tocquevillian sense, through secondary associations in civil society. In the civic republican world there is a vibrant political. Classical republicanism, of course, often drifted (whether theoretically or in practice) into an argument for (or the reality of) aristocracy—that is, rule by those who can see the true common good, rule by an intellectual elite (often equated with a propertied elite). But elitism aside, civic republicanism grounds itself on a citizen able to place the public interest ahead of his

private good, the welfare of all over the welfare of self and family. The job of civic education, then, is to create citizens of that sort, by providing people with the knowledge, skills, and most especially the orientation, to participate actively in the political realm in a wholehearted pursuit of the common good.

It is easy to see that much of what we expect of contemporary citizens, at least in this country, has its roots in this civic republican tradition. And much that we bemoan about the realities of contemporary citizenship and contemporary politics bothers us because it runs contrary to expectations driven by the civic republican model. The trouble is that the model does not capture who we are. From the beginning, civic republicanism was in tension with classical liberalism in American political thought. Many of the Founders drew their inspiration from the civic republican tradition, but many (and sometimes the same people) were attracted by Lockean liberalism. The two traditions pervaded the thought of the period, and they provided the grounds upon which Madison and others sought to fashion a new kind of politics—something they confusingly called a “republic.” But over the course of American history, the tension between republicanism and liberalism has come to be resolved more and more in the direction of liberalism. By the end of the twentieth century, something more akin to a liberal democratic system had emerged, a system that by design frees people from the political and actually discourages active participation in political affairs. The “problems” or “challenges” most civic educators see as we face the future stem from the lack of fit between the civic republican ideal and the liberal democratic reality.

Liberal theory hypothesizes a world in which the citizen is liberated from politics. Building upon the theory of the good subject developed under absolutist monarchies, liberal theory retains the narrow political characteristic of those absolutist regimes. According to liberal theory, government serves as a hired contractor whose job it is to provide external and internal security and to safeguard a minimal set of rights. If government fails to do the job, fails to live up to its half of the contract, it can be fired and replaced—a view found in Locke’s *Second Treatise* and in Jefferson’s *Declaration of Independence*. But as long as it does its job, it is permitted to do it with little interference from the citizens who have hired it. Just as a homeowner does not crawl under the sink with the plumber, so the citizen does not meddle in the affairs of government—at least as long as the governors are doing what they were hired to do. Notice that in Lockean theory, *the people do not govern* when the government fails. Rather, they kick it out and hire another to govern. Government always stays with those who are hired and does not return to the people, despite what may be said of popular sovereignty. Liberal theory, curiously, manifests the suspicion of democracy found in classical political theory. Read Locke closely and you see a theorist who prefers a world in which the masses stay away from government, tending to their own affairs safe in the knowledge that the government protects their property rights.

Nothing could be further from the civic republican ideal, as Jean-Jacques Rousseau noted in regard to the British electorate, who only exercise their sovereignty at election time and then make such a bad use of it that they deserve to lose it. Rousseau, like many civic republicans, had no use for representation because it meant the

disempowering of the people, the elevation of particular interests over the general will, and the relegation of citizens to the private realm—a kind of subjection characteristic of the absolutist monarchies liberalism reputedly replaced.

It may justly be said that liberal theory entails *the protection of the political from the people*, albeit on terms that maintain a minimal set of rights for individuals. But most importantly, liberal theory entails the *freeing up of economic man*. Read Locke closely again and you see a theorist preoccupied with the liberty of individuals to pursue their economic interests as they see fit, so long as they do not violate the basic rights of others. Liberal theory seeks the liberty of *homo economicus* but not *homo politicus*. Further, the freeing up of economic man leads to the very type of economic inequality classical republicans saw as the root cause of the collapse of republics. Machiavelli, Harrington, Montesquieu, Rousseau all believed that the stability of a republic depended, at least in part, on the maintenance of rough economic equality. Liberal theory, however, is quite comfortable with economic inequality; a liberal political world privileges liberty over equality, as John Rawls has made clear. Inequality, in the liberal world, stems inevitably from the free rein given to the natural differences in the abilities, talents, and desires of individuals.

The long-term stability of liberal democracy depends upon a citizenry of a particular sort. It is a *fundamentally inactive citizenry*. It is a citizenry mildly, but not extensively, knowledgeable about public affairs. It is a people focused less on the duties of citizenship in the classical sense and much, much more on self-interest or narrow group interest, often defined economically. And all this within the context of a contractual relationship with government in which the state protects individual rights, particularly economic liberty, while being limited in the extent to which it can interfere with economic activity and the resultant economic inequality.

The challenges that preoccupy civic educators today are fully consistent with the nature of a liberal political system. The erosion of the public interest in lieu of private interest, however troublesome for a civic republican, is exactly what the liberal state seeks to protect. The greater attention to personal economic concerns we often blame for the decline in concern for the common good is, again, exactly what the liberal state fosters. The deterioration of civic associations and the accompanying loss of social capital—to the extent it has actually occurred—should not surprise us, for those associations are simply republican leftovers that depend too much on communal affective ties to thrive in a truly liberal polity; one would expect them to decline in a liberal order. Liberal democracy has led to a reconfiguration of associations from adult-centered bowling leagues to child-centered soccer leagues, from the Elks Club to Facebook. And the technological breakthroughs made possible by the freeing up of *homo economicus* have worked to remove people from public worlds into private cocoons of television, Internet, iPods, social networking, and Second Life. Finally, the inequalities that hand political power to the servants of a wealthy few while economic struggle keeps many people from the public square, since they do not involve violation of individual rights, are perfectly consistent with a liberal order, however much modern liberals may call for tempering their effects.

In short, we are seeking to create citizens on the civic republican model, but we are asking them to live in a liberal world. We have yet to resolve in our own thinking the tension between these two traditions. The result is frustration for all concerned: for the civic educators who just cannot seem to produce the sorts of citizens, or enough of the right sort of citizens, allegedly required by “democracy”; and for the citizens themselves, who find that life in the modern liberal state is simply inconsistent with the orientation of the Aristotelian citizen. Thus, civic educators have fashioned a problem they cannot solve, at least not easily—and in the process they guarantee their own continuing discomfiture. But there is a way out of this dis-ease, a way first marked out by Madison.

The Madisonian Constitution

In the Madisonian constitution, we the people create something new, something neither liberal nor republican in the traditional sense. In making a constitution, the people codify the covenant that holds them together. A constitution is much more than a charter of government. It is, as Thomas Paine noted, (ontologically) *prior* to government, which is its creature; it is also (ontologically) *posterior* to the covenant of the people, being their creature. A constitution establishes a government and it expresses something essential to the distinctive way of life of a community; more than a mere framework of government, a constitution reflects the *covenant of the people with themselves*. This intermediate creation brings into being a polity, a political order for a people, a body politic. A constitution in the Madisonian sense founds a *political community* in words. We, the people, ordain and establish this *constitution*, this identity, this makeup, this new political nature for ourselves. Such a constitution goes beyond a contract between the ruler and the ruled, beyond the Lockean contract with government, which was very much a matter of hiring a night watchman. In a Madisonian constitution the government is not a party to a contract in which it provides protection in exchange for some form of consideration from the people. Rather, a Madisonian constitution is a solemn agreement we make with ourselves—not to give up all our power as in the Hobbesian compact, but to develop our common history together, to establish a government and limit its powers, and to free up yet limit our pursuit of our immediate interests in light of *what we have predetermined to be our good*. It is *the reason of the people*, designed to resist the momentary temptations cast up by passions, to “prevail over occasional impressions, and inconsiderate pursuits.”¹ Such a constitution, by its very definition, is the *property of the people*—in the broad sense of property that encompasses all that is “proper” to oneself, including one’s life—because it is the nature, the essence, of the people.

Constitutions, then, create polities. The polity created by the Madisonian constitution has often been called a democracy, though strictly speaking it is not. An important distinction exists between democracy as rule by the *demos*, governed by the passions, avarice, and narrow interests of the mob—what Madison calls “pure democracy”—and democracy as government by a people that *rules itself*. Cognizant of the classical critique of democracy—of the concern that the common people, too caught up in their own personal affairs and self-interests to focus on the public interest, were

¹ National Gazette, Feb. 2, 1792.

liable to misuse governmental power—Madison and his contemporaries worried (and we might worry as well) that unfettered democracy will lead inevitably to tyranny of the majority. They called themselves republicans, but they redefined “republic” in a non-republican—perhaps neo-republican—way, to entail a large, compound system extended across a vast territory, one in which *the people elected* representatives to carry out the functions of government. In such a republic the people do not rule directly, at least not in the traditional sense; rather, they rule through their representatives. But the system of representation—what Madison calls the “pivot” around which the republic turns²—permits the people to rule themselves. Representation makes it possible for sovereignty to remain in the people while extending the scope of the polity beyond the small-scale of civic republican theory. The constitution limits government, but it acknowledges that it is not only government that must be limited. Or, perhaps better expressed, if government is perceived as the tool—because it is the creature—of the people, the most important limits must be those that confine the uses the people can make of government.

Thus, the Madisonian constitution is neither republican in the classic sense nor liberal in the Lockean sense. Where classical republicans either called for direct rule by the people (Madison’s pure democracy) or representation of the people in a distinct branch of government (the legislature), Madisonian republicanism extended the territory beyond the effective reach of direct democracy while totally excluding “*the people, in their collective capacity, from any share*” in the government.³ All branches of government draw their limited powers from the people and all branches are equally responsible to the people. Rather than simply being a hired hand, the government as a whole acts as an agent or trustee of the people. Power remains with the people; it is never alienated into the hands of public officials. The people constitute themselves irrevocably as a public entity through the constitution. The government they fashion *re-presents the people*; it is the people in action, rather than the people’s employee.

The Common Good and the Private Interest

The Madisonian constitution is revolutionary in another way, for it does not depend upon the civic virtue of the citizens. Civic republicans insisted that good and stable government can be achieved only if the majority of citizens, and certainly public officials, display an orientation toward the common good rather than toward, and even to the detriment of, one’s private or group interests. Corruption pervades republics in which civic virtue has disappeared, opening them up to despotism or collapse. Madison, on the other hand, contends that the common good can only emerge out of the conflicts generated by the diversity of private interests and the division of governmental powers. Picking up a theme found in Machiavelli and, to a lesser extent, in Montesquieu, Madison argues that the impulses, passions, whims, and desires of individuals and factions will counteract or neutralize each other, leaving space for the common good to surface. So Madisonian theory encourages the expression (and conflict) of *private interests*, and the body politic is designed in such a way that no one interest, no one faction or group, can

² *Federalist* # 63.

³ *Id.*

establish itself with enough power to dominate other interests. It is only through the *public clash of private interests* that the common good can arise.

Madison is unwilling to follow the republicans in granting authority to a natural aristocracy uniquely capable of perceiving the common good. He is skeptical of the claims of the so-called intellectual elite, skeptical of their capacity to rise out of the cave of their individual and class interests to a vision of the common good, skeptical of the very idea of a ruling group *elected by nature* rather than by the people themselves. He is concerned that those who claim a special knowledge of the public interest are simply masking base and selfish motives with professions of public good and so constitute a danger to the republic.⁴ It is not so much that there is no such thing as the common good, as that no individual or group in the tumult of politics can truly claim to know it.

There is something of Adam Smith in the notion that the common good can only emerge out of the conflict of interests in the public square; but there are crucial differences as well. Smith argues that the pursuit of private interest will lead one to make those choices that benefit others, thereby producing a certain kind of public good. But Smith's conception of the public good—indeed, the liberal conception of the public good in general—is simply an *additive* one: the public good is the greatest possible maximization of the individual goods of the persons who compose the society. This additive public good is not “common” in the traditional sense, for it does not transcend the particular goods of individuals and groups. Madison does not want to give up the idea of a good belonging to the community, a good that is not additive and yet belongs to the people as a whole, one that goes beyond the individual goods of those who make up the society. A good politics achieves the *common* wealth, the public interest (*res publica*), over and above the personal goods of the persons and factions that compose society.

But what sort of space is needed for the common good to emerge if it cannot be found in any particular social group? Madison re-imagines what a political society is, and consequently what political theory must seek. The quest of previous political theorists had been for static permanence. Driven by a Platonic desire to find an island of stability in a sea of change, to find a way to stand still in the moving river of human existence, theorists had sought to fashion a government that would stop time; they had aspired to create an integrated, ordered, changeless system, a political world lacking motion. But doing so forced them to *eliminate politics*, defined as the competition for advantage between groups or individuals that takes place within a situation of both change and relative scarcity and carries consequences of significance for the whole society or a substantial portion of it.⁵ The best state was by definition a non-political place, and given this ideal, the best practicable state was one in which politics was kept to a minimum so that change could be limited (if not prevented), conflict could be kept in bounds (if not eliminated), and scarcity could be managed in a way that provoked neither further change nor destructive competition. Civic republicans appeared to differ from this tradition because they envisioned an active citizenry obsessed with the common good. But that very obsession, the very selflessness of the people, produces a static equilibrium precisely

⁴ “Vices of the Political System of the United States,” April 1787.

⁵ Sheldon Wolin, *Politics and Vision* (exp. ed., 2004), p. 11.

because of the stability and changelessness of the common good itself and the unanimity with which it is pursued. Politics—the competition between different interests—cannot long exist in the civic republican ideal.

Madisonian theory, on the other hand, envisions a non-static, non-stationary public world, a lively political realm in which the common good shifts over time as circumstances and desires change. The order created in such a polity is *a moving order*—a distinctly non-Platonic order—a confusion of conflicting interests played off one against the other. Here we have a more realistic vision of politics than anything found in prior theory. Madison offers a political theory open to politics, rooted in the belief that society is too various, too complex, to be reduced to a simple, harmonious unity—a belief that the struggle for competitive advantage, grounded in pursuit of one’s own interests, is the very stuff of politics and must be the foundation of a just political world. Distinctions in society, he tells us, are “various and unavoidable.”⁶ The interests of different individuals and groups diverge; in fact, they regularly conflict. To expect people whose real and perceived interests clash, and who go to the public square to gain competitive advantage in the definition of public ends, to expect these individuals (or their groups) to be committed primarily to the common good (or to define the common good in any way that conflicts with their own goods) is too idealistic. As Madison puts it in a letter to Jefferson, “[h]owever erroneous or ridiculous these grounds of dissention and faction, may appear to the enlightened Statesman, or the benevolent philosopher, the bulk of mankind who are neither Statesmen nor Philosophers, will continue to view them in a different light.”⁷

Madison is hardly the first to recognize the irreducible conflict between the interests of individuals, groups, factions, and classes in society. But theorists who perceived this conflict—Hobbes comes to mind—sought a solution in the establishment of a strong government, capable of calming the “tempestuous waves of politics”⁸ and achieving the common good through superior force, through the irresistible power of Leviathan. Indeed, it was the recognition that people are driven more by passion than by reason that prompted theorists to be wary of democracy, which was imagined to be chaotic, rife with uncontrolled passions, the worst sort of tyranny. These theorists could see no alternative between order and chaos, and designed powerful, invasive governments calculated to fend off the disorder of real politics.

But Madison believes that democracy—the people ruling themselves—is the only justifiable political system. He believes that politics is good, or at least inevitable. Rather than avoiding politics by empowering a so-called natural aristocracy or race of philosopher kings, rather than diminishing politics by turning the people’s attention to their personal economic affairs (as liberal theory attempted to do), the polity Madison offers incorporates politics. Madisonian realism takes seriously the implication of democracy: if power is to be lodged in the people, careful attention must be paid to what

⁶ Madison to Jefferson, Oct. 24, 1787.

⁷ *Id.*

⁸ The phrase is Cicero’s. See *On the Commonwealth*, Bk. 1. Hamilton uses a similar locution in *Federalist* # 9.

the people are really like. The theorist cannot assume that everyone, or even most people, or even a large number of people, will be motivated by the clear, rational vision of the statesman or philosopher. The people are caught up in their day-to-day cares, their own personal concerns, and they rarely look beyond their own narrow surroundings. Even when they pay attention to the political affairs of the day, they do so from behind the lens of their own interests, and the choices they make will be driven by those interests, with only the occasional glance or rhetorical gesture toward the common good. If we are to have democracy, we must find a way to cope with the narrowness of vision that characterizes the people, to enliven and cultivate the politics of interest so that the body politic thrives and maintains itself through time.

Such a politics de-centers civic virtue. Government cannot be founded on the selflessness of the many, for human persons are simply not made that way. Only a small percentage of the population could ever be expected to evince the sort of civic feeling civic republicans desire. On certain issues the self-interested person may court the public, tailoring self-interest to public concerns. But disinterestedness and self-renunciation cannot be expected from the typical citizen and a prudence that sees one's own good entailed in the general good is altogether too rare. Real people focus primarily on their personal interests and their individual happiness. What Noah Webster called "local attachments" preoccupy people.⁹ They are concerned about their families, their economic well-being, their jobs, their homes; at most, they may be caught up in local community issues, but usually only because solutions to those issues impinge directly on their personal interests. People are inevitably interested in their own affairs, and liable to judge public affairs by the yardstick of their private interests. The new republicanism builds upon the realities of human nature rather than upon the fantasy of inhuman virtue.

Consequently, it is not decline in civic virtue that constitutes the greatest threat to liberty or order, but the possibility that in the extended republic the individual will become insignificant in his own eyes. That is, the greatest danger lies precisely in what the simple republic required: the psychic substitution of the common good for one's own individual interests and the merging of the individual into the communal whole. By finding the vitality of the political system not in easily corrupted civic virtue but in the real nature of the individuals that compose the society, Madison hopes to create a republic less likely to decay than the republics of old. What counted as corruption in the simple republic is the source of strength in the complex republic. The new polity can persist through time because it is based on the real nature of human persons, on the individual's concern for personal interests, rather than on Spartan self-denial and patriotism. In short, the new politics of the Madisonian constitution flow not out of a vain expectation that normal humans will rise above themselves, but out of a system constructed so that the self-interests of each individual and each faction works to neutralize those of other individuals and factions.

⁹ Noah Webster, "An Essay on the Necessity, Advantages, and Practicality of Reforming the Mode of Spelling" (1789).

The Citizen

At the heart of the Madisonian enterprise lies an attempt to rest government—conceived now as a changing affair of deliberating, deciding, acting, and managing public matters over time in a world of competition, scarcity, and change—on the interests and sentiments of the people. The American constitution established a government founded on the will and interest of the people, expressed through “public opinion,” something inescapably rooted in and reflective of individual concerns and sentiments.¹⁰ Interests, especially the weightier interests, reveal a remarkable stability, though they can vary over time as the social environment changes. Sentiments develop ineluctably over time, change slowly, and condition reactions, choices, decisions. Notice that public opinion, thought of in this manner, is not the superficial stuff of polls. It is more deep-seated, more fundamental, more a matter of nature than passing fancy.

But how is the system supposed to work unless the people actively pursue their *private interests in the public square*? The presupposition of pre-Madisonian political thought was that the “people” constituted a unit with shared interests. But Madison undermines the unitary conception of the people by pointing out that different individuals, different families, different factions, have different interests. The “people” is a collection of individuals, each with his or her own goals, concerns, and desires. Individuals display a diversity of talents, abilities, virtues, and vices, making them both equal and unequal—equal in terms of their basic rights, unequal in their property, defined broadly. Politics, therefore, becomes the struggle not between social orders but among individuals, each seeking to defend his or her rights and protect his or her property in a world of change and scarcity. A Madisonian citizen must be willing to engage in the *public pursuit of private interest*, willing to carry personal concerns into the give-and-take of politics. In such a society, the deliberation, decision, and action lying at the heart of government necessarily entails the reconciliation of different interests, rather than their transcendence. As Madison puts it: “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.”¹¹

We must be careful here, for the point is not that private interest should come to dominate the polity. The arbitrary rule of one, a few, or many in their own interest is the very essence of corruption. Rather, the idea is that lively conflict between interests will prevent the “real domination of the few, under an apparent liberty of the many.”¹² As we have seen, Madison still holds out some hope that a common good can emerge, over and above the conflicting interests necessarily involved in politics. But he denies that the common good can emerge in the absence of a struggle among self-interested citizens for the power and resources available in the public square.

Nor does this perspective constitute an apology for selfishness. The truly revolutionary aspect of Madisonian theory is lost if we reduce self-interest to selfishness,

¹⁰ National Gazette, Dec. 19, 1791; National Gazette, Jan. 19, 1792; Feb. 20, 1792;

¹¹ *Federalist* # 10.

¹² National Gazette, Feb. 20, 1792.

for pursuit of one's *self* interest entails the search for the good in one's own life. And that involves the attempt to integrate numerous qualities into a single, whole life. Madison gestured toward this idea when he wrote of the "health, virtue, intelligence and competency" of citizens and set as the goal of a republic a distribution of these characteristics among "the greatest number of citizens."¹³ Whatever the components of the individual human good may be, they do not differ from one person to another, though their manifestations may differ from one life to another. While the components are equally fundamental—that is, no one of them can be reduced to another theoretically or practically—any one of them, or any combination of them, can become the focus of a moment or of a life. And since different people will choose to grant priority to different components of the good, there will always be conflict among the members of society over the use of power to achieve particular purposes. Finally, human good develops within a web of relationships that extend from the immediate (self, family, friends) to the world beyond the republic. The common good, then, will be the shifting accomplishment of these individual interests over time within a cascading set of relationships and affections.

In the classic formulation, tyranny develops when the common good is lost sight of and government acts arbitrarily for the self-interest of the ruler. But if politics inevitably entails the conflict of interests, the idea of tyranny must be re(de)defined. Following Montesquieu, Madison argues that the essence of tyranny lies in the accumulation of power in any one set of hands.¹⁴ Such accumulation is abusive, not because it necessarily fails to achieve the common good, though this is undoubtedly the case, but because it undermines the liberty of the individual to pursue the good. And for this reason the tyranny of the majority may be the worst form of despotism, for it places the individual at the mercy of the irresistible power of the greater number.

If tyranny lies in the accumulation of power, then liberty lies in the prevention of such accumulation, even in the hands of the legislature or a majority. Liberty rests not in the freedom of a people from domination but in the freedom of individuals to pursue their ends. Liberty is re-conceptualized as *personal freedom*, as sovereignty over the search for good and as the protection of rights against the machinations of government. The Madisonian answer to Juvenal's question, *quis custodiet ipsos custodes*, requires the people to *rule themselves* by constituting a system in which power is hedged round with limits. Liberty is safeguarded by separating power, by dividing it up among several holders, by circumscribing the ways in which government can act, by interfering with the powers of the majority. Perceived as the creation of a people concerned to guard themselves, a constitution limits the power of majorities by establishing the terms of the delegation of authority to government. It serves as a bulwark against excessive government interference with the lives of individuals *and* against the whims of the people themselves. Abuse of governmental power is to be prevented "by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places."¹⁵ The

¹³ National Gazette, March 5, 1792.

¹⁴ *Federalist* # 47.

¹⁵ *Federalist* # 51.

classical concern about unfettered democracy is addressed through the institutionalization of reins on popular passions. *The rule of the people is fettered by rules*, by institutional mechanisms and other devices designed to play off power against power, interest against interest. *The people cannot do whatever they wish*. The extension of the republic invigorates the free play of individual interests—that is of partial views, classes, desires, and wills. The very confusion of interests guards against the emergence of any one dominant faction or set of interests. Society is so fractured that individuals and minorities have little to fear from “interested combinations of the majority.”¹⁶

The focus on personal liberty, defined as the protection of the *individual* from domination—where traditional republicanism defined liberty as the freedom of an *entire people* from domination—is fully consistent with the freeing up of private interest and the de-centering of civic virtue upon which the new republicanism is built. The welfare of the system—the health of the *res publica*—depends upon the people actively expressing and pursuing their private ends, actively guarding their rights, their liberties, and their property, for only then will combinations bent on domination be prevented. “Liberty and order,” says Madison, “will never be perfectly safe, until a trespass on the constitutional provisions for either, shall be felt with the same keenness that resents an invasion of the dearest rights; until every citizen shall be an Argus to espy, and an Ægeon to avenge, the unhallowed deed.”¹⁷

The citizen, then, studies “to avoid the alternative” to constitutional government. The people themselves are “the chief palladium of constitutional liberty”; having created a constitution—a way of life, a polity, and a framework of government—they must henceforth be its guardians.

Their eyes must be ever ready to mark, their voice to pronounce, and their arm to repel or repair aggressions on the authority of their constitutions; the highest authority next to their own, because the immediate work of their own, and the most sacred part of their property, as recognising and recording the title to every other.¹⁸

The people must be sentinels, guarding their creation from enemies both without and, perhaps especially, within.

In proportion to the solemnity of acts, proclaiming the will, and authenticated by the seal of the people, the only earthly source of authority, ought to be the vigilance with which they are guarded by every citizen in private life, and the circumspection with which they are executed by every citizen in public trust.¹⁹

Checks and balances can work only if branches of government, factions, and individuals seek their own interest and guard their own rights against other branches, factions, and

¹⁶ *Federalist # 10*.

¹⁷ National Gazette, Jan. 19, 1792.

¹⁸ National Gazette, Feb. 6, 1792.

¹⁹ National Gazette, Jan. 19, 1792.

individuals. The most solemn acts must be undertaken with the greatest prudence. That means that the liberty of the people can only be safeguarded if the public square teems with the tumult of politics, only if the people themselves display vigilance and circumspection concerning their rights and the constitution that protects them. They must manifest as deep a concern for their rights as they do for their property narrowly defined. Neither the pompous claims of demagogues to seek the common good, nor the righteous hectoring of those unnatural few who have become selfless instruments of the public interest, holds the key to republican vitality. Rather, public space must be vibrant with the conflicting voices of many individuals and groups, each bent on protecting what is proper to them in the ongoing struggle over public choices.

But if the people fail to espy and avenge invasions of rights, attacks on the public trust, assaults on their way of living—if they shrink so far into their private lives that they neglect the public square—the system must collapse. This is the real danger of the liberal state: a passive people mindless of the public trust, heedless of their rights and liberties except in extreme circumstances, at home in private and alien in public, selfish rather than self-interested. The lifeblood of a republican system lies in the *public expression of private interests*. When privatization goes so far that the people no longer take their concerns into the public realm, when they hide in their private worlds and no longer take cognizance of the activities of government, when they lose their jealousy of their rights and their constitution, despotism is at hand.

The challenge of civic education is not to concoct ways to produce selfless devotees of the common good. Such people are rare and can be dangerous. Nor should civic education reduce itself to the intellectual comforting of liberal citizens, for such people stay safely ashore instead of voyaging into the tempests of politics. Rather, civic education must wake from the civic republican dream and address liberal reality by inspiring jealous, self-interested participants in the public square, citizens who studiously safeguard what is proper to them so as to pursue the good in their lives. The task of civic education is the *cultivation* of citizens who see the constitution and the body politic it created as their property, *their res publica*, rather than the purview of “politicians”—citizens who refuse to be silent and insensible in the face of government or majority will, who refuse to let private interests paralyze them in public. Civic education must steer clear of the Scylla of civic republican selflessness and the Charybdis of liberal privacy, fashioning instead an active but self-interested citizenry capable of ruling themselves.