

The Elective Franchise — A Secondary Civic Right

Electoral procedures and proposed reforms have been the subject of extensive discussion for much of the last few years, and in particular presently. I consider the emphasis excessive and grossly misplaced. In considering the validity of the author's perception we must begin with the recognition of the difference between *civil* rights and *civic* rights.

Civil rights are those powers that a person exercises in isolation or in a direct relationship with other persons. They are inextricable from the core of each person's existence and activities, and their source is God and Nature.¹ Being first in origin, they are senior to and dominate all other rights.

Civic rights are those powers that a person exercises in relationship to and within a governmental structure and which are defined and prescribed by this structure. Government though only has those powers that are delegated to it by the citizens of the commonwealth who established it and thereby granted it those powers. Any Civic rights then are derivative from and subordinate to Civil rights, as: the foundation of the society that established the commonwealth are the Civil rights of its individual members; the power to establish the commonwealth and grant its government the authority to exercise its prescribed functions resided in and proceeded from the society establishing it, and, *ergo*, the Civil rights of its individual members; and Civic rights are only a segment of Civil rights as *a priori* these Civic rights must have had a source and only Civil rights could have been this source. This should be indisputable as the whole is by nature superior to any part, both in quantity and quality.² Civic rights then constitute only the portion of the body of Civil rights that are expressly and unequivocally delegated, and appropriate for delegation, to a commonwealth.³

Most Civil rights are exercised within a narrow orbit and with only minimal impact upon others; to the extent there is an impact, it is of the type that should normally be allowed and tolerated, inasmuch as the exercise of Civil rights by those so impacted will also not be in isolation but themselves will exert some degree of impact. It is only when the impact is so substantial and affects others within a broad orbit that rectification is required.⁴

Civic rights though are exercised within even a narrower orbit. Most interactions between inhabitants of a commonwealth are initiated and ordained by those engaging in them, viz, at the level

¹ The nucleus of each person's identity are his unique experiences and abilities, with Civil rights constituting the essential capability to employ these abilities in the communication and preservation of these identity attributes.

² The whole is axiomatically superior to any part in *quantity*. However it also is inevitably superior in *quality* since the whole is a consolidated body of component parts that integrate with and proportionately balance each other — without which integration and balancing the whole could not stand. As the origin and character of the body of Civil rights is Order, then it is axiomatic that its components do balance and complement each other.

³ Those “Civil rights that are appropriate for delegation to a commonwealth” have been discussed in the author's *Interstice Amid the Fabric of Life* essay and will be discussed in a later post — as well as having been sporadically discussed in earlier posts herein. Addressing them here also would unduly expand the length hereof and, by diverting attention from the focus of this comment, potentially interject confusion.

⁴ As an impact of this extent is the consequence of undue power concentration and utilization, and as the prime role of a commonwealth is to prevent and, if already present, eliminate those concentrations, then there is the agency and duty of the commonwealth to act to rectify those abuses.

of the civil society. Even the resolution of any disputes as to the rights and duties incident to those interactions are resolved conceptually at the civil society level, inasmuch as the judicial function originated within pre-civil society existence and was then conserved and maintained within civil society.

Conversely, government is only engaged when the factors affecting and bearing upon these interactions are too numerous and affect too many people to be efficiently and comprehensively considered and reconciled at the civil society level.⁵ Hence, its functions and activities are inherently proscribed as its jurisdiction is limited to but a subset of social interactions. As Civic rights are only exercised within the perimeters of the governmental structure, their occasion, significance, and impact is likewise limited.

Among those Civic rights is the elective franchise. By the foregoing hierarchy analysis it is clear that it is subordinate in importance to the Civil rights with which the society's members are endowed.⁶

Nevertheless, there are those who assert that the exercise of one's elective franchise is the most-important civic function, and by extension civic right, of a citizen. Others assert that a person who does not exercise the elective franchise has no right to complain about any objectionable exercise by the commonwealth of its powers. With neither assertion can the author agree.

The first assertion is refuted by the circumstance that personal interactions, as above discussed, are the primary, most-significant, and most-numerous activities of any inhabitant of a commonwealth. These personal interactions are central to the existence, life, and viability of a society, with interactions between any inhabitant and the government of the commonwealth being but peripheral. The salient civic function of an inhabitant then is his normal intercourse with his fellow inhabitants, his exercise of his Civil rights in those interactions, and his respect for the Civil rights of the other inhabitants engaged in those interactions.

The civic function of the citizen embodied in the exercise of his Civic rights is but occasional and sporadic, and therefore but peripheral. As the elective franchise is but one of the components of these Civic rights, it is more-peripheral yet.

The second assertion is refuted by the fact that persons frequently form opinions upon policy initiated by foreign governments.⁷ Yet they have no right to exercise the franchise for selection of the magistrates of those foreign governments. Are they therefore enjoined from forming and ex-

⁵ A further justification for the engagement of governmental activities in these limited circumstances is the *visibility* of some of those factors. Even if they are not beyond the ken of the inhabitants to informally consider and resolve between themselves certain elements may not be apparent to them due to their contours being beyond the horizon of the experience of or relevance to some or even most of these inhabitants. Then, and to this limited extent, the interjection of a formal institution that purportedly has access to broader resources, for identification of these factors, is appropriate and necessary.

⁶ Moreover, as the author will address later in this comment, the elective franchise is not only secondary to Civil rights, it is secondary to many other Civic rights.

⁷ By "foreign governments" the author refers not only to those outside of and external to a national commonwealth but also to those composing separate commonwealths within a national commonwealth. For example, for the purpose of this discussion, the State of New York is a foreign government from the perspective of a citizen of the State of California.

pressing those opinions, much less endeavoring to influence those policies?

Let us, though, for argument accept that one's central civic function consists of participation in the citizen's relationship to the government of a commonwealth rather than in the citizen's relationship to his fellow citizens. Even so, the elective franchise remains as a secondary mode of participation.

Exercise of the elective franchise chooses the magistrates who will exercise the powers of the government. The most-important set of those magistrates are those who will compose the legislature of the commonwealth, for it establishes those rules appropriate for supplementation of, and not in contradiction to, Natural Law. Yet the voting for choice of those magistrates is a broadsword, not a rapier.

No person is the exact imprint of any other in perspective or opinions. This perspective and those opinions are formed by the qualities and experiences unique to each person. Each legislator then will depart from the opinions and preferences of each of his constituents on some, perhaps many, issues. Any citizen's choice of his legislator then only occasionally results in the legislator adopting positions on policy consistent with the preferences of the particular citizen. Rather, other avenues are available and potentially more-efficacious in promoting the adoption of those preferences.

One avenue consists of that expressed in one of the rights expressed in US Const, Am I, viz, the right to "petition the Government for a redress of grievances"; parallel provisions exist in the State constitutions. The formal petition process allows the citizens to expressly communicate their explicit preferences to their legislators.⁸ In this we have a rapier rather than a broadsword.

An even more incisive device, and perhaps the most-important part of civil participation, is the oral or written $\neg\neg$ with emphasis on the latter as more-effective $\neg\neg$ expression by a citizen of his opinion on potential or pending legislation; this expression may be directly to a legislator or publicly through some media agency. By this explicit suggestions are provided for policy adoption, revision, or repeal without the burden of the formal petition process.

Moreover, those who communicate their opinion and advice on proposed or pending legislation should be, and at least often are, presumed to have educated themselves to some degree on the subject thereof and the ramifications of the contours of the proposed rules; the aversion to embarrassment in expression of an uneducated opinion will induce reluctance to do so unless the person is sufficiently confident in their position.

Thus, reliance by the legislative body on these expressed opinions, rather than on their vote, will emphasize and elevate both the quality of legislation and the educated portion of the citizenry. Both objectives are invaluable as, one, poorly-conceived legislation will only exacerbate tensions within a society, and, two, enhancement of the proportion of the citizenry that is educated $\neg\neg$ or at least the influence of the existing proportion that has educated themselves $\neg\neg$ can only yield

⁸ There exists also the right to assemble and, in some situations, this may be an even more-effective avenue, by exhibiting broad (and sometimes highly-vocal) advocacy for or opposition to a certain policy or objective. Yet, as this avenue can also occasionally (at least) produce an unruly and hostile environment, it should be more selectively employed.

immeasurable benefits.

Nevertheless, perhaps the most-important civic participation that is available to every citizen, as well as the greatest influence on the legislative strictures, consists of the **exercise of Liberty**, as the effect thereof tests the legitimacy of legislation by confronting its boundaries and determining whether those boundaries are justifiable or excessive. By this are these supplementary rules either confirmed or repudiated.

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16 January 2022