

A. B. A. Committee on American citizenship

AMERICAN CITIZENSHIP

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A SERIES OF ADDRESSES GIVEN
UNDER THE AUSPICES OF THE
COMMITTEE ON AMERICAN CITIZENSHIP
AMERICAN BAR ASSOCIATION

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NEW YORK
THOMAS Y. CROWELL COMPANY
PUBLISHERS

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PRINTED IN THE
UNITED STATES OF AMERICA

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OF THE
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INTRODUCTION

THE American Bar Association was organized fifty years ago for the primary purpose of advancing those things that would make for the better administration of justice. Three years ago, however, the Association resolved that its members had duties as citizens as well as duties as lawyers and thereupon created a committee on American Citizenship, the duty of which is to lead the American people to a more thorough study of the Federal Constitution and the theory of Government underlying the same.

Does anyone question the need of this activity? Then we suggest to him that he ask his neighbor what is meant by a government of limited powers, or ask his minister what is meant by liberty regulated by law, or ask his lawyer the reason for the adoption of the first ten amendments, or ask any man on the street what

is meant by our Bill of Rights, or perhaps ask himself how the Constitutional guarantees of individual rights and liberties protect him and his children.

From our experience and observation we forecast that the answers to these questions would show to him that a very high percentage of American citizens are woefully ignorant of our theory and form of Government. Until our people have some realization of the fundamentals of our Government, they cannot be expected to judge wisely regarding any proposal to amend our Constitution, or any proposal for legislative action that plans to carry forward the general welfare of the people by force of law.

We disclaim the attitude that our Constitution is perfect. It would be presumptuous, indeed, to urge that perfection has ever been reached or ever will be reached by the reasoning of mankind. Improvements in our Government must and will be made, but unless our people have sufficient knowledge to mature their judg-

ment, we may continue to expect attempted cures that are worse than the disease.

We believe in the theories underlying our system of Government. We believe that one hundred and thirty-six years of experience under that theory of government has proven its benefit to the American people. We believe that, among other things, it has tended to develop what we know as American character. We believe that it is largely responsible for the happiest and best developed people that has been known in all the history of mankind. We believe that any changes in this theory of Government should be made slowly and after great maturity of thought. We believe that the results to be obtained should not be measured solely by immediate conditions, but that we should have in mind the far-reaching results that may come to our children and our children's children. We further believe that the American people have not had all of these things in mind when they have for the past genera-

tion approved of governmental centralization at Washington, lessened local self-government through the States, and surrendered individual liberty and responsibility to the domain of law.

In order to carry forward education along these lines, the Committee on American Citizenship arranged for a series of addresses on this subject, to be broadcasted by radio. Through the courtesy of the American Telephone and Telegraph Company, these addresses were sent through their station, WEAJ, in New York, beginning June 2, 1925. They were given on succeeding Tuesday nights, five in all, and aroused much favorable comment. The committee felt, however, that such transitory hearing was insufficient on account of the importance of the messages and have arranged the present publication in book form.

JOSIAH MARVEL,
Chairman.

WHAT DOES THE CONSTITUTION MEAN TO YOU?

An address delivered by radio from WEAJ, New York, June 2, 1925, by John W. Davis, ex-President of the American Bar Association.

NO person can be admitted to the Bar in the United States without taking in solemn form an oath to protect and defend the Constitution of the United States against all enemies, foreign or domestic, and to bear true faith and allegiance to the same. Nor have the lawyers of America any exclusive claim on such a ceremony. Every President of the United States is required to swear on assuming his office that he will to the best of his ability preserve, protect and defend the Constitution. Every Senator and Representative in Congress does the same. Every judge and every officer, great or small, whether in the Federal Government or in the government of any State, from

president to postmaster, from governor to constable, must pledge himself in similar fashion. Even this does not exhaust the list, for every naturalized citizen has made the same formal promise, and although the words are somewhat different, the oath which all sailors, soldiers and marines must take to "bear true faith and allegiance to the United States of America and to serve honestly and faithfully against all their enemies whomsoever" comes to the same thing.

Surely with so many people sworn to its support, the Constitution does not lack defenders. Certainly no man or body of men in the United States can overcome it if these defenders do not sleep or loiter at their posts. Indeed, I for one do not perceive any open enemy of the Constitution whose activities need give the American people the least concern. I cannot get excited about the irresponsible ravings of irresponsible men, who invite the American people to throw away the Constitution or any of its essential parts and

accept some patent nostrum in its stead. Neither do I dread any foreign enemy, whether he comes openly with arms in his hands or in more secret and subtle ways.

The Constitution has but two enemies, whether foreign or domestic, who are in the least to be feared. The first of these is ignorance—ignorance of its contents, ignorance of its meaning, ignorance of the great truths on which it is founded and of the great things that have been done in its name. And the second is indifference—the sort of indifference which leads many people, otherwise well enough behaved, to ignore both the rights and duties of citizenship.

If one should walk down Main Street in any town or city of the United States and ask the first one hundred men or women he encountered, “What is the Constitution of the United States and what does it do for you?” how many different answers do you think he would receive? How much of real understanding would be shown in the replies? If one could tell

that, he would know whether or not any real perils beset the Constitution. Such a survey would be a much surer barometer than a census of all the Reds, Communists and cranks who make up the "lunatic fringe."

No doubt, many could be found, especially if they had not been so long out of school as to forget their dates, who would answer that the Constitution is a document prepared by a convention that met in the City of Philadelphia in May, 1787, over which George Washington presided; that the Convention finished its work in September of the same year, and that the result was ratified by the necessary number of States in 1788 and put into operation in 1789. Here and there a statistical mind would rise to report that it contained something less than four thousand words, with seven original articles and nineteen subsequent amendments. And not a few, perhaps, would be thinking more of the latest amendments, especially the eighteenth, than of all that went before.

Many, no doubt, would exhaust their entire stock of information in saying that the Constitution is a paper describing the frame-work of the National Government, under which we elect presidents, vice-presidents, senators and congressmen.

But before we criticize the answers which others would make to these questions, let us stop to think what our own would be. What would this audience reply? What is the Constitution? How many people have read it from end to end? What does it do for you—not in any vague and general sense by making it possible to have a national government, but for you as an individual man or woman? What reason is there why you should feel any special call to support or defend it? Let me try to suggest an answer in the fewest possible words.

What is the Constitution? In four short words, it is a rule of life. Robinson Crusoe on his desert island needed no rule for the life of himself and his man Friday. But when men come together in any num-

ber they must have rules by which to live and governments to see that they are observed. The Constitution, therefore, undertakes to lay down rules for the life of the government on the one hand and the life of the individual citizen on the other. It describes not only the sort of government the American people choose to have, but the sort of life an American citizen chooses to lead. The promise to protect and defend the Constitution means nothing more than an undertaking to see that the American Government and American lives shall continue according to these rules.

Without going into details, it may safely be said that the cardinal rules which the Constitution lays down for the American Government, making it different from most of the governments that had gone before, are five in number. They are as follows:

First. That all power comes from the people. They are the masters; the government and its officers merely their ser-

vants. In the language of the Declaration of Independence, "All governments derive their just powers from the consent of the governed." And this consent they express in the selection of representative officers to carry on the government in their name. This is the rule of popular sovereignty and representative government.

Second. That the Government of the United States can exercise no powers except those expressly given to it by the Constitution which the people have adopted. It is a rule intended to protect the rights of a minority however small against the power of a majority however large. One man standing on his constitutional rights is by virtue of this rule stronger than a thousand. It is the rule of constitutional limitations.

Third. That no man or set of men shall ever enjoy such power as oriental despots have at one and the same time to make the law, to decide whether it has been violated, and then to execute judgment on the violator; that the legislative, judicial

and executive powers shall never be exercised by the same persons. It is the rule of the separation of powers.

Fourth. That every locality shall have the right to look after its own affairs free from outside interference; that only the National Government shall deal with national affairs, and only the states and their subdivisions with matters peculiar to themselves. It is the great rule of local self-government, which President Coolidge vigorously defended in his speech on Decoration Day, and which is well summed up in the expression that ours is an indestructible nation of indestructible states.

But may I digress long enough to say that the trouble about the encroachment of the Federal Government on the functions of the States is the same as Mark Twain pointed out with reference to the weather. "Everybody complains of it but no one does anything about it." There will always be those who find it easier to go to Congress for an appropriation than

to the legislatures of their several States. There will always be hot reformers who think a federal statute will prove a short cut to the goal they have in sight, and their own reform so important that every other governmental principle must yield to it. For instance, there is in the country today a studied movement to project the Federal Government into the field of education, perhaps the most intimate and important of all the duties which the States are called on to perform. The process is to be, first, the creation of a Department of Education with a Secretary in the Cabinet; second, a series of federal appropriations to state schools made on condition, and, lastly, as a direct and inevitable result, control of the public schools of the country from Washington. Not one syllable of the Constitution gives to the Federal Government power to levy taxes and disburse money to maintain the public schools. No doctrine and no program could be so subversive of the principle of local self-government as this. The Su-

preme Court has just declared that the States have no power to create a monopoly of education and to deprive the parent of the right to choose the school for his child. The free school system in the United States will be no better served by an effort to put it under federal control.

Fifth, and last. In order that these rules may be protected and enforced, that courts shall have the right to say that any Act of Congress or legislature or president or governor or other person whomsoever which contravenes the Constitution is null and void.

It is an interesting observation that, with the possible exception of the Eighteenth Amendment, such restraints as the Constitution contains are imposed upon the Government, and that such rights as it describes are those of the citizen. Accordingly, the Constitution lays down for every citizen of the United States two great fundamental rules. The first is the rule of equality; the second is the rule of freedom. It is the rule of equality that

every person born or naturalized in the United States shall have as of right all the rights and privileges which any other citizen enjoys. No titles of nobility shall ever be granted to set one man or set of men above the rest. No State shall by its laws discriminate against citizens of other States. No one shall be a slave, or serf or subject to any man, but an equal citizen to whom the equal protection of the law shall never be denied; and by the equal protection of the law is meant not merely fair and impartial trials but the protection of laws that are themselves just and equal.

Wherever the citizen comes in contact with the law, and wherever the law touches the citizen, there shall be no distinction of race or creed or condition in life. And under the rule of freedom, every citizen who is willing to obey the laws shall be free to live his own life in his own way in pursuit of his own interest and desires. So long as he respects the rights of his fellows, he may think as he will, speak in

public or in private as he will, and worship God in such manner as he prefers, no matter how many or how few may share in his opinions. All that he earns by honest means shall be his, and no man shall take it from him. Neither life, nor liberty, nor property shall be taken from him except by due process of law, and if by disobedience to law he has lost any of these rights, no punishment can be imposed upon him until he has had a fair and open trial before a jury of his equals. Equality and freedom: these are the constitutional birthrights of every American.

Such are the basic constitutional rules. Are they good or bad? Like every other invention of man they must be tested by the way they work in actual practice. Fortunately, they have been in operation long enough to furnish the test of real experience. When they were laid down, the American people consisted of some three million souls clinging to the Atlantic Coast, the roaring ocean in their front and an unexplored wilderness at the rear.

Today more than a hundred million people occupy a continental area stretching from ocean to ocean, with island outposts in either sea. Millions of men have been born and died in America since that early day, and lived out their lives according to these rules. Millions more have voluntarily crossed the ocean to place themselves under their protection. Great wars have been fought at home and abroad; great crises have been encountered and surpassed, and a poor and struggling nation has become by far the wealthiest and probably the most powerful of peoples; and through it all the rules which the Constitution contains for its government and for its citizens have remained substantially the same. The test of experience favors the rules.

Let us try the test of comparative conditions. If one were to set out overland today from London for Constantinople, he would be halted in his two thousand mile journey at the frontiers of at least six different nations, with customs and

passports to deal with at every one. Here and there he might be forbidden even to enter or remain. Yet taking with him all his family and all his worldly goods, he could go a thousand miles further from New York to San Francisco without meeting the slightest obstacle or any man who had the right to ask for his destination or intention. If he were a merchant trading from country to country in Europe, he would find himself embarrassed at every turn by restrictions on trade. But the American in Maine may trade with the American in California as freely as with his neighbor across the street. In Russia today men's houses have been visited at midnight and the householder seized and cast into prison to languish for weary months or years, with no knowledge of any charge against him or even the formality of a trial. In the United States, the house of every man is still his castle, and if he be arrested, it is the duty of any judge to whom he may apply, whether the hour be noon-day or mid-

night, to cause him to be brought forth and the legality of his arrest investigated.

It is not so long in other lands since men have been imprisoned for their religious beliefs and forbidden certain forms of public worship. In America men may worship as they will, without just loss of any civil, personal or political rights. There are regions in the world where a man who is born a serf today will remain a serf tomorrow. He can hope for nothing better than to follow his ancestral occupation or even to remain a stranger and a sojourner in the land as all his fathers were. But it is permitted to every American parent to hope that his child may lead a broader and a happier life than he himself has ever known. That all these things are true is due primarily to the Constitution of the United States, which stands the test of comparison.

Now the question which this generation and every generation of Americans must settle for themselves, as their fathers have done before them, is whether they

are satisfied with these rules and are willing still to lead the sort of life for which they provide. If they are, they will support the Constitution; if not, they will throw it aside for something more to their liking. But those who offer such advice may fairly be asked what government and what manner of life in all the world they would prefer. If they tell us that we are unhappy, let them name those who are happier; if oppressed, those who are more free; if poor and down-trodden, those who are more prosperous. If we are to change our moorings, let them show us a safer harbor.

Aimless discontent will lead us nowhere. The crack-brained theories of a communistic society may reduce everybody but can raise none, and visions of a happy land far, far away, free from toil and weariness and pain, belong to the next world and not to this. I do not think the Constitution is in danger, for above the clamor of such idle voices as these can be heard the great chorus of

a free, united, prosperous and mighty people, secure in their constitutional liberties, confident of their destiny, and devoted to the great instrument which is both the source and guardian of all their happiness.

THE CONSTITUTION AND MODERN TENDENCIES

An address delivered by radio from WEAJ, New York, June 9, 1925, by Philip Cook, Bishop of the Protestant Episcopal Church for the diocese of Delaware.

TWO things are necessary to make a good citizen: one is brains, the other morals. Morals without brains make for inefficiency: brains without morals make for irresponsibility. It is difficult to estimate rightly from which source our Government suffers the more—from moral men who have no brains or brainy men who have no morals. The really useful citizen must have both.

Government is a matter of first importance to a good citizen: the citizen is of first importance to a good government. They are mutually dependent on each other. Good citizens make good govern-

ment and good government makes good citizens.

Too many of us take good government as a matter of course. We do not realize how necessary we are to government, how necessary government is to us. We hardly realize its power. It is the bad citizen, the lawbreaker who gets into its toils, that comes to know what it can do and will do to those who defy it. Most of us awake to its power only when it takes away large slices of our income in taxes, and, in times of war, puts us into a uniform. An officer in France, suffering the privations of service, said to me: "I never realized before what government could do—how it could call me away from my work and home and put me at such a job as this. When I get back I'm going to interest myself in its work and try to see that such a thing does not occur again." I wonder if he is doing so.

A good citizen will want to know what his Government ought to do, and how he can use his vote and influence to help his

Government accomplish its work effectively and efficiently. It is no whit less important for him to know what his Government ought *not* to be expected to do, or attempt to do, and to use his influence to keep it within the sphere of activity which properly belongs to it. He must know its limits as well as its work.

The good Government, whether of the state or the union of all the States, will "seek to make a more perfect union, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty." This is the wording of the Constitution. But good Government will also refrain from rashly undertaking enterprises and from entering into unwise experiments which seek to accomplish by law that which more properly belongs to other institutions of society, which belong to the home, to the Church, to the forces of education and religion. For there are things which have never been done successfully by law—probably never can be

done by law. Government has its place, a place of vast importance, but it does not occupy the whole field.

What belongs to Government, and what lies beyond its proper sphere, has never been determined with an exactness which satisfies everybody, and the judgments of men as to where the line is to be drawn is a matter of dispute. Some will want Government to attempt more, others insist that it attempt less. Some will want it to regulate our lives even to small details, standardize our morals, and put exact limits upon individual freedom. Others will demand that it leave most of these things alone. What it does in these matters—the direction of its movements in the future will be determined by its citizens. We the people have the last word on this important matter, and that decision demands men of both brains and morals.

It is safe to say that nowhere in the world is there a readier spirit to consider and act upon suggested methods of social

and moral betterment, than is to be found in America. It is one of our most engrossing occupations, to use a phrase of today, one of our favorite indoor sports, as well as one of the things in which we take ourselves most seriously. If there is something which seems out of gear in our social and moral life, we seek its remedy with an enthusiasm which, like the widow's cruse of oil, never seems to fail. The number of social and moral agencies at work on American life cannot be numbered. The organizations which regulate, or seek to regulate our lives are legion. They increase with the passing of the days. Almost every man or woman worth considering belongs to at least one, sometimes to a considerable number of these agencies.

No one of common sense would deny the great value of these agencies, the influence they exert, the principles they teach, the ideals they follow, the institutions they support, the work they do. But too many of these organizations have

taken the position that the easiest and most effective method to do their work is through law and government. When they are seeking to get rid of any social or moral evil, too often the plan they have to suggest is that the social or moral evil be rooted out by legislative enactment. There has grown up a conviction in the mind of an ever-increasing number of people that all our social and moral life requires is some sort of legislative bath—that it is sufficient protection for society to be sprayed by the pure intent of well-meaning laws to counteract the influence of the sins and weaknesses inherent in human nature, or that it be inoculated by the enthusiasm of professional reformers.

This plan of making humanity perfect by the processes of law is so simple that it has its advocates all over the land. They are insistent in season and out of season for increased legislation. They would add still further to the more than seventy-thousand different statutes, state and national, which have been passed already

for our moral guidance and social control. They act upon the principle that it is perfectly feasible, in practice, to legislate our moral and social evils out, and our ideals in, by writing a new law upon the statute book. Those who oppose any one of these proposals are likely to find themselves classed as among the unregenerate, numbered among the publicans and sinners. We have reached the place where we are of all people in this respect the most glib and the most foolish. Every year parts of the country get all worked up over some silly law proposed or passed, which can no more make men over in the habits of their thoughts and lives, than King Canute could stop the rising tide by royal command.

It ought to be as clear as daylight to even a superficial observer of life that the law in the case is not the first but almost the last step in any sort of social or moral change; that any change must have registered itself in the custom of people, must have the approval of sound public judg-

ment before it can be made effective as a law. To put the law *first*—before the custom is established or sound public judgment won—is to reverse the natural order of things. It is to seek to pick peaches before planting the trees. Law is the fruit, not the root of custom. To make the law the starting point is worse than counting one's chickens before they are hatched, for it is like making an omelet from eggs about ready to hatch. The result is not pleasant.

Formerly this sort of thing was chiefly confined to State legislatures, and these bodies still play a large part in legislative programs, but of more recent years it has been carried to Washington and into the halls of Congress.

All this may be interpreted as an attack on the Eighteenth Amendment, which put national prohibition into force—but it has no such intent. This is neither the time nor place for the consideration of any particular enactment. Whether or not the Eighteenth Amendment repre-

sents a national conviction and a sufficiently prevailing custom to become effective in law remains for our citizenship to determine. One thing is perfectly plain with regard to this amendment. It is illustrated by the account of how some graduate fellows of Baliol College, Oxford, were discussing two of their number, both of whom had won a place of distinction in English life—one as a judge, the other as a bishop. A debate arose as to which of the two held the more important place. One sought to clinch the discussion by saying, "Yes, but remember that while a judge may say to a man 'You be hanged' a bishop may say to a man 'You be damned.'" The Master of Baliol, who was listening, replied, "Yes, but also remember that whenever a judge says to a man 'You be hanged', he is hanged."

When the required number of States ratify an amendment, it is passed and becomes law, a part of that framework of all our law, the Constitution; and how-

ever much we may dislike it, no man can continue to disobey it and count himself a good citizen.

My purpose is to call attention to difficulties and dangers which attend the effort of seeking to do by law what the law was never intended to accomplish. Men of character make their own laws, but law seldom, if ever, makes men of character.

The newly-appointed Ambassador to England said in a recent speech that the "Foreign Office of the United States is in the American home!" In that statement he struck the target of fact with ringing spear. But more than that is in the American home; the righteousness of future America is in the home; the character of American citizenship is in the home; the safety of our institutions is in the home; the security of America is in the home. We shall do well to work out in the home, and in the social life of which it is a part, that type of moral high-mindedness which makes the strength of a nation. We shall do well to recall that there

is no proper substitute for the home and its influence. We shall do well to remind ourselves constantly—and none so much as church members—that law cannot do the work of the Church, nor the state bring in that righteousness of God which is inherent in religion.

The Honorable Franklin K. Lane once said in his comments on the Constitution: “There is nothing more absurd than to contend that the last word has been spoken with regard to any of our institutions, that all experimenting has ended and we have come to a standstill status. We are growing. But that does not mean that all change must be growth and that we cannot test by history, especially by our own experience and knowledge, the value of what is proposed as a substitute for what is.”

Within the past years changes have been made in the original intent and purpose of the Constitution. That notable document was framed in an atmosphere charged with the suspicion and fear that

a strong central Government might take a form of tyranny, rob the individual citizen of his liberty, and supersede the rights of the States.

Benjamin Franklin said of the Constitution, as originally drawn and about to pass, that he could not agree with all its provisions. "But," he added, "it is the best Constitution we can get and, if we support it, it will work." Ten amendments were added almost at once, which went further than the framers of it had originally intended, in protecting the liberties of citizens from military, civil, and religious tyranny, and in reserving to the States all powers not specifically granted to the Federal Government. Other amendments have been added in the course of our history, some of which, based on the issues established in the Civil War, have been laxly enforced in certain sections of the country where sentiment against them prevails. But more recent amendments, especially those now proposed and under discussion, tend to take

away from the simple straightforward character of the Constitution as chiefly a statement of principles, and make it more like a series of statutes. Such amendments tend to take from the States the responsibility which belongs to them, by granting powers to the Federal Government formerly held exclusively by the States. They encroach more and more upon the freedom of action of every citizen.

With regard to these tendencies it is enough to say that the Constitution makes definite promise that those who live under it shall have the benefits and blessings of liberty. It does not promise that its citizens shall be either moral or righteous, for no Constitution could possibly promise any such thing. It only promises that they shall be free. A free people have the strongest incentive and largest opportunity to be a moral and righteous people. In the atmosphere of freedom these qualities thrive best. According to this Constitutional principle the surest method of

producing a people strong in their righteousness and morality is not by restricting their liberty, but by securing it to them in fullest measure. To depart from that principle is to depart from the spirit of the Constitution and enter upon ways of experimentation which lead no man knows where.

The reason usually advanced for granting powers to the Federal Government which belonged solely to the States, is that the States are no longer strong and effective enough to cope with the affairs of modern industry and commerce or with strongly entrenched corporations and other organizations which care about as much for State control as for the buzz of a bumble-bee. But surely the way to make State government strong is not by taking away from its responsibility nor by over-ruling its powers, but rather by increasing both. Give a dog a bad name and he might as well be hung at once. Let the impression go forth that States

are indifferent and inefficient, and people will believe such to be the case.

State government is as much an integral part of our system as the Union of the States. Neither can be limited or destroyed without disastrous results to our system. There is a sense in which it may be almost said that Daniel Webster by his work in the senate, by the clear-sightedness of his statesmanship and power of his eloquence, called a nation into life when he showed that this Government could continue only by the Union of the States. But by going too far in this direction, by making the States entirely subservient to the Union, it is possible to strike a fatal blow at our system of government and reduce the States to mere names, like the provinces of France.

The Constitution was framed with the famous phrase of the Massachusetts bill of rights in mind, "To the end that this may be a government of laws, not of men." We know the intent of such a phrase, but there never was and never

will be such a Government. Government will always be a Government of men, and neither the whole nor any part of it will ever be any better than the men who control it.

The whole question comes back to the type of citizenship displayed by its people—its hundred and ten million citizens—comes back to whether or not we are fit for freedom, or able to make our own wise laws and obey and enforce them when made. It comes back to whether we shall continue to make laws for others to live by, which we ourselves are not willing to obey or enforce.

The type of its citizens will determine the worth and character of a Government. To every citizen a clear and definite understanding of the kind of government embodied in the Constitution is a necessary equipment of citizenship.

With the Bible and the Constitution read and known in the homes of the country,—the one to set the standards of moral conduct and religious conviction, the other

to guide political procedure and principles of democracy,—the future of America may be said to be reasonably secure, and in that security lies the strongest hope for the security and peace of the world.

STATE RESPONSIBILITY

An address delivered by radio from WEAJ, New York, June 16, 1925, by Albert C. Ritchie, Governor of the State of Maryland.

IS it better to concentrate the powers of Government, or is it better to distribute them? Is it better to centralize the governmental structure in one place, so that all its activities reach out from there to all parts and peoples of the country; or is it better to divide up the country, along natural and appropriate lines, into different units, and leave the people of each unit free to govern themselves, except as to matters which concern them all and to which a uniform standard can be applied?

For this country that question was settled by the adoption of a government in which only two classes of powers were centralized. First, those powers which affect our relations and contact with other

nations. These must be centralized so that our foreign policy may be a united one. Secondly, those powers which the Federal Government must have in order to operate as a government at home; powers which affect everybody in the country, and which, therefore, have to be exercised for everybody by a central authority. In all other respects the people were left free to govern themselves through political units or states, set up for that express purpose.

It was one hundred and thirty-eight years ago that this distinction between the functions of the Federal Government and of the State governments was made. One hundred and thirty-six years ago the States began to assume the responsibility thus placed upon them,—the responsibility of dealing with every governmental purpose not national or international in its scope in such manner as their own people willed.

This view of State responsibility was sound. It is still sound. On no other

theory is national unity and national harmony possible in a country of 110,000,000 people, who include 14,000,000 of foreign birth, as well as a great colored population, residing throughout a territory 3,000 miles from sea to sea, comprising agricultural communities and industrial communities, urban settlements, rural areas and the vast spaces of the West, and reflecting everywhere differing opinions, wants and needs.

For a century and a quarter this theory was the base rock of our institutions. For a century and a quarter the States fulfilled their responsibility of local self-government, within the field reserved to them, as their peoples willed.

These were the years which witnessed the growth and development of the country from small beginnings to the greatest nation on the earth. We grew from thirteen States to forty-eight States. Foreign possessions were added to our domain. The sail boat was superseded by the ocean liner, the stage coach became the trans-

continental railway, Morse gave us the telegraph, Bell the telephone, and the Wrights conquered the air. In business and finance, in industry, in agriculture, in medicine, in science and inventive genius, we were surpassed by none.

We did all this in the span of a century and a quarter, and with the States meeting and fulfilling all the responsibilities which the Constitution placed upon them. Indeed, with the one exception of writing into the Constitution the political amendments which reflected the result of the Civil War, we did it all without a single change in our organic law as it had existed for more than a century.

Thus our country continued down to the beginning of the last decade, or nearly to it. And it has remained for this last decade to witness an increase in Federal power and a decrease in State responsibility which constitutes a governmental revolution. Only a short ten, or at most twelve years, but this has sufficed to wrest from their moorings definite and long set-

tled principles. It has sufficed to fashion institutions entirely foreign to the philosophy under which our Government grew to world ascendancy.

Consider the revolution which the past twelve years have wrought in the Federal Government's power over the earnings and property of its citizens. Upon nothing were the men who drew the Constitution more determined than that the Federal Government should never exercise the great power of taxation in an arbitrary or despotic manner. So in the Constitution itself they placed clear and exact limitations on the exercise by Congress of its taxing power.

Under these limitations, for a century and a quarter the Federal Government could levy no direct tax unless it was distributed among the States on the basis of the number of their inhabitants. In 1913, the Sixteenth Amendment was adopted, and this provided that one kind of a direct tax need not be apportioned among the States on the basis of popula-

tion. This was an income tax—the easiest and most tempting of all ways for the Government to raise money. In the case of an income tax, the requirement of apportionment, which the Constitution had imposed for the protection of the people, was removed, and no other limitation put in its place.

Therefore, there is now no limitation on the Federal Government's power to tax incomes. It can tax them as high as it pleases. It does tax them to the aggregate amount of \$1,644,883,576. It can take as much more of the citizens' earnings as it wants. The Government's power is complete, arbitrary and despotic. Nothing like it was ever contemplated. On the contrary, the very thing was denied.

So much for the Federal Government's new-born power to take the income from labor and property during life. Now for the Government's power to take property itself upon death.

There have been altogether four Fed-

eral inheritance taxes in this country. The first three were avowedly war measures. They yielded comparatively little money, and all were repealed within a few years, as soon as the war necessity had passed. The fourth is the present Federal Estate Tax enacted in 1916. This was not passed as a war measure at all, but as a revenue measure in time of peace. Subsequent amendments doubtless had war expenses in view, but the war ended nearly eight years ago, and the tax is still here. The maximum rate has risen from 10 per cent to 40 per cent. In 1924 it yielded \$102,000,000, and the estimated yield for 1925 is \$114,000,000. Except in great and sudden emergency, the proceeds from a tax of this kind do not belong to the Nation at all. They belong to the State in which the citizen who possessed the property lived, because it was under that State's protection that he worked and acquired and invested his earnings. For exactly one hundred and twenty-seven years the Federal Govern-

ment recognized this. For one hundred and twenty-seven years the Government regarded no emergency except war sufficient to justify it in taking any part of the citizen's property upon his death. For one hundred and twenty-seven years it released this source of revenue to the exclusive use of the States again as soon as the war was over. But nine years ago the Federal Government adopted an inheritance tax as a permanent, peace-time revenue measure, and under it takes and therefore destroys as much of the citizen's capital as it pleases, as soon as he dies.

Consider, next, the hold which the Federal Government has taken upon the very heart and life blood of industry—power. Under the interstate commerce clause of the Constitution, the Federal Government has the right to exercise jurisdiction over navigable streams, in order to keep navigation open. Under this authority the Government asserts control over every water-power development in the country, if the stream is navi-

gable at its mouth or anywhere below the development. At the point where the power is developed, the stream may be non-navigable in fact. The development may have not the slightest effect upon navigation below or at the mouth, perhaps miles and miles away. Yet on the claim that it might have some effect, the Government regulates such development to the minutest detail.

Since practically all streams capable of water-power development do finally become navigable at, if not before, the point where they empty into the Oceans or the Lakes, the Government under this theory asserts control over practically every water-power development in the land. When this control has become complete and linked up, the Government contemplates apportioning the power among the States.

The Government has for years exercised control over the railroads. This is proper, as interstate transportation is one thing which, with the growth of the coun-

try, has overlept State boundaries. But to railroad control the Government now adds the control of hydro-electric power, which is the life of a vast portion of our industry at present, and perhaps of all industry in the future.

There must be those who believe that American institutions were builded wisely and soundly. There must be those who believe that the American character and the American resources which were the proud products of the first century and a quarter of our governmental existence, reflected, in large measure at least, State fulfilment of State responsibilities.

What must those of you who believe this think when you behold a Federal Government which, in a short twelve years, has acquired the power to take as much of your earnings as it wants, while you live; and your property, if it wants, when you die; and which does both these things; and now reaches out to grasp the force and energy which make the wheels of all industry turn, and with this added

to the control of transportation it already has, will hold within its hand not only the earnings and the property of the citizen but the industrial life of the nation as well.

And what of the individual's personal rights and freedom? For the destruction of State responsibility does more than destroy or imperil property rights; it destroys or imperils liberty and freedom too. Both these things—property rights and personal rights—are dependent upon the State. They can only be safe when the State is free to fulfil its responsibility of local self-government guaranteed by the Constitution. Neither is safe when control over them proceeds from a central source.

The advocates of Federal control over child labor are doing their part to strike down State responsibility. They will not trust the States to legislate fairly and humanely in this great field so clearly and so properly left to them by the Constitution. They seek to nationalize and standardize the control of the child.

The advocates of Federal control over education are doing their part to strike down State responsibility. They will not trust the States to educate their children as seems best to them, a right clearly and properly left to the States by the Constitution.

The advocates of Federal Aid are doing their part to strike down State responsibility. They will not leave the States to build their own roads and internal improvements, to develop their own agriculture, to exact their own health standards. They prefer instead that the Federal Government, in exchange for its munificence in paying back to the States money which it taxed them first to raise, should exact the right of Federal control and supervision over local works and local affairs which the Federal Government could not possibly exercise directly under the Constitution, or in any other way than through this subterfuge.

So the story could go on. And its inevitable sequel goes on, too,—local con-

ditions met with standardized Federal remedies, instead of by the people back home in their respective ways; resentment at laws and regulations which reflect not what the people at home need, but what others somewhere else want them to have; incentive and initiative giving way before the deadly effects of paternalism and standardization; ever-mounting expense of Federal Bureaus, whose personnel has grown twenty-five per cent since 1914 and five times faster than the population of the country; Federal inspectors and investigators, often irresponsible and incompetent, continually prying into business which ought to be private and into affairs which ought to be personal, and exercising supervision and demanding reports and audits of almost every conceivable kind; and lastly, when the individual finds himself confronted with the obstacle of incompetent red tape, he is utterly unable to see and present his case to the Federal official who is theoretically in charge, as could be done without diffi-

culty to the State official who ought to be in charge.

And is not this new order amazing in the swiftness of its coming and in the destruction it has wrought?

It is indeed a new experiment in government, ordained for a new sovereign land by the men whose valor and whose sacrifice had won independence and who to fashion it drew on all the lessons taught by the rise and fall of nations in the centuries gone before. The pages of history had taught them that the government which would secure for them and their posterity the blessings of liberty was one which struck the balance between Federal power, on the one hand, and State responsibility and individual freedom, on the other. On that rock they builded, and to them and to their posterity came in truth the blessings of liberty.

For a century and a quarter these blessings were preserved inviolate and they enveloped the land as it progressed to leadership among the nations of the

earth. And then, in a short twelve years, these blessings are stricken and wounded one by one.

May it not be too much to hope that they are only wounded, and not destroyed. May it not be too much to hope that in the nearness of time the pendulum may swing back again. May it not be too much to hope for a rededication to the constitutional guarantee of State responsibility; which for so long a time made the blessings of liberty secure!

METES AND BOUNDS

An address delivered by radio from WEAJ, New York, June 23, 1925, by Luther B. Wilson, Resident Bishop of the Methodist Episcopal Church for New York.

IN the transfer of realty there is a description of the land conveyed by metes and bounds. These lines and measurements are commonly given in relation to land-marks, the existence and continuance of which are assumed.

To a plain man, an unofficial observer such as the speaker, it would seem that the Constitution of the United States is like such a deed, for it is a grant of authority made to a Central Government by certain States at the time sovereign and independent though loosely bound together in a confederation. The metes and bounds of the Federal Government were naturally of the greatest interest and importance. The Confederation had not been able to

secure the objects contemplated when the Independence of the colonies was declared. A stronger Central Government, however, involved the extension of its authority and this could only be by the surrender of prerogatives and powers which the States themselves or the people had possessed and exercised.

Chief Justice Marshall has said that the powers conveyed by the Constitution are enumerated rather than defined, but the leaders of the day understood the values with which they were dealing and many of the questions considered by the Convention of 1787 had already been under the scrutiny of men worthy to be regarded as masters of statecraft.

So sensitive was the American mind, so delicate the subject to be considered, that the proceedings of the historic Convention were conducted under the pledge of strictest secrecy in order that every embarrassing interference might be avoided. It was the question of metes and bounds that was chiefly at issue. Were the old

Articles of Confederation only to be revised? Or was a virtually new grant to be made? How far could the Convention go? What should be ceded by the States, and what retained? What concessions on the part of the larger States should be exacted by the smaller as a condition of union?

Few even of those now honored as the founders of the Federal Government were, at the opening of the Convention, sanguine as to the outcome, but as the discussion continued, those who spoke for the larger States conceded to the smaller equality of representation in the national senate, and little by little, under the persuasive eloquence of such statesmen as Madison and James Wilson, the rare diplomacy of Benjamin Franklin, and the commanding personality of George Washington, the draft of the Constitution was wrought out, an instrument which its proponents modestly affirmed was the best which, under the circumstances, could be devised.

Such was the moderation of its makers, but many of the leading statesmen of the world have regarded it as among the most "wonderful works ever struck off by the brain and purpose of man." Many of the republics later formed have paid our Constitution the tribute of their imitation.

Sent down by the old Congress to the several States for ratification, the arguments of such objectors as Luther Martin were repeated in the State Conventions, and even so illustrious a patriot as Patrick Henry opposed ratification, but Alexander Hamilton, who seems to have contributed but little to the Constitution at Philadelphia, addressed himself wholeheartedly to the cause of its adoption with Madison and Jay as his most notable associates, and at length the leaders, who had wrought more wisely than they themselves knew, had the joy of seeing the foundations of Federal Government firmly and finally laid.

The central authority, weak and ineffective under the Articles of Confedera-

tion, was adequately strengthened for its gradual ascent to that place of pre-eminence which today it occupies among the nations of the world.

The boundaries had been drawn and yet for long years it was contended by strong men that the enactments of the National Congress might be nullified by the individual States, and that States displeased with the Federal policies might withdraw from the Union. It was argued that secession is the State's remedy of last resort. But at length, under the shadow of the Civil War, chiefly by the leadership of President Lincoln, who believed that the preservation of the Union is a vital condition for government of and by and for the people, it was established that so far as the States are concerned the National Government has the right to live, and that this right must not be vitiated or invalidated by the withdrawal of a single State.

President Coolidge in his recent Memorial Day Address said: "The evolution of

the Constitutional system has consisted largely in determining the line of demarcation between State and National authority." At different stages in the development of the Nation discussion concerning this line of demarcation has been studied in its relation to different subjects, as, for example, domestic slavery, commerce, public morals, child labor, taxation. Not infrequently discussion has been acrimonious; sometimes the contestants have shown the milder mood, but the distinct political theories of which Hamilton and Jefferson were the respective exponents, are in evidence now as at the beginning.

It would be well worth while to cultivate the judicial mind and so to harmonize our theories, if that were possible, that we should see State's Rights and Federal Rights as complementary rather than antagonistic. The harmony of central and local authority can be really secured only as zeal for common ideals is stimulated in State and Nation; only as the central

and local authorities are committed to the same general program. Superficially, such identity of aim may be had by Constitutional amendment, an expedient not only justifiable but inevitably demanded under certain conditions, but an expedient of largest promise when proposed not as a penalty for local indifference or opposition to policies generally approved, but as a plan for the coördination of governmental forces presumably already sympathetic.

Chief Justice Chase characterized the Federal Government as the indestructible Union of indestructible States. The accuracy of this phrase has more than once been seriously doubted. It can not be questioned, however, that what the Chief Justice stated ought fitly to represent the fact. The strength of the Nation can not be permanently maintained except as the States themselves are strong.

It is fair to assume that the changes already registered in Constitutional amendment have been made in good faith, but

it is to be remembered that only such powers as are distinctly enumerated have been granted to the Central Government, that all other powers are reserved, and there should be insistent demand that groups, whether gathered as old-fashioned political parties or as modern blocs, should recognize the fact that our metes and bounds indeed determine the limitations of possession and use, but are also the guarantees against encroachment.

Within Federal Government there is a division of authority into legislative, judicial and executive. This division, according to the Constitution, follows the classical formula adopted by Massachusetts in 1780 and we come again to the question of metes and bounds. In general it may be said that laws have their enactment by the Legislative, their interpretation by the Judicial, their enforcement by the Executive. It will, however, be remembered that the veto power of the Chief Executive and the provisions governing the making of treaties serve in these mat-

ters to unite the Legislative and Executive while, however, in respect to other things the limitations of authority are carefully observed.

It is not only logical but at once apparent that the Legislative, in the enactment of laws, must provide the means also for their enforcement, for laws are not automatically effective, and the Legislative must not pass on to the Executive a task impossible of performance.

Hamilton in the *Federalist*, however, expressed the judgment that "energy in the Executive is a leading character in the definition of good government." The Executive must not put odium upon the Legislative by indifference or inefficiency. If, by its negligence, it fails to enforce the law where fair provision has been made for enforcement, then the Executive is practically in contempt not only of a coordinate branch of government but of government itself. Enactment contemplates enforcement.

In the matter of treaties the Legislative

and Executive are united in responsibility. Neither one may ignore the other. The Executive takes the initiative but the conclusion must be by and with the advice and consent of the Senate. The situation is often tense; almost always delicate.

In the Constitutional Convention the things of transcendent value were secured by the sacrifice of lesser things. It would seem altogether reasonable to believe that an imitation of the farsighted diplomacy of our founders would almost invariably lead to agreement, but in any event, it is not too much to insist that our representatives in high place maintain that attitude of mutual respect which will prevent the humiliation of the Government in the sight of other nations.

The Judicial has no right to vitiate enactment by interpretation. It must uphold and not annul the laws, unless the enactments are clearly in contravention of Constitutional principles. Even here the benefit of all reasonable doubt must be given to the Legislative. The Judicial

will not sit in judgment upon the motive which is behind the law. That is to say, the Judicial very properly assumes in the most formal and impressive manner the wisdom and good faith of the Legislative.

But the Judicial, in a certain significant way, is the ultimate authority in our form of government. Fiske has declared that "but for this system of United States courts extended throughout the States and supreme within its own sphere, the Federal Constitution could never have been put into practical working order."

The method of constituting and maintaining the personnel of the Judiciary indicates the peculiar place it occupies in our system, and it has been stated "that the Supreme Court is not only a court of justice but, in a qualified sense, a continuous Constitutional convention." "It continues the work of the Convention of 1787 by adopting through interpretation the great charter of government." *

* See "The Constitution of the United States," by James M. Beck, p. 221.

Sometimes, in the fever of a political agitation, it has been proposed that the opinions of the Supreme Court should be subjected to review by some other branch of the Government or submitted by referendum to the citizenship of State or Nation. That, of course, would be to constitute a court superior to the Supreme, and legal procedure begun with the impressive ceremonials of representative government would be ended with the unseemly confusion incident to an appeal to passion. Our interests are safe only when the lines of governmental division are most scrupulously observed.

There is one other point where it seems of first importance to take account of metes and bounds. It is the citizen himself. Every law in effect is a limit to individual impulse, for there is no place in this country for unrestrained individualism.

In one of its most recent decisions, for example, the Supreme Court spoke as follows concerning the right of free speech:

“It is a fundamental principle long established that the freedom of speech and of the press which is secured by the Constitution does not confer an absolute right to speak or publish, without responsibility, whatever one may choose, or an unrestricted and unbridled license that gives immunity for every possible use of language and prevents the punishment of those who abuse this freedom. That a State in the exercise of its police power may punish those who abuse this freedom by utterances inimical to the public welfare, tending to corrupt public morals, incite to crime, or disturb the public peace, is not open to question.”

But, on the other hand, it is intended that this citizen shall be the beneficiary of every law enacted. He is a citizen of the United States and of some particular State, with a just and indefeasible claim to its immunities and privileges. His ancestors may have been aliens but, except for certain particular offices, once naturalized he has a citizen's rights. His forbears

may have suffered all the disabilities of the bondman but amendments to the Constitution have given him the status and consequent rights of a citizen. So long as he violates no law he must not be molested. If it is asserted that he has violated the law, the presumption is of innocence until guilt be established. The violation must be of some law already upon the statute book, for there can be no *ex post facto* enactment to meet the case nor, so far as he is concerned, can there be legislation which makes the crime graver than it was when committed:

If convicted by due process, there can be no unusual punishment devised for him. This the Constitution will not allow. You may criticise but must not intimidate him; that is of the nature of attack. You may deny him the privileges of social fellowship but you must not penalize him because of color, race, or creed. To do that is to reduce by so much the value of his citizenship.

The law may punish the offender but

can not pass on to his descendants the odium or disability attaching to him. The recent decision of the Supreme Court in the Oregon school law is a most impressive affirmation of this man's rights as against invasion by unconstitutional legislation, and those rights are sacred not because he is rich or wise or popular, but because he is a citizen. No true American will break over the metes and bounds which hedge him about. To do that, under any plea or pretence, is to put prejudice in the place of law; it is not to honor but to insult the flag, and there can be no greater peril to any well-ordered government than indifference to its metes and bounds or the deliberately contemptuous treatment of them.

It is very human to inveigh against restrictions which we do not like, and it is very easy, by ill-advised speech, to encourage not only hostility toward individual laws but contempt for law itself. The danger of such a course is the greater and the offense the more flagrant by the meas-

ure of the respect in which the critic is held or of the influence which he exerts. Let us require of those in public leadership respect for the Constitution under which they live and labor, and demand of those in public office loyalty to the Constitution which they have solemnly sworn to uphold for, after all, the metes and bounds have their full and proper meaning only when our leaders lead aright and when the administration of governmental authority is in the hands of those fitted by education, discernment and character to represent us at our best.

If we are already citizens by birth or naturalization, we must allow nothing to impair our sense of obligation to the Government which exists for our good. Nor must we allow any circumstances however irritating to prevent the appropriate expression of our personal obligation in the promotion of those great aims which are, and ought to be, the major concern of Government. Let us set ourselves against sullen indifference, upon the one side, and

the cynicism of an assumed superiority upon the other.

If we are aliens and yet enjoy the privileges of residence in this favored land, we may well ask of ourselves what is fair, what is expedient? President Coolidge has written: "To live under the American Constitution is the greatest political privilege that was ever accorded to the human race."

It is our country; its destiny is, for the present, in our hands. It is our Constitution. Upon it we have been building through the years and by the blessing of God. Upon it we hope to build the still stronger, richer, nobler nation yet to be. Let us give intelligent thought to the problems of limitation and guarantee against encroachment, but let us not study these problems in the spirit of a narrow and exclusive selfishness. After all, the State and Nation will mean most to us as we mean most to our fellow citizens and our country. Taking the broader, longer look and hospitable toward the

idealism which commands at once our sympathy and our judgment, let us face the challenging fact that the world will mean most to our country and ourselves, as we and our country mean most to the peace and the welfare of the world.

THE DECLARATION OF INDEPENDENCE

An address delivered by radio from WEAJ, New York, June 30, 1925, by Charles E. Hughes, President of the American Bar Association.

WE are on the eve of the celebration of our national holiday, when we recall the heroism and statesmanship, the daring, the sacrifices, and the political genius of those who gave us our country. It is a day of recreation and enjoyment, but it should also serve for retrospect and reflection.

We go back to a time when thirteen colonies stretching along the Atlantic seaboard, with a total population of less than four millions, were smarting under the injustice of the denial by the British Crown of the rights of local self-government. They had sought to maintain these rights without sacrifice of allegiance to the mother country, and a little tact and rea-

sonableness on the part of the British Government would have saved that allegiance. But when it became clear that the colonists could not be free without being independent, they determined to be both. Their reasoned remonstrances and petitions had been met by fleets and armies, and they had been constrained to resort to force in their defense against force. They had at once proved their mettle. Lexington, Concord, and Bunker Hill had given them confidence. For "God save the King" there began to be heard "God save the People."

The crisis had come in New England, but the menace to their liberties and the necessity of common effort to protect them was felt throughout the colonies. The voices of the patriots in Virginia sounded the same note as those of Massachusetts. The men of Moore's Creek in North Carolina responded with equal zest and courage to the challenge of their brethren of the north, and the militia of the southern colony had risen on every

country side with the same spirit that the New Englanders had sprung to the relief of Boston.

When Washington, who had taken command of the Continental Army, had forced the evacuation of that city by the British in March, 1776, the actual war had gone so far that it was high time that the colonists should realize their destiny and declare their independence. North Carolina definitely led off by authorizing her delegates in the Continental Congress to concur in "declaring independency." The Virginia Convention resolved to propose to the Congress "to declare the United Colonies free and independent States." Other colonies followed suit, and on June 7, 1776, Richard Henry Lee of Virginia presented to the Congress the resolution: "That these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British Crown; and that all political connection between them and the state of Great

Britain is, and ought to be, totally dissolved.”

But there were able and sincere patriots in the Congress who thought it was yet too early for such an action and it was decided to reserve the question for three weeks so as to give all the colonies opportunity to advise the Congress of their decision. By June 28, twelve colonies were committed, and New York, peculiarly exposed and apprehensive, alone hesitated.

On July 2, 1776, by the vote of the twelve colonies, the Congress resolved upon a declaration of independence and a committee to draft the declaration was appointed consisting of Thomas Jefferson, Benjamin Franklin, John Adams, Roger Sherman and Robert Livingston. The young and brilliant Jefferson, of rare culture and extraordinary political insight and gift for leadership, as the representative of Virginia, which had brought forward the resolution, was chosen to prepare the declaration, and to him we owe

the immortal document which was formally adopted on the fourth of July. On July 9, New York gave her approval and the thirteen colonies stood united in the purpose to assume among the powers of the earth "the separate and equal station" to which they were entitled.

The Declaration of Independence has been severely criticised as extravagant in its denunciations and unsound in its philosophy. But criticism is short-sighted which fails to take account of the exigency, the purpose, and the pith of the statement. A rallying cry was needed that hearts should be quickened and resolves fired with a new zeal. It was necessary to give emphatic expression to the consciousness of wrongs inflicted and to lofty political ideals. John Adams criticised it for lack of originality, but it was better than original. The Declaration spoke with the tongue of Magna Charta, the Petition of Right and the Bill of Rights. It gathered up the arguments and remonstrances of the generations

which had been struggling for political liberty, and has well been described as “the most commanding utterance in any age, in any language, of national grievances and national purpose.”

Its assertions “that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness,” “that to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed,” which have been called “glittering generalities,” are infused with the spirit which has made possible every successful contest for emancipation.

It is said that men are not created equal, and it is self-evident that they are unequal. They have different inheritances, different environments, different capacities, different aptitudes, different tastes. These differences mean inequalities. There are inequalities due to what is natural and to what is acquired; they are disclosed in

the zest for life, in diligence, in opportunities themselves and in the keenness which perceives opportunities and the intelligence which makes use of them. But the Declaration was an affirmation of political aims and political standards. Whatever our differences in capacities and aptitudes, we are entitled to stand as equals before the law.

There must be no inequality due to political privilege or exploitation. The free citizen has a right to the impartial administration of justice, which knows neither rich nor poor; to the equal protection of the laws, which means the protection of equal laws; to the exercise of political privileges without distinction of rank or class. We cannot be free unless in this sense we are equal, and the Declaration describes this right to be free of the curse of political favoritism as God given and unalienable.

The Declaration denounced the denial of the right of self-government and the wrongs suffered at the hands of the Brit-

ish monarch who wished to impose his personal rule. Today it denounces every effort to subject the interests of the people to those of any class; it denounces every insidious attempt to establish a dictatorship of any sort; it utters its protest against every unjust special privilege, against the prostitution of office, against the purchase of political power by favor, against every endeavor to convert administrative authority into the intolerable arbitrariness and excessive interferences of bureaucratic government; its doctrine presents unyielding opposition to every denial of political right or opportunity because of race or creed.

Understand it, go to its heart and to the substance of its meaning, and you have the essence of Americanism, the reason and purpose of representative government maintained by men and women who believe in equal political rights and who exercise these rights with a sincere appreciation of the dignity and inviolability of the individual who is entitled to

be protected in life, liberty, and the pursuit of happiness.

We are more interested in what the fathers did than in what they said. The Declaration would have been but a vain thing if they had not had the courage to fight as well as the ability to talk. Their success in arms, under the leadership of Washington, gave them opportunity, but the more perfect Union was yet to be established. The question remained, and it took years to solve it, whether the colonies free and independent would constitute discordant groups of agitators and zealots, enthusiastic for liberty but unable to safeguard it, or whether they would display the genius and wisdom of coöperation through a government which would provide the orderly processes favorable to liberty and progress.

The Declaration of Independence asserted that the colonies "as free and independent States" had "full Power to levy War, conclude Peace, contract Alliance, establish Commerce, and to do all other

Acts and Things which Independent States may of right do." But if the colonies, united for victory against Great Britain, had continued to exercise these powers, independently and against each other, that victory would have borne sour fruit. It was necessary that there should be a Union, a national government with all the powers within the field assigned to national effort which are appropriate to national sovereignty, and that these powers should spring directly from the people, who in national concerns should be one people and not a confederation of States.

Contrast, then, the words of the Declaration with these of the Constitution: "We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of

America." These are the words which crown and justify the Declaration. But the States remained sovereign within their sphere, affording the priceless advantage in the maintenance of local self-government not dependent upon a national or central authority. The States differed in size, in population and in wealth. It would have been fatal to attempt to equalize them. They had to be taken as they were, similar in many respects, but with different traditions, practices and economic opportunities. Our fathers had the genius of accommodation and thus we have the extraordinary advantages of adequate national and local authority with distinct sources of power.

Since that time, thirty-five States have been admitted to the Union on a footing of equality with the original States. These are different in size, in wealth and population, but we have the same need of this practical adjustment. You could not destroy the States or abolish their inequalities if you would. You cannot alter them.

They remain entrenched in local sentiment and constitute our assurances of local self-government. If we did not have States of some sort, we should have to find a means to create them. With our vast population and extent of territory, government would become impossible without some measure of decentralization. There is no use in decrying today, any more than there was at the time the Constitution was adopted, the inequalities of States; rather let us understand their advantages, prize the traditions of local self-government that they afford, make them efficient and self-reliant in their spheres, and be grateful that with this chance to control our local affairs we still have a nation equipped with every power of sovereignty needed for the national security, for our dealings with foreign powers, and for the regulation of interstate and foreign commerce with its increasing intimacies and novel facilities.

We read the Declaration of Independence as the powerful utterance of men

capable, not only of achieving independence, but of giving us this remarkable organization of government which has stood the severest test of an unprecedented expansion in every activity, in numbers and concerns.

The fathers, recognizing the necessity of government, had no notion that the individual should be the creature of any arbitrary power. "That to secure these rights," said the Declaration, "Governments are instituted among men." After providing for the organization of the Union, there was the insistence on the adoption of the Bill of Rights incorporated in the first ten amendments of the Constitution, providing for free speech, free press, free assembly, the right to worship according to one's conscience, and other privileges and immunities as against any action of Congress. The same demand bore fruit in the guarantees of liberty in our State Constitutions. So that we have the unusual arrangement of national government appropriate for na-

tional needs, local government for local needs, and as against every executive and legislative action, the protection of individuals, of those in the minority, in their fundamental rights.

How could these rights be maintained and these guarantees enforced? Not by the Congress or the legislatures, which themselves were sought to be restrained; not by the Presidents and Governors who were to be controlled. There was only one way, and that was through the judgment of impartial and independent men learned in the law and experienced in its application, placed in judicial tribunals and charged with the duty of enforcing the Constitution as the supreme law. To them was thus confided the protection of the rights of individuals against the abuses of their representatives, against temporary passions and demands which would over-ride the essential liberties of the citizen.

This safeguard is more important today than ever, as well organized groups

by propaganda, even by a sort of terrorism, seek to dominate legislatures. The courts are human institutions and as such display imperfections, but reinforced by our traditions, freed from the gusts of political passion and unreason which sweep through legislative halls at times, as little beset by temptation as is humanly possible, and supported by the respect of the community, they in striking measure have justified our confidence, and whatever may be said of their shortcomings, hold by far the best record of all the departments of government. These constitutional guarantees have imposed the requirement of deliberation and have brought the efforts of transient and oppressive majorities to the calm test of fundamental conceptions of liberty and justice.

Where in the world have the principles of the Declaration of Independence had better observance? Where is the individual so secure in the opportunity to gain a livelihood, to obtain an education, to

enjoy wholesome recreation, to get the full advantage of every invention promoting convenience and comfort, to profit by thrift and to improve his condition? Where are standards of living higher, and where is life itself more worth while than in this beloved country of ours, blessed with institutions under which, with full play for the processes of reason, free men and women can work together for their own and the common good?

It would be easy to point out defects. Undoubtedly abuses exist on every hand. No government or society can escape the ills due to evil purposes, and any just measure of liberty can be abused. But you do not need to burn your house to get rid of rats. You do not need to overturn our institutions in order to secure better administration. With our opportunities for investigation and correction, there is no remedy in disorder. There is no promise of betterment in promoting class hatred. There is no prospect of advantage through uprooting the tree of life

whose fruit we have enjoyed. There is no evil which cannot be cured by peaceful measures and through the use of the instrumentalities which our institutions provide. Those who counsel disorder, the mischief-makers who, if they had a chance, would plunge us into the desolation and inflict upon us the privations and cruelties which are manifest in those places where their efforts have been successful, are not prophets of liberty, or of a happier day, but of oppression, of the brute force of a class dictatorship, of a tyranny which is ruthless in stamping out every right and privilege of those who oppose it.

After making allowance for every evil, and striking a fair balance, it is apparent that in the United States there have been realized, more fully than ever attained by a great population, the aims and ideals of the Declaration of Independence. How are we to conserve what we have and rise to higher levels? Our advantages will not be conserved by citizens who are indifferent to their trust. You have no right to

talk of your Americanism, to speak of your veneration of our Constitution and your appreciation of our privileges, while you ignore the plainest duties of citizenship. We cannot meet as a people in assemblies and govern directly. We must govern through representatives and the test of our fidelity to the principles of our government is found in the quality of our representation.

It is the duty of every qualified citizen to vote, to throw his weight into the electoral scale. It is his duty to take part in the proceedings which lead to the choice of candidates for office. It is his duty to consider how he may be most influential in securing good government, not simply by voting, or by the selection of candidates, but in aiding in the development of sound public opinion and in maintaining the standards of truth and honor which must characterize a sound democracy.

One of the chief difficulties in the development of democratic institutions is the

springing up of many political parties, or groups, making it hard to enforce political responsibility. We have the spectacle elsewhere of coalition governments existing upon sufferance through a temporary combination of several groups, governments with little authority and not representative of a majority of the people. Fortunately, as I think, we still have in this country two major parties, but there is lacking in each coherence and the enforcement of responsibility. There is always the danger of party machinery serving the selfish interests of party bosses or of a party breakdown due to the absence of organization and leadership. On every hand we have these tests of our capacity for self-government. The very advantages of our system in its divisions of national and State authority create difficulties which a less complex arrangement would not present. We need the dissemination of accurate information, constant debate on every issue both as to principle and detail, the alertness and acumen of

an intelligent public, but we should seek especially to strengthen our means of enforcing the responsibility of representatives and of securing the benefits of wise leadership. We ought to be able to avoid the selfish manipulation of party organization without inviting disintegration.

When the New Englanders rushed to the relief of Boston, every citizen sensed his peril and knew what he must do. In every crisis we wake up. But we need the sustained attention which is the price of successful self-government. Indifference seems to be most characteristic of some of our people who have had the best advantages. They delude themselves with a false security and wash their hands of politics. It is idle to talk of the unassimilated, to demand Americanization, if those who are assimilated and regard themselves as true Americans, ignore their most obvious political duties.

The Declaration of Independence proclaims the purposes of government, but these must be the purposes of the men

and women who make and preserve governments. No institutions will save us; we must save ourselves. No artificial relations or organizations will give us the capacity for working together and solving our problems. We still must be inspired with the true love of liberty, of the love of liberty for others as well as our own, and this earnestness of spirit, manifested in devotion to the public service, can be sustained only by a deep sense of the obligations of human brotherhood and an abiding faith in human destiny. To the great ends of the free institutions which we now enjoy, we should pledge to each other, as did the signers of the Declaration of Independence, "our Lives, our Fortunes, and our sacred Honor."