II

THE PLACE OF THE UNITED STATES IN CONSTITUTIONAL DEVELOPMENT

It will greatly enrich our conception of what a constitutional government is to look a little farther into its history. The government of the United States came into existence at a very interesting turning-point in that history, and will lie very much more open to our analysis if we pause before we go farther to examine the circumstances of its origin. Historical excursions are sometimes tedious enough, but the matter we handle cannot be made vital until it is given its true historical setting.

Evidently, if a constitutional government is a government conducted on the basis of a definite understanding between those who administer it and those who obey it, there can be no constitutional government unless there be a community to sustain and develop it, — unless the nation, whose instrument it is, is conscious of common interests and can form common purposes. A people not conscious of any unity, inorganic, unthoughtful, without concert of action, can manifestly neither form nor sustain a constitutional system. The lethargy of an unawakened consciousness is upon them, the helplessness of unformed purpose. They can form no common judgment; they can conceive no common end; they can contrive no common measures. Nothing but a community can have a

constitutional form of government, and if a nation has not become a community, it cannot have that sort of polity. It is necessary at the very outset of our analysis, therefore, that we should form a very definite conception of what a community is, and should ask ourselves very frankly whether the United States can be regarded as a community or not. Only in that way can we determine the place of the United States in constitutional development; and only practical historical tests will answer either the one question or the other.

The word 'community' is often upon our lips, but seldom receives any clear definition in our thoughts. If we should examine our implicit assumptions with regard to it, I suppose that we should agree in saying that no body of people could constitute a community in any true or practical sense who did not have a distinct consciousness of common ties and interests, a common manner and standard of life and conduct, and a practised habit of union and concerted action in whatever affected it as a whole. It is in this understanding of the term that we speak when we say that only a community can have a constitutional government. No body of people which is not clearly conscious of common interests and of common standards of life and happiness can come to any satisfactory agreement with its government, and no people which has not a habit of union and concerted action in regard to its affairs could secure itself against the breach of such an agreement if it existed. A people must have the impulse and must find the means to express itself in institutions if it is to have a constitutional system.

I should be at a loss to define what I mean by a common political consciousness, but fortunately it does not need

definition. What it is is part of the imaginative conception of every one whose mind has traveled at all in the realms of history and of social experience. With every one of us it is an idea which is as definite as it is subtle and complex. We know that that body of persons is not a community along whose blood the same events do not send the same thrill, upon whose purposes and upon whose consciousness the same events do not make the same impression, and who are not capable, at every turn in their affairs, of forming resolutions and executing measures which will meet the exigency. You remember those fine sentences of De Tocqueville's with regard to the formation of our own government, in which he speaks with admiring wonder of the calm and self-reliant way in which the people of the colonies turned a critical eye upon themselves, detected, as if they looked not upon their own institutions but upon those of others, the serious defects of their political system, and remedied them "without having drawn a tear or a drop of blood from mankind." In proportion as they had a common consciousness with regard to their affairs, they were capable of handling them and of setting up a government which should last. The historical circumstances which explain the capacity of the colonists explain also the character of the government of the United States and make plain its place in constitutional development. How was the United States made a community? How far and in what matters was its consciousness as a community developed? How have its institutions responded to that development, and how do they now stand related to it? These are the questions whose answers may be expected to give us light upon our whole inquiry.

Looked at from the point of view of our present study, government may be said to have passed, roughly speaking, through four stages and forms of development: a first stage in which the government was master, the people veritable subjects; a second in which the government, ceasing to be master by virtue of sheer force and unquestioned authority, remained master by virtue of its insight and sagacity, its readiness and fitness to lead; a third in which both sorts of mastery failed it and it found itself face to face with leaders of the people who were bent upon controlling it, a period of deep agitation and full of the signs of change; and a fourth in which the leaders of the people themselves became the government, and the development was complete.

Government may be said to have been master both in the early Germanic feudal nation which occupied the European field after the break-up of the Roman Empire and in the developed feudal nation in which a monarch like Louis XIV could say with almost literal truth, *L'état c'est moi;* and also in the nations which have been subjugated by some military race or class, conquering them from without and retaining their hold upon them by organized force, as in China and Russia. Such governments represent always a stage of social development: the stage at which the people governed are conscious of no community of interest, no possible concert of action amongst them; do not feel themselves a single body or stir with any common purpose; have not formed the idea of an interest of their own opposed to the interest of the government, or, if they have begun vaguely to form it, know no means of making their separate wish known or effective: a people dumb and without knowledge of speech in such matters. A

people may or may not linger at this stage. The nation which is most likely to linger until it stagnates is the caste nation, caught in a crust of custom which it is almost impossible to break or even to alter, unless some irresistible force from without break and destroy it, as the force of the western nations has so ruthlessly broken the ancient forms of Chinese life. The military nation is quite sure to change very rapidly: it is too full of stir and force to retain its first forms or stand still at one stage of development; and the monarch of the modern state to which the feudal state gave birth is more apt than another to attempt progress and development, as the kings of modern Europe did. The population which is ruled by a limited class who are its conquerors is apt, if we may judge by the case of Russia, to stand still until the polity rots.

The stagnation of peoples is very hard for us to think of in our modern western world, but it has none the less been the rule, not the exception, as Mr. Bagehot pointed out in that illuminating book, "Physics and Politics." If we reckon by numerical majorities, the rule has been stagnation; much the greater part of the population of the world has been caught fast in a crust of custom or in an iron net of military rule, and has known no political progress. Even those peoples who have struggled toward the light and sought emancipation from the trammels of too much government have moved with painful slowness toward their goal, so long as there were none of those quick means of concerting thought and action which have been supplied us in the telegraph, the railway, and the cheapened printing press. Without these instrumentalities it is to be doubted whether we could ever have spread a single free state over the spaces of a great con-

tinent, as we have done in America, where there were already people accustomed to do as they pleased and to act upon their own initiative. Concerted action does not come by impulse but by practice, by the slow schooling of experience, chiefly by the schooling of repeated failures. A common purpose can be formed only by the slow processes of common counsel, until our own day a thing infinitely tedious and difficult. Many a long age stretches between the moment when a nation begins to awaken to the consciousness that it has common ties and a common interest as against a too masterful and selfish government and the triumphant moment when it sees its own chosen leaders in actual control of its law and policy. The first stirrings of that consciousness change the face of affairs and usher in the second stage of development of which I have spoken; and from it governments that have sagacity enough to respond take their golden opportunity to lead.

It is then that government finds itself checked by the beginnings of independent action on the part of the nation, irregular and imperfectly organized it may be, but definite and significant enough to demand the consideration and often to modify the course of those who rule, lest government should fail of being obeyed and should jeopard civil order, if not its own authority and security. It was so in England in the time of Elizabeth. Parliaments had not yet obtained any place of command. They were consulted when the monarch pleased, and not oftener. Their counsels restrained, but did not govern. The will of the monarch was sometimes stronger than the understandings of the constitution. Opinion had not come to its full stature; authority still loomed large and imperative in every ordinary matter of state. But England was

astir as she never had been before. In the old days she had been at the back of Europe; now she was at her front. The doors of the East had been closed by the conquests of the Turk; the barrier of his intolerant power was thrown across the old routes of trade out of Europe into the great Orient, and Europe had turned her face about to seek new outlets for her commerce: down the western coasts of Africa and so around the southern capes into the East again, and across the vast Atlantic to the new lands slowly rising to view over sea, — whether in fact a new world or only the old coasts of the East approached from another side mariners or geographers had not yet quite made up their minds. Columbus had turned his adventurous prows straight toward the heart of the seemingly limitless ocean whose mysteries no man before him had dared look into; and England herself, lying at the very gates of that sea, had been quick to send her own sailors in his wake. Englishmen of every rank and fortune began to turn to the sea for adventure and profit, and the sixteenth century saw the little kingdom wake to influences and ambitions she had never felt before. It was a mettlesome race Elizabeth found herself set to govern.

Whether she was conscious that they were not easy to rule and were likely to have minds of their own in matters of government it is not necessary to ask, because she was of the same mettle and spirit as they, a truly representative Englishman, inclined to lead her people in their own temper and quick to see their interests as they saw them. Mr. John Richard Green has said that in her dealings with foreign governments Elizabeth was one of the most accomplished liars of her day, but that she always dealt candidly and truthfully with her own subjects. It was not so much

the circumspection of a wise ruler who wishes to retain the confidence of those upon whose obedience he counts for all the vigor of his policy as the instinctive sympathy and quick understanding that naturally exists between persons of the same purpose and breeding. England came to her full consciousness as a nation in that great day of enterprise and adventure, and Elizabeth was England's suitable embodiment. Her mastery was the mastery of natural leadership. Her instinctive knowledge of what was demanded of her shows in nothing better than in her treatment of the great seamen who explored the long coasts of the new world and lifted treasure from every Spanish fleet they could find. She gave them their commissions and asked no inconvenient questions. So long as they kept troth with her, came to her at her command, executed her purposes when she had need of them, paid reasonable tribute into her treasury, and made all rival seamen respect her power, she freely gave them leave as they wished. Never in any other age had English energy been so quickened and released: a great ruler made great subjects.

There were dark sides enough to the picture. There were phases of English life to which there is not here time to turn in which the royal authority showed sinister and without true insight into either the rights or the interests of the kingdom, — monopolies, illegal exactions, private favors, a thousand irregularities of power, — but that was nothing new; while it was a new thing to have a monarch who, at any rate in all large matters, understood her people and lent her sagacity to the task of leading and stimulating them. In the nick of time, when they most needed a leader, she gave them one in her own person, — a foolish woman but a great statesman.

We have another example of the same thing in a very different age in the leadership of Frederick the Great of Prussia. The Prussia of the middle of the eighteenth century was in almost no respect like the England of the middle of the sixteenth. Frederick, when he came to lead and develop Prussia, had but just put her together out of pieces swept under his single rule by the processes of war. Neither is there any close similarity between the characters of Frederick and Elizabeth. They resembled one another in character no more than any strong and masterful man who was born a statesman resembles any masterful woman born a statesman. But Frederick did for Prussia more than Elizabeth did for England. He first made it a compact and potentially powerful kingdom, and then himself called it into consciousness. Elizabeth gave expression in her own person and gifts to a new nation that had been born and would have been born whether she had lived to rule it or not; Frederick called his kingdom into life and gave it the leadership of an awakening; and he did so on the eve of the modern time, as peoples were everywhere beginning to awake, and so affords us an admirable example, as Elizabeth does, of what a government may do by way of leadership, in anticipation of the day when the people will find sympathetic leaders for themselves if their rulers fail to supply them.

Frederick probably did more for Prussia than she could have done for herself under leaders of her own choosing. He saw her and understood her as a whole. She was in a sense of his own making. He wished her to have internal development rather because he wished her to be strong among the states of Europe than because he wished to see her strength and prosperity increase as a statesman

would in times when he was sure of peace; desired her economic enlargement chiefly because he wished his treasury to be full, his kingdom's resources sufficient for any long-drawn contest of arms that might be necessary with the rivals about him; and it must be said that he treated his subjects like servants rather than like citizens of a great state. But under all his purpose of aggrandizement and of international supremacy there lay a real sympathy with his people, a real insight into their interests and necessities, a real capacity to interpret and guide them. He was a leader as well as a master, and his rule gave Prussia such prestige as England had had in the times of the great Elizabeth. He led a new nation out on to the stage of Europe and made it ready for at any rate the initial stages of self-government, by giving it the self-consciousness and regard for its own interests which come of enterprise. A living people needs not a master but a leader.

Leaders like Frederick and Elizabeth are, of course, self-constituted, and the great statesmen whom such rulers draw into their counsels are, of course, of their own, not of the nation's, choosing. The nation is supplied with leaders, does not find them. It is too early for it to find them; it has not learned the way. Such a form and stage of government, the second on our list, represents a stage of political development, as the first of which I spoke represents a stage of social development. When a government is master and the people its unquestioned subjects, society is asleep, is unformed, inorganic, without self-consciousness, and without knowledge of its own interests and power. What is lacking is the birth of a national consciousness and self-knowledge. When the second stage

comes the nation has become aware of itself, aware of the drift and significance of its affairs, aware in some degree of its rôle and ambition among the nations; but it has not yet learned to choose its own leaders. It has had the social development necessary to bring it to the threshold of fully developed constitutional arrangements, but not the political development. It has not yet learned how to express itself in men thrust forward out of its own ranks or how to form such common resolutions and contrive such common counsels as would give leaders of its own choice a definite program of action, even if it could choose them. Of course the England of the time of Elizabeth had already had a political development such as Prussia knew nothing of in Frederick's day. Her parliament lay ready to her hand, a true representative assembly, to be turned to any use of common counsel or concerted action she might wish; while Prussia had nothing but her king and a dependent bureaucracy which he had created. In England the full machinery of constitutional government as it were lay dormant, not put to its final uses because Elizabeth saved her people the trouble and by her own leadership postponed the final developments of constitutional government until the weak Stuarts who followed her should make the authority to which she had given such dignity and prestige at last ridiculous and intolerable.

Nations will pass from such a stage of political development by steady transition, change by change, into those arrangements whereby the freely chosen leaders of the people themselves at last assume control of the government, only if, while their hereditary rulers thus by natural genius lead them, a serviceable machinery of constitutional action exist or be formed by means of which the transition

can be effected. This was the case in England, but not in Prussia. In England there were both parliament and a self-governing country gentry habituated to affairs. In Prussia there was nothing but a dependent bureaucracy neither derived from the people nor capable of independent initiative in their interest.

And yet, whether there be the requisite machinery at hand or not, an awakened modern nation cannot long stand still at the stage where its affairs are managed without its direct institutional participation and assent. Things cannot long stand still where a whole arrangement depends upon the temper and insight of rulers whose authority is independent of the people's choice, or upon an international situation and the social and economic condition of the country. National conditions are not often for long so simple or so comprehensible that a government not derived from the people can retain the sympathetic comprehension necessary to leadership. Moreover, the times which immediately followed the exceptional reigns of Frederick and Elizabeth were times when deep common convictions began to stir amidst all ranks and kinds of men; the convictions of the great Protestant Reformation and of the fateful French Revolution, the two great epochs when plain men, who had hitherto taken little heed of affairs either in church or state, were aroused to know themselves and their rights, alike of conscience and of political recognition. Such awakenings of the minds and hearts of whole peoples produced leaders as of course. Great passions, when they run through a whole population, inevitably find a great spokesman. A people cannot remain dumb which is moved by profound impulses of conviction; and when spokesmen and leaders are found, effective concert of action

seems to follow as naturally. Men spring together for common action under a common impulse which has taken hold upon their very natures, and governments presently find that they have those to reckon with who know not only what they want, but also the most effective means of making governments uncomfortable until they get it. Governments find themselves, in short, in the presence of *Agitation*, of systematic movements of opinion which do not merely flare up in spasmodic flame and then die down again, but burn with an accumulating ardor which can be checked and extinguished only by removing the grievances and abolishing the unacceptable institutions which are its fuel. Casual discontent can be allayed, but agitation fixed upon conviction cannot be. To fight it is merely to augment its force. It burns irrepressibly in every public assembly; quiet it there, and it gathers head at street corners; drive it thence, and it smoulders in private dwellings, in social gatherings, in every covert of talk, only to break forth more violently than ever because denied vent and air. It must be reckoned with, and to reckon with it is to set up a new understanding between governors and governed, to consent to new practices which are new institutions, to enter the fourth stage, which leads to the full development of constitutional rule.

The third stage of the matter, the stage of agitation, has often been a long one and a sad one. Governments have been very resourceful in parrying agitation, in diverting it, in seeming to yield to it and then cheating it of its objects, in tiring it out or evading it; and where men of conviction lack any permanent instrument, like the English parliament, upon which to centre their efforts, in which to find some unquestionable legal forum where to bring the

pressure of their purposes constantly to bear on the government, agitation may often fail entirely for generations together, its flame smothered or scattered from age to age. But the end, whether it come soon or late, is quite certain to be always the same. In one nation in one form, in another in another, but wherever conviction is awakened and serious purpose results from it, this at last happens: that the people's leaders will themselves take control of the government as they have done in England, in Switzerland, in America, in France, in Scandinavia, and in Italy, and as they will yet do in every other country whose polity fulfils the promise of the modern time.

We are so accustomed to agitation, to absolutely free, outspoken argument for change, to an unrestrained criticism of men and measures carried almost to the point of licence, that to us it seems a normal, harmless part of the familiar processes of popular government. We have learned that it is pent-up feelings that are dangerous, whispered purposes that are revolutionary, covert follies that warp and poison the mind; that the wisest thing to do with a fool is to encourage him to hire a hall and discourse to his fellow citizens. Nothing chills nonsense like exposure to the air; nothing dispels folly like its publication; nothing so eases the machine as the safety valve. Agitation is certainly of the essence of a constitutional system, but those who exercise authority under a non-constitutional system fear its impact with a constant dread and try by every possible means to check and kill it, partly no doubt because they know that agitation is dangerous to arrangements which are unreasonable, and non-constitutional rule is highly unreasonable in countries whose people can express such common thoughts and contrive such concert of action

as make agitation formidable. But there is always another reason why rulers so circumstanced should instinctively fear agitation. Agitation is unquestionably very dangerous in countries where there are no institutions — no parliaments, councils, occasional assemblies even — in which opinion may legitimately and with the sanction of law transmute itself into action. Speech is not the only vent opinion needs; it needs also the satisfactions of action.

And action is very sobering to opinion. It is one thing to advocate reforms; it is quite another to formulate them. Many an ardent and burdensome reformer would be silenced and put to better thinking if he were obliged to express his reform in the exact words of a workable statute; and many a statute which amateurs may think eminently workable turns out impossible of execution. One of the things which is most instructive to the practical student of our own government is the tendency of our legislatures, both state and federal, to enact impracticable laws. Our legislatures do not have to put their own enactments into execution. The chairmen of their committees may often be as absolute tyros in the actual business of government as the members of reform clubs whom they have contemptuously dubbed theorists; and their own theories of what ought to be done do not cease to be theories because expressed in documents introduced by an enacting clause. They sometimes escape the blame attaching to the failure of the laws they frame by adroitly putting it off on the executive officers of the government, representing them as not in sympathy with the enactment and disinclined to give it a full or honest trial in practice; but many a statute is still-born, and agitation which results in still-births is harmless. The agitators have had their way, and nothing

has happened. Action has released the pent-up energy, and no harm has been done. But under non-constitutional forms of government no vent of action is supplied, and a sort of fury of helplessness may ensue whose mad issue may be the very destruction of government itself.

When the fourth and final stage of constitutional development is reached, when a people has gained so definite a consciousness of its own interests and of its own political force, has grown so accustomed to forming its own opinions and following its own leaders that it becomes natural and, indeed, inevitable, that its leaders should themselves take charge of the government and direct it, one or other of two forms of government may result: the parliamentary English form or the American form, which Mr. Bagehot has, not very happily, perhaps, called the "presidential." Under the parliamentary form of government the people's recognized leaders for the time being, that is, the leaders of the political party which for the time commands a majority in the popular house of parliament, are both heads of the executive and guides of the legislature. They both conduct government and suggest legislation. All the chief measures of a parliamentary session originate with them, and they are under the sobering necessity of putting into successful execution the laws they propose. Under our own system the people as a whole consciously take part in the choice of but one man, the President, and he is not expected to lead Congress, but only to assent to or dissent from the laws it seeks to enact and to put those which receive his signature or are passed over his veto into execution; while Congress is guided by men whom the nation may or may not have regarded as its leaders and who are preferred to places of leadership in the House and Senate

by processes which those houses have themselves devised. The President may be of one party and the houses of Congress of the other. The executive and legislature are not necessarily united in counsel with us as they are in England.

Moreover, what is vastly more important in contrasting our system with others, we have not concentrated our constitutional arrangements in the federal government. We have multiplied our constitutional governments by the number of our states, and have set up in each commonwealth of a vast union of states a separate constitutional government to which is intrusted the regulation of all the ordinary relations of citizens to each other: their property rights, their family relations, their rights of contract, their relations as employer and employed, their suits at law, and their criminal liabilities. The federal government has only the regulation of those matters in which there is manifestly and of necessity a common interest, and for the rest constitutional government is put into commission among forty ~~odd~~ commonwealths.

Both arrangements, the partial separation of the executive from the legislature in the federal government and the parceling out of constitutional powers among the states, mark the historical stage alike of our own development and of the development of constitutional government on the other side of the water at which the government of the United States came into existence. In the state governments there is the same partial separation of legislature and executive that is characteristic of the federal government, because the constitutions of the states were formulated at the same time that the government of the Union was formulated. That is the characteristic they derive from the period in which they originated. The dispersion

of constitutional powers among the states originated in circumstances peculiar to America. Switzerland, it is true, has a similar union and division; but though the results in Switzerland are very similar to the results in America, the circumstances of origin and formulation were very different in the two countries. Both peculiarities of our system yield upon analysis very interesting conclusions with regard to the nature and the characteristic processes of constitutional government.

The Constitution of the United States, as framed by the constitutional convention of 1787, was intended to be a copy of the government of England, with such changes as seemed to our own statesmen necessary to safeguard the people of America against the particular sorts of prerogative and power that had worked them harm in their dealings with the government of the mother country over sea. But the government of England was then in a process of transition from an older to a newer form of the constitutional series and had not advanced far enough in the transformation to disclose its real character. Even in our own day, when English ministries are acknowledged to be mere committees of the majority in the House of Commons, the king chooses the ministers. At least such is the legal fiction. But it is not so in fact. It is merely a form. He is obliged to select those of whom the majority in the House of Commons approves. Indeed, he merely calls on the leader of that majority to form a ministry and leaves it to him to say whom the other ministers shall be. He can follow his own judgment in the choice only in the very exceptional case where no one man looms conspicuously first among the leaders of the Commons and the majority in the House is not itself certain of its preference. But

when the Constitution of the United States was framed, what is now a form was a reality. The choice of the king was a very real one. He as often as possible chose ministers to his own mind. It is true that ever since the Revolution of 1688 it had generally been necessary for him to select men whom the Commons would follow, against whom they would at least not revolt; but the suffrage for members of parliament was then so disposed that the king and a small group of peers could generally determine the majority in the House of Commons by one sort of influence or another. The king could even on occasion turn his pliant majority over from one minister to another of opposite views when the policy of the crown changed or yielded to pressure. And so the change that was steadily coming upon the whole composition of the government was obscured. The members of the constitutional convention of 1787 naturally enough thought of the king as the executive, a power separate from parliament not only but often in contest with it, and did not see that influences were already working throughout the system which were to transmute the ministry, so soon as the suffrage should be reformed and parliament should become truly representative of the nation, into a committee of the Commons of which the king should have formal appointment but not real choice, and which should itself constitute the working executive of the country, making choice, in the king's stead, of every step of regulation or policy. The President created by our Constitution was conceived upon the model of what it was thought the king should have been under the older practice of the English constitution, at the very time when English theory and practice alike were changing and direct party government by the legislative leaders of the people

was actually in course of being set up. We were fixed fast, in respect of the presidential office, at the stage of constitutional development which England was leaving for forms simpler and still more advanced.

Our reasons for having a group of constitutional governments united in a federal constitutional system were not reasons of theory, but reasons of fact. The thirteen little commonwealths which had drawn together in confederation to fight out the war for independence had attained to a growth and character which had made veritable states of them. No merging of them as a single state under one government was possible or conceivable. It was a triumph of statesmanship to unite them by the bonds of a real federal state which was not a mere loosely joined confederation like that which had barely held together long enough to finish the war. A strong sense of community of interest had grown up among the colonies as they fought the French and Indians and struggled for independence; they were resolved to have a common life and stand together for common objects; were keenly aware that separately they could not survive the struggle for political existence which must certainly rise out of their own rivalries and the covetous attacks of foreign powers; and were determined that their common government should be at least strong enough to unite them firmly as a nation. But the catalogue of common interests, the list of powers they must for their own sakes concede to their common government, did not bulk very big in their thoughts. Their state governments were their chief governments, their everyday, essential, intimate, vital instruments of social order and political action. For a little while they looked upon the new federal organization as an experiment, and thought it

likely it might not last. Men of first-rate capacity and high political ambition entered the service of their states readily enough, but looked askance upon offers of federal office. Only the extraordinary foresight and sagacity of the men who framed and advocated the federal constitution, — only the prevailing force of such men as Washington, and Hamilton, and Madison, — could have secured so compact and strong a central government in the face of the jealousy of local interests. The wonder was not that constitutional power remained "in commission" among the states, but that any central authority capable of rule and command had been got from the jealous politicians of the self-conscious little commonwealths.

That the states survived the union was no political accident. Their separateness did not consist in the mere casual circumstance that they had been settled at different times and their governments as colonies separately chartered by the English kings. Vital social and economic differences existed between them. They could not have been made a real political community by any single constitution, however broadly and wisely conceived, because they were not a community in fact. They were in many respects sharply contrasted in life and interest. Virginia was much more unlike Massachusetts than Massachusetts was unlike England. The Carolinas, with their lumber forests and their rice fields, felt themselves utterly unlike Virginia; and the Middle states, with their mixture of population out of many lands, were unlike both New England and the South. The Middle states, New York, New Jersey, and Pennsylvania, were, indeed, not mere transplantations out of the mother country; they had the mixture of peoples in them which was in the years to come

to be characteristic of America. In them rather than in the communities east or south of them lay hidden the prophecy of what America was to be, and they in some subtle way felt the contrast between their own ways and purposes and those of their neighbors very keenly. Constitutional government is based upon common understandings, common interests, common impulses, common habits, and these each of the little commonwealths of the Union had; but in the federal state which they had devised in the Philadelphia convention these things did not yet exist except as regarded the matters of commerce, of coinage, of post-offices and post roads, of piracies and felonies on the high seas, of war and military defense, and of dealings with foreign governments of which so careful a catalogue had been made in the eighth section of the first article of the federal constitution. The states were not one community but many communities, and as such could not have had a single government; were under the necessity of having as many constitutional units as there were actual political divisions. The very complexity of the arrangement was of the essence of practical good sense and showed how true an instinct the leaders of that day had for successful constitutional method.

Our life has undergone radical changes since 1787, and almost every change has operated to draw the nation together, to give it the common consciousness, the common interests, the common standards of conduct, the habit of concerted action, which will eventually impart to it in many more respects the character of a single community. No student of constitutional development can have observed these vital processes without perceiving what their end and consequence will be. The copper threads of the

telegraph run unbroken to every nook and corner of the great continent, like the nerves of a single body, transmitting thought and purpose with instant precision. Railways lie in every valley and stretch across every plain. Cheap newspapers make the news of every country-side the news of the nation. Industrial organization knows nothing of state lines, and commerce sweeps from state to state in currents which can hardly be traced for number and intricacy. Ideas, motives, standards of conduct, subtle items of interest, airs from out every region travel with the news, with the passenger on the express train, with the merchant's goods and the farmer's grain. Invisible shuttles of suggestion weave the thoughts and purposes of separate communities together, and a nation which will some day know itself a single community is a-making in the warp and woof of the fabric. The extraordinary way in which the powers of the federal government have been suffered to grow in recent years is evidence enough of the process.

It is a process which has gone forward with a noble dramatic, even epic, majesty, filling the whole stage of the continent with movement. Until 1890 we had always a frontier within the nation; until that year the makers of the census had always been able in drawing their maps to sketch a line somewhere between the older states and the Pacific which marked the front of organized settlement. A hundred years had gone by since the constitution was framed, and throughout all the century the same process of settlement had been going on which marked the first establishment of the colonies. The stages of development within the nation itself varied all the way from communities on the eastern coast which were at length hardly to be

distinguished from European communities in their complexity, their variety, their pageantry of life to communities in the West more sharply contrasted with those in the East than Virginia from England in the seventeenth century. To travel from the Atlantic coast to the frontier was like viewing a colossal exhibit illustrative by actual life of all the processes that had made and were making the nation. Since 1890 there has been no traceable frontier; the processes have begun to be intensive rather than extensive. The processes which knit close and unite all fibres into one cloth are now everywhere visible to any one who will look beneath the surface.

It is familiar matter of history that it is this westward expansion, this constant projection of new communities into the West, this never ceasing spread and adaptation of our institutions and our modes of life, that has been the chief instrumentality in giving us national feeling, that has kept our eyes lifted to tasks which had manifest destiny in them, and could be compassed by no merely local agencies. It was the constant making of states that forced upon every generation of statesmen the question whether slavery should be extended or restricted in area until the Civil War answered it forever, and that controversy more than any other called the nation to consciousness and to action. Ours has been for the most part a very business-like history. Our congressional annals have not been brightened by many picturesque incidents or quickened by many dramatic moments, but there is one debate to which every student turns with the feeling that in it lay the fire of the central dramatic force of all our history. In the debate between Mr. Hayne and Mr. Webster the whole feeling and consciousness of America was changed. Mr.

Hayne had uttered, with singular eloquence and ringing force, the voice of a day that was passing away; Mr. Webster the voice of a day that had come and whose forces were to supersede all others. There is a sense in which it may almost be said that Mr. Webster that day called a nation into being. What he said has the immortal quality of words which almost create the thoughts they speak. The nation lay as it were unconscious of its unity and purpose, and he called it into full consciousness. It could never again be anything less than what he had said that it was. It is at such moments and in the mouths of such interpreters that nations spring from age to age in their development. And in our modern day influences less heated and dramatic than those of the days of the westward movement, influences that operate silent and unobserved in the economic and social changes that are working a great synthesis upon us, are carrying the nationalizing process steadily and irresistibly forward to the same great consummation.

But there are natural limits beyond which such a development cannot go, and our state governments are likely to become, not less, but more vital units in our system as the natural scope and limits of their powers are more clearly and permanently established. "In a great political system like our own, spread abroad over the vast spaces of a various continent, the states are essential." We are now in the midst of changes whose sweep is so wide that we exaggerate their force and suppose that because they are not checked by state boundaries, and for the time even seem to obscure them, they will eventually obliterate them. We shall be surprised, when the changes are completed, to find how little they have altered our constitutional machinery. What they will alter very radically is our national

consciousness, our perception of the interests we have in common, and of the principles upon which we must act in dealing with them. The change will be psychological rather than political, of the spirit of our action rather than of its method. Undoubtedly the sphere of our national government will be in many important particulars notably enlarged; but it will be in particulars and not in principle, by normal and legitimate alterations of the constitutional understanding and not by any reconstruction of the system.

Not only are the separate and independent powers of the states based upon real economic and social differences between section and section of an enormous country, differences which necessitate adaptations of law and of administrative policy such as only local authorities acting in real independence can intelligently effect; but the states are our great and permanent contribution to constitutional development. I call them a great contribution because they have given to the understandings upon which constitutional government is based an intimacy and detail, an adjustment to local circumstances, a national diversity, an immediate adaptation to the variety of the people themselves, such as a little country may perhaps dispense with but a great continent cannot. "The development of the United States would have been as impossible without the state governments as the original establishment of our federal system would have been." They have furnished us with an ideal means of integrating a vast and various population, adapting law to changing and temporary conditions, modulating development, and permanently securing each item of progress. They have been an incomparable means of sensitive adjustment between popular thought and governmental method, and may yet afford the world

itself the model of federation and liberty it may in God's providence come to seek. There can be no reasonable fear that our states will ever be less than they are, the normal constitutional machinery of our legal adjustment. As the federal government grows in scope and power it will grow, not to their curtailment, but only by way of supplementing them and by way of safeguarding those interests, from the first looked forward to by the makers of the Constitution, in which we shall consciously become a single community.

This is not a conclusion got out of sentiment or preference, but out of the necessary inferences of constitutional history. Constitutional government can exist only where there is actual community of interest and of purpose, and cannot, if it be also *self*-government, express the life of any body of people that does not constitute a veritable community. Are the United States a community? In some things, yes; in most things, no. How impossible it is to generalize about the United States! If a foreign acquaintance asks you a question about America, are you not obliged before replying to say, "Which part of America do you refer to?" It would be hard to frame any single generalization which would be true of the whole United States, whether it were social, economic, or political. It is a matter of despair to describe a typical American. Types vary from region to region, and even from state to state. America abounds in the vitality of variety and can be summed up in no formula either of description or of prophecy.

Moreover, she is a country not merely constitutionally governed, but also self-governed. To look upon her and comprehend her is to comprehend the distinction. Self-government is the last, the consummate stage of consti-

tutional development. Peoples which are not yet highly developed, self-conscious communities can be constitutionally governed, as England was before she had got her full character and knowledge of herself, under monarchs who ruled her by their own will, checked but not governed by her parliament; but only communities can govern themselves and dispense with every form of absolute authority. There is profound truth in Sir Henry Maine's remark that the men who colonized America and made its governments, to the admiration of the world, could never have thus masterfully taken charge of their own affairs and combined stability with liberty in the process of absolute self-government if they had not sprung of a race habituated to submit to law and authority, if their fathers had not been the subjects of kings, if the stock of which they came had not served the long apprenticeship of political childhood during which law was law without choice of their own. Self-government is not a mere form of institutions, to be had when desired, if only proper pains be taken. It is a form of character. It follows upon the long discipline which gives a people self-possession, self-mastery, the habit of order and peace and common counsel, and a reverence for law which will not fail when they themselves become the makers of law: the steadiness and self-control of political maturity. And these things cannot be had without long discipline.

The distinction is of vital concern to us in respect of practical choices of policy which we must make, and make very soon. We have dependencies to deal with and must deal with them in the true spirit of our own institutions. We can give the Filipinos constitutional government, a government which they may count upon to be just, a

government based upon some clear and equitable understanding, intended for their good and not for our aggrandizement; but we must ourselves for the present supply that government. It would, it is true, be an unprecedented operation, reversing the process of Runnymede, but America has before this shown the world enlightened processes of politics that were without precedent. It would have been within the choice of John to summon his barons to Runnymede and of his own initiative enter into a constitutional understanding with them; and it is within our choice to do a similar thing, at once wise and generous, in the government of the Philippine Islands. But we cannot give them self-government. Self-government is not a thing that can be 'given' to any people, because it is a form of character and not a form of constitution. No people can be 'given' the self-control of maturity. Only a long apprenticeship of obedience can secure them the precious possession, a thing no more to be bought than given. They cannot be presented with the character of a community, but it may confidently be hoped that they will become a community under the wholesome and salutary influences of just laws and a sympathetic administration; that they will after a while understand and master themselves, if in the meantime they are understood and served in good conscience by those set over them in authority.

We of all people in the world should know these fundamental things and should act upon them, if only to illustrate the mastery in politics which belongs to us of hereditary right. To ignore them would be not only to fail and fail miserably, but to fail ridiculously and belie ourselves. Having ourselves gained self-government by a definite process which can have no substitute, let us put the peoples dependent upon us in the right way to gain it also.