

Good System - Good Citizens - Good Government

George E. Morton

Follow this and additional works at: <http://scholarship.law.marquette.edu/mulr>



Part of the [Law Commons](#)

Repository Citation

George E. Morton, *Good System - Good Citizens - Good Government*, 27 Marq. L. Rev. 203 (1943).
Available at: <http://scholarship.law.marquette.edu/mulr/vol27/iss4/3>

This Article is brought to you for free and open access by the Journals at Marquette Law Scholarly Commons. It has been accepted for inclusion in Marquette Law Review by an authorized administrator of Marquette Law Scholarly Commons. For more information, please contact megan.obrien@marquette.edu.

GOOD SYSTEM—GOOD CITIZENS— GOOD GOVERNMENT

THIS is a continuation of the discussion started by Mr. Rix, and continued by Mr. Seasongood. As suggested by the former, I shall attempt to widen the horizon by discussing our national government in some of its aspects. Basic governmental philosophy, if not national politics, (largely eliminated in local affairs), should underlie all government in America.

One of the increasing difficulties is the number of people in administrative positions in government, public utility or other employment, who under the law or civil service rules, or the rules of the organizations they serve, can take no active part in political affairs. But of those who are entirely free to do so, comparatively few give any attention to government, except to criticise its officials or their official acts.

As to the claimed corruption and inefficiency of government and the indifference of citizens to political duties, may I say, that, in my experience and observation, the great mass of people have their time largely taken up by their daily tasks necessary to earn the money with which to live, and feel justified in using their spare time in some recreation, perhaps involving wife or children, or some avocation, art, or personal project, or in attending meetings or performing duties with respect to some religious, fraternal, or charitable organization or service club, which commands their especial interest. They therefore have little time left in which to give any attention to local, state or nation politics and the party organizations on which they are based, but on the honest and proper management of which their right to live in peace as a free citizen of a free country depends. They just have not time. And, too, "Politics is such a dirty pool" that it is to be avoided by them. Often they pride themselves on being non-partisan. Some fear loss of business.

Thus they rationalize to themselves and others, in order to excuse themselves from doing their duty as voters, which on a little thought should be plain to them. And they account themselves as among the best citizens and, to enable their organization to function in harmony, they exclude discussion of political subjects at their meetings.

These "best citizens" must be induced to prove themselves and to give the necessary time to help make self-government function satisfactorily, or some day they will find themselves living under some autocratic government which does not need their organizations or their services, but only requires their slavish obedience to orders given by it.

I do not think it will be denied, however, that any system of government, whether the one we have, or some other kind set up in its

place in the years to come, for any reason, will be operated by the same kind of human beings we have now, (but let us hope with improvement and more interest in government), with the same traits and motives, and the same tendencies to do wrong under some conditions, but possibly with better control of themselves. *A sound system, however, tends to minimize the faults and keep our liberties.*

Because of these human traits and tendencies, a people who desire individual freedom *require a system which holds the extremists and political wrongdoers in check.* Just as both former editorials suggest, however, the people must be aroused in some way to the danger, not only of corruption in local government, (of which we have little in Milwaukee), but of the far greater danger, as it seems to me, of losing our liberties entirely by a change of systems. They must be aroused to elect honest and courageous statesmen to Congress, and also honest and courageous men to office, high and low. That must help in obtaining good government, locally or nationally, or anywhere between.

Both they and we, however, must not forget that *corruption, bungling, and inefficiency are the price of liberty.* But more corruption, more bungling, and more inefficiency are the price a free people pay for their indifference to government affairs. The greatest danger, however, to self-government is the failure of the most intelligent, educated and cultured citizens, (those having the greatest stake in a government of free men), to really understand the philosophy of their government, or, if they do, to take any proper interest in political matters, except possibly for a few days before election, when they suddenly find themselves compelled to make their choice between two unwanted candidates who are the result of a primary in which they took no interest whatever.

These are some of the things which make self-government "walk with a crutch," and cause it to be so severely criticized in its results. Washingtons do not invite themselves to run for public office. The best citizens should be able to find among themselves the best men for official positions, and should pledge support and induce them to serve and also to make the necessary financial and other sacrifices; but this is seldom done. Most candidates act on their own inspiration.

Because of these human weaknesses or faults, and this general indifference, is it not plain that the most important thing in self-government is a *good system*? Should we not see that we keep the best system which has ever been known for free men, especially in view of the general neglect of political affairs?

It seems clear to me at least, after many years of experience, and with political affiliations which depend on principles instead of any party label, that the American system of government is the best ever known for a people who want to be free and to govern themselves.

This is because of the way in which our government was organized to balance or minimize those human traits which tend to interfere with good government,—*by the separation of powers granted, and also by the careful balancing of power against power.*

The basis of all our government, national, state and local, is *our Constitution*, whose basic theory is this balancing of power, as stated. Perhaps it is pertinent to recall that among those balances as to the national government are:—

All states to have equal representation in the Senate, proportional in the House;

The Senate balances the House in making laws, and vice versa;

All financial measures must originate in the House;

The resident balances both Houses by veto power;

The Congress balances the President by passing laws over his veto;
but

As the supreme balance against both Congress and resident, there was authorized to be created an independent judiciary, *every judge of which must take an oath to make that Constitution the Supreme Law of the Land*, just as it is declared to be.

Plainly, no valid law can be made which conflicts with that Constitution, or the law instead of the Constitution would be the Supreme Law. *It is the plain and sworn duty of the judge to declare it void for that reason.* By this system of guaranties and balances of power, the guaranties of liberties of the Constitution are made real in the lives of free men.

What is this government? *A Democracy?* Never was it so intended or conceived. It was just what Franklin said it was, when asked that question,—*“A Republic if we can keep it.”*

That is what we call it when we salute the flag, and we say, “and to the *Republic* for which it stands.” It may be preferable and permissible to some to call it a democracy, provided they means a democracy *which has tied its own hands by our Constitution*, as well as those of its elected representatives, against depriving individuals or minorities, of rights guaranteed to them by that instrument, namely, a DEMOCRACY WITH SELF-CONTROL. IT IS THIS SOUND SYSTEM WHICH KEEPS US FREE,—A REPUBLIC.

But some will ask, Are we in any danger of losing our national system of good government?

I will answer that anyone who has done any reading in the past ten years especially, must be aware of the great strides which have been made in this country in convincing people that our capitalistic form of government is only for the benefit of the rich men and the owners of great industries, and that the Constitution protects them,

and not the poor men. Many lawyers themselves have been guilty of the failure to vigorously combat this fundamental falsehood, for different reasons, a few for the sake of honest sympathy with poor men, but mostly, I believe, for political advantage because of the votes they would receive for some office.

Many people believe that the will of the majority is or should be supreme. The President once announced his belief that the three branches of the government should be a "three-horse team" pulling together, and complained that the Supreme Court was not cooperating; that the people in the last election had spoken the will of the majority in America, and that its will should be accepted by all, *the Courts included*. This would mean that laws made by Congress, and not the Constitution, would be the Supreme Law.

The people have been told by many political leaders in order to win their favor and get their votes, that for a court to declare a law void because in conflict with the provisions of the Constitution was an usurpation of power by them. What wonder should it be then if people very generally believed that our government was a democracy in which the will of the majority in any matter whatever, regardless of the Constitution, should prevail; that any interference with that result was wrong.

In recent years, too, they have been told that there must also be "democracy in industry" in order to make democracy in government work properly. This means, if it means anything, that the private ownership of industries should be more or less subject to the will of those employed in it. Whatever it means, must we not ask, What effect has such a theory upon the continuatio n of private enterprise and the right of private property? Does it dissuade men from investing in industry? If the ultimate end is to destroy private industry, then what becomes of the free government (or democracy) which cannot live unless based on the existence of private property?

Also, for some years, we have seen city and county officials, and employees also, organized into unions and affiliated with the great national labor unions. Strikes called by them is in a neighboring city some time ago paralyzed the local government until their demands were met.

The question therefore in such city at least, is whether citizens elect public servants to act according to law made before their election, or elect public masters who are above the law; officers who organize to serve their own interests above those of the people who elected them.

If so, what has become of self-government, locally, at least, in such cities? Are these activities progress in American life and good local government? Are they evidence of good government, or are they a step toward the loss of self-government? If these activities are not

in harmony with good government, it might be expected that those promoting them would, after due consideration, avoid them. Let us hope they will.

Lawyers, by their education and training, if they will do it abstractly and impersonally, are best able to solve those questions, and they must more and more take upon themselves that duty, and fearlessly speak their conclusions, regardless of its possible influence on any professional business. If we lose Constitutional Government, lawyers will not be needed by anyone, and their business will be gone. Then, the only important advice will be given by an agent of the government who has been instructed what advice to give. Lawyers, of all citizens, should take a keen interest in political affairs.

In order to meet the stupendous tasks ahead,—winning the war and preserving our free institutions,—both vital to the very soul of American life, we need the active cooperation of every loyal American, lawyers and laymen, taking inspiration and encouragement perhaps from some lines from the pen of Edward Everett Hale:—

“I am only one
 But still I am one.
 I cannot do everything,
 But still I can do something.
 And because I cannot do everything
 I will not refuse to do the something
 That I can do.”

If we keep this Constitution and its system for America, we shall need to revive the spirit of those who gave it to us. “Liberty or death” should be the motto of every real American, for he would not care to live without he could live in freedom.

DeTocqueville, in his book on “The Society of France prior to the French Revolution,” well described the “attraction of freedom” as follows:—

“* * * *its native charms independent of its gifts—the pleasure of speaking, acting and breathing without restraint, under no master but God and the law. He who seeks in freedom ought but herself is fit only to serve.*”

With the adoption as a people of the spirit of those quotations, combined with our political and economic system which gives freedom a chance to exist here, in spite of human faults, we should have reasonably good government everywhere in America, such as *should* be acceptable to all who are privileged to live under it.

GEORGE E. MORTON.*

*LL.B., University of Wisconsin; member of the American and Wisconsin Bar Association; Chairman of the Constitution and Citizenship Committee of the Milwaukee County and Wisconsin Bar Associations.