

Historically government has been formed by conquest, with all the power being held by the conqueror. Individual rights were occasionally wrestled from the government, as exemplified by the Magna Charta in 1215. The exceptions to this general rule were the Greek “city-states” and the Swiss federation. Thus monarchy remained the near universal form of national government until the American revolution.

During the Age of Enlightenment there was a renaissance in political thought. It began with Thomas Hobbes who published the *Leviathan* (1651) proposing that laws were not of divine origin and suggesting a social contract as the basis for government. The unsung giant of political thought, John Locke, wrote *Of Civil Government* (1690). This was the fulcrum of modern political science. He gave the first plausible explanation of man creating government by social contract, defined inalienable rights, including the right to revolution, defined the role of government in creating value in property and made rudimentary observations about limitations on the three branches of government.

Tedious old Montesquieu wrote *Spirit of the Laws* (1748), an exhaustive collection of anecdotes about governments, in great historical detail. But, in his mind the judiciary was still an arm of the executive, the monarch. The court had no power over the executive branch. It was a mere 38 years from Montesquieu to the ratification of our Constitution in 1787. At that moment the forces of **demos** (voice of the people) and **tyranny** collided and fused into a new form of government that was premeditated and designed by our founding fathers, a brilliant and diverse group. Rationally examining **representative government** their collective spark of genius was to create for the first time in history a government where the judiciary had power over the executive branch.

For the first time in history the **judiciary** had power **superior** to the **executive** branch of government. The result was the possibility of a balanced tripartite government.

It is now time for our Supreme Court to impose limitations on our legislative and executive departments to restore balance in tripartite government.

The Evolution of a Republic

Let us trace the evolution of the science of government from prehistoric times. The fundamental organs of a government are:

- A war leader or executive
- An administration; ministers or administrators
- A law giver, a legislature
- A judiciary, which may take the form of courts
- And religion: none, one or many; state-controlled or independent.

The first stage of government is the **monarchy** which merges the governmental functions of war leader (executive), law giver, judge and usually some degree of religious function (mystery in a single person claiming divine descent). The monarch usually claimed the right to pass such powers by inheritance. Pure monarchies are the norm for preliterate societies.

The next stage in the evolution of government is **oligarchy**. An aristocratic class of privileged persons usually emerges which offers military support to the monarchy in exchange for privilege. The monarch eventually becomes a figurehead and a council of powerful aristocrats, or perhaps elders, dilutes or splits the powers of the king among themselves. The king must seek their approval for war and for other important decisions. By this stage of societal evolution religious arts, mysteries and functions have usually devolved to a special class of persons, skilled in their use. In some societies economic privileges are granted for military support of the government. Historically, the oligarchy is associated with myths, legends and epics, all oral traditions. Writing and the ability of the common man to read are not encouraged as this level of education usually results in the commoners pressing their primitive governments to allow some unwanted shade of either democracy or republican government. Note that even in modern oligarchies, where there is a high level of literacy, there is an extreme government effort to control all forms of media.

The next stage in the evolution of government may be **Tyranny**. Frequently, but not inevitably, power is seized by a single person without claim of hereditary or constitutional right. Some view this as a necessary stage in the development of democracy, for it emulsifies the accrued privileges of the aristocratic class. There is usually immediate strict government control of the media, and, if tyranny persists, the levels of education, literacy and critical thinking quickly degrade, as the intelligentsia is imprisoned, “re programmed” or eliminated.

The next stage is some form of **Democracy**. In a pure democracy the people have a voice in creating and enforcing the laws and in deciding how laws are to be applied. A practical size limitation to democracy exists, perhaps 10,000 to 50,000 citizens. This means, where there are more than 50,000 citizens, democracy must take the form of a **republic** where representatives are elected and given the power to make binding decisions for the rest. Government of this sort is always associated with written history and literate citizens.

Democracy is government where all citizens have an equal voice.

Government develops in stages and it is interesting to note how the stage of governance correlates with the evolution of writing and literacy in a society. Writing leads to recording events and precedents, reading leads to thinking and is the foundation of a reasoning society. In prehistoric societies the records were kept orally in the form of legends, myths and epic sagas. The king had latitude to be arbitrary. As historical events were recorded, populations grew more sophisticated and empowered by the lessons and precedents they read leading to the king losing his heretofore unlimited power. Athens, Greece is a key example. How could it go from a prehistoric tribal village to a world power and the cultural center of the world in a mere 151 years? It was education of its citizens.

Athenian Prehistory and Its History

Because democracy was invented in Athens, a bit of its history is in order. In prehistoric Athens, law took a tribal format. Whether in families, clans or brotherhoods, unwritten laws were based upon self-help, self-defense or communal defense. The members of these groups had the right to avenge wrongs and perpetrators might seek exile abroad or sanctuary within. To prevent feuds lasting generations, primitive trials or hearings were held in public places. Elders were seated in a circle on polished stones and a hearing was held where both sides were restrained by public officers and gold (blood money) was awarded to the prevailing party. Laws, procedures, decisions and precedents were not recorded. They thus were arbitrary, irrational and mysterious.

About 621 BC Draco (sometimes Dracon) wrote a code of criminal laws. It was published and any citizen who could read could now appeal to the Areopagus, a council of city elders, for redress. This knowledge broke the mystery and monopoly held by the aristocracy. Now there were precedents to follow and rights of citizenship developed. Because the penalty for most transgressions was death, the term “draconian” became synonymous with harsh law.

About 594 BC Solon wrote a codification of existing laws, both criminal and civil, and a constitution. These laws were published on stelae erected around Athens. Business types now had the calculus for various opportunities. Business opportunities soon became “rights”. Contracts became meaningful and enforceable. Courts were open to all, including non-citizens. Solon’s writings remodeled economy, especially agriculture and local commerce. Trade and commerce sharpen wits and minds. Desire for material objects proved a powerful motivator. Athens quickly ascended in power and importance leading to its’ dominance in the lucrative

Mediterranean trade. But Solon's constitution was a failure. Bull headed Athenians armed with logic, rhetoric and oratory and debate skills quickly transformed Athens into a "nation" of lawyers, that in fact had no attorneys: every person was his or her own advocate.

The written laws of Solon led to a culture that recognized, allowed and prized personal development. Through conquest and commerce his codification became the standard of the other Greek city-states. These unprecedented citizen liberties led to **economic opportunities** which allowed Athens to develop a concentration of strong dynamic citizens and to quickly create an economy that was way out of proportion to its small population. And the laws created in Athens endured: Greek law became the international standard until Roman law, which in a real sense followed those Athenian precedents.

The wide availability of economic opportunities led to a cultural explosion never before witnessed in the history of mankind. In 104 years Athens went from the disarray of tribal illiteracy to being a world power, defeating a Persian army at Marathon. It was 151 years from illiterate tribalism to the golden age of Pericles, where Athenians led the world in the following areas:

- Entertainment: drama, comedy, tragedy
- The Humanities: philosophy, logic, ethics, rhetoric, oration, debate, art, sculpture, architecture
- Education: history, science, medicine
- Naval power, shipping, maritime commerce, colonization
- Law and Governance:

Within 200 years the Athenians moved from a prehistoric tribe to a cultural center producing the following giants:

Dracon and **Solon** (supra)

Aeschylus (525-456 B.C.) father of Greek tragedy, military hero,

Miltiades (dates unknown) Athenian military commander who engineered the most significant and surprising land battle in ancient history at Marathon.

Themistocles (c514-499 B.C.) , father of the Athenian navy, brilliant naval commander and architect of the Athenian victory at Salamis, ostracized about 471 B.C. and then welcomed to live in Persia.

Herodotus (c484-425 B.C.) Father of History born at Halicarnissus, non citizen resident of Athens, where he was awarded a large cash stipend for literary talent

Thucydides (c471-404 B.C.) the world's first objective historian, who wrote history so others might learn from the past.

Plato (c 428- 348 B.C.) , noted philosopher, founded the Academy

Pericles (c490-429 B.C.) Athenian statesman, naval commander at Mycale, where the Persian naval fleet was finally destroyed.

Sophocles (495-406 B.C.) Athenian by residency, wrote over 100 plays

Euripides (c484-407 B.C.) great Greek tragedy playwright who wrote about 92 plays

Aristophanes (c 448-385 B.C.) great dramatist of Athens, an acerbic satirist, who could flourish only in a very democratic state.

Socrates (c470 -c399 B.C.) first citizen of Athens, short, thickset, with prominent eyes and a wide mouth, nose and eyebrows; a barefooted cave dweller with only one robe; perhaps illiterate; distinguished warrior and military hero; brilliant, tenacious, philosopher extraordinaire. He devoted his life and energies to the pursuit of purity of his soul and the soul of his associates. He eviscerated politics and science of the day by questioning the basis for such beliefs and revealing these disciplines to be based merely on unproven assumptions. He was reputedly labeled by the oracle of Delphi as the world's wisest man but was tried by Athenians for "impiety" and "corruption of the youth" and forced to suicide for simply asking too many questions.

But most important was the creation of the citizen soldier: a creature empowered by rights of citizenship; a grant of liberty never seen before in the world. The opportunities of this liberty were defined by Athenian law, now in writing. As each citizen soldier had to arm himself with private funds, Athenian prosperity allowed any citizen soldier to arm himself with a helmet, shield and armour of bronze, a sword of steel and most important an iron will to protect his new rights of citizenship.

How effective was this amateur army of citizens turned warriors? Athens came into conflict with the Persian empire which included all of Egypt, the Middle East and much of India. When the Greeks of Athens looted and burned the city of Sardis in 493 BC Darius I, the Persian emperor, mobilized an army of 25,000 professional soldiers and in 490 BC sent his son-in-law to destroy Athens.

On August 12, 490 BC, some 10,000 citizen soldiers, (roughly the adult male population of the city of Athens) met those 25,000 Persian soldiers on the fields of Marathon. At a cost of less than 200 Athenians dead, there were over 6,400 Persian soldiers dead or captured.

In 480 B.C. the Persians returned. Xerxes had succeeded Darius I. After crushing a revolt in Egypt, Xerxes turned to the Greek city states. According to Herodotus, the Persian army sent against the Greek city states numbered millions and drank rivers dry as they passed. About 1200 trireme (oared battle ships) were sent to crush the Athenian navy consisting of 300 ships. The Persians bridged the Hellespont (nearly 1400 yards). They were met by 6,000 Spartans and the Athenian citizen soldiers in a narrow pass in the mountains named Thermopylae. Here 300 Spartans were chosen as a rear guard, while the rest retreated. All of the 300 were killed. The Persians reached Athens, the city was destroyed. But disaster in the form of storms sank about 200 Persian ships. Then on September 20, 480 BC, about 400 Persian triremes were ambushed in the shallows of Salamis by 300 Athenian triremes. The Persians lost 200 more ships and all their crews, clubbed and drowned. The Athenians lost 40 ships with many sailors saved. Observing this from his vantage point on land Xerxes retreated across the Hellespont and burned his bridges behind him. Over the next six years more land and naval battles established Greek supremacy over the Persians. The small Greek city states had thwarted the world super power. Clearly the course of history was changed. The Greek city states were free to develop the foundations of the Western world we know today.

What miraculous engine propelled Athens upward? Pericles, in his funeral speech commemorating the Persian defeats, as recalled by Thucydides, said:

“our polity does not copy the laws of neighboring states; we are rather a pattern to others, than imitators ourselves. It is called democracy, because it is not the few, but the many that govern. If we look to the laws, they afford equal justice to all in their private differences” . . .

The **opportunities offered by citizenship** allowed the development of a strong sense of self worth springing from democratic government. This empowerment along with strong personal and property rights created unprecedented **prosperity** for Athens; prosperity which allowed it to field a small army of powerful, well equipped and highly motivated warriors, each who had something to lose and everything to fight for. These Athenian citizens, with citizens from its sister city states, ran Persia off the battle fields in a series of astounding victories.

prosperity in a society is created when the maximum number of citizens are given the maximum opportunity .

But the Achilles heel of Athenian democracy was instability. Its citizens abhorred professional politicians and public servants and opted for amateurs. Most terms of office and civil service were only one year and citizens were chosen by lottery with one term of service per lifetime, except in the council where two non-concurrent terms were possible. Ten generals (*strategosi*) were chosen by election annually to serve for 1 year terms. Here unlimited re-elections were possible. Athens was truly democracy to the extreme: for example, in a war, the council of ten generals each day chose the general who would orchestrate the battle for that day.

A simple majority of the **Assembly** (all citizens) could pass a law. This meant a mere 3001 of the 50,000 odd citizens could pass a law, because the quorum for the assembly was only 6000 citizens. In trials, also held in the Assembly, a simple majority of a jury could result in a guilty verdict, huge fine, ostracism or a death sentence. Since a jury was comprised of 201 to 2001 citizens, depending on the offense, a citizen's fate might rest on 101 to 1001 citizens. There was no judge to admit or deny evidence, nor instruct on irrelevant and inflammatory evidence. Judging from the results: frequent exile and all too frequent ostracism, these trials were probably a “free for all”. A simple disparity in rhetorical skill produced frequent disasters in the Assembly.

Based upon the instability of Athenian government, our founding fathers feared a pure democracy, or even too much democracy (voice) where a single strong orator could sway the majority one way or the other.

In the years following their military triumphs, utter disorganization, greed, intrigues, frequent ostracisms, poor policies of inept politicians and incessant wars with other city states and leagues of city states weakened Athens. By the time of Alexander the Great's campaigns, Athens could offer little resistance. But, in a sense, Alexander never conquered Athens. His respect for the culture (in his youth his tutor was Aristotle) was so great that Athens remained a free city. The Greek classicists were remembered and revered by our founding fathers and are studied by us today. Literacy conquers military might.

The Middle Ages

The Roman Empire came and went, contributing to political science only a **Senate**, and a rich history of decline for us to ponder. The fall of the Roman empire led to the descent of the middle/dark ages on the European peninsula. Much of history and culture was destroyed. Highly edited fragments of classic Greek works remained in some monasteries. Some writings survived in the Eastern Roman empire at Constantinople, some remained in Egypt and filtered back into Europe. Unfortunately, much was lost in 1453 when Mehemed plundered and looted Constantinople. Islamic culture was not kind to the culture of the West.