

Speech Delivered at Rotary Club on Annapolis' First Charter and Rule of Law
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In 1908 the City of Annapolis celebrated the bicentennial of the granting of the first charter. To commemorate this event, it was proposed that there be a monument to religious toleration. A foundation stone was laid. However, no further action was taken to construct such a monument. Why the project stalled is not clear.

The English historian, A.J.P. Taylor, once said that he was a person of strong opinions which were weakly held. The history of Annapolis suggests that there have been many here who had strong opinions that were strongly held. This may explain the failure to construct the monument. Another possible explanation is the town's reputation for stagnation and lethargy in the 19th and early 20th centuries. Whether this reputation was deserved or not, it was confirmed by a Civil War soldier from Annapolis who was asked about his previous civilian occupation. He memorably reported his occupation as "loafer."

Next year we will celebrate the 300th anniversary of the granting of city's first charter. One way to commemorate this event would be to construct an appropriate monument on the 1908 foundation stone, which is resting near the Market House. However, in my judgment the best way to celebrate this event would be for our citizens to understand the significance of the original charter in laying the foundation for the form of government we have today.

The significance of the original charter is two-fold. First, it firmly established the principle and practice of representative local government in Maryland. Second, as written instruments, colonial charters, such as the Maryland Charter and the Annapolis Charter, were important factors in the development of the rule of law, especially in the acceptance of written constitutions.

It must be remembered that during the colonial era there were no elected officials in the counties. Thus when the Annapolis charter established a municipal corporation with an elected common council, it was the beginning of the enduring practice of representative local government. By our standards, it was not a notably democratic document.

The Council shared power with a self-perpetuating board of aldermen. Together they selected the mayor. The franchise for electing the Common Council was limited and the members did not have terms. They served for life or until they resigned. Ah! Some might say, "Those were the good old days. None of that inconvenient business of periodic elections or, that truly nasty stuff, recall elections!"

I wish I could report that from this limited exercise in representative local government- there was a steady progression toward the broadly representative government of our day in which there is universal adult suffrage and periodic elections. Alas, as in all of life's worthwhile endeavors there were reverses and disappointments. One of these occurred in 1908, the very year of the bicentennial of the charter. In that year, the General Assembly enacted a statute effectively disenfranchising most of the Black voters in the city's elections. In a unanimous decision, the United States Supreme Court held that this law violated the Federal Constitution. The author of the Court's' opinion vindicating the rights of the Black plaintiffs was Chief Justice Edward White, who was not only a former Senator from Louisiana but a veteran of the Confederate Army.

The original charter was granted in the name of Queen Anne by the governor she had appointed, Thomas Seymour. Not for the first nor last time this action was preceded by a boisterous wrangle between the governor and the legislature over who had the authority to grant the charter. While charters could be revoked, the fact that they were written instruments lent a sense of permanence which was important in the development of the rule of law and acceptance of our written constitutions.

Queen Anne, like her older sister Mary, the Mary of William and Mary, rejected the fervent belief of their father, King James II, in the divine right of kings. Although the King's grandfather, James I, was once described as the "wisest fool in Christendom." James II was an exceptionally stubborn man who abdicated after only three years on the throne. If the daughters did not actively support the abdication of their father they at least acquiesced. Moreover, in accepting the crown, Mary and her husband, and Anne, as their heir, also accepted, however reluctantly, .fundamental principles, which some historians refer to as the Glorious Revolution, and which are an important part of our political legacy from England.

These principles can be summarized, as follows: (1) The establishment of the rule of law and the principle that all public official including the king in England and the president in our country are subject to the law; (2) the establishment of the principle of representative government in which laws can be enacted and taxes can be levied only with the consent of the representatives of the governed; (3) the recognition of individual rights and an independent judiciary to protect these rights; and (4) subordination of the military to civilian authorities.

These fundamental principles were accepted in England in the late 17th and early 18th centuries and form the context for beginning of representative government in our city. The experience of electing representatives to the provincial legislature and the municipal council were crucial to the success in establishing republican government at the time of the American Revolution. Moreover, the political legacy of the Glorious Revolution in England is fully reflected in our State and Federal Constitutions. It is these fundamental instruments of law which secure the liberty we enjoy as citizens.

Important as these fundamental instruments of law are, we would not have the government or liberty we have today had not the early leaders of our Nation demonstrated their acceptance of the principles and spirit of republican government. The foremost of these leaders is the man whose birthday is today, George Washington. His signal contribution to establishing a republican form of government was to twice voluntarily relinquish power: once, here in Annapolis in December of 1783, when he surrendered his military commission to the civilian government and once again when he retired from the presidency after two terms. In the annals of military leaders who exercised political power, Washington's conduct is almost unique.

The rule of law and the liberty which is secured by the law were tested as never before or since in the Civil War which some have called the Second American Revolution in ending the curse of slavery. In fighting that war, the United States Government used the military to arrest, detain and even try civilians of suspect loyalty, especially in the Border States such as Maryland. In a case which arose during that war but was not decided until after the conflict ended, the Supreme Court ruled that when the civil courts are open civilians cannot be tried in military courts.

The author of the Court's opinion was Justice David Davis who had been appointed by President Lincoln and had been a fellow lawyer in Illinois. However, there is an Annapolis connection. Justice Davis was a nephew of the Rev. Henry Lyon Davis who was rector of St. Anne's Parish from 1816 and 1826 and head of St. John's College. Justice Davis spent part of his youth living with his uncle and his family at the church rectory which was then on Hanover Street. In the course of his opinion, Justice Davis wrote:

The constitution is a law for the rulers and the people alike,
it applies equally at war and at peace, and the
shield of its protection extends to all classes of
men at all times and in all circumstances

The Annapolis charter is part of this matchless heritage of the rule of law. As individuals and as an organization, I invite you to join with your fellow citizens in celebrating and perpetuating this heritage. It is this heritage which secures the liberty which is the inalienable right of every citizen of what Winston Churchill called the Great Republic.