Chartered Organizations: An Introduction to Their Patterns

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Abstract.
Our Constitutional Logic introduces the subject of chartered organizations. ‘What role do charters, whether the organizations hold them as proclaimed or diffuse, play in political societies?’ OCL has previously posed the question ‘Why do political societies exist?’ In this article OCL suggests that suicide by ‘lament or amend’, if a choice at all, is not a choice that a political society may exercise.

Key Words: chartered organization, charters, genesis of political societies.

A. Introduction. For every organization which (a) has been pedigreed as a political organization, or (b) which organization asserts (on its own account) its status as a political organization or (c) which masquerades itself as a political organization, there is a moment when its history intersects a charter.

Charters come in many flavours.
Some are proclaimed and so have the attraction of solving the library problem, ‘Where is the text located?’ OCL frequently but not consistently calls these ‘texts-locatable-in-one-place.’

Other texts are diffusely distributed throughout the organization’s history, pegged to this or that era or celebrity. Diffusion creates library problems for users, consumers, designers and remote observers. If location of the artifact was the heavy lifting demanded of the investigator, then we’re all sunk, time torpedoing our pretensions to historical science. As it happens, there is something else with can do with the data we have in hand.

B. Rome and London. Imperial disposition of legal resources operated much to the same effect. Pride of pedigree was assigned to the Twelve Tables, in the former case, and Magna Carta serving as its counterpart in the latter case. Given the passage of centuries, the Sixth Century’s Corpus Juris Civilis (OCL selects 530 AD to simplify matters) supplies ancient pedigree for the Tenth Century’s Basilika of Leo VI (that’s Leo the Wise) dated to 892 AD.

It’s okay to change the output assignable to political society (that’s law) as long as what you’re tinkering with sports a venerable pedigree, which need not defeat, deform or constrain current efforts to make law-in-action do the jobs that political society is committed to perform for civil society.
With Ten Commandments, one may also give laud and honour to Ten Amendments, and political societies have done so, without anyone noticing the program – veneration at the moment veneration is superseded – at work.

C. ENTER ‘LAMENT OR AMEND’. ‘Lament or amend’ clangs, and rather violently so, within these imperial regimes. Since the odometers on these governments have spun off more than a few millenia, the cautious investigator would hesitate to assign the appellation ‘Father of the Constitution’ to a man who got so much wrong and so quickly on the subject of chartered organizations.

On three occasions (Farrand’s vol. 3, at items 331, 372 and 401) Madison deploys ‘charter’ for ‘constitution;’ this substitution suggests that Madison understood charters to serve a predicate of larger scope. Max Farrand’s Volume 3 of the Records of the Federal Convention in Machine Searchable Text, 2 OCL 325.

That merely introduces Madison’s problem: ‘What is the pedigree of the suicidal “Pedigree or Lament” ?’ If there is any society in which constitutional arrangements – in other words, features of chartered organizations – equate lack of permission or command (when crisis or opportunity demand attention) to suicidal tendencies, Madison has surely been unable to name one.

D. THE OUTLINES OF THE PROBLEM. The outlines of the problem are posed in OCL’s The Doctrine of Semantic Purity: Madison’s Project (and Its Difficulties) Introduced, 2 OCL 798. The continuation of the investigation is posed by OCL’s Can Political Societies Go on Strike? 2 OCL 734. The thread there argues that since political societies operate as they do for the benefit of civil society, they can’t go on strike, walk the picket line and fail to address crisis and opportunity. Government shut downs have never been an option.

Like language, government is a human contrivance in the service of social need. Joseph Story underlined this point on the title page of his Commentaries (1833): The quotation is supplied by Edmund Burke [from his Reflections on the Revolution in France (1790)]: “Government is a contrivance of human wisdom to provide for human wants.”

If this is the case, then: (a) it is hardly the role of political society to decide when and how (that is, under what conditions) it will strike; (b) more generally, the role of political society is determined by social logic, which is, of course, entirely the province and prerogative of civil society; (c) any assertion by a theoretician attached to political society that such a society can stop working at its own will is, by such an assertion, a violation of the relationship between the two societies. The assertion reflects a fundamental misunderstanding of how civil society fulfills its needs through political societies it charters.

E. LAMENT OR AMEND: THE MOTTO OF SEMANTIC PURITY. In 1791 Madison argued that Hamilton’s bank lacked constitutional permission. The defect (which Madison equated to the lack of an explicit “power of making treaties”) could “only have been lamented,
or supplied by an amendment of the Constitution.” Madison to Andrew Stevenson, March 25, 1826, in Farrand, Records of the Federal Convention, 3:474.

“If the instrument be interpreted by criticisms which lose sight of the intention of the parties to it, in the fascinating pursuit of objects of public advantage or conveniency, the purest motives can be no security against innovations materially changing the features of the Government.”

In short, Madison’s semantic program required supermajoritarian action. When faced with national needs or opportunities, if constitutional text did not resolve issues of the day in favor of action, Congress must lament or amend. Hence, the constitution as suicide pact is entirely a figment of Madison’s imagining.

But that is barely at the surface of Madison’s social program, for that’s the area into which he intrudes his suicidal theory. The suicide pact among states, reminiscent of the Constitution of the Year Four and its fatal Article II, works out as follows. Nascent states – while still operating as colonial provinces – organize a political society; they charter it; if their creation can’t do what they expect it to do – answer the exigencies of the day – then ‘lament or amend,’ Madison’s death dirge, is the consolation to its adherents.

F. A SECOND DEATH. Madison’s ‘lament or amend’ motto died a second death when the nation refused to grant Congress explicit internal improvements powers. “I have no option but to withhold my signature” from the Bonus Bill; Madison’s veto message (March 3, 1817) all but demanded internal improvements powers from the American people.

Madison’s conclusion cherished “the hope that its beneficial objects may be attained by a resort [to the] Constitution [which] providently marked out in the instrument itself a safe and practicable mode of improving it.” 2 Annals of Cong. 1950, 30:1061.

But the consent of the governed worked its will through the political society it had created by unleashing dozens of government programs designed to clear harbors, build roads and bridges, fortify coasts, and, most importantly, put men to work.

The ‘consent of the governed’ is, therefore, a social motto expressing social logic. It states, and quite explicitly, that to do the people’s will politeia may be conjured into existence. Hence, Blackstone cites the reader to ‘consent’ 254 times. Some approval is obliged. The rest is just the mechanics of getting talent developed and in and out of the offices created. That’s all that ‘consent’ does. Nominate civil society as the beneficiary of the will of political society and platform rotation in offices.

G. WHY DO POLITICAL SOCIETIES EXIST? Our Constitutional Logic offers three purposes of political societies considered as constructs within civil or bourgeois society: (1) promoting of private wealth (and its ancillary principle avoidance of wealth destruction); (2) disabling hostility to minorities identified as such; (3) setting a threshold by which minorities (in coalition) may block organic change. See Why Political Societies Exist, 2 OCL 883.
H. Coöpting, Constraining, and Compressing ‘Rights’ Which Pre-Exist A Founding. Our Constitutional Logic has surveyed the furious pace at which Americans wrote constitutional text, beginning in 1775, with the state count hitting fifteen (as of 1786) and a national charter written and replaced (as of 1787).

Five ‘rights’ – more precisely termed heightened consumerism, from the system’s point of view – pre-existed each of these chartered organizations. The investigation plays its proper role in supporting a survey of these five ‘rights’ in Quentin Skinner’s Foundations of Modern Political Thought. See 2 OCL 201.

I. Our Chartered Logic. One of OCL’s many ambitions is to demonstrate that all chartered organizations conduct themselves in the same fashion. Chartered organizations manage the creation, the fulfillment and the modification of their service missions in patterns; these patterns (and the rate of change of these patterns) may be compared, with advantage, one with another.

It is so fundamental to understanding chartered organizations – to take the organization’s understanding of its own encounter with its own charter seriously – that Our Constitutional Logic considers its mission as a species of Our Chartered Logic.

Chartered organizations use (self-referentially, in other words) their own charters to determine how they are dealing with change. Veneration of long-ago charters and charterers stands in for the differential calculus and the slope of the tangent at any given point on the curve.

This is the hard work of the science of politics.

If veneration really counted for something we would all wear frock coats and challenge each other to duels at dawn.

All those in favour of bringing back the plague, raise your hands.

J. Blackstone’s Charters. In the 676,031 words of his Commentaries on the Laws of England, WB deploys ‘charter’ 135 times, while the score for natural law/s is 14 times, with natural right/s scoring a like number of hits, and natural duty scoring 5 alongside divine law = 8. ‘Divine providence’ strikes out.

Not all the claptrap about ‘natural law’ in the Eighteenth Century can be blamed on Daniel Boorstin’s Mysterious Science of the Law. It received its own rough handling from reviewers when it first appeared in 1942.

One wonders if Boorstin failed to notice that ‘mystery’ and ‘mysterious’ do not appear in The Commentaries, except once and in this passage – “For the canon law, which the common law follows in this case, deems so highly and with such mysterious reverence of the nuptial tie, that it will not allow it to be unloosed for any cause whatsoever, that arises after the union is made.” Book the First, Chapter the Fifteenth – which Boorstin must have overlooked. Or perhaps Boorstin wanted to demonstrate that ‘and then, and then history with quotes’ is dead by withholding notice of the null instance in which Blackstone thinks anything is mysterious about the law.
K. **To Make an Academic Field.** Blackstone seeks to justify law as an academic enterprise. To do so, WB will show that the study of law is a science. ‘The science thus committed to his charge, to be cultivated, methodized, and explained in a course of academical lectures, is that of the laws and constitution of our own country.’ This is the first of 41 deployments of ‘science.’

To show that the study of law is a science, when undertaken in an academic environment, Blackstone directs the reader’s attention to ‘custom’ – his ‘go to’ word – 475 times in the course of his work. Patterns of human behavior made patent (to the extent an investigator is obliged to call attention to the obvious) are the daily premise of scientific effort in the *settecento*.

‘Immemorial’ appears 51 times, in its variations, and should direct the reader’s attention to the possibility of human behavior repeated often enough to supply, in that feature, visibility, a necessary substitute for the predicate, syncretic. We don’t know how to time the first iteration:

> THE executive power of the English nation being vested in a single person, by the general consent of the people, the evidence of which general consent is long and immemorial usage ... Book the First, Chapter the Third.

But we don’t really care about fumbling *that predicate* because it is the repetition that supplies a greater dignity to our inquiry and our hoped-for discovery of results. That’s the science of the law, not the Boorstin’s voodoo.

L. **Balking Their Maths and Statistics.** The Eighteenth Century has many failings to account for. War was sport. Racial and gender equality hard to find. The dead hand of institutional religion grasped its privilege.

However, from OCL’s point of view the wrong is this: men and women of the polsciences balked their efforts when they believed (wrongly) that they lacked the maths to press forward and compute the rate of change in any given pattern of patterns, a task which Leibniz demonstrated for their edification. See *The Great Divorce I: The Hard and PolySciences Go Their Separate Ways*, 2 OCL 266.

That’s one failing and a large one.

But the mysterious science of the law is not one of them. Blackstone attends to patterns which, when brought to the attention of the reader make his science clear enough, because patterns speak for themselves. See *The Pace of Change in Civil Polity 1688-1765 As Cataloged in Blackstone’s Commentaries on the Laws of England*, 2 OCL 933

M. **Word Counts.** The word counts alone should put the reader on notice. WB is speaking of a chartered organization. Natural law and natural right are phrases WB reserves for law and right which lack pedigree. In this regard these deployments exhibit the essence of Benthamite invention.
Bentham went to some pains to demonstrate that all law was command, prohibition and permission. See Bentham’s 1789 Footnote to The Introduction to the Principles of Morals and Legislation [Revised Edition, 1789], 2 OCL 384.

Bentham required, in addition, that semi-regimented sentences have a pedigree that connected them with sovereign will. Blackstone also obliged a showing of their connection to a chartered organization.

If that’s not the same thing, from a librarian’s point of view – and that’s the only science that matters here – I don’t know how JB and WB could come to any closer agreement.


But the difficulty first mentioned proves nothing else so clearly as that it is proper for the laws when rightly laid down to be sovereign, while the ruler or rulers in office should have supreme powers over matters as to which the laws are quite unable to pronounce with precision because of the difficulty of making a general rule to cover all cases. We have not however yet ascertained at all what particular character a code of laws correctly laid down ought to possess. (emphasis supplied) 1282b1 through 1282b12.

Aristotle references ὀρθῶς κειμένους νόμους correctly laid down laws, which OCL translates herein as ‘correctly sourced.’ The expression ‘formal validity,’ is not employed, but is reserved to the issues that concerned James Madison in TF No. 44 at Part 6. See Madison’s Search for Categorical Syllogisms in The Federalist No. 44, 2 OCL 401.

Aristotle, Blackstone and Bentham are all obliged to stop and nod their obeisance to the Muse of Library Science. There has to be a way of assigning the predicate ὀρθῶς κειμένους νόμους to any given law, and that’s only the beginning of the analysis.

N. CROSSING YOUR ORTHOS WITHOUT STUMBLING. But lacking that step, one stumbles.

First, you have to have a means of seeing if a given graphemes’ worth of text is assignable as a ‘law correctly laid down.’ By the time you’ve set up your toggle – this is a law, this isn’t – you’ve defined, by doing, a chartered organization. Second, once you know, by sorting, that you have laws assignable to a chartered organization the investigator is put on notice that a charter ed organization is the focus of attention.

One can then can toss natural law (if you ever such entered into the discussion in the first place) into the garbage heap of historiography.

The reader who doubts OCL on this point should Google “natural and chartered rights” or various iterations thereof and start reading. OCL will supply a concordance via ‘Natural and Charted Rights’: The Eighteenth Century’s Fascination With the Division between the Organic and the Syncretic, 2 OCL 700.
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