

SARAH PALIN CHANNELS LUDWIG WITTGENSTEIN: PART I

I round the corner of the marquee tent at Montpelier.

“Professor Aschenbrenner, can you play a ventriloquist’s dummy?”

“And quite naturally,” I assure Alaska’s most recent and former governor.

“Here is someone who requires your services,” the governor continues. “Dr. Max Farrand, may I introduce a fellow Alaskan?”

“Isn’t your wife,” I reference the consultation in progress, “advising Dolley Madison on the progress of Montpelier’s Italianate and therefore not-so-formal-garden?”

“Beatrix always enjoys herself at these functions,” the author of *The Records of the Federal Convention* declares. Doctor Max signals two couples, who now enjoy the view of Manse Madison from the east. “She and Dolley are entertaining Mssrs. Adams and Marshall, both known for their aesthetic instincts in matters touching on landscape architecture.”

“Wasn’t John Marshall,” I mumble, “best known for his culinary skills, recently featured in *Marshall’s Deathly Mallows*?”

“The Chief Justice is a jack of all trades,” the governor corrects me. “We have a conundrum for you, Doctor Max. And we need your expert advice.”

Cue me.

“In volume three of your *Records* you quote the instances in which a delegate referenced what was said or done at the federal convention.”

“After the constitutional convention,” the governor points out, “‘prohibited a promulgation without leave of what was spoken in it’.”

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“Hello there,” the master of Montpelier joins us. ‘Class of 71,’ he offers Dr. Max the ‘Old Tiger’ handshake, who responds ‘Class of 92.’ “May I note that you are quoting my forthcoming letter to Thomas Ritchie? September 15, 1821. But you are quite correct as to the action the convention took on September 17, 1787.”

‘As you know,’ he asides to me, ‘I wrote the minutes for the fifteenth and seventeenth.’

“Isn’t it a problem that so many delegates – Ellsworth, Gerry, Randolph, to name a few – reported in such detail on the business at Philadelphia?” I ask. “That is, to their state legislatures. Or to the ratifying conventions.”

“You believe they fell into the trap that St. Paul laid for that poor old Cretan, Epimenides, Aschenbrenner? A witness attempts to report on events which, if her report is complete, must include an express prohibition on reliable reporting.”

“Let’s not taunt my guests with brain-teasers,” Madison stills Dr. Max. “After all, as to the four hundred and nineteen quotes – ah,” he interrupts himself. “I see the governor has done her homework.”

“I’ve counted the number of times a Philadelphia delegate referenced ‘intent of the framers’ or ‘intent of the founders’ or like elocutions,” she looks up from her laptop. “This is interesting.”

The governor turns her screen my way.

“My goodness,” I gasp. “You never used the phrase ‘intent of the constitution’.”

Madison studies his nails.

“It *is* a stupid elocution.”

“The first time ‘intent of the constitution’ appeared in print was 1803. *Stuart v. Laird*, 5 U.S. 299,” Farrand sniffs.

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“And no one ever discussed the ‘intent of the framers’ – the alternative phraseology – after 1820,” I survey the results, “except for you, Mr. Madison.”

“I told my correspondents that I was prepared to divulge a ‘pretty ample view’ – my exact words. At the right time. ‘It cannot be very long however before the living obstacles to the forthcomings in question, will be removed.’ Another letter of mine. From 1827.”

“Item 358,” Dr. Max supplies the citation. “But the Secretary’s Journal was published in 1819. Surely you could have – ”

“ ‘In general it had appeared to me’,” Madison interrupts, “ ‘that it might be best to let the work be a posthumous one; or at least that its publication should be delayed till the Constitution should be well settled by practice’.”

“The Ritchie letter, September 13, 1821,” Max Farrand ahems the citation. “Volume three, item 340.”

“It may be called an incubation interval,” Madison declares. “It is not just the gardeners who tender their attentions on youthful growings.”

“Wait a second,” I stammer. “You’re letting Americans – you’re making Americans figure it out by themselves. From 1787 to 1819 Jackson’s Journal is unpublished – ”

“Phase One,” Madison interrupts.

“You could have arranged for its publication,” I continue, “given that you served as Secretary of State (1801-1809) which made you the official custodian of the Journal in question. And, after that, you were President and surely could have put publication in motion. Not to mention that you were best qualified to edit Jackson’s Journal. And it did need a lot of work.”

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“It must have slipped my mind,” Madison excuses himself, “given my preoccupation with the War of 1812, the burning of Washington, and other unpleasantness.”

“But then,” I continue, “after the Journal *is* published, you have another chance to put constitutional history on a sure footing.”

“So begins Incubation Phase Two, as I call it,” Madison cuts me off. “Jennings, please pour and generously so.”

“So when Jackson’s Journal is published,” I point out, “you refuse to correct the mess Jackson made of the journal. Nor would you admit to our first and most passionate archivist of American history, Jared Sparks, that it was a major constitutional cock-up.”

“ ‘It seems to me that your secretary of the Convention was a very stupid secretary,’ ” Dr. Max drawls the quote, “ ‘not to take care of those things better, and to make a better journal than the dry bones which now go by that name.’ Jared Sparks’ letter of 1831. Volume three, item 386,” he adds the citation.

“And so devolved my pension plan for Mrs. Madison,” Madison explains. “I’m hoping Congress will pay her a hundred grand for the MS of my *Notes*.”

“Which publishing event you relentlessly flogged by writing cryptic answers to correspondents,” I press forward, “who were eager for constitutional answers. Your letters whetted the public appetite for your *Notes*.”

“I believe an author may surely,” the governor intervenes, “enjoy free range in promoting his books.”

“And which epistolary responses,” Dr. Max confesses his role, “I duly published in my volume three. From 1820, 50 of the 69 selections are yours.”

“ ‘Leave ‘em begging for more,’ is – I believe – the expression *du jour*.”

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“It wasn’t until 1842 that the Supreme Court began to grapple in earnest with the ‘intent’ of the delegates,” I read from my laptop. “ ‘We may well think the framers of the Constitution intended to provide for a uniform [fugitive slave] law.’ *Prigg v. Pennsylvania*, 41 U.S. 539, 641 (1842), Wayne, J. concurring.”

“And that’s just so much speculation,” the governor corrects me. “Which is as good as it’s going to get, anyway, given Chief Justice Chase’s assertion of ‘the rule that the opinions and intentions of individual members of the Convention ... are not to control the construction’ of the Constitution. *Legal Tender Cases*, 79 U.S. 457, 655 (1870),” she adds the citation.

“Well played,” I applaud the former Governor of Alaska.

“What’d’ya expect?” Sarah drops into the vernacular. “His first name was Salmon.”

“Anyhoo,” Madison whips out his pocket diary, “from September 17, 1787 to March 1, 1842, that’s fifty-four (and a half) years of incubation, hinging on the publication of the Journal. Maybe more, if you take our Sarah’s insight into account. During that first half-century Americans had to sort out the oracles of the constitution without, ahem, the help of yours truly.”

“So you were the only one who could help, Mister Madison,” Jennings joins in. “But you wouldn’t. For our own good.”

“That certainly works for me,” the governor agrees. “People don’t know what’s good for them. For us to use the constitution, we were obliged to do without the assistance of your superior talent. In effect, the Philadelphians forced Americans to duplicate their efforts in the thousand and one venues – ”

“In which constitutional reasoning blossoms,” Madison finishes her observation.

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“My goodness,” Dolley Madison and Beatrix Jones Farrand join us, as Jennings prepares the spectacular roses she offers for Montpelier’s nearby vases. “Was that Ludwig Wittgenstein out there?”

“Sounds like a foreigner,” John Adams growls.

“He is,” Marshall assures Adams, “a wily Austrian and one with whom I long to cross swords. Metaphorically speaking, of course.”

“Another hundredth anniversary,” I blurt. “Along with the publication of your *Records*, Doctor Max.”

“Nineteen eleven,” the governor backgrounds our fourth President, “was the year Wittgenstein burst into Bertrand Russell’s chambers, thereby obtaining a Ph.D. for unraveling the tautologies that John Marshall’s work celebrates.”

“So it would appear,” the Chief Justice rocks on his heels.

“And then, of course,” I blurt, “there is the 100th anniversary of the publication of your *Records*, the riddles of which have yet to be unlocked.”

“So far,” Dr. Max agrees, swaying in like fashion.

“If this is a parlour game,” says Dolley, “don’t stop on our account.”

“Okay, Alaskans,” Dr. Max turns to us. “Give us your best shot.”

“Is this the same Thomas Ritchie who published the *Amphictyon* and *Hampden* essays?” the governor asks.

“To which the wily,” I add, “indeed, über-clever John Marshall responded?”

“To over-ümlaut is a federal crime, Aschenbrenner,” Marshall stills my enthusiasm.

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“I thought we were going to roast Marshall,” Madison intervenes, “for his deployment of tautologous, not to mention tedious, ‘trains of reasoning’ and ‘chains of principles’.”

“*Gibbons v. Ogden*, 22 U.S. 1, 221-22 (1824),” Marshall ahems the cite.

“I hope I’m not intruding,” Ludwig snatches a glass before Jennings can platter our new guest. “Oh,” he sniffs. “Alaskans have joined the party, *ergo*, Austrians are welcome. Mr. President,” Ludwig offers his hand. “You studied logic at Princeton. I got a Ph.D. in the same subject from Trinity College, Cambridge.”

Wittgenstein turns to our Chief Justice.

“So you’re the John Marshall who baffled the Virginians in your *Friend to the Union* and *Friend of the Constitution* essays.”

“Indeed,” Marshall winks his reply, turning to Madison. “That’s the difference between you and me, Jimmy. You traffic with Ritchie, editor of the *Richmond Enquirer*, and bare your most profound thoughts on the silencing of the oracles of the constitution, whereas I do battle with his right-hand men Brockenbrough and Roane.”

“And what a battle,” Wittgenstein declares. “You explained, as no one had ever done, the difference between necessary and sufficient conditions. 1819 was – strike that – *is* a damn fine year.”

“And yet, as to Propositional Logic,” Marshall studies his nails, “I am entirely self-taught.”

“If someone will find a copy of the essays,” Wittgenstein calls out, “I would be happy to reveal the mysteries of the Tenth Amendment.”

“Starting, of course,” the governor adds, “with the Tenth’s ‘hot little sister’ the Necessary and Proper Clause.”

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“It’s necessary to start there, altho’,” Marshall permits himself a sly grin, “it would be sufficient to start with any other text.”

Madison turns to me.

“You’d better get the volume in question. We’re all dying to hear crazy Ludwig,” Madison signals my mission, “and especially Mrs. Madison who loves paradox.”

“Can you ‘put it on pause’ until I get back?” I plead and dash upstairs to Montpelier’s Library.

Apparatus

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